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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**Great Northern Resources, Inc., Dynamic Service Fire and Security, LLC, and Walter Van Leja**, on behalf of themselves and others similarly situated,

Plaintiffs,

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; Black United Fund of Oregon; DOES 1-10**,

Defendants.

Case No. 3:20-cv-01866-IM

**Plaintiffs' First Amended Class-Action Complaint**

Plaintiffs Great Northern Resources, Inc., Dynamic Service Fire and Security, LLC, and Walter Van Leja bring this class action to enjoin the defendants from enforcing the State of Oregon’s racially exclusionary criteria for distributing money from the Oregon Cares Fund for Black Relief and Resiliency (the “Fund”), a \$62-million dollar grant program established by the Oregon Legislature to provide financial relief to individuals and businesses affected by the Covid-19 pandemic. Grants from the Fund are only available to individuals and business owners who “self-identify as Black.” This express use of race in distributing government money is unconstitutional and violates numerous federal anti-discrimination statutes, and the plaintiffs seek classwide relief against its continued use.

### JURISDICTION AND VENUE

1. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.
2. Venue is proper because at least one defendant resides or has its offices located in this judicial district. *See* 28 U.S.C. § 1391(b)(2).

### PARTIES

3. Plaintiff Great Northern Resources, Inc. is a corporation organized under Oregon law.
4. Plaintiff Dynamic Service Fire and Security, LLC is a limited liability company organized under Oregon law.
5. Plaintiff Walter Van Leja is a citizen and resident of Oregon.
6. 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's programs and operations, including the grant program and Fund that is the subject of this litigation. Coba is sued in her official capacity.

7. 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.

8. Defendant Black United Fund of Oregon is a Portland-based nonprofit corporation organized under Oregon law. As set forth in further detail below, for all relevant purposes The Black United Fund of Oregon 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.

9. The true names or capacities—whether individual, corporate, associate, or otherwise—of the Defendants named as Does 1–10, are presently unknown to the plaintiffs and are sued by these fictitious names. The plaintiffs will seek 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**

10. 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.

11. 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.

12. The Contingent is the recipient of the \$62 million grant from DAS and is responsible for managing business grants from the Fund. The Black United Fund of Oregon is responsible for managing grants to individuals and families from the Fund.

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

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

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

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

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

17. Great Northern is a small, family-run logging company based in Grant County. It was founded in 1991. The focus of Great Northern's business is selective harvesting and timber salvage—along with thinning and fuel reduction—on privately owned and federally managed lands in Grant County, and then selling merchantable timber to local sawmills. Salvage logging is the practice of harvesting dead, dying, diseased, or down timber, which is essential to responsible and sustainable forest management.

18. Around the time Great Northern was preparing its first delivery of the year in March 2020, the local mill stopped making new log purchases because of uncertainty in the timber market induced by the pandemic. By the time the mill started buying again several months later, Great Northern's timber had dried and cracked, and was not in condition to be sold to the mill. (Unlike fresh timber that can sit for six months or more before being processed and cut into lumber, salvage logs have a short life span before they crack.)

19. Like many small businesses around the state, Great Northern's business has suffered during the pandemic. After over seven months of slow operations, the company has exhausted its modest operating capital reserves and company revenue is far

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