

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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RODNEY MAKI,

Plaintiff,

v.

FEDERAL RESERVE BANK OF  
MINNEAPOLIS,

Defendant.

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Court File No. \_\_\_\_\_

**COMPLAINT  
JURY TRIAL DEMANDED**

**INTRODUCTION**

1. Plaintiff Rodney Maki was a Law Enforcement Officer employee of the Federal Reserve Bank of Minneapolis (“Defendant” or “Bank”) for nearly twenty-four (24) years until January 2022, when the Bank fired him because of his religious objection to the COVID-19 vaccine.

2. Several months after the COVID-19 vaccine became available to Americans, the Bank instituted a mandatory vaccination policy (“Policy”). Maki applied for a religious exemption and accommodation, and the Bank exempted Maki from that Policy. In turn, Maki was required to wear a mask and maintain physical distance from other Bank employees, with which he complied dutifully. In November 2021, the Bank made the Policy more stringent on Maki and forced him to segregate from vaccinated employees by not allowing him to eat at the cafeteria and forbidding him from using the on-site fitness facility.

3. Then, on December 16, 2021, the Bank suddenly reversed course and notified Maki that it would no longer accommodate his religious beliefs because doing so would somehow create for it an “undue hardship.” This is despite (a) Maki’s willingness to mask, test, distance, and otherwise work without the privileges afforded vaccinated employees, (b) the Bank allowing employees to be unvaccinated for months while a vaccine was available, (c) Maki’s uncontroverted compliance with alternatives proposed earlier by the Bank which allowed him to continue safely working, and (d) scientific evidence available at the time that the COVID-19 vaccines protect the individual recipients, but do not reduce the virus’ transmission.

4. There was and is no undue hardship for the Bank to keep Maki employed; rather, upon information and belief, the Bank accommodates other employees without any real difference between those employees and Maki. In addition, during the entire time Maki was allowed to mask and distance, there were hundreds of construction workers working within the Bank’s building daily. Maki was required to screen these construction workers each day. During this time, he was doing in-person work with a greater volume of screenings than he did when the Bank was operating under pre-COVID circumstances. Throughout that entire time, Maki masked and maintained physical distance dutifully, with no problems.

5. To make matters worse, the Bank failed to make any effort, as part of the interactive process, to provide Maki opportunities to work different jobs at the Bank to accommodate his religious objection, even though Maki asked about a number of other opportunities there. The Bank made no effort to help Maki, despite its obligation to do so.

6. Because Maki's sincerely held religious beliefs prevent him from becoming vaccinated with the COVID-19 vaccine, and because the Bank's Policy was not narrowly tailored to serve a compelling state interest, Maki is entitled to relief under Title VII of the Civil Rights Act and the Religious Freedom Restoration Act ("RFRA"), as described below.

### **THE PARTIES**

7. Plaintiff Rodney Maki resides in Fridley, Minnesota, within the District of Minnesota.

8. Defendant Bank is one of twelve Federal Reserve Banks that make up the Federal Reserve System. Its offices are located at 90 Hennepin Avenue, Minneapolis, Minnesota 55401, within the District of Minnesota. The Bank is an instrumentality of the United States government, established by the Federal Reserve Act, 12 U.S.C. § 341 ("the FRA"). *See Fed. Res. Bank v. Metrocentre Improv. Dist. #1*, 657 F.2d 183, 185 n.2. (8th Cir. 1981). The Bank is an employer as defined by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*

### **JURISDICTION AND VENUE**

9. The Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 42 U.S.C. §§ 2000e-(j) and 2000e-2 (Title VII), and 42 U.S.C. § 2000bb-1(c) ("RFRA"). Maki alleges federal questions arising under the laws of the United States under Title VII and RFRA, the Bank is a covered entity under RFRA, and this Court has jurisdiction in civil actions against the United States, of which the Bank is a federal instrumentality under the RFRA.

10. This Court has authority to award the requested relief pursuant to Title VII of the Civil Rights Act and RFRA; and costs and attorneys' fees pursuant to Title VII and 42 U.S.C. § 1988(b).

11. This Court has both general and specific jurisdiction over the Bank, which is located within the District of Minnesota, and its acts alleged herein took place in the District of Minnesota.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1), (b)(2) and (e) and 42 U.S.C. §2000e-5(f)(3) because the Bank is an instrumentality of the United States doing business in the District, and a substantial part of the events or omissions giving rise to Maki's claims occurred in this judicial District.

