26-11320

IN UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

TERYN GREGSON

Plaintiff-Appellant

v.

PGA TOUR, INC.,

Defendant-Appellee,

On Appeal from the United States District Court for the
Middle District Of Florida, No. 3:24-cv-00254-TJC-SJH

PRINCIPAL MERITS BRIEF OF THE PLAINTIFF-APPELLANT, TERYN GREGSON

Audrey J. Atkinson, Esq.
ATKINSON LAW, LLC
122 Litchfield Rd.
P.O. Box 340
Harwinton, CT 06791
Tel: (203) 677-0782
Fax: (203) 672-6551
ajatkinson@atkinsonlawfirm.com

Attorney for Plaintiff-Appellant

STATEMENT REGARDING ORAL ARGUMENT

The Appellant, Teryn Gregson, requests oral argument. Oral argument would aid the Court in understanding the lengthy summary-judgment record and how the district court failed to construe the evidence in the light most favorable to the Appellant as the non-moving party.

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JURISDICTIONAL STATEMENT

The district court had subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343 because this case presents a federal question under Title VII of the 1964 Civil Rights Act. This Court has jurisdiction under 28 U.S. Code § 1291 because this is an appeal from a final judgment of the district court. This appeal is timely under Fed. R. App. P. 4(a)(1)(A) because the district court entered its final judgment on March 24, 2026, Doc. 64, and Gregson filed her Notice of Appeal within 30 days, on April 20, 2026. Doc. 67. The final judgment of the district court disposed of all parties' claims.

ISSUES PRESENTED

I. Did the district court err by ruling that Gregson's requested accommodations would have caused undue hardship to the PGA because the PGA considered in-person work a necessary part of her job and because accommodating her request to not mask or test would have caused undue hardship as a matter of law?

II. Did the district court err by failing to construe the evidence in the light most favorable to Gregson's disparate treatment claim when there was evidence the PGA subjected her to different in-person collaboration requirements, she was fired by an individual who did not know her job responsibilities, and in-

person collaboration was not necessary when a substitute filled in for Gregson?

III. Did the district court err by ruling that the PGA could not have retaliated against Gregson for requesting a religious accommodation because it announced before she made the request that unvaccinated employees who did not comply with its safety protocols could be fired?

STATEMENT OF THE CASE

Teryn Gregson appeals from a summary judgment issued by the United States District Court for the Middle District of Florida (Corrigan, J.) in favor of the PGA Tour, Inc. ("PGA") on Gregson's claims of religious discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964.

From May 9, 2016 to November 12, 2021, Gregson worked for the PGA as on-air talent and a producer. Doc 49-4, pp. 12-13.[1] She produced two regularly airing video shows that recapped tournament highlights. *Id.* at p. 13. Both shows were only a few minutes in length. Doc 49-2, p. 2. She also occasionally interviewed players on site at tournaments. Doc 49-4, p. 13. Before the COVID-19 pandemic, Gregson performed her duties at a PGA studio or onsite at golf tournaments. *Id.*

Gregson's basic duties consisted of watching golf to gather video clips, writing a script for her shows, and then filming and editing the show before it was

[1] Unless noted otherwise, citations refer to the ECF page number.

broadcast. Doc. 63, p. 2. Her team members' responsibilities were "camera and editing responsibilities." *Id*. at p. 2.

In March 2020, the PGA began requiring employees to work from home because of COVID-19. Doc. 49-4, p. 157. Gregson carried out her duties from a home studio that was outfitted with the same microphone and editing technology that she would have had at the PGA's studio, and a green screen. *Id*. at p. 2. In other words, Gregson had access to all the technology that she would have had at the PGA studio, and her work was as good as it was from the PGA studio. Doc. 49-4, pp. 157-58, Doc. 49-2, p. 3, ¶ 6. Gregson's team became more efficient because they did not have to share a studio with anyone else. Doc 49-4, p. 158. They were able to collaborate remotely "the same way" as if they were sitting next to each other. *Id.* Performance metrics increased over the 19 months Gregson and her team worked from home. Doc 49-4, pp. 156-57.

Ultimately, after several delays, the PGA scheduled a return to the office for November 1, 2021. Doc. 63, p. 3 n.1. As part of the return to work process, the PGA required employees to report their vaccination status, and, if unvaccinated, it required them to complete a religious or medical exemption request form. *Id*. at p. 3. Gregson requested both religious and medical exemptions on September 9, 2021. Doc. 63, p. 3. The PGA approved her religious exemption request on October 15,

2021, but informed her that she would need to mask and provide weekly COVID-19 testing. Doc. 63, pp. 3-4.

On October 19, 2021, Gregson requested a religious exemption from the masking and testing requirements. Doc. 49-4, pp. 330-31. The PGA never offered her an accommodation to work that did not include masking and testing in some form. Doc. 49-4, pp. 200-01, 329, 336; Doc. 49-1, p. 6. The only accommodation the PGA offered that would not have violated Gregson's religious beliefs was to use her FMLA leave, but Gregson was pregnant and did not want to waste maternity leave benefits that she would need for her child's birth. Doc. 49-1, p. 6; Doc. 54, pp. 8-9. The PGA declined to accommodate Gregson, ordered her to report to the office at least three days per week subject to the requirements that violated her religious beliefs, and terminated her employment on November 12, 2021 when she did not comply. Doc. 63, p. 5.

Gregson exhausted her administrative remedies and then filed the underlying complaint against the PGA. Doc. 2; Doc. 2-2, p. 8. Gregson claimed the PGA discriminated against her on the basis of her religious beliefs regarding masking and testing by failing to accommodate her and subjecting her to different conditions than other employees. Doc 2. Gregson also claimed the PGA retaliated against her for requesting an accommodation. *Id.*

The trial court granted summary judgment to the PGA on both claims. Doc. 63. The court correctly declined to resolve, on summary judgment, that Gregson established a prima facie case under the *McDonnell Douglas* burden-shifting framework, but presumed that she did.[2] Doc. 63, p. 7. Therefore, the burden shifted to the PGA to show undue hardship. *Id.* The trial court ruled that the PGA carried its burden, even though Gregson and the PGA offered conflicting evidence about the quality of the productions and the ease of collaborating, the PGA determined that in-person collaboration was a "necessary part of Gregson's job." Doc. 63, p. 8. The court also ruled that "it would have been an undue hardship as a matter of law for [the] PGA to allow an unvaccinated employee to work in an office around others without the precaution of masking and testing." Doc 63, p. 9.

