

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

**JUSTINA THORESON, and LAURIE
BRANCH, individuals,**

Plaintiffs,

v.

EASTSIDE DISTILLING, INC. a foreign
corporation, **GROVER WICKERSHAM,
ARMAIN AUSTIN, ROBERT
MANFREDONIA, and AMY BRASSARD,**
individuals;

Defendants.

Case No.

COMPLAINT

Sex Discrimination – ORS 659A.030;
Retaliation – ORS 659.030(1)(f);
Aiding and Abetting Unlawful Conduct –
ORS 659A.199

NOT SUBJECT TO MANDATORY
ARBITRATION

Prayer for Relief: \$560,000.00

Filing Fee: \$594.00 - ORS 21.160(1)(c)

JURY TRIAL DEMANDED

INTRODUCTION

1.

Plaintiffs Justina Thoreson and Laurie Branch (collectively, “Plaintiffs”) bring this action against Defendants Eastside Distilling, Inc., Grover Wickersham, Armain Austin, Amy Brassard, and Robert Manfredonia, (collectively “Defendants”) for declaratory, injunctive, and monetary relief, including economic and noneconomic damages, attorney fees and costs, and, following amendment, punitive damages, to redress Defendants’ discriminatory and retaliatory employment practices in violation of Plaintiffs’ statutory rights.

1 **JURISDICTION**

2 2.

3 This Court has jurisdiction over Plaintiffs’ claims under Article VII, section 9 of the
4 Oregon constitution and because their claims arose out of Defendants’ acts and omissions
5 within the state of Oregon.
6

7 **VENUE**

8 3.

9 Venue is proper in Multnomah County, Oregon pursuant to ORS 14.080(1) because
10 Eastside Distilling has a principal place of business at 1001 SE Water Ave, Suite 390, Portland,
11 in Multnomah County and because Defendants reside in Multnomah County.
12

13 **PARTIES**

14 4.

15 Plaintiff Justina Thoreson (“Plaintiff Thoreson”) currently resides in Clark County,
16 Washington. Plaintiff Thoreson worked as an employee of Eastside Distilling beginning in
17 2012, until her termination in July 2019.
18

19 5.

20 Plaintiff Laurie Branch (“Plaintiff Branch”) currently resides in Clackamas County,
21 Oregon. Plaintiff Branch was an employee of Eastside Distilling beginning in December 2017
22 until her termination in July 2019.
23

24 6.

25 Defendant Eastside Distilling, Inc. (“Eastside Distilling”) is a Nevada Corporation
26 registered to conduct business in Oregon with a principal place of business in Portland. Eastside
Distilling is a spirits distillery and producer.

1 7.

2 Defendant Grover Wickersham (“Wickersham”) was at all material times the CEO of
3 Eastside Distilling. Upon information and belief, Wickersham resides in Multnomah County.

4 8.

5 Defendant Armain Austin (“Austin”) was at all material times the Sales Director of
6 Eastside Distilling and was Plaintiffs’ direct supervisor. Upon information and belief, Austin
7 resides in Multnomah County.

8 9.

9 Defendant Amy Brassard (“Brassard”) was at all material times the human resources
10 representatives for Eastside Distilling and was charged with handling Plaintiffs’ workplace
11 complaints. Upon information and belief, Brassard resides in Multnomah County.

12 10.

13 Defendant Robert Manfredonia (“Manfredonia”) was at all material times the President
14 of Eastside Distilling. Upon information and belief, Manfredonia resides in California.

15 **GENERAL ALLEGATIONS**

16 11.

17 Plaintiff Thoreson began working as a tasting room host for Eastside Distilling in 2012.
18 In 2013 Plaintiff Thoreson was promoted to Director of Retail and Special Events, and in 2017
19 she was promoted to the position of Regional Account Manager.

20 12.

21 Throughout her time as an employee of Eastside Distilling, Plaintiff Thoreson’s job
22 responsibilities included, without limitation, promoting and selling spirits, developing and
23 creating overall marketing and sales plans and strategy, coordinating events, managing tasting

1 rooms, opening retail locations, overseeing product design and display, leading all retail and
2 event department staff, and maintaining customer relationships and sales accounts. Plaintiff
3 Thoreson's position often required her to travel throughout the state and country.

4
5 13.

