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12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 JERAMIAH COOPER, RONALD ) Case No.: 3:22-cv-09193-JD  
15 FREEMAN II, ADRIAN GILBERT, )  
16 SILVERIO GONZALEZ, SERGII ) **AMENDED COMPLAINT FOR**  
17 GRINCHENKO, LARON JOHNSON, ) **DAMAGES, DECLARATORY AND**  
18 JIM LASOVICH, RAYMOND ) **INJUNCTIVE RELIEF**  
19 LOCKETT, MICHAEL MANZANO, )  
20 TERESA OWENS, ROSALIND )  
21 PARKER, RYAN RIVERA, ALBERT )  
22 ROTH, JIM SCULLION, )  
23 SZU CHEN SUN, NICK TAYLOR, )  
24 DAROLYN TURNER, ANTONIO )  
25 GONZALEZ, PERRY GRIFFIS, )  
26 FRANK KITZMILLER, TONYA T. )  
27 LEWIS- WILLIAMS )  
28 )  
29 Plaintiffs, )  
30 )  
31 v. )  
32 )  
33 SAN FRANCISCO BAY AREA RAPID )  
34 TRANSIT DISTRICT, and DOES 1-100, )  
35 )  
36 Defendants. )

1 **INTRODUCTION**

2 1. This is a complaint for employment discrimination brought by employees  
3 holding religious convictions against the SARS-CoV-2 (COVID-19) vaccine. Two  
4 hundred and four (204) employees requested medical or religious exemptions from  
5 their employer, San Francisco Bay Area Rapid Transit District (BART), from  
6 COVID-19 vaccination. One in three employees requesting medical exemptions were  
7 granted an accommodation. Of the 179 religious objector employees, not one  
8 received an accommodation. Exclusion of religious people from the enjoyment of a  
9 right stands in violation of the First Amendment’s religion clauses and federal and  
10 state anti-discrimination in employment laws.

11  
12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331,  
14 as it arises under the U.S. Constitution and laws of the United States. This action  
15 presents a federal question, pursuant to 28 U.S.C. § 1343(a)(3)-(4). The Court also has  
16 jurisdiction under 42 U.S.C. § 2000-e5(f)(3). Venue is proper within this judicial  
17 district and division, pursuant to 28 U.S.C. § 1391(b), because the relevant events have  
18 occurred and are threatened to occur in this jurisdictional district and division. The  
19 Defendant’s principal place of business is in this district.

20 3. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28  
21 U.S.C. §§ 2201-02, Federal Rules of Civil Procedure 57 and 65, and the general legal  
22 and equitable powers of this Court, which empower this Court to grant the requested  
23 relief.

24 **PARTIES**

25 **Plaintiffs**

26 4. Plaintiff, JERAMIAH COOPER, was employed by BART as a Quality  
27 Team Leader. COOPER has sincerely held religious beliefs that prevent him from

1 receiving the COVID-19 vaccine without violating his faith. COOPER submitted a  
2 written request for a religious accommodation under Title VII and the California Fair  
3 Employment and Housing Act (FEHA). COOPER utilized BART's form entitled  
4 *Employee Request for Religious Exemption (COVID-19 Vaccination)*. A true and correct  
5 copy of his request, along with the combined requests of the other Plaintiffs,  
6 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 1. His  
7 beliefs are sincerely held. BART granted the exemption, but in a letter dated January  
8 5, 2022, BART denied the request for a religious accommodation. A true and correct  
9 copy of the denial letter, along with the combined denials of the other Plaintiffs,  
10 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 2.  
11 COOPER declined to be vaccinated and was thus fired. COOPER has exhausted  
12 administrative remedies and has received a notice of right to sue from the Equal  
13 Employment Opportunity Commission (EEOC). A true and correct copy of the  
14 EEOC notice, along with those of the other Plaintiffs, accompanies this Complaint, is  
15 incorporated in full, and is marked as Exhibit 3.

16 5. Plaintiff, RONALD FREEMAN II, was employed by BART as an  
17 Operations Supervisor Liaison. FREEMAN has sincerely held religious beliefs that  
18 prevent him from receiving the COVID-19 vaccine without violating his faith.  
19 FREEMAN submitted a written request for a religious accommodation under Title  
20 VII and FEHA. FREEMAN utilized BART's form entitled *Employee Request for*  
21 *Religious Exemption (COVID-19 Vaccination)*. A true and correct copy of his request,  
22 along with the combined requests of the other Plaintiffs, accompanies this Complaint,  
23 is incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held.  
24 BART granted the exemption, but in a letter dated January 5, 2022, BART denied the  
25 request for a religious accommodation. A true and correct copy of the denial letter,  
26 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
27 is incorporated in full, and is marked as Exhibit 2. FREEMAN declined to be

1 vaccinated and was thus fired. FREEMAN has exhausted administrative remedies  
2 and has received a notice of right to sue from the EEOC. A true and correct copy of  
3 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
4 Complaint, is incorporated in full, and is marked as Exhibit 3.

5         6. Plaintiff, ADRIAN GILBERT, was employed by BART as a Train  
6 Operator. GILBERT has sincerely held religious beliefs that prevent him from  
7 receiving the COVID-19 vaccine without violating his faith. GILBERT submitted a  
8 written request for a religious accommodation under Title VII and FEHA.  
9 GILBERT utilized BART's form entitled *Employee Request for Religious Exemption*  
10 *(COVID-19 Vaccination)*. A true and correct copy of his request, along with the  
11 combined requests of the other Plaintiffs, accompanies this Complaint, is  
12 incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held. BART  
13 granted the exemption, but in a letter dated December 22, 2021, BART denied the  
14 request for a religious accommodation. A true and correct copy of the denial letter,  
15 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
16 is incorporated in full, and is marked as Exhibit 2. GILBERT declined to be  
17 vaccinated and was thus fired. GILBERT has exhausted administrative remedies and  
18 has received a notice of right to sue from the EEOC. A true and correct copy of the  
19 EEOC notice, along with those of the other Plaintiffs, accompanies this Complaint, is  
20 incorporated in full, and is marked as Exhibit 3.

