

No. _____

IN THE
Supreme Court of the United States

CARA ELIZABETH LIBERTO DODSON,

Plaintiff-Appellant,

-v-

THE LUTHERAN VILLAGE AT MILLERS GRANT,
INC.,

Defendant-Appellee,

ON PETITION FOR WRIT OF CERTIORARI
TO THE FOURTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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Questions Presented For Review

1. Did the United States Court of Appeals for the Fourth Circuit err when it affirmed the judgment of the United States District Court for the District of Maryland which granted the Employer's motion for summary judgment against a health care Employee who brought a claim of religious discrimination under Title VII against the Employer for failing to make a reasonable accommodation for the Employee's religious objection to the Employer's COVID-19 vaccine mandate?
2. Did the United States Court of Appeals for the Fourth Circuit err in affirming the district court's denial of the Employee's Rule 56(d) motion for leave to produce an affidavit from a medical expert to substantially dispute Employer's undue hardship claim that was essential to justify the Employee's opposition to the Employer's motion for summary judgment?
3. Did the United States District Court for the District of Maryland err by granting the Employer's motion for summary judgment against a health care Employee who brought a claim of religious discrimination under Title VII against the Employer for failing to make a reasonable accommodation for the Employee's religious objection to the Employer's COVID-19 vaccine mandate?
4. Did the United States District Court for the District of Maryland err in denying the Employee's Rule 56(d) motion for leave to produce an affidavit from a medical expert to substantially dispute Employer's undue hardship claim that was essential

to justify the Employee's opposition to the Employer's motion for summary judgment?

Parties to the Proceeding

The parties are the same as those listed in the caption. Plaintiff-Appellant Cara Elizabeth Liberto Dodson is an individual and Defendant-Appellee The Lutheran Village at Millers Grant, Inc. is a Maryland nonstock corporation and is not publicly traded.

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Petition for a Writ of Certiorari

Petitioner Cara Elizabeth Liberto Dodson (“Employee”), a former employee with The Lutheran Village at Miller’s Grant, Inc. (“Employer”), by her undersigned attorney, respectfully petitions this court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in the case of Cara Elizabeth Liberto Dodson v. The Lutheran Village at Miller’s Grant, Inc., Case No. 25-1696, 2026 WL 579467 (2026).

Opinions Below

The decision on appeal of the United States Court of Appeals for the Fourth Circuit is unreported, and a copy is attached as Appendix “Appx. C.” The United States Court of Appeals for the Fourth Circuit denied the Employee’s petition for rehearing on March 30, 2026. That order is attached as “Appx. D.” The decision of the United States District Court for the District of Maryland granting the Employer’s motion for summary judgment against the Employee is dated May 22, 2025, and attached as “Appx. A “. The unofficial citation of the case is Dodson v. Lutheran Village at Miller’s Grant, Inc., Civil Action No. EA-23-169 2025 WL 1474319 (May 22, 2025).

Jurisdiction

Employee’s petition for panel rehearing and en banc review to the United States Court of Appeals for the Fourth Circuit was denied on March 30, 2026. Employee invokes this Court’s jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the United States Court of Appeals for the Fourth Circuit’s denial of the petition for rehearing.

Relevant Statutory Provisions Involved

U42 U.S.C.A. § 2000e(j)

For the purposes of this subchapter—

(j) The term “religion” includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.

42 U.S.C.A. § 2000e-2(a)(1)

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin;

Maryland Code, Health General Article §18-403. Religious objections to vaccinations

(a) Unless the Secretary declares an emergency or disease epidemic, the Department may not require the immunization of an individual if:

(1) The individual objects to immunization because it conflicts with the individual’s bona fide religious beliefs and practices; or

(2) The individual is a minor and the individual’s parent or guardian objects to immunization because it conflicts with the parent or guardian’s bona fide religious beliefs and practices.

**Federal Rules of Civil Procedure, Rule 16.
Pretrial Conferences; Scheduling; Management**

d. *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent.

**Federal Rules of Civil Procedure, Rule
26(a)(2)(D).**

(D) Time to Disclose Expert Testimony. A party must make these disclosures at the times and in the sequence that the court orders. Absent a stipulation or a court order, the disclosures must be made:

- (i) at least 90 days before the date set for trial or for the case to be ready for trial; or
- (ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

**Federal Rules of Civil Procedure, Rule 56.
Summary Judgment**

(a) *Motion for Summary Judgment or Partial Summary Judgment.* A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(d) *When Facts Are Unavailable to the Nonmovant.* If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) *Failing to Properly Support or Address a Fact.* If a party fails to properly support an assertion of fact or fails to properly address another party’s assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it; or

(4) issue any other appropriate order.

Statement of the Case

In the wake of the COVID-19 virus, many Americans were faced with the unprecedented decision of choosing between their livelihoods or their adherence to their religious faith.

Title VII of the Civil Rights Act of 1964 makes it unlawful for an employer, among other things, “to discriminate against any individual with respect to [their] compensation, terms, conditions, or privileges of employment, because of such individual’s . . . religion.” 42 U.S.C. § 2000e-2(a)(1). In *Groff v. DeJoy*, 600 U.S. 447, 470 (2023), this Court held that to defend denial of a religious accommodation under Title VII, an “employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its

particular business.”

This case seeks to clarify the limits of an employer’s claim of undue hardship for a reasonable accommodation of an employee’s religious freedom where the employer has failed to adduce evidence of increased costs in relation to the conduct of its business. In addition, the Employer’s designated agents admitted at deposition that vaccination is not a necessary condition for protecting the workforce and residents of a skilled nursing facility. Thus, granting an employee’s request for an accommodation from the employer’s vaccine mandate is not an undue hardship or burden on the Employer. This petition also seeks guidance on when it is appropriate under Fed. R. Civ. P. 56(d) to allow a party to present facts from an expert witness not previously identified that are essential to justify an opposition to a motion for summary judgment.

Employee is a licensed occupational therapist and an integrative nutritional health coach. In 2018, she began work on an “as needed” basis for the Employer, Lutheran Village at Miller’s Grant, Inc., which is a skilled nursing facility. The Employer had a policy entitled “Team Member Vaccination Policy” which was issued in 2015 but revised on October 14, 2020. The policy required annual vaccinations unless the Employer granted an exemption, which could be for either medical reasons or that taking a vaccine would violate a member’s sincerely held religious beliefs, practices or observances. The policy provided that members granted an exemption from taking a vaccine must wear Personal Protective Equipment (PPE) at all times when at work.

With the outbreak of COVID-19 in early 2020, the Employer granted a religious exemption to the Employee from taking the COVID-19 and flu vaccines.

The Employee worked under the Employer's requirements, wearing PPE, testing regularly for COVID-19, social distancing, and a host of other requirements. Employee testified that she never fell ill nor did she test positive for COVID-19. On January 6, 2021, the Employee signed and submitted a written request for a religious exemption from taking the COVID-19 and flu vaccines, which was approved by the Employer. Throughout 2021, the Employee continued to comply with all her Employer's requirements, which up until September 2021 did not include a COVID-19 vaccine requirement.

In September 2021, the Employer notified employees that a COVID-19 vaccination would be required for employment. On September 30, 2021, the Employee requested continued religious exemption from the COVID-19 and flu vaccines. In a letter to the Employee dated December 20, 2021, the Employer notified her that her request for a religious exemption was denied. The letter acknowledged the Employer's previous religious exemption but stated "that circumstances have changed." The cited circumstances were (1) that many religions have come round and supported the COVID-19 vaccine and (2) that the Maryland Department of Health required health care workers working in skilled nursing facilities be vaccinated (without mentioning that effective September 1, 2021, the Maryland Department of Health provided for accommodations for bona fide religious and medical reasons not to take vaccines).

The Employer's letter declared that remaining unvaccinated would result in being placed on a temporary leave of absence with further noncompliance resulting in permanent removal from payroll. The Employee responded that she had not altered her religious beliefs and would not take the

vaccine, resulting in her eventual discharge from her employment.

Reasons for Granting the Petition

I. There Is Not Legally Sufficient Evidence To Find For The Employer On Its Defense Of Undue Hardship.

This Court should grant the writ for several reasons.

First, in order for a summary judgment to be granted in favor of a party on a particular issue, there must be a legally sufficient evidentiary basis for a reasonable fact-finder to find for that party on that issue. *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 135 (2000). *Groff v. Dejoy*, *supra*, 471, makes explicit that “the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.” The district court brushed this requirement aside. The court concluded that that the Employer “bases its undue hardship defense on non-economic costs, i.e., the health and safety of its residents and employees. Evidence of economic costs are therefore unnecessary.” (Citing *Luxton v. Washington State Dep’t of Veteran Affs.*, No. 3:23-cv-05238-DGE, 2025 WL 896658, at 15 (W.D. Wash. March 24, 2025). Appx. 27. The district court’s position does not comport with the economic standard espoused in *Groff v. Dejoy*, *supra*. The Employer did not produce evidence to prove “increased costs in relation to the conduct of its particular business.” *Groff v. Dejoy*, *supra*, 471. Nor did the Employer produce evidence of actual harm which equates to an increase in actual costs in relation to its business. Without a showing of this kind, the Employer is not entitled to summary judgment on its defense of undue hardship.

