

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO. 1:22-cv-11877

JUDY T. MARTIN,
Plaintiff,

v.

BOSTON CHILDREN'S HOSPITAL,
Defendant.

INTRODUCTION

1. Defendant discriminated against Plaintiff on the basis of disability in violation of the Americans with Disabilities Act (ADA) and the equivalent Massachusetts statute, M.G. L. c. 151B.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 42 U.S.C. § 1331 and has supplemental jurisdiction over State-law claims.

PARTIES

3. Plaintiff Judy T. Martin is an individual who resides in Wakefield, Massachusetts.

4. Defendant Boston Children's Hospital is a person within the meaning of 42 U.S.C. § 2000e (a); and is an employer within the meaning of 42 U.S.C. § 12111 and of M.G.L. 151B, § 1 (5).

EEOC CHARGE

5. Plaintiff filed a timely charge with the United States Equal Opportunity Commission (EEOC) (Charge No. 523-2022-01099). The EEOC issued a right-to-sue notice on August 30,

2022. Plaintiff brings this case within 90 days of receipt of the EEOC right-to-sue notice. All preconditions for filing this lawsuit have been performed or have occurred.

FACTS

6. From July 2007 until December 21, 2021, Plaintiff was employed by Defendant as an Electroneurodiagnostic Technologist II (an “EEG technician”).

7. On September 9, 2021, Defendant announced that it was requiring employees to be injected with the following products:

For COVID-19, an individual must have received two shots of the Moderna or Pfizer vaccine, or one shot of the Johnson & Johnson Janssen vaccine, by October 30, 2021; other vaccines will be considered on a case by case basis.

A copy of Defendant’s policy is attached hereto as Exhibit A.

8. In 2019, Plaintiff received a Tdap vaccine, to which she suffered an adverse reaction, including temporary loss of vision in one eye. The Tdap vaccines and the products advertised as a COVID-19 vaccines (Pfizer/BioNTech, Moderna, and Janssen) have at least one common ingredient, namely polysorbate 80.¹ The World Health Organization states:

Who should not take the vaccine?

Individuals with a history of severe allergic reaction to any component of the vaccine should not take this or any other mRNA vaccine.²

Accordingly, Plaintiff feared that if she was injected with a product advertised as a COVID-19 vaccine she would suffer another adverse reaction, possibly worse and longer lasting.

¹ Ieven T, Van Weyenbergh T, Vandebotermiet M, Devolder D, Breynaert C, Schrijvers R. “Tolerability of polysorbate 80-containing COVID-19 vaccines in confirmed polyethylene glycol-allergic patients.” J Allergy Clin Immunol Pract. 2021 Dec 9 (12):4470-4472.e1. doi: 10.1016/j.jaip.2021.09.039. Epub 2021 Oct 6. PMID: 34626857; PMCID: PMC8492825.

² <https://www.who.int/news-room/feature-stories/detail/the-moderna-covid-19-mrna-1273-vaccine-what-you-need-to-know#:~:text=What's%20the%20recommended%20dosage%3F,given%20intramuscularly%2C%204%20weeks%20apart.>

9. Plaintiff requested an exemption from Defendant's policy, which request Defendant denied. Defendant could have accommodated Plaintiff's request without undue hardship because (a) Plaintiff had the benefit of infection-induced immunity (natural immunity), a fact of which Defendant was aware; and (b) because the products advertised as COVID-19 vaccines do not prevent recipients from catching and spreading COVID-19.

10. According to the results of the drug trials that Pfizer conducted in 2020 in connection with its "vaccine," the absolute risk reduction (the reduction of the risk that a recipient would have a symptomatic positive test for COVID-19 after receiving the drug) was 0.84%.³ As cardiologist Dr. Aseem Malhotra explained in the *European Scientist*:

[W]hat was reported in the mainstream news as being 95% effective against infection was in fact relative risk reduction, not absolute risk reduction from the double blind randomized controlled trial that took place during the more lethal circulating post-Wuhan ancestral strain of the virus. That specific NEJM paper which underpinned the emergency use authorization of the Pfizer mRNA vaccine actually revealed an absolute risk reduction (ARR) of 0.84%.