6 Plaintiff Branch began working as a regional sales representative for Eastside Distilling
7 in 2017. Her job responsibilities included, without limitation, account and client management,
8 development and creation of overall marketing and sales plans and strategy, and negotiating
9 and executing sponsorship opportunities. Plaintiff Branch managed a sales territory with over
10 1000 accounts and was responsible for 7 of the top 10 accounts for sales volume in the state.
11 Plaintiff Branch's position often required her to travel throughout the state and country.

12
13 14.

14 In January 2018, Austin was hired as Oregon Sales Director by Manfredonia and
15 Plaintiffs began to report directly to him.

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17 15.

18 Plaintiff Thoreson reported directly to Wickersham while in the role of Director of
19 Retail and Special Events from 2016 until she was removed from the position in 2018. As CEO
20 of the Company, Wickersham had authority over Plaintiffs, as well as over Austin, and
21 Plaintiffs understood him to be their boss.

22
23 16.

24 Plaintiffs did not report directly to Manfredonia, but as the National Accounts Manager,
25 and later President of the Company, he had authority over Plaintiffs, and Plaintiffs understood
26 him to be their boss. Manfredonia was Austin's direct supervisor.

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17.

Plaintiffs performed their respective jobs satisfactorily, received positive feedback about their work, and consistently were awarded performance-based bonuses. Just prior to termination, on or about June 26, 2019 both Plaintiffs received “tier one” performance-based bonuses, awarded for excellence in their respective positions during the first half of the calendar year.

18.

In addition to their base compensation, Plaintiffs were awarded and/or given the opportunity to purchase stock options by Eastside Distilling. On December 31, 2016, Plaintiff Thoreson received 1,751 shares of stock and the option the purchase 15,000 additional shares. Both Plaintiffs were awarded the option to purchase 3000 shares of stock on January 11, 2018 and 1000 shares on October 15, 2018.

19.

Wickersham was hired to the position of CEO of Eastside Distilling in approximately 2016. Beginning as of the date of his hire, Wickersham made derogatory and inappropriate comments to Plaintiffs and other female employees of Eastside Distilling related to their sex, detailed further below.

20.

On December 12, 2017, Plaintiffs observed Wickersham at the Eastside Distilling holiday party get belligerently drunk and make inappropriate comments related to Plaintiffs’ appearances, and the physical appearances of other female employees at Eastside Distilling. Plaintiffs observed that there were no repercussions for such inappropriate behavior or comments. In fact, Brassard, who was the office assistant for Eastside Distilling’s office at the

1 time, was repeatedly invited to sit on, and did in fact sit on, Wickersham's lap for most of the
2 evening.

3
4 21.

5 On or about March 2018, Wickersham learned that Plaintiff Thoreson was pregnant.
6 Soon thereafter, he told her she would no longer hold a position in Events, stating, "when the
7 baby comes, you're not gonna be able to do all this."

8
9 22.

10 On September 20, 2018, Wickersham texted Plaintiff Branch repeatedly about getting
11 drunk at a bar, "Muu-muu's" in Portland, Oregon. Around 4:00pm on September 20,
12 Wickersham texted Plaintiff Branch, "We are getting drunk at mumu, where are you?" Plaintiff
13 Branch did not reply to such text, and informed her supervisor at the time, Pat Roth, of the
14 communication and asked what she should do. Mr. Roth instructed her to "leave it alone." At
15 the time of this incident, Eastside Distilling did not have a human resources department or
16 formally instituted complaint process for employees.

17
18 23.

19 In May of 2018, Manfredonia was hired as the National Accounts Manager. In December
20 of 2018, Manfredonia was promoted to President of Eastside Distilling.

21
22 24.

23 In late 2018, Pat Roth, who had previously been the Sales Director for the State of
24 Oregon, and Plaintiffs' direct supervisor, resigned from Eastside Distilling. Prior to his
25 resignation, Mr. Roth recommended Eastside Distilling consider both Plaintiffs for his position.
26 Mr. Roth wrote a letter of recommendation for Plaintiff Thoreson for the purposes of obtaining

1 such position whereby he commended her for “abilities, work ethic, competitiveness, and
2 dedication” and noted she was “held in very high regard with her peers and team members.”

3
4 25.

