

1 Arkady Itkin (SBN 253194)  
2 Law Office of A. Itkin  
3 57 Post Street, Suite 812  
4 San Francisco, CA 94104  
5 Telephone: (415) 640-6765  
6 Fax: (415) 508-3474  
7 [arkady@arkadylaw.com](mailto:arkady@arkadylaw.com)

8 Attorney for Plaintiff,  
9 DAVID GOZUM

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

05/26/2022  
Clerk of the Court  
BY: KAREN VALDES  
Deputy Clerk

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

12 DAVID GOZUM,

13 Plaintiff,

14 vs.

15 CITY AND COUNTY OF SAN  
16 FRANCISCO HUMAN SERVICES  
17 AGENCY, AND DOES 1 TO 100,

18 Defendants

) CASE NO.: CGC-22-599306

)  
) FIRST AMENDED COMPLAINT FOR  
) DAMAGES AND REQUEST FOR JURY  
) TRIAL AND INJUNCTIVE RELIEF

)  
) 1. FAILURE TO PROVIDE  
) REASONABLE RELIGIOUS  
) ACCOMMODATIONS AND  
) TERMINATION IN VIOLATION OF  
) FEHA

)  
) 2. VIOLATION OF TITLE VII OF THE  
) CIVIL RIGHTS ACT OF 1964 FOR  
) FAILURE TO ACCOMMODATE ON  
) THE BASIS OF RELIGION

19  
20  
21  
22 COMES NOW PLAINTIFF DAVID GOZUM and complains and alleges as follows:

23 **NATURE OF THE ACTION**

24 1. This is an individual action brought by an employee against his former employer City  
25 and County of San Francisco Human Services Agency. Plaintiff David Gozum (hereinafter  
26 "Plaintiff") alleges violations of the Fair Employment and Housing Act (hereinafter "FEHA") and  
27

1 violations of Title VII, based upon the Defendants' failure to accommodate his religion by refusing  
2 to grant exemption from the Covid-19 vaccination mandate and terminate his employment as a  
3 result.

4 **PARTIES**

5 2. Plaintiff is and at all material times alleged herein, was a resident of the City and  
6 County of San Francisco.

7 3. At all material times alleged herein, Plaintiff was employed by Defendant the City  
8 and County of San Francisco Human Services Agency.

9 4. In addition to the Defendant named above, Plaintiff sues fictitiously Defendants  
10 DOES 1 through 100, pursuant to Code of Civil Procedure §474, because their names, capacities,  
11 status, or facts showing them to liable are not presently known. Plaintiff will amend this complaint  
12 to show their true names and capacities, together with appropriate charging language, when such  
13 information has been ascertained.

14 **JURISDICTION AND VENUE**

15 5. The acts of Defendants that form the basis for the causes of action in this complaint  
16 occurred in the County of San Francisco. Therefore, the San Francisco venue is proper.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 6. Plaintiff timely obtained a Right to Sue letter from the Department of Fair Employment  
19 and Housing (hereinafter "DFEH"), a true and correct copy of which is attached hereto as Exhibit A.

20  
21 **FACTUAL ALLEGATIONS**

22 7. Plaintiff started working for the Defendants around August 9, 2010 as a 2910 Social  
23 Worker with IHSS program. Plaintiff was promoted to his most recent position of Employment  
24 Training Specialist IV around March 2013.

25 8. Around August 11, 2021, Plaintiff submitted the City's vaccine declination form and  
26 submitted his request for religious accommodation to be exempted from the Defendants' Covid-19  
27

1 vaccine mandate based on his religious beliefs. Plaintiff submitted a number of documents  
2 supporting his request, which reflected a history of his religious practice. The Defendants denied  
3 Plaintiff's request for an accommodation due to "insufficient documentation".

4 9. Plaintiff was working remotely since May 26, 2020. Plaintiff was foreseeable going to  
5 continue working remotely indefinitely due to the nature of his assignment.

6 10. Around November 1, 2021, Plaintiff was notified that he will not be able to continue  
7 working remotely due to vaccine mandate and he was placed on paid administrative leave.

8 11. On November 9, 2021, Plaintiff provided seven additional documents supporting his  
9 request for exemption from the vaccination requirements. Those documents reflected Plaintiff's  
10 extensive background and involvement in religious studies.

11 12. On November 12, 2021, Plaintiff provided a signed letter from Rev. Pastor Alois  
12 Ramos of Faith Bible Church of San Francisco to further show proof of his religious beliefs.

13 13. Plaintiff was officially dismissed from his employment with the Defendants on April  
14 1, 2022.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS OF FEHA**

17 14. Plaintiff hereby incorporates by reference paragraphs 1 through 13, as though fully set  
18 forth herein.

19 15. At all times material to this complaint, Plaintiff was a person who held a sincerely  
20 religious belief within the meaning of FEHA.

21 16. Defendant is an employer within the meaning of the FEHA.

22 17. On information and belief, Plaintiff alleges that, during times material here,  
23 the Defendant violated the FEHA by failing to provide reasonable accommodations to Plaintiff's  
24 religious beliefs and by denying his request to be exempt from the Covid-19 vaccine mandate.

25 18. The effect of the above actions and omissions has been to deprive Plaintiff of equal  
26 employment opportunities and otherwise adversely affect his status as an employee because of his  
27

1 religious beliefs.

2 19. As a direct and further proximate result of the above violations of her rights under the  
3 FEHA, Plaintiff has suffered compensatory damages in the form of past and future wage loss, and  
4 emotional distress.

5 20. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory  
6 damages, equitable relief, and attorney's fees and costs.

7 **SECOND CAUSE OF ACTION**  
8 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 FOR FAILURE TO**  
9 **ACCOMMODATE ON THE BASIS OF RELIGION**

10 21. Plaintiff hereby incorporates by reference paragraphs 1 through 20, as though fully set  
11 forth herein.

12 22. Title VII forbids an employer from refusing a job to someone because of his need for  
13 religious accommodation absent proof that granting the accommodation would cause it undue  
14 hardship. 42 USC §§ 2000e(j), 2000e-2(a)(1); EEOC v Abercrombie & Fitch Stores, Inc., 575 US  
15 768, 774 (2015).

16 23. The Defendants denied Plaintiff's request for religious accommodation, providing  
17 which would not have imposed an undue hardship on the Defendants. Further, the Defendants did  
18 not propose any alternative reasonable accommodations to Plaintiff.

19 24. As a result of the Defendants' violations, Plaintiff suffered lost income and other  
20 economic and non-economic damages.  
21

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiff prays for judgment against the Defendants as follows:  
24

- 25 1. For compensatory damages;
- 26 2. For equitable relief, including but not limited to full reinstatement with full backpay;
- 27 3. For statutory attorneys' fees and costs of suit, for any applicable interest;

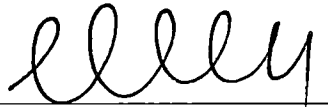
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 4. For injunctive relief as no plain, adequate, or complete remedy at law is available to Plaintiff to redress the wrongs addressed herein;
- 5. For judicial declaration of the rights and duties of the respective parties; and
- 4. For such other and further relief as is just and proper.

//

DATED: May 26, 2022

RESPECTFULLY SUBMITTED,

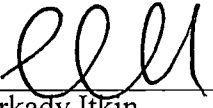
BY:   
 Arkady Itkin  
 Attorney for Plaintiff,  
 DAVID GOZUM

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial for each and every claim for which she has a right to a jury trial.

DATED: May 26, 2022

RESPECTFULLY SUBMITTED,

BY:   
 Arkady Itkin  
 Attorney for Plaintiff,  
 DAVID GOZUM