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HAFSA FODA, a/k/a

SOFY FODA

Plaintiff,

vs.

VALLEY HEALTH SYSTEM, INC., and

SIMON J. TSIOURIS,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: CHANCERY DIV.**

Docket No. C-163-22

Civil Action

**VERIFIED COMPLAINT FOR AN
ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS**

Plaintiff Hafsa Foda, a/k/a Sofy Foda (“Ms. Foda”), by and through her attorneys,
Dhillon Law Group Inc., for a Verified Complaint for an Order to Show Cause with Temporary
Restraints against Defendants Valley Health System, Inc. (“Valley Health”), and Simon J.
Tsiouris (“Dr. Tsiouris”), alleges and avers as follows:

1. Ms. Foda is a Valley Health pharmacist, an asylee, and the sole caretaker of her
minor son. Ms. Foda’s ophthalmologists advised Ms. Foda not to receive any vaccines, lest she

lose her vision. Valley Health now forces Ms. Foda to choose between her vision and her livelihood.

2. Valley Health has previously “deferred” its COVID-19 vaccination requirement. On multiple occasions, Valley Health has told Ms. Foda that she must satisfy some requirement regarding documentation for her health condition and her doctor’s advice. In each instance, Ms. Foda satisfied Valley Health’s requirement, only for Valley Health to move the goalposts and force Ms. Foda to provide yet another doctor’s letter. Ms. Foda has further been working from home for the past year—demonstrating that Valley Health has no public health basis or business justification to force Ms. Foda to take a vaccine against her doctors’ (plural) advice.

3. Most recently, Ms. Foda was scheduled to undergo photodynamic therapy to treat her ocular condition, which has an autoimmune origin. Despite two separate treating specialists advising, in writing, that Ms. Foda cannot safely take *any* vaccine in close temporal proximity to photodynamic therapy, Valley Health informed Ms. Foda on August 31, 2022, that she must furnish proof of vaccination on September 2, 2022, or face termination on September 4, 2022.

4. Valley Health’s treatment of Ms. Foda is not just morally reprehensible. It is illegal. In enacting the New Jersey Law Against Discrimination (“NJLAD”), which the New Jersey Attorney General’s Office describes on its website as “one of the most comprehensive anti-discrimination laws in the country,” the New Jersey legislature forbade employers from discriminating against disabled employees, and mandated that employers provide disabled employees with reasonable accommodations.

5. Valley Health has done exactly what the NJLAD was enacted to prevent. By forcing Ms. Foda to spurn her doctors’ advice and risk her eyesight if she wishes to keep her job, Valley Health has violated Ms. Foda’s civil rights.

6. Unless the Court issues immediate injunctive relief, Ms. Foda will lose her livelihood, compromising her and her son's health, shelter, and security.

PARTIES

7. Ms. Foda is, and all times relevant herein was, a resident of Bergen County, New Jersey.

8. Upon information and belief, Valley Health is a New Jersey corporation with its principal place of business at 15 Essex Road, Paramus, New Jersey, 07652.

9. Dr. Tsiouris is Valley Health's medical director. Upon information and belief, Dr. Tsiouris is a resident of New Jersey. Dr. Tsiouris acted in the course and scope of his employment with Valley Health for the purpose of benefitting Valley Health and with authority delegated to him by Valley Health in each instance alleged herein regarding his conduct.

JURISDICTION AND VENUE

10. Jurisdiction and venue are appropriate in Bergen County, Superior Court Law Division, pursuant to New Jersey Civil Rule 4:3-2(a) because Ms. Foda is employed and the cause of action arose in Bergen County, New Jersey.

FACTS

I. Ms. Foda Flees Egypt and Becomes a Pharmacist at Valley Health

11. Ms. Foda was born and raised in Egypt. In 2014, Ms. Foda emigrated from Egypt to the United States with her minor son to escape persecution from the Muslim Brotherhood, which had controlled the Egyptian government until 2013. As a secular ex-Muslim, Ms. Foda would have been adjudged an apostate by the Muslim Brotherhood government, a crime punishable by death. Ms. Foda also had a fear of persecution from other Islamist organizations.

12. Ms. Foda was subsequently granted asylum status in the United States in 2017.

13. Ms. Foda is the daughter of two physicians and was educated as a pharmacist in Egypt.

14. After immigrating to the United States, Ms. Foda secured a job as a pharmacist with Valley Health in 2019. Ms. Foda specializes in medication reconciliation, helping to ensure that Valley Health doctors administer medication to patients safely and in accordance with each patient's distinct medical needs, which is ironic, given Valley Health's refusal to acknowledge Ms. Foda's unique medical needs over the course of the last year.

15. Ms. Foda has no family in the United States besides her son, and Ms. Foda relies on her income from Valley Health for her and her son's shelter, food, healthcare, and education.

II. Ms. Foda's Ocular Disability

16. Ms. Foda suffered from floaters in her left eye since a young age, a condition that causes small dark shapes to appear in one's field of vision.

17. Toward the beginning of 2021, Ms. Foda's condition worsened, and she began experiencing pain in her left eye, and the floaters increased in size and number.

18. In April 2021, Ms. Foda was diagnosed with a uveitis, vitretitis, papillitis, concurrent with optic nerve inflammation, macular edema, and central serous retinal detachment, which caused a lack of depth perception, visual impairment, and vision loss in Ms. Foda's left eye.

19. Ms. Foda's treating ophthalmologist has opined that Ms. Foda's uveitis arose out of an autoimmune disorder.

20. Sadly, Ms. Foda's prognosis is poor. While her doctors continue to treat her uveitis, sub-retinal fluid, and retinal detachment, Ms. Foda's likelihood of recovering her vision

is uncertain at best. Ms. Foda has retained vision in her right eye, though she wears eyeglasses to remedy astigmatism.

21. Ms. Foda's glasses only remedy the astigmatism in her right eye, and the ocular conditions affecting her left eye pose substantial burdens that affect her daily life. Ms. Foda usually brings items such as prescription labels and bottles very close to her eye and enlarges text (when possible) to reduce strain on her one functional eye. Ms. Foda has very poor depth perception. When Ms. Foda attends her son's soccer games, she has difficulty determining which child on the field is her son, even with her glasses on. Ms. Foda has significant sensitivity to light, which prevents her from enjoying many outdoor activities able-bodied individuals take for granted. As a result, Ms. Foda must sequester herself in a dark room several times per day.

22. Despite her weak eyesight, Ms. Foda performs her pharmacist duties with care and competence. In her free time, Ms. Foda avoids activities she enjoys that require visual concentration, like reading, so that she can save her limited visual acuity for her work duties.

23. As a result of the multiple conditions afflicting her left eye, Ms. Foda's right eye is the only thing standing between Ms. Foda and blindness.

III. Ms. Foda's Doctors Advise that Ms. Foda Avoid Vaccines.

24. As the child of physicians, Ms. Foda has never shied away from vaccines. Ms. Foda grew up on the African continent and has received all the standard childhood vaccines that American children receive—and then some.

25. Ms. Foda further complied with Valley Health's influenza vaccine requirement in 2019 and 2020 without question or incident.

26. After she was diagnosed with uveitis, Ms. Foda learned that uveitis was a reported side effect of *all* vaccines and was advised to refrain from taking further vaccines. As Ms. Foda

already has a pre-existing ocular inflammatory disorder in one eye, uveitis, she faces a markedly higher risk of a reoccurrence, relapse, and future incidents of ocular adverse effects from vaccination than someone without a history of uveitis.

27. In addition to its influenza vaccine requirement, Valley Health also mandated that its employees complete a COVID-19 vaccination, effective November 1, 2021.

28. On August 16, 2021, Ms. Foda's then-treating ophthalmologist, Dr. Brian Marr, the director of ophthalmology at Columbia University, requested in writing that Ms. Foda be permitted to refrain from taking the COVID-19 vaccine until her ocular condition resolved.

