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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

SAUL ASCENCIO,
Plaintiff,

v.

CITY OF THE DALLES, a public
entity; and DAVID MILLS, an
individual,

Defendants.

Case No.

**COMPLAINT FOR UNLAWFUL
EMPLOYMENT PRACTICES**

(Race, Color, National Origin
Discrimination & Retaliation;
Whistleblower Retaliation; Wrongful
Discharge; Aiding & Abetting)

**CLAIMS ARE NOT SUBJECT TO
MANDATORY ARBITRATION**

REQUEST FOR JURY TRIAL

Prayer: \$750,000.00

Filing fee \$594.00 per ORS 21.160(1)(c)

COMES NOW Plaintiff Saul Ascencio, by and through undersigned counsel, makes the following complaint against the City of The Dalles ("City"), and The Dalles Public Works Supervisor David Mills ("Mills") alleging as follows:

NATURE OF THE ACTION

1.

Plaintiff Ascencio brings this action for monetary relief, damages, costs, and attorney's fees for him to redress injuries done to him by Defendants City and Mills in contravention of his state protected rights under Oregon Revised Statutes ("ORS") 659A.030, ORS 659A.199, and ORS 659A.203. Defendant's actions also constitute a common law wrongful discharge in violation of public policy.

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JURISDICTIONAL ALLEGATIONS

2.

Plaintiff is a resident of Wasco County, Oregon.

3.

Defendant City of The Dalles, is a public municipality located in Wasco County, Oregon, with a principal place of business in The Dalles, Oregon. At all material times, Defendant was a public body with responsibility under the Oregon Tort Claims Act for the acts and omissions of its agents and employees.

4.

Defendant David Mills was at all times relevant herein employed by the City in the Public Works Department.

5.

At all material times, Mr. Ascencio was supervised by Defendant City's employees or agents and relied on the actual or apparent authority of Defendant City's employees, supervisors and managers, including Defendant Mills, each of whom acted at all times relevant herein in the course and scope of their employment with and for the benefit of Defendant City.

6.

Venue is proper in Wasco County because Defendant City conducts regular and sustained business activities here.

7.

Plaintiff timely sent a Tort Claims Notice to the City raising the issues alleged herein.

///

///

1 FACTUAL ALLEGATIONS

2 8.

3 Plaintiff began employment in July 2017 in the Public Works Department with Defendant
4 City as a Maintenance Worker in the Transportation Division. Plaintiff's hourly wage when he
5 started employment was approximately \$20.77 per hour. Plaintiff's hourly wage when he was
6 terminated by the City in September 2020, was approximately \$23.29 per hour.

7 9.

8 Plaintiff is a first-generation American citizen who identifies as Mexican American. At the
9 time of his hiring until his separation from employment, a period of nearly three years, Plaintiff
10 was the only person of color employed in the City's Transportation Division and the only person
11 of color employed in the entire Public Works Department.

12 10.

13 More than twenty-five percent (25%) of the total population of Wasco County, Oregon, is
14 non-white. Despite this, the City of The Dalles employs only a small number of people of color,
15 far below twenty-five percent (25%) of their total workforce.

16 11.

17 The City of The Dalles does not have a diversity, equity, and inclusion policy for their
18 supervisors or employees. The last time the City updated its internal employment policies with
19 regard to race, color, and/or national origin was in April 1999 in a document titled "City of The
20 Dalles Affirmative Action Plan."

21 12.

22 Beginning immediately after Plaintiff started his position with the City's Public Works
23 Department and continuing throughout the course of his employment with the City, the Plaintiff

1 was subject to racially insulting and derogatory language and a hostile work environment. The
2 harassment directly targeted Plaintiff as well as African-Americans. The incidents directly
3 experienced by Plaintiff included:

4 a. Within a few months of starting his new employment with the City, Plaintiff was
5 confronted by two white coworkers who asked him "Did you just cross the border?"

6 b. White coworkers informed Plaintiff that the only reason he was hired by the City
7 was because he was a "brown token."

8 c. A white supervisor informed Plaintiff that white coworkers were scared to work
9 with Plaintiff because "they think he is an MS-13 gang member."

10 d. In the presence of Plaintiff and fellow coworkers in the break room, a white
11 coworker told a story wherein he repeatedly used the word "nigger" to describe an African-
12 American person.

13 e. A white coworker in the presence of other coworkers, referred to Plaintiff as "a
14 beaner."

15 f. White coworkers would frequently refer to the Plaintiff as a "lazy Mexican."