21         7. Plaintiff, SILVERIO GONZALEZ, was employed by BART as a  
22 Transportation Supervisor. GONZALEZ has sincerely held religious beliefs that  
23 prevent him from receiving the COVID-19 vaccine without violating his faith.  
24 GONZALEZ submitted a written request for a religious accommodation under Title  
25 VII and FEHA. GONZALEZ utilized BART's form entitled *Employee Request for*  
26 *Religious Exemption (COVID-19 Vaccination)*. A true and correct copy of his request,  
27 along with the combined requests of the other Plaintiffs, accompanies this Complaint,  
28

1 is incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held.  
2 BART granted the exemption, but in a letter dated December 22, 2021, BART denied  
3 the request for a religious accommodation. A true and correct copy of the denial  
4 letter, along with the combined denials of the other Plaintiffs, accompanies this  
5 Complaint, is incorporated in full, and is marked as Exhibit 2. GONZALEZ declined  
6 to be vaccinated and was thus fired. GONZALEZ has exhausted administrative  
7 remedies and has received a notice of right to sue from the EEOC. A true and  
8 correct copy of the EEOC notice, along with those of the other Plaintiffs,  
9 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 3.

10 8. Plaintiff, SERGII GRINCHENKO, was employed by BART as an  
11 Elevator/Escalator Worker. GRINCHENKO, has sincerely held religious beliefs  
12 that prevent him from receiving the COVID-19 vaccine without violating his faith.  
13 GRINCHENKO, submitted a written request for a religious accommodation under  
14 Title VII and FEHA. GRINCHENKO, utilized BART's form entitled *Employee*  
15 *Request for Religious Exemption (COVID-19 Vaccination)*. A true and correct copy of his  
16 request, along with the combined requests of the other Plaintiffs, accompanies this  
17 Complaint, is incorporated in full, and is marked as Exhibit 1. His beliefs are  
18 sincerely held. BART granted the exemption, but in a letter dated November 23,  
19 2021, BART denied the request for a religious accommodation. A true and correct  
20 copy of the denial letter, along with the combined denials of the other Plaintiffs,  
21 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 2.  
22 GRINCHENKO declined to be vaccinated and was forced to resign.  
23 GRINCHENKO, has exhausted administrative remedies and has received a notice of  
24 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
25 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
26 and is marked as Exhibit 3.

1           9. Plaintiff, LARON JOHNSON, was employed by BART as a Train  
2 Control Electronic Technician. JOHNSON has sincerely held religious beliefs that  
3 prevent him from receiving the COVID-19 vaccine without violating his faith.  
4 JOHNSON submitted a written request for a religious accommodation under Title  
5 VII and the California Fair Employment and Housing Act (FEHA). JOHNSON  
6 utilized BART'S form entitled *Employee Request for Religious Exemption (COVID-19*  
7 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
8 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
9 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
10 but in a letter dated December 15, 2021, BART denied the request for a religious  
11 accommodation. A true and correct copy of the denial letter, along with the  
12 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
13 in full, and is marked as Exhibit 2. JOHNSON, declined to be vaccinated and was  
14 thus fired. JOHNSON has exhausted administrative remedies and has received a  
15 notice of right to sue from the Equal Employment Opportunity Commission  
16 (EEOC). A true and correct copy of the EEOC notice, along with those of the other  
17 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
18 Exhibit 3. JOHNSON sues on behalf of himself and is the sixth Plaintiff to this  
19 action.

20           10. Plaintiff, JIM LASOVICH, was employed by BART as an Operations  
21 Supervisor Liaison. LASOVICH has sincerely held religious beliefs that prevent him  
22 from receiving the COVID-19 vaccine without violating his faith. LASOVICH  
23 submitted a written request for a religious accommodation under Title VII and the  
24 California Fair Employment and Housing Act (FEHA). LASOVICH utilized BART's  
25 form entitled *Employee Request for Religious Exemption (COVID-19 Vaccination)*. A true  
26 and correct copy of his request, along with the combined requests of the other  
27 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
28



1 Exhibit 1. His beliefs are sincerely held. BART granted the exemption, but in a letter  
2 dated November 23, 2021, BART denied the request for a religious accommodation.  
3 A true and correct copy of the denial letter, along with the combined denials of the  
4 other Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
5 Exhibit 2. LASOVICH declined to be vaccinated and was thus fired. LASOVICH  
6 has exhausted administrative remedies and has received a notice of right to sue from  
7 the Equal Employment Opportunity Commission (EEOC). A true and correct copy  
8 of the EEOC notice, along with those of the other Plaintiffs, accompanies this  
9 Complaint, is incorporated in full, and is marked as Exhibit 3.

10 11. Plaintiff, RAYMOND LOCKETT, was employed by BART as an  
11 Operation Liaison Supervisor. LOCKETT has sincerely held religious beliefs that  
12 prevent him from receiving the COVID-19 vaccine without violating his faith.  
13 LOCKETT submitted a written request for a religious accommodation under Title  
14 VII and the California Fair Employment and Housing Act (FEHA). LOCKETT  
15 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
16 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
17 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
18 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
19 but in a letter dated January 5, 2022, BART denied the request for a religious  
20 accommodation. A true and correct copy of the denial letter, along with the  
21 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
22 in full, and is marked as Exhibit 2. LOCKETT declined to be vaccinated and was  
23 thus fired. LOCKETT has exhausted administrative remedies and has received a  
24 notice of right to sue from the Equal Employment Opportunity Commission  
25 (EEOC). A true and correct copy of the EEOC notice, along with those of the other  
26 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
27 Exhibit 3.