29. Upon information and belief, Dr. Tsiouris is the final decisionmaker at Valley Health with regard to employees' requests for vaccine exemptions.

30. Upon information and belief, Dr. Tsiouris has been extremely reluctant to grant any vaccine exemptions and has denied the vast majority of medical and religious vaccine exemption requests that Valley Health employees submitted.

31. Dr. Tsiouris granted Ms. Foda a temporary "deferral" from Valley Health's vaccination requirement until February 1, 2022, in light of Ms. Foda's uveitis diagnosis and Dr. Marr's August 16, 2021, letter.

32. As a condition of her deferral, Valley Health required Ms. Foda to take weekly COVID-19 tests, a condition with which Ms. Foda complied without complaint.

33. In November 2021, Valley Health required that Ms. Foda work from home (and continue her weekly COVID-19 tests) as a condition of her deferral.

34. Ms. Foda is able to perform her specific duties as a medication reconciliation pharmacist from home. In fact, all or almost all of Valley Health's pharmacists performing

medication reconciliation worked remotely at the beginning of the COVID-19 pandemic, and some continue to work from satellite locations.

35. Ms. Foda successfully completed hundreds of “admissions’ reconciliations,” engages in active conversations with healthcare providers, corrects medication administration errors, and has prevented several adverse drug interactions and “near-misses.” While Ms. Foda would prefer to work in person, she has competently discharged all her duties while working from home. Only Ms. Foda has suffered as a result of this arrangement—without the benefit of a proper workstation, Ms. Foda has endured even more strain on her eyes while working from home.

36. Ms. Foda continued to seek treatment for her uveitis. Dr. Marr referred Ms. Foda to Dr. C. Michael Samson, a Professor of Ophthalmology at the Donald and Barbara Zucker School of Medicine at Hofstra/Northwell, and a renowned expert on uveitis within the medical community. Dr. Samson strongly cautioned Ms. Foda against taking any vaccine.

37. In November 2021, Ms. Foda grew very concerned about the approaching February 1, 2022, date on which Dr. Tsiouris’s deferral period would end. Accordingly, on November 29, 2021, Dr. Samson wrote a letter stating that Ms. Foda “is diagnosed with an autoimmune condition called intermediate uveitis concurrent with central serous retinopathy;” that Ms. Foda is “starting [a] new medication for this condition (high dose Prednisone); that “[a]t this time, it is recommended to postpone any vaccine as she is currently in a flare up;” and that “[w]e can reassess post treatment.” A true and correct copy of Dr. Samson’s November 29, 2021, letter is attached hereto as **Exhibit A**.

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38. Dr. Tsiouris denied the request contained in Dr. Samson's November 29, 2021, letter, stating he needed a detailed letter explaining why Ms. Foda's condition precluded her from taking any vaccines.

39. On December 13, 2021, Dr. Samson wrote a new letter regarding Ms. Foda's condition to satisfy Dr. Tsiouris's demand, which Ms. Foda presented to Dr. Tsiouris. Critically, Dr. Samson wrote:

Given the patient's condition discussed above, her current vision impairment, and poor prognosis, she is at risk of developing bilateral uveitis as a possible side effect of any vaccine administration which might compromise the patient's vision in the right eye as well and put her at risk of vision loss. The patient is not a candidate of receiving any vaccines and such administration is not recommended at the time being because the risks outweigh the benefits.

A true and complete copy of Doctor Samson's December 13, 2021, letter is attached hereto as **Exhibit B**.

IV. Valley Health Violates Ms. Foda's Civil Rights by Denying Her Vaccine Exemption Request.

40. Ms. Foda formally applied for a vaccine exemption on December 15, 2021, in a letter to Dr. Tsiouris, a true and correct copy of which is attached hereto as **Exhibit C**.

41. Dr. Tsiouris did not respond to Ms. Foda's vaccine exemption request, but Ms. Foda later found out that Valley Health had waived its influenza vaccine requirement for Ms. Foda for 2021.

42. Months went by before Valley Health acted on Ms. Foda's formal request for an exemption from Valley Health's COVID-19 vaccine requirement.

43. In April 2022, Valley Health informed Ms. Foda for the first time that Valley Health's deferral of its COVID-19 vaccine requirement for Ms. Foda would end on May 1, 2022, and that she was required to submit an additional update from Dr. Samson.

44. On June 29, 2022, Dr. Samson wrote another letter, stating in pertinent part:

Based on the patient's continued disease status, significant visual impairment, and her upcoming photodynamic therapy, it's medically advised she continues holding off on taking any vaccines, including the COVID-19 vaccine, as the risks of vaccines in her case outweigh the benefits and may even endanger the outcome of her eye treatment.

A true and complete copy of Dr. Samson's June 29, 2022, letter is attached hereto as **Exhibit D**.

45. On July 6, 2022, despite Dr. Samson's clear and unequivocal recommendation, Valley Health's employee health department informed Ms. Foda that her exemption request was denied.

46. On July 7, 2022, Valley Health informed Ms. Foda that she had until July 31, 2022, to take a first dose of a COVID-19 vaccination, and that failure to do so would result in termination.

47. On July 8, 2022, Ms. Foda spoke with the Valley Health human resources vice president, Jose Balderrama, who informed her that he was not in a position to override Dr. Tsiouris's decision.

48. On July 13, 2022, Mr. Balderrama told Ms. Foda that the July 31, 2022, deadline still stands, and that he could not help Ms. Foda.

49. On July 14, 2022, Ms. Foda again stated her case to Dr. Tsiouris. Dr. Tsiouris, who is an infectious disease specialist, and not an ophthalmologist and uveitis specialist like Dr. Samson, stated to Ms. Foda that he "simply disagree[s] with [her] doctor." **Dr. Tsiouris further stated that he would speak with Dr. Samson, but it "would not change a thing."** In a horrifying display of callousness, Dr. Tsiouris stated that "only" twenty-two people had developed uveitis that failed to resolve following vaccine administration, and that it was unlikely to happen to Ms. Foda. Upon information and belief, Dr. Tsiouris did not consider Ms. Foda's

medical history when he rendered this assessment, nor does Dr. Tsiouris have the training or expertise to comment on the interaction between vaccinations and ocular conditions such as uveitis.

V. Valley Health Moves the Goalposts and Goes Back on Its Word, and Dr. Tsiouris Lies About His Conversation with Ms. Foda's Doctor.

50. Ms. Foda was left with no choice but to retain counsel following Valley Health's unwillingness to relax its policies so that Ms. Foda could continue working as a pharmacist at Valley Health without endangering her eyesight.

51. On July 18, 2022, Ms. Foda's counsel delivered a letter to Robin L. Goldfischer, Esq., Valley Health's Senior Vice President, Legal Services, demanding that Valley Health honor Ms. Foda's rights under the NJLAD and grant Ms. Foda an exemption from its COVID-19 vaccine requirement.

52. On Monday July 25, 2022, Joseph A. Fischetti, Esq., Valley Health's Director, Legal Affairs and Assistant General Counsel, acknowledged receipt of Ms. Foda's counsel's letter, and that Valley Health "will respond . . . this week." A true and correct copy of Mr. Fischetti's email and the subsequent emails he exchanged with Ms. Foda's counsel are attached hereto as **Exhibit E**.

53. On Thursday July 28, 2022, just three days before the deadline Valley Health imposed, Mr. Fischetti wrote to Ms. Foda's counsel, stating:

We continue to review your letter dated July 18. Please be advised that certain staff necessary to that decision are presently out of the office and unavailable. As a result, and solely for that reason, Valley will extend Ms. Foda's deadline to receive a booster [sic] for one additional week as Valley continues considering your letter and whether an accommodation is required and/or available to Ms. Foda.

See Exhibit E.

