

1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 MICHAEL MANGUM, an individual,

7 Plaintiff,

8 v.

9 WALMART INC., a Delaware
10 corporation; and JOE WILLIAMS, an
individual,

11 Defendants.
12

Case No. 20CV18273

FIRST AMENDED COMPLAINT
(Violation of ORS 30.845;
Negligent Supervision or
Retention; Battery)

NOT SUBJECT TO MANDATORY
ARBITRATION

Prayer: \$4,400,000
Fee Authority: ORS 21.160d

JURY TRIAL DEMANDED

13
14 Plaintiff Michael Mangum ("Mangum") demands a jury trial and alleges
15 as follows:

16 1.

17 Defendant Walmart Inc. (hereinafter, "Walmart") is, and at all times
18 mentioned herein, has been a Delaware corporation engaged in the retail sale
19 of a wide variety of merchandise and goods, including at a store located at
20 23500 NE Sandy Blvd, Wood Village, OR 97060. Walmart conducts regular,
21 sustained business activity in Multnomah County.

22 ////

23 ////

1 2.

2 On information and belief, defendant Joe Williams is a resident of
3 Multnomah County.

4 3.

5 On March 26, 2020, Mr. Mangum, an African American, was a customer
6 at Walmart when Walmart store employee Joe Williams, who was then and
7 there acting within the scope of his employment, spied on Mr. Mangum while
8 he was shopping.

9 4.

10 When Mr. Mangum protested that he had done nothing wrong, defendant
11 Williams ordered him to leave the store, then called non-emergency police
12 dispatch and summoned police, reporting that he “had a person refusing to
13 leave.” Defendant Williams acknowledged to the dispatch operator that
14 Mr. Mangum was not acting violently, did not seem drunk or high, and told the
15 operator, “he just keeps checking me out.” Williams told the operator that
16 Mr. Mangum saw him walking by and “started flipping out on me,” so he asked
17 Mr. Mangum to leave.

18 5.

19 The police came to the location where Mr. Mangum and Williams were in
20 response to Williams’ call.

21 6.

22 Once outside, after the incident, a Walmart manager explained the
23 incident to Mangum by saying that they had large losses from theft.

1 Mr. Mangum told the manager that that had nothing to do with him.

2 **FIRST CLAIM FOR RELIEF**

3 **(Violation of ORS 30.845 – Defendant Walmart)**

4 7.

5 Plaintiff realleges and incorporates by reference paragraphs 1 through 6,
6 above.

7 8.

8 Williams, acting within the scope of his employment, knowingly caused
9 police officers to arrive at Walmart to contact plaintiff, with the intent to:

10 1) Infringe on plaintiff's rights under the Oregon and United States
11 Constitutions;

12 2) Unlawfully discriminate against plaintiff;

13 3) Cause plaintiff to feel harassed, humiliated, or embarrassed;

14 4) Cause plaintiff to be expelled from Walmart, a place where plaintiff
15 was lawfully located; or

16 5) Cause Mangum to suffer damage to his reputation or standing within
17 the community; or

18 6) Cause damage to his consumer prospects or interests.

19 9.

20 The above-described conduct by Williams violated ORS 30.845.

21 10.

22 As a result of the above-described conduct, plaintiff suffered, continues
23 to suffer, and may permanently suffer from embarrassment, fear, humiliation,

1 anger, and indignity, all to his noneconomic damages in the amount of
2 \$400,000. Noneconomic damages are not to exceed a maximum combined
3 amount of \$400,000 for all claims for relief.

4 11.

5 Plaintiff is entitled to reasonable attorney fees pursuant to
6 ORS 30.845(3).

7 12.

8 The conduct of Walmart's employee described herein was in wanton,
9 reckless, and intentional disregard of societal obligations, and constituted a
10 reckless and outrageous indifference to a highly unreasonable risk of harm,
11 and conscious indifference to the health, safety, and welfare of others, and
12 defendant Walmart should be assessed punitive damages in the amount of
13 \$4,000,000 in order to deter defendant and others similarly situated from this
14 and similar kinds of conduct in the future.

15 **SECOND CLAIM FOR RELIEF**

16 **(Negligent Supervision or Retention - Defendant Walmart)**

17 13.

18 Plaintiff realleges and incorporates by reference paragraphs 1 through 6
19 and 8 – 11, above.

20 14.

