NO. _____

In the Supreme Court of the United States

JAMES VILLELLA, ET AL.,

Petitioners,

v.

ATLAS AIR, INC., ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Title VII forbids an employer to discriminate against an individual "because of such individual's . . . religion." 42 U.S.C. § 2000e-2(a)(1). Petitioner James Villella alleged that he "requested a religious exemption to both vaccinating and testing," that his employer "attempted to get Plaintiff to change, alter, or abandon his religious beliefs," and that he was removed from flight status "for refusing to test due to his sincerely held religious beliefs." The Eleventh Circuit affirmed dismissal at the pleading stage. It held that "the plaintiffs do not allege any facts indicating that Atlas Air intended to discriminate against their religious beliefs," and that petitioners "do not allege any religious objections to masks or tests—only political and logistical ones."

The Question Presented Is:

Whether a court may dismiss a Title VII religious-discrimination claim at the pleading stage on the ground that an employee's professed religious objection to a workplace requirement is in fact secular or political, notwithstanding the complaint's allegation that the objection rested on sincerely held religious belief.

PARTIES TO THE PROCEEDINGS

Petitioners and Plaintiffs-Appellants below

Petitioners, who were plaintiffs in the district court and plaintiffs-appellants in the court of appeals, are the following individuals named in the Third Amended Complaint (TAC ¶¶ 12-15):

James Villella; Patrick Akerlund; Michael Alzati; Eric W. Anderson; Larry James Bearce Jr.; Robert Bellman; Gregory Berry; Lynette Botha; Caleb Buehrer; Richard Bullock; Jon Carroll; Vergil Caskey; James Castor; Nathan Charboneau; Shawn Churchel; Joel Colon; Mark Connor; Matthew Cronauer; Fred Cunningham; Royal Danza; Elliott de Sousa (named below as Elliot De Sousa); Eric Desandro; Steve Dixon; James Erickson; Luis Esquivia; Lee Estes; Robert Fratti; Dennis Gebhard; Mark Gilman; Robert Giudice; Eric Gordon; Rexford T. Heivilin; Jason Henning; David Hewson III; Todd Hontz; Daniel Hudson; Roger Justice; Venancius Kassandji; John Kearins; Beth Kirby; Joseph Loschiavo; Andrew Lutz; Blythe Lutz; Rafael Macario; Jeffrey Michonski; Andrew Mickler; Corey Morris; Gregory Myers; Peter Napora; Patrick Phillips; Glen Pronk; Charles Randall; Jason Rogers; William Serritella; Gentry Shelton; Todd Snaza; Donald Sorrentino; Mark South; Michael Stark; Forrest Stowells; John Swift; Nick Taylor; William Thompson; Farshad Zarrabian (TAC ¶ 12); Michael G. Ballard Jr.; Jason Frisbie; Tony Gamboa; Reza Ghods; Ricky Kinder; Andreas N. Koustas; Chad Kravetz; Carl Lindberg; April McQuillen; Christopher McQuillen; Peter Raymond; Joshua Roberts; Gustavo Verdes (TAC ¶ 13); Timothy Frye; Douglas P. Mayo Jr.; Joel Pardo; Lance Phillips; Kimberly Schreck; Brandon

Thoroughman (TAC ¶ 14); Rebecca Robertson; Elizabeth Stoneking; Barbara Janeice Surber; Geri Tonda; and Ricardo Torres Abarca (TAC ¶ 15).

Respondents and Defendants-Appellees below

Respondent Atlas Air, Inc. ("respondent") was a defendant in the district court and a defendant-appellee in the court of appeals.

Flight Services International, LLC was a defendant in the district court and a defendant-appellee in the court of appeals. The district court dismissed all claims against it for lack of personal jurisdiction (ECF 88 at 4, App.20a), and the court of appeals affirmed that ruling (App.4a-6a). Petitioners do not seek review of the judgment as to Flight Services International, LLC.

Non-Parties to this Petition

The following individuals were named as plaintiffs in the original complaint (C.A. App.1-2) and were listed as plaintiffs-appellants in the certificates of interested persons filed in the court of appeals (CA11 Doc 33-3 at 2-8; Doc 46 at C-1-C-10), but are not named in the Third Amended Complaint: Estate of Lane Caviness (Landon Caviness and Morgan Caviness); Cindy Barrionuevo; Douglas Berry; Douglas Bohnert; Brett L. Chapman; Jonathan Fussle; Greg Gordon; Daniel Greer; David Keen; Daniel Lee; Montague McMillan; Steven Meissner; Steven Muratore; Siegfried Pittet; Gregory Samson; Austin Staton; and Mark Thien. In addition, Benjamin Bendiburg, who is named in the Third Amended Complaint (TAC ¶ 12) and was a plaintiff-appellant in the court of appeals, does not join this petition.

EncompassAir, LLC, John W. Dietrich, Patricia Goodwin-Peters, and Jeffrey Carlson were named as defendants in the original complaint (C.A. App.2). The caption of the judgment below lists "Encompass Air, LLC, et al." as "Defendants" (CA11 Doc 73 at 1). None of them was named in the Third Amended Complaint and none was a party to the appeal.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, petitioners state that no petitioner is a corporation, and that no petitioner has a parent corporation or any stock held by a publicly held corporation. Petitioners are all natural persons.

No party has a stock ticker symbol. According to the corporate disclosure statements filed in the court of appeals, respondent Atlas Air, Inc. is a wholly owned subsidiary of Atlas Air Worldwide Holdings, Inc., which is held through a chain of limited liability companies; according to those statements, no publicly held corporation owns 10% or more of the stock of the entities in that chain (CA11 Doc 33-3 at 9; Doc 46 at C-10-C-11).

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Eleventh Circuit

No. 24-11033

Estate of Lane Caviness, et al. v. Atlas Air, Inc., et al. (opinion captioned *Akerlund v. Atlas Air, Inc.*).

Opinion: July 10, 2026 (Affirming)

U.S. District Court, S.D. Florida

No. 1:22-cv-23519-KMM

Patrick Akerlund, Et Al., *Plaintiffs*, v. Atlas Air, Inc., Et Al., *Defendants*.

Judgment: March 19, 2024 (Order dismissing the Third Amended Complaint with prejudice)

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is published, No. 24-11033 (11th Cir. July 10, 2026), and is reproduced at App.1a-13a. The court's judgment is reproduced at App.14a-15a.

The order of the United States District Court for the Southern District of Florida dismissing the Third Amended Complaint with prejudice is unreported and is reproduced at App.16a-23a; the district court's final judgment is reproduced at App.24a-25a. The district court's order dismissing the Second Amended Complaint without prejudice, whose reasoning the order under review incorporated, is unreported and is reproduced at App.26a-44a. The district court's order dismissing the First Amended Complaint without prejudice is unreported and is reproduced at App.45a-48a.