54. On Thursday August 4, 2022, Mr. Fischetti issued a letter to Ms. Foda’s counsel, stating, in pertinent part, “[I]f Ms. Foda does not receive a first dose of a COVID-19 vaccination on or before August 7, 2022, [Valley Health] will terminate her employment for failure to comply with [Valley Health]’s COVID-19 vaccination policy.” A true and correct copy of Mr. Fischetti’s letter is attached hereto as **Exhibit F**.

55. Mr. Fischetti cloaked Valley Health’s unlawful decision with a pedantic, misleading statement, writing that Dr. Samson “advised that there is no medical contraindication to COVID-19 vaccination for Ms. Foda[.]” Mr. Fischetti’s use of the term “contraindication” was deceptive. In the context of COVID-19 vaccinations, the United States Centers for Disease Control and Prevention (“CDC”) “considered COVID-19 vaccination to be contraindicated” in just two scenarios: (1) when the patient has a “[h]istory of a severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine;” and (2) when the patient has a “[h]istory of a known diagnosed allergy to a component of the COVID-19 vaccine.” Centers for Disease Control and Prevention, “Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Approved or Authorized in the United States” (Aug. 22, 2022), <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/interim-considerations-us.html#contraindications>. Dr. Samson’s acknowledgement that uveitis is not a formal contraindication for the COVID-19 vaccines did not change his recommendation that Ms. Foda refrain from taking the COVID-19 vaccine as a result of her unique medical history. Physicians routinely use their training, expertise, and judgment when advising patients on a given drug or therapy—the analysis does not end simply because there is no CDC or Food and Drug Administration (“FDA”) contraindication. Advising a patient to take or not take a drug based

solely on the CDC or FDA's contraindication list without regard to the patient's medical history would fall well below the standard of care expected of any physician.

56. Mr. Fischetti acknowledged, however, that Dr. Samson "noted that photodynamic therapy, a form of treatment for uveitis, may cause inflammation, and he would recommend a time interval between such treatment and vaccination." *See Exhibit F.*

57. That same day, Ms. Foda's counsel responded to Mr. Fischetti, stating:

Ms. Foda has a photodynamic therapy procedure scheduled for August 15, 2022 with Dr. Irene Barbazetto at Vitreous Retina Macula Consultants of New York, P.C. As you note in your letter, there must be a minimum temporal interval between this treatment and vaccination. Ms. Foda will consult Dr. Samson regarding the appropriate interval between treatment and vaccination following her treatment. If Dr. Samson advises Ms. Foda to get vaccinated, she will do so. **Please confirm that consistent with the representations in your letter, VHS will not enforce the August 7 deadline referenced in your letter as this date is within just eight (8) days of Ms. Foda's previously scheduled treatment.**

I attach a July 11, 2022 letter from Dr. Barbazetto stating that Ms. Foda was supposed to undergo photodynamic therapy on that date, but that she was unable to do so as she was taking doxycycline at the time (a photosensitive medication). Please note that Dr. Barbazetto states that "[o]nce [photodynamic therapy] is done it will take a minimum of 1-2 months for the fluid under the retina to be absorbed" and that "[s]ubsequent improvement of vision is not guaranteed." If you require further documentation of Ms. Foda's August 15, 2022 appointment, please let me know, and we can provide the same.

See Exhibit E.

58. Valley Health's bluff called, Mr. Fischetti moved the goalposts again. On Friday, August 5, 2022, Mr. Fischetti wrote that Valley Health's August 7, 2022, deadline stood, unless Ms. Foda could produce a letter from Dr. Barbazetto explaining:

(1) whether Dr. Barbazetto believes her administration of photodynamic therapy precludes Ms. Foda from receiving a COVID-19 vaccination; and, if so, (2) when Dr. Barbazetto believes Ms. Foda could receive a COVID-19 vaccination if treated with photodynamic therapy and (3) whether Dr. Barbazetto believes this will be a single administration of photodynamic therapy or require multiple administrations.

See **Exhibit E**.

59. That same day, Ms. Foda's counsel objected to Valley Health's failure to grant Ms. Foda an exemption in light of her scheduled photodynamic therapy procedure, despite Mr. Fischetti's representations in his July 25, 2022, letter. See **Exhibit E**.

60. Valley Health did not respond to Ms. Foda's counsel's August 5, 2022, email, and let the August 7, 2022, deadline pass without comment or action, and without regard to the stress it was causing Ms. Foda.

61. On August 12, 2022, Valley Health's human resources representative informed Ms. Foda that she must provide a letter from Dr. Barbazetto by August 16, 2022 (one day after Ms. Foda's scheduled photodynamic therapy appointment) containing the information Mr. Fischetti previously demanded.

62. On August 15, 2022, Ms. Foda's counsel provided Mr. Fischetti with a detailed letter from Dr. Barbazetto, thereby satisfying Valley Health's unreasonable and arbitrary requirement. Dr. Barbazetto's letter stated, in pertinent part,

The patient is scheduled to undergo photodynamic therapy for active [central serious chorioretinopathy]. She understands that outcomes are not guaranteed and she might require multiple sessions of treatment. However, due to an ongoing infection the PDT treatment was rescheduled today. Her next appointment is in 2 weeks.

Of note; given the patient's complex medical history, I would agree with Dr. Samson, her uveitis specialist, who recommended avoiding pro-inflammatory stimuli, including vaccines for the next 6 months.

A true and correct copy of Dr. Barbazetto's letter is attached hereto as **Exhibit G**.

63. On August 23, 2022, Mr. Fischetti requested Ms. Foda's counsel's assistance in facilitating a telephone conference between Drs. Tsiouris and Barbazetto. Ms. Foda's counsel noted that while he does not control Dr. Barbazetto's schedule, he would be willing to convey any questions to her. See **Exhibit E**.

64. On August 29, 2022, Ms. Foda underwent photodynamic therapy, requiring her to take unpaid medical leave for both the procedure and the subsequent week during her convalescence.

65. On August 31, 2022, while Ms. Foda recovered from photodynamic therapy, Mr. Fischetti wrote to Ms. Foda's counsel, stating:

Dr. Barbazetto yesterday returned Dr. Tsiouris's call. Dr. Barbazetto advised that she performed photodynamic therapy on Ms. Foda on Monday. Dr. Barbazetto also stated that although Ms. Foda should have no exposure to bright lights or sunlight for five days, there is no contraindication to vaccination in relation to this therapy or any therapy that she may perform in the future. Ms. Foda's request for an exemption therefore remains denied.

Ms. Foda is presently on a leave of absence. Valley will not suspend, terminate, or otherwise interfere with Ms. Foda's employment while she is on leave. However, if Ms. Foda does not provide proof of vaccination for COVID-19 at least two days before the scheduled conclusion of her leave on September 4, then upon the conclusion of her leave, she will be terminated for failure to comply with Valley's COVID-19 vaccination policy.

See Exhibit E.

66. Once again, Mr. Fischetti engaged in bad-faith word games by exploiting the technical definition of "contraindication." Dr. Barbazetto's letter speaks for itself: Dr. Barbazetto advised Ms. Foda to avoid vaccines for a period of six months following photodynamic therapy.

See Exhibit G.

67. When Ms. Foda shared Mr. Fischetti's statements with Dr. Barbazetto, Dr. Barbazetto stated that Mr. Fischetti misrepresented the conversation she had had with Dr. Tsiouris, and that she was shocked that Valley Health twisted her words. Dr. Barbazetto further confirmed that she told Dr. Tsiouris that she agreed with Dr. Samson's guidance that Ms. Foda not take a vaccine in her condition, a remark Mr. Fischetti conveniently left out of his email.