### **FACTUAL ALLEGATIONS**

13. Maki began his employment with the Bank on or about June 1, 1998. Maki served as a law enforcement officer over the course of his nearly 24-year career with the Bank. Specifically, he was a Grade 2 Federal Reserve Law Enforcement Officer. In this role, Maki was responsible for the enforcement of federal and state law and the administrative rules and regulations of the Bank. He used computers, surveillance equipment, x-ray and metal screening equipment, and several alarm systems.

14. On or about March 11, 2020, at the onset of the COVID-19 pandemic in the United States, the Bank informed its workforce, including Maki, that it was implementing a mandatory remote work policy until employees were otherwise notified.

15. Maki was on call but was told to stay home until on or about June 18, 2020, when he was called back to work at the Bank building a few days per week. At that time, most of the employees continued working remotely.

16. Beginning in March 2021, COVID-19 vaccinations became widely available to adults in the United States.

17. All the COVID-19 vaccines available in the United States at all relevant times involve use of aborted fetal cells in their manufacturing and/or testing. In particular:

- Johnson & Johnson/Janssen: Fetal cell cultures are used to produce and manufacture the J&J COVID-19 vaccine and the final formulation of this vaccine includes residual amounts of the fetal host cell proteins ( $\leq 0.15$  mcg) and/or host cell DNA ( $\leq 3$  ng).
- Pfizer/BioNTech: The HEK-293 abortion-related cell line was used in research related to the development of the Pfizer COVID-19 vaccine.
- Moderna/NIAID: Aborted fetal cell lines were used in both the development and testing of Moderna's COVID-19 vaccine.

### **Maki's Sincerely Held Religious Beliefs**

18. Maki is a baptized Catholic. He believes, based on his religion, that abortion is murder and therefore morally wrong.

19. Maki believes, based on his religion, that he is obligated to adhere to his conscience because he will stand before God to give an account for all that he does.

20. Maki declined to receive a COVID-19 vaccination because of his religious conviction that, based on his knowledge of the COVID-19 vaccines and their connection with aborted fetal tissue, to use any of these vaccines would have made him morally complicit in and a beneficiary of abortion. A true and correct copy of Maki's

accommodation request describing some of his relevant religious beliefs is attached as **Exhibit 1 at Maki 015-016**.

21. Maki's religious objection to the COVID-19 vaccine is sincere, as the Bank admitted.

#### **The Bank's Policy and Maki's Request for Accommodation**

22. In July 2021, the Bank informed its employees of its Policy requiring all employees to receive a COVID-19 vaccination or else submit a request for religious or medical accommodation, as applicable. Under the Policy, approved vaccines included Johnson & Johnson, Pfizer, and Moderna—each of which was either tested or developed using aborted fetal cells.

23. The Bank's Policy conflicts with Maki's sincerely held religious beliefs because of Maki's objection to receiving a vaccine which used fetal cell lines in its testing and development.

24. On July 13, 2021, Maki submitted a comprehensive Request for Accommodation to the Bank, explaining how its Policy was in direct conflict with his sincerely held religious beliefs. **Exhibit 1**.

25. Maki spent a significant amount of time considering his religious beliefs related to abortion and whether taking the COVID-19 vaccine would make him complicit in abortion, which to him is the murder of an unborn child.

26. On August 6, 2021, the Bank informed Maki that it would accommodate, on a temporary basis, his religious beliefs forbidding him from receiving a COVID-19 vaccination. **Exhibit 1 at Maki 014**.

27. As part of Maki's accommodation, he was required to wear a Bank-issued mask and maintain a physical distance from other employees. Maki complied.

28. On November 5, 2021, the Bank added requirements to Maki's accommodation, forcing him to segregate from the vaccinated employees by not allowing him to eat at the cafeteria and forbidding him from using the fitness facility. **Exhibit 1 at Maki 012-013.** As with each other restriction imposed on Maki because of his religious views, he fully complied.

