

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

MADINAH BROWN,

SHAKEYA THOMAS, and

TIA MAYS

Plaintiffs

v.

**DELAWARE DEPARTMENT OF
SERVICES FOR CHILDREN, YOUTH, AND
THEIR FAMILIES,**

JOSETTE DELLEDONNE MANNING, ESQ.,
Cabinet Secretary, Delaware Department of
Services for Children, Youth and their Families, in
her official capacity, only;

JOHN STEVENSON,
Division Director, Division of Youth
Rehabilitative Services, in his individual
capacity, only;

RAHEEM PERKINS,
Facility Superintendent, New Castle County
Detention Center, Delaware Department of
Services for Children, Youth and their Families,
in his individual capacity, only;

MICHAEL GREEN,
Assistant Facility Superintendent, New Castle
County Detention Center, Delaware Department
of Services for Children, Youth and their Families,
in his individual capacity, only;

MITCHELL ROCK,
Superintendent, New Castle County Detention
Center, Delaware Department of Services for
Children, Youth and their Families, in his
individual capacity, only;

Case No.

COMPLAINT AND JURY DEMAND

CLEVE WILLIS,
Supervisor, New Castle County Detention Center
Delaware Department of Services for Children,
Youth and their Families, in his individual
capacity, only;

THOMAS CANNON,
Supervisor, New Castle County Detention Center
Delaware Department of Services for Children,
Youth and their Families, in his individual
capacity, only;

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff **MADINAH BROWN, SHAKEYA THOMAS, AND TIA MAYS**, by and through her attorneys, CAIR Legal Defense Fund and Jacobs & Crumplar, bring this action against Defendants **Delaware Department for Children, Youth, and their Families, Josette Delledonne Manning, Esq., John Stevenson, Raheem Perkins, Michael Green, Mitchell Rock, Cleve Willis, and Thomas Canon** (“Defendants”), for compensatory and punitive damages, declaratory and injunctive relief, pre-judgement and post-judgement interest, costs and attorneys’ fees for violations of Title VII of the Civil Rights Act of 1964, the United States Constitution, 42 U.S.C. § 1983, and violations of 19 Del. C. § 710, *et seq.*, committed when Defendants discriminated against Madinah Brown, Tia Mays, and Shakeya Thomas by—among other things—prohibiting these three Muslim women from wearing *hijab* at work.

JURISDICTION AND VENUE

1. This Court has original federal question jurisdiction over Plaintiff’s claims of violations of the United States Constitution and Title VII of the Civil Rights Act of 1964 under 28 U.S.C. §§ 1331 and 42 U.S.C. § 1983.

2. This Court has personal jurisdiction over Defendants because Defendants reside and conduct business in the State of Delaware.

3. Plaintiff's claims for attorneys' fees and costs are predicated upon Title VII, 42 U.S.C. § 2000e-2(m), 19 Del. C. § 715, and Fed. R. Civ. P. 54.

4. Venue is proper pursuant to 28 U.S.C. § 1391 as to Defendants because Defendants reside and conducts business in this judicial district and this district is where a substantial part of the events or omissions giving rise to the claims occurred.

PLAINTIFFS

5. Plaintiff Madinah Brown is a Muslim woman and was at all relevant times an employee of Delaware Department of Services for Children, Youth and their Families ("DSCYF"). Venue is proper because Madinah Brown resides within this district and because a substantial part of the events or omissions giving rise to her claims occurred within this district.

6. Plaintiff Shakeya Thomas is a Muslim woman and was at all relevant times an employee of DSCYF. Venue is proper because Madinah Brown resides within this district and because a substantial part of the events or omissions giving rise to her claims occurred within this district.

7. Plaintiff Tia Mays is a Muslim woman and was at all relevant times an employee of DSCYF. Venue is proper because Madinah Brown resides within this district and because a substantial part of the events or omissions giving rise to her claims occurred within this district.

DEFENDANTS

8. Defendant Delaware Department of Services for Children, Youth and their Families ("DSCYF") is a Delaware state agency tasked with engaging families and communities to promote the safety and well-being of children in the State of Delaware. Defendants formulate, promulgate,

and implement policies, customs, and practices in furtherance of the interests of DSCYF. New Castle County Detention Center (“NCCDC”) is a part of DSCYF, and so allegations against NCCDC are allegations against DSCYF.

9. The other defendants are all officials and employees of the DSCYF and are tasked with engaging families and communities to promote the safety and well-being of children in the State of Delaware. Defendants formulate, promulgate, and implement policies, customs, and practices in furtherance of the interests of DSCYF.

Defendants sued in their official capacities, only

10. Defendant Josette Delledone Manning, Esq., is the Cabinet Secretary for the Delaware Department of Services for Children, Youth and their Families. Defendant Manning is responsible for formulating, overseeing, and implementing policies and directives in furtherance of the interests of DSCYF. Defendant Manning is being sued in her official capacity only.

