

II. JURISDICTION

4. This action arises under the United States Constitution, federal statutes, and Pennsylvania law.
5. This Court has jurisdiction over Plaintiff's federal claims by operation of 28 U.S.C. §§ 1331 and 1343, and 42 U.S.C. § 2000e-5. This Court has jurisdiction over Plaintiff's claims for declaratory relief under 28 U.S.C. § 2201-02. This Court has supplemental jurisdiction over Plaintiff's state claims pursuant to 28 U.S.C. § 1367.
6. All conditions precedent to jurisdiction under 42 U.S.C. § 2000e-5(f)(3) have been met. Plaintiff was issued a Notice of Right to Sue by the EEOC on August 22, 2014.

III. VENUE

7. Venue is proper in the United States District Court for the Eastern District of Pennsylvania in that the events giving rise to the Plaintiff's claims occurred within the district.

IV. IDENTIFICATION OF PARTIES

8. Plaintiff, Doris Fernandes, M.D., is a citizen of the United States and a resident of the Commonwealth of Pennsylvania. She was employed as a pediatrician at the City of Philadelphia Department of Public Health's District Health Center No. 4 at 4400 Havereford Avenue for 35 years, from September 1978 until November 15, 2013.
9. Defendant, City of Philadelphia, is a municipality within the State of Pennsylvania, which may sue and be sued.
10. Defendant, City of Philadelphia Department of Public Health ("the Department"), is a department of the City of Philadelphia, a City of the First Class, a municipal government entity under the laws of the Commonwealth of Pennsylvania. The Department employed the Plaintiff, either directly or as a contract physician.

11. Defendant, Victor Igbokidi, M.D., was, at all relevant times, the Medical Director of Pediatric and Adolescent Services at the Department. He was Dr. Fernandes' immediate supervisor. He is sued in his individual and official capacities.
12. Defendant, Thomas Storey, M.D., was, at all relevant times, the Director of Ambulatory Health Service of the Department. He is sued in his individual and official capacities.

V. ALLEGATIONS OF FACT

13. Plaintiff, Doris Fernandes, M.D., is a physician who worked at the Department for 35 years.
14. Born in India, Dr. Fernandes graduated from King George's Medical College in Lucknow, India in 1955. She worked as a doctor in India and England before coming to the United States in 1976. She did a pediatrics residency at the Hospital of the Medical College of Pennsylvania before beginning work at District Health Center No. 4 in September, 1978.
15. For 35 years, Dr. Fernandes provided comprehensive primary and preventive care to children and adolescents of Philadelphia, missing only one day for illness during the entire period.
16. Dr. Fernandes is an adherent of the Catholic faith. In accordance with her understanding and practice of her religion, she did not prescribe contraception for children who were her patients, nor did she make medical referrals for such services.
17. For most of Dr. Fernandes' 35 years with the Department, her religiously-motivated practice of not prescribing contraception for children who were her patients or making medical referrals for same was not an issue. On the rare occasions when a patient would present with a request for birth control of some kind, Plaintiff would simply reply "I don't do that," at which time the patient would go back to the receptionist to be

reassigned to the other physician on duty. In the absence of the other physician, patients would have access to the city-run family planning unit and/or general medical office in the same building.

18. During the period from 1978 through 2012, the Department was aware of and honored Plaintiff's religious beliefs and the protocol she followed when presented with a request for contraception.

19. Beginning in 2013, however, Plaintiff became aware of a new effort by the Department to have all of its pediatricians prescribe birth control of all kinds including such types as Depo-Provera injections and the "morning-after pill."

20. In February, 2013, Dr. Igbokidi specifically informed Dr. Fernandes that she would be required to provide such services.

21. In March 11, 2013, Plaintiff wrote a letter to Defendant Igbokidi in which she set forth her understanding of the new policy and stated, among other things:

"This letter is to let you know that I cannot participate in any of the above, for such participation is strictly forbidden by my religious beliefs and against my conscience."

22. Despite having asked for a written response to her letter, no response was forthcoming from the Department.

23. The issue resurfaced in a meeting in August, 2013. Dr. Fernandes again voiced her religious objection to participating in the services in question. She made clear that her religious beliefs would not permit her to make a medical referral for such services because this would involve an impermissible degree of moral complicity in, and facilitation of, what she considers to be, based on her religious beliefs, immoral activity.

