

1 oral argument, and taking the matter under submission, **IT IS HEREBY ORDERED** that SVH’s
2 motion for summary judgment is **GRANTED**.

3 Following the Court’s summary-adjudication order filed on May 11, 2023, Plaintiffs’
4 remaining cause of action against SVH is the Third Cause of Action for “Religious Discrimination –
5 Failure to Provide Reasonable Accommodation in Violation of Government Code § 12940(*l*) Et
6 Seq.” [Defense Undisputed Material Facts (“Defense Facts”) 1, 3.] SVH now moves for summary
7 judgment or summary adjudication of the Third Cause of Action.

8 As explained below, SVH has met its burden of demonstrating that it is immune from suit
9 under Government Code section 855.4 (“Section 855.4”) and that liability under California’s Fair
10 Employment and Housing Act (“FEHA”) does not remove this immunity. Plaintiffs have not shown
11 that triable factual issues exist regarding SVH’s immunity. Therefore, SVH’s motion, whether titled
12 as one for summary judgment or summary adjudication regarding Plaintiffs’ remaining claim
13 against it, is **GRANTED**.

14 The Court’s ruling on the parties’ evidentiary objections, which are **SUSTAINED IN**
15 **PART AND OVERRULED IN PART**, is summarized below. Each party’s request for judicial
16 notice is **GRANTED IN PART AND DENIED IN PART**.

17 **Procedural History and Undisputed Facts.**

18 SVH is a Special District and, therefore, a public entity under Government Code section
19 811.2. [Defense Fact 1.] SVH was the employer of Plaintiffs. [Second Amended Complaint, filed
20 8/22/22, at ¶¶ 1-3, 6-10, 12, 14-21, 24-27, 29.] In the operative Second Amended Complaint,
21 Plaintiffs claim in their Third Cause of Action that SVH failed to accommodate their religion-based
22 request for an exemption from the mandatory COVID-19 vaccination order. [Defense Fact 1.] In its
23 Amended Answer, SVH asserted Section 855.4 immunity as its 21st Affirmative Defense. [Answer,
24 filed 10/17/25, at 6:15-17.]

25 On August 5, 2021, the California Department of Public Health (“CDPH”) issued an order
26 requiring all healthcare workers in California to be fully vaccinated by September 30, 2021, as an
27 important and necessary step in preventing the spread of COVID-19. [Defense Fact 5.] Based on its
28 comprehensive review of relevant factors, including an examination of medical literature and

1 studies, SVH implemented a vaccine mandate requiring all employees to be vaccinated. [Defense
2 Fact 6.]

3 Employees who refused the vaccine were terminated as of October 1, 2021, and those who
4 obtained religious and/or medical exemptions were placed on leave and continued to receive health
5 insurance. [Defense Fact 7.] The employees could not remain on leave of absence indefinitely, and,
6 through negotiations with the two unions, employees with medical and/or religious exemptions
7 were ultimately released from employment if they continued to refuse the vaccine. [Defense Fact 8.]

8 SVH’s decision to enforce the vaccine requirement and release Plaintiffs from their
9 employment promoted public health by preventing disease and limiting its spread within the
10 community. [Defense Fact 9.]

11 **Legal Standard.**

12 Summary judgment or adjudication is warranted where there are no triable issues of material
13 fact, and the moving party is entitled to judgment as a matter of law. [Code Civ. Proc. § 437c,
14 subds. (c), (f); *see Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.]

15 Courts follow a three-step process when reviewing a motion for summary judgment or
16 adjudication: (1) identify the issues outlined by the pleadings; (2) evaluate whether the moving
17 party has disproved the opponent’s claims; and (3) assess if the opposition has shown there is a
18 triable factual issue. [*Hinesley v. Oakshade Town Center* (2005) 135 Cal.App.4th 289, 294.]

19 A motion for summary adjudication proceeds “in all procedural respects as a motion for
20 summary judgment.” [Code Civ. Proc. § 437c, subd. (f)(2).] The initial burden always rests on the
21 moving party to make a prima facie showing that no material factual issues are in dispute.
22 [*Choochagi v. Barracuda Networks, Inc.* (2020) 60 Cal.App.5th 444, 453.] When a defendant files
23 for summary judgment or adjudication, they satisfy their initial burden if they prove that at least one
24 element of the cause of action cannot be established or that a complete defense exists. [Code Civ.
25 Proc. § 437c, subd. (p)(2).] Failure to meet this burden results in denial of the motion, ending the
26 inquiry. [*Id.*]

27 To meet the burden of proving that a cause of action cannot be established, a defendant must
28 demonstrate that the plaintiff does not possess, and cannot reasonably obtain, the needed evidence.