Secondly, the district court glossed over a genuine issue of material fact with respect to the Employee's contention that the COVID-19 vaccine was under emergency use authorization only. (ECF No. 48-1 at 12-13.) The court said that the Employee's position "is legally unsupported and factually contested." Appx. 28. To the contrary, there is legal support for the Employee's contention that although the COVID-19 vaccine may have been approved, the fact is that it was not available or marketed in the United States at that time. In *Doe #1-#14 v. Austin*, 572 F.Supp.3d 1124 (M.D.Fla 2021), service members challenged the Secretary of Defense's mandate requiring all military personnel to become vaccinated against COVID-19. The court in *Austin* had to determine how the vaccine mandate applies where service members asserted that there were no available stocks of the FDA-approved COVID-19 vaccine available in the United States. The only vaccine stocks available were labeled Emergency Use Authorized ("EUA") products. The court in *Austin* traced the history of how this came to be. On August 23, 2021, the FDA approved a Biologics License Application ("BLA") and issued a full license to produce and distribute Pfizer's COVID-19 vaccine under the proprietary name, "Comirnaty." *Id.*, 1229. "The BLA approval requires that Pfizer produce Comirnaty at approved locations, subject to specific manufacturing, packaging, and labeling requirements." *Id.* Citing to the FDA's letter to Pfizer dated August 23, 2021, the court in *Austin* stated, *id.*, 1229-1230:

In addition, the FDA concluded Comirnaty's BLA approval did not eliminate the grounds for extending the vaccine's EUA. ECF No. 1-6 at 3. The FDA explained that the EUA allows some third doses and use in children under 16, neither of which the BLA approval allows. *Id.* at 5-6. The

FDA also concluded that “there is not sufficient approved vaccine available for distribution to [the approved] population in its entirety.” *Id.* at 6 n.9. Thus, Pfizer continues to produce vials of vaccine that are labeled as an EUA drug with packaging material saying, “This product has not been approved or licensed by the FDA” *Id.* at 12-13. And there “remains ... a significant amount of [Pfizer COVID-19 vaccine] that was manufactured and labeled in accordance with [the EUA].” *Id.* at 12.

This is relevant because the Employer’s designated agent testified that the “sole” reason the Employer changed its position and denied the religious exemption was that the FDA approved a BLA and issued a fully licensed COVID-19 vaccine. Employer’s Memorandum in Support of Motion for Summary Judgment, deposition testimony of Employer’s designee, Ken Connelly, p. 12. The *Austin* case, however, shows the FDA admitted that there were insufficient stocks of the approved vaccine for distribution in the United States. Nevertheless, the DOD began requiring injections from EUA labeled-vials of vaccines and maintained that the EUA-labeled vials were equivalent to Comirnaty. *Austin, supra*, 1233.

In *Austin*, the DOD took shifting positions on whether Comirnaty was actually available, until the point was reached that the Government’s “counsel could not even say whether vaccines labeled ‘Comirnaty’ exist at all.” *Id.* Nevertheless, DOD argued “that once the FDA licensed Comirnaty, all EUA-labeled vials essentially became Comirnaty, even if not so labeled.” *Id.* The district court found DOD’s interpretation of the statute governing the administration of EUA products to members of the

armed forces to be “unconvincing.” *Id.* The court ruled that “FDA licensure does not retroactively apply to vials shipped before BLA approval.” *Id.* (*Citing* 21 U.S.C. § 355(a)(“No person shall introduce into interstate commerce any new drug, unless an approval for an application [for FDA licensure] is effective with respect to such drug.”)(*Emphasis in the original.*) The court noted that “as a purely legal matter, vaccines sent before August 23 [2021] – and vaccines produced after August 23 in unapproved facilities – remain ‘product[s] authorized for emergency use under section 564 of the Federal Food, Drug and Cosmetic Act.’” *Id.* The court stated the relevant statutes governing the administration of drugs

suggests a concern that drugs mandated for military personnel be actually BLA-approved, not merely chemically similar to a BLA-approved drug. And the distinction is more than mere labeling: to be BLA compliant, the drug must be produced at approved facilities. *Id.*

Further indisputable facts demonstrate that FDA-approved Pfizer COVID vaccine was unavailable in the United States. On September 13, 2021, Pfizer and the National Institutes of Health (“NIH”) posted an announcement by Pfizer that “Pfizer does not plan to produce any product with these new [Comirnaty] NDCs [National Drug Codes] and labels over the next few months while the EUA authorized product is still available and being made for the US distribution.” <https://dailymed.nlm.nih.gov/dailymed/dailymed-announcements-details.cfm?date=2021-09-13>. On December 17, 2021, the CDC posted:

COMIRNATY products are not orderable at this time. ... At present, Pfizer does not plan to produce any product with these new NDC’s and labels over the next few months while EUA

authorized product is still available and being made for U.S. distribution. As such, the CDC, AMA, and drug compendia may not publish these new codes until Pfizer has determined when the product will be produced with the BLA labels.

<https://archive.ph/30uMd>, p.4/9.

The upshot is that the government of the United States was responsible for the acquisition and distribution of millions of vials of COVID-19 vaccines in the United States. The EUA COVID-19 vaccine was the only vaccine available at that time and the Employee in the instant case could not be mandated to take the EUA vaccine. “Under the EUA statute, recipients of EUA drugs must be informed ... of the option to accept or refuse administration of the product.” *Id.*, 1233, citing 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III). Without the Employee’s consent, the Employee had the option to refuse to accept the administration of the EUA packaged and labeled vaccine, which would be the only one available. Under these facts, the Employer was not entitled to summary judgment.

Thirdly, a reasonable inference that the district court failed to draw in the Employee’s favor is that it would not have been a substantial burden on the Employer if the religious exemption had been granted because the Employer had granted the Employee’s request for a religious exemption from the COVID-19 vaccines previously for a substantial period of time, namely, from January 2020 to September 2021 – a period of 21 months. In addition, the Employer’s designated agent admitted that other skilled nursing facilities effectively managed COVID-19 by utilizing PPE, regular testing, masking, and other similar precautions short of

mandating the COVID vaccine. Mr. Ken Connelly testified:

So, as an organization, I am sure others were – or other organizations did as well, were managing risk. Some of those risks, managing those risks were PPE. Another way to manage the risk was the vaccination. *JA* 77.

This was the Employee's experience, too. During the period of the virus, she worked at four different skilled nursing facilities who all granted her request for a religious exemption from the vaccine. Employee's Opp. to Motion for Summary Judgment, ECF 48-1, p. 4. The Court failed to take this evidence favorable to the Employee into account. In addition, on August 18, 2021, the directive of the Secretary of Maryland's Department of Health that provided for "reasonable accommodation requests" and alternatives to vaccination, including wearing PPE and testing. Employee's Opp. to S.J., ECF 48-1, p. 11. Maryland's public health statute provides:

Unless the Secretary [of Health] declares an emergency or disease epidemic, the Department may not require the immunization of an individual if the individual objects to immunization because it conflicts with the individual's bona fide religious beliefs and practices." Md. Code Ann., Health-Gen. § 18-403 § 18-403(a)(2).

Based on this evidence, a fact finder could conclude that the burden of allowing a religious exemption from taking the vaccine was not a substantial hardship in relation to the conduct of the Employer's business. It was also consistent with Title VII's purpose to give religious employees "favored treatment" in order to ensure religious persons' full participation in the

work force.” *Groff v. DeJoy*, *supra*, 461, n. 9 (quoting *EEOC v. Abercrombie v. Fitch Stores, Inc.*, 575 U.S. 768, 775 (2015)). This is yet another reason the district court erred in granting summary judgment in favor of the Employer in respect to the defense of undue hardship.

II. The Next Reason for Granting the Writ is Denial of the Employee’s Rule 56(d) Motion to Produce an Affidavit of a Medical Expert that would have been outcome determinative.

The Employee filed a motion under Rule 56(d) for leave to include the affidavit of Peter McCullough, M.D., an expert in vaccine efficacy and safety on patients with COVID-19 infection. At the time the motion was filed, a trial date had not been scheduled, and the previous scheduling order had expired with no current date for designating experts. A settlement conference (which had not been requested by either party) took up a considerable amount of time as one could not be scheduled until four months later. During this time, discovery naturally did not take place. Further time had to be devoted to litigating the Employer’s motions to dismiss (2x) which made for another significant delay for writing the responses to the motion and waiting for the court to rule upon them. It was not until July 30, 2024, that the court denied the Employer’s motion to dismiss and the motion for summary judgment without prejudice to renew the motion for summary judgment following additional discovery. The court issued another order establishing discovery and dispositive motions deadlines, but it did not provide a deadline for naming experts. The Rule 30(b)(6) depositions of the Employer were not conducted until October 18, 2024.

On December 2, 2024, the Employer filed a motion for summary judgment which asserted (1) that its

decision to deny the Employee's request for a religious exemption from taking the COVID 19 vaccine "was based on the risk that doing so would increase the risk of further spreading the virus to [Employer's] elderly and medically vulnerable patients and employees, and (2) that the Employer's decision to deny the religious exemption was made to protect the lives of their elderly residents and caregivers by trying to limit the spread of COVID-19." The Employer relied solely on the claim of undue hardship.

On December 26, 2024, counsel sent the Employer's counsel a report from Dr. Peter McCullough, a medical expert in the treatment of COVID-19 and vaccine efficacy and safety. The report set forth Dr. McCullough's opinion that one or a small number of unvaccinated employees would not increase the risk of spreading COVID-19 to the resident population or among staff. Employer's counsel replied on December 28, 2024 that they did not view the report as being relevant and preferred to move forward with summary judgment. Employer's counsel stated further that "if you feel otherwise you can draft a proposed motion to name a late filed expert and we will review it."

