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**Date:** January 16, 2025 at 10:34:16 AM PST

**To:** Vicki Nuetzel <[vnuetzel@glynnfinley.com](mailto:vnuetzel@glynnfinley.com)>

**Subject: Re: Chisley, Xanthony v. BART**

Hi Vicki,

This is another case my firm plans on filing against his former employer, BART, for religious discrimination, retaliation and failure to accommodate regarding the COVID 19 vaccine mandate.

Again, we have not filed the attached lawsuit yet. Please let me know if before we file the lawsuit, BART would be interested in attending a mediation to attempt resolution.

We can engage in an informal document/information exchange beforehand to ensure a productive mediation.

Please let me know by next week if BART is interested in that and we can begin the process of selecting a mediator.

Thanks,

Chris

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Xanthy Chisley

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

XANTHONY CHISLEY, an individual,

Plaintiff,

vs.

SAN FRANCISCO BAY AREA RAPID  
TRANSIT, a government entity;  
and DOES 1-50, inclusive,

Defendants.

Case No.:

**PLAINTIFF'S COMPLAINT FOR  
DAMAGES FOR:**

- 1. RELIGIOUS DISCRIMINATION IN  
VIOLATION OF THE FEHA;**
- 2. RETALIATION IN VIOLATION OF  
FEHA;**
- 3. FAILURE TO ACCOMMODATE  
RELIGIOUS BELIEF OR  
OBSERVANCE IN VIOLATION OF  
THE FEHA; and**
- 4. FAILURE TO PREVENT IN  
VIOLATION OF THE FEHA.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff, XANTHONY CHISLEY, hereby brings this employment complaint,  
2 demanding a trial by jury, against the above-named Defendants and states and alleges as follows:

3 **THE PARTIES**

4 1. At all times mentioned herein, Plaintiff, XANTHONY CHISLEY, was a resident of  
5 the State of California.

6 2. At all times mentioned herein, Defendant SAN FRANCISCO BAY AREA RAPID  
7 TRANSIT was a public entity duly organized and existing as such under the laws of  
8 and in the State of California, and operating within Alameda County, California. Defendant SAN  
9 FRANCISCO BAY AREA RAPID TRANSIT's headquarters are located at 2150 Webster St.,  
10 Oakland, California, 94612. At the time the causes of action arose, Defendants SAN  
11 FRANCISCO BAY AREA RAPID TRANSIT and/or DOES 1-50 were Plaintiff's employer(s).

12 3. The true names and capacities, whether individual, corporate, associate or otherwise  
13 of DOES 1 through 50 are unknown to Plaintiff who therefore sues these defendants under said  
14 fictitious names. Plaintiff is informed and believes that each of the defendants named as a Doe  
15 defendant is legally responsible in some manner for the events referred to in this Complaint, is  
16 either negligently, willfully, wantonly, recklessly, tortiously, strictly liable, statutorily liable or  
17 otherwise, for the injuries and damages described below to this Plaintiff. Plaintiff will in the  
18 future seek leave of this court to show the true names and capacities of these Doe defendants  
19 when it has been ascertained.

20 4. Plaintiff is informed and believes, and based thereon alleges, that each defendant  
21 acted in all respects pertinent to this action as the agent of the other defendants, carried out a  
22 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each  
23 defendant are legally attributable to the other defendants.

24 5. Hereinafter in the Complaint, unless otherwise specified, reference to a Defendant  
25 or Defendants shall refer to all Defendants, and each of them.

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**FACTUAL ALLEGATIONS**

6. Plaintiff worked for Defendant from in or around August 2019 until Defendant wrongfully terminated Plaintiff's employment on or about March 5, 2022.

7. Plaintiff worked for Defendant in the position of System Service Worker. At all times, Plaintiff was a good employee and met and/or exceeded Defendant's expectations.

8. On or about October 22, 2021, Defendant informed Plaintiff that it was a job requirement to receive a COVID-19 vaccine by on or about December 13, 2021 to continue working for Defendant.

9. Plaintiff subsequently submitted to Defendant a request for a religious exemption to the COVID-19 vaccination mandate prior to the stated deadline because of his sincerely held religious beliefs. The request was approved shortly thereafter.

10. However, Defendant later notified Plaintiff that his accommodation request was now denied. He was then placed on administrative leave and required to comply with Defendant's COVID-19 Vaccination Policy by submitting proof of completed COVID-19 vaccination by on or about December 13, 2021 which was against his sincerely held religious beliefs. Defendant notified Plaintiff that he was required to either provide proof of vaccination, voluntarily resign or retire by the stated deadline or else Defendant would terminate his employment.