1 [Aguilar, 25 Cal.4th at 854.] Merely pointing out the lack of evidence is not enough. [Gaggero v.
2 Yura (2003) 108 Cal.App.4th 884, 891.] This supporting evidence may include affidavits,
3 declarations, admissions, depositions, answers to interrogatories, and matters subject to judicial
4 notice. [Aguilar, 25 Cal.4th at 855.]

5 Even if the moving defendant meets its burden, the opposing plaintiff can still defeat a
6 summary judgment or summary adjudication motion by presenting evidence that raises a triable
7 issue of fact. [Aguilar, 25 Cal. 4th at 849-850.] The plaintiff cannot rely solely on allegations or
8 denials in its pleadings; instead, it must present specific facts indicating the existence of a triable
9 issue of material fact concerning the cause of action. [Code Civ. Proc. § 437c, subd. (p)(2);
10 Choochagi, 60 Cal.App.5th at 453.] If the plaintiff fails to do so, summary judgment or summary
11 adjudication should be granted. [See Avivi v. Centro Medico Urgente Medical Center (2008) 159
12 Cal.App.4th 463, 467.]

13 The court must liberally construe the evidence presented by the party opposing summary
14 judgment or adjudication, resolving all doubts and making all reasonable inferences in favor of that
15 party. [Aguilar, 25 Cal.4th at 844-845.] When reviewing such a motion, the court must consider
16 what inferences a factfinder could reasonably draw that favor the opposing party. [Binder v. Aetna
17 Life Ins. Co. (1999) 75 Cal.App.4th 832, 839.] The main role of the court is to identify issues, not to
18 decide them; only clear and indisputable inferences can lead to a legal resolution. [Ibid.] If evidence
19 conflicts, factual disputes must be resolved during trial. [Ibid.] Furthermore, the trial court cannot
20 weigh evidence as a factfinder would to determine credibility, nor can it grant summary judgment
21 based on credibility assessments. [Id. at 840.]

22 **Requests for Judicial Notice (“RJN”).**

23 SVH’s request to judicially notice the documents marked as Exhibits A (Supreme Court’s
24 Order Regarding Depublication of *Allos v. Poway Unified School Dist.*, No. S292190) and B (Order
25 Granting Summary Judgment in *Broadstreet v. Salinas Valley Memorial Healthcare System*,
26 Monterey County Superior Court, Case No. 24CV004109) is **GRANTED**. [Evid Code § 452, subd.
27 (d).]
28

1 Plaintiffs’ request to judicially notice the documents marked as Exhibits 1 (California
 2 Department of Public Health Order), 3 (Law Revision Commission memorandum), 4 (Law
 3 Revision Commission recommendation), 6 (Legislative history of Assembly Bill 1194), and 7
 4 (Legislative history of Assembly Bill 1194) is **GRANTED**. [Evid. Code § 452, subd. (c).]
 5 Plaintiffs’ remaining requests are **DENIED**. The document marked as Exhibit 2 (a demurrer ruling
 6 in an unrelated case) is irrelevant. [See *Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th
 7 1057, 1063 (“[a]lthough a court may judicially notice a variety of matters, only *relevant* material
 8 may be noticed.”) (original italics; internal citation omitted).] The exhibit marked as Exhibit 5
 9 (California Government Tort Liability) is not official legislative history.

10 SVH’s second request to judicially notice the demurrer papers (Exhibit A) and the resulting
 11 order (Exhibit B) from an unrelated case filed in the Los Angeles County Superior Court is
 12 **DENIED** as irrelevant. [*Mangini*, 7 Cal.4th at 1063.]

13 **Evidentiary Objections.**

14 The Court rules on each party’s evidentiary objections as follows:

PLAINTIFFS’ OBJECTIONS		
No(s).	Cite	Ruling
1 2 3	Childs Decl. at ¶¶ 4, 23-24.	OVERRULED.
4 6	Childs Decl. at ¶¶ 25, 27.	SUSTAINED because it is a legal conclusion as to “undue hardship.”
5	Childs Decl. at ¶ 26.	SUSTAINED because it lacks foundation.
7 8	Dr. Reingold Decl. at ¶¶ 11, 13.	OVERRULED.
9 10 11 12 13 14 15 16 18 19 21 23	Dr. Radner Decl. at ¶¶ 8, 9, 12, 16, 17, 18, 20, 21, 25, 26, 29, 31.	OVERRULED.
11 (sic)	Dr. Radner Decl. at ¶ 13.	SUSTAINED because he lacks foundation as to the intent behind the CDPH’s August 5, 2021, order.