1           12. Plaintiff, MICHAEL MANZANO, was employed by BART as a Police  
2 Officer. MANZANO has sincerely held religious beliefs that prevent him from  
3 receiving the COVID-19 vaccine without violating her faith. MANZANO submitted  
4 a written request for a religious accommodation under Title VII and FEHA.  
5 MANZANO utilized BART's form entitled *Employee Request for Religious Exemption*  
6 *(COVID-19 Vaccination)*. A true and correct copy of his request, along with the  
7 combined requests of the other Plaintiffs, accompanies this Complaint, is  
8 incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held. BART  
9 granted the exemption, but in a letter dated December 22, 2021, BART denied the  
10 request for a religious accommodation. A true and correct copy of the denial letter,  
11 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
12 is incorporated in full, and is marked as Exhibit 2. MANZANO declined to be  
13 vaccinated and was thus fired. MANZANO has exhausted administrative remedies  
14 and has received a notice of right to sue from the EEOC. A true and correct copy of  
15 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
16 Complaint, is incorporated in full, and is marked as Exhibit 3.

17           13. Plaintiff, TERESA OWENS, was employed by BART as a Station Agent.  
18 OWENS has sincerely held religious beliefs that prevent her from receiving the  
19 COVID-19 vaccine without violating her faith. OWENS submitted a written request  
20 for a religious accommodation under Title VII and FEHA. OWENS utilized BART's  
21 form entitled *Employee Request for Religious Exemption (COVID-19 Vaccination)*. A true  
22 and correct copy of her request, along with the combined requests of the other  
23 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
24 Exhibit 1. Her beliefs are sincerely held. BART granted the exemption, but in a letter  
25 dated December 22, 2021, BART denied the request for a religious accommodation.  
26 A true and correct copy of the denial letter, along with the combined denials of the  
27 other Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
28



1 Exhibit 2. OWENS declined to be vaccinated and was thus fired. OWENS has  
2 exhausted administrative remedies and has received a notice of right to sue from the  
3 EEOC. A true and correct copy of the EEOC notice, along with those of the other  
4 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
5 Exhibit 3.

6 14. Plaintiff, ROSALIND PARKER, was employed by BART as a Customer  
7 Service Clerk IV. PARKER has sincerely held religious beliefs that prevent her from  
8 receiving the COVID-19 vaccine without violating her faith. PARKER submitted a  
9 written request for a religious accommodation under Title VII and FEHA. PARKER  
10 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
11 *Vaccination)*. A true and correct copy of her request, along with the combined requests  
12 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
13 marked as Exhibit 1. Her beliefs are sincerely held. BART granted the exemption,  
14 but in a letter dated December 20, 2021, BART denied the request for a religious  
15 accommodation. A true and correct copy of the denial letter, along with the  
16 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
17 in full, and is marked as Exhibit 2. PARKER declined to be vaccinated and was thus  
18 fired. PARKER has exhausted administrative remedies and has received a notice of  
19 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
20 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
21 and is marked as Exhibit 3.

22 15. Plaintiff, RYAN RIVERA, was employed by BART as a Storekeeper-  
23 Procurement. RIVERA has sincerely held religious beliefs that prevent him from  
24 receiving the COVID-19 vaccine without violating his faith. RIVERA submitted a  
25 written request for a religious accommodation under Title VII and FEHA. RIVERA  
26 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
27 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
28

1 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
2 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
3 but in a letter dated January 5, 2022, BART denied the request for a religious  
4 accommodation. A true and correct copy of the denial letter, along with the  
5 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
6 in full, and is marked as Exhibit 2. RIVERA declined to be vaccinated and was thus  
7 fired. RIVERA has exhausted administrative remedies and has received a notice of  
8 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
9 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
10 and is marked as Exhibit 3.

11 16. Plaintiff, ALBERT ROTH, was employed by BART as an Automatic  
12 Fare Collection Foreman. ROTH has sincerely held religious beliefs that prevent him  
13 from receiving the COVID-19 vaccine without violating his faith. ROTH submitted a  
14 written request for a religious accommodation under Title VII and FEHA. ROTH  
15 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
16 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
17 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
18 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
19 but in a letter dated November 24, 2021, BART denied the request for a religious  
20 accommodation. A true and correct copy of the denial letter, along with the  
21 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
22 in full, and is marked as Exhibit 2. ROTH declined to be vaccinated and was thus  
23 fired. ROTH has exhausted administrative remedies and has received a notice of right  
24 to sue from the EEOC. A true and correct copy of the EEOC notice, along with  
25 those of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and  
26 is marked as Exhibit 3.

1           17. Plaintiff, JIM SCULLION, was employed by BART as a Train Control  
2 Electronic Technician and Instructor. SCULLION has sincerely held religious beliefs  
3 that prevent him from receiving the COVID-19 vaccine without violating his faith.  
4 SCULLION submitted a written request for a religious accommodation under Title  
5 VII and FEHA. SCULLION utilized BART's form entitled *Employee Request for*  
6 *Religious Exemption (COVID-19 Vaccination)*. A true and correct copy of his request,  
7 along with the combined requests of the other Plaintiffs, accompanies this Complaint,  
8 is incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held.  
9 BART granted the exemption, but in a letter dated January 5, 2022, BART denied the  
10 request for a religious accommodation. A true and correct copy of the denial letter,  
11 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
12 is incorporated in full, and is marked as Exhibit 2. SCULLION declined to be  
13 vaccinated and was thus fired. SCULLION has exhausted administrative remedies  
14 and has received a notice of right to sue from the EEOC. A true and correct copy of  
15 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
16 Complaint, is incorporated in full, and is marked as Exhibit 3.