Defendants sued in their individual capacities only

11. Defendant John Stevenson is the Division Director of Division of Youth Rehabilitative Service (“DYRS”). Defendant Stevenson engaged in discriminatory behavior against Plaintiffs by denying Plaintiffs’ religious accommodation request. Defendant Stevenson is being sued in his individual capacity only.

12. Defendant Raheem Perkins is Superintendent at NCCDC, which is part of DSCYF. Defendant Perkins is responsible for overseeing staff-secured residential cottages, personnel, programming, training, and provide management assistance. Defendant Perkins engaged in discriminatory behavior by unlawfully denying Plaintiffs’ religious accommodation to wear their hijab at work. Defendant Perkins is being sued in his individual capacity.

13. Defendant Michael Green is Assistant Superintendent for NCCDC. Defendant Green and Defendants Willis and Perkins engaged in unlawful and discriminatory behavior by threatening Plaintiffs and denying them the ability to clock in and start work. Defendant Green is being sue in his individual capacity.

14. Defendant Mitchell Rock is a Superintendent at NCCDC. Defendant Rock engaged in discriminatory behavior by forcibly reprimanding Ms. Brown and her to remove her hijab or leave the premises. Defendant Rock is being sued in his individual capacity.

15. Defendant Cleve Willis is a Youth Rehabilitation Counselor Supervisor at NCCDC. Defendant Willis denied Plaintiffs the ability to clock in and start work and threatened to force Plaintiffs to leave if they tried to clock in. Defendant Willis is being sue in her individual capacity.

16. Defendant Thomas Cannon is a supervisor for NCCDC. Defendant Cannon forced Ms. Brown to leave work and called her “a terrorist.” Defendant Cannon is being sued in his official and individual capacities.

ADMINISTRATIVE HISTORY

17. Plaintiffs timely filed Charges of Discrimination with the Equal Employment Opportunity Commission (the “EEOC”) and the Delaware Department of Labor (the “DDOL”).

18. Plaintiffs have all received a Notice of Right to Sue less than 90 days ago.

19. This Complaint is being timely filed within 90 days from the date Plaintiffs received their Notice of Right to Sue letters from the EEOC.

20. Plaintiffs have exhausted her administrative remedies.

FACTUAL BACKGROUND

Plaintiff Madinah Brown

21. Madinah Brown is a Muslim, African-American woman who wears a *hijab* in accordance with her sincerely-held religious beliefs.¹

22. Around October 2011, Ms. Brown applied and interviewed for a Youth Rehabilitation Counselor (“YRC”) Position with NCCDC.

23. Prior to attending the interview, Ms. Brown’s friend informed her that another Muslim woman was forced to resign after NCCDC denied her a religious accommodation.

24. Nonetheless, Ms. Brown interviewed for the position. The panel of interviewers included: Danah Boyer, Jeffery Sinterest, and Jacklyn Moore.

25. Ms. Brown attended the interview wearing a *hijab*, and NCCDC denied Ms. Brown the position.

26. Around December 2011, Ms. Brown reapplied for the same position and received a second interview in February 2012. Panelists included Jacklyn Moore, Ben Garrison, and at least one other person.

27. At this time, Ms. Brown interviewed without her hijab.

28. Following the interview, Panelist Jacklyn Moore remarked that she recognized Ms. Brown.

29. NCCDC hired Ms. Brown as a Youth Rehabilitation Counselor I.

¹ *Hijab* is a headscarf or head covering worn by Muslim women. It forms a crucial part of the Islamic faith. It is a symbol of faith, dignity, and respect.

30. In February 2012, Ms. Brown began working for NCCDC without her hijab because she feared NCCDC would terminate her employment, which she needed to support her family.

31. Amongst other things, Ms. Brown's job description included observing youth's behavior and adjustment to programs; establishing and maintaining interpersonal relationships with youth; interpreting and teaching unit procedures, rules, and disciplinary policies to youth, and preparing, maintaining, and contributing to a variety of records and reports to document information relating to youths.

32. The only educational qualification for a Youth Rehabilitation Counselor I is a high school diploma. Ms. Brown meets this qualification.

33. At no point during her employment did Defendants have any concerns about Ms. Brown's performance other than the ill-placed concern about her hijab.

34. Due to her excellent performance, Ms. Brown was promoted to Youth Rehabilitation Counselor II on October 20, 2013.

35. Nevertheless, Defendants strictly and consistently prohibited her from either working or clocking-in if she continued to wear her hijab.

36. In July 2014, Ms. Brown decided to wear her hijab to work. However, when Ms. Brown arrived at work, Superintendent Mitchell Rock reprimanded her for wearing a *hijab* and forced her to remove it—though he understood that Ms. Brown was wearing it in accordance with her faith.