5 The job description for the open Sales Director position stated the ideal candidate would
6 have ten years of “Beverage Alcohol Industry” experience. When Manfredonia discussed the
7 Sales Director position with the Sales team, he repeatedly described the theoretical candidate
8 using male pronouns; for example, “**he** [will need to...]” and “**his** [role will be to...]”
9 Manfredonia used these descriptors to such a degree that Plaintiffs’ co-worker Molli Holt cut
10 in, saying, “or *SHE*.”

11
12 26.

13 Both Plaintiffs had all requisite qualifications for the open Sales Director position and
14 each contacted Manfredonia to request consideration. Both Plaintiffs interviewed via telephone
15 and were told that Manfredonia did not have that much time as he was at the airport for one call
16 and a coffee shop for the other. Based on Manfredonia’s actions, Plaintiffs understood their
17 candidacy was never seriously considered. Upon information and belief, all male applicants
18 were offered in-person interviews with the executive team.

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20 27.

21 In January of 2019, both Plaintiffs were denied a promotion and Austin was hired for the
22 Sales Director position. Austin was a male, external hire with fewer professional qualifications
23 than Plaintiffs for the Sales Director position with very limited experience in the alcohol
24 beverage industry and no experience with liquor.

25
26 28.

1 With respect to the hire of Austin has Sales Director, Manfredonia told Plaintiffs, “we
2 need someone that can talk to [Wickersham]” and suggested that person needed to be male.
3 Plaintiff Branch was later told by Eastside Distilling that she did not meet the qualifications of
4 the position because she was not good at communicating with Wickersham as CEO. Confusing
5 matters further, Plaintiff Branch was repeatedly told by Mr. Roth to ignore Wickersham’s
6 harassing text messages and avoid contact with him. Plaintiffs and other female coworkers
7 understood Mr. Wickersham simply preferred to work with males. Under Wickersham and
8 Manfredonia’s leadership, Plaintiffs’ witnessed unqualified male applicants repeatedly hired
9 and promoted over female candidates with more experience, and on information and belief, this
10 pattern continues today.
11

12 29.

13
14 On January 10, 2019 Plaintiff Branch sent a text message to Jarrett Catalani, Senior Vice
15 President of Sales (“Catalani”) stating, “[Austin] was ‘let go’ from Pabst 3 months ago and
16 hasn’t had a job since. Zero liquor experience. Like I said, a pretty big slap in the face to those
17 of us who actual [*sic*] had 10 years of beverage experience that the position requires.”
18 Plaintiffs then requested a telephone call and/or meeting with Catalani to discuss the fact they
19 were being discriminated against by Eastside Distilling on the basis of their sex.
20

21 30.

22 In late January of 2019, Plaintiff Branch and Austin were placed on a joint work
23 assignment by Eastside Distilling which required they travel to a client account. Upon meeting
24 Plaintiff Branch for the first time, Austin commented to her, “there is nothing sexier than a
25 woman driving a truck—you have one of those, right?” Plaintiff Branch felt intimidated,
26 embarrassed, and uncomfortable by the comment. To make matters worse, she and Austin had a

1 five-hour drive ahead of them. Austin’s actions and statements to Plaintiff Branch interfered
2 with her work performance on this work assignment.

3 31.

4 On February 25, 2019, Plaintiff Thoreson attended a team dinner with Austin and
5 another male employee, Aaron Howard, at a restaurant in Portland, Oregon by the name of
6 “Bluehour.” Austin made inappropriate comments to their female server throughout the night
7 including remarking continually about how “hot” she was, and indicating he wanted to have sex
8 with her, to which Mr. Howard replied, “been there, fucked that.” Upon information and belief,
9 Eastside Distilling later learned that the Bluehour server informed her manager of Austin’s
10 comments and behavior, and Brassard and Manfredonia were advised to investigate further.
11 Plaintiff Thoreson submitted a written complaint about the incident to the human resources
12 representative for Eastside Distilling, Amy Brassard, and Manfredonia which stated, without
13 limitation, “I was embarrassed and felt bad for our waitress during the event. I was also pretty
14 disgusted that my male superior could be so disrespectful and degrading toward a woman who
15 was serving us and just trying to do her job.” Plaintiff Thoreson requested Eastside Distilling
16 require Austin attend sexual harassment training. To Plaintiff’s knowledge, no such
17 investigation was ever performed.

18 32.