17           18. Plaintiff, SZU CHEN SUN, was employed by BART as a Computer  
18 Electronic Technician. SUN has sincerely held religious beliefs that prevent him from  
19 receiving the COVID-19 vaccine without violating his faith. SUN submitted a written  
20 request for a religious accommodation under Title VII and FEHA. SUN utilized  
21 BART's form entitled *Employee Request for Religious Exemption (COVID-19 Vaccination)*.  
22 A true and correct copy of his request, along with the combined requests of the other  
23 Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
24 Exhibit 1. His beliefs are sincerely held. BART granted the exemption, but in a letter  
25 dated December 20, 2021, BART denied the request for a religious accommodation.  
26 A true and correct copy of the denial letter, along with the combined denials of the  
27 other Plaintiffs, accompanies this Complaint, is incorporated in full, and is marked as  
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1 Exhibit 2. SUN declined to be vaccinated and was thus fired. SUN has exhausted  
2 administrative remedies and has received a notice of right to sue from the EEOC. A  
3 true and correct copy of the EEOC notice, along with those of the other Plaintiffs,  
4 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 3.

5 19. Plaintiff, NICK TAYLOR, was employed by BART as a Tool Room  
6 Attendant. TAYLOR has sincerely held religious beliefs that prevent him from  
7 receiving the COVID-19 vaccine without violating his faith. TAYLOR submitted a  
8 written request for a religious accommodation under Title VII and FEHA. TAYLOR  
9 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
10 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
11 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
12 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
13 but in a letter dated November 24, 2021, BART denied the request for a religious  
14 accommodation. A true and correct copy of the denial letter, along with the  
15 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
16 in full, and is marked as Exhibit 2. TAYLOR declined to be vaccinated and was thus  
17 fired. TAYLOR has exhausted administrative remedies and has received a notice of  
18 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
19 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
20 and is marked as Exhibit 3.

21 20. Plaintiff, DAROLYN TURNER was employed by BART as a Train  
22 Operator. TURNER has sincerely held religious beliefs that prevent her from  
23 receiving the COVID-19 vaccine without violating her faith. TURNER submitted a  
24 written request for a religious accommodation under Title VII and FEHA. TURNER  
25 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
26 *Vaccination)*. A true and correct copy of her request, along with the combined requests  
27 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
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1 marked as Exhibit 1. Her beliefs are sincerely held. BART granted the exemption,  
2 but in a letter dated December 22, 2021, BART denied the request for a religious  
3 accommodation. A true and correct copy of the denial letter, along with the  
4 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
5 in full, and is marked as Exhibit 2. TURNER declined to be vaccinated and was thus  
6 fired. TURNER has exhausted administrative remedies and has received a notice of  
7 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
8 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
9 and is marked as Exhibit 3.

10 21. Plaintiff, ANTONIO GONZALEZ, was employed by BART as a  
11 Quality Team Leader. GONZALEZ has sincerely held religious beliefs that prevent  
12 him from receiving the COVID-19 vaccine without violating his faith. GONZALEZ  
13 submitted a written request for a religious accommodation under Title VII and  
14 FEHA. GONZALEZ utilized BART's form entitled *Employee Request for Religious*  
15 *Exemption (COVID-19 Vaccination)*. A true and correct copy of his request, along with  
16 the combined requests of the other Plaintiffs, accompanies this Complaint, is  
17 incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held. BART  
18 granted the exemption, but in a letter dated December 15, 2021, BART denied the  
19 request for a religious accommodation. A true and correct copy of the denial letter,  
20 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
21 is incorporated in full, and is marked as Exhibit 2. GONZALEZ declined to be  
22 vaccinated and was thus fired. GONZALEZ has exhausted administrative remedies  
23 and has received a notice of right to sue from the EEOC. A true and correct copy of  
24 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
25 Complaint, is incorporated in full, and is marked as Exhibit 3.

26 22. Plaintiff, PERRY GRIFFIS, was employed by BART as an RSS Shop  
27 Scheduler. GRIFFIS has sincerely held religious beliefs that prevent him from  
28

1 receiving the COVID-19 vaccine without violating his faith. GRIFFIS submitted a  
2 written request for a religious accommodation under Title VII and FEHA. GRIFFIS  
3 utilized BART's form entitled *Employee Request for Religious Exemption (COVID-19*  
4 *Vaccination)*. A true and correct copy of his request, along with the combined requests  
5 of the other Plaintiffs, accompanies this Complaint, is incorporated in full, and is  
6 marked as Exhibit 1. His beliefs are sincerely held. BART granted the exemption,  
7 but in a letter dated January 5, 2022, BART denied the request for a religious  
8 accommodation. A true and correct copy of the denial letter, along with the  
9 combined denials of the other Plaintiffs, accompanies this Complaint, is incorporated  
10 in full, and is marked as Exhibit 2. GRIFFIS declined to be vaccinated and was thus  
11 fired. GRIFFIS has exhausted administrative remedies and has received a notice of  
12 right to sue from the EEOC. A true and correct copy of the EEOC notice, along  
13 with those of the other Plaintiffs, accompanies this Complaint, is incorporated in full,  
14 and is marked as Exhibit 3.