37. On July 29, 2014, Ms. Brown filed a complaint with NCCDC's Human Resources Department ("HR"), which did not take any action.

38. In August 2014, Defendant Perkins informed Ms. Brown that NCCDC's policy prohibited the wearing of religious head coverings due to safety concerns.

39. On August 13, 2014, Ms. Brown's union representatives filed a grievance on her behalf, requesting that Ms. Brown be made "whole by allowing her to practice her religious beliefs without prejudice of race, creed, religion, color, or sex."

40. Ms. Brown met with Defendant Rock and provided him with alternatives to her religious head covering that would mitigate any safety concerns. She offered to create a head covering with detachable Velcro or other detachment similar to the lanyards Defendants' employees wore.

41. Superintendent Mitchell Rock denied Ms. Brown's alternatives, so Ms. Brown—unable to do without the income her job provided—continued to work without her *hijab*.

42. After returning from her maternity leave in July 2017, Ms. Brown decided to transfer to a different department closer to her house in order to care for her baby.

43. Ms. Brown mostly worked night shifts and later resigned on October 23, 2017 due to the hectic nature of caring for a newborn baby and working night shifts.

44. Defendants rehired Ms. Brown as a Youth Rehabilitation Counselor I in October 2017.

45. In March 2019, Ms. Brown lost her home to a fire and took an FMLA leave due to her family situation.

46. On July 18, 2019, Ms. Brown returned to work following a leave of absence and wore her *hijab* without issue.

47. On July 19, 2019 Defendant Willis informed her that Defendants Green and Perkins wished to relay that if she continued to come to work with her hijab, Defendants would deny her the ability to work. Nonetheless, Ms. Brown wore her hijab to work that night without issue.

48. Ms. Brown wore her hijab at work without issue on July 22.

49. On July 23, 2019 Defendants Willis and Perkins forced Ms. Brown to clock-out because she was wearing her hijab.

50. On July 26, 2019 Defendant Willis forced Ms. Brown to clock-out because she was wearing her hijab, despite the fact that there was an open assignment which Ms. Brown could fulfill that would have avoided the purported safety concern Defendants used to justify denying Ms. Brown an accommodation to wear *hijab*.

51. Ms. Brown wore her hijab at work without issue on July 27.

52. On July 28, 2019 Supervisor A Brown, who acted upon directives by Defendants Perkins, Green, and Elizabeth Cole, forced Ms. Brown to clock-out because she was wearing her hijab.

53. On July 30, 2019, Ms. Brown's union emailed Division of Youth Rehabilitative Services Director Stevenson and informed him that Defendants discriminated against Ms. Brown by prohibiting her from practicing her faith and wearing hijab in accordance with sincerely held religious belief.

54. Youth Rehabilitation Counselor II Bobby Bryant requested authorization for Ms. Brown to wear her hijab, but Defendants Perkins denied the request.

55. On July 31, 2019, Ms. Brown's union requested that she be "compensated for all days Ms. Brown was not permitted to work as a result of discrimination."

56. On August 1, 2019, Defendant Willis forced Ms. Brown to leave work because she was wearing her hijab.

57. On August 2, 2019, Defendant Willis called Ms. Brown and denied her the ability to work unless she removed her hijab. When Ms. Brown attempted to go to work, Defendant Cannon forced her to leave.

58. On August 5, 2019, Defendant Cannon forced Ms. Brown to leave work because she was wearing her hijab.

59. On August 8, 2019, Ms. Brown's union representatives requested a reasonable religious accommodation on behalf of Ms. Brown. In the alternative, they provided an alternative, a "breakaway hijab," which detaches when pulled.

60. At no point during Ms. Brown's employment did Defendants proffer any evidence that Ms. Brown's hijab posed safety hazard, that a detachable *hijab* would not address Defendants' purported concerns, or how the lanyards worn around the necks of Defendants' employees did not present the same purported concerns as the *hijab* Ms. Brown sought to wear.

61. On August 9, 2019 Defendant Willis threatened Ms. Brown with disciplinary action if she did not remove her hijab.

62. On August 10 and 11, Ms. Brown wore her hijab to work without issue.

63. On August 20, 2019, Defendant Willis requested to meet with Ms. Brown in an area where Ms. Brown typically interacts with youth detained in the facility. He demanded to know why she was wearing her hijab and then forced her to leave work.

64. On August 21, 22, 23, 24, and 25, Defendants Cannon and Willis forced Ms. Brown to leave work because she was wearing her hijab.

65. On August 28, 2019, Defendant Cannon forced Ms. Brown to leave work, yelling, “You’re looking like a terrorist.”

66. On August 31, and September 2, 6, 7, 8, and 9, Defendants Cannon, Supervisor V. Wilson, and Control Room Employee Arnisa Barnes prohibited Ms. Brown from working because she wore her hijab.