On January 7, 2025, Employee filed her response in opposition to the motion for summary judgment. As part of her response, Employee presented in opposition to the motion for summary judgment the affidavit of Dr. McCullough. The Employee contended that the Employer could alleviate the risk of COVID-19 spread by measures such as wearing PPE, regular testing, social distancing, quarantining, etc.—measures which the employee successfully had used for nearly two years during the height of the COVID-19 virus in the United States.

On January 22, 2025, the Employee filed a motion under Rule 56(d) for leave to produce Dr.

McCullough's report as evidence essential to the opposition to the Employer's motion for summary judgment and contended that the late identification of the expert was substantially justified or harmless. On February 4, 2025, the Employer filed an opposition to the motion contending it came too late and that the Employee should have been aware of the need for an expert early on.

On May 22, 2025, the Court issued its decision. It granted the Employer's motion for summary judgment. It also denied the Employee's motion for leave to produce Dr. McCullough's affidavit as essential evidence in opposition to the motion for summary judgment.

The district court abused its discretion in not allowing the Employee to use the affidavit-report of a medical expert which was essential to oppose the motion for summary judgment. In general, courts of appeals apply an abuse-of-discretion standard when it reviews a trial court's decision to admit or deny an expert's testimony. *Kumho Tire Co., LTD v. Carmichael*, 526 U.S. 137, 150 (1999). The issue here is whether the lower court properly denied the Employee's rights under Rule 56 to present evidence that she cannot provide concerning an expert who was not timely disclosed pursuant to a scheduling order. Fed. R. Civ. P. 56(d) provides:

(d) When Facts Are Unavailable to the Non-Movant. If a nonmovant shows by facts or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order.

The Employer contended in this case that the Employee was required to work in close proximity to residents and was a potential avenue for exposure to COVID-19 for residents and staff. It also maintained that placing an unvaccinated person in the workplace increased the risk of spreading of COVID-19. In order to justify her opposition to the summary judgment motion, it was essential for the Employee to present Dr. McCullough's expert opinion that asymptomatic unvaccinated persons do not present a danger of transmitting the virus, JA 400, and that "vaccinated [persons can] become infected with SARS-Co-V-2 [and are] no less infectious than unvaccinated persons." Dr. McCullough's opinion dispels the claim that "unvaccinated employees working in-person would put other staff members and a vulnerable patient population at risk." *Id.* His report states that "[t]his statement is not supported by any clinical data. Evidence exists that alternative controls are effective." *Id.* The report states:

"LVMG has disclosed in their deposition that they received and denied 5 requests for religious exemption, including Mrs. Liberto Dodson. According to their 2021 Annual Report, LVMG had 391 residents and 191 staff members. Therefore, had LVMG granted religious exemptions to these 5 applicants, that would constitute only an incremental 2.6% of all LVMG staff, and 0.86% of all LVMG staff and patients. There are no logical scientific grounds to argue that providing religious exemptions to less than 1% of the staff and patients would lead to an increase in infections nor would pose an undue burden to the employer. In fact, allowing all 5 religious exemption requests would still enable LVMG to have almost 100% staff and patient

vaccination levels provided all were injected simultaneously. JA403

Dr. McCullough states that it was well-known by the end of 2021 that vaccinated persons can contract and carry the SARS-CoV-2 virus and spread COVID-19 infection to fellow vaccinated individuals. Thus, “[a]ny school, company or other agency or other entity substantially encouraging or mandating COVID-19 vaccination either knew or should have known that mass vaccination would not stop the spread of SARS-CoV-2 and would not make the classroom, workplace or public area more safe from COVID-19.” *JA 397*. In short, the Employee could not present scientific and medical facts in opposition to the Employer’s motion for summary judgment without an expert, and Dr. McCullough was that expert.

The history of the case demonstrates that the timely selection of expert witnesses was sidetracked by lengthy periods to conduct a settlement conference and dispositive motions filed by the Employer. The Employee plainly stated several months earlier in a joint status report that she intended to designate an expert witness following the deposition of the Employer’s designated agents. Although the Court had extended discovery, the Court’s order did not specify a deadline for expert designation. These extenuating circumstances presented difficulties for the Employee to select a suitable expert on a timely basis. In not granting the Employee’s motion to produce Dr. McCullough’s affidavit in opposition, the Court abused its discretion.

A determination of the motion for summary judgment could have been deferred to permit Dr. McCullough to be deposed. This would have alleviated any prejudice to the Employer’s case. A trial date had not yet been set, leaving adequate time to accomplish

a deposition. Furthermore, the Employer would have an opportunity to select its own expert as well. While this may have expended additional time, a fair amount of time had already been expended by the parties on an attempt at settlement and dealing with dispositive motions. A choice to proceed with experts was required in order to reach a legally correct judgment. In *Lavelle-Hayden v. Legacy Health, Inc.*, Case No. 3:22-cv-01752, U.S. Dist. Ct., D. Oregon, 08-14-2024, 2024 WL 3822712, a party defendant presented nineteen affidavits by expert witnesses who were not previously identified in discovery. In that case, the court indicated that if the Employee needed to take discovery to respond to the motion for summary judgment, it could do so. The Employee-employee chose not to conduct further discovery with respect to the witnesses. The court denied the Employee's motion to strike the experts. When Employee's counsel sent the report of Dr. McCullough on December 26, 2024, he notified counsel that he would make the doctor available for deposition. The Employer declined, but it left the door open for a deposition of Dr. McCullough at a later time.

Under the circumstances, without prejudice to the Employer, the summary judgment proceedings could have been deferred for the defense to depose Dr. McCullough and obtain its own expert witness. The need for an expert was paramount, and a case of this nature cannot be adjudicated without medical experts due to the wealth of medical and scientific information involved.

Conclusion

For the foregoing reasons, the Employee respectfully requests that this Court issue a writ of certiorari to review the decisions of the United States

Court of Appeals for the Fourth Circuit and the United States District Court for the District of Maryland. The Court must vacate and reverse the judgments in both courts. Alternatively, the grant of summary judgment in the district court must be vacated and further proceedings held to reopen the motion for summary judgment and permit the Employee to use Dr. McCullough's affidavit and provide the Employer with an opportunity to depose the doctor.

Respectfully submitted,

/ s / Terrell N. Roberts, III

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**Appx. A – Memorandum Opinion of the US
District Court for the District of Maryland (Filed
May 22, 2025)**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Civil Action No. EA-23-169

CARA ELIZABETH LIBERTO DODSON,

Plaintiff,

v.

THE LUTHERAN VILLAGE AT MILLERS GRANT,
INC.,

Defendant.

MEMORANDUM OPINION

Plaintiff Cara Elizabeth Liberto Dodson initiated the above-captioned action on December 15, 2022, asserting a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (Title VII), based on allegations that Defendant The Lutheran Village at Millers Grant, Inc. (Lutheran Village) refused to reasonably accommodate her bona fide religious belief and then terminated her employment.¹ ECF

¹ Although the Court's Case Management/Electronic Case Files (CM/ECF) system identifies the date on which the Complaint was filed as January 3, 2023, the date stamp on the first page of the Complaint reflects that it was received at the United States Courthouse in Baltimore, Maryland, on December 15, 2022. ECF No. 1. The timeliness of Ms. Dodson's Complaint was addressed in a prior Memorandum

No. 1. Pending before the Court are Lutheran Village's renewed motion for summary judgment (ECF No. 45) and Ms. Dodson's motion for leave to produce evidence and modify the scheduling order (ECF No. 55), each of which is fully briefed (ECF Nos. 48, 54; ECF No. 58).² No hearing is necessary. Local Rule 105.6 (D. Md. 2023). For the reasons set forth below, Lutheran Village's motion is granted, and Ms. Dodson's motion is denied.

I. BACKGROUND

Ms. Dodson pleads one count of religious discrimination in violation of Title VII in the Complaint. ECF No. 1 at 4–5.³ Specifically, she alleges that her employment was unlawfully terminated after Lutheran Village denied her request for a religious accommodation to exempt her from receiving the Coronavirus Disease 2019 (COVID-19) and influenza vaccines that Lutheran Village required of all employees. *Id.* at 11–17.

Opinion issued in this case. ECF No. 41; *Dodson v. Lutheran Vill. at Millers Grant, Inc.*, Civil Action No. EA-23-169, 2024 WL 3597201, at *3 (D. Md. July 30, 2024).

² Ms. Dodson elected not to file a reply to Lutheran Village's response in opposition.

³ Page numbers refer to the pagination of the Court's CM/ECF system printed at the top of the cited document, except that page numbers of exhibits that are deposition transcripts refer to the page and line number of the deposition transcript.

A. Factual Background

Ms. Dodson is a licensed occupational therapist and integrative nutrition health coach. ECF No. 48-4 at 13. She received her Bachelor of Science and Master of Science degrees from Towson University in 2017. Id. Ms. Dodson's "religion is Christianity. She has been a believer for 24 years." Id. at 14. She worships at New Life Bible Church in Frederick, Maryland, and previously at Mount Airy Baptist Church in Mount Airy, Maryland. Id. at 14–15.

