

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

BRETT GOODMAN,

Plaintiff,

v.

OREGON STATE HOSPITAL, and
ROBERT PETERSON, an individual,

Defendants.

Case No. 21CV33918

COMPLAINT

Creating a Hostile Work Environment based on Sexual Orientation (ORS 659A.030(1)(b)); Aiding and Abetting (ORS 659A.030(g)); Retaliation (ORS 659A.030(1)(f)); Intimidation (ORS 30.198); Common Law Assault; Common-Law Battery; Intentional Infliction of Emotional Distress

Claims total: \$5,000,000
[ORS 21.160(1)(c)]

CLAIM NOT SUBJECT TO MANDATORY ARBITRATION

DEMAND FOR JURY TRIAL

Plaintiff alleges:

INTRODUCTION

1.

Plaintiff, Brett Goodman, brings this case against Defendants Oregon State Hospital (“OSH”), is a state-run psychiatric hospital that provides patient-centered, psychiatric treatment for adults from throughout the state who need hospital-level care, and Robert Peterson, an individual for:



- 1 a. Subjecting Plaintiff to a hostile working environment, in violation of ORS
2 659A.030(1)(b).
- 3 b. Aiding and abetting unlawful employment discrimination against Plaintiff, in
4 violation of ORS 659A.030(g);
- 5 c. Retaliating against Plaintiff for reporting the unlawful employment discrimination, in
6 violation of ORS 659A.030(1)(f);
- 7 d. Intimidating Plaintiff because of his sexual orientation, in violation of ORS 30.198;
- 8 e. Assaulting Plaintiff;
- 9 f. Battering Plaintiff; and
- 10 g. Intentionally inflicting emotional distress upon Plaintiff.

11 **JURISDICTION**

12 2.

13
14 This Court has jurisdiction over the subject matter of this civil action pursuant to ORS
15 659A.885 and ORCP 4.

16 3.

17 On or about March 5, 2021, Plaintiff filed a complaint with the Bureau of Labor and
18 Industries (“BOLI”). On or about July 29, 2021, BOLI issued a right to sue to Plaintiff, as such,
19 this action has been commenced within 90 days after Plaintiff received that notice.

20 4.

21 Plaintiff provided Defendant OSH notice of his claims for civil and monetary damages on
22 May 24, 2021 and have thereby satisfied the requirements of the Oregon Tort Claims Act, as
23 specified in ORS 30.275(3)(c).

24 ///

25 **COMPLAINT - 2 OF 21**



PARTIES & VENUE

5.

At all material times Brett Goodman (“Plaintiff”) is an individual employed by Oregon State Hospital (“OSH”).

6.

At all materials times Defendant OREGON STATE HOSPITAL (“OSH”) is a state-run psychiatric hospital with its principal place of business located at 2600 Center St. NE, Salem, OR 97301. Defendant OSH is an “employer,” pursuant to ORS 659A.001(4)(a), and a “person,” pursuant to ORS 659A.001(9).

7.

At all materials times herein, ROBERT PETERSON, was Defendants OSH’s employee, and Plaintiff’s Union Representative and a resident of Marion County, Oregon. Defendant Peterson is sued here in his individual capacity .

8.

On or about February 1, 2016, Plaintiff was hired by the Oregon Health Authority as a Custodian in the Environmental Services Department for Defendant OSH.

9.

Between January 2017 to July 2017, Plaintiff was offered by Defendant OSH to work out of class as a laborer/student worker for the facilities department.

10.

Between September 2017 to March 2018, Plaintiff was again offered to work out of class for Defendant OSH as a laborer/student worker for the facilities department.

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////



1 11.

2 It was during these two working out of class periods when Plaintiff first worked with
3 Defendant Peterson, who was verbally abusive toward Plaintiff and would curse at and belittle
4 Plaintiff. Also, around this time is when Defendant Peterson started referring to Plaintiff as
5 “Fluffy”.

6 12.

7 On or about October 6, 2019, Plaintiff was hired permanently by Defendant OSH for a
8 laborer/student worker position, classification 4116, in facilities department.

9 13.