67. On September 11, Defendants provided Ms. Brown with a document allowing for two options, “Option 1: If you wish to submit a request for policy deviation, please present to administration, suitable alternatives of religious head garments that you believe would uphold NCCDC’s safety and security requirements while enabling you to adhere to your religious tenants” OR “Option 2: Report to work and perform your assigned duties wearing no religious head garment.”

68. On October 1, 2019, Defendants issued Ms. Brown an “Attendant Improvement Plan” stating, “You are being placed on an Attendance Improvement Plan (AIP) for violating the DYRS Attendance Policy. You will be on an AIP for 90 days.”

69. Thereafter, Defendants continued to prohibit Ms. Brown from working because she wore a hijab.

70. On October 18, 2019, Defendants gave Ms. Brown an ultimatum to either resign from her employment or keep her employment without her hijab in violation of her religious beliefs.

71. Ms. Brown resigned in response to this ultimatum.

72. Defendants acted in conscious disregard of or reckless indifference to Ms. Brown’s right to be free from religious discrimination and/or retaliation, knowing full well that Title VII

required, unless excused by undue hardship, reasonable accommodation of their employee's sincerely-held religious beliefs and practices.

73. Defendant acted with malice due to pique at Plaintiff's opposition and protestation at the denial of her accommodation request.

74. As a direct and proximate result of Defendant's actions, Ms. Brown has suffered emotional distress, anxiety, humiliation, inconvenience, lost wages and benefits, and other consequential damages.

Plaintiff Shakeya Thomas

75. Plaintiff Shakeya Thomas is a Muslim, African-American woman. She wears a hijab in accordance with her sincerely-held religious beliefs.

76. In September 2018, Ms. Thomas learned of potential employment with NCCDC at a job fair where she met with management staff and learned about the facility.

77. Ms. Thomas was wearing her hijab at the job fair and Defendants made no mention to Ms. Thomas that she could not wear her hijab if she is offered the position.

78. In September 2018, Ms. Thomas interviewed for the YRC position with NCCDC. She wore her hijab during her interview, and, again, Defendants made no mention of her hijab.

79. In October 2018, NCCDC extended Ms. Thomas an offer of employment, which she accepted.

80. Later in October 2018, Ms. Thomas attended a new employee training while wearing her hijab.

81. At all times during the training and the course of her employment, she wore her hijab.

82. During the new employee training, Ms. Thomas took a photograph for her employee ID while wearing hijab.

83. On the last day of training, Defendant Perkins met with Ms. Thomas to tell her she could not wear her hijab while at work any longer. He stated, “you know you can’t wear that, right?”

84. Ms. Thomas understood the reference to “that” to mean her abaya, or long dress she was wearing that day. She responded, “that’s not a problem.”

85. At the end of October 2018, Ms. Thomas reported to work to begin her shift wearing her hijab but not the long dress Defendant Perkins objected to.

86. Days later, Ms. Thomas was on her lunch break when Supervisor Fentress and a male supervisor demanded she remove her hijab or leave the facility.

87. Supervisor Fentress and the other supervisor told Ms. Thomas that in order for her to continue working, she needed to remove her hijab – claiming that her hijab poses a safety hazard without explaining what that safety hazard was.

88. Based on the circumstances of Plaintiff Thomas’ encounter with agency management, the apparent coordination between Fentress and the other supervisor, and agency practices, the order to prevent Ms. Thomas from working was given by Defendant Perkins.

89. Ms. Thomas was shocked because she wore her hijab without any issue during the interview process, training, and on her first few shifts at work.

90. Defendants made no mention on all these occasions that Ms. Thomas was prohibited from wearing her hijab at work. Ms. Thomas’ sincerely-held religious belief requires her to wear a hijab at all times in public places.

91. Supervisor Fentress and the other supervisor recommended Ms. Thomas speak with another female Muslim employee in the department because, “she doesn’t wear her scarf.”

92. Ms. Thomas agreed to speak with the other female Muslim employee and told Supervisor Fentress and the other supervisor that she would comply with their directives and go home rather than remove the headscarf she wears in accordance with her faith.

93. Supervisor Fentress and the other supervisor told her she had a few days to think about what she wanted to do—keep wearing her hijab or continue to be employed.

94. Prior to leaving the facility after this encounter, Ms. Thomas spoke with the female Muslim employee who informed her of Defendants’ prohibitions on wearing hijab at work and encouraged Ms. Thomas to remove her hijab or face admonishment from Defendants.

95. Shortly after this encounter, Ms. Thomas spoke with a union representative.

96. The union representative retrieved the agency policy banning hijab and told Ms. Thomas she could wear her hijab when she leaves the facility. He further explained that only visitors were permitted to wear the hijab.

97. Thereafter, Ms. Thomas left the facility because Defendants would not allow her to complete her shift unless she agreed to remove her hijab.

