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| Thomas v Rockefeller Univ. |
| 2026 NY Slip Op 31161(U) |
| March 19, 2026 |
| Supreme Court, New York County |
| Docket Number: Index No. 162135/2024 |
| Judge: Leslie A. Stroth |
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

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KATHLEEN THOMAS

Plaintiff,

- v -

THE ROCKEFELLER UNIVERSITY,

Defendant.

-----X

INDEX NO. 162135/2024

MOTION DATE 03/07/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion to/for DISMISS

In the instant action, plaintiff Kathleen Thomas ("Plaintiff") alleges that defendant The Rockefeller University ("Defendant") discriminated and wrongfully terminated her for refusing to comply with Defendant's COVID vaccine requirement. Plaintiff alleges that she requested an exemption to Defendant's vaccine policy based on her belief that "the use of fetal cell lines in the development or testing of COVID-19 vaccines is immoral and incompatible with her Catholic faith . . . and that participating in involuntary vaccination violates her religious and moral obligations." On or about October 15, 2021, Defendant denied Plaintiff's request for a religious exemption and on or about December 31, 2021, Defendant terminated Plaintiff for her unvaccinated status. Plaintiff was 57 years old and had worked for Defendant for close to 30 years when she was terminated. Plaintiff alleges that Defendant granted exemptions to other employees for religious and medical reasons.

Plaintiff's complaint asserts claims under the New York City Human Rights Law ("NYCHRL") for (1) religious discrimination, (2) age discrimination, and (3) discrimination for

perceived disability. Defendant now moves to dismiss the complaint in its entirety pursuant to CPLR 3211(a)(1) and (7).

LEGAL STANDARD

On a motion to dismiss pursuant to CPLR 3211 (a)(7), the facts alleged in the complaint must be accepted as true, the plaintiff is accorded the benefit of every possible favorable inference, and the court's function is to determine simply whether plaintiff's facts fit within any cognizable legal theory (*see Leon*, 84 NY2d at 87-88; *Siegmund Straus, Inc. v. East 149th Realty Corp.*, 104 AD3d 401 [1st Dept 2013]). “Whether a plaintiff can ultimately establish its allegations is not part of the calculus in determining a motion to dismiss” (*Zurich Am. Ins. Co. v City of New York*, 176 AD3d 1145, 1147 [2d Dept 2019], quoting *EBC I, Inc. v Goldman Sacks & Co.*, 5 NY3d 11, 19 [2005]).

Pursuant to CPLR 3211 (a)(1) “dismissal is warranted only if the documentary evidence submitted conclusively establishes a defense to the asserted claims as a matter of law” (*Leon v Martinez*, 84 NY2d 83, 88 [1994]).

DISCUSSION

Here, Defendant argues that Plaintiff's discrimination claims must be dismissed because granting Plaintiff a religious exemption would have caused Defendant an undue hardship as it would require them to violate the law, specifically the New York State Department of Health Mandate under 10 NYCRR § 2.61 (the “NYS DOH Mandate”). The NYS DOH Mandate required all hospitals to ensure that all “personnel” were vaccinated. “Personnel” were defined as employees “who engage in activities that if they were infected with COVID-19, they could potentially expose other covered personnel, patients or residents to the disease” (10 NYCRR § 2.61(a)(2)).

Defendant argues that Plaintiff qualified as “personnel” under the NYS DOH Mandate because, as an Assistant Custodial Manager, she was required to be present, in-person, at the hospital and to interact with other employees. Therefore, Defendant asserts that it was unable to grant Plaintiff’s exception, and that doing so would qualify as an “undue hardship”, because Defendant would be subject to potential penalties and risks to the hospital’s operating license for violating the NYS DOH Mandate.

In opposition, Plaintiff primarily argues that Defendant’s undue hardship argument fails because Defendants had a religious exemption policy and the complaint alleges that other employees were granted religious exemptions.

The NYCHRL provides that, “[i]t shall be an unlawful discriminatory practice for an employer . . . to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, such person’s creed or religion . . . and the employer shall make reasonable accommodation to the religious needs of such person.” (NYC Admin Code § 8-107[3][a]). Under the NYCHRL, a reasonable accommodation is one that does not cause the employer “undue hardship”, which is defined as “an accommodation requiring significant expense or difficulty”, including an accommodation that poses a “significant interference with the safe or efficient operation of the workplace” (NYC Admin Code § 8-107[3][b]).

For a plaintiff to succeed on a claim for discrimination under the NYCHRL, a plaintiff must prove that: (1) they are members of a protected class, (2) they are qualified to hold the position, (3) they suffered an adverse employment action, and (4) the adverse action occurred under circumstances giving rise to an inference of discrimination ((see *Stephenson v Hotel*

Empls. & Rest. Empls. Union Local 100 of AFL-CIO, 6 NY3d 265, 270 [2006]; see also *Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 305 [2004]).

Here, Plaintiff has failed to allege that the denial of her religious exemption request, or that her firing, occurred under circumstances permitting an inference of discrimination based on her religion, age, or perceived disability. “Discriminatory motivation may be inferred from, among other things, invidious comments about others in the employee’s protected group, or the more favorable treatment of employees not in the protected group” (*Rodriguez v New York City Hous. Auth.*, 225 AD3d 458, 459 [1st Dept 2024] [internal citation omitted]). Here, Plaintiff “does not allege that any decisionmakers made remarks that showed any discriminatory intent” related to his age, religion, or perceived disability (*Brown v City of New York*, 188 AD3d 518, 519 [1st Dept 2020]).

Additionally, Plaintiff does not plead facts demonstrating that she was treated differently than others similarly situated (see *Askin v Department of Educ. Of the City of N.Y.*, 110 AD3d 621 [1st Dept 2013]; see also *Almodovar v City of New York*, 82 Misc 3d 1235(A) [Supt Ct, NY County 2024]). Plaintiff’s complaint does assert that “[u]pon information and belief, Defendant granted exemptions from the vaccine mandate to other employes for both religious and medical reasons” (NYSCEF Doc. No. 2, ¶ 25). However, she does not allege that these employees were similarly situated, in that they were covered by the NYS DOH Mandate, which only applied to employees, like Plaintiff, “who engage[d] in activities such that if they were infected with COVID-19, they could potentially expose other covered personnel, patients, or residents to the disease” (*We the Patriots USA, Inc. v Hochul*, 17 F4th 266, 272 [2d Cir. 2021], citing 10 NYCRR § 2.61[a][2]). As such, Plaintiff has failed to plead facts showing that the denial of her exemption request or her termination were motivated by her religion, age, or perceived disability.

Accordingly, it is hereby

ORDERED that Defendant's motion to dismiss the complaint is granted and it is dismissed; and it is further

ORDERED that Defendant shall, within ten days of the date of this decision and order, serve a copy, with notice of entry, upon Plaintiff; and it is further

ORDERED that Defendant shall, within ten days of the date of this decision and order, serve a copy, with notice of entry, upon the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to enter judgment accordingly.

This constitutes the decision and order of the Court.

3/19/2026
DATE

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION OTHER

APPLICATION: GRANTED SETTLE ORDER SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE

Leslie A. Stroth
HON. LESLIE A. STROTH
J.S.C.