As for Gregson's allegations of disparate treatment, the district court ruled[3] that Gregson could not show she was treated less favorably than similarly situated employees, that requiring her to come into work was even though she contended her

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[2] A plaintiff must establish (1) a bona fide religious belief that conflicted with an employment requirement, (2) she informed the employer of her belief, and (3) she was discharged for not complying with the requirement. *Morrissette-Brown v. Mobile Infirmary Med. Ctr.*, 506 F.3d 1317, 1321 (11th Cir. 2007).

[3] The district court noted that Gregson improperly combined two claims (a failure to accommodate claim and a disparate treatment claim) into a single count. Doc. 63, p. 5, n.5. It still reached the merits of both claims though, and the Court should do the same as this error is one that can easily be cured with leave to amend below.

team members were not required to do so was not a pretext for firing her, and there was not a "convincing mosaic of evidence" of discrimination. Doc. 63, pp. 10-17.

Finally, the court ruled that Gregson could not establish her firing was retaliatory because the fact she was fired after the PGA announced its return-to-work protocols before it fired her meant the firing could not be causally related to her request for an accommodation. Doc. 63, pp. 17-18.

SUMMARY OF THE ARGUMENT

The district court erred by granting summary judgment to the PGA on all Gregson's claims because it improperly deferred to the PGA's opinions, failed to faithfully apply precedents of this Court and the Supreme Court, and took true jury questions into its own hands.

First, the district court incorrectly ruled that Gregson's request to work from home would have caused undue hardship because it deferred to the PGA's assertion that in-person collaboration was a pressing and necessary part of Gregson's job. It did so, even though it acknowledged Gregson and the PGA presented conflicting evidence regarding undue hardship, with Gregson contending working from home did not adversely impact the production process or quality and the PGA arguing the opposite. The Court's misplaced deference allowed the PGA to bypass its burden of showing undue hardship under the *McDonnell Douglas* framework and immunize itself from a jury trial.

Second, the district court incorrectly ruled that Gregson's alternative request to not be required to mask or test was an undue hardship *as a matter of law*. The court relied on a single, unpublished district court case for this incorrect legal proposition. The PGA did not present any evidence how accommodating Gregson by allowing her to complete a daily symptom-screening questionnaire instead of masking and testing would have increased the risk of COVID-19 transmission and therefore been an undue burden. And the Court did not require the PGA to do so. Again, the Court substituted a different standard and allowed the PGA to bypass its burden of showing undue hardship.

Third, the district court incorrectly rejected Gregson's disparate treatment claim by failing to construe the evidence in the light most favorable to Gregson as the nonmovant. The court engaged in a lengthy interpretation of Gregson's evidence regarding the different treatment of her team members and evidence of pretext that it should have left to the jury. In so doing, the court once again construed the evidence against Gregson instead of in her favor. The court even went so far as to rule that no reasonable jury could conclude disparate treatment occurred when the decision-maker, Michael Riceman, decided to fire Gregson without even knowing what her day-to-day duties looked like.

Fourth and finally, the district court erred by summarily rejecting Gregson's retaliation claim by effectively ruling that a plaintiff cannot establish a causal

connection between seeking an exemption from an employment policy and an adverse employment action if the employer announced in advance that an employee could be fired for violating the policy. The court reached this erroneous conclusion by misapplying this Court's precedent holding that alleged retaliatory conduct that occurs before an employee engages in protected activity cannot be causally connected to the activity. But here, the alleged retaliatory conduct was ordering Gregson back to work under impossible and unequal terms that the PGA did not even apply to her vaccinated colleagues and then firing her for refusing to comply – all after she persisted in pursuing a religious accommodation. The district court's ruling allowed the PGA once again to immunize itself from a jury trial by merely announcing a general employment policy — the very thing a reasonable request for a religious accommodation is supposed to overcome.

For all these reasons, Gregson respectfully requests the Court reverse the district court and remand for a jury trial.

ARGUMENT AND CITATIONS OF AUTHORITY

I. Standard of Review

The standard of review is the same for each issue Gregson raises. Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). There is a genuine issue of material fact if a reasonable jury could find for the

nonmoving party. *FindWhat Inv. Grp. v. FindWhat.com*, 658 F.3d 1282, 1307 (11th Cir. 2011). "[A] court may not weigh conflicting evidence or make credibility determinations of its own." *Id.* The court must construe the evidence in the light most favorable to the nonmoving party and draw all reasonable inferences in the nonmovant's favor. *Id.*

"The moving party bears the initial burden of demonstrating the absence of a genuine dispute of material fact." *Id.* (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). If the moving party satisfies its burden, the burden shifts to the nonmoving party to show that a genuine issue remains for trial. *Id.* The nonmovant must show there are specific facts indicating there is a genuine issue for trial. *Jeffery v. Sarasota White Sox, Inc.*, 64 F.3d 590, 593-94 (11th Cir. 1995).

This Court "review[s] a district court's decision on summary judgment de novo and appl[ies] the same legal standard used by the district court, drawing all inferences in the light most favorable to the non-moving party and recognizing that summary judgment is appropriate only where there are no genuine issues of material fact." *Sutton v. Wal-Mart Stores E., LP*, 64 F.4th 1166, 1168 (11th Cir. 2023).

II. The District Court Erred By Granting Summary Judgment To The PGA On Gregson's Failure-To-Accommodate Claim Because It Failed To Require the PGA To Carry Its Burden of Showing Undue Hardship and Resolved Conflicting Evidence Against the Non-movant, Gregson.

If a plaintiff alleging religious discrimination in violation of Title VII of the Civil Rights Act of 1964 establishes a prima facie case, the burden shifts to the

defendant-employer to show it cannot accommodate the plaintiff "without undue hardship on the conduct of [its] business." *Morrissette-Brown v. Mobile Infirmary Med. Ctr.*, 506 F.3d 1317, 1321 (11th Cir. 2007); *see* 42 U.S.C. § 2000e(j). The district court correctly held that undue hardship was the pivotal issue at summary judgment.[4] In *Groff v. DeJoy*, 600 U.S. 447 (2023), the Supreme Court clarified that an undue hardship is not just anything "'more than a *de minimis* cost.'" *Id.* at 468. Instead, "a 'hardship' is, at a minimum, 'something hard to bear'" and "more severe than a mere burden." *Id.* (quoting Random House Dictionary of the English Language 646 (1966) (Random House)). "[A]dding the modifier 'undue' means that the requisite burden, privation, or adversity must rise to an 'excessive' or 'unjustifiable' level." *Id.* at 469 (quoting Random House 1547). *Groff* thus clarifies *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977), indicating that the burden on the employer must be substantial, such as substantial cost or substantial expenditure. 600 U.S. at 469.