10 A Laborer/Student Worker assists journey level trade workers by doing a wide variety of
11 routine and semiskilled tasks requiring sustained physical effort and the use of power equipment
12 and tools specific to the assignment. Employees in this classification perform basic maintenance
13 and repair on small equipment, maintain work records as required, maintain tool inventory, and
14 use computers for inventory control. Computerized work order systems may be used by
15 employees in this classification. Regular contact in person or by telephone with other employees
16 in the work unit may be required to exchange information about work assignments and get
17 additional instructions. The employee may have regular contact with employees in other units,
18 vendors, and the public to exchange information related to doing the assigned work.

19 14.

20 Sometime during January 2020 to February 2020, Plaintiff disclosed to Defendant
21 Peterson that Plaintiff was gay. Plaintiff and Defendant Peterson were talking about
22 relationships, and Plaintiff felt comfortable enough telling Defendant Peterson about his status as
23 a gay man since Defendant Peterson was Plaintiff’s Union Representative.

24 ////

25 ////

1 15.

2 After Plaintiff disclosed this information, Defendant Peterson seemed shocked and did
3 not say much after that and got quiet. Shortly after that, Defendant Peterson started physically
4 assaulting Plaintiff. Defendant Peterson also began referring to Plaintiff as a “pussy”.

- 5 a. Defendant Peterson’s assault on Plaintiff consisted of:
6 b. Slapping Plaintiff in the back of his head
7 c. Punching Plaintiff in his stomach or in his arm
8 d. Kicking Plaintiff
9 e. Shoving Plaintiff
10 f. Tackling Plaintiff to the ground
11 g. Knocking hot coffee out of Plaintiff’s hand

12 16.

13 These assaults would occur in the downstairs area of Defendant OSH’s facility's building
14 basement at random times when Plaintiff was by the badge readers or just passing through.
15 Defendant Peterson’s office was downstairs with the door usually open.

16 17.

17 Plaintiff never provoked Defendant Peterson to assault him. The assaults were random
18 occurrences.

19 18.

20 Plaintiff sometimes stood, stone-faced and said nothing; other times, Plaintiff would
21 exclaim, "really, man!"; and other times Plaintiff would just walk away quietly.

22 19.

23 These random, unprovoked assaults by Defendant Peterson on Plaintiff were witnessed
24 by Jeffrey Ficker, Jaime Martinez, Scott Vancamp and Roger Henninger.

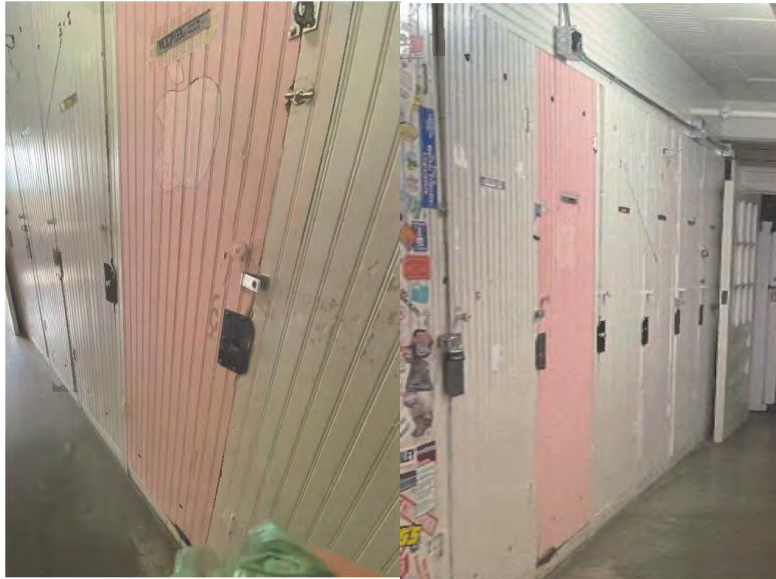
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COMPLAINT - 5 OF 21



20.

Sometime during the Spring of 2020, Defendant Peterson had Painter, Steven Keene, paint Plaintiff's locker pink and sprinkled with glitter. Despite the remainder of the lockers in the area being painted grey.



21.

Also, around early Spring 2020, Defendant Peterson had a pink iPhone ordered for, and assigned to, Plaintiff.



22.

1 Plaintiff signed off on the mobile device agreement form, along with his manager signing
2 off on it.

23.

3
4 Plaintiff later discovered that Defendant Peterson asked the Mobile Device Coordinator,
5 Emily Heberlein, to order Plaintiff a pink phone as his state issued device. Despite the rest of the
6 maintenance crew being issued black phones.

24.

