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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**MARIA GUILLEN PARRISH, an
individual, CHARLOTTE THOMPSON, an
individual,**

Plaintiffs,

v.

**SHRINERS HOSPITALS FOR CHILDREN,
a corporation,**

Defendant.

Case No. 3:24-cv-00013-JR

**DEFENDANT'S REPLY IN SUPPORT
OF MOTION TO DISMISS AND
ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT**

Oral Argument Requested

Ms. Thompson's and Ms. Guillen Parrish's (collectively, "Plaintiffs") response to Shriners Children's Motion to Dismiss fails to save their claims. The Amended Complaint should be dismissed with prejudice because neither Plaintiff pleads that they *communicated* any bona fide religious belief to Shriners Children in connection with seeking accommodation, or that such belief *actually conflicted* with the job requirement that they get vaccinated against COVID-19. Moreover, the undisputed facts show that Ms. Guillen Parrish's purported basis for accommodation would impermissibly allow her to avoid virtually all unwanted legal obligations,

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making it too broad to be subject to Title VII or ORS 659A.030 protection. In their response, Plaintiffs fail to address key authority fatal to their position, instead focusing on irrelevant case citations and legal principles to distract from their inability to substantively defend their claims. The Amended Complaint should be dismissed.

A. Neither Plaintiff substantively rebutted Shriners Children’s arguments under Rule 12, and their claims should be dismissed.

Plaintiffs fail to grapple with *any* authority discussed by Shriners Children in its two principal Rule 12 arguments: (1) that Plaintiffs’ claims fail because they do not plead what, if anything, they told Shriners Children about their beliefs, and (2) because their allegations about their beliefs themselves are too conclusory. *Compare* Opp. at 6-13 *with* Mot. at 16-28.

Plaintiffs’ attempt to rely on the doctrine of equitable estoppel is a red herring and also fails. Not only does it rely on multiple false premises, but it ignores the fact that Shriners Children has advanced a pleading motion and assumes the truth of Plaintiffs’ allegations.

1. Plaintiffs do not plead that they informed Shriners Children of a conflict between a religious belief and a job duty.

Plaintiffs’ claims should be dismissed because they fail to address, and therefore concede, Shriners Children’s first argument: Plaintiffs do not plead they *communicated a conflict* between a religious belief and getting vaccinated against COVID-19, because they do not plead anything other than the existence of their exemption requests. *See generally* Opp.; see also Mot. at 16-18. (citing cases, including among others, *Denton v. Shriners Hosp. for Child.*, No. 3:23-CV-00826-JR, 2024 WL 1078280, at *3 (D. Or. Feb. 8, 2024), *report and recommendation adopted*, 2024 WL 1075324 (D. Or. Mar. 12, 2024) (dismissing similar claims after holding in relevant part that the plaintiff “does not plead she informed defendant of such specific beliefs in seeking the exemption” to COVID-19 vaccination); *Craven v. Shriners Hosps. for Child.*, No. 3:22-cv-01619-IM, 2024 WL 21557, at *4 n.3 (D. Or. Jan. 2, 2024) (dismissing with prejudice plaintiff’s religious discrimination claims after noting that “under the second element of a *prima facie* case, the conflict a Title VII Plaintiff alleges must be the same conflict of which he

informed his employer”). Plaintiffs’ failure to more than conclusory plead that they communicated a conflict is fatal to their claims.

In response to Shriners Children’s argument, including the cases cited above, Plaintiffs provide only truisms and no substantive rebuttal. *See Opp.* at 11-13. Nor can they, as neither Ms. Thompson nor Ms. Guillen Parrish pleaded anything about her exemption request other than that she submitted one. *See id.* This lack of substantive rebuttal should be treated as a concession, and this Court should dismiss their claims. *See Roberts, et al. v. Shriners Hosps. for Child., et al.*, No. 2:23-cv-0295-TOR, ECF No. 46 at 22 (Mar. 18, 2024 E.D. Wash.) (“[H]aving failed to respond to this argument in their briefing, the Court has no choice but to consider the issue conceded.”) (citation omitted); *Justice v. Rockwell Collins, Inc.*, 117 F. Supp. 3d 1119, 1134 (D. Or. 2015), *aff’d*, 720 F. App’x 365 (9th Cir. 2017) (“if a party fails to counter an argument that the opposing party makes . . . the court may treat that argument as conceded”) (citation and internal punctuation omitted).

2. Plaintiffs fail to plead non-conclusory allegations about the nature of their belief or how they conflict with taking the COVID-19 vaccine.

Even if this Court finds that Plaintiffs sufficiently plead that they communicated their alleged belief to Shriners Children, their Opposition still does not save their claims, because their allegations about their beliefs are too conclusory. Despite devoting nearly five pages of their Opposition to the argument that “they hold a sincere belief that conflicts with Defendant’s policy,” Plaintiffs ignore every single case cited by Shriners Children, direct the Court to other cases that do not avail their claims, and ultimately fail to show where or how they plead anything more than impermissible conclusory allegations on the subject. *See Opp.* at 7-11.

a. The caselaw shows why Ms. Thompson’s allegations fail.