19 On numerous occasions subsequent to the February 25th incident, Austin made comments
20 and statements to Plaintiffs at the workplace which they considered inappropriate, including
21 without limitation, emails where Austin would include the word “kisses” before his signature.
22 One such “kisses” email was sent by Austin on March 5, 2018 to Plaintiff Branch and read
23
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26

1 “thank you – I’ll let you take it from here, you can remove me from string if not talking by
2 phone. Kisses. - aa”

3 33.

4 Austin and Lauren Argintar, another Eastside employee, added to an already
5 uncomfortable and sexualized working environment through their public office romance. While
6 in the same room with Plaintiffs, Argintar would spoon-feed Austin and sit on his lap, and
7 Austin would pick Argintar up by the chair she was sitting in and move her closer to him.
8 Austin’s sexual behaviors toward subordinates made Plaintiffs uneasy, especially in the context
9 of the unwelcome and lewd comments Austin made toward Plaintiff Branch directly.
10

11 34.

12 Between February and April of 2019, Austin told Plaintiff Thoreson on no fewer than
13 four occasions that certain employment duties do not “fit her lifestyle” because she has kids and
14 that she would only be calling on off-premise accounts in the future. Plaintiff Thoreson raised
15 this issue and filed a complaint with Manfredonia and Brassard after the third time her
16 supervisor voiced the opinion that she should not be doing the work because she has children.
17 These incidents mark the second time Plaintiff Thoreson’s duties were impacted directly due to
18 her sex and familial status. Around the same time, Eastside Distilling instituted an unwritten
19 policy barring employees from bringing their children to work, which had the effect of
20 disproportionately impacting its female employees, especially Plaintiff Thoreson and co-worker
21 Molli Holt.
22
23

24 35.

25 In March of 2019, Plaintiff Branch met with Manfredonia and the CFO of Eastside
26 Distilling, Steve Shum, to make a formal complaint about Austin’s behavior. Plaintiff Branch

1 told Manfredonia and Mr. Shum that Austin made derogatory, sexualized comments to
2 Plaintiffs and other women in the office, and that she felt the workplace environment had
3 become hostile to women. Plaintiff Branch told Manfredonia and Mr. Shum they were hesitant
4 to even bring up the issues about Austin for fear of retaliation.

5
6 36.

7 Manfredonia admitted to Austin being too “casual” told Plaintiffs he would tell Austin to
8 “be more professional.”

9 37.

10 On April 12, 2019 Manfredonia called a sales meeting with Plaintiffs, Austin, and other
11 Eastside Distilling employees. During this meeting, Manfredonia informed all attendees that
12 Plaintiffs had been having issues with Austin. He then put Plaintiffs on the spot by asking that
13 they publicly “clear the air” and voice all concerns directly to Austin during the meeting so any
14 issues could be resolved. Plaintiffs did not tell Austin what their concerns were as they felt they
15 would be retaliated against. After the meeting, Plaintiffs told Manfredonia that they were not
16 comfortable speaking directly with Austin and that a meeting with other employees was not an
17 appropriate place or time to address their concerns about his behavior.

18
19 38.

20 After the April 12 sales meeting, Plaintiffs contacted Brassard in HR to file a formal
21 complaint related to the harassment and discrimination they were experiencing. On or about
22 April 18, 2019, Plaintiffs scheduled a group call with Manfredonia, Brassard, as well as two
23 other sales employees for the purposes of again voicing their concerns about discrimination and
24 harassment, as well as to inform Manfredonia and Brassard they were in fear of retaliation. In
25 an email dated April 18, 2019, Plaintiff Brassard sent Plaintiffs a “Complaint Form” for
26

1 Plaintiffs to complete. Manfredonia was copied on such April 18 email. Shortly thereafter,
2 Plaintiffs did complete and return the Complaint Form to Plaintiff Brassard.

3 39.

4 On or about May 8, 2019, Austin again suggested demoting Plaintiff Thoreson to a
5 position that would not require her to be in bars because she was a mother and being in bars
6 was not conducive to that “lifestyle.”
7

8 40.

9 Throughout April and May, Plaintiffs made formal complaints to Eastside Distilling
10 regarding: (1) sexist comments made in the workplace; (2) harassment at the hands of their
11 male supervisors; and (3) the fact that they were passed up for promotions and were otherwise
12 discriminated on the basis of their sex, on no fewer than three separate occasions.
13

14 41.