7
8 Plaintiff never reported these random, unprovoked assaults by Defendant Peterson, or his
9 locker being painted pink or him being issued a pink iPhone because Defendant Peterson was
10 Plaintiff's Union Representative. So, Plaintiff figured that if Defendant Peterson was doing these
11 things, there was no way for Plaintiff to stop him. And because Defendant Peterson appeared to
12 be close friends with Defendant OSH Directors and Managers, who observed and were aware of
13 his behavior toward Plaintiff and did nothing.

25.

14
15 Plaintiff's reticence was reinforced by Defendant Peterson's frequent threats, telling
16 Plaintiff, "if you ever screw me over, I will bury you."

26.

17
18 On or about February 5, 2020, Plaintiff was instructed by Joseph Pickering, Defendant
19 OSH's Director of Facilities, to start working with Douglas Ruble, Defendant OSH's Medical
20 Equipment Coordinator.

27.

21
22 On or about September 29, 2020, Plaintiff contacted Dale Jones, Defendant OSH's
23 Maintenance and Operations Supervisor, regarding Reclassification and Change in
24

1 Compensation as Plaintiff believed that his new work assignment warranted a change. Plaintiff
2 never received a response from Defendant Jones.

3 28.

4 On or about December 29, 2020, Plaintiff contacted Mr. Pickering to ask permission to
5 modify Plaintiff's original Monday through Thursday 6:30AM to 5:00PM to start working
6 1:00PM to 11:30PM. Plaintiff told him the reason for the requested change was to have better
7 access to inspect equipment. Plaintiff's real reason was to get away from Defendant Peterson.
8 (He approved this schedule change)

9 29.

10 On or about February 12, 2021, Plaintiff complained to Human Resources about
11 Defendant Peterson's behavior and his grievance.

12 30.

13 On or about February 18, 2021, Plaintiff had a meeting with his Management to discuss
14 Grievance followed by meeting with Annie Olver from Human Resources to discuss Defendant
15 Peterson.

16 31.

17 On or about February 25, 2021, Mr. Pickering denied Plaintiff's Step 1 Grievance,
18 concluding: "After very carefully considering the evidence provided to me, I must respectfully
19 deny this grievance and consider this grievance as notice that the employee no longer wishes to
20 participate in the opportunity to work in the medical equipment department and if this is the
21 intent, Brett will be returned to his previous duties as a general Laborer in facility maintenance."

22 32.

23 On or about March 1, 2021, Plaintiff was no longer permitted to close out preventative
24 maintenance work orders on the Z-Link work order system.

25 ///

COMPLAINT - 8 OF 21



1 33.

2 On or about March 5, 2021, Plaintiff filed a complaint with the Bureau of Labor and
3 Industries (“BOLI”).

4 34.

5 On or about March 8, 2021, Plaintiff files a report with the Oregon State Police.

6 35.

7 On or about March 8, 2021, Plaintiff was called into a meeting with Mr. Pickering and
8 Mr. Jones, wherein Plaintiff’s schedule was changed to Tuesday through Friday 6:30AM to
9 5:00PM.

10 36.

11 On or about March 10, 2021, Plaintiff files a complaint with the Federal Bureau of
12 Investigation (“FBI”).

13 37.

14 On or about March 11, 2021, Plaintiff files a Step 2 Grievance with his union.

15 38.

16 On or about March 12, 2021, Plaintiff files a Tort Claim Notice with the Oregon
17 Department of Administrative Services (“DAS”) Risk Management.

18 39.

19 On or about March 17, 2021, Mr. Jones informed Plaintiff that his new work assignments
20 were to clean bathrooms, empty trash, mop, and sweep the facilities building Tuesday through
21 Friday, during the last hour of Plaintiff’s shift.

22 40.

23 On or about March 19, 2021, Plaintiff files a complaint with the Oregon office of Equity
24 and Inclusion (“OEI”).

25 ///

COMPLAINT - 9 OF 21



1 41.

2 On or about March 25, 2021, Mr. Jones informed Plaintiff that his priority as a
3 laborer/student worker was to escort contractors and when Plaintiff was not needed, he was to do
4 his cleaning tasks and any Preventive Maintenance that Plaintiff was assigned. Mr. Jones also
5 informed Plaintiff that work orders would be removed from Plaintiff's dashboard as of March
6 26, 2021.

7 42.

