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Attorneys for Plaintiff  
Great Northern Resources, Inc.

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

GREAT NORTHERN RESOURCES, INC.,

Plaintiff,

v.

KATY COBA, in her Official Capacity as State  
Chief Operating Officer and Director of the  
OREGON DEPARTMENT OF  
ADMINISTRATIVE SERVICES; OREGON  
DEPARTMENT OF ADMINISTRATIVE  
SERVICES; THE CONTINGENT; and DOES  
1-10,

Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY,  
INJUNCTIVE, OR OTHER RELIEF**

1 Plaintiff Great Northern Resources, Inc. complains of Defendants Katy Coba, in her  
2 official capacity as Chief Operating Officer and Director of the Oregon Department of  
3 Administrative Services; Oregon Department of Administrative Services; and The Contingent and  
4 alleges:

### 5 INTRODUCTION

6 1. Plaintiff Great Northern Resources, Inc. (“Great Northern”) brings this lawsuit to  
7 challenge the constitutionality of the State of Oregon’s use of strict race-based criteria for  
8 distributing money from the Oregon Cares Fund for Black Relief and Resiliency (the “Fund”), a  
9 \$62-million dollar grant program established by the Oregon Legislature to provide financial relief  
10 to individuals and businesses that have been adversely impacted by the Covid-19 pandemic.  
11 Grants from the Fund are only available to individuals and business owners who “self-identify as  
12 Black.” This express use of race in distributing government money is unprecedented and blatantly  
13 unconstitutional.

14 2. Great Northern is a small, family-run logging company based in Eastern Oregon  
15 that harvests salvage timber and sells it to a local mill. Like many small businesses around the  
16 state – and around the country – Great Northern’s business has suffered as a result of the  
17 pandemic. Just when Great Northern was preparing its first timber delivery of the year, the local  
18 mill stopped making new log purchases due to the uncertainty of the future markets for lumber.  
19 Great Northern’s timber has dried, cracked, and is not in condition to be sold to the mill.

20 3. After more than seven months of slow operations, the company has exhausted its  
21 modest operating capital reserves and its revenue is far eclipsed by costs and expenses. Great  
22 Northern estimates that the mill’s closure and subsequent moratorium on buying timber cost the  
23 business \$100,000, and the company projects a \$200,000 loss for the year because of the  
24 pandemic’s continuing economic effects.

25 4. The pandemic’s harm to Great Northern should qualify it to compete in any  
26 government-aid program for businesses that have been affected by Covid-19. And yet the  
27 company is ineligible to receive a grant from the Fund because its owner is not Black.  
28

5. This is unconstitutional. By distributing government benefits on the basis of race, Oregon has violated the Equal Protection Clause of the Fourteenth Amendment. “[D]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 214 (1995) (internal quotation marks omitted). Despite the Equal Protection Clause’s unmistakable command of racial neutrality, Oregon has established a relief fund that is off limits for anyone who does not “self-identify as Black.” This “discriminatory classification prevent[s] [Great Northern] from competing on an equal footing” with other applicants. *Id.* at 211 (quoting *Northeastern Fla. Chapter, Associated Gen. Contractors of Am. v. Jacksonville*, 508 U.S. 656, 667 (1993)).

6. As set forth below, defendants’ conduct likewise violates federal antidiscrimination law, including Title VI of the Civil Rights Act of 1964 and 42 U.S.C. § 1981.

7. Accordingly, Great Northern seeks declaratory and injunctive relief to invalidate the state’s use of race as an essential factor in the grant process.

### JURISDICTION AND VENUE

8. This case raises questions under the Constitution of the United States, 42 U.S.C. § 1983, and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d). This Court has jurisdiction over all claims for relief pursuant to 28 U.S.C. § 1331. Assignment to the Portland Division is appropriate because a substantial part of the events giving rise to this lawsuit occurred in Multnomah County, where Defendant The Contingent is headquartered.

9. Venue is proper under 28 U.S.C. section 1391(b).

### THE PARTIES

10. Plaintiff Great Northern Resources, Inc. is a corporation organized under Oregon law.

11. Defendant Katy Coba is the Chief Operating Officer and Director of the Oregon Department of Administrative Services (“DAS”). Defendant DAS is the central administrative agency of the Oregon state government, which implements the policy and financial decisions made by the Governor and Oregon Legislature. Or. Rev. Stat. § 184.305; *see* Oregon Dep’t of Admin.

