

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil Action No. _____
v.	)	
	)	
OZAUKEE COUNTY, WISCONSIN,	)	JURY DEMAND
	)	
Defendant.	)	
	)	

**COMPLAINT**

Plaintiff, the United States of America (“United States”), by the undersigned attorneys, alleges as follows:

1. This civil action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* (“Title VII”).
2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331, 1343, and 1345.
3. Venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1391(b) because it is where a substantial part of the events or omissions giving rise to the cause of action herein occurred.
4. Defendant Ozaukee County, Wisconsin (“Defendant” or “County”) is a governmental body established pursuant to the laws of Wisconsin and is located within this judicial district.
5. Defendant is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

6. Barnell Williams (“Williams”) filed a timely charge with the United States Equal Employment Opportunity Commission (“EEOC”) (Charge No. 443-2017-00079) on or about October 25, 2016, alleging that Defendant discriminated against her in employment based on her religion. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge, found reasonable cause to believe Williams was subjected to discrimination on the basis of her religion, attempted unsuccessfully to achieve resolution of this matter through conciliation, and subsequently referred the charge to the Department of Justice.

7. All conditions precedent to this lawsuit have been performed or have occurred.

### **FACTS**

8. From December 2015 until June 2017, Williams was employed as a certified nursing assistant by the Lasata Care Center (“Lasata” or “Center”), a nursing home and rehabilitation facility that is owned by and located in the County.

9. At the time Williams was employed at Lasata, the Center’s written policy required all its employees to receive an annual flu vaccination.

10. The Center’s policy, however, permitted employees to obtain a religious exemption from the vaccination requirement, allowing them to wear protective masks during the flu season instead of receiving the shot.

11. To obtain the religious exemption, the policy required employees to provide the Center with a “written statement from their clergy leader supporting the exemption with a clear reason and explanation.”

12. Under the policy, an employee’s failure to receive the mandatory shot, or receive a religious (or medical) exemption, was deemed a “voluntary resignation,” *i.e.*, termination of employment.

13. In September 2016, the Center notified its employees they had until October 24 of that year to receive their mandatory annual flu shot.

14. On October 24, 2016, Williams met with Campus Administrator Ralph Luedtke, the Center's highest-ranking official, and requested a religious exemption from its mandatory vaccination. In their meeting, Williams explained that she had a religious belief stemming from her interpretation of the Bible that prohibited her from putting certain foreign substances, including vaccinations, in her body because it was a "Holy Temple." Williams told Luedtke that she believed that receiving a vaccination would violate that religious prohibition.

15. At the October 24 meeting, Luedtke told Williams that she needed to submit a letter from her clergy member to obtain the exemption, pursuant to the Center's policy. Williams responded that she could not provide such a letter because she had no affiliation with any church or organized religion and therefore had no clergy leader to write the letter.

16. Despite Williams' explanation of her religious objection, Luedtke denied Williams' request for a religious exemption from vaccination because Williams did not provide a letter from a clergy member. Luedtke told Williams that if she did not receive a vaccination she would be terminated. Specifically, Luedtke told Williams that if she did not get the shot, "Consider this your last day."

17. At their meeting, Luedtke did not allow Williams to provide any alternative to the letter from the clergy member as verification of the sincerity of her religious objection to being vaccinated.

18. To verify the sincerity of her religious objection to vaccination, Williams was prepared to provide Luedtke with a "To Whom it May Concern" letter that she had previously written that explained the Bible-grounded basis for her religious objection and cited specific

Biblical passages in support. Williams was also prepared to have close family members and friends personally attest to the sincerity of her religious faith and practices. Williams was unable to use the letter or the information from her friends and family because Luedtke would only accept a letter from a clergy member as verification of her faith.

19. Threatened with immediate termination by Luedtke if she did not take the flu shot, Williams relented and agreed to receive the shot, which was administered to her by the Center staff immediately after her meeting with Luedtke.

20. Right after the Center's Infection Preventionist, Deborah Steele, gave her the flu shot, Williams became emotionally distraught and cried uncontrollably up until the time she left the room.