8 On or about March 26, 2021, all of Plaintiff's Z-Link Preventive Maintenance Work
9 Orders were deleted and his Administrative Privileges were revoked.

10 43.

11 On or about April 14, 2021, SEIU informs Plaintiff that they will no longer be pursuing
12 his grievance.

13 44.

14 On or about April 21, 2021, one of Plaintiff's work desks had been flipped over and the
15 other desk emptied out with all his stuff placed on the top of it. Plaintiff was also missing a black
16 desk mat. HR verified that Mr. Pickering had authorized one of Plaintiff's co-workers to go
17 through Plaintiff's desk without notice to Plaintiff or his permission.

18 45.

19 Ever since Plaintiff lodged his complaints with Defendant, filed his grievances and
20 reported Defendant Peterson's behavior to the State Police and others, he has been the subject of
21 retaliation and hostility by his co-workers and existing management team. For example:

- 22 a. Plaintiff has not been treated in the same light and not being communicated with by his
23 peers or management, and given the "Cold Shoulder Treatment," with co-workers
24 avoiding him by walking in the other direction.

- 1 b. Plaintiff has been yelled at and threatened with Insubordination by his lead worker Roger
2 Henninger who is friends with Mr. Jones.
- 3 c. Mr. Henninger is routinely short and curt toward Plaintiff in his tone when asking
4 Plaintiff about work assignments. Giving Plaintiff the feeling that Mr. Henninger is
5 targeting him.
- 6 d. A considerable number of Plaintiff's co-workers are friends with both Defendant
7 Peterson and Mr. Jones outside of work. And ever since their removal from the
8 workplace, the cold shoulder treatment/hostility toward Plaintiff have increased.
- 9 e. Plaintiff has been excluded from the team, and is not getting the support Plaintiff needs to
10 be successful in his current position.

11 46.

12
13 On or about August 13, 2021, due to the intimidation, discrimination, hostility and
14 retaliation Plaintiff has endured, Plaintiff sought and was provided a "voluntary demotion" from
15 his current position.

16 **FIRST CLAIM FOR RELIEF**
17 **ORS 659A.030(1)(b)**
18 **Hostile Work Environment**

19 47.

20 Plaintiff incorporates paragraphs 1 through 46 as if fully set forth herein.

21 48.

22 It is an unlawful employment practice for an employer, because of an individual's sexual
23 orientation, to discriminate against the individual in compensation or in terms, conditions, or
24 privileges of employment.

25 49.

Defendant Peterson physically assaulted Plaintiff because of Plaintiff sexual orientation.

1 50.

2 Defendant Peterson verbally harassed Plaintiff because of Plaintiff's sexual orientation.

3 51.

4 Defendant Peterson had Plaintiff's locker painted pink because of Plaintiff's sexual
5 orientation.

6 52.

7 Defendant Peterson ordered and assigned Plaintiff a pink iPhone because of Plaintiff's
8 sexual orientation.

9 53.

10 Defendants worked Plaintiff out of class without proper compensation.

11 54.

12 Defendants removed appropriately assigned work responsibilities from Plaintiff without
13 cause.

14 55.

15 Defendants inappropriately assigned Plaintiff work responsibilities.

16 56.

17 Defendants' unlawful acts has subjected Plaintiff to a hostile working environment.

18 57.

19 Defendants made Plaintiff's work environment so hostile that Plaintiff was forced to seek
20 a voluntary demotion to avoid Defendants'

21 58.

22 As a direct and proximate result of Defendants' unlawful acts, Plaintiff suffered
23 economic damages in the form of lost wages for taking a voluntary demotion to avoid the
24

1 intolerable nature of Defendants' actions, and for being forced to work out of class without
2 appropriate compensation, with prejudgment interest in an amount to be determined at trial.

3 59.

4 As a direct and proximate result of Defendants' unlawful acts, Plaintiff has
5 suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in
6 amounts to be determined by the jury at trial.

7 60.

8 Plaintiff intends to amend the complaint to attain all damages available under Oregon
9 law.

10 61.

11 The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act
12 Liability limits.

13 62.

14 Plaintiff is entitled to recover reasonable attorney fees, expert fees and costs herein
15 incurred pursuant to ORS 659A.885.

16
17 **SECOND CLAIM FOR RELIEF**
18 **ORS 659A.030(1)(g)**
19 **Aiding, Abetting, Inciting, Compelling or Coercing**

20 63.