JURISDICTION

The court of appeals entered its judgment on July 10, 2026. App.1a, 14a. No petition for rehearing was filed. This petition is filed within ninety days of the entry of judgment. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 2000e-2(a)(1) (Section 703(a)(1) of the Civil Rights Act of 1964)

> 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[.]

42 U.S.C. § 2000e(j) (Section 701(j) of the Civil Rights Act of 1964)

> 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.

STATEMENT OF THE CASE

A. The Vaccination Policy and the Testing-and-Masking Condition

Respondent Atlas Air, Inc. is a cargo and charter airline incorporated in Delaware and headquartered in Purchase, New York; petitioners are pilots, flight

attendants, and ground employees of Atlas and of its flight-attendant contractor, Flight Services International, LLC. TAC ¶¶ 1, 16, 20; App.17a. As the court of appeals summarized the pleading, "[d]uring the Covid-19 pandemic, both companies required employees to vaccinate against Covid-19, unless they obtained a religious or medical exemption—in which case, they had to undergo periodic testing and wear a mask on the job." App.2a.

The operative complaint alleges that Atlas announced the requirement on October 5, 2021, that it circulated instructions for seeking "a medical and/or religious exemptions" on October 11, 2021, and that it set October 22, 2021, as the deadline "for [Plaintiffs] to request an exemption due to medical or religious reasons." TAC ¶¶ 64-66. Petitioners allege that they "applied for religious accommodation from the vaccine mandate prior to October 22, 2021." TAC ¶ 70. After the federal contractor mandate was enjoined, Atlas adopted a company-directed requirement, announced on January 25, 2022, that "all U.S. employees who must travel as an essential function of their position must be fully vaccinated by May 1, 2022," and, the complaint alleges, indicated that previously submitted exemption requests "would be reprocessed." TAC ¶¶ 61 n.21, 74-75. On March 8, 2022, management told Atlas pilots that if they were not vaccinated by May 1, 2022, "they would be placed on an unpaid leave of absence or reassignment regardless of the fact they had previously requested an accommodation." TAC ¶ 76. Petitioners allege that they were left to choose between their religious beliefs and their jobs. TAC ¶ 77. On March 25, 2022, Atlas "walked back their statement and decided to allow unvaccinated pilots to

continue working past May 1st as long as they submitted to monthly testing and masking," TAC ¶ 76, on the stated condition that those who had obtained a religious exemption could return to regular duties "so long as they undergo requisite COVID-19 testing at their expense," TAC ¶ 83. Atlas required unvaccinated employees "to test weekly (ground employees) or monthly (pilots and flight attendants)," TAC ¶ 84, and on April 21, 2022, it directed "that all COVID-19 testing be videotaped and retained by plaintiffs so that the videos could be sent to the company if requested," TAC ¶ 85.

The complaint does not allege that any petitioner was discharged. App.3a. It alleges that unvaccinated pilots "received less flight opportunities than vaccinated ones," TAC ¶ 65, and were denied "bids for higher paying flights to certain destinations," TAC ¶ 81.

B. Petitioners' Religious Beliefs as Pleaded

The operative complaint pleads the religious character of petitioners' objection in terms, alleging that petitioners "possess sincerely held religious beliefs that their Creator planned their existence upon their creation, which included the creation and design of their unique genetic code, both DNA and RNA," and that their "conscience prohibits them from being inoculated with any experimental foreign substance or biological/medical material that violates their religious convictions and will alter the biological aspects of their human body." TAC ¶ 46. It alleges that these beliefs "are not based upon social, political, economic, or personal philosophies," TAC ¶ 50, that they are "based on the teachings of globally accepted religions," TAC ¶ 51, and that because the vaccines

"were developed using stem cells harvested from human embryos," petitioners "have a conscientious duty to refuse participation in activities repugnant to human life and dignity," TAC ¶ 59. Within the Title VII count itself, the complaint alleges that the unvaccinated petitioners "possess sincerely held religious beliefs that preclude them from receiving any of the experimental COVID-19 vaccines," TAC ¶ 109, and that the conduct complained of was "based, at least in part, on such Plaintiffs' sincerely held religious beliefs as a protected class under Title VII," TAC ¶ 110. The Title VII count expressly incorporates paragraphs 1 through 67, 70 through 81, 83 through 85, and 86 through 91 of the complaint, and thus incorporates each of the belief paragraphs and the testing-policy paragraphs quoted above. TAC ¶ 99.

Petitioners' objection to masks, by contrast, was pleaded in secular terms. The complaint describes masks as "political symbols, including functionally useless face masks," TAC ¶ 95, alleges that they "serve no other purpose than identifying 'dissident' employees with the masks as political symbols," TAC ¶ 110(vi), and alleges that they "unlawfully required [petitioners] to advertise their medical status," TAC ¶ 78. The phrase "substantial burdens," which the court of appeals quoted in describing petitioners' objection to testing, appears in the equal-protection portion of Count III, where the complaint alleges that "[m]andated VBGT's, compelled wearing of political symbols and repeated PCR testing are substantial burdens." TAC ¶ 144. Petitioners do not contend that the complaint pleaded a religious objection to masks.

C. James Villella's Objection to Testing

Petitioner James Villella, a Boeing 737 captain, is listed among the unvaccinated Atlas pilots in the operative complaint. TAC ¶¶ 12, 80. The complaint alleges, in the paragraph on which the district court and respondent focused, that he "requested a religious exemption to both vaccinating and testing but was issued the same blanket exemption that required him to be tested," that "[a]fter trying for 7 months to clarity [sic] his situation, Atlas attempted to get Plaintiff to change, alter, or abandon his religious beliefs and to submit to their COVID-19 testing policy," that he "was unjustly subjected to an 'Article 19' disciplinary hearing in a blatant act of retaliation, harassment and discrimination," and that after defending himself against "accusations of blatantly disregard [sic] for the company vaccination policy, and other libelous accusations," he "was removed from flight status and put on a desk job for approximately 3 months under threat of being terminated for refusing to test due to his sincerely held religious beliefs." TAC ¶ 80. An accompanying footnote alleges that Villella's accommodation request "was to continue operating and following the same process (screening for COVID-19, as the CDC stated was appropriate for people without symptoms for COVID-19) all Atlas Air employees had been following for the entire COVID-19 pandemic up to May 1st, 2022," and that "[s]ince Atlas only had to accommodate this single individual, no undue hardship existed." TAC ¶ 80 n.24.

