

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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TERRY CHUN,

Index No.: 516824/2023

Plaintiff,

-against-

AFFIRMATION IN  
SUPPORT OF MOTION

THE CITY OF NEW YORK, THE NEW  
YORK DEPARTMENT OF SANITATION,  
And "JOHN DOES" 1-10

Defendants.

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Jimmy Wagner, Esq., an attorney duly admitted to practice law in the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

1. I am the attorney for Plaintiff, TERRY CHUN ("Plaintiff"), in the above-captioned matter, and I am fully familiar with the facts and circumstances herein, based upon my review of the file maintained in this office.
2. I certify to the Court that the within motion is not without merit in law or fact and can be supported by a reasonable argument.
3. I submit this Affirmation in support of the within motion for re-argument based on everything put forth in the memorandum of law.
4. The Court need only read one segment of the actual law to realize the grave error the Court has made in understanding NYCHLR 8-107(3).
  3. Employment; religious observance.
    - (a) It shall be an unlawful discriminatory practice for an employer or an employee or agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, such person's creed or religion, including but not limited to the observance of any particular day or days or any portion thereof as a sabbath or holy day or the observance of any religious custom or usage, and the employer shall make reasonable accommodation to the religious needs of such person.

5. Even if the Court is correct and the vaccine mandate morphed into some post hire condition of employment, said transformation at both the micro and macro levels does not prevent it from being prima facia discriminatory conduct. The employer was obligated to accommodate when the city council used the word “shall”: “and the employer **shall** make reasonable accommodation to the religious needs of such person.”

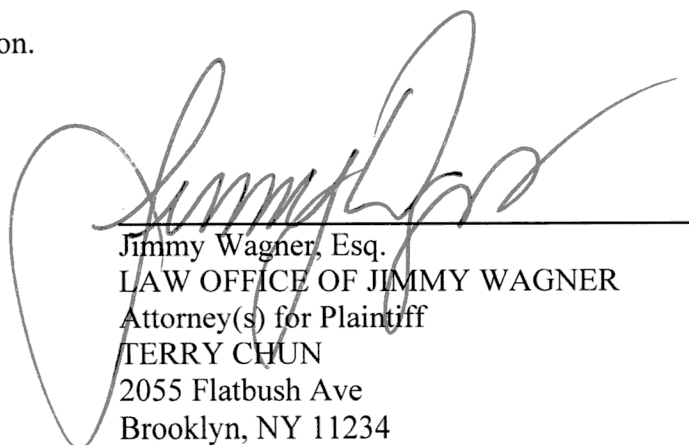
6. The law was not suspended during COVID-19 and therefore the discriminatory act should happen. This is all notwithstanding the City’s top labor attorney, Eric Eichenholtz intentionally applied the wrong undue hardship standard to thousands of city workers.

7. The Supreme recently clarified the use of “de minimis” at the federal level, *Groff v DeJoy*, 143 S Ct 2279 [2023].

**WHEREFORE**, it is respectfully requested that this honorable Court issue an Order pursuant to CPLR 2221, granting Plaintiff re-argument and vacating its prior decision.

No previous application for the relief prayed for herein has been made in this Court or any other Court of competent jurisdiction.

Dated: Brooklyn, New York  
April 23, 2024



Jimmy Wagner, Esq.  
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TO:  
HON. SYLVIA O. HINDS-RADIX  
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SUPREME COURT OF THE STATE OF NEW YORK  
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TERRY CHUN,

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Index No.: 516824/2023

-against-

CERTIFICATION OF  
WORD COUNT

THE CITY OF NEW YORK, THE NEW  
YORK DEPARTMENT OF SANITATION,  
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Defendant(s).

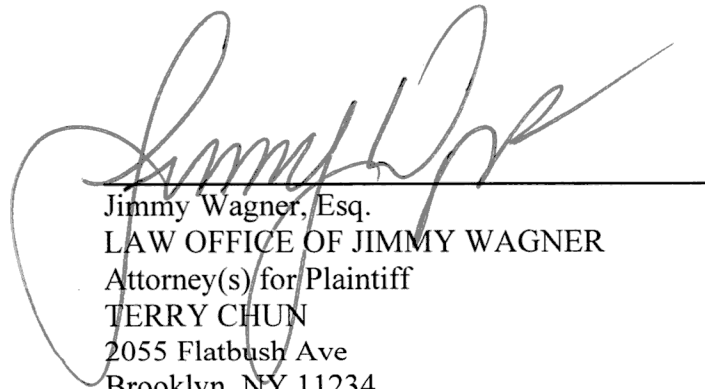
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This document shall constitute the certification of word count required by The Uniform Civil Rules for the Supreme Court and County Court Rule 202.8-b:

The number of words in the annexed affirmation in support of motion complies with the word count limit required by The Uniform Civil Rules for the Supreme Court and County Court Rule 202.8-b. The number of words, exclusive of the caption and signature block, is 736.

Counsel has relied on the word count of the word processing system used to prepare the affirmation in support.

Dated: Brooklyn, New York  
April 23, 2024



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AFFIRMATION IN SUPPORT OF MOTION

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