Between March 2019 and February 2022, Ms. Dodson was employed as an occupational therapist at Lutheran Village, which is a skilled nursing facility in Ellicott City, Maryland.⁴ ECF Nos. 1 at 9 ¶ 5; 11 at ¶ 3.E.2; 48-4 at 10; 48-9 ¶ 2.⁵ In the course of her work at Lutheran Village, Ms. Dodson could be in "very close proximity with [her] clients," and at times she would "actually physically touch[] [her] clients." ECF Nos. 48-8 at 22:7–14. The proximity between Ms. Dodson and her clients and the percentage of time she would touch her clients would depend on the client and their needs. Id. at 23:15–19, 24:12–15. Client transfers would require Ms. Dodson to "be very close," although the "level of physical closeness or touch"

⁴ During this period of time, Ms. Dodson worked as an occupational therapist at other facilities. ECF No. 48-4 at 9–10.

⁵ The parties' deposition excerpts filed in support of their summary judgment filings have some overlap. For ease of reference the Court cites only to one party's exhibit in support of an undisputed fact.

would depend on the type of transfer. Id. at 25:4–14. For example, a client with "a broken leg or an arm or overall deconditioning" might require Ms. Dodson to "hold[] the back of their pants," whereas other transfers "[m]ight be a bear hug" or call for Ms. Dodson and the client to be "a couple of feet apart." Id. at 26:4–13. Ms. Dodson would also use "a guided hand-over-hand technique" with some patients, where she "would put [her] hand physically over their hand and go through the motion for them." Id. at 28:17–21.

Lutheran Village's "Team Member Vaccination Requirement" policy, which was issued on September 30, 2015, and revised on October 14, 2020, required annual vaccinations absent a medical or religious exemption. ECF No. 48-7 at 38–39. This policy noted that "[b]ecause we serve individuals with high health risks, team member requests for exemption from the vaccination requirement will generally not be granted. Doing so would likely create an undue hardship on the organization's ability to maintain a safe and healthful environment for residents, team members, and others." Id.

On January 6, 2021, Ms. Dodson requested a religious accommodation to exempt her from receiving the COVID-19 vaccine. ECF No. 48-5. To Ms. Dodson's knowledge, "none of the leaders of [her] church advised that it was okay to receive the COVID[-19] vaccine." ECF No. 54-3 at 109:2–5. Lutheran Village granted her request because at that time the COVID-19 vaccine "was under emergency use authorization only" and there was not "a lot of data" about the vaccine. ECF No. 48-7 at 11:14–12:5. Between being granted this exemption and termination of her employment, Ms. Dodson used personal protective equipment (PPE) while working at Lutheran Village,

including a "gown, gloves, foot covers, face shield, goggles, gloves, mask, [and] N95 respirator." ECF No. 48-4 at 14. She also "maintained proper distancing," "completed the proper sanitary protocols," "performed standard precaution hygiene," "participated in temperature checks," and "participated in regular testing." Id.

In September 2021, Lutheran Village issued a policy that required all staff to be vaccinated against COVID-19 unless they were granted a medical or religious exemption. ECF Nos. 1 at 11 ¶ 8; 48-4 at 7 (adopting paragraphs 1–19 of the Complaint into Ms. Dodson's answers to interrogatories); 48-6 at 3. On September 30, 2021, Ms. Dodson again requested a religious accommodation to exempt her from Lutheran Village's COVID-19 and influenza vaccine mandates. ECF No. 48-6. In support of her accommodation request, Ms. Dodson submitted a "Religious Exemption Statement." ECF No. 48-8 at 14–19. This statement asserted, among other things, that "[t]he Plaintiff is opposed to receiving the COVID-19 vaccine and other vaccines that use aborted fetal tissue." Id. at 14; see also 48-8 at 20. Ms. Dodson requested an exemption from the COVID-19 and influenza vaccine mandates based on her "belief that the vaccine was tested and manufactured using aborted fetal cells." ECF No. 54-3 at 109:6–14. Although Ms. Dodson was concerned that the COVID-19 vaccine had not been adequately tested, she "requested a religious exemption, not a medical exemption." Id. at 109:18–110:10. Ms. Dodson was "never worried about contracting COVID[-19]" because she "really do[esn't] get sick." Id. at 110:14–19.

On December 20, 2021, Lutheran Village informed Ms. Dodson that it had denied her accommodation

request. ECF No. 48-7 at 22. Lutheran Village's decision was informed by guidance from religious leaders, the Maryland Department of Health, and the United States Centers for Disease Control and Prevention (CDC). ECF No. 45-3 at 21:8–23:10, 31:20–22, 37:14–16. The denial letter explained that Lutheran Village had evaluated Ms. Dodson's position, "including the close contact [she] may have with fellow team members and medically vulnerable residents in the course of [her] work." ECF No. 48-7 at 22. Lutheran Village informed Ms. Dodson "that granting [her] an exemption from COVID-19 vaccinations and the annual influenza vaccine could create a higher risk of the spread of COVID-19 to residents and team members." *Id.* It went on to explain that "[t]his poses an undue hardship on [Lutheran Village] as [it] strives to provide a safe place for residents to live and team members to work." *Id.* Lutheran Village acknowledged that although Ms. Dodson's "request for exemption from the COVID-19 vaccine was approved earlier this year, circumstances have since changed." *Id.* "[M]ost religions . . . actively encourage their members to receive the vaccine against COVID-19. Maryland's Department of Health . . . requires those who work in skilled nursing facilities like [Lutheran Village] to be vaccinated, and the Occupational Safety and Health Administration (OSHA) has introduced vaccine requirements for large employers like [Lutheran Village]." *Id.* Lutheran Village noted that the organization had "experienced many resident deaths and team member illnesses due to the [COVID-19] virus." *Id.* Lutheran Village further explained that it "took steps to mandate the inoculations prior to the widespread availability of the vaccine because we know it's the only way to provide some layer of protection for our residents and team members. We

owe it to them to do everything we can to keep them safe." Id.

The deposition testimony of Lutheran Village's corporate representatives reflects that Ms. Dodson's request was denied for several reasons. First, there was "a global pandemic that ended up killing over 7 million people in the world, over 1 million in the United States." ECF No. 45-3 at 53:20–22. Many of the individuals afflicted by COVID-19 were "older adults who [Lutheran Village] serve[s,]" . . . "especially those who were compromised in some way" like "those in nursing homes." Id. at 54:1–4. Lutheran Village was "trying to manage the risk" and "use[] all of the tools that [it] had," including "screening, testing, PPE, and vaccination." Id. at 43:5–9, 45:9–10, 54:22–55:1. Lutheran Village testified that none of the preventative measures are "100 percent" effective, so "the best approach to stop somebody from getting infected is [to use] all of those [preventative measures] together." Id. at 45:8–13. Lutheran Village also considered "the number of deaths in the nation [and] in Maryland," as well as the vaccine mandates issued by federal and state agencies. ECF No. 48-7 at 83:17–84:3.

Lutheran Village's corporate representative testified that a further consideration was that the COVID-19 vaccine was no longer under emergency use authorization and "had been granted full approval by the [United States Food and Drug Administration] (FDA)." Id. at 12:11–13:1, 79:5–7. Lutheran Village found it relevant that "much more was known about the vaccine" and "most religions actively encouraged members to receive the vaccine." Id. at 79:7–10. Lutheran Village acknowledged that granting Ms. Dodson's request for a religious accommodation would not have resulted in increased financial cost.

Id. at 9:14–10:1. Ultimately, Lutheran Village concluded that granting Ms. Dodson's exemption "was an undue hardship as [it] was trying to save lives." ECF No. 45-3 at 55:12–13; see also id. at 54:5–8.

Lutheran Village's denial letter advised Ms. Dodson that if she did not receive the vaccines by set dates she would be placed on a short-term leave of absence for 30 days and then removed from its payroll. ECF No. 48-7 at 22. Ms. Dodson responded by stating, "I'm sorry, but a few months['] time and [] COVID-19 ha[ve] not change[d] my sincerely held religious beliefs. My religious leaders still support the decision to decline the COVID-19 vaccination, as murdering unborn children for scientific research is still considered immoral, unethical, and unconscionable." ECF Nos. 1 at 13 ¶ 10; 48-4 at 7. Lutheran Village corresponded again with Ms. Dodson to advise her of the vaccination deadline and potential for placement on short-term unpaid leave and termination. ECF No. 1 at 13 ¶ 13; 48-4 at 7. Ultimately, Lutheran Village terminated Ms. Dodson's employment on February 15, 2022. ECF No. 1 at 14 ¶ 14; 48-4 at 7.

B. Relevant Procedural History

The Court originally set August 28, 2023, as the deadline for all discovery. ECF No. 19. Although Ms. Dodson was initially self-represented, counsel entered an appearance on her behalf on August 1, 2023. ECF No. 22. On August 30, 2024, the Court granted Ms. Dodson's motion to modify the scheduling order and extended the deadline for completion of all discovery until December 28, 2023. ECF Nos. 23, 26. Following an unsuccessful settlement conference and at the Court's direction,

the parties filed a joint status report on February 6, 2024, in which Lutheran Village indicated that it intended to file a dispositive motion and Ms. Dodson requested an extension of time to name experts after deposition of Lutheran Village's corporate representatives. ECF No. 35 ¶¶ 3–4. The following day, the Court entered a Paperless Order that set a briefing schedule for Lutheran Village's motion and "directed [the parties] to submit a joint proposed amended scheduling order that encompasses all of the remaining deadlines in the case and identifies the good cause supporting an extension of the deadlines." ECF No. 36. The parties did not do so.