16 g. A white coworker repeatedly complained about Mexicans speaking Spanish instead
17 of English.

18 h. A supervisor berated the Plaintiff in the presence of coworkers because he was
19 wearing a hat that said "Compton."

20 i. Prior to becoming Plaintiff's direct supervisor, Defendant Mills, who is white,
21 would engage in negative racial stereotypes by mimicking and mocking the Plaintiff after he left
22 the break room, by engaging in behavior such as turning his ball cap sideways, sagging his pants,
23 and pretending to be a "gangster." Mills received only a verbal reprimand for this action.

1 j. Defendant Mills, and upper level managers at the City, would repeatedly use
2 negative racial stereotypes typically used to describe people of color to describe the Plaintiff's
3 demeanor and appearance, including accusing him of being "hostile", "angry", "defensive", and
4 "aggressive." They also frequently implied he was "lazy" or had "given up."

5 13.

6 During his period of employment with the City, Plaintiff complained about and reported
7 these and other incidences of racism, bias, and a hostile work environment to his supervisors, the
8 Director of Public Works, the Human Resources Director, and the City Manager, all of whom are
9 white. ~~No substantive action was taken to reduce this hostile work environment.~~ Employees who
10 engaged in racist behavior or comments were allowed to remain employed with the City. No
11 training was conducted by the City regarding diversity, equity, and inclusion practices for
12 employees. No substantive efforts have been taken by the City to increase the racial diversity of
13 their workforce.

14 14.

15 In January 2018 and March 2019, the Plaintiff received a performance evaluation from his
16 then-supervisor, Chris Harrell. In those evaluations, the Plaintiff received ~~51 and 44~~ points out of
17 a possible 66 total points, respectively. He received the overall ratings of "~~Exceeds Expectations~~"
18 and "~~Meets Expectations.~~" Both evaluations included a recommendation that the Plaintiff should
19 be considered for a promotion and/or pay increase.

20 15.

21 Between approximately July 2017 and approximately October 2019, Plaintiff was a
22 coworker of Defendant David Mills. After being passed-over for a promotion to supervisor,
23 ~~Defendant Mills attempted to coerce Plaintiff into falsifying information~~ about their new

1 supervisor, Chris Harrell, in order to file a grievance and for the purposes of attempting to get
2 Harrell terminated. The Plaintiff refused.

3 16.

4 On several occasions prior to becoming Plaintiff's direct supervisor, Defendant Mills
5 pleaded with the Plaintiff's supervisor, Harrell, to terminate the Plaintiff.

6 17.

7 During the course of Plaintiff's employment at City, he was passed over for a promotion
8 on four separate occasions. The four white coworkers who were promoted over Plaintiff had less
9 experience and training, including a lack of a Commercial Driver's License, which Plaintiff held,
10 and which was integral for the position. This was in spite of the fact Plaintiff had received two
11 satisfactory performance reviews which awarded him a raise in pay and recommended him for a
12 promotion. The position Plaintiff was seeking was within the Wastewater Division, where,
13 previously, City employees in that division had referred to Plaintiff as a "beaner" and stated that
14 he had "just crossed the border."

15 18.

16 In approximately October 2019, Defendant Mills was promoted to supervisor of Plaintiff.
17 Mills began to immediately retaliate against Plaintiff.

18 19.

19 After Defendant Mills was promoted to supervisor of Plaintiff's department, Plaintiff
20 encountered his previous supervisor, Harrell, who no longer worked for the City. Harrell warned
21 him that Mills previously attempted to have Plaintiff fired after he refused to help file a grievance.
22 Harrell warned the Plaintiff that Mills would make every attempt to terminate Plaintiff, up to and
23 including falsifying information about his work performance. Harrell expressed to Plaintiff that he

1 believed the Plaintiff was being treated differently than other City employees due his race,
2 ethnicity, and nationality. Several additional coworkers at the City also informed Plaintiff that they
3 believed he was being targeted and treated differently due to his race, ethnicity, and nationality.

4 20.

5 On January 28, 2020, Defendant Mills performed his first performance evaluation of
6 Plaintiff. Mills awarded only 28 points to the Defendant, rating him at “Below Expectations”
7 despite the fact that only nine months prior, Plaintiff was awarded 40 points and was rated as
8 “Meets Expectations.”

9 21.