In other words, for every 119 individuals vaccinated one person would be protected from being infected... Furthermore, as newer and thankfully, less lethal, mutated strains became dominant, any protection against infection at the very least became less effective and likely completely ineffective, even if there is some significant (as yet to be fully determined in absolute individual terms) protection against serious illness and death.⁴

11. The products known as "COVID-19 vaccines" produced by Johnson & Johnson, Moderna, and Pfizer do not prevent recipients from contracting and transmitting COVID-19, and

³ <https://www.thennt.com/review-covid-analysis-2020/>

⁴ Dr. Aseem Malhotra, "Being Pro-Covid 19 Vaccines and Pro-transparency are not mutually exclusive – ending all mandates globally and accessing the raw data is now essential to restore trust," *European Scientist* (August 16, 2022).

<https://www.europeanscientist.com/en/features/being-pro-covid-19-vaccines-and-pro-transparency-are-not-mutually-exclusive-ending-all-mandates-globally-and-accessing-the-raw-data-is-now-essential-to-restore-trust/>

the number of prominent political leaders who have received the products and gone on to catch COVID-19 makes the reality difficult to ignore. For example:

12. On August 19, 2021, three U.S. Senators (John Hickenlooper of Colorado, Angus King of Maine, and Roger Wicker of Mississippi) announced that they had tested positive for COVID-19. All three had been injected with products advertised as COVID-19 vaccines. Senator King stated: “While I am not feeling great, I’m definitely feeling much better than I would have without the vaccine.”⁵ Senator Hickenlooper said: “I’m grateful for the vaccine (and the scientists behind it) for limiting my symptoms and allowing us to continue our work for Colorado.”⁶ Senator Wicker tested positive again in February 2022 and for a third time in June 2022.⁷

13. On October 19, 2021, the Department of Homeland Security announced that Secretary Alejandro Mayorkas had tested positive for COVID-19, describing him as “fully vaccinated” and experiencing “only mild congestion.”⁸

14. On December 19, 2021, Senator Elizabeth Warren and Senator Cory Booker both announced that they had tested positive for COVID-19. Senator Warren tweeted: “Thankfully, I am only experiencing mild symptoms & am grateful for the protection provided against serious illness that comes from being vaccinated & boosted.” Senator Booker tweeted: “I’m beyond

⁵ <https://www.cnn.com/2021/08/19/politics/roger-wicker-tests-positive-covid>

⁶ <https://www.denverpost.com/2021/08/19/john-hickenlooper-covid-19-positive-congress/>

⁷ <https://www.usnews.com/news/best-states/mississippi/articles/2022-06-13/us-sen-wicker-of-mississippi-again-tests-positive-for-covid>

⁸ <https://www.reuters.com/world/us/us-homeland-security-secretary-tests-positive-covid-19-media-2021-10-19/>

grateful to have received two doses of vaccine and, more recently, a booster – I’m certain that without them I would be doing much worse.”⁹

15. On January 2, 2022, the Department of Defense announced that Secretary Lloyd Austin had tested positive for COVID-19. Secretary Austin stated:

As my doctor made clear to me, my fully vaccinated status — and the booster I received in early October — have rendered the infection much more mild than it would otherwise have been. And I am grateful for that.¹⁰

On August 15, 2022, the Defense Department announced that Secretary Austin had tested positive for COVID-19 again and was (again) experiencing mild symptoms. Secretary Austin stated;

Now, as in January, my doctor told me that my fully vaccinated status, including two booster shots, is why my symptoms are less severe than would otherwise be the case... The vaccines work and will remain a military medical requirement for our workforce.¹¹

16. On March 13, 2021, former President Barack Obama announced that he had tested positive for COVID-19, stating: “Michelle and I are grateful to be vaccinated and boosted.”¹²

17. On March 31, 2022, William Burns (Director of the Central Intelligence Agency) tested positive for COVID-19. The Wall Street Journal quoted the CIA as stating that Mr. Burns was fully vaccinated and boosted” and “experiencing mild symptoms.”¹³