Servs., *Administrative Overview* (Jan. 2014). DAS is responsible for overseeing the State's management and distribution of funds received from the Federal government through the Coronavirus Aid, Relief, and Economic Security Act's \$150 billion Coronavirus Relief Fund. As COO and Director of DAS, Coba is responsible for managing and coordinating DAS' programs and operations, including the grant program and Fund that is the subject of this litigation. Coba is sued in her official capacity.

12. Defendant The Contingent is a Portland-based nonprofit corporation organized under Oregon law. As set forth in further detail below, for all relevant purposes The Contingent has acted jointly with the State of Oregon and Defendant DAS by administering the Fund such that it is a state actor and has been acting under color of state law.

13. The true names or capacities – whether individual, corporate, associate, or otherwise – of the Defendants named herein as Does 1-10, are presently unknown to Plaintiff, and are therefore sued by these fictitious names. Plaintiff prays for leave to amend this Complaint to show the true names or capacities of these Defendants if and when they have been determined.

### GENERAL ALLEGATIONS

#### **A. The Oregon Legislature Established The Fund To Provide Coronavirus Relief Grants On The Basis Of Race.**

14. On July 14, 2020, the Oregon Legislature's Joint Emergency Board approved a \$62 million grant to establish the Fund, using money allocated to the State by the Federal government in the CARES Act's \$150 billion Coronavirus Relief Fund. The Fund is a grant program overseen by DAS and administered by two Oregon-based community organizations (The Contingent and the Black United Fund of Oregon) that are responsible for reviewing applications and making funding decisions.

15. DAS is "responsible for transmitting the [grant] funds and working with The Contingent on ensuring that federal spending, reporting, and other legal requirements are met, including that the funds are expended by December 30, 2020." Exhibit 1, Oregon State Leg. Joint Emergency Bd., Leg. Fiscal Office Analysis, Agenda Item 3: Oregon Cares Fund for Black Relief and Resiliency (July 14, 2020) ("Cares Fund Agenda Report"), at p. 2.

1           16.     The Contingent is the recipient of the \$62 million grant from DAS and is the  
2 organization responsible for managing business grants from the Fund. The Black United Fund of  
3 Oregon is responsible for managing grants to individuals from the Fund.

4           17.     The Fund is explicitly targeted at providing relief to the “Black community,” to  
5 support “Black relief and resiliency.” Ex. 1, Cares Fund Agenda Report at p. 1. To be eligible for  
6 relief funds, individuals, families, and businesses must (1) live in or be based in Oregon, (2)  
7 demonstrate hardship due to COVID-19, and (3) “self-identify as Black.” *Id.* Likewise,  
8 community-based non-profits are eligible for funds if they can demonstrate a significant tie to the  
9 Black community, which includes having an “[o]rganizational environment [that] is Black-focused  
10 and [being] recognized by the community served as a Black-serving organization,” and at least  
11 33% of the staff and a majority of the organization’s leadership must be Black. *Id.* Individuals  
12 and families are eligible to receive grants up to \$3,000, and businesses and community-based non-  
13 profits can receive up to \$100,000 in grants. *Id.*

14           18.     As part of the application process, individuals, families, and businesses seeking  
15 grants from the Fund must state whether they “identify” as Black – and funding decisions are  
16 based on whether applicants satisfy this threshold criteria.

17           19.     Consistent with restrictions imposed by the federal government through the CARES  
18 Act, all funds allocated to the grant program must be expended by December 30, 2020. Cares  
19 Fund Agenda Report at p. 2.

20 **B.     Great Northern Applies For A Coronavirus Relief Grant From The Fund.**

21           20.     Logging is an important business in Oregon. The State boasts 5 of the 10 largest  
22 sawmills (by volume of sawn wood) in the country. Oregon leads the nation in softwood lumber  
23 production, plywood production, and engineered wood. Sixty-five percent of Grant County in  
24 Eastern Oregon is classified as forestland, and twenty percent of county residents have forest  
25 sector jobs.

26           21.     Great Northern is a small, family-run logging company based in Grant County. It  
27 was founded in 1991. The focus of Great Northern’s business is selective harvesting and timber  
28 salvage – along with thinning and fuel reduction – on privately-owned and federally-managed

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