PLAINTIFFS' OBJECTIONS		
No(s).	Cite	Ruling
17 20 22 24	Dr. Radner Decl. at ¶¶ 22, 27, 30, 32.	SUSTAINED because it is a legal conclusion as to "undue hardship."

SVH'S OBJECTIONS		
No.	Cite	Ruling
1	Exh. 2 to Plaintiffs' RJN and Compendium of Evidence ("CE").	SUSTAINED as irrelevant.
2	Exh. 3 to Plaintiffs' RJN and CE.	OVERRULED.
3	Exh. 5 to Plaintiffs' RJN and CE.	SUSTAINED because it is a legal conclusion as to "reasonableness" accommodation.
4 5	Exhs. 6-7 to Plaintiffs' RJN and CE.	OVERRULED.
6	Exh. 8 to Plaintiffs' CE.	OVERRULED. On May 11, 2026, Plaintiffs filed the relevant excerpts from the certified transcript of Dr. Radner's deposition testimony.

Discussion.

SVH argues that summary judgment should be granted because it has Section 855.4 immunity from FEHA liability, citing the holding in *Allos v. Poway Unified School Dist.* (2025) 112 Cal.App.5th 822 as support. [Motion at 11-12.] Plaintiffs strongly disagree and offer various arguments, including that "Section 855.4 does not provide blanket immunity for all actions taken during a public health response" and that *Allos* is not determinative. [Opp. at 6:1-7:4.] Ultimately, as discussed below, SVH makes the stronger arguments, and therefore, its motion for summary judgment is **GRANTED**.

Generally, the Government Claims Act (the "Act") "affords a public employee personal immunity from suit when the act or omission for which recovery is sought resulted from the exercise of the discretion vested in him." [*Caldwell v. Montoya* (1995) 10 Cal.4th 972, 976 (citing Gov. Code § 820.2; internal quotes omitted).] "This 'discretionary act' immunity extends to 'basic' governmental policy decisions entrusted to broad official judgment." [*Ibid.*] The Act's "purpose is assuring judicial abstention in areas in which the responsibility for basic policy decisions has been committed to coordinate branches of government, because any wider judicial review would place the court in the unseemly position of determining the propriety of decisions expressly entrusted to a

1 coordinate branch of government.” [*Allos*, 112 Cal.App.5th at 833 (internal quotes, brackets, and
2 ellipses omitted).]

3 Section 855.4 is part of the Act. Subdivision (a) of Section 855.4 provides that “Neither a
4 public entity nor a public employee is liable for an injury resulting from the decision to perform or
5 not to perform any act to promote the public health of the community by preventing disease or
6 controlling the communication of disease within the community if the decision whether the act was
7 or was not to be performed was the result of the exercise of discretion vested in the public entity or
8 the public employee, whether or not such discretion be abused.” Further, subdivision (b) states that
9 a public entity or its employee is not liable for any injury “caused by an act or omission in carrying
10 out with due care” such a decision. “Neither the statutory language nor case law interpreting it
11 suggests a defendant must qualify for immunity under both section 855.4 subdivision (a) and
12 section 855.4 subdivision (b) in order to be immune.” [*Greenwood v. City of Los Angeles* (2023) 89
13 Cal.App.5th 851, 865.]

14 It is undisputed that SVH is a public entity and therefore falls within the class of entities
15 Section 855.4 aims to protect. [Defense Fact 2.] Consequently, by seeking summary judgment based
16 on the affirmative defense of Section 855.4 immunity, SVH must demonstrate there is no genuine
17 issue of material fact because any injury resulting from its failure to accommodate Plaintiffs’
18 religious beliefs was due to a discretionary decision made to promote public health during the
19 COVID-19 pandemic. [*Aguilar*, 25 Cal.4th at 850; Gov. Code § 855.4.]