⁹ <https://www.thenewportbuzz.com/double-vaxxed-and-boosted-senators-warren-and-booker-test-positive-for-covid-19/33664>

¹⁰ <https://www.defense.gov/News/Releases/Release/Article/2886520/statement-by-secretary-of-defense-lloyd-j-austin-iii-on-covid-status/>

¹¹ <https://www.defense.gov/News/Releases/Release/Article/3127969/statement-by-secretary-of-defense-lloyd-j-austin-iii-on-his-covid-status/>

¹² <https://www.npr.org/2022/03/13/1086362826/obama-has-tested-positive-for-covid>

¹³ <https://www.wsj.com/articles/cia-director-william-burns-tests-positive-for-covid-19-11648745041>

18. On April 6, 2022, the Department of Justice announced that Attorney General Merrick Garland had tested positive for COVID-19. According to the press release, “the Attorney General is fully vaccinated and boosted.”¹⁴

19. The same day (April 6, 2022) the Department of Commerce announced:

Today, after experiencing mild symptoms, Secretary [Gina] Raimondo tested positive for COVID using an at-home antigen test. She is fully-vaccinated and boosted, and she is confident that the vaccine has prevented her from experiencing more significant symptoms.¹⁵

20. On April 7, 2022, House Speaker Nancy Pelosi tested positive for COVID-19. Her spokesperson described her as “fully vaccinated and boosted, and is thankful for the robust protection the vaccine has provided.”¹⁶

21. On April 9, 2022, the Department of Agriculture released a statement that Secretary Tom Vilsack had tested positive for COVID-19. It described him as “fully vaccinated and boosted.”¹⁷

22. On April 26, 2022, the White House announced that Vice President Kamala Harris had tested positive for COVID-19. According to PBS:

Harris, 57, received her first dose of the Moderna COVID-19 vaccine weeks before taking office and a second dose just days after Inauguration Day in 2021. She received a booster shot in late October and an additional booster on April 1.¹⁸

¹⁴ <https://www.justice.gov/opa/pr/statement-attorney-general-merrick-b-garland-1>

¹⁵ <https://www.commerce.gov/news/press-releases/2022/04/statement-secretary-gina-m-raimondo>

¹⁶ <https://www.npr.org/2022/04/07/1066212755/speaker-nancy-pelosi-has-tested-positive-for-covid>

¹⁷ <https://www.usda.gov/media/press-releases/2022/04/09/statement-office-us-agriculture-secretary-tom-vilsack>

¹⁸ <https://www.pbs.org/newshour/politics/vice-president-kamala-harris-tests-positive-for-covid-19>

23. On April 28, 2022, Maine Governor Janet T. Mills announced that she had tested positive for COVID-19. Her office stated: “The Governor is fully vaccinated and has received two boosters – with the second booster dose being administered on April 8, 2022 – providing her with the strongest level of protection against serious disease or hospitalization.”¹⁹

24. On May 4, 2022, Secretary of State Anthony Blinken tested positive for COVID-19. The State Department press release described him as “fully vaccinated and boosted against the virus and is experiencing only mild symptoms.”²⁰

25. On May 9, 2022, Susan Rice, President Biden’s domestic policy advisor announced that she had tested positive for COVID-19, and stated: “I’m feeling fine and grateful to be vaccinated and double boosted.”²¹

26. On May 16, 2022, the office of Delaware Governor John Carney announced that he had tested positive for COVID-19: “Governor Carney is vaccinated and double boosted.”²² Governor Carney said that he was experiencing “mild symptoms.”²³

27. On June 1, 2022, Labor Secretary Marty Walsh tested positive for COVID-19 and stated that he was experiencing “mild symptoms and was “grateful to be both vaccinated and boosted.”