The allegation took a different form in petitioners' earlier pleadings. The original complaint alleged that Villella "was actually told by defendants that he needed to change his religion when he informed them

that his religion forbade participation in weekly testing." ECF 1 ¶ 178, C.A. App.23. The First Amended Complaint alleged that Villella "was the only Atlas employee that notified Atlas that his religious beliefs prevented him from getting vaccinated or tested for COVID-19 or any other vaccine/illness." ECF 39 ¶ 186 n.35, C.A. App.101. The defendants' consolidated motion to dismiss the First Amended Complaint relied on that allegation, arguing that Villella "concedes that as 'the only Atlas employee that notified Atlas that his religious beliefs prevented him from [being] tested for COVID-19,' Atlas provided him an 'accommodated non-flying position' exempting him from both vaccination and testing." ECF 43 at 43, C.A. App.192. The Second and Third Amended Complaints do not repeat that sentence; each alleges instead, in paragraph 80 and its footnote, the request for "a religious exemption to both vaccinating and testing" and the removal from flight status "for refusing to test due to his sincerely held religious beliefs," in substantially the terms quoted above, although the Third Amended Complaint added the words "change," and "screening for COVID-19" to paragraph 80 and its footnote. *Compare* C.A. App.320-321 *with* TAC ¶ 80 & n.24.

Villella's account of the objection appears in an unsworn statement—captioned as a declaration, but not executed under penalty of perjury—that petitioners filed as Exhibit 3 to their opposition to the motion to dismiss the Second Amended Complaint. ECF 69-1, Ex. 3, C.A. App.449-453; *see* ECF 69 at 20, C.A. App.430 ("Plaintiff Villella's supporting affidavit is attached as EXHIBIT 3"). The statement is not a pleading. Villella there stated: "I am a born-again Christian and follower of Jesus Christ." C.A. App.450.

He explained that Atlas had required him to complete "a specific form from Atlas Air asking several questions about my religious beliefs," and that "after time spent in prayer, I was lead [sic] through the Holy Spirit to object to any COVID-19 vaccines, in fact, all vaccines and testing procedures past, present, and future due to adherence to my religious beliefs," some of which objections "were included in my original religious exemption letter." C.A. App.450. He stated that Atlas accepted the exemption only on condition of "regular testing," "despite my objection to testing in my original exemption letter," C.A. App.450; that a telephone call with his union representatives "lead [sic] to the union representatives laughing, ridiculing, and mocking me for my religious beliefs and refusing to test," C.A. App.451-452; that he prevailed at the Article 19 hearing and was then assigned desk work for "about three months," an assignment he described as an "accommodation" that he "accepted," C.A. App.452; and that during that period he "was told continuously that there was no point in getting involved in a discussion and that I was not going to be allowed to return to flying if I continue to hold my religious beliefs against testing," C.A. App.452. The statement also describes his request, in his exemption form, for "screening for COVID-19 in lieu of testing for COVID-19," C.A. App.450, and his later emails "asking to be returned to flying status in light of new evidence that continued to be released about the inefficiency and the end [sic] accuracy of the COVID-19 tests," C.A. App.452.

The district court considered the statement, describing Villella's allegations as "[t]he only remotely non-conclusory allegations" in the case and citing both

"*Id.* ¶ 80"—the "*Id.*" referring to the Second Amended Complaint—and the "Declaration of James Villella at 2-3." ECF 73 at 12, App.40a. Although the defendants had argued in the district court that the statement "cannot be considered," ECF 70 at 15, C.A. App.468, respondent relied on it in the court of appeals. Doc 46 at 37.

D. Respondent's Descriptions of That Objection

Respondent has repeatedly characterized Villella's objection to testing. In the defendants' consolidated motion to dismiss the Second Amended Complaint, respondent told the district court that "[a]s for being placed on a desk job, Villella admits that this resulted from Villella being the only Atlas employee that claimed that his religious beliefs prevented him from even being tested for COVID-19," and that "Atlas accommodated Villella with a non-flying position, which exempted him from both vaccination and testing." ECF 66 at 38-39, C.A. App.388-389. In the court of appeals respondent stated that "Atlas accommodated Villella's religious objection to COVID testing by reassigning him to a desk job for three months." Doc 46 at 37.

E. Proceedings Below

Petitioners commenced this action on October 27, 2022, invoking federal-question jurisdiction under 28 U.S.C. § 1331. C.A. App.1; TAC ¶ 22. The First Amended Complaint, filed March 1, 2023, was dismissed without prejudice on July 10, 2023, as a shotgun pleading. C.A. App.67, 295-297; ECF 59, App.45a-48a. The Second Amended Complaint, filed July 19, 2023, asserted ten counts, five against each defendant, and

pleaded its Title VII claim against Atlas as a single count captioned "Violation of Title VII, 42 U.S.C. § 2000e, et seq. Defendants' Creation of a Hostile Work Environment." C.A. App.325; ECF 73 at 1, App.27a; TAC at 27 (Count II).

Respondent's consolidated motion to dismiss the Second Amended Complaint observed that petitioners had "previously asserted three separate types of Title VII claims—for failure to accommodate, disparate treatment, and hostile work environment," that "the former two causes of action have been dropped from the SAC, leaving only the hostile work environment cause of action," and that the motion therefore "addresses Counts II and VII solely under a hostile-work-environment theory." ECF 66 at 37-38, C.A. App.387-388. Petitioners' opposition, filed August 16, 2023, attached the Villella statement and argued that "while the Defendants are correct that the discrimination Plaintiffs complain about relates to their opposition to being vaccinated, they fail to realize that their opposition in turn also relates to their religious beliefs." ECF 69 at 21, C.A. App.431.

On September 20, 2023, the district court dismissed the Second Amended Complaint without prejudice. ECF 73, App.26a-44a. It held that it lacked personal jurisdiction over Flight Services International and, as to Atlas, over the claims of plaintiffs who "do not live in Florida or have Florida as their work base of operation"—by respondent's count, "47 of the 84 Plaintiffs suing it." ECF 73 at 9-10, App.37a. It then dismissed the remaining claims of the 37 Florida-connected plaintiffs against Atlas for failure to state a claim. ECF 73 at 10-15, App.38a-44a. As to the Title VII count, the court held that the complaint's general

allegations of harassment were "entirely conclusory, do not demonstrate that Atlas Air's COVID-19 policies targeted anyone based on their religion, and cannot withstand a motion to dismiss." ECF 73 at 12, App.40a. Turning to Villella, the court noted that he "claims that he was subjected to an Article 19 disciplinary hearing after he failed to comply with Atlas Air's COVID-19 testing policy and was removed from flight status as retaliation for his religious beliefs," and that "union representatives ridiculed and mocked him for his religious beliefs during a phone call," but held that "[t]hese allegations do not rise to the level of severity and abuse necessary to constitute a hostile work environment, nor is it clear how the behavior of union representatives can be attributed to Atlas Air." ECF 73 at 12, App.40a. The court granted leave to amend by October 11, 2023. ECF 73 at 15, App.43a-44a.