**The Bank Abruptly Reverses Course, Revokes Maki's Accommodation, Fails to Engage in the Interactive Process, Fails to Accommodate Maki, and Terminates Maki Because of His Religious Beliefs.**

29. On December 16, 2021, the Bank suddenly reversed course and notified Maki that it would no longer accommodate his religious beliefs because of a claimed "undue hardship." **Exhibit 1 at Maki 010-011.**

30. The Bank told Maki that he would have to receive his first vaccination dose no later than January 7, 2022, or he would be put on unpaid leave and then terminated.

31. Accommodating Maki would not have imposed, and does not impose, an undue hardship on the Bank.

32. Prior to the revocation of Maki's accommodation, the Bank had allowed Maki to mask and distance for months with full compliance and no problems.

33. The Bank did not require any employee to be vaccinated for several months despite the availability of the vaccines to all Americans in March and April 2021.

34. Between the time the vaccines were approved for all Americans and the Bank decided to force Maki to be vaccinated or be fired, there were hundreds of construction

workers working within the Bank's building daily. Maki was required to screen these construction workers each day. During this time, he was doing in-person work with a greater volume of screenings than he did when the Bank was operating pre-COVID. Throughout that entire time, Maki masked and maintained physical distance dutifully, with no problems. **Exhibit 1 at Maki 001-002.**

35. As part of its reasoning for revoking Maki's accommodation, the Bank claimed that, since employees were no longer going to be working remotely, the need to have close contact with a significant number of individuals would increase.

36. The Bank falsely claimed that it would be an undue hardship to allow Maki to mask and maintain physical distance because, so the Bank claimed, Maki could not consistently maintain physical distancing while performing the essential functions of his role.

37. The Bank's claim that Maki could not maintain adequate physical distancing while performing the essential functions of his role is false.

38. Upon information and belief, the Bank accommodates other employees who must be in close proximity to their fellow employees as part of a hybrid on-site and remote work arrangement.

39. Maki's regular post—as was true of many posts—was a single-person post. He would spend much of his day in a small room by himself. Most of the devices he used to screen an individual seeking entrance to the building were devices that did not require him to be near the individual.



40. The Bank refused to engage in any meaningful discussions with Maki about any further accommodations or any other jobs with the Bank that would allow Maki to maintain his employment. **Exhibit 1 at Maki 005-009.**

41. Maki offered to change his work shift from his day shift to the night shift, which would put him in contact with far fewer people, but the Bank refused.

42. Before he was put on unpaid leave, on January 3, 2022, the Bank announced that the return to in-person work at the Bank would be delayed beyond February 7, 2022.

43. Maki asked that the Bank consider just extending his accommodation until the return to in-person work, since that was the Bank's chief (pretextual) reason for setting the January 7 deadline for his being vaccinated and January 22 termination date if he was not. **Exhibit 1 at Maki 001.**

44. The Bank refused this modest request.

45. On January 7, 2022, the Bank placed Maki on unpaid leave to be terminated on January 22, 2022.

46. On January 22, 2022, Maki was terminated for his refusal to receive a COVID-19 vaccination because of his sincere religious beliefs.

47. Maki's termination was an adverse employment action.

#### **Additional Defects of the Bank's Policy**

48. Both prior to and subsequent to Maki's termination, the Bank received many individuals into its building that it did not require to be vaccinated for COVID-19, such as contractors and customers.

49. At the time the Bank revoked Maki's accommodation and forced its employees to get vaccinated or be fired, evidence was publicly available to the Bank that demonstrated that the COVID-19 vaccines available to Americans do not reduce transmission of the COVID-19 virus, but instead protect the individual recipients of the vaccine from serious infection. *E.g.*, Jennifer Frazer, "The Risk of Vaccinated COVID Transmission Is Not Low," *Scientific American*, Dec. 16, 2021, available at <https://www.scientificamerican.com/article/the-risk-of-vaccinated-covid-transmission-is-not-low/> (last visited Nov. 1, 2022); Carlos Franco-Paredes, "Transmissibility of SARS-CoV-2 among fully vaccinated individuals," *The Lancet*, Jan. 1, 2022, available at [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(21\)00768-4/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00768-4/fulltext) (last visited Nov. 1, 2022).

50. Further, measures other than mandatory vaccination, such as temperature checks, mask-wearing, social distancing, regular testing, and quarantining of infected individuals are as effective, if not more effective, at controlling the spread of COVID-19 than mass-vaccinating the population, all of which Maki was willing to do.