10 On January 28, 2020, Defendants City and Mills placed Plaintiff on a Performance
11 Improvement Plan (“PIP”) which required Plaintiff to meet with Defendant Mills once a week for
12 six months. A PIP is not mandatory, and according to the City’s Human Resources policies,
13 employees are placed on a PIP solely at the discretion of a Department Head or City Manager. The
14 stated purpose of the PIP was to help the Plaintiff improve his job knowledge and performance.
15 To help Plaintiff be successful with the PIP, Defendant Mills suggested the following goals:

16 a. *“You need to gain a better understanding and knowledge of the maintenance
17 worker position.”*

18 b. *“You need to learn to create, organize and prioritize work lists in order to become
19 more efficient at your position.”*

20 c. *“You need to learn, understand, and follow the City’s written policies and division
21 procedures.”*

22 Aside from being told the stated goals above, Plaintiff was provided no other information
23 as to how he could improve his allegedly deficient work performance to meet an acceptable

1 standard. At the time he placed on the PIP, Plaintiff was told that the process was not a disciplinary
2 action.

3 22.

4 Defendants the City and Mills failed to conduct any performance evaluations with the
5 Plaintiff between January 15, 2020, and May 26, 2020. The result is that Plaintiff had no
6 opportunity to demonstrate improvement in his job knowledge and performance.

7 23.

8 On May 26, 2020, five months into the Plaintiff's six-month PIP, Defendants the City and
9 Mills made the decision to extend Plaintiff's PIP time frame by an additional ~~two months~~.
10 Defendants stated this ~~was due to COVID-19~~. This extension was a violation of the Employee
11 Handbook and collective bargaining agreement, which limits PIP's to only six months. Two white
12 employees who were hired within the Public Works Department during this same time frame and
13 subjected to the standard six-month probation period, did not have their probation period extended
14 for an additional two months.

15 24.

16 On May 27, 2020, Defendant Mills rated Plaintiff as "~~Below Expectations~~" and awarded
17 him only ~~28 points out of a possible 66~~. Under the area of "Initiative and Assumption of
18 Responsibility" Defendant Mills criticized Plaintiff for socializing in the shop in the mornings with
19 other coworkers.

20 25.

21 Between May 28, 2020 and July 21, 2020, Defendant Mills and the City conducted only
22 one Employee Performance Evaluation of Plaintiff. In it, Defendant Mills rated Plaintiff as "Below
23 Expectations" and awarded him only ~~28 points out of a possible 66~~. In this evaluation, Defendant

1 Mills criticized and penalized the Plaintiff for not communicating, socializing, or engaging in
2 conversations, which was directly contrary to his evaluation of May 27, 2020.

3 26.

4 Throughout the Plaintiff's Performance Improvement Plan, Defendant Mills repeatedly
5 moved the goal posts on what was expected of the Plaintiff. On one evaluation he would be
6 penalized for talking too much. In the next, he would be penalized for talking too little. On one
7 evaluation, he would be told he needs excessive help and supervision, but in the next he would be
8 penalized for asking another department or coworkers for help in accomplishing his duties.
9 Defendant Mills effectively constructed the PIP so that it became impossible for the Plaintiff to
10 succeed no matter what he did. Despite this, the Plaintiff improved in four of eleven categories
11 between January 26, 2020, and August 28, 2020, but received no credit for the improvement.

12 27.

13 During several in-person discussions of the Plaintiff's work related to the PIP process,
14 Defendant Mills would issue complimentary and positive verbal feedback on the Plaintiff's
15 progress towards improvement. However, when Plaintiff would receive the written PIP, it would
16 include very low scores and opinions, contrary to the verbal exchange during his PIP meetings.
17 This tactic was an additional way to gaslight the Plaintiff into never knowing how or if he could
18 improve his performance.

19 28.

20 The Plaintiff was the subject of overly-critical and hyper-focused attention during the PIP
21 to which similarly situated white employees were not subjected. This includes instances of
22 showing up to work, on time, but being docked points on his performance evaluation because he
23 did not arrive to work earlier than he was required to under the collective bargaining agreement.

1 This hyper-critical conduct towards the Plaintiff included assigning an administrative secretary,
2 who was not Plaintiff's supervisor, had no supervisory authority, and has no formal or informal
3 training in the policies and procedures of the Plaintiff's position, to critique his work product.

4 29.

5 Throughout his Performance Improvement Plan, the Plaintiff received no additional
6 substantive training, mentorship, advice, or guidance in order for him to improve his work
7 performance. Instead, he received only hyper-critical feedback about minor mistakes with no
8 concrete advice or solutions on how to remedy or improve. The Plaintiff received no additional
9 safety training during his Performance Improvement Plan, despite the fact the City and Mills'
10 claims that he needed improvement in this area. When the Plaintiff would ask another department
11 for help, he was penalized in his PIP for doing so.