15       23. Plaintiff, FRANK KITZMILLER, was employed by BART as an RSS  
16 Shop Scheduler. KITZMILLER has sincerely held religious beliefs that prevent him  
17 from receiving the COVID-19 vaccine without violating his faith. KITZMILLER  
18 submitted a written request for a religious accommodation under Title VII and  
19 FEHA. KITZMILLER utilized BART's form entitled *Employee Request for Religious*  
20 *Exemption (COVID-19 Vaccination)*. A true and correct copy of his request, along with  
21 the combined requests of the other Plaintiffs, accompanies this Complaint, is  
22 incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held. BART  
23 granted the exemption, but in a letter dated December 22, 2021, BART denied the  
24 request for a religious accommodation. A true and correct copy of the denial letter,  
25 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
26 is incorporated in full, and is marked as Exhibit 2. KITZMILLER declined to be  
27 vaccinated and was thus fired. KITZMILLER has exhausted administrative remedies



1 and has received a notice of right to sue from the EEOC. A true and correct copy of  
2 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
3 Complaint, is incorporated in full, and is marked as Exhibit 3.

4 24. Plaintiff, FRANK KITZMILLER, was employed by BART as a Train  
5 Operator. KITZMILLER has sincerely held religious beliefs that prevent him from  
6 receiving the COVID-19 vaccine without violating his faith. KITZMILLER  
7 submitted a written request for a religious accommodation under Title VII and  
8 FEHA. KITZMILLER utilized BART's form entitled *Employee Request for Religious*  
9 *Exemption (COVID-19 Vaccination)*. A true and correct copy of his request, along with  
10 the combined requests of the other Plaintiffs, accompanies this Complaint, is  
11 incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held. BART  
12 granted the exemption, but in a letter dated December 22, 2021, BART denied the  
13 request for a religious accommodation. A true and correct copy of the denial letter,  
14 along with the combined denials of the other Plaintiffs, accompanies this Complaint,  
15 is incorporated in full, and is marked as Exhibit 2. KITZMILLER declined to be  
16 vaccinated and was thus fired. KITZMILLER has exhausted administrative remedies  
17 and has received a notice of right to sue from the EEOC. A true and correct copy of  
18 the EEOC notice, along with those of the other Plaintiffs, accompanies this  
19 Complaint, is incorporated in full, and is marked as Exhibit 3.

20 25. Plaintiff, TONYA T. LEWIS-WILLIAMS, was employed by BART as a  
21 Utility Worker. LEWIS-WILLIAMS has sincerely held religious beliefs that prevent  
22 him from receiving the COVID-19 vaccine without violating his faith. LEWIS-  
23 WILLIAMS submitted a written request for a religious accommodation under Title  
24 VII and FEHA. LEWIS-WILLIAMS utilized BART's form entitled *Employee Request*  
25 *for Religious Exemption (COVID-19 Vaccination)*. A true and correct copy of his request,  
26 along with the combined requests of the other Plaintiffs, accompanies this Complaint,  
27 is incorporated in full, and is marked as Exhibit 1. His beliefs are sincerely held.

1 BART granted the exemption, but in a letter dated December 20, 2021, BART denied  
2 the request for a religious accommodation. A true and correct copy of the denial  
3 letter, along with the combined denials of the other Plaintiffs, accompanies this  
4 Complaint, is incorporated in full, and is marked as Exhibit 2. LEWIS-WILLIAMS  
5 declined to be vaccinated and was thus fired. LEWIS-WILLIAMS has exhausted  
6 administrative remedies and has received a notice of right to sue from the EEOC. A  
7 true and correct copy of the EEOC notice, along with those of the other Plaintiffs,  
8 accompanies this Complaint, is incorporated in full, and is marked as Exhibit 3.

9  
10 **Defendant**

11 26. Defendant, SAN FRANCISCO BAY AREA RAPID TRANSIT  
12 DISTRICT, was established as a special district in 1957 and is a heavy-rail public  
13 transit system that connects the San Francisco Peninsula with communities in the  
14 East Bay and South Bay. BART began service in 1972.

15 27. The true names and capacities, whether individual, corporate, associate,  
16 or otherwise, of DOES 1-100, inclusive, are unknown to Plaintiffs at this time, who  
17 therefore sues said Defendant by such fictitious names. Plaintiffs are informed and  
18 believe and thereon allege that each of the fictitiously named Defendant is in some  
19 way responsible for, or participated in or contributed to, the matters and things  
20 complained of herein, and is legally responsible in some manner. Plaintiffs will seek  
21 leave to amend this Complaint when the true names, capacities, and responsibilities  
22 have been ascertained.

23 **FACTS**

24 28. On October 14, 2021, BART issued a COVID-19 Vaccination Policy  
25 requiring all employees to be fully vaccinated as a condition of employment.

26 29. Per the requirements of state and federal anti-discrimination in  
27 employment laws, BART employees were given an opportunity to request either a

1 medical or religious exemption to COVID-19 vaccination. If an exemption was  
2 granted, then BART determined whether to provide a reasonable accommodation.

3 30. Between October 14, 2021, and February 16, 2022, 204 BART employees  
4 requested either religious or medical exemptions to COVID-19 vaccination. A true  
5 and correct copy of the table showing the number of employees seeking exemptions  
6 and the results of said requests accompanies this Complaint, is incorporated in full, and  
7 is marked as Exhibit 4.

8 31. Of those, 25 employees requested medical exemptions to COVID-19  
9 vaccination. One in three employees requesting a medical exemption were given an  
10 accommodation by BART. *See* Exhibit 4.

11 32. Approximately 179 employees submitted requests to be exempted from  
12 COVID-19 vaccination due to their sincerely held religious beliefs. Seventy of these  
13 employees were granted a religious **exemption**. However, 109 employees' requests for  
14 religious exemption were denied. *Id.*

15 33. Of the 70 remaining employees granted a religious exemption, not one  
16 employee with faith-based convictions against COVID-19 vaccination was given a  
17 religious **accommodation**. No matter what any religious employee suggested as an  
18 accommodation, it was never good enough.

