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

PHILIP WALTER RILATOS, III,

Plaintiff,

v.

NORTH LINCOLN FIRE & RESCUE
DISTRICT #1, and/or its/ their unknown
business entity and/or subsidiary, a domestic
local fire district; DOUG KERR, an
individual; ROB DAHLMAN, an individual;
DENNIS MILES, an individual; ERIC
MAESTAS, an individual; and DAVID
BICKERDYKE, an individual,

Defendants.

Case No.

COMPLAINT

(DISCRIMINATION)

REQUEST FOR JURY TRIAL

Claim not subject to mandatory arbitration

Amount prayed for: \$2,000,000.00

Filing fee of \$834.00 pursuant to
ORS 21.160(1)(d)

By and through counsel, Plaintiff hereby alleges as follows:

1.

The amount in controversy exceeds the sum of \$50,000.00, and therefore the present
action is not subject to mandatory arbitration.

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1 **GENERAL ALLEGATIONS**

2 2.

3 At all times material herein, Defendant NORTH LINCOLN FIRE & RESCUE
4 DISTRICT #1, and/or its/ their unknown business entity and/or subsidiary, (“FIRE DISTRICT”)
5 was and is an Oregon Local Fire District with its principle place of business in Lincoln County,
6 Oregon.

7 3.

8 At all times material herein, Defendants ROB DAHLMAN (“DAHLMAN”), ERIC
9 MAESTAS (“MAESTAS”), and DAVID BICKERDYKE (“BICKERDYKE”) were and are
10 individuals who reside in Lincoln County, Oregon. Defendant DENNIS MILES (“MILES”) is
11 an individual who resides in Lane County, Oregon. Defendant DOUG KERR (“KERR”) is an
12 individual who resides in Arizona.

13 4.

14 Plaintiff is an individual who resided in Lincoln County, Oregon for many of the events
15 material herein and currently resides in California.

16 5.

17 All events material herein occurred in Lincoln County, Oregon.

18 **FIRST CLAIM FOR RELIEF**
19 **DISCRIMINATION (EMPLOYMENT)**

20 6.

21 Plaintiff realleges and reasserts paragraphs 1 through 5.

22 7.

23 At all times material herein Defendant FIRE DISTRICT, engaged in a business, industry,
24 profession or activity in the State of Oregon and employed 25 or more persons in the State of
25

1 Oregon for each working day during each of 20 or more calendar workweeks in the year. ORS
2 659A.090(2)(a).

3 8.

4 Defendant FIRE DISTRICT, employed Plaintiff as a Fire Fighter.

5 9.

6 On May 28, 2018, Defendant FIRE DISTRICT by and through its employees and/or
7 agents, Defendant MILES, Defendant MAESTAS, and Defendant BICKERDYKE, sexually
8 harassed Plaintiff by putting up a poster in Plaintiff's dorm stating "the homo is here," and
9 completely filled Plaintiff's dorm with pink balloons as well as a large number of sanitary
10 napkins which had the appearance of being used.

11 Plaintiff immediately reported the incident to Defendant FIRE DISTRICT, by and
12 through their employee and/or agent, Lieutenant Rick DeJager. Lieutenant DeJager reported the
13 incident up the chain of command to Defendant FIRE DISTRICT by and through their employee
14 and/or agents, Defendant DAHLMAN and Defendant KERR.

15 Defendant FIRE DISTRICT, failed to resolve the incident, and failed to conduct a proper
16 and/or thorough investigation as outlined by defendant FIRE DISTRICT's policy.

17 Defendant FIRE DISTRICT, by and through their employees and/or agents treated
18 Plaintiff adversely and shunned Plaintiff after Plaintiff reported the sexual harassment.

19 10.

20 On August 21, 2018, following an independent investigation, D. Craig Stoelk, issued a
21 written report finding that the May 28, 2018 incident was sexual harassment and constituted "a
22 violation of the employer's policy related to harassment." Mr. Stoelk also found that Defendant
23 FIRE DISTRICT, "failed to conduct a proper/thorough harassment investigation as outlined by
24 the employer's policy." Mr. Stoelk further found that Defendant, FIRE DISTRICT's "shunning"

1 of Plaintiff after Plaintiff reported the May 28, 2018 incident “is a clear form of retaliatory
2 behavior.”

3 11.

4 On April 18, 2019, after months of repeated oral and written requests, as well as a public
5 records request, Defendant FIRE DISTRICT, finally allowed Plaintiff to examine the August 21,
6 2018 report authored by Mr. Stoelk via Plaintiff’s attorney but would not allow Plaintiff to retain
7 a copy. April 18, 2019 is the first day Plaintiff had knowledge (1) that his sexual harassment
8 claim from May 28, 2018 was substantiated, (2) that Defendant FIRE DISTRICT’s own
9 investigation was improper, and (3) that Defendant FIRE DISTRICT’s retaliation against
10 Plaintiff was substantiated.

