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

PATRICIA HARRINGTON, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

v.

AIRBNB, INC.,

Defendant.

Case No. \_\_\_\_\_

CLASS ACTION COMPLAINT

(Injunctive Relief; ORS 659A.403 &  
659A.885(7))

NOT SUBJECT TO MANDATORY  
ARBITRATION

JURY TRIAL DEMANDED

Fee Authority: ORS 21.135(1),(2)(a)

1.

Plaintiff is an African-American woman and a resident of Clackamas County, Oregon.  
Plaintiff brings this action on behalf of herself and as a representative party of the proposed class  
defined below.

2.

Defendant Airbnb, Inc. (“Airbnb”) is a Delaware corporation headquartered in San  
Francisco, California.

3.

Airbnb conducts regular, sustained business in Oregon and Multnomah County.

4.

As defined by ORS 659A.400, Airbnb is a “place of public accommodation” because  
Airbnb is a service offering to the public accommodations, advantages, facilities or privileges in,  
at least, the nature of services and lodgings.

1 5.

2 Airbnb operates an online platform accessible through its website, [www.airbnb.com](http://www.airbnb.com),  
3 which allows “hosts”—or members who wish to offer accommodations (such as a spare room,  
4 basement, or guest house)—to connect with and rent to prospective “guests,” or members who  
5 seek to book those accommodations on a short-term basis. Airbnb’s platform is also available  
6 through a mobile site and an application, which allow the public to access the service on mobile  
7 devices such as smart phones and tablets.

8 6.

9 Each Airbnb host offering an accommodation in Oregon is also a “place of public  
10 accommodation.”

11 7.

12 On information and belief, Airbnb offers over 2,000,000 listings for accommodations  
13 worldwide. By comparison, Marriott International, which operates and franchises hotels under  
14 nearly 20 different brands, reported operating under 800,000 rooms in 2015. In Portland alone,  
15 Airbnb served over 300,000 travelers in 2016. Airbnb competes with traditional  
16 accommodations such as hotels, motels, bed and breakfast, and lodges.

17 8.

18 Airbnb offers thousands of accommodations in Oregon.

19 9.

20 Airbnb members who wish to rent accommodations through Airbnb’s platform, and hosts  
21 who wish to offer accommodations for rent, must first become members by registering and  
22 creating an account with Airbnb.

23 10.

24 Airbnb’s policies require prospective guests (members who wish to access  
25 accommodations) to maintain a member profile. Airbnb requires each member profile to  
26 include, among other things, a photo of the member’s face and the member’s full name.

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11.

To rent an accommodation to guests, hosts post listings on Airbnb’s platform. Listings generally contain information about the available accommodation such as location, capacity, size, features, availability, and pricing.

12.

A host who posts a listing for an accommodation can, through a setting available on the Airbnb platform, opt to receive booking requests only from prospective guests whose profiles include certain specified information. For example, Airbnb allows hosts to opt to receive booking requests only from prospective guests whose profile includes a photograph, and, in that situation, a prospective guest whose profile does not include a photograph would not be allowed access to that host’s accommodation. In other words, in compliance with Airbnb’s booking policies, hosts may refuse to make their accommodations accessible to any prospective guest whose profile does not include certain information, such as a photograph or full name.

13.

Airbnb’s booking policies also allow hosts to deny a booking request from a prospective guest whose profile *includes* a photograph and full name. Prospective guests search for accommodations on Airbnb’s platform through search criteria, such as city, state, or country; number of bedrooms; or a zip code. Listings that are available for the dates requested by the prospective guest are then displayed for the prospective guest who can, if allowed by the host’s settings, request to book the accommodation. Airbnb offers listings worldwide to prospective guests, like plaintiff, who reside in Oregon.

14.

Unlike hotel websites or websites of hotel room aggregators (such as, for example, Expedia.com and Travelocity.com), however, Airbnb does not allow a prospective guest to immediately book an accommodation that is available on the dates requested by the guest unless the host has opted into the “instant booking” feature. If the host has not opted into the “instant

1 booking” feature, any prospective guest seeking to book an accommodation must “request a  
2 booking” and be approved by the host. The booking request is then forwarded to the host, who  
3 reviews the request along with the prospective guest’s profile information which includes the  
4 prospective guest’s full name and profile photo. The host may then either pre-approve, confirm,  
5 or reject the request within a defined time. If the host does not respond to the booking request at  
6 all, the request expires and the prospective guest is not permitted to book the request.