Thereafter, the Court denied Lutheran Village's motion without prejudice to renew its summary judgment motion after the close of discovery. ECF Nos. 41, 42. The Court extended the discovery deadline until November 1, 2024, and set a dispositive motion deadline of December 2, 2024. ECF No. 42. Lutheran Village timely renewed its summary judgment motion. ECF No. 45. After the Court extended Ms. Dodson's time to respond to the motion, she filed first her opposition on January 7, 2025, and subsequently, on January 22, 2025, a motion for leave to produce evidence and amend the scheduling order. ECF Nos. 48, 55.

II. DISCUSSION

Title VII makes it unlawful for an employer, among other things, "to discriminate against any individual with respect to [their] compensation, terms, conditions, or privileges of employment, because of such individual's . . . religion." 42 U.S.C. § 2000e-2(a)(1). This "requires employers to accommodate the religious practice of their employees unless doing so

would impose an 'undue hardship on the conduct of the employer's business.'" *Groff v. DeJoy*, 600 U.S. 447, 453-454 (2023) (quoting 78 Stat. 253, as amended, 42 U.S.C. § 2000e(j)). Lutheran Village moves for summary judgment on the grounds that Ms. Dodson's religious accommodation would have caused undue hardship because it would have "increase[d] the risk of further spreading the [COVID-19] virus to [its] elderly and medically vulnerable patients and its employees." ECF No. 45 ¶ 1. In opposition, Ms. Dodson relies on the report of an expert to challenge the safety and efficacy of COVID-19 vaccine. ECF Nos. 48 ¶ 1; 48-2 at 6–8. Because Ms. Dodson did not disclose this expert until after discovery had closed and Lutheran Village had moved for summary judgment, she moves pursuant to Federal Rule of Civil Procedure 56(d) for leave to produce evidence and modify the scheduling order. ECF No. 55.

A. Standard of Review

Summary judgment motion practice "is properly regarded . . . as an integral part of the Federal Rules as a whole, which are designed 'to secure the just, speedy and inexpensive determination of every action.'" *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986) (quoting Fed. R. Civ. P. 1). Federal Rule of Civil Procedure 56(a) provides that the district court "shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "By its very terms, this standard provides that the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact."

Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-248 (1986) (emphasis in original). A material fact is one that "might affect the outcome of the suit under the governing law." *Id.* at 248. A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

Thus, to defeat summary judgment, "all that is required is that sufficient evidence supporting the claimed factual dispute be shown to require a jury or judge to resolve the parties' differing versions of the truth at trial." *First Nat. Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 288-289 (1968). On the other hand, summary judgment "is justified if, from the totality of the evidence presented, including pleadings, depositions, answers to interrogatories, and affidavits, the court is satisfied that there is no genuine factual issue for trial and the moving party is entitled to judgment as a matter of law." *Sylvia Dev. Corp. v. Calvert Cnty., Md.*, 48 F.3d 810, 817 (4th Cir. 1995).

The Fourth Circuit Court of Appeals has cautioned that summary judgment "cannot be granted merely because the court believes that the movant will prevail if the action is tried on the merits." *Jacobs v. North Carolina Admin. Off. of the Cts.*, 780 F.3d 562, 568-569 (4th Cir. 2015) (quoting 10A CHARLES ALAN WRIGHT & ARTHUR R. MILLER ET AL., *FEDERAL PRACTICE AND PROCEDURE* § 2728 (3d ed. 1998)). At this stage, "the judge's function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." *Anderson*, 477 U.S. at 249. In doing so, the district court "must view the evidence in the light most favorable to . . . the nonmovant and draw all reasonable inferences in [its] favor without

weighing the evidence or assessing the witnesses' credibility." *Baynard v. Malone*, 268 F.3d 228, 234-235 (4th Cir. 2001). To survive summary judgment, the nonmoving party must provide evidence, "not unsupported conjecture." *Graves v. Lioi*, 930 F.3d 307, 324 (4th Cir. 2019). Thus, "[h]earsay statements or conclusory statements with no evidentiary basis cannot support or defeat a motion for summary judgment." *Alston v. Astrue*, Civil Action No. L-10-3446, 2012 WL 665982, at *4 (D. Md. Feb. 28, 2012), *aff'd*, 474 Fed. Appx. 390 (4th Cir. 2012).

Summary judgment must "be refused where the nonmoving party has not had the opportunity to discover information that is essential to [its summary judgment] opposition." *Anderson*, 477 U.S. at 250 n.5. Federal Rule of Civil Procedure 56(d) provides that if the non-moving party "shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order." Fed. R. Civ. P. 56(d). Diligence in conducting discovery is required for such a motion to be approved. The Fourth Circuit has explained that "nonmovants do not qualify for Rule 56(d) protection where they had the opportunity to discover evidence but chose not to." *McCray v. Maryland Dep't of Transp., Maryland Transit Admin.*, 741 F.3d 480, 484 (4th Cir. 2014); see also *Schaeffer v. Mayor & City Council of Baltimore*, Civil Action No. CCB-22-1539, 2024 WL 3200610, at *9 (D. Md. June 26, 2024) ("When a party's own delay results in a failure to gather evidence, Rule 56(d) provides no shelter from a motion for summary judgment.").

Rule 56(f) has procedural requirements that must be

satisfied. A "party may not simply assert in its brief that discovery was necessary and thereby overturn summary judgment when it failed to comply with the [rule's] requirement." *Evans v. Technologies Applications & Serv. Co.*, 80 F.3d 954, 961 (4th Cir. 1996). As the text of the rule makes clear, a Rule 56(d) motion must be supported by an affidavit or declaration, the purpose of which "is to ensure that the nonmoving party is invoking the protections of [the rule] in good faith and to afford the trial court the showing necessary to assess the merit of a party's opposition." *Harrods Ltd. v. Sixty Internet Domain Names*, 302 F.3d 214, 244 (4th Cir. 2002) (internal quotation marks and citation omitted); see also *Ahmed v. Salvation Army*, Civil Action No. CCB 12-707, 2012 WL 6761596, at *10 (D. Md. Dec. 28, 2012), *aff'd*, 549 Fed. Appx. 196 (4th Cir. 2013) (A Rule 56(d) affidavit "must specify why facts precluding summary judgment cannot be presented," including "identifying the probable facts not available and what steps have been taken to obtain these facts.") (internal quotation marks and citation omitted). The Fourth Circuit has "warned litigants that we 'place great weight on the Rule 56([d]) affidavit,'" and that failure to file a supporting affidavit "'is itself sufficient grounds to reject a claim that the opportunity for discovery was inadequate.'" *Harrods Ltd.*, 302 F.3d at 244 (quoting *Evans*, 80 F.3d at 961). Nevertheless, an affidavit may not be necessary if the nonmoving party's objections are "the functional equivalent of an affidavit" and "the nonmoving party was not lax in pursuing discovery." *Id.* at 244-245 (internal quotation marks and citation omitted).

B. Motion for Leave to Produce Evidence

Ms. Dodson moves pursuant to Federal Rule of Civil Procedure 56(d) to "for leave to present facts, by way

of affidavit of a medical expert, essential to justify her opposition to the defendant's assertion in a motion for summary judgment that exempting unvaccinated workers increases the risk of . . . the spread of COVID-19 infection and imposes an undue burden." ECF No. 55 at 1. The motion is flawed for myriad reasons. First, Ms. Dodson has not complied with the procedural requirements of a Rule 56(d) because the motion is unsupported by an affidavit or declaration, something the Court cannot overlook because she has been lax in pursuing discovery. *Harrods Ltd.*, 302 F.3d at 244-245. More fundamentally, Rule 56(d) relief is unavailable to Ms. Dodson because she did not exercise diligence in pursuing the expert discovery on which she now seeks to rely in opposition to Lutheran Village's renewed motion.

The period allotted for discovery in this case was more than ample. The Court enlarged the period for discovery three times, which cumulatively extended the initial deadline from August 28, 2023, until November 1, 2024. ECF Nos. 19, 26, 42. Thus, Ms. Dodson had more than 18 months to identify and properly disclose an expert, 15 of which she enjoyed the benefit of counsel. ECF Nos. 19, 22, 42.

Ms. Dodson attempts to justify her delay based on her assertion that she did not know "the basis for Lutheran Village's justification for [t]his vaccine mandate" until she deposed Lutheran Village's corporate representative. ECF No. 55-1 at 3. This argument is unavailing. The reason for Lutheran Village's denial of Ms. Dodson's religious accommodation request was evident even before she filed suit. As Lutheran Village correctly notes (ECF No. 58 at 2–3), Ms. Dodson's Complaint quotes correspondence she received from Lutheran Village that explained its rationale: "After careful

consideration, we have determined that granting you an exemption from COVID-19 vaccinations and the annual influenza vaccine could create a higher risk of the spread of COVID-19 to residents and team members. This poses an undue hardship." ECF No. 1 ¶ 9; see also ECF No. 1-3. It remains to be determined whether Lutheran Village's denial of the request was lawful, see *infra* III.C., but it cannot be said that the reason for its determination was unclear. Moreover, the fact that Lutheran Village intended to assert an undue burden defense to Ms. Dodson's Title VII claims has been known since Lutheran Village answered the Complaint. ECF No. 11 at 7 ("Plaintiff's claims are barred because her requests for accommodations would have caused Defendant Lutheran Village undue hardship."). This defense theory was set forth in discovery responses, as well as Lutheran Village's initial motion, which was fully briefed and resolved. ECF Nos. 37 ¶ 3 (arguing undue burden); 37-1 at 1, 10–12 (same); 58 at 3–4 (summarizing discovery responses).