15 In February of 2019 two Sales Representative positions became available at Eastside
16 Distilling. Both of the individuals were external-hires and male. One of the new hires, Alex
17 Van Rossum, was a personal friend of Austin with no liquor experience.
18

19 42.

20 In early February of 2019, a Brand Ambassador position became available at Eastside
21 Distilling and was not offered to Plaintiffs, despite their qualifications. Aaron Howard, male,
22 was hired for the position and was offered a higher salary than either Plaintiff received from
23 Eastside Distilling.
24

25 43.

26 In March of 2019, Austin told Plaintiff Thoreson that her sales territory was the highest performing. Nonetheless, the bonus systems, custom designed per territory, prevented Thoreson

1 from ever receiving a second- or third-tier bonus. Eastside Distilling refused to provide Plaintiff
2 Thoreson's sales numbers and performance parameters despite her request.

3 44.

4 In late May of 2019, Austin and two female employees were terminated from Eastside
5 Distilling. Eastside Distilling announced on the day of Austin's termination that he would be
6 working in a consulting capacity and that Plaintiffs would still need to communicate with
7 Austin.
8

9 45.

10 On June 11, 2019, Plaintiffs received an email from Assistant Controller at Eastside
11 Distilling, Terah Krigsvold, which upon information and belief was sent to all employees of
12 Eastside Distilling, that stated: "[o]ur company continues to grow and add additional
13 employees, especially in the sales force..."
14

15 46.

16 On or about June 30, 2019 Plaintiffs were each informed they would receive "Tier 1"
17 performance-based bonuses from Eastside Distilling.
18

19 47.

20 On July 30, 2019, Plaintiffs were terminated. During the conversation over her
21 termination, Manfredonia told Plaintiff Thoreson that her role "as part of this downsizing is
22 going to be eliminated." When asked how Manfredonia chose to eliminate certain roles, he
23 responded "I don't think that's productive." Plaintiff Thoreson also raised that Plaintiffs'
24 terminations left no women on the Oregon sales team. Manfredonia offered Plaintiffs each a
25 severance agreement and release of all claims.
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48.

Despite Manfredonia’s purported reasons for firing Plaintiffs, Plaintiffs had received an email on May 22, 2019, from CFO Steve Shum, which upon information and belief was sent to all employees of Eastside Distilling, that stated: “Eastside is a growing and emerging company – the ability of our team to be flexible and adapt to changes is important to our continued growth and is greatly appreciated.” On or about September 2019, Eastside Distilling acquired Azunia Tequila for nearly \$15 million in stock.

49.

In August of 2019, a Brand Ambassador for Eastside Distilling by the name of Kellie Puckett, overheard Eastside Distilling Sales Representative Aaron Howard state that the terminations of Plaintiffs had been planned “for weeks,” indicating that the intent to terminate Plaintiffs arose around the time Plaintiffs began making reports of harassment and discrimination.

FIRST CLAIM FOR RELIEF
Sexual Discrimination, ORS 659A.030
(Against Defendant Eastside Distilling)

50.

Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 49.

51.

Defendant Wickersham by, without limitation, reducing Plaintiff Thoreson’s duties due to her pregnancy, making clear his preference to work directly with males in supervisory positions over Plaintiffs, and fraternizing with subordinates over alcohol, subjected Plaintiffs to discrimination because of their sex.

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52.

Defendant Austin by, without limitation, making lewd and unwelcome remarks to Plaintiff Branch and repeatedly commenting that Plaintiff Thoreson cannot do her job because she is pregnant or has children, subjected Plaintiffs to sexual harassment and unlawful discrimination because of their sex.

53.

Defendant Manfredonia, by endorsing Defendant's Wickersham's preference to work with males and by participating in the decision-making to routinely hire male applicants over more-qualified female applicants, including Plaintiffs, subjected Plaintiffs to unlawful discrimination because of their sex.

54.

Eastside Distilling intentionally created or maintained discriminatory working conditions based on Plaintiffs' sex.

55.

Eastside Distilling is liable and responsible for Wickersham, Austin, and Manfredonia's' unlawfully harassing and discriminatory conduct because they were Plaintiffs' direct supervisors and/or held executive positions at Eastside Distilling. Wickersham, Austin, and Manfredonia's' respective ranks were sufficiently high that they were Eastside Distilling's proxies.

56.