68. Upon information and belief, Dr. Tsiouris deliberately misrepresented the contents of his conversation with Dr. Barbazetto based on a personal desire to ensure that her

vaccine exemption is denied. Valley Health’s YouTube channel features no less than ten (10) videos of Dr. Tsiouris promoting the COVID-19 booster vaccine to a general audience. *See* YouTube, “The Valley Hospital,” <https://www.youtube.com/user/valleyhospital/videos>. In this case, Dr. Tsiouris’s personal zeal for the COVID-19 vaccines has led him to treat Ms. Foda in an inhumane and outrageous manner.

69. Ms. Foda has incurred out-of-pocket medical and legal expenses in her efforts to obtain a COVID-19 vaccine exemption from Valley Health.

VI. Ms. Foda’s Termination Will Result in Significant, Irreparable Harm.

70. Ms. Foda is unwilling to comply with Valley Health’s COVID-19 vaccine requirement at this time, as the risk of losing her eyesight outweighs the significant hardships her termination will entail. That said, those hardships will be staggering.

71. When Valley Health first began threatening Ms. Foda’s employment, Ms. Foda has sought other pharmacist jobs, but has been unable to find one, despite seeking work at no less than eighteen different healthcare providers and pharmacies. Most entry-level pharmacists must begin by working a night shift or late-evening shift. Thus, even if Ms. Foda were to find another pharmacist position, her ability to care for her son would be severely compromised.

72. Ms. Foda relies on her income from Valley Health to pay her \$2,650.00 monthly rent, along with her utility bills, which are about \$500.00 per month, and fears imminent eviction if she loses her job. Ms. Foda has a genuine belief that if she loses her job with Valley Health, she and her son may face homelessness.

73. Both Ms. Foda and her son rely on the medical coverage Valley Health provides. At present, Ms. Foda must seek frequent medical care because of her ocular conditions. Ms. Foda further has thyroid nodules and must undergo frequent ultrasounds and biopsies to assess

whether the nodules are cancerous. Failure to detect a cancerous nodule would be catastrophic and could even cause Ms. Foda's premature death. Ms. Foda has further been diagnosed with fibrocystic breast disorder, for which Ms. Foda requires frequent mammograms and ultrasounds. Ms. Foda has a mass in her right breast, which requires frequent monitoring. Ms. Foda also uses her income for psychotherapy in order to mitigate post-traumatic stress disorder relating to her persecution in Egypt.

74. Ms. Foda's son has a blood disorder, G6PD deficiency disorder, a life-threatening disorder that has previously caused hospitalization and necessitated blood transfusions. Ms. Foda's son likewise relies on Ms. Foda's health insurance to monitor this condition. If Ms. Foda's son experienced a hemolytic crisis as a result of his blood disorder, the out-of-pocket expense of immediate treatment would cost at least \$10,000.

75. Ms. Foda's son has poor eyesight and uses Ms. Foda's insurance for optical exams and eyeglasses. Ms. Foda too uses her insurance to obtain eyeglasses. Given her already-compromised vision, it is essential for Ms. Foda that she keep her glasses prescription up to date.

76. If Ms. Foda and her son lacked medical insurance in 2021, their out-of-pocket medical expenses would have been \$84,343, exclusive of dental expenses.

77. Ms. Foda's ocular conditions worsen when she experiences stress. Valley Health and Dr. Tsiouris's wrongful conduct have already caused Ms. Foda intense, unbearable stress, causing the vision loss associated with her ocular conditions to worsen. Ms. Foda's stress will only worsen if Valley Health terminates her employment.

78. Ms. Foda and her son rely on the dental insurance Valley Health provide. Ms. Foda has numerous fillings and multiple root canals that require frequent attention.

79. Ms. Foda is eligible to receive a Board of Pharmacy specialty certification, which will result in significant professional advancement for Ms. Foda. To receive this certification, however, Ms. Foda must demonstrate three continuous years of employment. Ms. Foda will meet the three-year mark at Valley Health on September 9, 2022. If Valley Health terminates her on September 4, 2022, as threatened, Ms. Foda will lose the opportunity to obtain this important credential.

80. Ms. Foda's son attends public school in a school district well-tailored for his needs, in which Ms. Foda could no longer afford to live if she loses her job with Valley Health. Ms. Foda's son has undergone significant psychological hardships and relies on the counseling his school provides. Ms. Foda's son is about to begin his freshman year of high school.

LEGAL CLAIMS

Count I: Violation of the NJLAD (Failure to Provide Reasonable Accommodation) (against Defendant Valley Health)

81. Ms. Foda realleges and incorporates by reference each of the foregoing paragraphs as though fully set forth herein.

82. Under New Jersey law, employers have a duty to provide disabled employees with reasonable accommodations.

83. Ms. Foda has a disability cognizable under the NJLAD. Ms. Foda's uveitis and other ocular conditions have resulted in visual impairment, force her to take uncomfortable measures including holding items very close to her eye and enlarging the text on her screen when she's at work (even with her glasses on). Ms. Foda has difficulty driving, particularly at night. Whenever Ms. Foda engages in tasks that required prolonged visual focus, she experiences pain in her eye.

84. Valley Health has known about Ms. Foda's disability since August 2021 or earlier.

85. Ms. Foda is able to perform the essential functions of her job.

86. Ms. Foda requested a reasonable accommodation on numerous occasions, individually and through counsel, in the form of an exemption from Valley Health's COVID-19 vaccine requirement.

87. Valley Health made no good-faith effort to assist Ms. Foda in connection with her request for a reasonable accommodation. Instead, Valley Health denied Ms. Foda's requests based on misrepresentations and shifting explanations and imposed a series of arbitrary deadlines to continually threaten Ms. Foda with termination.

88. Valley Health could have accommodated Ms. Foda by providing her with an exemption from its COVID-19 requirement, or even the six-month deferral Dr. Barbazetto requested, but chose not to because of bad faith.

89. As a result of Valley Health's failure to provide Ms. Foda with a reasonable accommodation, Ms. Foda has suffered damages in an amount to be proven at trial.

90. Ms. Foda requires temporary, preliminary, and permanent injunctive relief to prevent Valley Health from terminating her employment in circumstances directly arising out of Valley Health's failure to provide Ms. Foda with a reasonable accommodation.

91. The harm Ms. Foda suffered was the result of acts or omissions actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed, thereby entitling Ms. Foda to an award of punitive damages.

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Count II: Violation of the NJLAD (Failure to Engage in the Interactive Process)
(against Defendant Valley Health)

92. Ms. Foda realleges and incorporates by reference each of the foregoing paragraphs as though fully set forth herein.

93. Under New Jersey law, employers have a duty to engage in the interactive process and assist in the search for an appropriate reasonable accommodation.

94. Valley Health has failed and refused to engage in the interactive process. Valley Health left Ms. Foda in limbo for at least three months following Ms. Foda's initial, formal request for a COVID-19 vaccine exemption in December 2021. Dr. Tsiouris's statement that Dr. Samson's conclusions "would not change a thing" reveal Valley Health's complete unwillingness to reconsider its position despite Ms. Foda's medical circumstances. Valley Health has further failed to speak with Ms. Foda in good faith to come to a solution whereby Ms. Foda could continue working for Valley Health without compromising her eyesight—instead, Valley Health imposed a series of deadlines and ultimatums based only on its own staff's whims and convenience, and without regard to Ms. Foda's well-being. Dr. Tsiouris's misrepresentation of his conversation with Dr. Barbazetto further evinces Valley Health's failure to engage in the interactive process.

95. As a result of Valley Health's failure to engage in the interactive process, Ms. Foda has suffered damages in an amount to be proven at trial.

96. Ms. Foda requires temporary, preliminary, and permanent injunctive relief to prevent Valley Health from terminating her employment in circumstances directly arising out of Valley Health's failure to engage in the interactive process with Ms. Foda.

97. The harm Ms. Foda suffered was the result of acts or omissions actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed, thereby entitling Ms. Foda to an award of punitive damages.