51. Given that the "safety risks" posed by Maki have been the only interest identified by the Bank, and given that safety is advanced little or not at all by the Policy, the Bank's mandate lacks a rational basis, much less a compelling state interest, and is not narrowly tailored to advance any government interest.

52. The Bank's decision to deny Maki an ongoing accommodation after initially granting him one cannot be justified under either the rational basis or compelling interest test.

53. The Bank's termination of Maki was intentional discrimination, with malice and reckless indifference to Maki's rights under RFRA and Title VII, as demonstrated by the allegations herein.

**Maki Exhausted All Administrative Remedies**

54. After he was terminated, on February 24, 2022, Maki filed a Charge of Discrimination in the EEOC. **Exhibit 2.**

55. On August 16, 2022, the EEOC issued Maki a right-to-sue notice. **Exhibit 3.**

**CAUSES OF ACTION**

**Count One  
42 U.S.C. § 2000bb et seq.**

**Violation of the Religious Freedom Restoration Act (RFRA)**

56. Maki reincorporates the foregoing as if fully written herein.

57. The Bank is subject to RFRA because it is an "instrumentality" of the Federal government. 42 USC §2000bb-2(2).

58. RFRA states that the government shall not substantially burden a person's exercise of religion, even by means of a rule of general applicability. 42 U.S.C. § 2000bb-1(a).

59. RFRA protects any exercise of religion, whether or not compelled by, or central to, a system of religious belief. 42 U.S.C. § 2000cc-5(7)(A).

60. The exercise of religion involves not only belief and profession but also the performance of (or abstention from) physical acts for religious reasons.

61. Maki sincerely believes that the exercise of his religion prevents him from submitting to injection with any of the available COVID-19 vaccines.

62. The Bank has not contested the sincerity of Maki's beliefs or that the exercise of his religion prevents him from receiving a COVID-19 vaccination.

***Substantial Burden***

63. RFRA imposes strict scrutiny on all actions of the federal government (including the Bank as a federal "instrumentality") which substantially burden a person's exercise of religion. 42 U.S.C. § 2000bb-1(b).

64. A person's exercise of religion is substantially burdened whenever a measure imposes substantial pressure on an adherent to modify his or her behavior and to violate his or her beliefs.

65. A vaccination policy that terminates the employment of a person who refuses vaccination on account of his religious beliefs presents a substantial burden on that person's exercise of religion.

66. Because Maki's religious beliefs prevented his receiving a COVID-19 vaccination, the Bank's Vaccine Policy imposed on Maki the choice between violating his religious beliefs or else being terminated and losing his livelihood.

67. By pressuring Maki to violate his religious beliefs in order to retain his employment, the Bank imposed a substantial burden on Maki's exercise of religion.

***Strict Scrutiny Analysis***

68. Under RFRA, the Bank's Policy is subject to strict scrutiny because it imposes substantial burdens on Maki's religious exercise. 42 U.S.C. § 2000bb-1(b).

69. Strict scrutiny requires that, before imposing a substantial burden on an individual's exercise of religion, the government must demonstrate that application of the burden to that

particular individual (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means to achieving that interest.

***The Bank Has No Compelling Interest***

70. Under RFRA, the Bank must establish that it has a compelling governmental interest in imposing a religious burden on Maki.

71. The Bank must show a compelling governmental interest and prove that terminating Maki's employment unless he consented to being vaccinated was the least restrictive means possible in achieving that alleged interest.

72. As demonstrated by Maki's ability to perform the essential functions of his job for over 18 months while practicing masking and social distancing without incident, as well as by the fact that the Bank initially granted a religious accommodation to him under circumstances not materially different from those when it revoked that accommodation, the Bank does not have a compelling governmental interest in burdening Maki's religious practice by mandating his vaccination. There is no rational basis, much less a compelling governmental interest, in terminating Maki's employment for lack of COVID-19 vaccination.

73. The Bank ignored the fact that Maki was doing his job throughout the pandemic, both before he was granted an accommodation and after, with no material difference in his job duties and with no problems.

74. During the time since COVID-19 vaccines became available, and during the months since Maki had applied for a religious exemption, it had become known that COVID-19

vaccinations did not achieve the only possible legitimate purpose of the Policy—to prevent transmission of the virus to other employees, contractors, or customers.