[4] Below, the PGA argued that Gregson could not present a prima facia case of religious discrimination because she could not establish a bona fide religious belief and, moreover, the PGA offered her reasonable accommodations. Doc. 48, pp. 16-20. The district court correctly ruled that the issue of Gregson's sincerity should not be resolved at summary judgment because there was conflicting evidence on that point and that the PGA's proposed accommodations were not reasonable because none of them resolved her religious objections. Doc. 63, p. 7 & n.7; *see also Morrissette*, 506 F. 3d at 1322 ("[A] reasonable accommodation is one that 'eliminates the conflict between employment requirements and religious practices.'") (cleaned up).

The Court should reverse the summary judgment on Gregson's failure-to-accommodate claim because the district court failed to require the PGA to present evidence of undue hardship as required by *Groff* and resolved all conflicting evidence against the nonmovant, Gregson.

A. The district court erred by resolving evidentiary conflicts against Gregson on the question of whether the PGA would have suffered an undue hardship by permitting her to work remotely.

Below, the PGA argued that allowing Gregson to work from home for an indefinite period would have posed an undue hardship because "the PGA … determined that [Gregson] would not be able to fully and efficiently perform her job duties from home due to in-person collaboration requirements." Doc. 48, p. 22. The PGA presented declarations from Jason Boddy, Gregson's day-to-day supervisor, and Michael Riceman, Senior Vice President of Original and Social Content for the PGA, opining that the home-office production process was "slower, disjointed, and much less collaborative that the in-person process." *Id*. at p. 9. The PGA claimed that the process "negatively impacted the quality of the content" due to the "lack of professional equipment, the lack of a controlled environment, and decreased ability of the team to collaborate on the content." *Id*. The PGA contended that it denied Gregson's request to continue working remotely "because of the necessity to collaborate with her colleagues in person to perform her job requirements" and the aforementioned lack of professional equipment and slower process. *Id*. at pp. 11-12.

The PGA never explained, though, how the PGA would have suffered undue hardship — i.e., a substantial cost, expense, or other burden upon the conduct its business — by allowing Gregson to continue working from home. Indeed, the PGA presented no evidence of cost or expense. At best, it presented evidence that the production process and quality were impaired in some unquantified way. Even assuming this evidence was evidence of hardship (something "hard to bear"), the PGA never demonstrated how it would have been "undue" (meaning "excessive" or "unjustifiable"). *Groff*, 600 U.S. at 468.

Regardless, Gregson presented plenty of evidence to dispute the PGA's evidence. Gregson testified that her productions were of the same quality and more efficient than if she were working in the studio because her team did not need to share a studio with other PGA media teams. Doc. 49-4, pp. 157–58. She testified she had access to the same equipment. *Id*. Working from home did not impair collaboration in any way. *Id*. at pp. 158-59. Indeed, there was evidence that performance metrics for the shows increased over the 19 months Gregson and her team worked from home. *Id*. at pp.156-57, 449. Beyond that, Gregson presented evidence that the PGA actually planned to have her team finish the year by working from home for the majority of her shows' filming and production. *Id*. at p. 128.

Gregson's testimony did not stand alone. Her direct supervisor, Jason Boddy, testified that Gregson and her team never missed a deadline for any of her shows.

Doc. 49-3, pp. 37-38. Boddy testified that he could not recall taking any steps to improve the quality of Gregson's shows, including the quality of her equipment, even though he confirmed that he would have been the one making those decisions. *Id*. at pp. 38-39. He further refused to state whether a viewer of Gregson's shows could notice any quality difference between them because she was not in studio. *Id*. at pp. 26-27. He also acknowledged that the PGA did not spend any additional money to produce Gregson's shows at her home. *Id*. at p. 39. At best, all Boddy could testify to is that producing Gregson's shows remotely was inconvenient. *Id*. at pp. 39-40.

Boddy's testimony corroborates Gregson's, and, together, both strongly contradict the PGA's evidence from Michael Riceman and Michelle Corse. While Riceman claimed that remote production "negatively impacted the quality of [Gregson's] content, Doc. 49-2, p. 3, ¶ 6, Boddy confirmed that Riceman never spoke to him about the quality of Gregson's shows. Doc. 49-3, p. 40. Nor did any other superior. *Id*. at p. 40. Riceman's declaration contains no elaboration of how the remote production "was slower, disjointed, and much less collaborative" that in-person production. Doc. 49-2, p. 3, ¶ 6. Moreover, while determining that Gregson's continued remote work would pose an undue hardship to the PGA, neither Riceman nor Corse made any effort to speak to Boddy about what her job responsibilities actually looked like. Doc. 49-3, pp. 40-41.

In other words, the PGA could not point to any increased costs from remote production of Gregson's shows – shows that were less than ten minutes at most. Doc. 49-2, p. 2, ¶ 2; Doc. 49-3, pp. 11-12. At best, it could only point to mere inconvenience. The Supreme Court requires much more than mere inconvenience in *Groff* though, and the PGA failed to even come close to meeting the "substantial increased costs" standard it established. *Groff*, 600 U.S. at 470.

The district court went astray when it acknowledged the conflicting evidence, but simply deferred to the PGA's "business judgment" on what was necessary for Gregson's job. Doc. 63, pp. 7-8. It simply concluded that there would be undue hardship because the PGA determined in-person collaboration was a necessary part of Gregson's job. *Id*. at pp. 7-8 ("[T]he PGA's determination that in-person collaboration was a necessary part of Gregson's job reflects the PGA's business judgment and it is not enough for Gregson to merely disagree."). It then recast all of Gregson's evidence and how it was corroborated by Boddy as a mere disagreement with the PGA's judgment. *Id*. at pp. 7-8. ("That Gregson was able to make-do while required to work remotely does not refute PGA's determination that in-person collaboration was needed once employees could safely return to work."). In support, the district court cited *Chapman v. AI Transport*, 229 F. 3d 1012, 1030 (11th Cir. 2000), for the proposition that a court "will not sit as a super-personnel department that reexamines an entity's business decisions." Doc 63, p. 8 (cleaned up).