28. The same day Interior Secretary Deb Haaland tested positive for COVID-19 and stated, “I feel fine and am grateful to be fully vaccinated and twice boosted.”²⁴

¹⁹ <https://www.maine.gov/governor/mills/news/governor-mills-announces-positive-covid-19-test-result-2022-04-28>

²⁰ <https://www.state.gov/secretary-blinken-tests-positive-for-covid-19/>

²¹ <https://www.cnn.com/2022/05/09/politics/susan-rice-positive-covid>

²² <https://news.delaware.gov/2022/05/16/governor-carney-tests-positive-for-covid-19/>

²³ https://www.wdel.com/news/gov-carney-feeling-well-after-testing-positive-for-covid-19/article_91f0816c-d576-11ec-85bd-23d3731f5496.html

²⁴ <https://www.nytimes.com/2022/06/01/us/politics/martin-walsh-positive-coronavirus.html>

29. On June 6, 2022, Transportation Secretary Pete Buttigieg (“vaccinated and boosted”) tested positive for COVID-19 and said that he was “experiencing mild symptoms.”²⁵

30. On June 13, 2022, the Department of Health & Human Services announced that Secretary Xavier Becerra had tested positive for COVID-19 again. The department’s press release described him as “fully vaccinated and boosted against COVID-19 and experiencing mild symptoms.”²⁶ He had previously tested positive for COVID-19 a little over a month before, on May 18, 2022, when the department’s press release stated:

This morning in Berlin, ahead of G7 meetings for health ministers, U.S. Health and Human Services Secretary Xavier Becerra tested positive for COVID-19 after taking a PCR test. He is fully vaccinated and boosted against COVID-19, and is experiencing mild symptoms.²⁷

31. On June 15, 2022, the National Institutes for Health announced that Dr. Anthony Fauci (director of the National Institutes of Allergy and Infectious Diseases) had caught COVID-19: “He is fully vaccinated and has been boosted twice. He is currently experiencing mild symptoms.”²⁸ Dr. Fauci took Paxlovid and promptly caught COVID-19 again.²⁹

32. On June 20, 2022, North Carolina Governor Roy Cooper announced that he had tested positive for COVID-19: “I’m feeling fine. Thanks to vaccinations and boosters, my symptoms are very mild.”³⁰ The previous July, Governor Roy had issued Executive Order 224, which

²⁵ <https://abcnews.go.com/US/transportation-secretary-pete-buttigieg-tests-positive-covid-19/story?id=85088123>

²⁶ <https://www.hhs.gov/about/news/2022/06/13/statement-assistant-secretary-public-affairs-sarah-lovenheim-hhs-secretary-becerra-testing-positive-covid-19.html>

²⁷ <https://www.hhs.gov/about/news/2022/05/18/statement-from-assistant-secretary-for-public-affairs-sarah-lovenheim-on-hhs-delegation-traveling-in-berlin.html>

²⁸ <https://www.nih.gov/news-events/news-releases/niaid-director-fauci-tests-positive-covid-19>

²⁹ <https://www.cnn.com/2022/07/27/as-more-people-report-covid-rebounds-after-paxlovid-experts-insist-cases-are-rare.html>

³⁰ <https://governor.nc.gov/news/press-releases/2022/06/20/governor-cooper-tests-positive-covid-19>

ordered mandatory injection for State employees or, in the alternative weekly testing for COVID-18, and stated: “The most effective protection against the Delta variant-or against any form of COVID-19-is getting vaccinated. Vaccinations also protect the people around us from sickness and death.”

33. On July 10, 2022, Senate Majority Leader Charles Schumer of New York caught COVID-19. His spokesperson stated: “The Leader is fully vaccinated and double boosted, and has very mild symptoms.”³¹

34. On July 11, 2022, Senator Richard Blumenthal tested positive for COVID-19 and stated, “I’m not experiencing symptoms & am thankful to be fully vaccinated & boosted.”³²

35. President Joe Biden — vaccinated and double-boosted³³ — recovered from another bout of COVID-19 over the summer. He received his second booster dose on Wednesday, March 30, 2022, and tested positive for COVID-19 on July 21, 2022, just 15 weeks later. The White House press release dated July 21, 2022, stated:

This morning, President Biden tested positive for COVID-19. He is fully vaccinated and twice boosted and experiencing very mild symptoms. He has begun taking Paxlovid.