19 34. The named Plaintiffs have each submitted a written request for a religious  
20 accommodation in order to be exempted from COVID-19 vaccination. They  
21 affirmatively assert that their religious convictions against taking the COVID-19  
22 vaccination are sincerely held.

23 35. Generally, an employer should proceed on the assumption that a request  
24 for religious accommodation is based on sincerely held religious beliefs, practices, or  
25 observances. BART has turned this standard on its head. Instead, BART instituted a  
26 detailed probe into the sincerity of the faith of its employees in which 61 percent  
27 received a failing grade.

1           36. BART utilized an interviewer question template entitled *Religious*  
2 *Exemption Interviews (Question Template)*. A true and correct copy of the *Question Template*  
3 accompanies this Complaint and is incorporated in full and marked as Exhibit 5.

4           37. The *Question Template* began with four boxes for the interviewer which  
5 appeared as follows:

6                   EEOC factors:

7                    The reasons cited in support of the request were primarily for  
8 secular/non-religious reasons.

9                    A clear nexus between the request and the stated religious  
10 beliefs was not established.

11                    Evidence of behaviors inconsistent with adherence to the  
12 stated beliefs exists.

13                    The timing of your request as it relates to adoption of the  
14 stated beliefs. *Id.*

15           38. The interviewer then asks the employee five questions:

16                   1. Can you just tell us briefly about your sincerely held belief?

17                   2. Can you tell us in your own words why taking COVID-19  
18 vaccine is contrary to your religious belief?

19                   3. What do you think will happen to you if you take the COVID-  
20 19 vaccine?

21                   4. Can you provide us other examples of how this religious belief  
22 is demonstrated in other aspects of your life?

23                   5. You refuse to take the COVID-19 vaccine because of the  
24 alleged use of aborted fetal cells in the creation of the vaccine.

25                   Research on this topic has revealed some cosmetic and over-  
26 the-counter medicines may use the same process as the  
27 COVID-19 vaccine. Are you aware of this? Tell me how else  
28 you demonstrate the same pre-cautions in your life. *Id.*

          39. The third question, which asks, “What do you think will happen to you if  
you take the COVID-19 vaccine,” is, charitably, ambiguous at best and possibly  
calculated to mislead the employee. Does this interrogatory seek to elicit an answer  
based in doctrine or theology? By way of examples, “I will have a guilty conscience.”  
“I will be committing a sin.” “I will deny my faith.” “I will spend eternity in hell.”

1 On the other hand, is the question seeking a social, emotional, or physical response?  
2 Consider these examples. “My wife will divorce me as a coward without principle.”  
3 “I’ll lose my bodily autonomy.” “I’ll get sick or die.” The employee has little or no  
4 idea which direction will lead to a denial or approval.

5 40. The protocol and standardized forms used by HR evaluators comprise a  
6 detailed, individualized assessment, giving broad discretion to an evaluator.

7 41. The evaluators use a document entitled RELIGIOUS REQUEST  
8 REVIEW FORM (COVID-19 Vaccination). A true and correct copy of the  
9 RELIGIOUS REQUEST REVIEW FORM (COVID-19 Vaccination) accompanies  
10 this Complaint and is incorporated in full and marked as Exhibit 6. The form has  
11 evaluators engage in an individualized assessment in which they ask the following  
12 questions:

- 13
- 14 • “Is there evidence that the employee has acted in a way that is inconsistent with  
the claimed belief.”
- 15 • “Is there evidence the employee is seeking a benefit or an exception that is  
16 likely to be sought for nonreligious reasons?”
- 17 • “Is the timing of the request considered questionable?”
- 18 • “Is there evidence the employee may be seeking the benefit for secular  
reasons?”

19

20 42. After denying every request for an accommodation coming from a  
21 religious objector to the vaccination, BART gave these employees an ultimatum:

- 22 • Comply with the vaccination mandate;
- 23 • Retire if qualified;
- 24 • Resign;
- 25 • Do nothing and be terminated. *See* Exhibit 2.

26 43. The ultimatum required the Plaintiffs to choose between their  
27 employment and their faith. Unless an employee was vaccinated, the employee was

1 either forced into early retirement, constructively discharged by forced resignation, or  
2 simply terminated.

3 *Centers for Disease Control Statements*

4 44. In a published statement, the federal Centers for Disease Control and  
5 Prevention (CDC) stated that the Delta variant resulted in similarly high COVID-19  
6 viral loads in vaccinated and unvaccinated people.<sup>1</sup> CDC Director Rochelle Walensky  
7 has confirmed that COVID-19-positive individuals carry the same “viral load”  
8 (equivalent to the risk of spreading infection) whether they are vaccinated or  
9 unvaccinated.<sup>2</sup>

10 45. The CDC Director’s statement was based on a study in the summer of  
11 2021 which tested vaccinated and unvaccinated persons and found that “[c]ycle  
12 threshold values [COVID-19 viral loads] were similar among specimens from patients  
13 who were fully vaccinated and those who were not.”<sup>3</sup>

14 46. Later studies have found that the viral load associated with COVID-19  
15 variants such as Omicron also does not vary based upon vaccination status: “[F]ully  
16 vaccinated individuals with breakthrough infections have peak viral load similar to  
17 unvaccinated cases and can efficiently transmit infection in household settings,  
18 including to fully vaccinated contacts.”<sup>4</sup>

19 \_\_\_\_\_  
20 <sup>1</sup> Statement from CDC Director Rochelle P. Walensky issued on July 30, 2021,  
21 <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html>.

22 <sup>2</sup> *Id.*

23 <sup>3</sup> “Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine  
24 Breakthrough Infections, Associated with Large Public Gatherings — Barnstable  
25 County, Massachusetts, July 2021,” *Morbidity and Mortality Weekly Report, CDC* (July  
26 30, 2021),  
27 [https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s\\_cid=mm7031e2](https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w)  
28 [w](https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w).