Chapman does not support the court's decision though. *Chapman* involved claims that the appellant was denied various employment positions because of his age and disability. *Id.* at 1016-19. The comment the district court cited had nothing to do with second-guessing an employer's assessment of undue hardship. Rather, the context was the requirement that an employer accused of discriminatory hiring/firing must proffer legitimate, nondiscriminatory reasons for its decision, and if it does so, the plaintiff must rebut them, not recast them:

> A plaintiff is not allowed to recast an employer's proffered nondiscriminatory reasons or substitute his business judgment for that of the employer. Provided that the proffered reason is one that might motivate a reasonable employer, an employee must meet that reason head on and rebut it, and the employee cannot succeed by simply quarreling with the wisdom of that reason. ... We have recognized previously and we reiterate today that:
>
> > [f]ederal courts "do not sit as a super-personnel department that reexamines an entity's business decisions. No matter how medieval a firm's practices, no matter how high-handed its decisional process, no matter how mistaken the firm's managers, the ADEA does not interfere. Rather our inquiry is limited to whether the employer gave an honest explanation of its behavior."

Chapman, 229 F.3d at 1030 (citations omitted).

Simply put, *Chapman* has nothing to do with what an employer must demonstrate under *Groff*. The district court erred by relying on *Chapman* to avoid what *Groff* requires: evidence of a substantial burden on the conduct of the employer's business. Gregson did exactly what *Chapman* requires: meet the

employer's evidence head-on with collaborated evidence that demonstrated that accommodating her through remote work would not impose substantial increased costs on the PGA. The district court's failure to recognize that and its cursory resolution of evidentiary disputes in the PGA's favor was erroneous.

The district court's analysis also threatens to undermine Title VII entirely. If it is true that an employer can show undue hardship by simply opining that an employment requirement is a necessary part of the job without more, then every employer could avoid every accommodation simply by saying the offensive requirement is necessary. At the very least, it would be no stretch in the minds of many to say that almost any job can be performed better without an accommodation than with an accommodation. The district court's approach of deferring to the employer's business judgment on that point would allow employers to deny almost every single accommodation simply by saying that, in the employer's judgment, the job will be done better without the accommodation. *Groff*'s emphasis on substantial burdens would be pointless if employers could discriminate so easily.

Notably, the PGA never argued below that in-person collaboration was a necessary part of Gregson's job because she could not perform it without being present, as if she were a waitress or mechanic, or that somehow being present was in the very nature of the job, as if she were a Disneyland character. Rather, its argument was that in-person collaboration was necessary to make the production

process efficient and the production quality ideal. But that is the very point on which the evidence conflicts. Gregson did not "merely disagree" with the PGA, and the evidence did not undisputedly show that she was able to merely "make do," as the district court concluded. Gregson presented collaborated evidence that the production process and quality were as good and the metrics better, and the PGA presented evidence that the production process and quality were impaired without elaborating how. Only a jury can resolve that conflict. And because the PGA has presented no evidence to date of *how badly* the accommodation would have affected it, only a jury can make a finding any hardship would have been undue, too.

There is more. Both Gregson and Boddy confirmed that she could not record her shows and perform her duties in-office because another PGA media team had their space. Gregson specifically pointed to a Skype exchange where Boddy confirmed that her team would be working from home for Thursday, Friday, Saturday, and Sunday through the end of 2021. Doc. 49-4, p. 128. Boddy confirmed that the Skype messages were authentic and testified that he meant that "when we returned to the office in November of 2021, the PGA Tour Live team was taking up more space in the building than they normally would have before we left for the pandemic" and that this meant that they "could not record [Gregson's] shows on Thursdays, Fridays, and Saturdays at the office." Doc. 49-3, pp. 34-36. Boddy further testified that Gregson did not produce a show on Sundays. *Id*. at p. 34.

In other words, the PGA's own conduct during November 2021 proves that not only was remote production operationally feasible, but it also did not pose an undue hardship on it. In response to the conflict in limited physical workspace, the PGA did not look for a second studio, reschedule recordings or production, or take any other step to preserve the in-person collaboration that it insisted was an operational necessity.

The bottom line is that the PGA cannot simultaneously argue that in-person collaboration was so essential that no accommodation was possible while also defaulting to remote production the moment its own studio became unavailable. The district court's choice to discount all of this evidence usurped the fact-finding role of the jury and fundamentally misapplied the summary judgment standard.

Because the district court erred by deferring to the PGA's business judgment instead of requiring it to demonstrate there was no genuine issue of material fact concerning undue hardship, this Court should reverse the summary judgment and remand for a jury trial on whether the PGA unlawfully failed to accommodate Gregson's request to work from home for religious reasons.

B. The district court erred by ruling that Gregson's request to complete daily symptom screening instead of masking and testing would have posed an undue hardship as a matter of law, without requiring the PGA to present evidence of undue hardship.

Below, the PGA argued that granting Gregson's request to screen for symptoms using the PGA's questionnaire, which it adopted from CDC

recommendations, instead of masking and testing would have been an undue hardship for two reasons: (1) the PGA would have been unable to record test results, meaning it could not conduct contact tracing, track quarantine periods, or comply with anticipated OSHA requirements; and (2) allowing Gregson not to mask and test at the office would carry an increased risk of transmitting COVID-19. Doc. 48, pp. 20-22. In response, Gregson argued that the PGA failed to explain why either of these things would have been an undue hardship. Gregson argued that the PGA presented no evidence that her requested accommodation would have carried an increased risk of transmission. Doc. 54, pp. 10-11.

The district court, though, once again failed to require the PGA to carry its evidentiary burden. Relying on one of its own unpublished decisions, *Nealis v. PGA TOUR, Inc.*, No. 3:23-CV-623-TJC-MCR, 2025 WL 807443 (M.D. Fla. 2025) (Corrigan, J.), the court ruled that "it would have been an undue hardship as a matter of law for PGA to be required to allow an unvaccinated employee to work in an office around others without the precaution of masking and testing." Doc. 63, p. 9. *Nealis* did not cite any authority for this proposition, and likewise, the district court below did not cite any controlling authority.

Whether any accommodation would pose an undue hardship is a question of fact, not law. *See Groff*, 600 U.S. at 468 (describing undue hardship as a "fact-specific inquiry"); *Willis v. Conopco, Inc.*, 108 F.3d 282, 286 (11th Cir. 1997)

("[U]ndue hardship is an affirmative defense to be pled and proven by an ADA defendant."); *Beadle v. City of Tampa*, 42 F.3d 633, 636 (11th Cir. 1995) ("Recognizing that the phrases 'reasonable accommodation' and 'undue hardship' are not defined under [Title VII], each case necessarily depends upon its own facts and circumstances…." (cleaned up)); *Scafidi v. B. Braun Med., Inc.*, 713 F. Supp. 3d 1231, 1245 (M.D. Fla. 2024) ("Whether an employer will incur an undue hardship is a fact question that turns on the particular factual context of each case." (cleaned up).

