UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LA COUNTY FREE FOUNDATION, Plaintiff, v. COUNTY OF LOS ANGELES, Defendants.	Case No. 2:22-cv-00787-MCS-AS **ORDER GRANTING IN PART MOTION TO DISMISS (ECF NO. 21)**

Defendant County of Los Angeles moved to dismiss the complaint. Mot., ECF No. 21. Plaintiff LA County Free Foundation opposed the motion, Opp'n, ECF No. 23, and Defendant replied, Reply, ECF No. 24. The Court heard argument on the motion on April 11, 2022. ECF No. 27.

I. BACKGROUND

Plaintiff gives the following account of the COVID-19 pandemic in the First Amended Complaint. The original strain of COVID-19 was identified in the first months of 2020. FAC ¶ 15, ECF No. 1-10. COVID-19 vaccines were developed to target this original strain. *Id.* The Delta variant, first identified in the summer of 2021, became the dominant strain around September 2021. *Id.* ¶¶ 16–17. The Delta variant "evaded the Covid Vaccines," and the Centers for Disease Control ("CDC") conducted

a study which determined 74% of diagnosed Delta variant cases occurred in fully vaccinated people. *Id.* ¶ 16. In December 2021, a new variant, the Omicron variant, began to spread. *Id.* ¶ 19. As of the date of filing the FAC, 95% of new COVID-19 cases were caused by the Omicron variant. *Id.*

The vaccines used to combat COVID-19 received Food and Drug Administration ("FDA") approval through emergency use authorization ("EUA"). *Id.* ¶ 21. These vaccines were all developed to address the original COVID-19 strain. *Id.* An EUA "represents the FDA's decision that a product may be effective against a disease in a public health emergency when there is no 'adequate, approved, and available alternative.'" *Id.* ¶ 23 (quoting 21 U.S.C. § 360bbb-3(c)(3)). The FDA granted a Biologics License Application for the Comirnaty vaccine produced by Pfizer. *Id.* ¶ 24. In this grant, the FDA stated that "the scientific community does not yet know if Comirnaty will reduce" COVID-19 transmission. *Id.* ¶ 25 (quoting a December 7, 2021 press release).

Since July 2021, the Centers for Disease Control has advised that vaccines do not prevent transmission of the Delta variant of COVID-19 and that additional preventative measures, including testing, masking, and isolation, are needed to stop transmission for fully vaccinated people. *Id.* ¶ 26. Existing vaccines seem to fare even worse against the Omicron variant, with the CEO of BioNTech, a company that developed an approved COVID-19 vaccine, stating that "the COVID-19 vaccine shots won't be enough to combat the Omicron variant." *Id.* ¶ 28. Plaintiff then without citation asserts that "many experts currently say" the following about the Omicron variant:

a. Omicron Covid has broken through all forms of immunity both natural immunity from the prior variants as well as through the vaccines.

b. A natural infection of Omicron develops immunity against future Omicron infections on the scale of a 14-fold boost in antibody related immunity.

c. A natural infection of Omicron develops only a 4-fold boost against the Delta variant.

d. Omicron is the most heavily mutated form of the virus. It multiplies in the nose 70 times faster than Delta.

e. Symptoms of the Delta variant were more severe including attacking pulmonary systems in younger people.

f. Symptoms of the Omicron variant are mild, typically including a day or two of fever or warmth.

Id. ¶ 29. Plaintiff also states "it is scientifically irrefutable that long term health and safety side effects" of vaccines are "presently unknown." *Id.* ¶ 30. Plaintiff asserts, again without citation, that "[o]nly vigilant long term human trial data, accumulated over a statistically significant period, will allow scientists to reasonably understand the long-term side effects of the Covid Vaccines." *Id.*