7 15.

8 Airbnb’s booking platform allows hosts to deny requests from prospective guests for any  
9 reason, including “on account of race, color,” and other grounds protected by ORS 659A.403.  
10 And, in fact, hosts regularly take advantage of Airbnb’s booking policies to deny  
11 accommodations to prospective guests based on protected characteristics such as race and/or  
12 color.

13 16.

14 In particular, discriminatory hosts deny access to accommodations—offered through  
15 Airbnb’s platform—to African-Americans. Indeed, a recent study found that prospective guests  
16 with distinctively African-American names are roughly 16% less likely to be confirmed for  
17 bookings than identical prospective guests with distinctively non-African-American names;  
18 meaning, Airbnb’s platform includes accommodations that are not accessible at all by African-  
19 Americans because of their race.

20 17.

21 Airbnb acknowledges that its hosts discriminate against certain of its members and that  
22 discrimination occurs on its platform, noting that “there have been too many unacceptable  
23 instances of people being discriminated against on the Airbnb platform because of who they are  
24 or what they look like.”

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18.

The effect of Airbnb’s booking policies is that Airbnb’s public accommodation—its service of offering to the public, among other things, lodgings—discriminates and violates ORS 659A.403, because Airbnb offers a different service to African-Americans than it does to whites. Airbnb’s booking policies result in unequal treatment to African-Americans. Under Airbnb’s booking policies, plaintiff and other African-Americans in Oregon do not receive the full and equal accommodation of Airbnb’s offerings.

19.

Airbnb’s booking policies violate Oregon’s public accommodations statute by requiring guests to maintain a profile that includes a photograph, by forwarding to hosts information about guests that necessarily reveal immutable protected characteristics, and by allowing hosts to make booking decisions based on those immutable protected characteristics.

20.

Airbnb is directly liable for that discrimination because its policies directly act to deny persons within Oregon—and, specifically, African-Americans—the full and equal accommodations, advantages, facilities, and privileges of a place of public accommodation.

21.

Airbnb also aids and abets its hosts in unlawful discrimination by establishing booking policies that allow its member hosts to discriminate based on protected characteristics, and by continuing to maintain such policies even while it concedes that they are discriminatory.

22.

Plaintiff is not a member of Airbnb and has never been a member of Airbnb.

23.

Plaintiff wishes to become a member of Airbnb and to take advantage of the full and equal accommodations, advantages, facilities, and privileges of Airbnb, and without any distinction, discrimination, or restriction on account of plaintiff’s race or color.

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24.

Plaintiff and all class members have a legally recognized interest in accessing public accommodations, such as Airbnb, that do not discriminate in violation of Oregon law.

25.

Plaintiff, through counsel, requested that Airbnb allow her to become a member of Airbnb so that she and others similarly situated may access the public accommodations offered by Airbnb. However, plaintiff demanded that Airbnb cease implementation of its policies that discriminate against African-Americans and that allow hosts to discriminate against African-Americans.

26.

Airbnb refused to allow plaintiff and other African-Americans in Oregon to join under those terms and, instead, Airbnb continues to maintain a platform that discriminates against African-Americans. By doing so, Airbnb made a distinction, discriminated, and imposed a restriction on plaintiff and all members of the class on account of race and/or color.

27.

Airbnb's discriminatory policies, and its refusal to allow plaintiff and members of the class to join free of those discriminatory policies, caused and continue to cause injury to and impact on the legally recognized interest to access public accommodations free of any discrimination and in compliance with Oregon law.

28.

That injury to and impact on the legally recognized interest is real or probable in that Airbnb refuses to allow plaintiff and members of the class access to an accommodation that provides services and lodging free of any distinction, discrimination, or restriction based on race or color.

1 29.

2 By granting the relief plaintiff and members of the class seek, this Court will rectify that  
3 injury to and impact on the legally recognized interest by allowing plaintiff and members of the  
4 class access to the public accommodations available through Airbnb's platform in a manner that  
5 complies with Oregon law and is free of any distinction, discrimination, or restriction on account  
6 of race and/or color.