³¹ <https://www.cnn.com/2022/07/10/politics/chuck-schumer-has-covid/index.html>

³² <https://thehill.com/homenews/senate/3553488-blumenthal-second-democrat-to-miss-votes-with-covid-complicating-senate-agenda/>

³³ <https://www.politico.com/news/2022/03/30/biden-receive-second-covid-booster-00021667>

He took Paxlovid, and (like Dr. Fauci) caught COVID-19 again.³⁴ It is also common knowledge that First Lady Jill Biden — twice “vaccinated” and twice “boosted,” according to her spokesperson — has also caught COVID-19.³⁵

36. On August 8, 2022, Michigan Governor Gretchen Whitmer stated that she had tested positive for COVID-19: “Thankfully, I am only experiencing mild symptoms after being fully vaccinated and twice boosted.”³⁶ Nine months earlier, on the occasion of receiving one of her booster shots, Governor Whitmer had stated: “The three safe, effective vaccines continue to be our best shot at beating COVID-19.”³⁷

37. On August 25, 2022, New Mexico Governor Lujan Grisham announced that she had tested positive for COVID-19: “I am very grateful to be experiencing only mild symptoms after being fully vaccinated and twice boosted against COVID-19.”³⁸

38. On September 6, 2022, Senator Jackie Rosen of Nevada announced that she had tested positive for COVID-19. Her office stated that she was experiencing “mild symptoms” and was “thankful to have been fully vaccinated and boosted to protect against severe illness.”³⁹

³⁴ It is also well known that the “vaccinated” and thrice-boosted Canadian Prime Minister, Justin Trudeau, who is 50 years old, has caught COVID-19 twice (so far). He was “vaccinated” on April 23, 2021, received a booster on January 4, 2022, caught COVID-19 later that month, received a second shot in April 2022, caught COVID-19 for the second time in June, then got a third “booster” shot in July.

<https://www.cnn.com/2022/06/13/americas/justin-trudeau-covid19-intl/index.html>;

<https://www.businessinsider.com/justin-trudeau-got-moderna-booster-shot-after-his-astrazeneca-jab-2021-7>;

<https://www.politico.com/news/2022/06/13/trudeau-positive-covid-00039165>

³⁵ <https://www.reuters.com/world/us/us-first-lady-jill-biden-tests-positive-covid-19-statement-2022-08-16/>

³⁶ <https://www.michigan.gov/whitmer/news/press-releases/2022/08/08/governor-whitmer-statement-on-testing-positive-for-covid-19>

³⁷ <https://www.michigan.gov/whitmer/news/press-releases/2021/11/05/photos-gov--whitmer-receives-safe-effective-covid-19-vaccine-booster>

³⁸ <https://www.governor.state.nm.us/2022/08/25/governor-tests-positive-for-covid-19/>

³⁹ <https://www.rosen.senate.gov/2022/09/06/senator-rosen-tests-positive-for-covid-19/>

39. On September 27, 2022, another Cabinet member, Michael Regan (Administrator of the Environmental Protection Agency) posted a Tweet stating that he had tested positive for COVID-19, was experiencing “mild symptoms,” and was “grateful to be vaccinated and boosted.”⁴⁰

40. CDC director Rochelle Walensky tested positive for COVID-19 on October 22; the CDC announced that Walensky was “up to date with her vaccines.”⁴¹ This came approximately one month after she was injected with the bivalent product. On the day of her injection, ABC quoted Walensky as saying:

All the data from this new bivalent vaccine have demonstrated that it will protect you against — more likely protect you — against the strains that we have circulating right now, those Omicron BA.5 strains, as well as keep you well protected, because we’ve seen that some of that protection can wane over time. So, we are really encouraging everybody to roll up their sleeves and get this updated bivalent vaccine.⁴²

Just four weeks after her bivalent-booster injection, Walensky caught COVID-19. Then she took Paxlovid and caught it again.⁴³