11. Shortly thereafter, Defendant held a hearing for Plaintiff's termination for allegedly violating Defendant's COVID-19 vaccination mandate on or about February 18, 2022. During his hearing, Plaintiff protested Defendant's refusal to accommodate him, explaining that his position did not require close contact with others, he could wear an approved COVID-19 mask, take weekly tests, and still perform all the essential functions of his position.

12. On or about March 5, 2022, Defendant terminated Plaintiff's employment for failing to meet the requirements of Defendant's COVID-19 Vaccination Policy.

13. Plaintiff is informed and believes, and based thereon alleges, that Defendant failed to accommodate Plaintiff's sincerely held religious beliefs, discriminated against Plaintiff based on his religion, and/or that Plaintiff's termination was in retaliation for requesting reasonable religious accommodations and/or protests regarding company policy requiring vaccinations.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14. On January 16, 2025, Plaintiff exhausted his administrative remedies by filing a Complaint of Discrimination with the California Civil Rights Department (formerly the Department of Fair Employment and Housing) (“CRD”). The CRD issued Plaintiff a “right-to-sue” letter that same day. As such, Plaintiff has fully complied with the administrative prerequisites to the filing of his claims.

**FIRST CAUSE OF ACTION**

**RELIGIOUS DISCRIMINATION IN VIOLATION OF THE FEHA**

**(Against All Defendants)**

15. Plaintiff incorporates by reference paragraphs 1 through 14, inclusive, of this Complaint as if fully set forth at this place.

16. At all times relevant herein, Government Code section 12940 et seq., the Fair Employment and Housing Act (“FEHA”), was in full force and effect and was binding on Defendants, as Defendants regularly employed five or more persons.

17. The FEHA prohibits an employer from discriminating against an employee on the basis of religion and/or religious creed.

18. As is set forth above and herein, Plaintiff had sincere religious beliefs that precluded the injection of COVID-19 materials into his body.

19. As is set forth above and herein, Defendants discriminated against and took adverse employment actions against Plaintiff due to his good faith religious beliefs including, but not limited to, Plaintiff’s termination.

20. Plaintiff’s assertion of his long held and good faith religious beliefs was the substantial motivating factor in Defendants’ decision terminate Plaintiff’s employment, among other adverse employment actions taken.

21. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered actual, consequential, and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in his field and damage to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff

claims such amounts as damages pursuant to California Government Code § 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

22. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish, and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that he will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

23. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute his claims herein and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under California Government Code § 12965(b).

## **SECOND CAUSE OF ACTION**

### **RETALIATION IN VIOLATION OF THE FEHA**

#### **(Against All Defendants)**

24. Plaintiff incorporates by reference paragraphs 1 through 23, inclusive, of this Complaint as if fully set forth at this place.

25. At all times herein mentioned, the FEHA was in full force and effect and were binding on Defendants, as Defendant regularly employed five or more persons. The FEHA makes it unlawful for any person to retaliate against an employee who has opposed a discriminatory practice and who asserts their rights under the FEHA.

26. Plaintiff believes and thereon alleges that Defendants' adverse actions taken against him as set forth herein occurred in retaliation for Plaintiff's request for reasonable accommodations and/or protests regarding company policy requiring vaccinations.

27. Defendants' conduct as alleged above constituted unlawful retaliation in violation of the FEHA

28. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered actual, consequential, and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in his field and damage

1 to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff  
2 claims such amounts as damages pursuant to California Government Code § 3287 and/or § 3288  
3 and/or any other provision of law providing for prejudgment interest.

4 29. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and  
5 continues to suffer emotional distress, humiliation, mental anguish, and embarrassment, as well  
6 as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon  
7 alleges that he will continue to experience said physical and emotional suffering for a period in  
8 the future not presently ascertainable, all in an amount subject to proof at the time of trial.

9 30. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced  
10 to hire attorneys to prosecute his claims herein and has incurred and is expected to continue to  
11 incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys'  
12 fees and costs under California Government Code § 12965(b).

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO ACCOMMODATE RELIGIOUS BELIEF OR OBSERVANCE**

15 **IN VIOLATION OF THE FEHA**

16 **(Against All Defendants)**

17 31. Plaintiff incorporates by reference paragraphs 1 through 30, inclusive, of this  
18 Complaint as if fully set forth at this place.