Even if Ms. Dodson did not know of the need for an expert until the corporate representative depositions, she still failed to exercise diligence. Ms. Dodson asserts that she deposed Lutheran Village's corporate designees on October 18, 2024. ECF No. 58 at 2. At that time, nearly two weeks remained before the close of discovery (ECF No. 42), yet Ms. Dodson did not seek to extend the discovery deadline. Nor did she file her Rule 56(d) motion in response to the pending renewed motion for summary judgment. Instead, 51 days after Lutheran Village filed its renewed motion (15 days after Ms. Dodson had opposed that motion) Ms. Dodson filed her Rule 56(d) motion. The history of this case makes plain that Rule 54(d) relief is unavailable to Ms. Dodson. E.g., Schaeffer, 2024 WL 3200610, at *10 (denying a Rule 56(d) motion where

plaintiff had the benefit of four months of discovery because plaintiff "was afforded a more-than-satisfactory opportunity to discover essential evidence, which [wa]s all that he [wa]s due").

Although styled as a Rule 56(d) motion, in actuality, Ms. Dodson does not seek to conduct more discovery. Instead, she "essentially seeks amendment of the court's scheduling order to reopen the discovery period" pursuant to Federal Rule of Civil Procedure 16(b)(4) so that she can disclose an expert not previously identified in the 18-month period of discovery in this case. See *Wilson v. National R.R. Passenger Corp.*, Civil Action No. JRR-22-2884, 2025 WL 885836, at *6 (D. Md. Mar. 20, 2025). This, too, fails. Rule 16(b)(4) provides that a scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "[T]he 'touchstone' of that good cause requirement is 'diligence.'" *Wilson*, 2025 WL 885836, at *6 (quoting *Faulconer v. Centra Health, Inc.*, 808 Fed. Appx. 148, 152 (4th Cir. 2020)); see also *Potomac Elec. Power Co. v. Electric Motor Supply, Inc.*, 190 F.R.D. 372, 375 (D. Md. 1999) ("Properly construed, 'good cause' means that scheduling deadlines cannot be met despite a party's diligent efforts.") (internal quotation marks and citation omitted). Here, Ms. Dodson's lack of diligence negates any showing of good cause.⁶

⁶ Lutheran Village further argues that Ms. Dodson's belated expert disclosure fails to comply with the requirements of Federal Rule of Civil Procedure 26 because Ms. Dodson has not produced a list of cases in which the expert testified as an expert in the last four years and the expert's report is unsigned. ECF No. 54 at 2; Fed. R. Civ. P. 26(a)(2)(B), (a)(2)(B)(v). Ms. Dodson's court filings do not appear to satisfy

At this juncture in the case, when discovery has closed and Lutheran Village has filed a dispositive motion, Ms. Dodson cannot foist an untimely, previously undisclosed expert upon her adversary or insert it into the Court's summary judgment analysis. The Federal Rules of Civil Procedure do not countenance such tactics. Consistent with the decisions of courts in this Circuit, Ms. Dodson's request for Rule 56(d) relief or to amend the scheduling order to permit disclosure of an untimely expert report is denied. E.g., *Clayton v. Nationwide Mut. Ins. Co.*, 260 F. Supp. 3d 514, 521-522 (D.S.C. 2017) (denying a Rule 56(d) motion where it was evident from the Complaint that "the cause of the mold growth would be a . . . disputed issue of fact at trial," plaintiff had notice of the defendant's expert and seven months in which to depose him, and plaintiff failed to explain why this was an insufficient opportunity to conduct the discovery she claimed to be necessary); *Bambarger v. Ameristep, Inc.*, No. 7:12CV280, 2013 WL 6222540, at *4 (W.D. Va. Nov. 29, 2013) (holding that "Rule 56(d) is not intended as a mechanism for correcting an expert's deposition"); *Holmes v. Norco Indus., Inc.*, No. 9:05-CV-01991-PMD, 2006 WL 8445333, at *2 (D.S.C. Feb. 14, 2006) (denying a request to dismiss the summary judgment motion as premature by plaintiffs who were "in the

these requirements, which supplies yet another basis on which to exclude her expert, as Ms. Dodson has not shown that such failure was substantially justified or harmless. ECF Nos. 48-2, 48-3; Fed. R. Civ. P. 37(c)(1).

process of retaining an expert") (internal quotation marks and citation omitted). The Court will not consider the proffered expert report in deciding Lutheran Village's renewed motion for summary judgment.

C. Motion for Summary Judgment

Under Title VII, "an employer has a 'statutory obligation to make reasonable accommodation for the religious observances of its employees, short of incurring an undue hardship.'" *Equal Emp't Opportunity Comm'n v. Firestone Fibers & Textiles Co.*, 515 F.3d 307, 312 (4th Cir. 2008) (quoting *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 75 (1977)); see also 42 U.S.C.A. § 2000e(j) (defining "religion" as "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that [it] is unable to reasonably accommodate to an employee's . . . observance or practice without undue hardship on the conduct of the employer's business").

In religious accommodation cases, the Court employs a burden shifting scheme similar to that articulated in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Firestone Fibers & Textiles Co.*, 515 F.3d at 312. Under this analytical rubric, a plaintiff must first establish a *prima facie* claim, which then shifts the burden to the employer to show that it could not reasonably accommodate the plaintiff's religious needs without undue hardship. *Id.* To establish a *prima facie* religious accommodation violation, "an employee must prove that: (1) he or she has a bona fide religious belief that conflicts with an employment requirement; (2) he or she informed the employer of this belief; [and] (3) he or she was disciplined for failure to comply with the conflicting employment requirement." *United States Equal Emp't*

Opportunity Comm'n v. Consol Energy, Inc., 860 F.3d 131, 141 (4th Cir. 2017) (alteration in original) (internal quotation marks and citation omitted). Here, Lutheran Village does not argue that Ms. Dodson failed to establish a prima facie case, but focuses instead on the undue hardship analysis. ECF No. 45; see also ECF No. 48-1 at 7. Thus, the Court will assume without deciding that the undisputed material facts establish a prima facie failure-to-accommodate claim.

To establish an undue hardship, "an employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." Groff, 600 U.S. at 470. The United States Supreme Court has instructed that courts should resolve the question of undue hardship in a "common-sense manner" after considering "all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of [an] employer." Id. at 470-471 (alteration in original) (internal quotation marks and citation omitted). The costs associated with a religious accommodation do not need to be economic. Id. at 475 (Sotomayor, J., concurring) (recognizing that undue hardship analysis may encompass the impact of an accommodation upon a business's employees). "For instance, courts have found that non-economic costs such as damage to employee morale, compromise of a collective bargaining agreement or seniority system, or unequal treatment of other employees, can constitute undue hardships." United States Equal Emp't Opportunity Comm'n v. Greyhound Lines, Inc., 554 F. Supp. 3d 739, 752 (D. Md. 2021) (collecting cases); see also Equal Emp't Opportunity Comm'n v. The GEO Grp., Inc., 616 F.3d 265, 273 (3d Cir. 2010) ("A religious accommodation

that creates a genuine safety or security risk can undoubtedly constitute an undue hardship for an employer-prison.").

In the context of cases involving religious accommodation claims related to vaccination against COVID-19, "[n]umerous courts have found the possibility of an unvaccinated individual getting others sick to be a non-speculative risk that a court may consider when performing an undue hardship analysis." *Bordeaux v. Lions Gate Ent., Inc.*, 703 F. Supp. 3d 1117, 1136 (C.D. Cal. 2023) (collecting cases), *aff'd*, No. 23-4340, 2025 WL 655065 (9th Cir. Feb. 28, 2025); see also *Yockey v. Greater Baltimore Med. Ctr., Inc.*, Civil Action No. ABA-23-512, 2025 WL 860158, at *5 (D. Md. Mar. 18, 2025) (Non-economic costs "include[] accommodations unreasonably imperiling employee safety."); *Miller v. Charleston Area Med. Ctr.*, No. 2:23-CV-00340, 2024 WL 4518293, at *4 (S.D.W. Va. Oct. 17, 2024) ("Courts have also found an undue burden by calculating a hospital's non-economic costs," including the "potential risk" posed by an "unvaccinated employee.") (discussing cases); *Hall v. Sheppard Pratt Health Sys., Inc.*, 749 F. Supp. 3d 532, 544 (D. Md. 2024) ("Increased health and safety risks—including risks to the continued operation of the business due to employee illness and death—may likewise impact the conduct of a business.") (internal quotation marks and citation omitted) (collecting cases).

In support of its undue hardship argument, Lutheran Village argues that Ms. Dodson's position required her to have close, in-person contact with elderly residents, who were a medically vulnerable population, and coworkers. ECF No. 45-1 at 5–6. Lutheran Village further contends that Ms. Dodson's unvaccinated status presented "a potential avenue for

exposure to the COVID-19 virus," *id.* at 6, and that its decision to deny her accommodation "was [predicated] on the desire to minimize the risk of the spread of the COVID[-19]," *id.* at 1, and "save lives," *id.* at 6. The undisputed material facts support Lutheran Village's position.