<sup>4</sup> Anika Singanayagam, et al., *Community transmission and viral load kinetics of the SARS-CoV-2 delta (B.1.617.2) variant in vaccinated and unvaccinated individuals in the UK: a prospective, longitudinal, cohort study*, p. 183 *The Lancet Infectious Diseases* (October



1 47. In another official statement, the CDC has confirmed those studies and  
2 stated that it expects that anyone with an Omicron infection, regardless of vaccination  
3 status or whether or not they have symptoms, can spread the virus to others.<sup>5</sup>

4 48. Because the viral loads are no different for the vaccinated and the  
5 unvaccinated, BART's position that the unvaccinated pose a danger to themselves,  
6 coworkers, and the public, but that the vaccinated do not pose this danger, is not  
7 consistent with the above-cited statements from the CDC.

8 49. The CDC spokesperson, Greta Massetti, stated that immunity for the  
9 population is now around 95 percent when combining those who have contracted and  
10 recovered from COVID-19 with those that have been vaccinated. As such, "it makes  
11 the most sense not to differentiate" between the vaccinated and unvaccinated.<sup>6</sup>

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PROVIDE RELIGIOUS ACCOMMODATION**

14 **Violation of Title VII of the Civil Rights Act of 1964**

15 All Plaintiffs Against All Government Defendants

16 (42 U.S.C. § 2000e)

17 50. Plaintiffs repeat and reallege the allegations above and incorporate those  
18 allegations herein by reference.

19 51. At all times relevant hereto, Title VII was in full force and effect and was  
20 binding on BART.

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21 28, 2021) <https://www.thelancet.com/action/showPdf?pii=S1473-3099%2821%2900648-4> See, also, David W. Eyre, B.M., B.Ch., D.Phil. et al., *Effect*  
22 *of Covid-19 Vaccination on Transmission of Alpha and Delta Variants*, New England J.  
23 Med 386:744-756 (Feb. 24, 2022),

24 <https://www.nejm.org/doi/full/10.1056/NEJMoa2116597>.

25 <sup>5</sup> "Omicron Variant: What You Need to Know," CDC (March 29, 2022),

26 <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html>.

27 <sup>6</sup> "With new guidance, CDC ends test-to-stay for schools and relaxes COVID rules"  
28 NPR (Aug. 11, 2022), <https://www.npr.org/sections/health-shots/2022/08/11/1116991600/with-new-guidance-cdc-ends-test-to-stay-for-schools-and-relaxes-covid-rules>.

1           52. At all times relevant hereto, the Plaintiffs were performing competently  
2 in the positions they held as employees of BART.

3           53. Plaintiffs have bona fide religious beliefs that conflict with receiving the  
4 COVID-19 vaccination; they have informed their employer of such beliefs. The  
5 Plaintiffs were disciplined for failure to comply with the conflicting employment  
6 requirement.

7           54. Title VII makes it an unlawful employment practice to fail or refuse to  
8 reasonably accommodate the religious beliefs and practices of an employee.

9           55. BART failed to provide reasonable alternative means of accommodating  
10 the religious belief or observance that was in conflict with the COVID-19 vaccination  
11 work requirement.

12           56. BART granted medical accommodations to vaccination but not a single  
13 religious accommodation. Stated otherwise, religious persons as a class were excluded  
14 from accommodation.

15           57. An unvaccinated employee exempted for medical reasons poses precisely  
16 the same threat as an unvaccinated employee exempted for religious reasons.

17           58. There is a dispute between the Plaintiffs and Defendant. BART asserts  
18 that it can undertake a detailed probe of the sincerity of the religious beliefs of its  
19 employees; this includes placing a burden on the Plaintiffs to provide an objective  
20 basis for religious convictions regarding the refusal to take the COVID-19 vaccination.  
21 Plaintiffs disagree. Because faith is intrinsically subjective, a religious objector cannot  
22 be held to an objective measure of proof regarding what lay within his or her heart,  
23 mind, and soul. Belief in what one may demonstrate to the senses is not faith.  
24 Plaintiffs assert that Title VII presumes sincerity of belief by an employee, and  
25 therefore BART's standardized practice of a rigorous inquisition is an unlawful  
26 standard. The Plaintiffs' legal position is that, although an employee's faith may be  
27 deemed as heresy to some and incomprehensible to others, employers cannot require

1 orthodoxy of employees according to a recognized religion or demand that employees  
2 be put to the proof of their religious beliefs.

3 **SECOND CAUSE OF ACTION**

4 **RELIGION CLAUSES**

5 **First Amendment to the U.S. Constitution**

6 All Plaintiffs Against All Government Defendants

7 (42 U.S.C. § 1983)

8 59. The Plaintiffs repeat and reallege the allegations above and incorporate  
9 those allegations herein by reference.

10 60. The right to free exercise of religion is a right protected and guaranteed  
11 by the First Amendment of the U.S. Constitution. The liberties under the First  
12 Amendment apply to the states and their political subdivisions through the Fourteenth  
13 Amendment.

14 61. The actions of BART have been, and continue to be, done under color of  
15 law.

16 62. The Plaintiffs have sincerely held religious beliefs that compel them to  
17 refuse the COVID-19 vaccine.

18 63. There are two ways that BART has violated the religious clauses. These  
19 are through the evaluation process which looks for heretics or hypocrites. The second  
20 is by totally excluding religious people from a statutory accommodation to a condition  
21 required for employment.

22 *Total Exclusion of Religious Employees*

23 64. BART provided accommodations for approximately 33 percent of its  
24 employees who sought an exemption to vaccination due to medical reasons. In  
25 contrast, BART provided accommodations for 0 percent of its employees who sought  
26 an exemption to vaccination due to religious beliefs.