12 30.

13 Throughout his Performance Improvement Plan, the Plaintiff repeatedly complained to the
14 Public Works Director, Human Resources Director, and City Manager regarding what he felt was
15 a biased process due to his prior interactions with Defendant Mills before he became his supervisor
16 as well as Mills' demonstrated racist behavior in the workplace and the overall hostile work
17 environment that had not been remedied by the City or Mills. Plaintiff shared this information with
18 supervisors believing that the PIP process was in violation of city policies as well as a violation of
19 employment laws due to hostile work environment and repeated racism he faced. The City ignored
20 his complaints, took no action to intervene in his PIP, and failed to take any concrete steps to
21 reduce the racially hostile workplace. In fact, the City and Mills further legitimized the behavior
22 and encouraged the hostile work environment by failing to adequately interrupt or intervene in the
23 racist behavior perpetrated by Plaintiff's coworkers and supervisors and by responding to the

1 Plaintiff's complaints of bias with common racially-coded language describing him as hostile,
2 aggressive, or implying he was lazy.

3 31.

4 At the conclusion of his PIP, and after again complaining of a hostile work environment
5 and racially biased PIP, the Plaintiff was terminated by the City on September 14, 2020. In the
6 City's justification for terminating Plaintiff, they relied upon the results of the PIP process, despite
7 the admission that the PIP process is not itself a disciplinary action or process. As supporting
8 evidence, the City noted that the Plaintiff showed an "unwillingness to improve" his performance,
9 despite the fact that during the PIP, the Plaintiff improved in four of eleven areas.

10 32.

11 As additional justification for their termination, the City included two incidences of
12 damaged City equipment dating back as far as December 2018. Those incidences both occurred
13 during the period where the Plaintiff received positive evaluations from his prior supervisors and
14 was recommended for a promotion and raise and were not a subject of his PIP. The City also
15 included two incidences which took place in 2020, however, after those incidences occurred and
16 despite the fact the Plaintiff was participating in a PIP, the City and Mills offered no additional
17 safety training, courses, or information that would help him prevent further incidences.

18 33.

19 The City based part of their decision to terminate the Plaintiff on cherry-picked statements
20 contained within a mostly-positive review given by an white administrative assistant who admitted
21 she had no knowledge of his job duties, policies, or procedures. This assistant was not his
22 supervisor, and admitted that the alleged failings she associated with the Plaintiff, may not actually
23 have been his responsibility. In its termination letter, the City failed to included the positive

1 remarks by the assistant. Similarly situated white employees were not forced to be supervised by
2 administrative assistants and have their performance critiqued by non-supervisors. Similarly
3 situated white employees were not terminated based on performance reviews of non-supervisory
4 administrative assistants.

5 34.

6 After the Plaintiff was terminated by the City, he secured new employment with the Oregon
7 Department of Transportation (“ODOT”). Shortly after he began working at ODOT, the City again
8 retaliated against the Plaintiff. At the direction of his supervisor, Defendant Mills, a City employee
9 named **Charlie Patterson**, approached the ODOT office in The Dalles and inquired if they had hired
10 “**the little Hispanic guy from the City**” a reference to the Plaintiff. Mr. Patterson was previously
11 witnessed by the Plaintiff complaining about individuals who speak Spanish.

12 35.

13 Defendant Mills’ wife works in the billing department of a medical provider in Hood River
14 where the Plaintiff’s children are treated. Shortly after the Plaintiff served the City with a Tort
15 Notice, the Plaintiff contacted his children’s medical provider to ensure that Mrs. Mills could not
16 access his children’s confidential medical information nor access his private financial information
17 and billing. When notified of this request, Mrs. Mills shared the sensitive information and
18 conversation with Defendant Mills who then relayed the information to the City in an effort to
19 denigrate the Plaintiff.

20 36.

21 Plaintiff was employed by the Oregon Department of Transportation (ODOT) in October
22 2020. **In his first six-month performance evaluation, he received a glowing review** from his
23 **supervisor.**

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FIRST CLAIM FOR RELIEF

Race, Color, and/or National Origin Discrimination - ORS 659A.030

(Against Defendants)

37.

Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the prior paragraphs of this complaint.

38.