***The Bank Did Not Use the Least Restrictive Means***

75. The least-restrictive-means standard is exceptionally demanding in that it requires the government to show that it lacks any adequate less restrictive means of achieving its desired goal. So long as the government can achieve its interests in a manner that does not burden religion, it must do so.

76. This standard requires the Bank to show that measures less restrictive of Maki's religious exercise could not address its purported interest in reducing the spread of COVID-19.

77. Requiring Maki to be vaccinated against COVID-19 is not the least restrictive means the Bank could have employed to serve its alleged interest.

78. Maki has been able to perform the essential functions of his job while adhering to the Bank's safety protocols that it deemed satisfactory for 18 months without any adverse consequences.

79. At the very least, the Bank has an obligation to demonstrate that requiring Maki to be vaccinated is the least restrictive way of pursuing its interests. That requires demonstrating why other paths to the same goal are all inferior, which the Bank cannot do.

80. Moreover, the Bank cannot establish that requiring Maki to be vaccinated is the least restrictive means of pursuing a compelling interest compared to the means that have already been shown to be sufficient: i.e., allowing Maki to work while wearing a mask and social distancing as he had done for 18 months.

81. The Bank violated RFRA and damaged Maki by doing so, as alleged herein. The Bank's wrongful actions caused Maki nominal, actual, and compensatory damages, and Maki is also entitled to his costs, disbursements, and reasonable attorney fees. 42 U.S.C. § 1988.

**Count Two**  
**42 U.S.C. §§ 2000e, et. seq.**

**Title VII Religious Discrimination**

82. Maki reincorporates the foregoing as if fully written herein.

83. Title VII of the Civil Rights Act of 1964 prohibits the Bank from discriminating against its employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a).57.

84. As alleged herein, Maki holds sincere religious beliefs that preclude him from receiving a COVID-19 vaccine.

85. Maki informed the Bank of those beliefs and requested a religious exemption and reasonable accommodation from the Policy.

86. When the Bank revoked Maki's initial accommodation by falsely declaring that the accommodation imposed an undue hardship on the Bank, the Bank then failed to initiate the interactive process regarding Maki's religious accommodation request.

87. Despite Maki's own best efforts to initiate the interactive process, the Bank made no effort to engage in that process or to accommodate Maki's sincerely held religious beliefs.

88. Beside the interactive process, the Bank failed to provide Maki with a religious exemption and a reasonable accommodation, and instead terminated his initial accommodation, thereby discriminating against Maki because of his religious beliefs.

89. The Bank's failure to provide Maki a religious exemption and accommodation has harmed and will continue to harm Maki.

90. By failing to engage in the interactive process or offer any reasonable accommodation, and because, upon information and belief, the Bank accommodates others with objections to the Policy who are similarly situated to Maki, the Bank's discriminatory actions were intentional and/or reckless and in violation of Title VII.

91. Maki filed charges with the EEOC complaining of these discriminatory actions on February 24, 2022, and the EEOC issued a right-to-sue letter on August 16, 2022.

92. By the acts, policies, and practices set forth in more detail above, the Bank has discriminated against Maki in the terms and conditions of his employment on the basis of his religion, in violation of Title VII of the Civil Rights Act of 1964.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Rodney Maki respectfully requests that the Court enter judgment in his favor and against Defendant Federal Reserve Bank of Minneapolis and provide Maki with the following relief:

- A. A declaratory judgment that the Bank violated Maki's rights under RFRA;
- B. A declaratory judgment that the Bank violated Maki's rights under Title VII;
- C. An award of nominal damages in favor of Maki because of the Bank's violations of RFRA and Title VII;



- D. An award of actual and compensatory damages in an amount to be proven at trial, including back pay, front pay, treble damages and statutory penalties, interest, emotional distress and pain and suffering, and any damages or penalties available at law;
- E. Reinstatement to Maki's former position at the Bank, with credit for years of work service during the time he was illegally terminated, and wage and benefit increases consistent with what an employee in his position would have received during his illegal termination;
- F. An award of punitive damages because of the Bank's intentional discrimination against Maki with malice and reckless indifference to his rights under RFRA and Title VII.
- G. Reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988;
- H. All and any further relief to which Maki may be entitled; and
- I. A trial by jury of all such matters properly tried as such is requested.

**UPPER MIDWEST LAW CENTER**

Dated: November 11, 2022

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