**Count III: Violation of the NJLAD (Aiding and Abetting Illegal Conduct)
(against Dr. Tsiouris)**

98. The NJLAD makes it unlawful for “any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act.” *N.J.S.A.* § 10:5–12(e). New Jersey courts have held that an individual can aid and abet, not only the conduct of another person, but that person’s own conduct. *See Cicchetti v. Morris Cnty. Sheriff’s Office*, 194 N.J. 563, 594 (2008) (holding that “individual liability of a supervisor for acts of discrimination or for creating or maintaining a hostile environment can . . . arise through the ‘aiding and abetting’ mechanism.”).

99. Dr. Tsiouris was aware at all times relevant herein of Valley Health’s illegal conduct, namely its failure to provide Ms. Foda with a reasonable accommodation, and its failure to engage in the interactive process.

100. Dr. Tsiouris played a central and instrumental role in Valley Health’s illegal conduct by, among other things, refusing to consider Ms. Foda’s request for a reasonable accommodation in good faith, acting as the final decisionmaker with respect to Valley Health’s denial of a COVID-19 vaccine exemption for Ms. Foda, stating that Dr. Samson’s conclusions “would not change a thing” regarding Valley Health’s decision, and misrepresenting the substance of his conversation with Dr. Barbazetto regarding the guidance she gave Ms. Foda.

101. At the time Dr. Tsiouris engaged in each of the foregoing acts, he acted with, at a minimum, general knowledge that his actions would further Valley Health’s overall illegal

activity, namely its denial of Ms. Foda's request for a reasonable accommodation and Valley Health's failure to engage in the interactive process.

102. As a result of Dr. Tsiouris's aiding and abetting of conduct illegal under the NJLAD, Ms. Foda has suffered damages in an amount to be proven at trial.

103. Ms. Foda requires temporary, preliminary, and permanent injunctive relief to prevent Valley Health from terminating her employment in circumstances directly arising out of Dr. Tsiouris's aiding and abetting of conduct illegal under the NJLAD.

104. The harm Ms. Foda suffered was the result of acts or omissions actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed, thereby entitling Ms. Foda to an award of punitive damages.

**Count IV: Intentional Infliction of Emotional Distress
(against Defendants Valley Health and Dr. Tsiouris)**

105. Ms. Foda realleges and incorporates by reference each of the foregoing paragraphs as though fully set forth herein.

106. Dr. Tsiouris acted intentionally when he refused to consider Ms. Foda's request for a reasonable accommodation in good faith, acted as the final decisionmaker with respect to Valley Health's denial of a COVID-19 vaccine exemption for Ms. Foda, stated that Dr. Samson's conclusions "would not change a thing" regarding Valley Health's decision, and misrepresented the substance of his conversation with Dr. Barbazetto regarding the guidance she gave Ms. Foda.

107. Dr. Tsiouris's conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

108. Dr. Tsiouris's conduct proximately caused Ms. Foda to suffer emotional distress.

109. Valley Health has *respondeat superior* liability for each of Dr. Tsiouris's actions as he engaged in each of them in the course and scope of his employment with Valley Health and with the express purpose of benefitting Valley Health.

110. Valley Health acted intentionally when it refused to engage in the interactive process with Ms. Foda, denied Ms. Foda's request for a reasonable accommodation, and imposed various arbitrary deadlines for Ms. Foda to receive a COVID-19 vaccination under threat of termination, including, most recently, informing Ms. Foda on August 31, 2022 that if she did not receive a COVID-19 vaccination by September 2, 2022, she would face termination on Sunday, September 4, 2022.

111. Valley Health's conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

112. Valley Health's conduct proximately caused Ms. Foda to suffer emotional distress.

113. Ms. Foda's emotional distress as a result of Dr. Tsiouris and Valley Health's conduct (both individually and collectively) was so severe that no reasonable person should be expected to endure it. Ms. Foda's stress has caused her already compromised eyesight to worsen. Ms. Foda has grave concerns that she and her son will become homeless; that she and her son will go without necessary medical, dental, and vision care; and that her son will be deprived of education because of the financial hardship that her imminent termination will cause.

114. As a result of the intentional infliction of emotional distress Dr. Tsiouris and Valley Health brought upon Ms. Foda, Ms. Foda has suffered damages in an amount to be proven at trial.

115. The harm Ms. Foda suffered was the result of acts or omissions actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed, thereby entitling Ms. Foda to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Hafsa Foda demands judgment as to all parties, claims, and counts as follows:

- A. Temporary, preliminary, and permanent injunctive relief.
- B. Declaratory relief.
- C. Compensatory damages, including general damages, special damages, and consequential damages.
- D. Statutory damages
- E. Punitive damages.
- F. Attorneys' fees and costs of suit.
- G. Gross-up tax consequences.
- H. Pre- and post-judgment interest.
- I. Other equitable relief.
- J. Such other relief that this Court may deem just and proper.

DATED: September 2, 2022.

Respectfully submitted,

DHILLON LAW GROUP INC.

By: */s/ Josiah A. Contarino*

Ronald D. Coleman (Bar No. 034801988)
Josiah A. Contarino (Bar No. 003962013)

50 Park Place, Suite 1105
Newark, New Jersey 07102
Phone: (973) 298-1723

Harmeet K. Dhillon*
John-Paul S. Deol*
Jesse D. Franklin-Murdock*
177 Post Street, Suite 700
San Francisco, California 94108
Phone: (415) 433-1700

Attorneys for Plaintiff
Hafsa Foda, a/k/a Sofy Foda

**Pro Hac Vice Motion Forthcoming*

DEMAND FOR JURY TRIAL

Pursuant to Rule 4:35-1, Plaintiff Hafsa Foda, a/k/a Sofy Foda, hereby demands a trial by jury on all issues so triable.

DHILLON LAW GROUP INC.

By: */s/ Josiah A. Contarino*

Ronald D. Coleman (Bar No. 034801988)
Josiah A. Contarino (Bar No. 003962013)
50 Park Place, Suite 1105
Newark, New Jersey 07102
Phone: (973) 298-1723

Harmeet K. Dhillon*
John-Paul S. Deol*
Jesse D. Franklin-Murdock*
177 Post Street, Suite 700
San Francisco, California 94108
Phone: (415) 433-1700

Attorneys for Plaintiff
Hafsa Foda, a/k/a Sofy Foda

**Pro Hac Vice Motion Forthcoming*

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned hereby certifies that the claims set forth above are not the subject of any other pending action or arbitration; that no other action or arbitration proceeding is contemplated at this time; and that there are no non-parties who should be joined or who are subject to joinder. I further certify personal identifiers have been redacted from documents now submitted to the Court and will be redacted in all documents submitted in the future in accordance with Rule 1:38-7(b).

/s/ Josiah A. Contarino

Josiah A. Contarino

VERIFICATION

I, Hafsa Foda, also known as Sofy Foda, of full age, hereby certify:

1. I am the Plaintiff in the above-captioned matter.
2. I have read the foregoing Verified Complaint for an Order to Show Cause with Temporary Restraints and certify that the allegations contained therein are true and correct to the best of my knowledge and belief, and I am prepared to testify as to such matters.

I certify that the foregoing statements are true. I am aware that if any statement made herein is willfully false, I am subject to punishment.

Executed at Ridgewood, New Jersey, September 2, 2022.



Hafsa Foda

EXHIBIT A



C. Michael Samson, MD
Ophthalmology

Assistant Professor
Specializing in Uveitis
Zucker School of Medicine

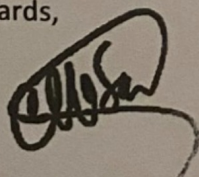
November 29, 2021

Re: Hafsa Foda
DOB: 10/12/1981

To Whom It May Concern,

Hafsa Foda is under my ophthalmic care. She was referred by Dr. Brian Marr for a rare eye condition. She is diagnosed with an autoimmune condition called intermediate uveitis concurrent with central serous retinopathy. We are starting her on new medication for this condition (high dose Prednisone). At this time, it is recommended to postpone any vaccine as she is currently in a flare up. We can reassess post treatment. Please feel free to contact my office for any further questions.