Ms. Thompson’s sole allegation about the substance of her belief allegedly in conflict with Shriners Children’s vaccine requirement is that she identifies as a Christian who believes in God. FAC ¶ 8. Courts—including those in this District—readily dismiss such allegations as too

conclusory to identify a belief that conflicts with an employment requirement. *See* Mot. at 17-22 (discussing cases); *see also* *Gamon v. Shriners Hosps. for Child.*, No. 3:23-CV-00216-IM, 2023 WL 7019980, at *3 (D. Or. Oct. 25, 2023) (“Plaintiff’s Complaint must do more than state that her [Christian] religious beliefs conflict with Defendant’s policy. Her Complaint must describe the conflict with factual specificity, which it failed to do.”); *Denton v. Shriners Hosp. for Child.*, No. 3:23-CV-00826-JR, 2024 WL 1078280, at *3 (D. Or. Feb. 8, 2024), *report and recommendation adopted*, 2024 WL 1075324 (D. Or. Mar. 12, 2024) (though plaintiff alleges her Christian belief and the nature of her objection to vaccines developed on aborted fetal cell lines, her “complaint does not identify the specific religious belief violated by the vaccine requirement and does not allege she informed defendant of such specific beliefs in seeking the exemption,” requiring dismissal). This Court is no exception. *See* *Trinh v. Shriners Hosps. for Child.*, No. 3:22-CV-01999-SB, 2023 WL 7525228, at *2, 10 (D. Or. Oct. 23, 2023), *report and recommendation adopted*, 2023 WL 7521441 (D. Or. Nov. 13, 2023) (where plaintiff pled she was “a deeply religious person who follows tenants [sic] of both the Christian faith and Buddhism” who had “serious objections to taking the vaccine because it would constitute violating her bodily integrity and the purity of her body,” this Court held that “[a]bsent additional factual allegations, [the plaintiff] has not plausibly alleged facts showing that her anti-vaccination beliefs are religious in nature and protected by Title VII”).

Two other in-district cases, decided after Shriners Children filed its Motion, drive home this point. In *Bulek v. Kaiser Found. Hosps.*, No. 3:23-CV-01585-MO, 2024 WL 1436134 (D. Or. Apr. 3, 2024), the plaintiff “applied for a religious exemption from the vaccine mandate based on her sincerely held religious beliefs as a Christian.” *Id.* at *1. The court dismissed the plaintiff’s failure to accommodate claims after observing that she had “not alleged any facts showing a conflict between her religious beliefs and [the defendant’s COVID-19] vaccine mandate.” *Id.* at *3. Similarly, in *Kamrath v. Addictions Recovery Ctr., Inc.*, No. 1:23-CV-01516-MC, 2024 WL 942092 (D. Or. Mar. 5, 2024), the court dismissed the plaintiff’s failure to

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accommodate claims because, “although Plaintiff identifies as ‘devoutly religious,’ he fails to explain how practicing his Christian beliefs actually conflicted with the employment requirement to take the COVID-19 vaccine.” *Id.* at *2.

Ms. Thompson does not contend, either literally or substantively, with the prevailing caselaw. *See generally* Opp. Her allegations are too conclusory and should be dismissed.

b. Ms. Guillen Parrish’s allegations also fail under prevailing caselaw.

Ms. Guillen Parrish’s allegations are only incrementally better pled and still too conclusory to stand. She pleads first that “her body . . . belongs to God, and that she must do nothing that would jeopardize her health spiritually or physically,” and second, that she “also cannot knowingly partake of a vaccine which is derived in any measure from the use of fetal cells lines [sic] derived from aborted fetuses.” FAC ¶ 5. Neither allegation is sufficient for Ms. Guillen Parrish to state a claim, *see* Mot. at 22-28 (citing cases), and she too does not contend with any of the authorities cited by Shriners Children illustrating as much, *see generally* Opp.

For example, with respect to the first allegation—that “her body . . . belongs to God”—Ms. Guillen Parrish does not attempt to grapple with or even acknowledge this Court’s ruling in *Ruscitti v. Legacy Health*, No. 3:23-CV-00787-JR, 2023 WL 8007620, at *3 (D. Or. Sept. 27, 2023), *report and recommendation adopted*, 2023 WL 8006269 (D. Or. Nov. 16, 2023), in which the plaintiff alleged her Christian belief and an objection to taking the COVID-19 vaccine because “it would constitute violating her bodily integrity and tainting the purity of her body”—an allegation that this Court found “fails to establish religious opposition the [defendant’s] vaccination policy.” *Id.* at *3; *see* Mot. at 24 (discussing same). Neither does Ms. Guillen Parrish address *Trinh v. Shriners Hosps. for Child.*, No. 3:22-CV-01999-SB, 2023 WL 7525228, at *10 (D. Or. Oct. 23, 2023), *report and recommendation adopted*, 2023 WL 7521441 (D. Or. Nov. 13, 2023), in which the court held that objections of “bodily integrity” and the “purity of

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