Alternatively, or in addition, Eastside Distilling is responsible for Austin, Wickersham, and Manfredonia's unlawful discriminatory conduct because Eastside knew of the conduct and failed to immediate and appropriate corrective action.

1 57.

2 As a direct and proximate result of Eastside Distilling's unlawful conduct, Plaintiffs
3 have suffered, and will continue to suffer, lost income and benefits. Plaintiffs are entitled to
4 recover economic damages in the approximate amount of \$180,000.00 each, or other amount to
5 be proven at trial.
6

7 58.

8 As a direct and proximate result of Eastside Distilling's unlawful conduct, Plaintiffs have
9 suffered, and will continue to suffer, anxiety, humiliation, and embarrassment. Plaintiffs are
10 entitled to recover non-economic damages in the approximate amount of \$100,000.00 each, or
11 other amount to be proven at trial.
12

13 59.

14 Pursuant to ORS 659A.885 and ORS 20.107, Plaintiffs are entitled to their reasonable
15 attorney fees and costs incurred in the prosecution of this case.
16

17 60.

18 Pursuant to ORS 82.110, Plaintiffs are entitled to post-judgment interest in the amount
19 of 9% per annum from the date of the judgment until paid.
20

21 61.

22 Defendant Eastside Distilling acted with malice, and their actions were intentional and
23 willful. Defendants acted with a conscious indifference to the health, safety, and welfare of
24 others. Such conduct exceeds the bounds of social toleration and is of the type that punitive
25 damages deter. Plaintiffs reserve the right to amend this Complaint to assert claims for punitive
26 damages pursuant to ORS 31.725.

SECOND CLAIM FOR RELIEF
Retaliation, ORS 659A.030; ORS 659A.199
(Against Defendants Eastside Distilling and Manfredonia)

62.

Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 49.

63.

Under ORS 659A.030, it is unlawful for any person to discriminate against, expel, or discharge an employee because that employee had opposed any unlawful practice.

64.

Plaintiffs engaged in a protected activity when they opposed and reported discrimination on the basis of sex and sexual harassment and when they opposed Eastside Distilling's refusal to take immediate and appropriate corrective action.

65.

Plaintiffs' opposition and reports of unlawful discrimination and harassment were a substantial factor in Eastside Distilling's decision to terminate Plaintiffs.

66.

Eastside Distilling terminated Plaintiffs because they opposed unlawful practices.

67.

Manfredonia participated in the decision to terminate Plaintiffs and/or caused Eastside Distilling to terminate Plaintiffs because Plaintiffs opposed unlawful sex discrimination and harassment. Accordingly, Manfredonia discriminated against Plaintiffs.

68.

1 As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
2 suffered, and will continue to suffer, lost income and benefits. Plaintiffs are entitled to recover
3 economic damages in the approximate amount of \$180,000.00 each or other amount to be
4 proven at trial.

5
6 69.

7 As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
8 suffered, and will continue to suffer, anxiety, humiliation, and embarrassment. Plaintiffs are
9 entitled to recover non-economic damages in the approximate amount of \$100,000.00 or other
10 amount to be proven at trial.

11
12 70.

13 Pursuant to ORS 659A.885 and ORS 20.107, Plaintiffs are entitled to their reasonable
14 attorney fees and costs incurred in the prosecution of this case.

15
16 71.

17 Pursuant to ORS 82.110, Plaintiffs are entitled to post-judgment interest in the amount
18 of 9% per annum from the date of the judgment until paid.

19
20 72.

21 Defendants acted with malice, and their actions were intentional and willful. Defendants
22 acted with a conscious indifference to the health, safety, and welfare of others. Such conduct
23 exceeds the bounds of social toleration and is of the type that punitive damages deter. Plaintiffs
24 reserve the right to amend this Complaint to assert claims for punitive damages pursuant to
25 ORS 31.725.

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1 **THIRD CLAIM FOR RELIEF**
2 **Sexual Harassment, Hostile Work Environment, ORS 659A.030**
3 **(Against Defendant Eastside Distilling)**

4 73.

5 Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1
6 through 49.

7 74.

8 Defendant Austin subjected Plaintiff Branch to unwelcome sexually harassing
9 comments that unreasonably interfered with Plaintiff Branch's work performance and created
10 an abusive and/or hostile work environment.

11 75.

12 Eastside Distilling intentionally created or maintained discriminatory working
13 conditions based on Plaintiffs' sex.