The PGA's evidentiary record is non-existent on this point even though it bore the burden of building one. It contains no evidence that quantifies how much greater of a risk of transmission that Gregson posed by not wearing a face mask or by not using certain kinds of COVID-19 tests. It did nothing to show that its belief that Gregson would pose a greater risk was anything more than speculation or was more than a *de minimis* concern despite bearing the burden of doing so. The record contains no declaration from any medical professional, no expert opinion, no internal risk assessment, and no data of any kind quantifying the marginal transmission risk posed by Gregson specifically — either by not wearing a mask or by substituting symptom screening for weekly testing. The PGA's own declarants — Corse and Riceman — said nothing whatsoever about transmission risk in their declarations. Doc. 49-1; Doc. 49-2. Boddy offered no testimony on the subject. Doc. 49-3. The

PGA's argument on this point consisted entirely of citations to other courts' decisions and EEOC guidance, not record evidence. Doc. 48, pp. 20–22. And when Gregson pointed out in her opposition that the PGA had supplied "no evidence to support this assertion," Doc. 54, p. 11, the PGA's reply did not produce any. Instead, it conceded the gap and argued it "need not provide independent evidence that masking and testing prevented the spread of COVID-19 because it is judicially accepted fact." Doc. 58, p. 5.

That is not how *Groff* works. *Groff* requires the employer to show that the particular accommodation, in the particular context of its particular business, would impose a substantial burden. 600 U.S. at 468–71. General scientific propositions about mask effectiveness in the abstract do not establish that granting Gregson's specific request — not wearing a mask and symptom screening instead of weekly testing — would have posed a substantial risk to the PGA's specific workplace. Simply put, the record lacks any declarations from experts or any other form of evidence that conducts a comparative analysis. Instead, the PGA disclaimed that it had any evidentiary burden at all: "PGA Tour need not provide independent evidence that masking and testing prevented the spread of COVID-19 because it is judicially accepted fact." Doc. 58, p. 5. The PGA never explained, for example, how an employee who was asymptomatic posed a materially greater transmission risk by completing a symptom questionnaire versus submitting a negative test result, or why

the distinction mattered in a small-team content production environment. It presented no evidence that it was anything other than speculation. That failure is fatal to its undue hardship defense on this ground because, as *Groff* makes clear, the burden is the employer's to carry with evidence — not the employee's to disprove speculation.

Thus, the district court erred by ruling as a matter of law that Gregson's requested accommodation would be an undue hardship.

The PGA argued below that, even without record evidence, the district court should rule in its favor based on "common sense." Doc. 58, p. 5 (quoting *Nealis*, 2025 WL 807443, at *7). *Groff* forecloses that argument. Undue hardship is a "fact-specific inquiry," 600 U.S. at 468, and the Supreme Court made clear that courts must assess "the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of [the] employer." *Id.* at 470–71. Common sense is not a substitute for that evidence-based inquiry.

Gregson does not deny that protecting the health of employees is important and that accommodations which put employees at risk for health concerns could pose undue hardship. That is not the point. The point is, the PGA has not shown why accommodating her would have put anyone at risk. There is no evidence in the record regarding the effectiveness of masking or testing versus symptom screening at preventing COVID-19 transmission. There is no evidence that being unable to record

test results in lieu of recording symptom results would put anyone at risk. There is no evidence that noncompliance with an anticipated OSHA regulation would be problematic at all, let alone an undue hardship.[5]

Additionally, the PGA made no effort to develop a record as to why Gregson's CDC-based proposal of screening for healthy and asymptomatic individuals was inadequate while weekly testing was. In her October 19 and 20, 2021 emails, Gregson proposed symptom screening as an alternative to weekly testing, citing CDC guidance that expressly distinguished between diagnostic testing — intended for symptomatic individuals — and screening, which the CDC described as the appropriate tool for asymptomatic individuals. Doc. 2-2, pp. 2–4; Doc. 49-4, pp. 330–31, 334–35. Gregson did not invent this proposal — it tracked the same CDC framework the PGA itself relied on when it required all employees, vaccinated and unvaccinated alike, to complete a daily symptom-screening questionnaire. Doc. 49-1, ¶¶ 7–8; Doc. 48, pp. 5–6. The PGA never responded to the CDC distinction Gregson drew. Doc. 2-2, p. 3. It never explained why the symptom screening protocol adequate for its vaccinated employees was insufficient for Gregson. It presented no evidence that screening was less effective than weekly testing at preventing transmission in its specific workplace. Doc. 54, p. 11; Doc. 48, pp. 20–

[5] As the district court noted, the Fifth Circuit stayed the OSHA regulation almost immediately. Doc. 63, p. 9 n.8. The Supreme Court then ultimately stayed the rule. *Nat'l Fed'n of Indep. Bus. v. OSHA*, 595 U.S. 109 (2022).

22. The PGA cannot have it both ways: if its own CDC-based screening questionnaire was a sound health measure for everyone else, it had an obligation under *Groff* to explain — with evidence — why that same measure was an undue hardship when proposed by Gregson and why its requirements were substantially better.

For these reasons, the Court should reverse and remand for a jury trial.

III. The District Court Erred By Ruling That Gregson Could Not Show Disparate Treatment Under Either the *McDonnell Douglas* Framework or the Convincing Mosaic Test.

There are two ways a plaintiff alleging religious discrimination by an employer can establish a prima facie case. First, under the *McDonnell Douglas* framework, the plaintiff can show that she (1) belongs to a protected class, (2) was qualified for the position, (3) suffered an adverse employment action, and (4) was treated less favorably than similarly-situated individuals outside her protected class. *Maynard v. Bd. Of Regents*, 342 F. 3d 1281, 1289 (11th Cir. 2003) (citation omitted). Alternatively, the plaintiff can show a "convincing mosaic of evidence" of religious discrimination. *Jenkins v. Nell*, 26 F.4th 1243, 1250 (11th Cir. 2022). The district court erred by ruling that Gregson failed to establish a prima facie case under either approach.

A. The district court erred by ruling there was no evidence of disparate treatment when the parties presented conflicting evidence that raised a triable question of fact.