11 12.

12 On April 23, 2019 Defendant FIRE DISTRICT terminated Plaintiff’s employment.

13 13.

14 Defendant FIRE DISTRICT discharged, and/or discriminated, and/or retaliated against
15 Plaintiff with regard to employment for the reason that Plaintiff in good faith reported
16 information that Plaintiff believed was evidence of a violation of state, or federal law, rule, or
17 regulation when Defendant FIRE DISTRICT terminated Plaintiff’s employment, because he
18 reported sexual harassment in the workplace. ORS 659A.199(1)

19 14.

20 Defendant FIRE DISTRICT discriminated against Plaintiff in compensation and/or in
21 terms, conditions or privileges of employment because of Plaintiff’s (1) sex, (2) sexual
22 orientation, and/or (3) because of the sexual orientation of another person with whom Plaintiff
23 associates. ORS 659A.030(1)(b).

24 ///

25 ///

1 15.

2 Plaintiff is entitled to (1) injunctive relief, (2) equitable relief, (3) reasonable attorney
3 fees, (4) compensatory damages or \$200, whichever is greater, and (5) punitive damages. ORS
4 659A.885(1), (3)(a),(3)(b), 7, and 7(a).

5 **SECOND CLAIM FOR RELIEF**

6 **DISCRIMINATION (PLACE OF PUBLIC ACCOMMODATION)**

7 16.

8 Plaintiff realleges and reasserts Paragraph 1 through 15.

9 17.

10 At all times material herein, Defendant FIRE DISTRICT was and is a place offering
11 goods and services to the public. ORS 659A.400(1)(a).

12 18.

13 On May 28, 2018, Defendant FIRE DISTRICT by and through its employees and/or
14 agents, Defendant MILES, Defendant MAESTAS, and Defendant BICKERDYKE, sexually
15 harassed Plaintiff by putting up a poster in Plaintiff's dorm stating "the homo is here," and
16 completely filled Plaintiff's dorm with pink balloons as well as a large number of sanitary
17 napkins which had the appearance of being used.

18 Plaintiff immediately reported the incident to Defendant FIRE DISTRICT, by and
19 through their employee and/or agent, Lieutenant Rick DeJager. Lieutenant DeJager reported the
20 incident up the chain of command to Defendant FIRE DISTRICT by and through their employee
21 and/or agents, Defendant DAHLMAN and Defendant KERR.

22 Defendant FIRE DISTRICT, failed to resolve the incident, and failed to conduct a proper
23 and/or thorough investigation as outlined by defendant FIRE DISTRICT's policy.

24 Defendant FIRE DISTRICT, by and through their employees and/or agents treated
25 Plaintiff adversely and shunned Plaintiff after Plaintiff reported the sexual harassment.

1 19.

2 Defendant FIRE DISTRICT, Defendant KERR, Defendant DAHLMAN, Defendant
3 MILES, Defendant MAESTAS, and Defendant BICKERDYKE discriminated against Plaintiff in
4 compensation and/or in terms, conditions, or privileges of employment because of Plaintiff's (1)
5 sex, (2) sexual orientation, and/or (3) because of the sexual orientation of another person with
6 whom Plaintiff associates. ORS 659A.030(1)(b).

7 20.

8 Plaintiff is entitled to (1) injunctive relief, (2) equitable relief, (3) reasonable attorney
9 fees, (4) compensatory damages, and (5) punitive damages. ORS 659A.885(1), (7), and (7)(a).

10 21.

11 Defendant FIRE DISTRICT (as a place of public accommodation), Defendant
12 DAHLMAN (as a manager of the place of public accommodation), and Defendants MILES,
13 MAESTAS, and BICKERDYKE (as employees acting on behalf of the place of public
14 accommodation) shall be jointly and severally liable for all damages. ORS 6559A.885(7)(b).

15 22.

16 As a direct and foreseeable result of Defendants' discrimination, Plaintiff suffered
17 economic loss from lost wages of at least \$126,240. As a direct and foreseeable result of
18 Defendants' discrimination, Plaintiff suffered non-economic damages including anxiety, worry,
19 distress, embarrassment, humiliation, and loss of esteem valued at not less than \$1,873,760.

20 23.

21 Plaintiff hereby requests a jury trial.

22 24.

23 Plaintiff reserves the right to move the Court to allow Plaintiff to amend the Complaint to
24 assert a claim for punitive damages. ORS 31.725.

1 SUBMITTED BY:
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