Count I: Defendants created a hostile work environment for Plaintiff by failing to address biased comments and behavior, by treating Plaintiff differently than similarly situated employees, and by engaging in biased comments and behavior and adverse actions as described herein. The hostile work environment was a result of Plaintiff's race, color, and/or national origin.

39.

Count II: Defendants discriminated and retaliated against Plaintiff in the terms and conditions of his employment, including taking adverse actions against Plaintiff, treating Plaintiff differently than similarly situated employees, repeatedly passing over Plaintiff for a promotion, forcing the Plaintiff to undergo a Performance Improvement Plan at their discretion, and ultimately terminating the Plaintiff on the basis of his race, color, and/or national origin, using the non-mandatory PIP as a pretext.

40.

Plaintiff is entitled to recover costs and attorneys' fees pursuant to ORS 659A.885 and ORS 20.107.

41.

As a direct and proximate result of Defendant's conduct, Plaintiff suffered economic loss

1 in a sum to be proven at trial not to exceed \$250,000.

2 42.

3 As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered
4 and will continue to suffer mental stress, emotional distress, humiliation, inconvenience and loss
5 of enjoyment of life all to Plaintiff's non-pecuniary loss in an amount to be determined at trial but
6 not to exceed \$500,000.

7 **SECOND CLAIM FOR RELIEF**

8 **Whistleblower Retaliation – ORS 659A.199**

9 **(Against Defendants)**

10 43.

11 Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the
12 prior paragraphs of this complaint.

13 44.

14 Defendant's behavior as alleged in this complaint violated ORS 659A.199 because
15 Defendant treated Plaintiff adversely with respect to compensation and other terms of employment
16 by disciplining, refusing to promote, hyper-scrutinizing, refusing to investigate complaints, and
17 terminating Plaintiff because of Plaintiff's perceived and actual good faith reports and opposition
18 to evidence Plaintiff believed was a violation of state or federal law, rule or regulation, including
19 but not limited to, Plaintiff's concerns of discriminatory treatment and a hostile work environment.

20 45.

21 Plaintiff's reports were a substantial factor in Defendant's adverse treatment.

22 46.

23 In perpetrating the behavior described in this Complaint, Defendant violated ORS
659A.199 by subjecting Plaintiff to discrimination and retaliation on the basis of Plaintiff's

1 perceived and actual opposition to unlawful practices, causing harm to Plaintiff as described above.

2 47.

3 Plaintiff realleges damages, costs, and attorneys' fees as stated in the paragraphs above.

4 **THIRD CLAIM FOR RELIEF**

5 **Retaliation – ORS 659A.030(1)(f)**

6 **(Against All Defendants)**

7 48.

8 Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the
9 prior paragraphs of this complaint.

10 49.

11 Defendant's behavior as alleged in this complaint violated ORS 659A.030(1)(f) because
12 Defendants treated Plaintiff adversely with respect to terms of employment by disciplining, failing
13 to promote, hyper-scrutinizing, refusing to investigate complaints, and terminating Plaintiff
14 because of Plaintiff's perceived and actual good faith reports and opposition to evidence Plaintiff
15 believed was a violation of ORS 659A.030, including but not limited to discriminatory treatment
16 and a hostile work environment.

17 50.

18 Plaintiff's reports were a substantial factor in Defendant's adverse treatment.

19 51.

20 In perpetrating the behavior described in this Complaint, Defendant violated ORS
21 659A.030(1)(f) by subjecting Plaintiff to discrimination and retaliation on the basis of Plaintiff's
22 perceived and actual opposition to unlawful practices, causing harm to Plaintiff as described above.

23 52.

Plaintiff realleges damages, costs, and attorneys' fees as stated in the paragraphs above.

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FOURTH CLAIM FOR RELIEF
Whistleblower Retaliation - ORS 659A.203
(Against Defendants)

53.

Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the prior paragraphs of this complaint.

54.

At all relevant times, Defendant was a public employer under ORS 659A.203.

55.

Defendant's behavior as alleged in this complaint violated ORS 659A.203 because Defendants treated Plaintiff adversely with respect to terms of employment by disciplining, failing to promote, hyper-scrutinizing, refusing to investigate complaints, and terminating Plaintiff because of Plaintiff's perceived and actual good faith reports and opposition to evidence Plaintiff believed was a violation of ORS 659A.203, including but not limited to discriminatory treatment and discipline and failure to engage in the interactive process.

56.

Plaintiff's reports were a substantial factor in Defendant's adverse treatment.

57.