Plaintiff next cites data for 2021 from the Vaccine Adverse Effects Report System ("VAERS") database. *Id.* ¶ 31. Plaintiff identifies 698,177 reports of adverse effects to the COVID-19 vaccines, where 244,277 people have not recovered from these adverse side effects. *Id.* Of these 698,177 adverse events, Plaintiff identifies 9,607 deaths, 10,883 life-threatening illnesses, and 45,819 hospitalizations. *Id.* ¶ 32. In a webpage titled "Guide to Interpreting VAERS Data" on the website Plaintiff cites, the user guide warns that "VAERS collects data on any adverse event following a vaccination, be it coincidental or truly caused by a vaccine," and thus that "no cause-and-effect relationship has been established" between a vaccination and an adverse event. *Guide to Interpreting VAERS Data*, VAERS (last visited May 23, 2022), https://vaers.hhs.gov/data/dataguide.html.[1]

[1] Because Plaintiff cites the VAERS website in the First Amended Complaint, the Court may consider this webpage under the incorporation by reference doctrine. *United States*

Plaintiff goes on to state that "one reasonable opinion is that because the Covid Vaccines are not yet proven safe, clinical trial data is incomplete, and efficacy as against the Omicron variant is diminished, Covid Vaccines should not be taken, just yet." *Id.* ¶ 33. Plaintiff states that short- and long-term effects of the vaccines "cannot be understood until, at least, completion of all 20 primary clinical trials." *Id.* ¶ 34.

On August 4, 2021, the Los Angeles County Board of Supervisors issued an executive order mandating that every County employee receive a COVID-19 vaccination. FAC ¶ 2. On October 1, 2021, the County issued a Vaccination Policy requiring every County employee to receive a COVID-19 vaccination within 45 days of a written demand to do so. *Id.* ¶ 3; *see also* FAC Ex. D ("Vaccination Policy"), ECF No. 1-10. On October 12, 2021, the County required that all County employees who had not provided proof of full vaccination register in an internal system. FAC ¶ 5. The County also required employees who had not provided proof of full vaccination to test for COVID-19 once a week. *Id.* Plaintiff notes that the Vaccination Policy states as justification that health authorities "uniformly cite vaccination as the most effective way to prevent transmission and limit COVID-19." *Id.* ¶ 37. Plaintiff states this justification "was incorrect as against the Delta variant at the time the Vaccination Policy was issued, and is most certainly incorrect as against the current Omicron variant" because the CDC no longer provides this guidance. *Id.* ¶ 38.

Plaintiff argues that the decision made by the County "must properly account for Omicron and may not be based on stale scientific evidence that might have applied to original COVID-19, but not to Omicron (or Delta)." *Id.* ¶ 8. Plaintiff also asserts that a vaccinate-or-test policy is a reasonable alternative to a vaccine mandate and thus should be equally applied to the firefighters Plaintiff represents. *Id.* ¶ 9. At the time of the First

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v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003) (A document "may be incorporated by reference . . . if the plaintiff refers extensively to the document or the document forms the basis of the plaintiff's claim.").

Amended Complaint, no 45-day notice to be vaccinated had been issued. *Id.* ¶ 10.

Plaintiff brings five claims: (i) a claim under the California Constitution for a violation of autonomous privacy rights in bodily integrity and personal health, *id.* ¶¶ 44–57; (ii) a claim under the United States Constitution for violation of privacy rights in bodily integrity, *id.* ¶¶ 58–67; (iii) a claim that Defendant engaged in ultra vires legislation by issuing the Vaccination Policy, *id.* ¶¶ 68–81; (iv) a claim that Defendant violated the Ralph M. Brown Act, *id.* ¶¶ 82–94; and (v) a claim that Defendant violated the firefighters' administrative due process rights, *id.* ¶¶ 95–105. Plaintiff seeks declaratory relief, injunctive relief, and attorney's fees.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(6) allows an attack on the pleadings for "failure to state a claim upon which relief can be granted." "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

The determination of whether a complaint satisfies the plausibility standard is a "context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 679. Generally, a court must accept the factual allegations in the pleadings as true and view them in the light most favorable to the plaintiff. *Park v. Thompson*, 851 F.3d 910, 918 (9th Cir. 2017); *Lee v. City of Los Angeles*, 250 F.3d 668, 679 (9th Cir. 2001). But a court is "not bound to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555).