21 Plaintiff incorporates paragraphs 1 through 62 as if fully set forth herein.

22 64.

23 It is an unlawful employment practice for any person, whether an employer or an
24 employee, to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this
25 chapter or to attempt to do so.

////

65.

Defendants incited, compelled, or coerced Plaintiff's co-workers to discriminate against Plaintiff because of his sexual orientation by, among other things, painting his locker pink and ordering and assigning Plaintiff a pink iPhone.

66.

As a direct and proximate result of Defendants' unlawful acts, Plaintiff suffered economic damages in the form of lost wages for taking a voluntary demotion to avoid the intolerable nature of Defendants' actions, with prejudgment interest in an amount to be determined at trial.

67.

As a direct and proximate result of Defendants' unlawful acts, Plaintiff has suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in amounts to be determined by the jury at trial.

68.

Plaintiff intends to amend the complaint to attain all damages available under Oregon law.

69.

The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act Liability limits.

70.

Plaintiff is entitled to recover reasonable attorney fees, expert fees and costs herein incurred pursuant to ORS 659A.885.

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THIRD CLAIM FOR RELIEF
ORS 659A.030(1)(f)
Retaliation

71.

Plaintiff incorporates paragraphs 1 through 70 as if fully set forth herein.

72.

It is an unlawful employment practice for any person to discriminate against any other person because that other person has opposed any unlawful practice, or because that other person has filed a complaint under ORS 659A.030.

73.

Defendants retaliated against Plaintiff for making complaints to BOLI, OEI, OSP and the FBI by, among other things: refusing to pay him for his out of class work done; inappropriately removing work assignments; inappropriately adding work assignments; micromanaging him without cause; and ransacking and searching his desk area without his permission or notice.

74.

As a direct and proximate result of Defendants' unlawful acts, Plaintiff suffered economic damages in the form of lost wages for taking a voluntary demotion to avoid the intolerable nature of Defendants' actions, and for working out of class without appropriate compensation, and prejudgment interest in an amount to be determined at trial.

75.

As a direct and proximate result of Defendants' unlawful acts, Plaintiff has suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury, and insult in amounts to be determined by the jury at trial.

76.

Plaintiff intends to amend the complaint to attain all damages available under Oregon law.

1 77.

2 The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act
3 Liability limits.

4 78.

5 Plaintiff is entitled to recover reasonable attorney fees, expert fees and costs herein
6 incurred pursuant to ORS 659A.885.

7 **FOURTH CLAIM FOR RELIEF**
8 **Intimidation (ORS 30.198)**

9 79.

10 Plaintiff incorporates paragraphs 1 through 78 as if fully set forth herein.

11 80.

12 Defendants tampered and interfered with Plaintiff's property, having no right to do so nor
13 reasonable ground to believe that Defendant had such right, with the intent to cause substantial
14 inconvenience to Plaintiff because of the Defendants' perception of the Plaintiff's sexual
15 orientation.

16 81.

17 Defendants intentionally subjected Plaintiff to offensive physical contact because of the
18 Defendants' perception of Plaintiff's sexual orientation.

19 82.

20 As a direct and proximate result of Defendants' unlawful acts, Plaintiff has
21 suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury, and insult in
22 amounts to be determined by the jury at trial.

23 83.

24 Plaintiff intends to amend the complaint to attain all damages available under Oregon
25 law.

1 84.

2 The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act
3 Liability limits.

4 85.

5 Plaintiff is entitled to recover reasonable attorney fees, expert fees and costs herein
6 incurred pursuant to ORS 30.198(3).

7 **FIFTH CLAIM FOR RELIEF**
8 **Common-Law Assault**

9 86.

10 Plaintiff incorporates paragraphs 1 through 85 as if fully set forth herein.

11 87.

12 An assault is an intentional attempt to do violence to the person of another, coupled with
13 present ability to carry the intention into effect.

14 88.

15 Defendant Peterson intentionally attempted to do violence to Plaintiff on *multiple*
16 occasions, which Defendant Peterson carried out.

17 89.

18 Defendant Peterson's assaults of Plaintiff happened during the course and in the scope of
19 Defendant Peterson's employment.

20 90.

21 Defendant OSH is jointly and severally liable to Plaintiff for Defendant Peterson's assault
22 on Plaintiff because they are Defendant Peterson's employer.