Best regards,



C. Michael Samson, MD MBA
Director, Uveitis Service
Manhattan Eye Ear & Throat Hospital

EXHIBIT B

C. Michael Samson, MD
Ophthalmology

Assistant Professor
Specializing in Uveitis
Zucker School of Medicine

December 13, 2021

Re: Hafsa Foda
DOB: 10/12/1981

To Whom it May Concern,

Patient Hafsa Foda is under my ophthalmic care. She is diagnosed with a rare autoimmune disorder, Intermediate Uveitis, Vitreitis, Papillitis concurrent with central serous retinal detachment limiting the patient's vision to 20/70 in the left eye.

The condition is of unclear etiology and testing has been negative thus far. MRI and Ultrasound were unrevealing, and no significant abnormalities were found. The patient proved refractory to ophthalmic steroids and oral potassium sparing diuretic, Eplerenone, was initiated and then discontinued due to ineffectiveness. The patient was started on oral Prednisone, and the rationale, benefits, and risks of the treatment were discussed with the patient versus waiting for the ocular condition to resolve on its own.

Uveitis can occur as an isolated disorder or it can arise from numerous other diseases including various autoimmune conditions, systemic infections and ocular trauma. However, all the widely administered vaccines have been reported to cause uveitis, as well.

During a 26-year period, a total of 289 cases of Uveitis following vaccine administration were reported to three adverse reaction reporting databases. Cases of uveitis in association with vaccine administration have been reported with nearly all vaccines, with 27 cases reported following influenza vaccine and 35 cases reported following administration of multiple vaccines. 199 cases were females, 22 cases didn't recover, and 166 cases didn't report resolution status. Spontaneous reports of all cases of vaccine-associated uveitis are found at the National Registry of Drug-Induced Ocular Side Effects, WHO Monitoring Center and FDA spontaneous reporting System.

C. Michael Samson, MD

Ophthalmology

Assistant Professor
Specializing in Uveitis
Zucker School of Medicine

The proposed mechanisms are molecular mimicry secondary to close resemblance of vaccine peptide fragments and uveal self-peptide, delayed-type hypersensitivity with deposition of immune complexes, and immune reactions to vaccination adjuvants.

While uveitis may be a rare adverse effect of vaccines, awareness of this potential reaction to vaccines is important because Uveitis is a vision-threatening inflammation that can lead to irreversible vision loss and retinal detachment.

Given the patient's condition discussed above, her current vision impairment, and poor prognosis, she is at risk of developing bilateral uveitis as a possible side effect of any vaccine administration which might compromise the patient's vision in the right eye as well and puts her at the risk of vision loss. The patient is not a candidate of receiving any vaccines and such administration is not recommended at the time being because the risks outweigh the benefits.

Please feel free to reach out to our office with any questions or concerns.

Best regards,



C. Michael Samson, MD MBA
Director, Uveitis Service
Manhattan Eye Ear & Throat Hospital

EXHIBIT C

December 15, 2021

Simon J. Tsiouris, MD

Employee Health Medical Director

Valley Health System

15 Essex Rd

Paramus, NJ 07652

RE: Hafsa Foda's Request for Vaccine Medical Exemption

Dear Dr., Tsiouris,

I am writing to request a medical exemption from Valley Health System mandatory vaccination policy for Covid and the state mandate flu vaccines. As you might know, I was given the diagnosis of autoimmune uveitis of the left eye earlier this year and that I have seen multiple doctors and tried different treatments while the issue persists.

My ophthalmologist explained that they see Uveitis as a side effect of vaccines all the time and that vaccination for me poses the risk of either exacerbation of the current inflammation or worse, activation of a new autoimmune response in the right eye.

I am hoping that yourself as The Employee Health Medical Director and Valley Health System, the organization that has been long known for its empathy and commitment to safety, won't put me in a stressful position where I must choose between jeopardizing my vision or losing my main source of income as a single parent to a small child.

I would be very grateful if you could approve my medical exemption request based on my current medical condition and the supporting letter from my doctor's office.

I greatly appreciate your consideration.

Sincerely

Hafsa (Sofy) Foda

EXHIBIT D

C. Michael Samson, MD

Professor
Ophthalmology
Zucker School of Medicine

June 29, 2022

Re: Hafsa Foda
DOB: 10/12/1981

To whom it may concern,

Patient Hafsa Foda is under my ophthalmic care and my office had previously provided her with documentation in reference to where we stand regarding vaccines in her case.

Hafsa suffers from intermediate uveitis with macular edema and remains with decreased visual acuity in her left eye as her condition had minimal response to multiple treatments modalities.

The patient's uveitis is also complicated with central serous retinopathy but it's unclear if the patient's CSR is secondary to uveitis or if it's an isolated disorder. The patient's subretinal fluid has reportedly worsened, however, upon targeting the inflammation with corticosteroids, both ophthalmic and systemic, suggesting uveitis might not be contributory to CSR in the patient's case.

Based on the current complexities, the patient was encouraged to consult with another specialist who is contemplating photodynamic therapy.

It was explained to the patient, however, that although PDT might or might not improve her subretinal fluid, it's probably going to be an irrelevant remedy for her uveitis, on the other hand. Moreover, it was made clear to the patient that PDT can

C. Michael Samson, MD

Professor
Ophthalmology
Zucker School of Medicine

even have the risk of exacerbating her optic nerve inflammation, and that she may require several sessions and close monitoring.

Based on the patient's continued disease status, significant visual impairment, and her upcoming photodynamic therapy, it's medically advised she continues holding off on taking any vaccines, including the COVID-19 vaccine, as the risks of vaccines in her case outweigh the benefits and may even endanger the outcome of her eye treatment.

We will watch her situation closely but anticipate she will require at least another six months of treatment and observation.

Please don't hesitate to call for any questions.

Sincerely,



C. Michael Samson, MD MBA
Director, Uveitis Service
Manhattan Eye Ear & Throat Hospital

EXHIBIT E

Jesse Franklin-Murdock (Dhillon Law)

From: Fischetti, Joseph <jfische@Valleyhealth.com>
Sent: Wednesday, August 31, 2022 2:31 PM
To: Jesse Franklin-Murdock (Dhillon Law)
Cc: John-Paul S Deol (Dhillon Law); Goldfischer, Robin L.; Ronald Coleman (Dhillon Law)
Subject: RE: Hafsa "Sofy" Foda / Valley Health System

External Email

Counsel,

Dr. Barbazetto yesterday returned Dr. Tsiouris's call. Dr. Barbazetto advised that she performed photodynamic therapy on Ms. Foda on Monday. Dr. Barbazetto also stated that although Ms. Foda should have no exposure to bright lights or sunlight for five days, there is no contraindication to vaccination in relation to this therapy or any therapy that she may perform in the future. Ms. Foda's request for an exemption therefore remains denied.

Ms. Foda is presently on a leave of absence. Valley will not suspend, terminate, or otherwise interfere with Ms. Foda's employment while she is on leave. However, if Ms. Foda does not provide proof of vaccination for COVID-19 at least two days before the scheduled conclusion of her leave on September 4, then upon the conclusion of her leave, she will be terminated for failure to comply with Valley's COVID-19 vaccination policy.

Joseph A. Fischetti
Director, Legal Affairs & Assistant General Counsel
Valley Health System
15 Essex Road
Paramus, New Jersey 07652
201.291.6069

From: Jesse Franklin-Murdock (Dhillon Law) <JFM@dhillonlaw.com>
Sent: Tuesday, August 23, 2022 6:35 PM
To: Fischetti, Joseph <jfische@Valleyhealth.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>
Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>
Subject: RE: Hafsa "Sofy" Foda / Valley Health System

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Counsel,

We unfortunately cannot control Dr. Barbazetto's schedule, and we are frankly at a loss as to what Dr. Tsiouris could need to ask her. That said, if you would like to send us questions, we can do our best to route them to her.