Below, Gregson argued that the PGA treated her differently from other members of her team because she was the only person required to be physically present in order to collaborate.[6] In her deposition, Gregson testified regarding a Skype conversation with Jason Boddy. In that conversation, Gregson asked Boddy for clarification regarding the work-from-home schedule for the rest of the year:

> Q. So at 2:00 p.m. chronologically you say, "Just to clarify, are we working Thursday and Friday nights and weekends through the end of the year?"
>
> And he says, "Thursday/Friday nights and weekends for Mayakoba, Houston, and RSM because Toptracer folks are in our room for PGA Live Houston and RSM weeks. 2022 plans to return to normal."
>
> A. Uh-huh

Doc. 49-4, pp. 128

The Mayakoba tournament ran from Thursday, November 4 through Sunday, November 7; Houston, from Thursday, November 11 through Sunday, November 14; and RSM, from Thursday, November 18 through Sunday, November 21. Doc 49-4, pp. 129-30. Gregson's days off were Tuesdays and Wednesdays. Doc. 49-4. p.

[6] The PGA has tried hard to distinguish various individuals from Gregson based on their specific roles, vaccination status, and other factors. Doc 48, pp. 25-28. However, this is beside the point. If collaboration within Gregson's team was truly necessary, then it was equally necessary for the whole team. Thus, Gregson's team members, at least, were similarly situated to her.

130. Gregson testified that everyone on her team would have been working from home during the remaining PGA Tour events. *Id*. Gregson did not know whether members of her team had to report to the studio Monday through Wednesday, Doc 49-4, p. 132, but she testified that "[i]f they were on my schedule block, then yes, I have reason to believe that [they did not have to come in Monday through Wednesday] because they're going to be working the whole tournament on Saturday and Sunday too." *Id*. In other words, if Gregson's team members were working the tournament from home Thursday through Sunday and came into the office Monday through Wednesday, they would have been working seven days a week.

Boddy's deposition testimony confirms what the Skype message said: it was impossible to record Gregson's shows at the office on Thursday, Friday, or Saturday in November because another team was using the space. Doc. 49-3, p. 34. Gregson did not produce a show on Sunday. *Id.* Her second show, the Good, Bad, and Unusual, was recorded on Mondays, and the studio was available on Mondays in November. *Id.* Critically, Boddy confirmed this Skype exchange under oath at his deposition — he did not deny it, walk it back, or qualify it in any material way. Doc. 49-3, pp. 34–36.

In short, the in-person collaboration that the PGA claims was so essential would have been impossible every day but Monday. Yet Michelle Corse informed Gregson that she would be required to come in three days a week. Doc. 49-4, p. 135;

Doc. 63, p. 14. Corse's declaration also states that Gregson was offered an accommodation to work from home only two days per week — which is plainly different from her team members' arrangement, under which they were producing Gregson's show from home Thursday through Sunday. Doc. 49-1, p. 8.

The Corse declaration and Boddy's Skype message are irreconcilable, and that irreconcilability is a question for a jury. Corse's declaration states that Blackman, Wallace, and Bee "returned to work on November 1, 2021, in accordance with Mr. Riceman's decision." Doc. 49-1, ¶¶ 20–21. But "returned to work" does not mean "came in three days per week." Corse's declaration conspicuously omits any specifics about how many days per week Blackman, Wallace, and Bee were actually required to report to the studio. *Id.* It says nothing from which any factfinder could conclude that those team members were subject to the same three-days-per-week requirement imposed on Gregson, or that they were similarly limited to two days of remote work. *Id.* A declaration that a person "returned to work" on a given date does not establish the schedule they kept thereafter. That silence in the PGA's own evidence should have precluded summary judgment. The district court credited Corse's declaration over the Skype exchange confirmed under oath by Boddy — a factual choice that was not its to make. Doc. 63, p. 14.

Thus, the record contains evidence that the PGA was demanding Gregson comply with an in-person collaboration requirement of three days per week even

though in-person collaboration was physically impossible on all but one of her working days, and that it limited her to two days of working from home even though the rest of her team was producing her shows from home Thursday through Sunday. Whether the PGA treated Gregson less favorably than her team members who did not seek religious accommodations is a question the district court should not have resolved at summary judgment.

The PGA's use of a remote freelancer further undermines its position — not merely as evidence of pretext, but as affirmative evidence that its stated justification was false. The PGA occasionally employed Whitney Haworth, a freelancer based in Tennessee, to perform Gregson's on-air duties when Gregson was unavailable. Doc. 49-3, pp. 29–30. Haworth produced content from a home studio without any in-person collaboration. *Id.* The district court dismissed this evidence by reasoning that using a freelancer when no PGA employee could substitute was a "last resort" that did not establish pretext. Doc. 63, p. 15. But the district court missed the point entirely. The significance of Haworth is not merely that it suggests the PGA's in-person collaboration requirement was pretextual — though it does suggest that. The significance is that the PGA's own business judgment, exercised in the ordinary course of operations, was that Gregson's shows could be produced from a remote home studio to a standard acceptable for broadcast. That is precisely what Gregson proposed. The PGA cannot maintain that remote production was an undue hardship

requiring her termination while simultaneously engaging a home-studio producer to fill her role. Its own conduct contradicts its stated justification, and a reasonable jury could so find.

The decision to terminate Gregson was made by someone who knew nothing about her job. Michael Riceman, the PGA's identified decision-maker, declared that he required in-person work because the remote production process was "slower, disjointed, and much less collaborative than the in-person production process." Doc. 49-2, ¶ 6. But Boddy — Gregson's direct supervisor and the person responsible for overseeing every show she produced — confirmed under oath that Riceman never once spoke to him about the quality of Gregson's shows during the entire period she worked remotely. Doc. 49-3, p. 40. If there was a question whether Gregson could reasonably continue producing her shows from home, Boddy was the person to ask. Riceman did not ask him. Riceman's declaration contains no indication that he reviewed her shows, consulted anyone with direct knowledge of her day-to-day performance, or made any effort to assess whether the remote arrangement was actually unworkable before deciding to terminate her. Doc. 49-2, ¶¶ 6, 8.

A reasonable jury could draw the obvious inference from this: a decision-maker who terminates an employee for requesting a religious accommodation, without speaking to her supervisor, without reviewing her work, and without understanding what her job actually required, was not acting on a legitimate business

justification. He was acting on something else. The "something else" a jury could reasonably identify is Gregson's religious conviction and her persistence in pursuing an accommodation. That inference is available to a jury under both *McDonnell-Douglas* and the convincing mosaic standard. The district court's brusque dismissal of this evidence — "[i]t does not" establish discrimination, Doc. 63, p. 16 — is an opinion formed by weighing evidence, not a neutral application of the summary judgment standard.