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III. DISCUSSION

A. California Privacy Rights Claim

To state a claim for a violation of the California constitutional right to privacy, a plaintiff must show three threshold elements: (1) a legally protected privacy interest; (2) a reasonable expectation of privacy; and (3) conduct that constitutes a serious invasion of privacy. *Hill v. Nat'l Collegiate Athletic Ass'n*, 7 Cal. 4th 1, 39–40 (1994). Once a plaintiff demonstrates these elements, the government may justify any action or policy by showing the existence of a competing interest that is legally authorized and socially beneficial. *Id.* at 38. The burden then shifts to the plaintiff to show the availability of protective measures, safeguards, and alternatives to the government's conduct that would minimize the intrusion of privacy interests. *Id.*

Only two elements of this test are pure questions of law: whether there is a legally protected privacy interest and whether a countervailing interest or alternative course of conduct exists. All other elements are mixed questions of law and fact. *Id.* at 40.

Under California law, there is a legally protected privacy interest covering "[a] person's medical history and information and the right to retain personal control over the integrity of one's body." *Love v. State Dep't of Educ.*, 29 Cal. App. 5th 980, 993 (2018) (citing *People v. Martinez*, 88 Cal. App. 4th 465, 474–75 (2001), and *Am. Acad. of Pediatrics v. Lungren*, 16 Cal. 4th 307, 332–33 (1997)). While the *Love* court ultimately analyzed all elements of the *Hill* test and concluded that a compulsory vaccination scheme for schoolchildren did not violate the right to privacy, *id.* at 994, this Court cannot decide the claim against Plaintiff at this stage. Defendant only argues that Plaintiff cannot demonstrate the privacy invasion is a serious invasion of privacy (element three of the threshold *Hill* showing) and that the policy survives under rational basis review. Mot. 11–14. Defendant, however, cites cases applying a *federal* rational basis standard. Defendant does not explain why it is appropriate to apply these standards to a constitutional right that sweeps more broadly than the federal prohibition against irrational laws. The *Love* court does apply a rational basis standard and cites precedent

that applies a federal rational basis standard. 16 Cal. 4th at 993 (citing *Coshow v. City of Escondido*, 132 Cal. App. 4th 687, 712 (2003)). The court in *Coshow*, however, primarily analyzes federal fundamental rights law. *Coshow*, 132 Cal. App. 4th at 707–12. The *Coshow* court does not distinguish its analysis of the California and federal privacy rights and does not even cite *Hill*. *Id.* The Court must follow the law of the California Supreme Court on this issue. *Sharp v. County of Orange*, 871 F.3d 901, 921 (9th Cir. 2017) ("[W]hen interpreting state law, a federal court is bound by the decision of the *highest* state court." (internal quotation marks omitted)).

The Court recognizes its disagreement with another federal court applying *Coshow*. *Burcham v. City of Los Angeles*, -- F. Supp. 3d --, No. 2:21-cv-07296-RGK-JPR, 2022 WL 99863, at *6–7 (C.D. Cal. Jan. 7, 2022). The Court agrees with the *Burcham* court that the general thrust of California law is that reasonable compulsory vaccination schemes do not violate California's privacy right. The Court respectfully disagrees over the propriety of dismissing the claim without fact-finding under *Hill*.

The Court declines to resolve mixed questions of fact and law at this stage and thus **DENIES** the motion to dismiss as to this claim.

B. Federal Constitutional Claim

The liberty protected in the due process clause protects various specific rights, including the rights to marry, to have children, to bodily integrity, and to abortion. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). The existence of these rights is not an invitation to identify new rights in a freewheeling manner because the Supreme Court has "been reluctant to expand the concept of substantive due process." *Id.* (quoting *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992)). The Supreme Court requires a two-step process to identify a right protected by substantive due process. First, a court must assess whether a right is "deeply rooted in the Nation's history and tradition." *Id.* at 721. Second, a court must give a careful description of the asserted fundamental liberty interest. *Id.* If such a right is not a fundamental liberty interest protected by due process, a government action challenged under the right must