41. On November 1, 2022, the Department of Education announced that Education Secretary Miguel Cardona had caught COVID-19. The department’s press release described him as “fully vaccinated and boosted against COVID-19 and experiencing mild symptoms.”⁴⁴

42. The inefficacy of the products is something that public health officials are now acknowledging publicly. Dr. Deborah Birx, former White House Coronavirus Response

⁴⁰ <https://twitter.com/EPAMichaelRegan/status/1574924863802056705>

⁴¹ <https://www.cdc.gov/media/releases/2022/s1022-covid-director.html>

⁴² <https://abcnews.go.com/Health/cdc-director-weighs-pandemic-bivalent-covid-shot-critically/story?id=90323875>

⁴³ <https://www.cdc.gov/media/releases/2022/s1031-covid-19-cdc-director.html>

⁴⁴ <https://www.ed.gov/news/press-releases/statement-acting-assistant-secretary-communications-and-outreach-kelly-leon-education-secretary-cardona-testing-positive-covid-19>

Coordinator, stated recently: “I knew these vaccines were not going to protect against infection and I think we overplayed the vaccines.”⁴⁵ Similarly, as former CDC director Dr. Tom Frieden stated, “protection against infection through vaccination is something of a flash-in-the-pan phenomenon.” Dr. Anthony Fauci now concedes that vaccine-induced immunity “isn’t durable”:

“We know that people get infected and then get reinfected. And people get vaccinated, and they get infected. So, immunity isn’t measured in decades or lifetimes. It’s measured in several months.”⁴⁶

43. Acknowledging this reality, the CDC changed its COVID-19 guidance in August 2022, so that its prevention recommendations “no longer differentiate based on a person’s vaccination status.”⁴⁷ The CDC now concedes that the products advertised as COVID-19 vaccines do not prevent recipients from catching, getting sick from, and spreading COVID-19.

44. Figures from the Massachusetts Department of Public Health (DPH) figures show that since at least February 2022 the majority of people hospitalized in Massachusetts for COVID-19 have been “fully vaccinated.”

45. Massachusetts DPH figures show that by mid-July 2022 more than 3,000 “fully vaccinated” people in Massachusetts had died from COVID-19. The Massachusetts DPH categorizes individuals as “fully vaccinated” if they have received the number of doses required to complete the COVID-19 vaccine series for their age and all of these doses have been reported to the Massachusetts Immunization Information System.

46. In mid-July the Massachusetts DPH stopped publishing the number of COVID-19 breakthrough cases, i.e. people who were injected with the products and then caught the disease.

⁴⁵ <https://youtu.be/8AYqTgtIgLA>

⁴⁶ <https://www.marketwatch.com/articles/anthony-fauci-covid-19-biden-immunity-51658437525?siteid=nf-rss>

⁴⁷ <https://www.cdc.gov/mmwr/volumes/71/wr/mm7133e1.htm>

The DPH website states “data on vaccine breakthrough cases in Massachusetts are no longer being updated.” It does not say why.

47. The latest — and apparently final — weekly report on COVID-19 cases among “fully vaccinated” individuals states that 11.4% of “fully vaccinated” people have caught COVID-19 after becoming “fully vaccinated”:

- As of July 2, 2022 there were 5,408,359 fully vaccinated people and there were 617,337 cases in vaccinated people
- 10,121 of those 617,337 cases resulted in hospitalization and 3,213 cases resulted in death based on information reported to date⁴⁸

48. Below the figures, the DPH includes this note about undercounting both of cases and hospitalizations:

Identification of cases in vaccinated people relies on matching data between the system of record for cases and vaccinations. The number of cases in vaccinated people may be undercounted due to discrepancies in the names and dates of birth of individuals, resulting in an inability to match records across systems. Hospitalization data is likely also undercounted as identification and reporting of hospitalized cases relies on that information being obtainable by case investigators through patient interview.