Thus, this Court should reverse.

B. The district court erred by ruling there was not a convincing mosaic of evidence of discrimination by failing to construed the evidence in the light most favorable to her.

Even if this Court concludes that Gregson failed to establish a prima facie case under the *McDonnell Douglas* framework, that does not end her discrimination claim. A plaintiff survives summary judgment by presenting circumstantial evidence that creates a triable issue concerning the employer's discriminatory intent. *Tynes v. Fla. Dep't of Juv. Just.*, 88 F.4th 939, 946 (11th Cir. 2023). The "convincing mosaic" standard requires "simply enough evidence for a reasonable factfinder to infer intentional discrimination in an employment action — the ultimate inquiry in a discrimination lawsuit." *Id.* As this Court has made clear, it "is no different than the standards we ordinarily apply in deciding summary judgment motions." *Id.* The standard does not invite the court to weigh the evidence or substitute its judgment

for the jury's — it asks only whether a reasonable juror *could* find discrimination. *Id.*

Gregson easily meets this standard because she has evidence from which a reasonable juror could infer discriminatory intent. Three independent strands of evidence, taken together, would permit a reasonable jury to infer that the PGA terminated her because of her religious convictions, not because of a legitimate business need.

First, as described above, the PGA imposed on Gregson an in-person collaboration requirement that was physically impossible to satisfy on all but one of her working days. Doc. 49-3, p. 34; Doc. 49-4, pp. 128–30. It simultaneously offered her team members — none of whom had sought a religious accommodation — a remote arrangement for the very same work during the very same period. Doc. 49-3, pp. 34–36; Doc. 49-1, ¶¶ 20–21. Demanding compliance with an impossible condition while exempting similarly situated colleagues from it is not neutral enforcement of a business policy. A reasonable jury could infer it was a pretext for removing an employee whose religious beliefs had become an inconvenience.

Second, Riceman — whom the PGA identified as the decision-maker — declared that he required Gregson's return to the office because the remote production process was "slower, disjointed, and much less collaborative." Doc. 49-2, ¶ 6. Yet Riceman never spoke to Boddy — Gregson's direct supervisor, the person

who reviewed every show she produced, and the person in charge of video content strategy for the Tour's digital and social platforms — about the quality of her work during the remote period. Doc. 49-3, pp. 7, 40. He made no effort to understand her day-to-day responsibilities before deciding to terminate her. Doc. 49-2, ¶¶ 6, 8. A reasonable jury could conclude that a decision-maker who fires an employee after she requests a religious accommodation, without speaking to her supervisor, without reviewing her work, and without any apparent understanding of what her job required, was not acting on a business judgment at all — and that the true reason was the religious belief she refused to abandon.

Third, the PGA's own conduct reveals that it regarded remote production of Gregson's shows as entirely workable when it suited its purposes. The PGA periodically retained Whitney Haworth, a freelancer based in Tennessee, to perform Gregson's on-air duties when Gregson was unavailable. Doc. 49-3, pp. 29–30. Haworth produced that content from a home studio, without any in-person collaboration. *Id.* The district court dismissed this as a "last resort" that did not establish pretext. Doc. 63, p. 15. But the point is not merely that Haworth's existence suggests pretext — it is that the PGA's own business judgment, in practice, was that Gregson's shows could be produced remotely to a standard acceptable for broadcast. That is exactly what Gregson proposed. The PGA's willingness to accept remote production from Haworth while simultaneously terminating Gregson for requesting

the same arrangement is not easily explained by legitimate business necessity. A jury should be permitted to assess the explanation.

The district court did not engage with this evidence as a whole. Rather than asking whether a reasonable jury *could* infer discriminatory intent from the record, the court evaluated each piece of evidence in isolation and dismissed it. Doc. 63, pp. 15–16. It concluded without explanation that Haworth's existence "does not establish pretext" and that Riceman's ignorance of Gregson's duties "does not" permit an inference of discrimination. *Id.* at 16. "It does not" is a conclusion, not an analysis. It tells us what the district court thought, but says nothing about what a reasonable jury might think — which is the only question that matters at summary judgment. The court's approach was precisely the kind of evidence-weighing and credibility assessment that *Tynes* forbids: the convincing mosaic standard "is no different than the standards we ordinarily apply in deciding summary judgment motions," 88 F.4th at 946, and those standards require the court to construe all evidence in the light most favorable to the nonmoving party and ask whether a reasonable jury could find in her favor — not whether the court itself finds the evidence persuasive.

Because a reasonable jury could infer discriminatory intent from the impossible conditions imposed on Gregson, the decision-maker's failure to investigate what her job required, and the PGA's own demonstrated willingness to rely on remote production when it chose to do so, this Court should reverse the

district court's ruling and remand for trial on Gregson's discriminatory treatment claim.

IV. The District Court Erred By Ruling That, On Her Retaliation Claim, Gregson Could Not Establish a Causal Connection Between Her Request For an Accommodation and Her Firing Because She Requested the Accommodation After the PGA Announced Non-compliant Employees Would Face Termination.

Gregson argued below that the PGA retaliated against her for persistently requesting a religious accommodation — first by ordering her to return to the office under conditions it knew she could not accept, and then by terminating her when she refused to comply. Doc. 54, pp. 19–20. The district court never reached the question of whether a reasonable jury could find retaliation on those facts. Instead, it disposed of the claim on a threshold causation ground, misapplying this Court's precedent in a way that would effectively immunize any employer from retaliation liability so long as it announced a general policy before the employee sought an exemption from it regardless of how much of a gerrymander it conjured to set up an employee's termination.

At the outset, the district court's causation analysis is wrong as a matter of law. This Court has correctly recognized that an adverse action occurring *before* an employee engages in protected activity cannot be causally connected to that activity. *See Debe v. State Farm Auto. Mut. Ins. Co.*, 860 F. App'x 637, 641 (11th Cir. 2021). But the district court applied that principle in a way that *Debe* does not support.

According to the district court, because the PGA communicated in July 2021 that unvaccinated employees who did not comply with its safety protocols could be terminated, "the consequence of termination was contemplated and communicated well before the protected activity," and therefore Gregson's termination "was not causally connected to her protected activity or religious objection." Doc. 63, p. 18. The district court cited *Edgerton v. City of Plantation*, 682 F. App'x 748, 750–51 (11th Cir. 2017), in support.