23 91.

24 As a direct and proximate result of Defendants' unlawful acts, Plaintiff suffered
25 economic damages in the form of lost wages for taking a voluntary demotion to avoid the

1 intolerable nature of Defendants' actions, with prejudgment interest in an amount to be
2 determined at trial.

3 92.

4 As a direct and proximate result of Defendant Peterson's assaults, Plaintiff has
5 suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in
6 amounts to be determined by the jury at trial.

7 93.

8 Plaintiff intends to amend the complaint to attain all damages available under Oregon
9 law.

10 94.

11 The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act
12 Liability limits.

13 **SIXTH CLAIM FOR RELIEF**
14 **Common-Law Battery**

15 95.

16 Plaintiff incorporates paragraphs 1 through 94 as if fully set forth herein.

17 96.

18 A battery is the voluntary unlawful physical touching of another which causes intentional
19 harm or physical offense to that person.

20 97.

21 Defendant Peterson voluntarily, unlawfully, and physically touched Plaintiff, in a manner
22 that offended Plaintiff, on *multiple* occasions.

23 98.

24 Defendant Peterson's batteries of Plaintiff happened during the course and in the scope of
25 Defendant Peterson's employment.

1 99.

2 Defendant OSH is jointly and severally liable to Plaintiff for Defendant Peterson's
3 batteries on Plaintiff because they are Defendant Peterson's employer.

4 100.

5 As a direct and proximate result of Defendant Peterson's batteries, Plaintiff has
6 suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in
7 amounts to be determined by the jury at trial.

8 101.

9 Plaintiff intends to amend the complaint to attain all damages available under Oregon
10 law.

11 102.

12 The total amount of damages Plaintiff is entitled to exceeds Oregon Tort Claims Act
13 Liability limits.

14
15 **SEVENTH CLAIM FOR RELIEF**
Intentional Infliction of Emotional Distress

16 103.

17 Plaintiff incorporates paragraphs 1 through 102 as if fully set forth herein.

18 104.

19 Defendant Peterson intended to cause Plaintiff severe emotional distress by subjecting
20 Plaintiff to his slurs, threats, assaults, and batteries.

21 105.

22 Defendant Peterson knew with substantial certainty that he would cause Plaintiff severe
23 emotional distress by subjecting Plaintiff to his slurs, threats, assaults, and batteries.

24
25 ////

COMPLAINT - 19 OF 21



106.

1
2 Defendant Peterson's homophobic, threatening and assaultive conduct toward Plaintiff
3 was outrageous, in that it was extraordinarily beyond the bounds of socially tolerable conduct,
4 given that:

- 5 a. Defendant Peterson was Plaintiff's Union Representative, tasked with protecting
6 Plaintiff from the very conduct he was perpetrating upon Plaintiff, and
7 b. Defendant Peterson's conduct was performed in the presence of Plaintiff's peers
8 and co-workers, and with the knowledge and consent of Plaintiff's supervisors,
9 managers and directors.

10
11 107.

12 Defendant Peterson's slurs, threats, assaults and batteries, in fact caused Plaintiff severe
13 emotional distress, in that Plaintiff was forced to take leave to deal with the toll Defendant
14 Peterson's conduct took on his mental health.

15
16 108.

17 Defendant Peterson's intentional infliction of emotional distress upon Plaintiff happened
18 during the course and in the scope of Defendant Peterson's employment with Defendant OSH.

19
20 109.

21 Defendant OSH is jointly and severally liable to Plaintiff for Defendant Peterson's
22 batteries on Plaintiff because they are Defendant Peterson's employer.

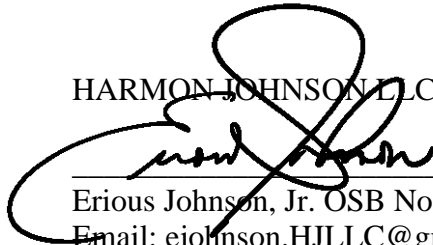
23
24 110.

25 As a direct and proximate result of Defendant Peterson's batteries, Plaintiff has
suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in
amounts to be determined by the jury at trial.

g. Such other and further relief the Court deems just, proper and equitable.

DATED this 25th day of August, 2021

HARMON JOHNSON LLC



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Attorney for Plaintiff

Trial Attorney: Erious Johnson, Jr., OSB No. 130574