Petitioners filed the Third Amended Complaint on that date. TAC at 1; C.A. App.485. They notified the court that "the only change from the Second Amended Complaint and the Third Amended Complaint . . . is the addition of Count XI," a claim under the Federal Food, Drug, and Cosmetic Act. ECF 75 at 1, quoted at ECF 88 at 2, App.17a. The parties then submitted a joint stipulation, which the district court approved, providing that "Defendant FSI has no obligation to respond [to] any part of the Third Amended Complaint" and that "Defendant Atlas shall have no obligation to respond to Counts I through X of the Third Amended Complaint." ECF 79-1 at 2, quoted at ECF 88 at 3, App.18a; *see* ECF 81 at 2-3 (describing the stipulation and the order approving it, ECF 80). Atlas moved to dismiss Count XI and sought dismissal

of the entire pleading with prejudice. ECF 81 at 1; *see id.* at 4 n.2 (listing the 47 plaintiffs previously dismissed for lack of personal jurisdiction; Villella is not among them). Petitioners' four-page opposition, signed by undersigned counsel, stated that "[b]ecause Plaintiffs' Third Amended Complaint ('TAC') only adds a Count XI and includes no other revisions from the Second Amended Complaint, they herein only address Count XI," and that "[w]ith respect to the merits-based arguments and rulings that have been made with respect to Counts I-X, Plaintiffs respectfully disagree with those arguments and rulings and intend to pursue those issues on appeal." ECF 83 at 1, C.A. App.561.

On March 19, 2024, the district court dismissed the Third Amended Complaint with prejudice. ECF 88, App.16a-23a. It repeated its personal-jurisdiction rulings and held that "[b]ecause the TAC contains no new allegations concerning Counts I through V, these claims against Atlas Air are again dismissed for failure to state a claim. *See id.* at 10-15," the "*id.*" referring to the order dismissing the Second Amended Complaint. ECF 88 at 4, App.20a. It dismissed Count XI for want of a private right of action and found further amendment futile. ECF 88 at 4-6, App.21a-22a. Final judgment was entered the same day. ECF 89, App.24a.

Petitioners noticed an appeal on April 3, 2024. Doc 33-1 at 10; Doc 46 at 8. The court of appeals dismissed the appeal for want of prosecution and later reinstated it on petitioners' motion. Doc 46 at 8-9. The operative opening brief, filed March 30, 2025, argued that the Title VII count was adequately pleaded, that Villella's "'Article 19' hearing and three-month desk

reassignment for refusing testing" exemplified unwelcome harassment, that his "hearing targeted his testing refusal, tied to his faith," and that "vaccination status proxied religious belief." Doc 33-1 at 45-48. Respondent answered that any differential treatment "depended on their vaccination status, not their religious beliefs about it," that the complaint alleged no severe or pervasive conduct, and, as an alternative ground, that "at least 40 Plaintiffs" had not exhausted administrative remedies. Doc 46 at 11, 33-39. Petitioners' motion for leave to file a reply brief out of time was denied. CA11 Doc 71.

F. The Decision Below

On July 10, 2026, a panel of the court of appeals affirmed in a published opinion without oral argument. App.1a-13a. The panel held that the district court lacked personal jurisdiction over Flight Services International. App.4a-6a. It did not reach respondent's personal-jurisdiction arguments, because Atlas "concedes that the district court may decide claims brought by employees who work in Florida" and "all claims against Atlas Air fail on the merits." App.4a n.1. As to those claims, "the district court had jurisdiction over at least those employees' claims. But none are plausible." App.6a.

The panel identified the Title VII claim as one that "Atlas Air created a work environment hostile to their religious beliefs, in violation of Title VII," resting on the allegation that "Atlas Air's 'repeated attempts to coerce' them into getting vaccinated constituted 'unwelcomed harassment.'" App.6a. Invoking this Court's decision in *Watson v. Fort Worth Bank & Trust* for the proposition that "the plaintiff is required to

prove that the defendant had a discriminatory intent or motive," the panel held that "the plaintiffs do not allege any facts indicating that Atlas Air intended to discriminate against their religious beliefs. In fact, the allegations suggest the opposite. Under its policy, Atlas Air exempted from its vaccine requirement employees who professed a sincere religious objection to the Covid-19 vaccine. Instead, they had to wear a mask at work and test once a month." App.6a-7a.

The panel then addressed the argument that the testing-and-masking condition was itself hostile to petitioners' religion, and resolved it on the ground that the objection was not religious:

> The plaintiffs now seem to assert that these accommodations are also hostile to their religion. The problem with this argument is that there is nothing to back it up in the pleadings. The plaintiffs do not allege any religious objections to masks or tests—only political and logistical ones. Masks, they say, are "functionally useless" "political symbols" that "serve no other purpose than identifying 'dissident' employees." And the plaintiffs offer no real problem with testing, other than a generalized complaint that it entails "substantial burdens." What those burdens are, and whether they are religious in nature, the plaintiffs do not say. Nor do they allege that employees who received religious exemptions were treated any worse than those who received medical exemptions.

App.7a. The panel concluded: "Whatever one makes of the plaintiffs' dislike of masks and tests, they have alleged no facts signaling animosity from Atlas Air

toward their religious beliefs. The allegation that Atlas Air harbored a discriminatory motive is not only conclusory, but 'wildly implausible,'" quoting the Eleventh Circuit's decision in *Miller v. Donald*. App.7a.

The district court had addressed paragraph 80 and the Villella statement. It described the claim as one that Villella "was removed from flight status as retaliation for his religious beliefs" and dismissed it because the allegations "do not rise to the level of severity and abuse necessary to constitute a hostile work environment." ECF 73 at 12, App.40a; *see* ECF 88 at 4, App.20a (incorporating that ruling). The opinion of the court of appeals does not mention Villella, paragraph 80, the request for a religious exemption from testing that it alleges, or the statement on which the district court and respondent had relied. *See* App.6a-7a. It does not address the district court's alternative holding that Villella's allegations were insufficiently severe. *See id.*; ECF 73 at 12, App.40a. The panel rejected the remaining claims on grounds not presented here, App.7a-10a, and affirmed "the dismissal of the third amended complaint for lack of personal jurisdiction and failure to state a claim." App.13a.

REASONS FOR GRANTING THE PETITION

I. The Courts of Appeals are Divided Over Whether a Professed Religious Objection May Be Declared Secular at the Pleading Stage

Title VII defines "religion" to include "all aspects of religious observance and practice, as well as belief." 42 U.S.C. § 2000e(j). Whether an employee's objection to a workplace requirement is an aspect of religious belief, or a secular preference in religious vocabulary, is a threshold question in every religious-discrimination case, and since 2024 the courts of appeals have answered it at the pleading stage under two incompatible rules. Several circuits hold that a complaint connecting the employee's objection to a professed religious belief pleads the religious element of the claim, and that secular reasons alongside the religious one do not alter the objection's character. The Ninth Circuit, over the dissent of eight of its judges, holds that the court must determine for itself whether the belief is "religious, rather than purely secular," and may dismiss when it concludes that the operative judgment is secular however the complaint labels it. The Ninth Circuit has since said that its decision "explicitly created a circuit split." The decision below, on a complaint that called the objection religious in terms, held that no religious objection was alleged.