Consideration of "all relevant factors in the case at hand," *Groff*, 600 U.S. at 470, requires contextualization of Ms. Dodson's accommodation request. Lutheran Village's employee vaccination policy, which predated COVID-19, was put into place because Lutheran Village serves individuals with high health risks and needs to maintain a safe and healthy environment for residents and employees. ECF No. 48-7 at 38–39. As the Supreme Court has observed, "[v]accination requirements are a common feature of the provision of healthcare in America: Healthcare workers around the country are ordinarily required to be vaccinated for diseases such as hepatitis B, influenza, and measles, mumps, and rubella." *Biden v. Missouri*, 595 U.S. 87, 95 (2022) (citing CDC, State Healthcare Worker and Patient Vaccination Laws (Feb. 28, 2018) (citation to a now-expired www.cdc.gov webpage omitted)). Indeed, state and federal officials imposed vaccine mandates on skilled nursing facilities like Lutheran Village and other similar facilities. ECF No. 45-3 at 56:18–57:7; Medicare and Medicaid Programs: Omnibus COVID-19 Health Care Staff Vaccination (Omnibus COVID-19 Health Care Staff Vaccination), 86 Fed. Reg. 61,555-01; see also *Biden*, 595 U.S. 87, 92-93 (holding that the Secretary of Health and Human Services did not exceed his statutory authority by requiring healthcare facilities to ensure their staff were vaccinated against COVID-19, absent a medical or religious exemption, in order to receive federal Medicare and Medicaid funding). COVID-19 is a

"severe acute respiratory illness." *South Bay United Pentecostal Church v. Newsom*, 140 S. Ct. 1613, 1613-1614 (2020) (Roberts, C.J., concurring in denial of application for injunctive relief); see also *Slidewaters LLC v. Washington State Dep't of Lab. & Indus.*, 4 F.4th 747, 752 (9th Cir. 2021) ("COVID-19 is a novel, potentially deadly, severe acute respiratory illness caused by a virus that is most commonly transmitted person to person.") (citing *South Bay United Pentecostal Church*, 140 S. Ct. 1613); *Omnibus COVID-19 Health Care Staff Vaccination*, 86 Fed. Reg. at 61,556 ("COVID-19 has [] significant negative health effects," including "hospitalization, mortality, and post-COVID conditions."). COVID-19 "also has significant, detrimental effects" after the illness, including "nervous system and neurocognitive disorders, cardiovascular disorders, gastrointestinal disorders, and signs and symptoms related to poor general well-being, including malaise, fatigue, musculoskeletal pain, and reduced quality of life." *Omnibus COVID-19 Health Care Staff Vaccination*, 86 Fed. Reg. at 61,557. "SARS-CoV-2 [(severe acute respiratory syndrome coronavirus 2)], the virus that causes COVID-19 disease, is highly transmissible." *Id.* at 61,557. "Because people may be infected but asymptomatic, they may unwittingly infect others." *South Bay United Pentecostal Church*, 140 S. Ct. 1613. "[P]eople over the age of 65 or those with underlying health conditions are particularly at risk of contracting a serious or fatal case of COVID-19 (we refer to these individuals as 'high-risk people')." *People First of Alabama v. Secretary of State for Alabama*, 815 Fed. Appx. 505, 506 (11th Cir. 2020) (Rosenbaum, J. and Jill Pryor, J. concurring); see also *Golden v. Werner*, Civil Action No. RDB-20-2480, 2021 WL 5390344, at *11 (D. Md. Nov. 17, 2021), *aff'd*, No. 22-6034, 2024 WL 2953130 (4th Cir. June 12,

2024) ("COVID-19 is a highly contagious disease that is potentially fatal, especially for individuals in high risk categories.").

In the fall of 2021, "the Delta variant of COVID-19 [] emerged as a safety risk," *United States v. Colon*, 64 F.4th 589, 591 (4th Cir. 2023), followed by the Omicron variant, both of which resulted in "deadly surges in COVID-19," *Eden, LLC v. Just.*, 36 F.4th 166, 171 (4th Cir. 2022). "In September 2021, the United States averaged more than one million cases per week and, in October 2021, more than 10,000 Americans on average were dying each week from the disease." *Yockey*, 2025 WL 860158, at *5 (citing COVID-19 U.S. Cases, World Health Organization) (citation to a now-expired data.who.int webpage omitted)); see also *United States v. Guest*, Civil Action No. ELH-16-0499, 2022 WL 2104492, at *11 (D. Md. June 9, 2022) (discussing COVID-19 variants and infection trends). Thus, at the time Lutheran Village was assessing Ms. Dodson's second religious accommodation request, COVID-19 presented a significant threat to the health and safety of its employees and residents.

As detailed previously, see *supra* I.A, Ms. Dodson's position as an occupational therapist at a skilled nursing facility required her to have very close physical contact with elderly, medically vulnerable individuals who resided at Lutheran Village. Lutheran Village's decision to deny Ms. Dodson's second request for a religious exemption was informed by the number of COVID-19 fatalities, guidance from federal and state public health agencies and religious leaders, the vaccines' approval status, and its need to manage risk to prevent infection of its employees and the high-risk population they served. Lutheran Village denied Ms.

Dodson's accommodation request because it believed that a layered approach involving the use of PPE, testing, and vaccination was the best way to manage risk; prevent transmission of the virus; and protect its employees and residents, many of whom had become ill and died because of COVID-19. A common-sense assessment of the facts and circumstances of this case leads the Court to conclude as a matter of law that granting Ms. Dodson a religious accommodation would have presented an undue hardship. E.g., *Yockey*, 2025 WL 860158, at *6 (noting that the defendant hospital's "daily work of serving vulnerable patients is central to a 'common sense' analysis"); *Marucci v. Greater Baltimore Med. Ctr., Inc.*, Civil Action No. ABA-23-510, 2025 WL 860137, at *7 (D. Md. Mar. 18, 2025) (finding it reasonable for the defendant hospital to "to insist upon strong measures to prevent potential COVID-19 transmission to patients"). No reasonable jury could find the contrary based on the available evidence in the summary judgment record.

Indeed, courts in this Circuit—and across the nation—have repeatedly found similar facts and circumstances constitute undue hardship, both with respect to the COVID-19 and influenza vaccines. *Miller*, 2024 WL 4518293, at *5 ("Historically, being forced to accommodate an unvaccinated employee has been more than enough to pose an undue hardship for medical facilities across our nation actively combatting the COVID-19 pandemic even today."); accord *Yockey*, 2025 WL 860158, at *6 (COVID-19); *Marucci*, 2025 WL 860137, at *6 (same); *Hall*, 749 F. Supp. 3d at 547 (same); *French v. Albany Med. Ctr.*, No. 1:22-CV-252 (MAD/DJS), 2024 WL 2958461, at *12 (N.D.N.Y. June 12, 2024) (influenza); *Aukamp-Corcoran v. Lancaster Gen. Hosp.*, Case No. 19-5734, 2022 WL 507479, at *8 (E.D. Pa. Feb. 18, 2022)

(same); Robinson v. Children's Hosp. Bos., No. CV 14-10263, 2016 WL 1337255, *9 (D. Mass. Apr. 5, 2016) (same).⁷

Ms. Dodson's arguments to the contrary are unavailing. First, Ms. Dodson advances several arguments that lack evidentiary support. Ms. Dodson contends that "asymptomatic unvaccinated persons do not present a danger of transmitting the virus" and that granting exemptions to "a small number of employees [] would not increase the risk of spread of the viruses." ECF No. 48-1 at 8, 14. These assertions rest on the opinion of her untimely, previously undisclosed expert, which is not properly before the Court for the reasons stated previously. See *supra* II.B. Her argument regarding the efficacy of COVID-19 vaccines (ECF No. 48-1 at 13) fails for the same reason. As a corollary to this argument, Ms. Dodson objects that Lutheran Village has not adduced scientific or medical evidence to prove (1) the efficacy of the COVID-19 vaccine or (2) that "close proximity" increases the risk of spreading COVID-19. ECF No. 48-1 at 8–9. Such evidence is not required. E.g., *Rodrique v. Hearst Commc'ns, Inc.*, 126 F.4th 85, 91 (1st Cir. 2025) (rejecting plaintiff's argument that summary judgment was erroneously granted because the employer did not proffer expert testimony establishing that the vaccine protects against transmission of COVID-19).⁸

⁷ Cases finding undue hardship where an unvaccinated healthcare employee seeks a religious accommodation are legion. These citations represent a small fraction of the reported decisions addressing this issue.

⁸ Nor is the testimony of Lutheran Village's corporate representatives impermissible lay opinion testimony,

Ms. Dodson also argues that Lutheran Village did not grant any religious accommodation request, whereas "many other employers" exempted her from their COVID-19 vaccine mandates based on her religious beliefs. ECF No. 48-1 at 3–4, 10–11. Yet, neither party presented evidence in connection with their summary judgment filings regarding Lutheran Village's disposition of other religious accommodations requests at the time it denied Ms. Dodson's request or the actions taken by other employers regarding Ms. Dodson's religious accommodation requests. In any event, such matters are irrelevant to the Court's assessment of the circumstances surrounding Lutheran Village's denial of Ms. Dodson's religious accommodation, which the Supreme Court has instructed must be evaluated by "tak[ing] into account all relevant factors in the case at hand." Groff, 600 U.S. at 470 (emphasis added).

Second, Ms. Dodson advances a bevy of arguments that do not materially alter the Court's undue hardship analysis. Ms. Dodson posits that Lutheran Village's concession that no financial costs were associated with the requested exemption defeats its undue hardship defense. ECF No. 48-1 at 15. This misses the mark, as Lutheran Village bases its undue hardship defense on noneconomic costs, i.e., the

as Ms. Dodson contends. ECF No. 48-1 at 8–9.; *Rodrique v. Hearst Commc'ns, Inc.*, 126 F.4th 85, 93 (1st Cir. 2025) (human resource official's testimony describing the employer's decision-making process and conclusion regarding the requested religious accommodation was a factual statement, not an impermissible lay opinion).

health and safety of its residents and employees. Evidence of economic costs are therefore unnecessary. E.g., *Luxton v. Washington State Dep't of Veterans Affs.*, No. 3:23-CV-05238-DGE, 2025 WL 896658, at *15 (W.D. Wash. Mar. 24, 2025) ("[W]here non-economic factors—health risks in this case—drive the undue hardship analysis, evidence of monetary burdens is not required.").