still be "rationally related to legitimate government interests." *Id.* at 728. Under this rational basis test, government actions bear "a strong presumption of validity." *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 314 (1993). Those attacking the rationality of an action have the burden "to negate every conceivable basis which might support it." *Id.* at 315 (quoting *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 364 (1973)). Moreover, "it is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature." *Id.* "In other words, a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *Id.* "Only by faithful adherence to this guiding principle of judicial review of legislation is it possible to preserve to the legislative branch its rightful independence and ability to function." *Id.* (quoting *Lehnhausen*, 410 U.S. at 365).

Plaintiff acknowledges that the Supreme Court's decision in *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), means that rational basis applies to Defendant's Vaccination Policy. Opp'n 20–22. Thus, under the rational basis test, the Court must determine first whether there is a legitimate government interest supporting the policy and second whether the legitimate government interest is rationally related to the policy. *See Glucksberg*, 521 U.S. at 728. Defendant has a legitimate interest in preventing the spread of COVID-19; the Supreme Court has recognized that "[s]temming the spread of COVID-19 is unquestionably a compelling interest." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020). Thus, Plaintiff must show the Vaccination Policy is not rationally related to the interest of stemming the spread of COVID-19. Plaintiff, to its detriment, cites such a basis in its FAC. The preamble to the Vaccination Policy states that "[g]uidance provided by the federal Centers for Disease Control and Prevention (CDC) . . . and other local health authorities related to the SARS-CoV-2 virus (COVID-19) *uniformly cite vaccination as the most effective way to prevent transmission and limit COVID-19* . . . ." FAC ¶ 37 (emphasis in FAC). Plaintiff claims this reasoning was incorrect, FAC ¶ 38, but that is irrelevant for the purposes of rational

basis review because such review "allows for decisions 'based on rational speculation unsupported by evidence or empirical data.'" *United States v. Navarro*, 800 F.3d 1104, 1114 (9th Cir. 2015) (quoting *Beach*, 508 U.S. at 315). While Plaintiff alleges that COVID-19 vaccines are now less effective at preventing transmission than they were before the Delta and Omicron variants became prominent, Plaintiff alleges no facts supporting the conclusion that it was irrational for Defendant to conclude that vaccinations were part of an effective strategy to prevent the transmission of COVID-19. Because Defendant's decision may be "based on rational speculation unsupported by evidence or empirical data," *Beach*, 508 U.S. at 315, Plaintiff has not plausibly demonstrated that it was fundamentally irrational to assume vaccines would curb the spread of COVID-19.

Plaintiff argues that COVID-19 vaccinations "are but *one year old*." Opp'n at 14. This, coupled with the allegations in the complaint, implies that Plaintiff is challenging the vaccines on the ground that they are experimental and may cause harm. The Supreme Court rejected a similar argument in *Jacobson*, though, reasoning that a generalized allegation of the lack of safety in a vaccine does not support a claim for a constitutional violation. *Jacobson*, 197 U.S. at 36. The *Jacobson* court refused to allow an "individual of the community" to subordinate "the welfare and safety of an entire population" to the "notions of a single individual who chooses to remain a part of that population." *Id.* at 38. In the modern rational basis framework, *Jacobson* holds that Plaintiff cannot rely on generalized allegations of a lack of safety of the vaccines and arbitrary decision-making to state a claim for a constitutional violation. Plaintiff must do more and show that Defendant's decision was irrational and that no rational speculation unsupported by evidence could support its policy. Plaintiff fails to do so here.

The Court thus concludes Plaintiff does not state a viable substantive due process claim. *See Burcham*, 2022 WL 99863, at *7–8 (concluding vaccine ordinance was rationally related to interest in preventing spread of COVID-19). The Court **GRANTS**

the motion to dismiss as to this claim.