A. Four Circuits Hold That an Objection Plausibly Connected to Religious Belief Survives a Motion to Dismiss Notwithstanding Its Secular Reasons

In *Passarella v. Aspirus, Inc.*, 108 F.4th 1005 (7th Cir. 2024), the Seventh Circuit reversed the dismissal of two accommodation claims whose exemption requests invoked both faith and vaccine safety. The court held "that an employee seeks accommodation because of their religion when their request, by its terms, is plausibly based at least in part on some aspect of their religious belief or practice." *Id.* at 1007. "[T]he fact that an accommodation request also invokes or, as here, even turns upon secular considerations does not negate its religious nature." *Id.* at 1010. The court marked the rule's limit: "Religious accommodation requests rooting themselves entirely in safety considerations with no plain and express connection to religion will fall outside of the statute even at the pleading stage." *Id.* at 1011. The Seventh Circuit has since enforced that limit, affirming the dismissal of objections to Covid testing where the employee "cites no religious tenet that is at odds with the testing requirement and no religious practice with which testing would interfere," *Jackson v. Methodist Health Servs. Corp.*, 121 F.4th 1122, 1126 (7th Cir. 2024), and where "Plaintiffs do not identify what belief or practice the testing would violate," *Bowlin v. Bd. of Dirs., Judah Christian Sch.*, 167 F.4th 469, 476 (7th Cir. 2026); each also rested on a state order requiring testing, which made the testing condition a reasonable accommodation in *Jackson* and exempting the employees from it an undue hardship in *Bowlin*. The pleader must identify a belief and connect

the objection to it; having done so, she is not undone by the secular reasons she also holds.

The Eighth Circuit's rule is the same. In *Ringhofer v. Mayo Clinic, Ambulance*, 102 F.4th 894 (8th Cir. 2024), the court reversed the dismissal of five accommodation claims, two of them objections to Covid testing rather than vaccination, holding that

> "[b]y connecting their objection to testing to specific religious principles (Rubin's belief that 'her body is a temple' and Ihde's belief that testing in this case may be 'the equivalent of committing idolatry'), they have satisfied their burden at this stage," *id.* at 902. In *Brokken v. Hennepin County*, 140 F.4th 445 (8th Cir. 2025), the court, affirming in part and reversing in part, reinstated Title VII claims resting on objections to vaccination and testing, holding that the plaintiff's pleaded beliefs "connect to her objection to testing."

Id. at 451-52. The Eighth Circuit has also enforced the floor beneath its rule, affirming dismissal where a plaintiff "fails to connect his objection to testing with his specific religious beliefs, as alleged," *Kale v. Aero Simulation, Inc.*, 139 F.4th 684, 689 (8th Cir. 2025), and where, "[t]hough she alleges a God-given right to choose, she has not alleged how that belief—or any other sincerely held religious principle—requires, guides, or encourages her choice," *Colson v. Hennepin County*, No. 25-1095, slip op. 5 (8th Cir. Mar. 11, 2026).

The Sixth Circuit reached the same result in a refusal-to-hire case. In *Lucky v. Landmark Medical of Michigan, P.C.*, 103 F.4th 1241 (6th Cir. 2024), the

applicant alleged that she prayed, that God directed her not to be vaccinated, and that she acted accordingly. Those allegations "were almost self-evidently enough to establish, at the pleadings stage, that her refusal to receive the vaccine was an 'aspect' of her religious observance or belief." *Id.* at 1243. The district court could not insist on a tenet forbidding vaccination, because "'courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.'" *Id.* at 1243-44 (quoting *Emp. Div. v. Smith*, 494 U.S. 872, 887 (1990)). In *Sturgill v. American Red Cross*, 114 F.4th 803 (6th Cir. 2024), the court, affirming in part and reversing in part, reinstated an accommodation claim the district court had characterized as medical: "that there may be both religious and secular reasons for an act does not elevate the latter over the former, especially at the pleading stage." *Id.* at 810.

The First Circuit has adopted both formulations, with a reservation that bears directly on this case. In *Bazinet v. Beth Israel Lahey Health, Inc.*, 113 F.4th 9 (1st Cir. 2024), the court vacated a sua sponte dismissal, explaining that "the mere fact that there is 'overlap between a religious and political view does not [necessarily] place [the view] outside the scope of Title VII's religious protections,'" *id.* at 17 (quoting *Ringhofer*, 102 F.4th at 901). But the court reached that holding by reading the exemption request the complaint referenced, and it declined to decide the question a bare pleading would present: "We need not determine whether such an unelaborated assertion may be insufficient on its own to allege a religious practice or belief in support of a religious discrimination claim because the district court also should have

considered the documents expressly referenced in the complaint in which Bazinet requested a religious accommodation." *Id.* at 16. In *Thornton v. Ipsen Biopharmaceuticals, Inc.*, 126 F.4th 76 (1st Cir. 2025), the court reversed a dismissal on allegations of bodily purity and prayer, holding that Thornton "need allege no more facts—nor more specific ones—to show that she holds sincere religious beliefs that conflicted with the vaccination requirement." *Id.* at 84.

The Fourth Circuit's test includes a connection requirement and lands on the same side. In *Barnett v. Inova Health Care Services*, 125 F.4th 465 (4th Cir. 2025), the court reversed a Rule 12(b)(6) dismissal, holding that allegations that receiving the vaccine would be sinful after God had instructed her to abstain were "sufficient to show that Barnett's 'belief is an essential part of a religious faith'" and were "plausibly connected with her refusal to receive the COVID-19 vaccine." *Id.* at 471 (citation omitted). *Finn v. Humane Society of the United States*, 160 F.4th 92 (4th Cir. 2025), vacated the dismissal of two employees' Title VII claims and restated the rule as two requirements: "(1) a person's beliefs must be an 'essential part of a religious faith'; and (2) such beliefs must be 'plausibly connected with her refusal to receive the COVID-19 vaccine.'" *Id.* at 98 (quoting *Barnett*, 125 F.4th at 471) (citation omitted). The second means that "a person can't refuse to get vaccinated solely because of health or safety concerns," *id.*, but "a person needn't explain 'how any particular tenet or principle of her religion prohibited vaccination,'" *id.* at 99 (quoting *Passarella*, 108 F.4th at 1012).