49. For most people who display some symptoms of COVID-19, those symptoms are mild (e.g. sore throat, slight cough, and runny nose) and do not require a visit to a healthcare provider. If a person with COVID-19 does not report the infection to a healthcare provider, nobody enters the case into a healthcare provider’s database, and it does not appear in the DPH figures. Accordingly, the DPH case count of 617,337 “fully vaccinated” people who subsequently caught COVID-19 excludes those who do not report the fact to a healthcare provider. It also excludes

⁴⁸ Massachusetts Department of Public Health COVID-19 Vaccine Data –Tuesday, July 5, 2022.

people who were injected with the products but caught COVID-19 within the 14-day period prior to them becoming “fully vaccinated” according to the Department’s definition of that term.

50. Defendant’s express reason for terminating Plaintiff was the fact that Plaintiff had not received a product advertised as a COVID-19 vaccine. At all material times, Defendant knew that: (a) being injected with such a product would not have prevented Plaintiff from contracting and spreading COVID-19; (b) that Plaintiff had suffered an adverse reaction from a product containing an ingredient also found in the products advertised as COVID-19 vaccines and was at risk of further harm from mRNA products;⁴⁹ (c) that Plaintiff had the benefit of natural immunity, having recovered from COVID-19; and (d) that Defendant could have accommodated Defendant’s request without undue hardship.

51. On the basis of her previous adverse reaction Plaintiff suffers from an impairment that limited one or major life activities, which is a disability within the meaning of the ADA, 42 U.S.C. § 12102.

52. In addition, if Defendant truly believed that being injected with the product would have prevented Plaintiff from contracting and spreading COVID-19, then Defendant perceived Plaintiff (wrongly) as being more of disease vector than employees who had been injected with the products advertised as COVID-19 vaccines. Accordingly, Defendant regarded Plaintiff as having an impairment that substantially limits one or more major life activities, which constitutes a disability within the meaning of 42 U.S.C. § 12102 (1).

53. By terminating Plaintiff’s employment for her not being injected with a medically unnecessary product containing an ingredient also found in a product that had previously caused her to suffer harm, Defendant discriminated against Plaintiff on the basis of disability.

⁴⁹ See paragraph 8 above.

54. By terminating Plaintiff's employment based on the erroneous perception that Plaintiff was more susceptible to catching a disease than other employees, Defendant discriminated against Plaintiff on the basis of her disability.

55. Plaintiff suffered an adverse employment action (termination of employment) because of the perceived disability.

56. At all material times, Plaintiff was qualified to perform the essential functions of the job, with or without reasonable accommodation.

CLAIM FOR RELIEF

COUNT 1

Violation of the American with Disabilities Act

Defendant discriminated against Plaintiff on the basis of disability

57. Plaintiff repeats and incorporates by reference the factual allegations in the preceding paragraphs.

58. The acts and omissions alleged in the preceding paragraphs constitute discrimination in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112(b)(5)(A).

59. Defendant acted with malice or with reckless indifference to Plaintiff's federally protected rights.

60. As a result, Plaintiff has suffered and continues to suffer harm.

COUNT 2

Violation of the Massachusetts General Laws Chapter 151B

Defendant discriminated against Plaintiff on the basis of disability

61. Plaintiff repeats and incorporates by reference the factual allegations in the preceding paragraphs.

62. Defendant discriminated against Plaintiff on the basis of disability in violation of Chapter 151B of the Massachusetts General Laws.

62. As a result of Defendant's acts and omissions, Plaintiff has suffered and continues to suffer harm.

PRAYER FOR RELIEF

Plaintiff respectfully requests that this Honorable Court:

- A. Award Plaintiff compensatory and consequential damages (including damages for emotional distress) plus her costs and her reasonable attorney's fees;
- B. Award Plaintiff back pay and front pay;
- C. Award punitive damages; and
- C. Order such other and further relief as the Court deems just and appropriate.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issue so triable pursuant to Fed. R. Civ. P. 38 and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Respectfully Submitted
Judy T. Martin
By Her Attorney:



Peter Vickery, Esq.
Bobrowski & Vickery, LLC
27 Pray Street
Amherst, MA 01002
BBO# 641574
Tel. (413) 992 2915
Email: peter@petervickery.com

November 7, 2022