14 76.

15 Eastside Distilling is liable and responsible for Austin's unlawfully harassing and
16 discriminatory conduct because he was Plaintiffs' direct supervisors and/or held executive
17 positions at Eastside Distilling. Austin's rank was sufficiently high that he was Eastside
18 Distilling's proxy.

19 77.

20 Alternatively, or in addition, Eastside Distilling is responsible for Austin's unlawful
21 harassing conduct because Eastside knew of the severe or pervasive harassment and failed to
22 immediate and appropriate corrective action.

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78.

As a direct and proximate result of Defendants’ unlawful conduct, Plaintiff Branch has suffered, and will continue to suffer, lost income and benefits. Plaintiff Branch is entitled to recover economic damages in the approximate amount of \$180,000.00 or other amount to be proven at trial.

79.

As a direct and proximate result of Defendants’ unlawful conduct, Plaintiff Branch has suffered, and will continue to suffer, anxiety, humiliation, and embarrassment. Plaintiff Branch is entitled to recover non-economic damages in the approximate amount of \$100,000.00 or other amount to be proven at trial.

80.

Defendants acted with malice, and their actions were intentional and willful. Defendants acted with a conscious indifference to the health, safety, and welfare of others. Such conduct exceeds the bounds of social toleration and is of the type that punitive damages deter. Plaintiffs reserve the right to amend this Complaint to assert claims for punitive damages pursuant to ORS 31.725.

FOURTH CLAIM FOR RELIEF
Aiding and Abetting Unlawful Discrimination, ORS 659A.030
Count 1 - (Against Defendants Wickersham, Austin, Brassard, and Manfredonia)

81.

Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 49.

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82.

Defendant Wickersham by, without limitation, reducing Plaintiff Thoreson’s duties due to her pregnancy, making clear his preference to work directly with males in supervisory positions over Plaintiffs, and fraternizing with subordinates over alcohol, subjected Plaintiffs to sex discrimination and created a hostile work environment for Plaintiffs because of sex, and therefore aided and abetted the sex discrimination to which Eastside Distilling subjected Plaintiffs.

83.

Defendant Austin by, without limitation, making lewd and unwelcome remarks to Plaintiff Branch and repeatedly commenting that Plaintiff Thoreson cannot her do her job because she is pregnant or has children, subjected Plaintiffs to sexual harassment and unlawful sex discrimination and created a hostile work environment for Plaintiffs because of sex, and therefore aided and abetted the sex discrimination to which Eastside Distilling subjected Plaintiffs.

84.

Defendants Brassard and Manfredonia knew about the severe or pervasive sexual harassment of Plaintiffs, disregarded Plaintiffs’ complaints, and willfully failed to take any action to address the harassment and discrimination, and thus Defendants Brassard and Manfredonia aided and/or abetted Eastside Distilling’s discrimination against Plaintiffs on the basis of sex.

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85.

Defendants Wickersham, Austin, Brassard, and Manfredonia influenced and/or participated in the decision to terminate Plaintiffs' employment at Eastside Distilling, and caused Eastside Distilling to terminate Plaintiffs on the basis of sex.

86.

As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered, and will continue to suffer, lost income and benefits. Plaintiffs are entitled to recover economic damages in the approximate amount of \$180,000.00 each or other amount to be proven at trial.

87.

As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered, and will continue to suffer, anxiety, humiliation, and embarrassment. Plaintiffs are entitled to recover non-economic damages in the approximate amount of \$100,000.00 or other amount to be proven at trial.

88.

Pursuant to ORS 659A.885 and ORS 20.107, Plaintiffs are entitled to their reasonable attorney fees and costs incurred in the prosecution of this case.

89.

Pursuant to ORS 82.110, Plaintiffs are entitled to post-judgment interest in the amount of 9% per annum from the date of the judgment until paid.

90.

Defendants acted with malice, and their actions were intentional and willful. Defendants acted with a conscious indifference to the health, safety, and welfare of others. Such conduct

1 exceeds the bounds of social toleration and is of the type that punitive damages deter. Plaintiffs
2 reserve the right to amend this Complaint to assert claims for punitive damages pursuant to
3 ORS 31.725.

4 **Count 2 – (Against Defendant Manfredonia)**

5 91.

6
7 Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1
8 through 49.