These formulations differ in detail. The Seventh and Eighth Circuits have each affirmed the dismissal of a testing objection that the complaint did not

connect to an identified religious belief, and the First Circuit has reserved whether an unelaborated assertion of religious belief suffices on its own. What unites these circuits is what a court may not do once a belief is identified and the objection connected to it: set the religious reasons against the secular ones and find the latter controlling, or substitute its own view of what is religious for the pleader's.

B. The Ninth Circuit Requires a "Sufficient Nexus" Between Religion and the Specific Belief in Conflict, and Permits a Court to Declare a Professed Religious Objection Secular

In *Detwiler v. Mid-Columbia Medical Center*, 156 F.4th 886 (9th Cir. 2025), a hospital employee exempted from vaccination objected on religious grounds to the Covid test imposed as the exemption's condition, alleging that her body is a temple, that she had prayed over the question, and that the swab was treated with a substance she believed harmful. The Ninth Circuit affirmed dismissal and announced its rule: "A plaintiff seeking a religious exemption must plead a sufficient nexus between her religion and the specific belief in conflict with the work requirement." *Id.* at 895. "Invocations of broad, religious tenets cannot, on their own, convert a secular preference into a religious conviction. To hold otherwise would destroy the pleading standard for religious discrimination claims, allowing complainants to invoke magic words and survive a dismissal without stating a prima facie case." *Id.* The court's task, it said, is to "determine if a plaintiff has pled enough facts to show her belief is religious, rather than purely secular." *Id.* And "[i]nvocation of prayer, without more, is still insufficient to elevate personal

medical judgments to the level of religious significance." *Id.* at 897.

The Ninth Circuit knew it was parting company. "Some Circuits have adopted this approach in the employment discrimination context, allowing a complaint to survive with merely conclusory statements about the religious nature of a belief. However, such a standard contravenes federal pleading requirements and elevates claims of religious discrimination over all other prayers for relief." *Id.* at 895. "This threshold is far too permissive." *Id.* at 899. "To allow Detwiler's claim to go forward would open the door to unlimited religious discrimination claims." *Id.* Judge VanDyke dissented: "By affirming the district court, the majority creates a circuit split." *Id.* at 903 (VanDyke, J., dissenting).

Rehearing en banc was denied over two dissents by eight judges in all. *Detwiler v. Mid-Columbia Med. Ctr.*, 172 F.4th 1072 (9th Cir. 2026). Judge Forrest, joined by five colleagues, described the holding: "The court also held that in establishing such nexus, plaintiffs may not rely on the '[i]nvocation of prayer, without more.'" *Id.* at 1073 (Forrest, J., dissenting from denial of reh'g en banc). Judge Tung, joined by six colleagues, stated the error in the terms of the question presented here: "the panel majority recharacterized the employee's clearly religious objection to a company policy as 'purely secular' merely because the objection turned in part on a secular consideration. That was legal error." *Id.* at 1081 (Tung, J., dissenting from denial of reh'g en banc). "This court now stands in opposition to several other circuits, as the panel majority itself conceded." *Id.* at 1087.

On September 24, 2026, a Ninth Circuit panel reversing a different pleading-stage dismissal described

Detwiler in the same terms. "To be sure, our decision in *Detwiler* explicitly created a circuit split by allowing courts in our circuit to wade a bit more deeply into this fraught area." *Ridings v. PeaceHealth*, No. 24-7282, slip op. 11 (9th Cir. Sept. 24, 2026) (published). The court then read *Detwiler* narrowly: "The central question remains whether an employee's professed religious beliefs, taken at face value, conflict with the employer's policy. That is a low bar: We merely ask whether 'there is any nexus between religion and [her] viewpoint' on the employment policy." *Id.* (quoting *Detwiler*, 156 F.4th at 899) (emphasis omitted). On that reading, "*Detwiler* requires a plaintiff to offer more specific allegations to support her religious basis for her objection to an employer's policy if the objection appears to be based on 'purely secular' reasons." *Id.* (slip op. 12) (quoting *Detwiler*, 156 F.4th at 895) (emphasis omitted). Candor requires two observations. *Ridings* confirms, in the Ninth Circuit's own words, that the conflict described in this Part exists; it also narrows *Detwiler*'s reach to objections resting on "purely secular" grounds, in a vaccine case in which the exemption letter incorporated by reference tied the objection to a specific religious teaching. It does not disturb *Detwiler*'s holding as to testing: the court explained that Detwiler "did not cure this problem by generally pleading that the Holy Spirit revealed to her that she 'must not participate in COVID testing that causes harm.'" *Id.* (slip op. 13) (quoting *Detwiler*, 156 F.4th at 891) (emphasis omitted).

The disagreement is over the rule, not merely its application. Detwiler identified her belief and connected it to the test; the Ninth Circuit dismissed anyway, because on its view a court may isolate the secular

judgment on which an objection turns and hold the religious principle behind it too broad to count. The circuits in Part I.A forbid that step. The Ninth Circuit permits it.

The Third Circuit has reached the same result in an unpublished decision, and this Court denied review of it after calling for a response. *McDowell v. Bayhealth Med. Ctr., Inc.*, No. 24-1157 (3d Cir. Nov. 15, 2024), cert. denied sub nom. *Harvey v. Bayhealth Med. Ctr., Inc.*, No. 24-996 (U.S. June 30, 2025). The respondent there opposed review because the decision was unpublished and nonprecedential and because, it argued, the circuits did not conflict. Br. in Opp. 3-5, 8-11, *Harvey*, No. 24-996. That is no longer so. The Ninth Circuit has since adopted the restrictive rule in a published opinion and declined to reconsider it over two dissents by eight judges in all.

C. The Decision Below Can Be Squared Only with the Ninth Circuit's Rule, and is in Tension with the Eleventh Circuit's Published Approach to Pleading Religious Belief

The panel below held that "[t]he plaintiffs do not allege any religious objections to masks or tests—only political and logistical ones," that "the plaintiffs offer no real problem with testing, other than a generalized complaint that it entails 'substantial burdens,'" and that "[w]hat those burdens are, and whether they are religious in nature, the plaintiffs do not say." App.7a. Petitioners concede the first half of that holding: their objection to masks was pleaded in secular terms, and the panel quoted their own words. TAC ¶¶ 95, 110(vi). The second half is the question presented. The complaint alleged that Villella "requested a religious

exemption to both vaccinating and testing" and was removed from flight status "for refusing to test due to his sincerely held religious beliefs," TAC ¶ 80, and that petitioners' beliefs "are not based upon social, political, economic, or personal philosophies," TAC ¶ 50.