20 SVH contends that *Allos* is controlling and confirms that Section 855.4 immunizes it from
21 Plaintiffs’ Third Cause of Action under FEHA. [Motion at 11-13.] In that case, the plaintiff was a
22 school district employee who filed claims after the district refused to let her work only from home
23 following the COVID-19 stay-at-home order. [*Allos*, 112 Cal.App.5th at 826-827, 829-830.] She
24 wanted to work remotely full-time because of several health problems that made her more
25 vulnerable to COVID-19. [*Id.* at 827-829.] The plaintiff claimed she could not get vaccinated due to
26 a “prior serious reaction/allergy” to the vaccine, which she stated was a disability the school district
27 had to accommodate. [*Id.* at 828, 831.] Plaintiff argued that the district’s various accommodations
28 were inadequate. [*Id.* at 829.] The trial court granted, and the appellate court affirmed, summary

1 judgment in favor of the district because the plaintiff’s “claims were barred by section 855.4.” [*Id.*
2 at 831-832, 834-836.] In doing so, the court in *Allos* reasoned that Section 855.4 bars the plaintiff’s
3 claims because they are rooted in the school district’s decisions about remote work and returning to
4 the office. [*Ibid.*] Additionally, the appellate court found that the plaintiff did not clearly establish
5 she had a disability, which weakened her FEHA disability discrimination and failure-to-
6 accommodate claims. [*Id.* at 837.]

7 The Court agrees with SVH that *Allos* “confirms that [Section 855.4] immunity applies
8 here.” [Motion at 11.] Like *Allos*, Plaintiffs seek to hold SVH responsible for harm caused by its
9 decision to require them to be vaccinated. However, SVH made this decision “[b]ased upon a
10 thorough evaluation of all relevant factors, including review of the relevant medical literature and
11 conferring with all the major Monterey County hospitals . . .” [Defense Fact 6.] SVH’s reason for
12 enforcing its vaccine mandate, placing Plaintiffs on leave, and ultimately releasing them from their
13 employment was to “promote the public health of the community by preventing the COVID-19
14 disease and controlling the communication of disease within the community.” [Defense Fact 9.] In
15 other words, conduct contrary to SVH’s vaccine mandate would have been less protective of the
16 public. Therefore, SVH’s decision not to accommodate Plaintiffs because of its vaccine mandate
17 arises from its efforts to protect public health. Consequently, Section 855.4 applies to Plaintiffs’
18 FEHA claim.

19 Plaintiffs’ arguments fail to persuade the Court to rule otherwise.

20 First, Plaintiffs argue that there was no qualifying discretionary decision. Plaintiffs contend
21 that SVH “merely copied” and “adopted” the CDPH’s preexisting public-health directives. [*See*
22 Plaintiffs’ Undisputed Material Fact 15.] This argument overlooks and does not negate SVH’s
23 evidence that its decision to implement its vaccine mandate was made more directly by its
24 management team. [Defense Facts 4, 6, 9.] Therefore, SVH’s decision was independent of the
25 CDPH’s mandate requiring health care workers to be vaccinated, while also allowing for medical
26 and religious exemptions.

27 Second, Plaintiffs argue that SVH’s evidence confirms that the challenged conduct was
28 based on operational and staffing concerns, not on the type of disease-control measures

1 contemplated by Section 855.4. [Opp. at 13:19-14:10.] Not so. Dr. Radner stated in paragraph 21 of
2 his declaration that allowing unvaccinated employees to work in the hospital would have
3 significantly increased the risk of severe disease, hospitalization, or death to SVH’s staff, patients,
4 and visitors. Thus, Dr. Radner made it clear that the focus was on the community’s public health –
5 the patients – rather than “operational and staffing concerns.” Plaintiffs’ reliance on *Sava v. Fuller*
6 (1967) 249 Cal.App.2d 281 is misplaced because it did not involve Section 855.4. [*Id.* at 292
7 (“Respondents contend they are also immune under section 855.4. That section is inapplicable.”).]

8 Third, Plaintiffs are mistaken in believing that Section 855.4, subdivision (b), only applies
9 when the plaintiff’s injury results from exposure to a communicable disease in a physical
10 environment. [Opp. at 16-17.] Such an interpretation contradicts the plain language of Section
11 855.4, which states that neither a public entity nor a public employee is liable for an “injury” caused
12 by a public health decision. [Gov. Code § 855.4, subd. (a).] The term “injury” is defined as “death,
13 injury to a person, reputation, character, feelings or estate, of such nature that it would be actionable
14 if inflicted by a private person.” [Gov. Code § 810.8.] The Court finds Plaintiffs’ injury stems from
15 their termination, which resulted from SVH’s decision to bar unvaccinated employees from patient
16 care. [Defense Facts 7, 8.]