21. Williams suffered severe emotional distress from receiving the flu shot in violation of her religious beliefs, including withdrawing from work and her personal life, suffering from sleep problems, anxiety, and fear of "going to Hell" because she had disobeyed the Bible by receiving the shot. These deep emotional problems stemming from having to take the flu shot have plagued Williams to the present.

22. The Center could have reasonably accommodated Williams' religious objection to receiving the mandatory flu shot. The Center's refusal to allow Williams to verify the sincerity of her religious exemption request by using something other than a letter from a clergy member was unjustified. In fact, since Williams filed her charge, the Center changed its policy and no longer requires a letter from a clergy leader to obtain a religious exemption to the flu vaccination requirement.

23. The Center could have reasonably accommodated Williams' religious belief, practice, and/or observance without suffering an undue burden given that its own written policy

provided a reasonable accommodation, *i.e.*, a religious exemption from the mandatory flu shot by permitting the wearing of a protective mask.

24. The Center is a public, non-religious employer. The requirement that the letter be from a clergy leader was not necessary for the Center's business purposes and was not related to the Center's business operations.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Disparate Treatment Based on Religion**

25. The United States repeats and incorporates by reference the factual allegations set forth in paragraphs 1 - 24.

26. At times relevant here, Defendant discriminated against Williams on the basis of her religion (Christianity), in violation of Section 703(a) of Title VII, by maintaining, and enforcing against her, a written policy that required employees to submit a letter from a clergy leader in order to obtain a religious exemption from its mandatory flu shot and thus discriminated against adherents of religions which did not have clergy (and therefore could not provide a letter from a clergy leader) from obtaining the exemption.

27. Defendant's requirement of a clergy leader's letter to obtain a religious exemption from its mandatory flu shot was a facially discriminatory employment policy that discriminated on the basis of religion and was not justified by any bona fide occupational qualification.

### **COUNT II**

#### **Failure to Provide Reasonable Accommodation of Religious Practice**

28. The United States repeats and incorporates by reference the factual allegations set forth in paragraphs 1- 24.

29. Defendant discriminated against Williams on the basis of her religion, in violation of Section 703(a) of Title VII, by failing or refusing to provide her with a reasonable accommodation of her religious, practice, and/or belief (i.e., her belief that the Bible forbid her from receiving a flu vaccination) that conflicted with Defendant's policy mandating annual flu vaccinations for its employees and requiring that any religious exemptions to the policy be supported by a letter from a clergy leader.

WHEREFORE, Williams prays that this Court grant the following relief:

A. Award damages to Williams to fully compensate her for pain and suffering caused by Defendant's discriminatory conduct alleged in this Complaint, pursuant to and within the statutory limitations of section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, and

B. Award such additional relief as justice may require, together with the United States' costs and disbursements in this matter.

### **JURY DEMAND**

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Date: March 6, 2018

Respectfully submitted,

JOHN M. GORE  
Acting Assistant Attorney General  
Civil Rights Division

BY: /s/ Louis Whitsett  
DELORA L. KENNEBREW, Chief  
(GA Bar No. 414320)  
SHARYN TEJANI, Deputy Chief  
(DC Bar No. 456150)

LOUIS WHITSETT, Senior Trial Attorney  
(DC Bar No. 257626)  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, N.W.  
PHB-4038  
Washington, D.C. 20530  
Telephone: (202) 305-0942  
Facsimile: (202) 514-1005  
Email: Louis.Whitsett@usdoj.gov

MATTHEW D. KRUEGER  
U.S. Attorney  
Eastern District of Wisconsin

BY: /s/ Michael A. Carter  
MICHAEL A. CARTER  
(WI Bar No. 1090041)  
Assistant United States Attorney  
Eastern District of Wisconsin  
517 Wisconsin Avenue  
Milwaukee, Wisconsin 53202  
Telephone: (414) 297-4101  
Facsimile: (414) 297-4397  
Email: Michael.A.Carter@usdoj.gov

Attorneys for Plaintiff United States of America