The panel cited no standard for pleading the religious character of a belief, and no decision from either side of the conflict described above. It held the allegation of discriminatory motive to be "not only conclusory, but 'wildly implausible,'" App.7a—the judgment that *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), call for when a pleading offers "mere conclusory statements" rather than "a claim to relief that is plausible on its face." It applied no such label to paragraph 80. As to the religious character of the testing objection, it held not that the allegation was thin but that it did not exist: no religious objection to testing was alleged, "only political and logistical ones." App.7a. The only way to read a complaint that says a refusal to test was "due to his sincerely held religious beliefs" as alleging no religious objection to testing is to hold that such an allegation counts for nothing unless the pleader also explains what the belief is and how the test offends it. That is the Ninth Circuit's rule—"[i]nvocations of broad, religious tenets cannot, on their own, convert a secular preference into a religious conviction," 156 F.4th at 895—and it is the only rule with which the panel's holding can be squared. The panel did not announce it; it applied it, in a published opinion, to a complaint that used the statutory words in terms.

That application is in tension with the Eleventh Circuit's own law.[1] In *Watts v. Florida International University*, 495 F.3d 1289 (11th Cir. 2007), the court vacated the Rule 12(b)(6) dismissal of a free exercise claim under 42 U.S.C. § 1983 brought by a student who alleged that his religious beliefs included the belief for which he was dismissed from a practicum. The court rejected the dissent's view "that Watts must plead facts sufficient for an objectively reasonable person to conclude that his belief is religious in nature." *Id.* at 1296. "How do you plead sincerity of belief? One way is to state that the belief is, in fact, your religious belief." *Id.* at 1296. The plaintiff's "representation is all that is necessary to raise the possibility that his belief is a religious one 'above the speculative level.'" *Id.* at 1299.

Watts is a constitutional case, not a Title VII case, and its plaintiff stated what his belief was; petitioners do not cite it as authority on the statutory question. The district court cited *Watts* for the governing pleading standard, ECF 73 at 4, App.30a; ECF 88 at 3, App.19a, and the panel affirmed. Petitioners cite it for what it shows about the decision below: a circuit whose published law treats a complaint's statement that a belief is religious as sufficient to plead its religious character has now, in a published Title VII decision, treated the same statement as no allegation

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[1] Respondent may cite *Pajer v. Walt Disney Co.*, No. 24-11146 (11th Cir. July 2, 2025) (per curiam) (unpublished), which affirmed a dismissal because the employees "never alleged that their religious beliefs were at odds with the Protocols," as distinct from a vaccine mandate. Slip op. 11. *Pajer* turned on the absence of an allegation, not its character. Here the complaint alleged a religious objection to testing in terms. TAC ¶ 80.

at all, without explaining why a statutory definition of religion that reaches "all aspects" of belief should be pleaded more strictly than the Free Exercise Clause, and without acknowledging that the Ninth Circuit had adopted that rule and, over eight dissenting votes, had declined to reconsider it three months earlier.[2]

II. The Decision Below Presents the Question

A. The Complaint Alleged a Religious Objection to Testing in Terms

The Title VII count incorporates the complaint's belief paragraphs and its testing-policy paragraphs. TAC ¶ 99. Those paragraphs allege that petitioners "possess sincerely held religious beliefs" concerning the design of their bodies by their Creator, TAC ¶ 46, and, as to Villella, that he sought "a religious exemption to both vaccinating and testing" and was removed from flight status "for refusing to test due to his sincerely held religious beliefs," TAC ¶ 80. Villella's own account of the objection appears in the unsworn statement filed with petitioners' opposition to the motion to dismiss: "after time spent in prayer, I was lead [sic] through the Holy Spirit to object to any COVID-19 vaccines, in fact, all vaccines and testing procedures past, present, and future due to adherence to my religious beliefs." C.A. App.450. The statement is not a pleading, and it also describes his request for screening in lieu of testing and his later inquiries about the accuracy of the tests. C.A. App.450, 452. But

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[2] *Watts* remains the law of the circuit. *See Sumrall v. Ga. Dep't of Corr.*, No. 23-11783, slip op. 9 (11th Cir. Sept. 9, 2025) (quoting *Watts*, 495 F.3d at 1294, for the governing free exercise standard).

the district court considered it, App.40a, and respondent relied on it in the court of appeals, Doc 46 at 37.

Respondent's own descriptions are in the record. It told the district court that "[a]s for being placed on a desk job, Villella admits that this resulted from Villella being the only Atlas employee that claimed that his religious beliefs prevented him from even being tested for COVID-19," C.A. App.388, and it told the court of appeals that "Atlas accommodated Villella's religious objection to COVID testing by reassigning him to a desk job for three months," Doc 46 at 37. Respondent's position has been that the claim fails whatever the objection's character; it has not argued that the testing objection was secular. Petitioners argued in both courts that their objections were religious, C.A. App.430-431, 450; Doc 33-1 at 46-47 (Villella's hearing "targeted his testing refusal, tied to his faith"), and the panel passed on the character of the testing objection, App.7a.

Candor requires one further statement. The complaint does not say which religious principle a Covid test, as distinct from a vaccine, offends; its belief paragraphs speak of inoculation, TAC ¶¶ 46, 59; the prayer-based articulation of the testing objection is in the statement, not the pleading; and petitioners' earlier pleadings had alleged the point more directly. *Supra* Statement C. Petitioners therefore do not contend that a court applying *Passarella* or *Ringhofer* would necessarily have sustained this complaint; the Seventh and Eighth Circuits have each dismissed a testing objection that the complaint did not connect to an identified religious belief. *Supra* Part I.A. What petitioners contend is that such a court would have asked a different question: what belief the complaint

identified and whether the objection connected to it, giving weight to the allegation that the refusal was religious. The panel held that no religious objection existed. The difference between those two questions is the question presented.

B. The Panel Decided the Question; It Did Not Merely Find the Pleading Thin

The holding under review is not that paragraph 80 is "a formulaic recitation of the elements of a cause of action," *Twombly*, 550 U.S. at 555, or that the inference of religious motivation is implausible, *Iqbal*, 556 U.S. at 678. It is that "[t]he plaintiffs do not allege any religious objections to masks or tests—only political and logistical ones." App.7a. That is a determination of the objection's character, reached without mentioning Villella, paragraph 80, the exemption request that paragraph alleges, the statement on which the district court and respondent had relied, or respondent's own description of a "religious objection to COVID testing." App.6a-7a. A court following *Watts* would have treated the complaint's representation as raising the religious character of the belief above the speculative level; a court following *Passarella* or *Ringhofer* would have asked what belief was identified and whether the objection connected to it. The panel did neither. It held, in a published opinion, that an objection the complaint calls religious, and that the employer's brief called religious, is not religious, because the complaint does not say why. Whether a court may do that at the pleading stage is the question presented, and the panel answered it.