Thanks,
Jesse

Jesse Franklin-Murdock, Esq.

Associate | Dhillon Law Group Inc.

177 Post Street, Suite 700 | San Francisco, CA 94108

O: 415.433.1700 | F: 415.520.6593

D: 415.493.3030 | M: 808.256.9845

www.dhillonlaw.com

Admitted to practice law in California and Hawaii.

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From: Fischetti, Joseph [<mailto:jfische@Valleyhealth.com>]

Sent: Tuesday, August 23, 2022 12:07 PM

To: Jesse Franklin-Murdock (Dhillon Law) <JFM@dhillonlaw.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>

Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>

Subject: RE: Hafsa "Sofy" Foda / Valley Health System

External Email

Counsel,

Dr. Tsiouris has been attempting to contact Dr. Barbazetto to address some questions concerning her letter. He left messages with the person answering the phone at her office three times last week, but he has not received a return call. To the extent your client can help facilitate that call, it would be helpful in furthering VHS's consideration of the exemption request.

Joseph A. Fischetti

Director, Legal Affairs & Assistant General Counsel

Valley Health System

15 Essex Road

Paramus, New Jersey 07652

201.291.6069

From: Jesse Franklin-Murdock (Dhillon Law) <JFranklin-Murdock@dhillonlaw.com>

Sent: Monday, August 15, 2022 8:50 PM

To: Fischetti, Joseph <jfische@Valleyhealth.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>

Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>

Subject: RE: Hafsa "Sofy" Foda / Valley Health System

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Counsel,

We continue to object to the way VHS has handled this matter. VHS has continually moved the goalposts and has caused Ms. Foda significant distress by threatening her employment with arbitrary deadlines.

On August 12, VHS's human resources representative informed Ms. Foda that she must provide a letter from Dr. Barbazetto by August 16, 2022 (one day after Ms. Foda's scheduled photodynamic therapy appointment). I am attaching an August 15, 2022 letter from Dr. Barbazetto. Dr. Barbazetto's letter contains the information VHS demanded, and reaffirms that Ms. Foda cannot receive a vaccination at this time.

Ms. Foda has now submitted detailed letters from two treating specialists explaining that Ms. Foda's current medical condition precludes her from receiving a vaccine administration at this time. As Ms. Foda has satisfied VHS's stated standard for vaccine exemptions, please confirm that VHS will exempt Ms. Foda from its COVID-19 vaccination requirement at this time.

Ms. Foda continues to reserve all rights.

Thank you.

Jesse Franklin-Murdock, Esq.

Associate | Dhillon Law Group Inc.

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From: Jesse Franklin-Murdock (Dhillon Law)

Sent: Friday, August 5, 2022 1:35 PM

To: 'Fischetti, Joseph' <jfische@Valleyhealth.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>

Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>

Subject: RE: Hafsa "Sofy" Foda / Valley Health System

Counsel,

It is very disappointing that you have not read the medical letters Ms. Foda has provided to Dr. Tsiouris and that I have provided to you. Your disingenuous response is further evidence of VHS's complete lack of interest in engaging in the interactive process. Please read Dr. Samson's June 29, 2022 letter, attached to Mr. Coleman's letter to Ms. Goldfischer as Exhibit C. "The patient's uveitis is also complicated with central serious retinopathy but it's unclear if the patient's CSR is secondary to uveitis or if it's an unrelated disorder. . . . Based on the current complexities, the patient was encouraged to consult with another specialist who is contemplating photodynamic therapy." Dr. Samson, who is Ms. Foda's treating physician, recognized Ms. Foda's "upcoming photodynamic therapy" as one of the reasons why "the risks of vaccines in her case outweighs the benefits and may even endanger the outcome of her eye treatment." Dr. Samson referred Ms.

Foda to Dr. Barbazetto for photodynamic therapy, but Dr. Samson has recognized that photodynamic therapy may exacerbate Ms. Foda's uveitis, thereby increasing the risk of vaccination at this time.

Your letter recognized the medical necessity for a time interval between photodynamic therapy and vaccine administration (despite ignoring Dr. Samson's other independent reasons why a vaccine exemption is necessary). We are simply asking that you honor your prior representations, not to mention VHS's already discarded obligations under the NJLAD and the ADA. Your demand that Ms. Foda receive a second letter, between 4:00 p.m. on a Friday and the deadline you arbitrarily set on a Sunday (after delaying it because you needed additional time to write a letter) is further evidence of VHS's bad faith in this matter.

We repeat our demand that VHS, at a minimum, delay its vaccination exemption until a reasonable interval following photodynamic therapy. Ms. Foda reserves all rights.

Regards,

Jesse Franklin-Murdock, Esq.

Associate | Dhillon Law Group Inc.

177 Post Street, Suite 700 | San Francisco, CA 94108

O: 415.433.1700 | F: 415.520.6593

D: 415.493.3030 | M: 808.256.9845

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Admitted to practice law in California and Hawaii.

This email may be an attorney client privileged communication. If you received it in error, please destroy it and inform the sender.

From: Fischetti, Joseph [<mailto:jfische@Valleyhealth.com>]

Sent: Friday, August 5, 2022 12:50 PM

To: Jesse Franklin-Murdock (Dhillon Law) <JFranklin-Murdock@dhillonlaw.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>

Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>

Subject: RE: Hafsa "Sofy" Foda / Valley Health System

External Email

Counsel:

We were surprised to see your email advising that Ms. Foda is scheduled to undergo photodynamic therapy on August 15. This information had not been previously disclosed to us. As your July 18 letter noted, the original basis for Ms. Foda's deferral was a diagnosis of uveitis, and indeed, Dr. Samson was treating her for uveitis. The letter that you submitted yesterday from Dr. Barbazetto states that Ms. Foda is seeing Dr. Barbazetto for treatment of Central Serous Retinopathy, which is a different condition that, as per Dr. Samson's letter, may not even be related to her uveitis. Your email last night, in essence, involves a different medical condition, being treated by a different doctor.

VHS's standard for requesting COVID-19 vaccination deferrals or exemptions requires employees making such requests to provide a letter from the medical provider treating the employee's condition. That letter must state why the employee should be granted a medical deferral or exemption at this time. VHS does not have

such a letter from the physician treating Ms. Foda as to this condition or course of treatment. Please have Ms. Foda submit a letter from Dr. Barbazetto explaining: (1) whether Dr. Barbazetto believes her administration of photodynamic therapy precludes Ms. Foda from receiving a COVID-19 vaccination; and, if so, (2) when Dr. Barbazetto believes Ms. Foda could receive a COVID-19 vaccination if treated with photodynamic therapy and (3) whether Dr. Barbazetto believes this will be a single administration of photodynamic therapy or require multiple administrations.

In the meantime, VHS stands by its decision and will abide by the already-extended August 7 deadline for Ms. Foda to receive a COVID-19 vaccination.