Edgerton does not support that conclusion. It held that a plaintiff could not show retaliation when the same alleged harassing behaviors occurred before and after she complained of discrimination and there was no evidence that their frequency or intensity worsened afterward. *Edgerton*, 682 F. App'x at 750–51. Notably, the alleged harassing behaviors did not rise to the level of a hostile work environment, anyway. *See id.* Thus, *Edgerton* stands for the unremarkable proposition that conduct predating protected activity cannot be attributed to that activity — nothing more. It says nothing about pre-announced policies, and it provides no support for the district court's novel rule that an employer immunizes itself from retaliation claims by announcing a general policy consequence before an employee seeks an exemption from the policy, no matter how manipulative an employer gets in treating someone engaged in protected activity differently than their peers.

The district court's approach has no support in this Court's precedents and would gut Title VII's anti-retaliation provision. The district court's holding rests on a single out-of-circuit district court opinion, *Gonzalez v. City of New York*, No. 22-cv-3577, 2024 WL 1332546 (W.D.N.Y. Mar. 28, 2024), which the court cited for the proposition that enforcing a previously communicated policy cannot constitute retaliation. Doc. 63, p. 18. That opinion is not binding authority in this Circuit. Neither the PGA nor the district court identified any controlling Eleventh Circuit precedent for this proposition — because none exists.

More fundamentally, the district court's reasoning proves too much. Every return-to-office policy, every attendance requirement, every workplace protocol is communicated in advance. Under the district court's logic, an employer could announce any policy, refuse every religious exemption request, manipulate employees' job responsibilities in ways that their peers are not treated, and then terminate every employee who persisted in seeking one — all without exposure to retaliation liability, because the termination consequence was "contemplated and communicated" before the protected activity occurred. That cannot be the law. Title VII's anti-retaliation provision exists precisely to protect employees who challenge employment policies on religious grounds. An interpretation that eliminates that protection whenever the employer pre-announces the challenged policy regardless

of how despicably they behave in orchestrating an employee's termination would gut the statute in the context where it is most needed.

In any event, this case is different from *Edgerton*. Gregson is not alleging that she was discriminated against before and after she sought an accommodation. Gregson is alleging that the PGA manipulated her job responsibilities in a manner that forced different working conditions on her than her team so they could achieve her termination.

The relevant timeline makes this clear. The PGA announced its general return-to-office protocols in July 2021. Gregson requested a religious accommodation from the masking and testing requirements on October 19, 2021 — a protected act. Doc. 49-4, pp. 330–31. What followed was not mere enforcement of a neutral policy announced months earlier. After Gregson's accommodation request, the PGA ordered her to return to the office under conditions it had been told she could not religiously accept, on a schedule that — as described above — was physically impossible for her to comply with given the studio conflict and which was materially worse than the one provided to her team. Doc. 49-4, p. 135; Doc. 49-3, pp. 34–35. It then terminated her on November 12, 2021, less than four weeks after her October 19 accommodation request, when she refused to abandon her religious beliefs. Doc. 49-4, p. 430. The temporal proximity between the protected activity and the

termination is itself evidence of causation. *See Grant v. Miami-Dade Cnty. Water & Sewer Dep't*, 636 F. App'x 462, 468–69 (11th Cir. 2015).

The district court framed these events as nothing more than the uniform application of a pre-existing policy. A reasonable jury, however, could see them differently: as a sequence in which the PGA, confronted with an employee who persistently asserted her religious rights, imposed impossible conditions designed to manufacture grounds for termination that were far different than those given to her team and then carried out that termination when she refused to yield. That is not policy enforcement — it is retaliation. The fact that the PGA announced in advance that noncompliance could lead to termination does not change what it did after Gregson sought an exemption; it merely provided the pretext. A reasonable jury should be permitted to decide whether the PGA's response to Gregson's persistent accommodation requests was a legitimate exercise of its policies or a retaliatory reaction to her exercise of her statutory rights.

Thus, the district court erred by granting summary judgment on Gregson's retaliation claim, and the Court should reverse and remand for a jury trial.

CONCLUSION

Gregson is not here because she has no case. She is here because the district court usurped the jury's role. In doing so, it failed to do what Title VII and the summary judgment standard required: take her evidence seriously, construe it in her

favor, and let the jury resolve hard-fought factual disputes. Instead, the district court abdicated its responsibilities in favor of deference to the PGA's business judgment on undue hardship without actually requiring it to carry its evidentiary burden. It resolved disputed questions of fact against her on all of her claims It invented a causation rule with no support in binding precedent to dispose of her retaliation claim. In other words, at every turn, the district court substituted its own conclusions for the jury's role.

These were not minor errors in an otherwise legally sound summary judgment ruling. They are what denied Gregson her Seventh Amendment right to a jury trial and deprived her of her day in court. The district court's decision, if affirmed, would allow any employer to defeat a religious accommodation claim by asserting that work without the accommodation is preferable, defeat a disparate treatment claim by producing declarations that omit the very facts in dispute, and defeat a retaliation claim by pointing to a policy it announced before the employee sought an exemption from it, no matter how poorly or manipulatively it treats an employee. None of those results are what Title VII contemplates.

For all the reasons set forth above, Gregson respectfully requests that this Court reverse the judgment of the district court and remand for a jury trial.

Dated: June 1, 2026

/s/ Audrey J. Atkinson
AUDREY J. ATKINSON, ESQ.
ATKINSON LAW, LLC
122 Litchfield Rd.
P.O. Box 340
Harwinton, CT 06791
Tel: (203) 677-0782
Fax: (203) 672-6551
ajatkinson@atkinsonlawfirm.com

Attorney for Plaintiff-Appellant, Teryn Gregson

CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. This brief complies with the type-volume limitation of Local R. 32.1 because it contain 9,522 words, excluding the parts of the brief exempted by Fed. R. App. P. 32, as determined by the word counting feature of Microsoft Word 2016.
2. This brief complies with the typeface requirements of Fed. R. App. P. 32 and the typestyle requirements of Fed. R. App. P. 32 because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point font.

Dated: June 1, 2026

/s/ Audrey J. Atkinson /s/
Audrey J. Atkinson

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2026, an electronic copy of the foregoing PRINCIPAL MERITS BRIEF OF THE PLAINTIFF-APPELLANT, TERYN GREGSON was filed with the Clerk of the Court using the ECF system and thereby served upon all counsel appearing in this case.

/s/ Audrey J. Atkinson /s/
Audrey J. Atkinson