7 **CLASS ALLEGATIONS**

8 30.

9 Plaintiff brings this action as a representative party pursuant to ORCP 32, and on behalf  
10 of a class initially defined as: All African-American residents of Oregon who are not currently,  
11 and have never been, members of Airbnb.

12 31.

13 Common questions of fact and law exist and predominate over questions affecting  
14 individual members of the class. Common questions include:

- 15 A. Whether Airbnb is a public accommodation under Oregon law;  
16 B. Whether Airbnb's booking policy violates Oregon's public accommodations  
17 statute;  
18 C. Whether Airbnb's booking policy discriminates based on race and/or color;  
19 D. Whether Airbnb's refusal to allow plaintiff and members of the class to join  
20 Airbnb free of its discriminatory policies has caused an injury and impact on the legally  
21 recognized interest to access public accommodations free of discrimination; and  
22 E. Whether Airbnb's booking policies result in unequal treatment to African-  
23 Americans, who do not receive the full and equal accommodation of Airbnb's offerings.

24 32.

25 Plaintiff's claim is typical of the claims of all members of the class in that:  
26





**CLAIM FOR RELIEF**  
**(ORS 659A.403 AND 659A.885(7))**

35.

Plaintiff restates and incorporates the allegations above as if stated herein.

36.

Under Oregon law, plaintiff and members of the class are entitled to the full and equal accommodations, advantages, facilities, and privileges of any place of public accommodation, without any distinction, discrimination, or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status, or age.

37.

Airbnb offers a different service to African-Americans than it does to whites. Because of Airbnb's booking policies, including those policies that allow hosts to consider and deny booking requests based on the profile photo and name of a guest, African-American members of Airbnb receive unequal treatment and are denied booking requests on account of their race and/or color. Accordingly, African-Americans, like plaintiff and members of the class, are unable to access and receive full and equal accommodations from Airbnb's platform.

38.

Airbnb makes distinctions, discriminates, and imposes restrictions on plaintiff and members of the class on account of race or color by denying them membership free of discrimination.

39.

Plaintiff wishes to join Airbnb and to access the public accommodations available through Airbnb's platform in a manner that complies with Oregon law and is free of discrimination. Members of the class are entitled to access public accommodations that comply with Oregon law and are free of discrimination.

1 40.

2 Pursuant to ORS 659A.885(7), plaintiff, on her own behalf and as a representative of the  
3 class defined above, seeks an injunction requiring Airbnb to allow plaintiff and other African-  
4 American residents of Oregon to join as members and to access the full accommodations  
5 available on Airbnb’s platform, but without imposing on plaintiff and other members of the class  
6 those policies which render Airbnb’s platform discriminatory, including but not limited to the  
7 policies that provide hosts information about guests that necessarily reveal immutable protected  
8 characteristics, and by allowing hosts to make booking decisions based on those immutable  
9 protected characteristics.

10 41.

11 Plaintiff also seeks an award of reasonable attorney fees, costs, and expert witness fees  
12 pursuant to ORS 659A.885(7). Plaintiff reserves the right to amend this Complaint to seek  
13 compensatory and punitive damages and other available equitable relief.

14 **JURY TRIAL DEMAND**

15 Plaintiff demands a jury trial as to all claims and issues for which that right is available,  
16 ORS 659A.885.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff seeks judgment against defendant and the following relief:

19 A. An order certifying the matter as a class action pursuant to ORCP 32, naming  
20 plaintiff as the class representative, and naming counsel as class counsel;

21 B. On plaintiff’s Claim for Relief, an injunction requiring Airbnb to allow plaintiff  
22 and other African-American members of the public to join as members and to access the  
23 accommodations available on Airbnb’s platform, but without imposing on plaintiff and other  
24 members of the class those policies which render Airbnb’s platform discriminatory, including the  
25 policies that provides hosts information about guests that necessarily reveal immutable protected  
26 characteristics, and by allowing hosts to make booking decisions based on those immutable

1 protected characteristics;

2 C. An award of reasonable attorney fees, costs, and expert witness fees; and

3 D. All other relief and the Court finds appropriate.

4

5 Dated this 6th day of March 2017.

6

STOLL STOLL BERNE LOKTING  
& SHLACHTER P.C.

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