98. On October 31, 2018, Ms. Thomas emailed Administrative Specialist Camille Mapua and provided photos of alternative head coverings, including a turban style hijab (or cap) and a Nike hijab (athletic hijab).

99. On November 5, 2018, Assistant Superintendent Michael Green called Ms. Thomas.

100. Mr. Green explained that he was asked to mediate between Ms. Thomas and the facility because he had spent time overseas and had a better understanding of why Muslim women wear the hijab.

101. Mr. Green stated that he had tried to explain the purpose of the hijab to the facility, to no avail.

102. Ms. Thomas had seen two other women in the facility who wore the hijab, including a nurse.

103. Mr. Green told Ms. Thomas she could not return to her current position while wearing her hijab.

104. Ms. Thomas asked if she could transfer to the kitchen in order to address Defendants' purported security concerns.

105. Mr. Green informed Ms. Thomas that she will need to resign and reapply for another position that will accommodate her religious beliefs, instead of offering her an alternative position.

106. Mr. Green cautioned Ms. Thomas that if she ever wanted to work for the State of Delaware in the future, it would be in her best interest to resign.

107. Following a phone call, Administrative Specialist Mapua informed Ms. Thomas that, "Mr. Perkins had asked the Director's Office for approval, but both options were denied."

108. Ms. Thomas asked Administrative Specialist Mapua if she could transfer to a different department where her hijab would not be considered a safety issue.

109. Administrative Specialist Mapua said Defendant Perkins had denied her request to transfer because Ms. Thomas was hired to work with youth offenders and there were no possible duties she could carry out while wearing hijab.

110. On November 9, 2018, Ms. Thomas emailed Administrative Specialist Mapua, because she had not heard about opportunities or next steps from Defendant Perkins.

111. Administrative Specialist Mapua responded that she was not sure why Defendant Perkins had not contacted her and asked if Ms. Thomas planned to resign.

112. On November 13, 2018, Administrative Specialist Mapua asked Ms. Thomas to inform the facility of her employment decision by November 15.

113. On December 18, 2018, Defendant Perkins wrote to Thomas regarding the phone conversation between Ms. Thomas and Mr. Green. He indicated that Ms. Thomas had resigned from her position.

Tia Mays

114. Plaintiff, Tia Mays, is a Muslim, African-American woman who wears a hijab in accordance with her sincerely-held religious beliefs.

115. At the beginning of October 2018, Ms. Mays was hired as a YRC with the Ferris School for Boys (“FSB”), a juvenile detention facility under DSCYF

116. In mid-October, Ms. Mays began orientation and training, during which she wore her hijab.

117. Ms. Mays wore her hijab for her agency identification document photo.

118. At no point during Ms. Mays interview or training did Defendants inform her that her hijab poses a safety and that she cannot wear it at work.

119. On October 25, Superintendent Banks asked Ms. Mays if she was aware of the facility’s uniform policy. Banks did not indicate that Ms. Mays’ hijab was a violation of the agency’s uniform policy and Ms. Mays’ understanding was that perhaps the abaya—a long dress—was not in accordance with the agency’s uniform policy. Nevertheless, in response, Ms. Mays

explained why she wears hijab and the encounter ended without Banks directing Ms. Mays to alter her appearance in any way.

120. Ms. Mays informed Superintendent Banks that prior to her current employment, she worked at halfway house where she was permitted to wear her hijab.

121. While working at the halfway house, Ms. Mays worked with residents to perform check-ins and daily inspections, pat-downs, area searches, supervised visitations, transportation of residents to off-facility appointments, and other work involving direct contact with residents.

122. Ms. Mays also informed Superintendent Banks that she worked with Vision Quest, a youth placement center, and was permitted to wear hijab.

123. Superintendent Banks seemed to accept Ms. Mays' explanation for it was reasonable for her to continue to wear hijab.

124. On October 29, Ms. Mays completed her first shift while wearing hijab.

125. As she was leaving, an employee at the front desk informed Ms. Mays that the facility prohibited her from wearing her hijab. The employee did not provide any explanation.

126. On October 30, an employee at the front desk prohibited Ms. Mays from entering the facility because of her hijab.

127. The employee provided Ms. Mays with a policy prohibiting: "hoodies, hats or headgear."

128. The employee further informed Ms. Mays that Supervisor Watkins had instructed employees not to allow Ms. Mays to enter the facility unless she removed her hijab.

129. The employee escorted Ms. Mays to an office where Supervisor Watkins was waiting for her with other agency staff.

130. Supervisor Watkins and other agency staff asked if Ms. Mays would remove her hijab.

131. Ms. Mays understood that she would be prohibited from working if she did not remove her hijab.

132. Ms. Mays declined to remove her hijab, explaining that she wears her hijab in accordance with her sincerely-held religious beliefs.