C. Ultra Vires Legislation Claim

Plaintiff next contends Defendant imposed the Vaccination Policy without legal authority to do so. (FAC ¶¶ 68–81.) In situations of extreme peril, California "may exercise its sovereign authority to the fullest extent possible consistent with individual rights and liberties." *Macias v. State*, 10 Cal. 4th 844, 854 (1995). In its brief, Plaintiff claims Defendant acted ultra vires in two ways—by adopting the Vaccination Policy based on a misstatement of CDC guidance and by issuing vaccinate-or-terminate demands to 32 firefighters after Plaintiff filed the First Amended Complaint. Opp'n 23. The Court does not consider the allegations about the vaccinate-or-terminate demands as they are outside the scope of Plaintiff's First Amended Complaint. *See Schneider v. Cal. Dep't. of Corr.*, 151 F.3d 1194, 1197 n.1 (9th Cir. 1998) (holding that "a court may not look beyond the complaint" to moving papers or evidence cited therein to decide a motion to dismiss).

Plaintiff's argument based on an alleged misstatement of CDC guidance fails on the merits. Plaintiff correctly notes that any exercise of public welfare under these broad laws must be "consistent with individual rights and liberties." *Macias*, 10 Cal. 4th at 854. But Plaintiff does not identify any individual right or liberty that is violated outside of the federal and state privacy rights discussed above. Plaintiff alleges adopting the Vaccination Policy with an alleged misstatement of CDC guidance is "plausibly arbitrary" and "in bad faith." Opp'n 23. Plaintiff's First Amended Complaint, however, provides no facts from which this Court can conclude that Defendant violated an individual right (which right is unclear) by arbitrarily adopting the Vaccination Policy. As discussed above, the Vaccination Policy does not violate the federal prohibition against irrational laws. Thus, Plaintiff is left merely with a conclusory assertion in its brief with no cited support in the law or in its First Amended Complaint. This does not suffice to state a claim. The Court **GRANTS** the motion to dismiss as to this claim.

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D. Ralph M. Brown Act Claim

The Ralph M. Brown Act imposes an open meeting requirement on local legislative bodies to avoid secret legislation. *Julian Volunteer Fire Co. Ass'n v. Julian-Cuyamaca Fire Prot. Dist.*, 62 Cal. App. 5th 583, 600–01 (2021). To state a claim for a violation of the Brown Act, a plaintiff must show: "(1) the local legislative body violated one or more Brown Act provisions; (2) the legislative body took action in connection with the violation; (3) a timely demand for the legislative body to cure or correct the improper action; (4) the legislative body did not cure or correct the action; and (5) prejudice from the Brown Act violation." *Id.* at 601.

A demand is timely if it occurs "within 90 days from the date the action was taken." Cal. Gov't Code § 54960.1(c)(1). The County enacted the Vaccination Policy on August 4, 2021. FAC ¶ 2. This constitutes an "action taken" for the purposes of the Brown Act. Cal. Gov't Code § 54952.6 (defining "action taken" as, among other things, "a collective decision").The FAC does not state when Plaintiff sent a demand notice. Plaintiff admits, however, that it sent a notice to the County Board of Supervisors on November 9, 2021. Opp'n 25; *see also* McBride Decl. ¶ 2 & Ex. 1, ECF No. 23-1. Plaintiff sent the notice 97 days after the meeting adopting the policy. The Court finds that Plaintiff has admitted it sent the notice to the County of Board of Supervisors on November 9, 2021. *See Am. Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d 224, 227 (9th Cir. 1988) ("[S]tatements of fact contained in a brief *may* be considered admissions of the party in the discretion of the district court."). The notice is untimely for the August 4 meeting enacting the vaccination policy.

Plaintiff argues a nine-month deadline from a different statute applies. Opp'n 24–26. The statute Plaintiff cites only permits "any interested person" to "file an action to determine the applicability of this chapter to past actions of the legislative body . . . ." Cal. Gov't Code § 54960.2(a). Plaintiff seeks declaratory relief, injunctive relief, and a writ of mandate requiring Defendant to reevaluate its order. FAC ¶¶ 91–93. For actions seeking a judicial determination that an action taken is null and void, the 90-day

deadline applies. *See* Cal. Gov't Code § 54960.1(a), (c)(1). Because Plaintiff's notice is untimely as to the August 4, 2021 meeting, Plaintiff fails to state a claim as to the August 4 meeting.

