

EXHIBIT A

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5
6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF CLACKAMAS

8 ERIC A. JOHNSON,

9 Plaintiff,

10 v.

11 FOSTER FARMS, LLC, a California
12 limited liability company,

13 Defendant.

Case No.

COMPLAINT

(Disability Discrimination; Workers'
Compensation Discrimination, OSHA
Reporting Unsafe Work Conditions; FMLA
Retaliation; Statutory Whistleblowing; BOLI
Retaliation; Wrongful Discharge; Disability-
Failure to Accommodate)

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

Prayer Amount: \$500,000
Filing Fee State: ORS § 21.160(c)

14
15
16
17 Plaintiff alleges:

18 **FIRST CLAIM FOR RELIEF**

19 (Disability Discrimination - ORS Chapter 659A.112, *et seq.*)

20 1.

21 Plaintiff is a resident and citizen of the State of Oregon.

22 2.

23 Defendant Foster Farms, LLC is a California limited liability company doing business
24 in Oregon. At all material times Defendant acted through agents and employees who at all
25 material times acted within the course and scope of their agency and employment for
26 Defendant.

1 3.

2 Defendant employed Plaintiff from on or about July 23, 2018 until August 25, 2020
3 when Defendant terminated Plaintiff's employment.

4 4.

5 Prior to his termination, on or about May 3, 2020, Plaintiff had a heart attack, that he
6 and his doctors attributed, in part, due to exposure to peroxide vapors at work initially on
7 about April 28, 2020. Plaintiff's heart attack caused him to be hospitalized for three days and
8 to be off work. Plaintiff returned to work on or about July 10, 2020.

9 5.

10 Prior to his termination, on multiple occasions Plaintiff informed Defendant that he
11 believed that his heart attack was caused by the peroxide fumes he was exposed to at work.

12 6.

13 Plaintiff's heart attack was a disability that substantially limited him in one or more
14 major life activities and/or in a major bodily function the pulmonary system.

15 7.

16 Defendant discriminated against Plaintiff in one or more of the following ways on
17 account of his disability, record of disability and/or perceived disability;

- 18 a. it failed to engage in the interactive process with Plaintiff to attempt to
19 identify a reasonable accommodation;
- 20 b. it failed to reasonably accommodate his disability; and/or
- 21 c. it terminated Plaintiff in substantial part because of his disability, perceived
22 disability, and/or record of disability, and/or because he requested
23 accommodation.

24 8.

25 As a result of said acts, Plaintiff has suffered and will suffer economic damage in an
26 amount to be proven at trial, which amount is alleged to be up to \$100,000.

1 9.

2 As a further result of said acts Plaintiff has suffered and will suffer emotional distress
3 in a sum to be proven at trial, which sum is alleged to be up to \$400,000.

4 10.

5 Defendant acted with malice and/or demonstrated a reckless and outrageous
6 indifference to a highly unreasonable risk of harm and acted with a conscious indifference to
7 the health, safety and welfare of Plaintiff, and Plaintiff reserves the right to alleged punitive
8 damages pursuant to ORS 31.725 and 31.730.

9 11.

10 Pursuant to ORS 20.107 and ORS 659A.885, Plaintiff is also entitled to an award of
11 reasonable attorneys' fees, expert witness fees, costs and disbursements.

12 **SECOND CLAIM FOR RELIEF**

13 (Workers' Compensation Discrimination – ORS 659A.040, *et seq.*)

14 12.

15 Plaintiff realleges paragraphs 1 through 11.

16 13.

17 Prior to Plaintiff's termination, and on or about May 3, 2020, Plaintiff suffered a heart
18 attack and recognized or realized a prior on-the-job injury to his lungs and/or heart due to
19 exposure to peroxide fumes, which he reported to Defendant, and requested the paperwork to
20 file a workers' compensation claim. Defendant denied Plaintiff's request for the paperwork
21 to file a workers' compensation claim.

22 14.

23 After being told of Plaintiff's request to make a workers' compensation claim on or
24 about May 6, 2020, Defendant subjected Plaintiff to injured worker discrimination by
25 creating a hostile work environment after he returned to work and/or by terminating him in
26 substantial part because he was an injured worker and/or had invoked the procedures of the

1 workers' compensation laws.

2 15.

3 The hostile work environment, to which Plaintiff was subjected included but was not
4 limited to: being over scrutinized and/or micro-managed; being subjected to disparate
5 discipline regarding start times, breaks and lunches; being talked down to and/or ostracized;
6 and/or being treated in a manner to compel him to quit.

7 **THIRD CLAIM FOR RELIEF**

8 (OSHA Discrimination – ORS 659.062)

9 16.

10 Plaintiff realleges paragraphs 1 through 11.

11 17.

12 Prior to Plaintiff's termination, Plaintiff voiced his concerns about what he believed
13 in good faith were unsafe working conditions, including, but not limited to, being exposed to
14 peroxide vapor or fumes, which caused breathing irritation and breathing difficulties and/or
15 was hurtful and/or harmful to his eyes.

16 18.

17 On or about July 28, 2020, while following his lead's instructions, Plaintiff took
18 pictures on his phone of the amount of peroxide he was exposed to at work. Plaintiff
19 provided the picture to his manager, while informing the manager of his health and/or safety
20 concerns.

21 19.

22 Plaintiff was terminated in substantial part for opposing what he believed in good
23 faith were unsafe working conditions.

24 ///

25 ///

26 ///

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