133. Supervisor Watkins and the other employees attempted to persuade Ms. Mays to remove her hijab because they were “laid back” and “older.”

134. Ms. Mays again declined to remove her hijab and Defendants forced her to leave the facility.

135. The next day, Ms. Mays called the director’s office.

136. Ms. Mays informed agency staff during this call that no one had informed Ms. Mays of the policy requiring her to remove her hijab at any point before and during the orientation.

137. Agency staff apologized and said there had been a misunderstanding. She informed Ms. Mays that the policy should have been mentioned prior to her beginning employment with DSCYF.

138. Ms. Mays understood that she would be prohibited from working while wearing her hijab.

139. A few days later, Ms. Mays called the director’s office and asked for an alternative accommodation. Ms. Mays asked if she could either wear her hijab tucked into her uniform or wear a turban hijab, which is similar to a cap in how it would cover Ms. Mays’ head.

140. Agency staff denied the accommodation, and Ms. Mays did not work any further shifts with Defendants.

CLAIMS FOR RELIEF

Count I

(Disparate Treatment and Failure to Accommodate in Violation of Title VII and Delaware Discrimination in Employment Act) – against DSCYF only

141. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

142. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by subjecting her to disparate treatment by (1) refusing to hire Plaintiff Madinah Brown because she wore *hijab*- a religious head covering worn by Muslim women, (2) refusing Plaintiffs a reasonable religious accommodation to wear *hijab*, (3) refusing to allow Plaintiffs to work because she wore a *hijab*, and (4) subjecting Plaintiffs to religious discrimination and harassment.

143. Plaintiffs wear the *hijab* – a religious head covering worn by Muslim women.

144. DSCYF refused to hire Plaintiff Madinah Brown in 2011 because she was a Muslim woman who wore the *hijab*.

145. DSCYF was aware that Plaintiffs' *hijab* required an accommodation.

146. Plaintiffs were qualified for the position with NCCDC because NCCDC ultimately hired her after she re-interviewed without her *hijab*.

147. Plaintiffs' request for a religious accommodation to wear a *hijab* does not constitute undue hardship upon DSCYF or otherwise affect DSCYF's business operations.

148. Plaintiffs could have continued to work and perform the duties of their job had her request for an accommodation been honored. DSCYF did not engage in any interactive or good faith process regarding Plaintiff's sincerely-held religious beliefs. Instead, DSCYF ignored Plaintiffs' alternatives, prohibited them from working, and created a hostile work environment for them until their employment ended.

149. Had Plaintiffs' reasonable religious accommodation been met, Plaintiffs would not have been forced to resign.

150. As a result of the failure to accommodate, Plaintiffs were ultimately not allowed to continue working for DSCYF.

151. The willful, intentional, and unlawful action violates the laws and regulations of the State of Delaware, including, without limitation, 19 Del. C. § 710, *et seq.* and the laws and regulations of the United States, including, without limitation, 42 U.S.C. § § 12101, *et seq.*

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count II
**(Hostile Work Environment in Violation of Title VII and the Delaware
Discrimination in Employment Act) – against DSCYF only**

152. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

153. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by subjecting her to a hostile work environment by (1) refusing Plaintiffs a reasonable religious accommodation to wear a *hijab*, (3) refusing to allow Plaintiffs to work because they wore a *hijab*, and (4) subjecting Plaintiffs to a hostile work environment because of her *hijab*.

154. Plaintiffs wears the *hijab* – a religious head covering worn by Muslim women.

155. DSCYF refused to hire Plaintiff Madinah Brown in 2011 because she was a Muslim woman who wore the *hijab*.

156. DSCYF was aware that Plaintiffs' *hijab* required an accommodation.

157. Plaintiffs were qualified for the position with NCCDC because NCCDC ultimately hired her after she re-interviewed without her hijab.

158. Plaintiffs' request for a religious accommodation to wear a *hijab* does not constitute undue hardship upon DSCYF or otherwise affect DSCYF's business operations.

159. Plaintiffs could have continued to work and perform the duties of her job had her request for an accommodation been honored. DSCYF did not engage in any interactive or good faith process regarding Plaintiffs' sincerely-held religious beliefs. Instead, DSCYF ignored Plaintiff's alternatives, prohibited her from working, and created a hostile work environment for her in which employees subjected her to harassment until she was forced to resign.

160. As a result of the hostile work environment, Plaintiffs were ultimately forced to resign.

161. The willful, intentional, and unlawful action violates the laws and regulations of the State of Delaware, including, without limitation, 19 Del. C. § 710, *et seq.* and the laws and regulations of the United States, including, without limitation, 42 U.S.C. § § 12101, *et seq.*

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count III

(Disparate Treatment and Failure to Accommodate on the Basis of Sex in Violation of Title VII and the Delaware Discrimination in Employment Act) – against DSCYF only

162. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein

163. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by subjecting Plaintiffs to disparate treatment by (1) refusing to hire Plaintiffs because she wore a

religious head covering, (2) refusing Plaintiffs a reasonable religious accommodation to wear a religious head covering, (3) refusing to allow Plaintiffs to work because she wore a religious head covering, and (4) subjecting Plaintiffs to religious discrimination and harassment because she wore a religious head covering.