Plaintiff did not only claim Defendant violated the Brown Act at the August 4, 2021 meeting, however; Plaintiff claims Defendant again violated the Brown Act with an October 1, 2021 meeting adopting a 45-day vaccinate-or-terminate policy. FAC ¶ 88(a). The County of Los Angeles Department of Human Resources adopted this policy. *See* Vaccination Policy. The Court questions whether the Department of Human Resources is a "legislative body" that can trigger the requirements of the Brown Act. Cal Gov't Code §§ 54960.1(a), 54952.6. Because Defendant did not make this argument, *see* MTD 16–17, the Court declines to consider it. *United States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020) ("[W]e rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present." (quoting *Greenlaw v. United States*, 554 U.S. 237, 243 (2008))). Assuming that the October 1, 2021 meeting was a meeting to which the Brown Act applied, Plaintiff sent Defendant a notice within 90 days of the meeting. Thus, Plaintiff made a timely demand to Defendant. Defendant does not contest any other aspect of the claim, so for the purposes of this motion, Plaintiff properly states a claim as to the October 1, 2021 meeting.

The Court thus **GRANTS** the motion to dismiss as to the August 4, 2021 meeting and **DENIES** the motion to dismiss as to the October 1, 2021 meeting.

E. Administrative Due Process Claim

Due process mandates that before disciplining a California civil service employee by taking a punitive action, the employee must have "notice of the proposed action, the reasons therefor, a copy of the charges and materials upon which the action is based, and the right to respond, either orally or in writing, to the authority initially imposing discipline." *Skelly v. State Personnel Bd.*, 15 Cal. 3d 194, 215 (1975). Plaintiff has pleaded that "[t]o date, no Firefighter has received a 45-day notice" under the

Vaccination Policy. FAC ¶ 98. Plaintiff has pleaded no other facts in support of its claim for a violation of the firefighters' administrative due process rights. Because Plaintiff has pled no element of this claim, the Court **GRANTS** the motion to dismiss as to this claim.

F. Leave to Amend

As a general rule, leave to amend a dismissed complaint should be freely granted unless it is clear the complaint could not be saved by any amendment. Fed. R. Civ. P. 15(a); *Manzarek v. St. Paul Fire & Marine Ins. Co*., 519 F.3d 1025, 1031 (9th Cir. 2008).

Plaintiff has included voluminous material that indicates it may be able to plead new facts to support most of its claims. *See, e.g.*, Reqs. for Judicial Notice, ECF Nos. 20-2 to -3. Thus, the Court dismisses the substantive due process, ultra vires, and administrative due process claims with leave to amend. The Court dismisses the untimely component of the Ralph M. Brown Act claim without leave to amend because amendment is futile when the claim is untimely. *Cf. Platt Elec. Supply, Inc. v. EOFF Elec., Inc.*, 522 F.3d 1049, 1060 (9th Cir. 2008) (affirming dismissal without leave to amend of a claim barred by the statute of limitations).

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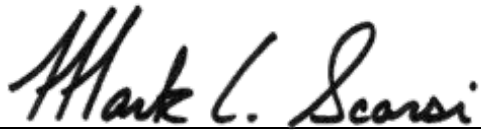
IV. CONCLUSION

The Court **GRANTS IN PART** Defendant's motion to dismiss. Plaintiff's second, third, and fifth claims are dismissed with leave to amend, and Plaintiff's fourth claim is dismissed in part without leave to amend. Plaintiff may file an amended complaint no later than 14 days from the date of this Order, if it can do so consistent with Federal Rule of Civil Procedure 11(b) and this Order. Failure to file a timely amended complaint will waive the right to do so. Leave to add new defendants or claims must be sought by a separate, properly noticed motion.

IT IS SO ORDERED.

Dated: June 1, 2022



MARK C. SCARSI
UNITED STATES DISTRICT JUDGE