24. On November 15, 2013, Dr. Fernandes was called to a meeting at which Dr. Igbokidi handed her a letter informing her that her service with the Department was being

terminated as of that day primarily because she had “publicly and privately declined to participate” in efforts to prescribe contraception, including abortifacient forms of same, to children and adolescents or make referrals for same.

25. On information and belief, Defendant Storey participated in the decision to terminate Plaintiff’s employment based on her religious objection to participating in the services in question.

VI. ALLEGATIONS OF LAW

26. The Defendants, and each of them, are “persons” as that term is used in 42 U.S.C. § 1983.

27. All of the conduct of the Defendants as set forth in this Complaint constitutes conduct “under color of state law” as that phrase is used in 42 U.S.C. § 1983.

28. All of the actions of the Defendants as set forth in this Complaint were done pursuant to governmental policy or practice.

29. The acts of the Defendants were done by them, where applicable, in their individual and official capacities.

FIRST COUNT
TITLE VII CLAIM

30. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

31. The Defendants’ actions in terminating Plaintiff’s services based on her religious beliefs and practices, and/or failing to accommodate same, constitute religious discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, *et seq.*

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

SECOND COUNT
FREE EXERCISE CLAIM

32. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

33. The Defendants' actions in terminating Plaintiff's services based on her religious beliefs and practices, and her expression of same, violated Plaintiff's right to freedom of religion as guaranteed by the First and Fourteenth Amendments to the U.S. Constitution and protected by 42 U.S.C. § 1983.

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

THIRD COUNT
CHURCH AMENDMENT

34. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

35. On information and belief, the Defendants, City of Philadelphia, and City of Philadelphia Department of Health, were at all relevant times recipients of grants, contracts, loans, or loan guarantees under programs administered by the U.S. Secretary of Health and Human Services.

36. The Defendants' action in terminating Plaintiff's services due to her unwillingness to participate in certain services because of her moral or religious convictions violates Plaintiff's rights under U.S.C. § 300a-7(b)(c)(d).

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

FOURTH COUNT
PENNSYLVANIA HUMAN RELATIONS ACT

37. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

38. The Defendants' actions in terminating Plaintiff's services based on her religious beliefs and practices, and failing to accommodate same, constitute religious discrimination in violation of the Pennsylvania Human Rights Act, 43 P.S. § 951 *et seq.*

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

FIFTH COUNT
PENNSYLVANIA CONSTITUTION

39. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

40. The Defendants' actions in terminating Plaintiff's services based on her religious beliefs and practices interfere with Plaintiff's rights of conscience in violation of Art. I, § 3 of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

SIXTH COUNT
PENNSYLVANIA ABORTION CONTROL ACT

41. Plaintiff alleges and incorporates by reference all of the preceding paragraphs of this Complaint.

42. The Defendants' actions in terminating Plaintiff's services due to her unwillingness to participate in the facilitation of dispensing of abortifacients violate 18 Pa. C.S. § 3213(d).

WHEREFORE, Plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

PRAYER FOR RELIEF

Based on the foregoing, Plaintiff, Doris Fernandes, M.D., respectfully requests the Court to grant judgment as follows:

1. A declaratory judgment that defendants' actions violated Plaintiff's rights under the First and Fourteenth Amendments to the U.S. Constitution and the Federal and State statutory grounds alleged herein.
2. Monetary damages (including punitive damages for Defendants' actions in their individual capacities) in an amount to be determined by the jury.
3. Reasonable attorney's fees and costs as allowable under 42 U.S.C. § 1988, and other applicable statutes.
4. Any and all further relief the Court deems just.

JURY DEMAND


Plaintiff demands a jury trial on all issues so triable.



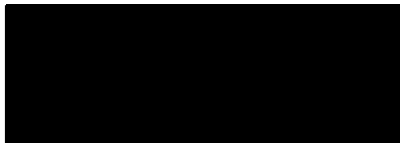
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**Motion for admission pro hac vice to be filed.*