164. Plaintiffs wear the *hijab* – a religious head covering worn by Muslim women.

165. DSCYF refused to hire Plaintiff Madinah Brown in 2011 because she was a Muslim woman who wore the *hijab*.

166. DSCYF was aware that Plaintiffs' *hijab* required an accommodation.

167. Plaintiff Brown was qualified for the position with NCCDC because NCCDC ultimately hired her after she re-interviewed without her *hijab*.

168. Plaintiffs' request for a religious accommodation to wear a *hijab* does not constitute undue hardship upon DSCYF or otherwise affect DSCYF's business operations.

169. Plaintiffs could have continued to work and perform the duties of her job had their request for an accommodation been honored. DSCYF did not engage in any interactive or good faith process regarding Plaintiffs' sincerely-held religious beliefs. Instead, DSCYF ignored Plaintiffs' alternatives, prohibited them from working, and created a hostile work environment for her until their employment ended.

170. Had Plaintiffs' reasonable religious accommodation been met, Plaintiffs would not have been forced to resign.

171. As a result of the failure to accommodate, Plaintiffs' employment ended.

172. The willful, intentional, and unlawful action violates the laws and regulations of the State of Delaware, including, without limitation, 19 Del. C. § 710, *et seq.* and the laws and regulations of the United States, including, without limitation, 42 U.S.C. § § 12101, *et seq.*

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count IV
(Hostile Work Environment on the Basis of Sex in Violation of Title VII and the Delaware Discrimination in Employment Act) – against DSCYF only

173. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

174. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by subjecting her to a hostile work environment by (1) refusing Plaintiffs a reasonable religious accommodation to wear a *hijab*, (3) refusing to allow Plaintiffs to work because they wore a *hijab*, and (4) subjecting Plaintiffs to a hostile work environment because of her *hijab*.

175. Plaintiffs wears the *hijab* – a religious head covering worn by Muslim women.

176. DSCYF refused to hire Plaintiff Madinah Brown in 2011 because she was a Muslim woman who wore the *hijab*.

177. DSCYF was aware that Plaintiffs' *hijab* required an accommodation.

178. Plaintiffs were qualified for the position with NCCDC because NCCDC ultimately hired her after she re-interviewed without her *hijab*.

179. Plaintiffs' request for a religious accommodation to wear a *hijab* does not constitute undue hardship upon DSCYF or otherwise affect DSCYF's business operations.

180. Plaintiffs could have continued to work and perform the duties of her job had her request for an accommodation been honored. Defendant did not engage in any interactive or good faith process regarding Plaintiffs' sincerely-held religious beliefs. Instead, Defendant ignored

Plaintiffs' alternatives, prohibited them from working, and created a hostile work environment for them in which employees subjected her to harassment until their employment ended.

181. As a result of the hostile work environment, Plaintiffs' employment ended.

182. The willful, intentional, and unlawful action violates the laws and regulations of the State of Delaware, including, without limitation, 19 Del. C. § 710, *et seq.* and the laws and regulations of the United States, including, without limitation, 42 U.S.C. § § 12101, *et seq.*

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count V
(Retaliation in Violation of Title VII and
the Delaware Discrimination in Employment Act) – by Ms. Brown against DSCYF only

183. Plaintiff Madinah Brown hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

184. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by (1) retaliating against Ms. Brown by forcing her to leave work because she did not remove her *hijab*; and (2) issuing an Attendance Improvement Plan.

185. DSCYF issued the Attendance Improvement Plan as a pre-text to terminate Plaintiff's employment.

186. The willful, intentional, and unlawful action violates the laws and regulations of the State of Delaware, including, without limitation, 19 Del. C. § 710, *et seq.* and the laws and regulations of the United States, including, without limitation, 42 U.S.C. § § 12101, *et seq.*

WHEREFORE, Ms. Brown requests this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count VI
**(Constructive Discharge in Violation of Title VII and
the Delaware Discrimination in Employment Act) – against DSCYF only**

187. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

188. DSCYF violated Title VII and the Delaware Discrimination in Employment Act by constructively discharging Plaintiffs after they subjected her to a hostile work environment and attempted to compel Plaintiffs to work without the reasonable accommodation their faith required and that Title VII mandated Defendants to provide.

189. DSCYF subjected Plaintiffs to a hostile work environment by (1) refusing Plaintiffs a reasonable religious accommodation to wear a *hijab*, (2) refusing to allow Plaintiffs to work because she wore a *hijab*, and (3) harassing Plaintiffs on the basis of their religion and sex.