19 32. At all times relevant herein, Government Code section 12940(a) et. seq. was in full  
20 force and effect and was binding upon Defendants. Said section makes it unlawful for an  
21 employer to discriminate against an employee on the basis of religion.

22 33. As set forth more fully above and herein, Plaintiff maintains good faith religious  
23 beliefs. Defendants were familiar with Plaintiff's good faith religious beliefs.

24 34. Plaintiff is informed and believes and thereupon alleges that Defendants were never  
25 going to provide a reasonable accommodation to Plaintiff regardless of the facts and  
26 circumstances that existed which required an accommodation to be offered.

27 35. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered  
28 actual, consequential, and incidental financial losses, including without limitation, loss of salary

1 and benefits, and the intangible loss of employment related opportunities in his field and damage  
2 to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff  
3 claims such amounts as damages pursuant to California Government Code § 3287 and/or § 3288  
4 and/or any other provision of law providing for prejudgment interest.

5 36. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and  
6 continues to suffer emotional distress, humiliation, mental anguish, and embarrassment, as well  
7 as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon  
8 alleges that he will continue to experience said physical and emotional suffering for a period in  
9 the future not presently ascertainable, all in an amount subject to proof at the time of trial.

10 37. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced  
11 to hire attorneys to prosecute his claims herein and has incurred and is expected to continue to  
12 incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys'  
13 fees and costs under California Government Code § 12965(b).

14 **FOURTH CAUSE OF ACTION**

15 **FAILURE TO PREVENT IN VIOLATION OF THE FEHA**

16 **(Against All Defendants)**

17 38. Plaintiff restates and incorporates by this reference as if fully set forth herein  
18 paragraphs 1 through 37 of this Complaint.

19 39. At all times herein mentioned, the FEHA was in full force and effect and were  
20 binding on Defendants, as Defendants regularly employed five or more persons. The FEHA  
21 makes it unlawful for an employer to not prevent discrimination.

22 40. At all times mentioned herein, California Government Code Sections 12940, et seq.,  
23 including but not limited to Sections 12940 (j) and (k), were in full force and effect and were  
24 binding upon Defendants and each of them. These sections impose on an employer a duty to  
25 take immediate and appropriate corrective action to end discrimination and retaliation and take  
26 all reasonable steps necessary to prevent discrimination and retaliation from occurring.

27 41. Defendants failed to take immediate and appropriate corrective action to end the  
28 discrimination and retaliation.



1           42. In failing and/or refusing to take immediate and appropriate corrective action to end  
2 the discrimination and retaliation, and in failing and/or refusing to take and or all reasonable  
3 steps necessary to prevent discrimination and retaliation from occurring, Defendants violated  
4 California Government Code § 12940 (j) and (k), causing Plaintiff to suffer damages as set forth  
5 above.

6           43. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered  
7 actual, consequential, and incidental financial losses, including without limitation, loss of salary  
8 and benefits, and the intangible loss of employment related opportunities in his field and damage  
9 to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff  
10 claims such amounts as damages pursuant to California Government Code § 3287 and/or § 3288  
11 and/or any other provision of law providing for prejudgment interest.

12           44. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and  
13 continues to suffer emotional distress, humiliation, mental anguish, and embarrassment, as well  
14 as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon  
15 alleges that he will continue to experience said physical and emotional suffering for a period in  
16 the future not presently ascertainable, all in an amount subject to proof at the time of trial.

17           45. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced  
18 to hire attorneys to prosecute his claims herein and has incurred and is expected to continue to  
19 incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys'  
20 fees and costs under California Government Code § 12965(b).

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**WHEREFORE, Plaintiff prays for judgment as follows:**

1. For general damages, according to proof;
2. For special damages, according to proof;
3. For medical expenses and related items of expense, according to proof;
4. For loss of earnings, according to proof;
5. For attorney fees and costs of suit, according to proof;
6. For costs of suit incurred herein;
7. For injunctive relief pursuant to Harris v. City of Santa Monica, according to proof;
8. For declaratory relief pursuant to Harris v. City of Santa Monica, according to proof;
- and
9. For such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

DATED: January 16, 2025

BROCK & GONZALES, LLP

By: \_\_\_\_\_



D. AARON BROCK

CHRISTOPHER P. BRANDES

BIANCA M. DULGHERU

Attorneys for Plaintiff