In perpetrating the behavior described in this Complaint, Defendant violated ORS 659A.030(1)(f) by subjecting Plaintiff to discrimination and retaliation on the basis of Plaintiff's perceived and actual opposition to unlawful practices, causing harm to Plaintiff as described above.

58.

Plaintiff realleges damages, costs, and attorneys' fees as stated in the paragraphs above.

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1 **CLAIM FOR RELIEF**

2 **Aiding, Abetting, Compelling, or Inciting – ORS 659A.030(1)(g)**

3 **(Against Defendant Mills)**

4 59.

5 Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the
6 prior paragraphs of this complaint.

7 60.

8 ORS 659A.030(1)(g) makes it an unlawful employment practice for any person “to aid,
9 abet, incite, compel or coerce the doing of any of the acts forbidden” under Chapter 659A of the
10 Oregon Revised Statutes.

11 61.

12 Defendant Mills violated ORS 659A.030(1)(g) by aiding, abetting, inciting, compelling or
13 coercing unlawful discrimination and retaliation against Plaintiff and by inciting and compelling
14 agents and employees of Defendant to take adverse actions against Plaintiff because of Plaintiff’s
15 race and whistleblowing activities (ORS 659A.199), as alleged in this complaint. The adverse
16 actions include but are not limited to:

- 17 a) Refusing to promote Plaintiff;
- 18 b) Subjecting Plaintiff to hyper-scrutiny;
- 19 c) Conducting a biased PIP against Plaintiff;
- 20 d) Extending Plaintiff’s PIP by four additional months;
- 21 e) Failing to Plaintiff’s multiple complaints of racism and bias in the PIP process;
- 22 f) Failing to provide any additional training or other supports to Plaintiff to help him
23 improve throughout the PIP process;
- g) Terminating Plaintiff;
- h) Instructing a City employee to go to Plaintiff’s current place of work and attempt to

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speak to his supervisor in an effort to intimidate the Plaintiff and denigrate his reputation, even using racial terms to describe him;

- i) Obtaining and sharing sensitive information about the Plaintiff's children's medical care and billing in an effort to denigrate the Plaintiff prior to litigation;

62.

Defendants' unlawful treatment of Plaintiff was due to Plaintiff's race, color, and/or national origin, and good faith reports of violations of regulations and laws.

63.

Plaintiff realleges damages, costs, and attorneys' fees as stated in the paragraphs above.

CLAIM FOR RELIEF
Wrongful Discharge in Violation of Public Policy
(Against Defendant City)

64.

Plaintiff re-alleges and incorporates by reference the facts and allegations set forth in the prior paragraphs of this complaint.

65.

Additionally, at all material times, the public policy of Oregon prohibited an employer from retaliating and discriminating against an employee in the terms and conditions of Plaintiff's employment for pursuing Plaintiff's right to report information in good faith of a violation of a state or federal law, rule, or regulation. The public policy of Oregon prohibits an employer from retaliating and discriminating against an employee in the terms and conditions of Plaintiff's employment because the employer believed the employee would engage in reporting violations of law, in order to prevent an employee from engaging in such protected activity. This public policy is found in the common law, statutes, and regulations of the State of Oregon and the United States including ORS 659A.199.

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66.

Defendant, through its agents and/or employees, violated the above public policies by denying, failing to provide, interfering with, discriminating and retaliating against Plaintiff for reporting information in good faith of a violation of a rule or of a state or federal law, rule, or regulation. The discharge was unlawful and in violation of the public policy of the State of Oregon.

67.

Defendant's discharge of Plaintiff was in retaliation for Plaintiff's pursuit and exercise of Plaintiff's rights related to Plaintiff's role as an employee, which rights are of important public interest.

68.

Plaintiff realleges damages, costs, and attorneys' fees as stated in the paragraphs above.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all claims and issues to the extent allowed under the law.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment against Defendants for economic damages, non-economic damages, costs and attorneys' fees pursuant to ORS 659A.885 and ORS 20.107 as alleged in the claims stated above. Plaintiff also prays for injunctive relief prohibiting Defendant from engaging in further employment discrimination against Plaintiff and other workers of color at the City, and workers who are complaining of violations of law and/or regulations.

Plaintiff further prays for such other relief as the court deems just and equitable.

Dated this 31st of August, 2021.

OVERLAND LAW, LLC

s/ Marcus J. Swift

Marcus J. Swift, OSB No. 144431
Attorney for Plaintiff
marcus@overlandlawllc.com