C. The Alternative Grounds Do Not Insulate the Judgment

1. *Intent*. The panel's first ground was that "the plaintiffs do not allege any facts indicating that Atlas Air intended to discriminate against their religious beliefs. In fact, the allegations suggest the opposite," because Atlas "exempted from its vaccine requirement employees who professed a sincere religious objection to the Covid-19 vaccine." App.6a-7a. The panel drew the intent requirement from *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 986 (1988). App.6a. It concluded that the allegation of discriminatory motive was "not only conclusory, but 'wildly implausible.'" App.7a (quoting *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008)).[3]

That ground rests on the same premise as the religiosity holding. An employer's exemption of religious objectors from vaccination is evidence against animus toward religious objections to vaccination. It is evidence of nothing regarding a religious objection to testing unless one first assumes that no such objection existed. The complaint alleges that Atlas, told of that objection, "attempted to get Plaintiff to change, alter, or abandon his religious beliefs and to submit to their COVID-19 testing policy," subjected him to a disciplinary hearing, and removed him from flight status "for refusing to test due to his sincerely held religious beliefs." TAC ¶ 80. Once the objection is treated as

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[3] The quoted phrase comes from a decision applying the frivolity-screening standard for prisoner complaints, which reversed the dismissal of the core claims before it: "wildly implausible allegations in the complaint should not be taken to be true, but the court ought not penalize the litigant for linguistic imprecision in the more plausible allegations." *Miller*, 541 F.3d at 1100.

religious, that is an allegation that the employer pressed an employee to abandon a religious belief and penalized him for holding it. Whether the allegation suffices is for the court of appeals to decide with the objection correctly characterized. It cannot be decided under the panel's premise, and a decision on the question presented removes that premise.

Petitioners cite, because respondent will, *Clobes v. 3M Co.*, 106 F.4th 803 (8th Cir. 2024), which affirmed the dismissal of a hostile-work-environment claim arising from a Covid vaccination policy. The court did not question the religious character of the plaintiff's objection; it held that "nothing in Clobes's complaint attempts to connect 3M's motivation in enacting its vaccination policy to Clobes's Christianity," *id.* at 807; that "Clobes stresses the connection between his reservations about the vaccine and his religious beliefs—a connection that says nothing of 3M's motivations," *id.*; and, in a part of the opinion the full panel joined, that the conduct alleged was not severe or pervasive, *id.* at 808. Judge Stras was "skeptical about the court's conclusion that the complaint failed to link the alleged harassment to Thomas Clobes's religion," *id.* at 809 (Stras, J., concurring in part and concurring in the judgment), and joined all but the motive holding. *Clobes* shows that a hostile-work-environment claim built on a Covid policy can fail on motive in a permissive circuit, and petitioners do not suggest otherwise. But *Clobes* did not reach its result by declaring the plaintiff's objection secular, and this complaint alleges what *Clobes* did not: that the employer subjected the employee to individual discipline—a disciplinary hearing and removal from flight status—for refusing to abandon a religious objection to testing

of which it had notice. TAC ¶ 80. The panel's two grounds rise and fall together.

2. *Severity*. The district court held that Villella's allegations "do not rise to the level of severity and abuse necessary to constitute a hostile work environment." App.40a. The panel did not reach that holding. App.6a-7a. It would be open on remand, and petitioners do not ask this Court to resolve it.

3. *The hostile-work-environment frame*. The claim before the Court is pleaded as a hostile-work-environment claim only. Petitioners' failure-to-accommodate and disparate-treatment counts were dropped from the second amended complaint, and respondent has said they are "forfeited and not at issue." Doc 46 at 33 n.8; *see* C.A. App.387. Every decision on the permissive side of the conflict is an accommodation, refusal-to-hire, or disparate-treatment case, and *Detwiler* is an accommodation case. No accommodation claim is before the Court. The antecedent question is nonetheless the same. Section 2000e(j) defines "religion" for the statute as a whole, and § 2000e-2(a)(1)'s prohibition on discrimination "because of such individual's . . . religion" is a single prohibition whatever form the discrimination takes. Whether Villella's refusal to test was an aspect of his religious belief is the same question under each theory, and the permissive circuits have answered it the same way across theories. *See Lucky*, 103 F.4th at 1243 (refusal to hire); *Brokken*, 140 F.4th at 451-52 (disparate treatment). The panel below answered it without reference to any element peculiar to a hostile-environment claim; it asked whether "religious objections" to testing were alleged and held that they were not. App.7a. What differs is what follows: petitioners must

also plead conduct because of religion that is severe or pervasive, and those questions remain for the court of appeals. They cannot be reached until the antecedent question is answered under the correct rule.

III. At a Minimum, the Petition Should be Held Pending the Disposition of *Detwiler v. Mid-Columbia Medical Center*, No. 26-196

A petition for a writ of certiorari seeking review of the Ninth Circuit's decision in *Detwiler* was filed on August 13, 2026, and the response is due October 16, 2026. Pet. for Cert., *Detwiler v. Mid-Columbia Med. Ctr.*, No. 26-196 (U.S. filed Aug. 13, 2026). That petition asks whether the approach of the Ninth and Third Circuits—dismissing at the pleading stage religious-accommodation claims that rest on overlapping religious and secular reasons—is consistent with Title VII and with Rule 12(b)(6). Pet. i. It presents that question in the case described in Part I.B: a single plaintiff, an accommodation claim, an opinion that announces its standard and acknowledges the conflict, a denial of rehearing en banc over eight dissenting judges, and a later panel's statement that the decision "explicitly created a circuit split." *Ridings*, slip op. 11. *Detwiler* is the vehicle that squarely presents the question. This case is a hostile-work-environment case; its complaint is thinner than Detwiler's; and the panel rested on a second ground that, as shown above, depends on the first but is not identical to it.

What this case supplies is evidence of how the Ninth Circuit's rule travels. The decision below, a published opinion, applies *Detwiler*'s rule without citing it, and applies it to an objection the employer's own brief called a "religious objection to COVID testing,"

Doc 46 at 37, showing that the rule reaches any professed objection a court finds insufficiently explained, not only complaints that, like Detwiler's, rested on the plaintiff's own scientific judgment. And it does so in a circuit whose own published precedent holds that a complaint's statement that a belief is religious is enough to plead its character. *Watts*, 495 F.3d at 1296, 1299. *Ridings*, discussed above, does not change this: it confirms the split and leaves in place *Detwiler*'s holding as to testing. Whether this Court grants or denies review in *Detwiler*, this petition should abide that decision.

If the Court grants *Detwiler* and holds that a court may not, at the pleading stage, recharacterize an employee's professed religious objection as secular, the judgment below should be vacated and the case remanded for the court of appeals to reconsider both of its grounds under the correct rule. If the Court denies *Detwiler*, this petition may be disposed of accordingly. A hold costs the Court nothing; the response in *Detwiler* is not due until after this petition is filed.

CONCLUSION

The petition for a writ of certiorari should be held pending this Court's disposition of *Detwiler v. Mid-Columbia Medical Center*, No. 26-196, and then disposed of as appropriate in light of that decision. In the alternative, the petition should be granted.

Respectfully submitted,

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