17 Fourth, Plaintiffs argue that *Allos* is distinguishable and point out that their “**claims arise**
18 **from subsequent employment decisions governed by FEHA, not from any qualifying decision**
19 **under section 855.4, subsections (a) or (b).”** [Opp. at 6 (bold in original).] The Court is not
20 persuaded that Section 855.4 immunity does not apply to FEHA-related claims, including Plaintiffs’
21 Third Cause of Action. California law generally recognizes that “a statutory governmental
22 immunity overrides a statute imposing liability,” and that “absent a clear indication of legislative
23 intent that statutory immunity is withheld or withdrawn, a specific statutory immunity applies to
24 shield a public employee from liability imposed by a particular statute.” [*Bitner v. Dept. of*
25 *Corrections & Rehabilitation* (2023) 87 Cal.App.5th 1048, 1059 (internal quotes and ellipsis
26 omitted).] A public entity, such as SVH, is subject to any immunity provided by statute. [Gov. Code
27 § 815, subd. (b).] SVH’s cited authorities in its motion demonstrate that FEHA’s mandatory duty to
28 accommodate religious beliefs does not override statutory immunity for discretionary acts. [Motion

1 at 16-17; *Esparza v. County of Los Angeles* (2014) 224 Cal.App.4th 452, 462 (FEHA did not
2 abrogate Government Code section 818.2 immunity conferred by section 818.2); *Bitner*, 87
3 Cal.App.5th at 1063 (“[E]ven if we were to accept that FEHA creates a mandatory duty within the
4 meaning of [Government Code] section 815.6, section 815 provides that the immunity provision of
5 section 844.6 takes precedence over any liability imposed by section 815.6, and plaintiffs’ argument
6 to the contrary is without merit.”).] Thus, like other statutory immunities, and as recognized in
7 *Allos*, 112 Cal.App.5th at 835, FEHA liability does not supersede Section 855.4 immunity. The
8 Court notes that Plaintiffs’ argument that no immunity applies when FEHA is the more specific
9 statute was rejected in *Bitner*, 87 Cal.App.5th at 1060-1062, because the distinction between
10 “general” and “specific” is based on subject matter. FEHA is an extensive statutory scheme
11 designed to support a broad public policy of protecting against employment discrimination; thus,
12 the later enactment of FEHA was not decisive.

13 Fifth, the Court disagrees with Plaintiffs’ argument that SVH proposes an interpretation of
14 Section 855.4 that does violence to “the very purpose of the immunity provision.” [Opp at 21.]
15 Indeed, the legislative history of the statute does not support Plaintiffs’ limited view of it. As noted
16 by the 1963 Law Revision Commission recommendation:

17 4. Public health officials and public entities should not be liable for
18 determining whether to impose quarantines or otherwise take action to prevent or
19 control the spread of disease, where they have been given the legal power to
20 determine whether or not such action should be taken. Where the law gives a public
21 employee discretion to determine a course of conduct, liability should not be based
22 upon the exercise of that discretion in a particular manner; for this would permit the
23 trier of fact to substitute its judgment as to how the discretion should have been
24 exercised for the judgment of the person to whom such discretion was lawfully
25 committed...

26 5. Public entities and public employees should not be liable for failure to
27 make arrests or otherwise to enforce any law. They should not be liable for failing to
28 inspect persons or property adequately to determine compliance with health and
safety regulations, nor should they be liable for negligent or wrongful issuance or
revocation of licenses and permits. The government has undertaken these activities
to insure public health and safety. To provide the utmost public protection,
governmental entities should not be dissuaded from engaging in such activities by
the fear that liability may be imposed if an employee performs his duties
inadequately.

1 [Exh. 4 to Plaintiffs' RJN at 830-831 (¶¶ 4, 5).]

2 Accordingly, SVH's motion for summary judgment is **GRANTED** because it has met its
3 burden of showing that Section 855.4 immunity overrides the FEHA liability alleged in the Third
4 Cause of Action. Plaintiffs have not provided any material facts raising triable factual issues to the
5 contrary.

6 **Conclusion.**

7 SVH's motion is **GRANTED**, and SVH is entitled to summary judgment of Plaintiffs' claim
8 against it. As detailed above, the parties' evidentiary objections are **SUSTAINED IN PART AND**
9 **OVERRULED IN PART**, and their request for judicial notice is **GRANTED IN PART AND**
10 **DENIED IN PART.**

11 SVH shall prepare the Proposed Judgment consistent with this Order. All future dates are
12 **VACATED.**

13 **IT IS SO ORDERED.**

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15 DATED: May 12, 2026

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17 Ian A. Rivamonte
18 Superior Court Judge

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