190. Plaintiffs' working conditions became so intolerable that Plaintiffs were unable to continue employment with DSCYF.

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count VII
(Retaliation in Violation of the Family and Medical Leave Act) – by Ms. Brown only

191. Plaintiffs hereby reallege and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

192. Defendants violated the Family and Medical Leave Act by retaliating against Brown after she took FMLA leave in March 2019.

193. Upon Ms. Brown's return in July 2019, Defendants retaliated against her by forcing her to leave work; and (2) issuing an Attendance Improvement Plan.

194. Defendants issued the Attendance Improvement Plan as a pre-text to terminate Plaintiff's employment.

195. The willful, intentional, and unlawful action violates 29 U.S.C. § 2601, *et seq.*

WHEREFORE, Ms. Brown requests this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

Count VIII
Violation of Free Exercise Clause (28 U.S.C. § 1983)

196. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

197. Defendants' policies that prohibit Plaintiffs from wearing *hijab* is not rationally based on any legitimate governmental objective.

198. Defendants' policies are motivated at least in part by a hostility towards Islam.

199. The object of Defendants' policies is to infringe upon or restrict the practice of Islam.

200. Defendants' policies are not religiously neutral.

201. Defendants' policies are not justified by a compelling government interest.

202. Defendants' policies are not narrowly tailored to advance any compelling government interest.

203. The Free Exercise Clause separately safeguards an affirmative right for believers to practice their religion. The Supreme Court is currently revisiting the scope of that affirmative right in *Fulton v. Philadelphia*, 19-123. Under the resulting First Amendment doctrine, Defendants' failure to permit Plaintiffs from wearing *hijab* violates the Free Exercise Clause regardless of Defendants' motivation.

204. Defendants' policies violate the Free Exercise Clause of the First Amendment to the United States Constitution.

205. As a result of Defendants' unconstitutional policies, Plaintiffs were ultimately forced to resign.

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.²

Count IX

Violation of Equal Protection Clause – Religious Discrimination (28 U.S.C. § 1983)

206. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

207. Defendants' policies at issue in this case do not have any identifiable legitimate purpose or discrete objective.

208. The purpose of Plaintiffs' policies is to make Muslims unequal to non-Muslims.

209. The purpose of Plaintiffs' policies is to make religious employees unequal to non-religious or secular employees.

210. Defendants' policies are not religiously neutral.

² Plaintiffs only seek damages from the individual capacity Defendants and only seek declaratory and injunctive relief from the official capacity Defendants.

211. Defendants' policies are not justified by a compelling government interest.

212. Defendants' policies violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

213. As a result of Defendants' unconstitutional policies, Plaintiffs were ultimately forced to resign.

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.³

Count X
Violation of Equal Protection Clause – Gender/Sex Discrimination (28 U.S.C. § 1983)

214. Plaintiffs hereby realleges and incorporates by reference herein the foregoing paragraphs as it fully set forth herein.

215. Defendants' policies treat women different than men in that it permits male Muslim employees to dress in accordance with their religious beliefs while prohibiting female Muslim employees to dress in accordance with theirs.

216. Defendants policies do not further an important government interest, in a way that is substantially relates to that interest.

217. As a result of Defendants' unconstitutional policies, Plaintiffs were ultimately forced to resign.

218. Defendants' policies violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

³ Plaintiffs only seek damages from the individual capacity Defendants and only seek declaratory and injunctive relief from the official capacity Defendants.

219. As a result of Defendants' unconstitutional policies, Plaintiffs were ultimately forced to resign.

WHEREFORE, Plaintiffs request this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.⁴

Prayer for Relief

WHEREFORE, Plaintiffs request that this Honorable Court enter judgement in favor of Plaintiff and against Defendants, on each and every county in this Complaint, and enter an Order awarding the following relief:

- A. An injunction prohibiting Defendants from discriminating against employees on the bases of religion, sex, race or color, and/or retaliation thereof;
- B. An injunction ordering Defendants to institute a religious accommodation allowing Muslim workers to wear religious head coverings;
- C. Payment for all economic damages, including but not limited to, back pay, front pay, and lost benefits;
- D. Payment for non-economic damages, including emotional harm;
- E. Punitive damages;
- F. Statutory damages;
- G. An award of attorneys' fees, costs and expenses of all litigation; and,
- H. Any further relief to which Plaintiff is entitled or that this Honorable Court deems just and proper.

⁴ Plaintiffs only seek damages from the individual capacity Defendants and only seek declaratory and injunctive relief from the official capacity Defendants.

Jury Demand

Plaintiffs demand a trial by jury of the above-referenced causes of action.

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ç Pro hac vice forthcoming

Attorneys for Plaintiffs

Dated: August 6, 2020