21 Defendant Walmart, by and through its management officials was aware
22 that Williams had, on previous occasions, provided false information about
23 customers to police officers, and knew that police had complained that he was

1 not to be trusted. Accordingly, Walmart knew or had reason to know that
2 continuing to employ Williams in a loss prevention capacity would likely lead to
3 the kind of conduct made unlawful by ORS 30.845.

4 15.

5 Walmart was negligent in one or more of the following ways, and such
6 negligence was a cause of all damage alleged in the first claim for relief:

- 7 1) In retaining Williams in a loss prevention capacity; and
8 2) In failing to supervise Williams so as to prevent foreseeable
9 violations of customers' rights by Williams.

10 16.

11 As a result of the above-described conduct, Mr. Mangum suffered,
12 continues to suffer, and may permanently suffer from feelings of racial
13 stigmatization, embarrassment, humiliation, anger, indignity, and shame, all to
14 his noneconomic damages in the amount of \$400,000. Noneconomic damages
15 are not to exceed a maximum combined amount of \$400,000 for all claims for
16 relief.

17 17.

18 Plaintiff is entitled to reasonable attorney fees pursuant to
19 ORS 30.845(3).

20 18.

21 The conduct of Walmart described herein was in wanton, reckless, and
22 intentional disregard of societal obligations, and constituted a reckless and
23 outrageous indifference to a highly unreasonable risk of harm, and conscious

1 indifference to the health, safety, and welfare of others, and defendant Walmart
2 should be assessed punitive damages in the amount of \$4,000,000 in order to
3 deter defendant and others similarly situated from this and similar kinds of
4 conduct in the future.

5 **THIRD CLAIM FOR RELIEF**
6 **(Discrimination – All Defendants)**

7 19.

8 Plaintiff realleges and incorporates by reference paragraphs 1 through 6,
9 above.

10 20.

11 The above-described Walmart store is, and at all times mentioned herein,
12 has been a place of public accommodation within the meaning of
13 ORS 659A.400. At least part of the motivation for the above-described conduct
14 on the part of Walmart employees was Mr. Mangum's race.

15 21.

16 The above-described conduct violates ORS 659A.403, which prohibits
17 discrimination in places of public accommodation on account of race.

18 22.

19 As a result of the above-described discrimination, Mr. Mangum suffered,
20 continues to suffer, and may permanently suffer from feelings of racial
21 stigmatization, embarrassment, humiliation, anger, indignity, and shame, all to
22 his noneconomic damages in the amount of \$400,000.

23 /////

23.

Plaintiff is entitled to reasonable attorney fees pursuant to
ORS 659A.885.

PRAYER

WHEREFORE, plaintiff prays for a judgment against each defendant in
an amount not to exceed \$400,000 in noneconomic damages for all claims,
punitive damages against defendant Walmart in an amount not to exceed
\$4,000,000 for all claims, for plaintiff's attorney fees pursuant to ORS
659A.885 and ORS 30.845, and for his costs and disbursements necessarily
incurred herein.

Dated: December 20, 2021

KAFOURY & MCDUGAL

/s/ Gregory Kafoury
Gregory Kafoury, OSB No. 741663
kafoury@kafourymcdougal.com
Jason Kafoury, OSB No. 091200
jkafoury@kafourymcdougal.com
Mark McDougal, OSB No. 890869
mcdougal@kafourymcdougal.com

Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing **FIRST AMENDED**
3 **COMPLAINT** on the defendant(s) on the date indicated below by the following
4 method:

- 5 ☐ mailing with postage prepaid
6 ☐ process server
7 ☐ facsimile transmission
8 ☐ overnight delivery
9 ☒ email

10 to said person(s) a true copy thereof, addressed to said persons at their last
11 known address(es) and facsimile number(s) as follows:

12 Clarence M. Belnavis
13 Natalie Horwitz
14 Stephen Scott
15 Fisher & Phillips LLP
16 111 SW Fifth Avenue, Suite 4040
17 Portland OR 97204

18 Dated: December 20, 2021.

19 KAFOURY & MCDUGAL

20 /s/ Gregory Kafoury
21 Gregory Kafoury, OSB No. 741663
22 kafoury@kafourymcdougal.com
23 Of Attorneys for Plaintiff