Ms. Dodson also contends that Lutheran Village's consultation with religious leaders and reliance on the direction and guidance of public health officials are an insufficient basis on which to deny Ms. Dodson's accommodation. ECF No. 48-1 at 11–12. This argument cuts in favor of Lutheran Village. The undisputed material facts establish that Lutheran Village based its decision on these and many other factors, including the duties of Ms. Dodson's position, COVID-19-related illnesses and deaths of residents and employees, and the degree of protection offered by other preventative measures. See *supra* I.A. In other words, a broad spectrum of data informed Lutheran Village's decision to deny the accommodation request. Moreover, as Lutheran Village correctly notes, an employer's reliance on the recommendations of public health officials is reasonable in such circumstances. ECF no. 54 at 7 (collecting cases from various federal district courts); see also *Rodrique*, 126 F.4th at 91 (holding that an employer "acted reasonably when it determined that vaccinated employees are less likely to transmit COVID-19 than unvaccinated employees" based on "the views of public health authorities"); *Efimoff v. Port of Seattle*, No. 2:23-CV-01307-BAT, 2024 WL 4765161, at *13 (W.D. Wash. Nov. 13, 2024) (finding that the employer "properly made its accommodation decision after evaluating public health data and guidance related to transmission and infection rates

associated with unvaccinated individuals and assessing those risks in the context of [plaintiff's] job duties and work environment"); *Hailey v. Legacy Health*, No. 3:23-CV-00149-IM, 2024 WL 4253238, at *14 (D. Or. Sept. 20, 2024) (deciding that the defendant healthcare provider "reasonably concluded" that state and federal public health agency guidelines "bore indicia of validity and reliability" and properly incorporated it into its religious accommodation decision-making).

The reasonableness of reliance on public health guidance during a global pandemic renders the vaccine's FDA approval status at the time Lutheran Village denied the accommodation request irrelevant to the Court's undue hardship analysis. Regardless of whether it had emergency use authorization or full approval, public health officials recommended, and then mandated in certain circumstances, use of the vaccine to help combat infection and the spread of COVID-19. ECF No. 48-7 at 40–49 (May 10, 2021 correspondence in which the FDA communicated its conclusion that, "based on the totality of the scientific evidence available to the FDA, [] it is reasonable to believe that the Pfizer-BioNTech COVID-19 Vaccine may be effective in preventing COVID-19"); *Omnibus COVID-19 Health Care Staff Vaccination*, 86 Fed. Reg. 61,555-01; see also *Biden*, 595 U.S. at 95 (noting that "healthcare workers and public-health organizations overwhelmingly support[ed]" the rule requiring vaccination of healthcare workers). Ms. Dodson's argument that Lutheran Village's denial was "arbitrary and capricious" because the vaccine was under emergency use authorization (ECF No. 48-1 at 12–13) is legally unsupported and factually contested. ECF No. 48-7 at 12:11–13:1, 79:5–7 (testifying that an unspecified COVID-19 vaccine had full FDA approval at the time of Lutheran Village's

denial).

Finally, Ms. Dodson argues that she "strictly complied with Lutheran Village's workplace requirements to prevent the spread of the virus." ECF No. 48-1 at 4. This fails for two reasons. First, following denial of her religious accommodation request Ms. Dodson did not comply with Lutheran Village's vaccination requirement, which is the basis for her termination and filing of the instant action. Second, Ms. Dodson offers only argument, not evidence, to establish that her proposed accommodation, i.e., the use of PPE, distancing and sanitary protocols, temperature checks, and testing, were reasonable. *Id.* There is no evidence in the summary judgment record to controvert Lutheran Village's "conclusion that vaccinated people are less likely to infect others." *Rodrique*, 126 F.4th at 93.

The Fourth Circuit Court of Appeals has long recognized that "an employer is not required 'to wait until it [feels] the effects' of the proposed accommodation before determining its reasonableness." *Firestone Fibers & Textiles Co.*, 515 F.3d at 317 (alteration in original) (internal citations omitted). Thus, Lutheran Village was not required to accept increased risk to the health and safety of its employees and elderly, medically vulnerable, high-risk residents because of Ms. Dodson's religious beliefs. *Yockey*, 2025 WL 860158, at *6; *Marucci*, 2025 WL 860137, at *6. Nor was Lutheran Village required "to provide the accommodation that [Ms. Dodson] prefer[ed]." *We The Patriots USA, Inc. v. Hochul*, 17 F.4th 368, 370 (2d Cir. 2021). Summary judgment in favor of Lutheran Village is appropriate because the undisputed material facts establish that Ms. Dodson's requested accommodation presented a threat to the

health and safety of Lutheran Village's residents and employees, thus presenting an undue hardship to the conduct of its business.⁹

III. CONCLUSION

For the foregoing reasons, it is hereby ordered that Lutheran Village's renewed motion for summary judgment (ECF No. 45) is granted, and Ms. Dodson's motion for leave to produce evidence and modify the scheduling order (ECF No. 55) is denied. A separate Order follows.

Date: May 22, 2025

/s/

Erin Aslan

United States Magistrate Judge

⁹ It is unclear whether Ms. Dodson also asserts a retaliation claim. Her Complaint alleges that Lutheran Village reduced her scheduled hours after she requested a religious accommodation (ECF No. 1 at 11 ¶ 8), but she indicated elsewhere in the pleading that the only discriminatory conduct she complained of was termination (*id.* at 5). It is unknown whether Ms. Dodson administratively exhausted this claim, as her Equal Employment Opportunity Commission charge is not part of the summary judgment record. The parties do not address retaliation in their summary judgment filings. Thus, there is no evidence in the record to support any such claim. Accordingly, even if it were properly before the Court, summary judgment in favor of Lutheran Village would be appropriate.

B1

**Appx. B – Order of the US District Court for the
District of Maryland (Filed May 22, 2025)**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Civil Action No. EA-23-169

CARA ELIZABETH LIBERTO DODSON,
Plaintiff,

v.

THE LUTHERAN VILLAGE AT
MILLERS GRANT, INC.,
Defendant.

ORDER

For the reasons stated in the accompanying
Memorandum Opinion, it is hereby ORDERED that:

1. Defendant's motion for summary judgment (ECF No. 45) is GRANTED;
2. Plaintiff's motion for leave to produce evidence and modify the scheduling order (ECF No. 55) is DENIED;
3. JUDGMENT is entered in favor of Defendant and against Plaintiff; and
4. The Clerk of the Court shall CLOSE this case.

Date: May 22, 2025

/s/ Erin Aslan

United States Magistrate Judge

Appx. C – Opinion of the US Circuit Court of Appeals for the Fourth Circuit (Filed Mar. 2, 2026)

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1696

CARA ELIZABETH LIBERTO DODSON,

Plaintiff - Appellant,

v.

THE LUTHERAN VILLAGE AT MILLERS GRANT,
INC.,

Defendant - Appellee.

Appeal from the United States District Court for the
District of Maryland, at Baltimore. Erin Aslan,
Magistrate Judge. (1:23-cv-00169-EA)

Submitted: February 26, 2026 Decided: March 2,
2026

Before NIEMEYER and QUATTLEBAUM, Circuit
Judges, and FLOYD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Terrell N. Roberts, III, ROBERTS &
WOOD, Riverdale, Maryland, for Appellant. Ralph L.

Arnsdorf, Scott H. Phillips, Patrick M. Wachter,
FRANKLIN & PROKOPIK, P.C., Baltimore,
Maryland, for Appellee.

Unpublished opinions are not binding precedent in
this circuit.

PER CURIAM:

Cara Elizabeth Liberto Dodson appeals the
magistrate judge's* order granting Defendant
summary judgment on Liberto Dodson's religious
discrimination and failure-to-accommodate claims,
brought pursuant to Title VII of the Civil Rights Act
of 1964, 42 U.S.C. §§ 2000e to 2000e-17, and denying
her "Motion for Leave to Produce Evidence Essential
to Justify Opposition to a Motion for Summary
Judgment and to Modify the Scheduling Order." We
have reviewed the record and find no reversible error.
Accordingly, we affirm the magistrate judge's order.
Liberto Dodson v. The Lutheran Vill. at Millers
Grant, Inc., No. 1:23-cv-00169-EA (D. Md. May 22,
2025). We dispense with oral argument because the
facts and legal contentions are adequately presented
in the materials before this court and argument
would not aid the decisional process.

AFFIRMED

* The parties consented to the exercise of jurisdiction
by the magistrate judge pursuant to 28 U.S.C. §
636(c).

D1

**Appx. D – Order of the US Circuit Court of
Appeals for the Fourth Circuit (Filed Mar. 30,
2026)**

FILED: March 30, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
No. 25-1696 (1:23-cv-00169-EA)

CARA ELIZABETH LIBERTO DODSON
Plaintiff-Appellant

v.

THE LUTHERAN VILLAGE AT MILLERS GRANT,
INC.
Defendant-Appellee

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Niemeyer, Judge Quattlebaum, and Senior Judge Floyd.

For the Court
/s/ Nwamaka Anowi, Clerk