27 65. The exclusion of employees from a statutory accommodation deprives  
28 them of a right because of their status as people of faith.

1           66. One third of employees requesting a medical exemption from vaccination  
2 received an accommodation, though such an unvaccinated employee poses the same  
3 health risk as an unvaccinated religious employee.

4   *Heretics and Hypocrites*

5           67. The protocol that BART evaluators use imposes requirements that stand  
6 as hostile to the religious beliefs of the Plaintiffs and acts in a manner that passes  
7 judgment upon, or presupposes the illegitimacy of, religious beliefs and practices.  
8 Therefore, the protocol used is not neutral.

9           68. BART’s detailed probe into the beliefs of the Plaintiffs exceeds sincerity  
10 by determining orthodoxy, verity of beliefs, and hypocrisy.

11           69. BART’s evaluators are taking on the role that the First Amendment  
12 reserves to ecclesiastical courts, not government officials.

13           70. There is a dispute between the Plaintiffs and Defendant. BART asserts  
14 that it can undertake a detailed probe of the sincerity of the religious beliefs of its  
15 employees; this includes placing a burden on the Plaintiff s to provide an objective  
16 basis for religious convictions regarding the refusal to take the COVID-19 vaccination.  
17 Plaintiffs disagree. Because faith is intrinsically subjective, a religious objector cannot  
18 be held to an objective measure of proof regarding what lay within his or her heart,  
19 mind, and soul. Belief in what one may demonstrate to the senses is not faith. The  
20 Plaintiffs’ legal position is that, although an employee’s faith may be deemed as heresy  
21 to some and incomprehensible to others, employers cannot require orthodoxy of  
22 employees according to a recognized religion or demand that employees be put to the  
23 proof of their religious beliefs.

24           71. BART provided accommodations for approximately 33 percent of its  
25 employees who sought an exemption to vaccination due to medical reasons. In  
26 contrast, BART provided accommodations for 0 percent of its employees who sought  
27 an exemption to vaccination due to religious beliefs.

1 72. The protocol that evaluators of employees seeking a religious exemption  
2 constitutes individualized assessments, giving broad discretion to an evaluator, and  
3 thus are not neutral and generally applicable.

4 73. The vaccination requirement forces the Plaintiffs to choose between  
5 receiving the COVID-19 vaccine in violation of their sincerely held religious beliefs or  
6 being fired, forced into retirement, or constructively discharged by pressuring them to  
7 resign.

8 74. The conduct of BART thus imposes a substantial burden on the Plaintiffs  
9 and interferes with, and deprives them of, the enjoyment of the religious liberties  
10 guaranteed by the First Amendment to the U.S. Constitution, as made applicable to the  
11 states through the Fourteenth Amendment.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PROVIDE RELIGIOUS ACCOMMODATION**  
14 **Violation of the California Fair Employment and Housing Act**

15 All Plaintiffs Against All Government Defendants  
16 (Gov. Code § 12900 et seq.)

17 75. The Plaintiffs repeat and reallege the allegations above and incorporate  
18 those allegations herein by reference.

19 76. At all times relevant hereto, FEHA was in full force and effect and was  
20 binding on BART.

21 77. BART failed to provide reasonable alternative means of accommodating  
22 the religious belief or observance that conflicted with the work requirement, i.e.,  
23 COVID-19 vaccination.

24 78. Accommodating the Plaintiffs does not pose a *significant difficulty or expense*  
25 on BART per Gov. Code § 12926(u).

26 79. Plaintiffs are entitled to further relief as more fully set forth below in their  
27 Prayer for Relief.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that the Court enter judgment in their favor, and against the Defendant, for full relief, including the following:

a. Declaratory judgment that BART’s protocol for determining sincerity of faith in whole, or in part, on its face, and as applied, does not comport with the requirements of Title VII;

b. Declaratory judgment that BART’s protocol for determining sincerity of faith in whole, or in part, on its face, and as applied, does not comport with the requirements of FEHA;

c. Declaratory judgment that BART’s protocol for determining sincerity of faith is in whole, or in part, on its face, and as applied, is violative of the religion clauses of the First Amendment;

d. Declaratory judgment that BART’s protocol individualized assessment for both religious exemptions and accommodation is in whole, or in part, on its face, and as applied, violative of the religion clauses of the First Amendment;

e. Declaratory judgment that BART’s decision not to grant any religious accommodations is violative of the religion clauses of the First Amendment;

f. Declaratory judgment that providing a religious accommodation does not impose an undue hardship on BART under Title VII;

g. Declaratory judgment that providing a religious accommodation does not impose a significant difficulty or expense on BART under FEHA;

h. A preliminary and permanent injunction prohibiting BART’s protocol for determining sincerity of faith;

i. Equitable relief in the form of an order setting aside the denials for accommodation and that the Plaintiffs receive *de novo* consideration of their accommodation requests;



- 1 j. An award for actual, consequential, and incidental financial losses,  
2 including, but not limited to lost back pay, front pay, benefits, lost overtime, and other  
3 compensation plus interest;
- 4 k. An award of compensatory damages;
- 5 l. Restoration of employee benefits, including, but not limited to, medical  
6 benefits, pensions, and insurance;
- 7 m. Restore vacation days, comp hours, and lost time hours;
- 8 n. Attorneys' fees and costs; and
- 9 o. Any and all other appropriate relief to which the Plaintiffs may be entitled  
10 including all "appropriate relief" within the scope of FRCP 54(c).

11 Dated: March 1, 2023

12 /s/ Kevin T. Snider

13 Kevin T. Snider

14 *Counsel of Record*

15 Matthew B. McReynolds

16 Milton E. Matchak

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