9 92.

10 Plaintiffs opposed unlawful sexual harassment and discrimination and reported the
11 harassment and discrimination they sustained on the basis of their sex to Defendant
12 Manfredonia.

13 93.

14 Defendant Manfredonia participated in the decision and caused Eastside Distilling to
15 terminate Plaintiffs because Plaintiffs opposed unlawful conduct and reported information they
16 believed to be unlawful in good faith, and thus Defendant Manfredonia aided and abetted
17 Eastside Distilling's unlawful discrimination and retaliation against Plaintiffs.
18

19 94.

20 As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
21 suffered, and will continue to suffer, lost income and benefits. Plaintiffs are entitled to recover
22 economic damages in the approximate amount of \$180,000.00 or other amount to be proven at
23 trial.
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95.

As a direct and proximate result of Defendants’ unlawful conduct, Plaintiffs have suffered, and will continue to suffer, anxiety, humiliation, and embarrassment. Plaintiffs are entitled to recover non-economic damages in the approximate amount of \$100,000.00 or other amount to be proven at trial.

96.

Pursuant to ORS 659A.885 and ORS 20.107, Plaintiffs are entitled to their reasonable attorney fees and costs incurred in the prosecution of this case.

97.

Pursuant to ORS 82.110, Plaintiffs are entitled to post-judgment interest in the amount of 9% per annum from the date of the judgment until paid.

98.

Defendant acted with malice, and his actions were intentional and willful. Defendant acted with a conscious indifference to the health, safety, and welfare of others. Such conduct exceeds the bounds of social toleration and is of the type that punitive damages deter. Plaintiffs reserve the right to amend this Complaint to assert claims for punitive damages pursuant to ORS 31.725.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs Justina Thoreson and Laurie Branch pray for judgment
3 against Defendants Eastside Distilling, Grover Wickersham, Armain Austin, Robert
4 Manfredonia, and Amy Brassard as follows:

- 5
- 6 1. On Plaintiffs’ First Claim for Relief: that Judgment be entered in favor of Plaintiffs and
7 against Defendant Eastside Distilling, that Plaintiffs be awarded economic damages in the
8 amount of \$180,000.00 for Plaintiff Branch and \$180,000.00 for Plaintiff Thoreson, and
9 that Plaintiffs be awarded non-economic damages in the amount of \$100,000.00 for
10 Plaintiff Branch and \$100,000.00 for Plaintiff Thoreson.
- 11 2. On Plaintiffs’ Second Claim for Relief: that Judgment be entered in favor of Plaintiffs
12 and against Defendants Eastside Distilling and Manfredonia, that Plaintiffs be awarded
13 economic damages in the amount of \$180,000.00 for Plaintiff Branch and \$180,000.00
14 for Plaintiff Thoreson, and that Plaintiffs be awarded non-economic damages in the
15 amount of \$100,000.00 for Plaintiff Branch and \$100,000.00 for Plaintiff Thoreson.
- 16 3. On Plaintiffs’ Third Claim for Relief: that Judgment be entered in favor of Plaintiff
17 Branch and against Defendant Eastside Distilling, and that Plaintiff Branch be awarded
18 economic damages in the amount of \$180,000.00 and noneconomic damages in the
19 amount of \$100,000.00.
- 20 4. On Plaintiffs’ Fourth Claim for Relief: that Judgment be entered in favor of Plaintiffs and
21 against Defendants Wickersham, Austin, Brassard, and Manfredonia, that Plaintiffs be
22 awarded economic damages in the amount of \$180,000.00 for Plaintiff Branch and
23 \$180,000.00 for Plaintiff Thoreson, and that Plaintiffs be awarded non-economic
24
25
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1 damages in the amount of \$100,000.00 for Plaintiff Branch and \$100,000.00 for Plaintiff
2 Thoreson.

3 5. That Plaintiffs be awarded attorney fees, expert fees, and costs incurred herein.

4 6. That this Court grant Plaintiffs any other relief that it deems fair and proper.
5

6
7 DATED this 22nd day of October 2019.

8 JJH LAW, P.C.

9
10 /s/ Taylor G. Duty

11 Taylor G. Duty, OSB No. 143124

12 taylor@jjh-law.com

13 Cara Defilippis, OSB No. 143044

14 cara@jjh-law.com

15 Of Attorneys for Plaintiffs
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