Joseph A. Fischetti
Director, Legal Affairs & Assistant General Counsel
Valley Health System
15 Essex Road
Paramus, New Jersey 07652
201.291.6069

From: Jesse Franklin-Murdock (Dhillon Law) <JFranklin-Murdock@dhillonlaw.com>
Sent: Thursday, August 4, 2022 6:12 PM
To: Fischetti, Joseph <jfische@Valleyhealth.com>; Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>
Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>
Subject: RE: Hafsa "Sofy" Foda / Valley Health System
Importance: High

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Mr. Fischetti,

Ms. Foda has a photodynamic therapy procedure scheduled for August 15, 2022 with Dr. Irene Barbazetto at Vitreous Retina Macula Consultants of New York, P.C. As you note in your letter, there must be a minimum temporal interval between this treatment and vaccination. Ms. Foda will consult Dr. Sampson regarding the appropriate interval between treatment and vaccination following her treatment. If Dr. Sampson advises Ms. Foda to get vaccinated, she will do so. **Please confirm that consistent with the representations in your letter, VHS will not enforce the August 7 deadline referenced in your letter as this date is within just eight (8) days of Ms. Foda's previously scheduled treatment.**

I attach a July 11, 2022 letter from Dr. Barbazetto stating that Ms. Foda was supposed to undergo photodynamic therapy on that date, but that she was unable to do so as she was taking doxycycline at the time (a photosensitive medication). Please note that Dr. Barbazetto states that "[o]nce [photodynamic therapy] is done it will take a minimum of 1-2 months for the fluid under the retina to be absorbed" and that "[s]ubsequent improvement of vision is not guaranteed." If you require further documentation of Ms. Foda's August 15, 2022 appointment, please let me know, and we can provide the same.

Due to the time-sensitive nature of this matter, we request a response by the end of the day on August 5, 2022.

Ms. Foda reserves all rights.

Thank you.

Jesse Franklin-Murdock, Esq.
Associate | Dhillon Law Group Inc.
177 Post Street, Suite 700 | San Francisco, CA 94108
O: 415.433.1700 | F: 415.520.6593
D: 415.493.3030 | M: 808.256.9845

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From: Fischetti, Joseph [<mailto:jfische@Valleyhealth.com>]
Sent: Thursday, August 4, 2022 1:02 PM
To: Ronald Coleman (Dhillon Law) <rcoleman@dhillonlaw.com>
Cc: John-Paul S Deol (Dhillon Law) <JPDeol@dhillonlaw.com>; Jesse Franklin-Murdock (Dhillon Law) <JFranklin-Murdock@dhillonlaw.com>; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>
Subject: RE: Hafsa "Sofy" Foda / Valley Health System

External Email

Counsel:

Please see the attached.

Joseph A. Fischetti
Director, Legal Affairs & Assistant General Counsel
Valley Health System
15 Essex Road
Paramus, New Jersey 07652
201.291.6069

From: Fischetti, Joseph
Sent: Thursday, July 28, 2022 4:44 PM
To: rcoleman@dhillonlaw.com
Cc: JPDeol@DhillonLaw.com; JFranklin-Murdock@DhillonLaw.com; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>
Subject: RE: Hafsa "Sofy" Foda / Valley Health System

Counsel:

We continue to review your letter dated July 18. Please be advised that certain staff necessary to that decision are presently out of the office and unavailable. As a result, and solely for that reason, Valley will extend Ms. Foda's deadline to receive a booster for one additional week as Valley continues considering your letter and whether an accommodation is required and/or available to Ms. Foda.

Joseph A. Fischetti
Director, Legal Affairs & Assistant General Counsel
Valley Health System

15 Essex Road
Paramus, New Jersey 07652
201.291.6069

From: Fischetti, Joseph
Sent: Monday, July 25, 2022 4:54 PM
To: rcoleman@dhillonlaw.com
Cc: JPDeol@DhillonLaw.com; JFranklin-Murdock@DhillonLaw.com; Goldfischer, Robin L. <RGOLDFI@Valleyhealth.com>
Subject: Hafsa "Sofy" Foda / Valley Health System

Counsel:

Valley Health System in receipt of your letter to Robin Goldfischer dated July 18, 2022. We will respond to you this week.

Joseph A. Fischetti
Director, Legal Affairs & Assistant General Counsel
Valley Health System
15 Essex Road
Paramus, New Jersey 07652
201.291.6069

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EXHIBIT F

Legal Affairs
Joseph A. Fischetti
Assistant General Counsel
15 Essex Road
Paramus, New Jersey 07652
(201) 291-6069
jfische@valleyhealth.com

VIA EMAIL

August 4, 2022

Ronald D. Coleman
Dhillon Law Group Inc.
50 Park Place, Suite 1105
Newark, New Jersey 07102

Re: Hafsa "Sofy" Foda

Dear Mr. Coleman:

I write in response to your July 18, 2022 letter demanding that Valley Health System ("VHS") reconsider its decision to deny Ms. Foda's request for an exemption from its COVID-19 vaccination requirement. VHS has carefully considered your letter and has determined that it will not change its position.

For the reasons stated in earlier correspondence and communications, VHS does not see any basis for Ms. Foda requiring an accommodation to perform the essential functions of her job.

Moreover, after receiving your letter, and with Ms. Foda's permission, VHS contacted Ms. Foda's uveitis specialist, Dr. C. Michael Samson, to discuss Ms. Foda's condition and claim of need for an exemption from VHS's vaccination requirement. Dr. Samson advised that there is no medical contraindication to COVID-19 vaccination for Ms. Foda and that he has other uveitis patients who have safely undergone COVID-19 vaccination. He noted that photodynamic therapy, a form of treatment for uveitis, may cause inflammation, and he would recommend a time interval between such treatment and vaccination. But he was unaware if Ms. Foda has undergone this therapy in the past or plans to undergo such treatment in the future.

Based on the foregoing, Valley stands by its decision that Ms. Foda does not require any accommodation to perform the essential functions of her job. As such, if Ms. Foda does not receive a first dose of a COVID-19 vaccination on or before August 7, 2022, VHS will terminate her employment for failure to comply with VHS's COVID-19 vaccination policy.

VHS is confident that it has acted properly and lawfully, and that it will prevail in any litigation that your client chooses to bring. VHS therefore has no interest in pursuing settlement discussions.

VHS reserves all its rights with respect to the foregoing issues.

Sincerely,



Joseph A. Fischetti

cc: John-Paul Deol (via email)
Jesse Franklin-Murdock (via email)
Robin Goldfischer (via email)

EXHIBIT G



Vitreous Retina Macula Consultants of New York, P.C.

950 Third Avenue, 3rd Floor, New York, New York 10022 • Tel: 212.861.9797 • Fax: 646.244.9804
902 Quentin Road, Suite 601, Brooklyn, New York 11223 • Tel: 718.376.3223 • Fax: 718.376.1559
244 Westchester Avenue, Suite 407, White Plains, New York 10604 • Tel: 914.422.9797 • Fax: 914.422.9798
mail@vrmny.com • www.vrmny.com

August 15, 2022

To Whom It May Concern,

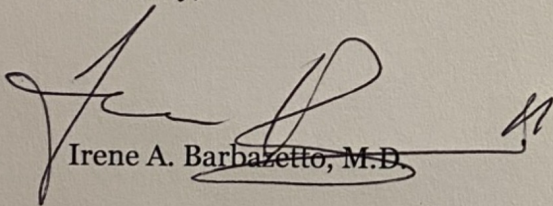
Ms. Hafsa Foda is under my ophthalmic care for central serous chorioretinopathy (CSR) in the left eye. She presented to me with significant macular edema and central serous retinal detachment. The subretinal fluid accumulation in her left eye causes lack of depth perception and significant visual impairment. Ms. Foda's situation is further complicated by her other underlying eye conditions, including uveitis and optic nerve inflammation, which may directly or indirectly have contributed to the CSR.

The patient is scheduled to undergo photodynamic therapy for active CSR. She understands that outcomes are not guaranteed and she might require multiple sessions of treatment. However, due to an ongoing infection the PDT treatment was rescheduled today. Her next appointment is in 2 weeks.

Of note; given the patient's complex medical history, I would agree with Dr. Samson, her uveitis specialist, who recommended avoiding additional pro-inflammatory stimuli, including vaccines for the next 6 months.

I advised the patient to consult with her uveitis specialist, Dr. Samson, for further guidance regarding vaccine appropriateness and safety in her condition.

Sincerely,



Irene A. Barbazetto, M.D.