

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

JOHN CAVANAUGH, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GRIFOLS USA, LLC, a limited liability
company; BIOMAT USA, INC., a corporation;
and ALEECE BENTZINGER, an individual,

Defendants.

Case No.

CLASS ACTION COMPLAINT

Violations of the Oregon Public
Accommodations Act (ORS 659A.403, 406)

(Injunctive Relief; \$960,400 Individual
Damages)

Fee Amount: \$594
Fee Authority: ORS 21.160(1)(c)

CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION

JURY TRIAL DEMANDED

INTRODUCTION

1.

This matter involves individual and class claims for injunctive relief and individual claims for damages to stop Defendants’ discriminatory policies prohibiting gay and bisexual men from donating plasma through the use of a blanket ban on any man who has ever had sexual contact with another man. In this case, Defendants enforced their policies in such a way as to “forever ban” Plaintiff John Cavanaugh—a gay man—from donating plasma on the basis of his sex, gender identity, and sexual orientation without conducting any individualized assessment of whether Mr. Cavanaugh actually posed any health risk as a donor. Grifols’ ban is in flagrant

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1 disregard of medical science, inconsistent with guidance of the U.S. Food and Drug
2 Administration (“FDA”), and violates Oregon’s public accommodations laws. Plaintiff hereby
3 alleges:

4 **PARTIES**

5 2.

6 Defendant Grifols USA, LLC is organized as a Florida limited liability company
7 headquartered in Los Angeles, California. Defendant Grifols USA, LLC is the United States-
8 based plasma collection subsidiary of Grifols SA, which is a global healthcare company located
9 and incorporated in Spain that describes itself as “a leader in essential plasma-derived medicines
10 and transfusion medicine.”¹ Grifols SA represents that it provides the “largest network of
11 donation centers in the world, with more than 390 centers across North America, Europe, Africa,
12 and the Middle East, and China.”²

13 3.

14 Defendant Biomat USA, Inc. (“Biomat”) is a Delaware corporation headquartered in Los
15 Angeles, California, that often holds itself out as and conducts business as “Grifols” and is a
16 wholly-owned subsidiary of Defendant Grifols USA, LLC.

17 4.

18 Talecris Biotherapeutics Holdings Corp. was a Delaware corporation headquartered in
19 North Carolina, that often held itself out as and conducted business as “Grifols” or “Talecris”
20 and was a United States-based plasma collection subsidiary acquired by Grifols, SA, in 2011.
21 Prior to 2022, Talecris operated the Grifols’ Eugene, Salem, and Southeast Stark (Portland)
22 donation centers. In 2022, Talecris merged with Biomat. Upon information and belief, Biomat
23 owns and operates all of Talecris’ former donation centers.

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25
26 ¹ Available at <https://www.grifols.com/en/company>.

² *Id.*

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5.

Unless otherwise specified, Defendants Grifols USA, LLC and Biomat are collectively referred to as “Grifols” in this Complaint.

6.

Defendant Aleece Bentzinger is an individual residing in Oregon who works as the Regional Operations Manager of Grifols. On information and belief, Bentzinger is an agent and/or officer of Grifols who acted within the course and scope of her employment and with actual and/or apparent authority of Grifols.

7.

Plaintiff is a resident of Lane County, Oregon. Plaintiff brings injunctive relief claims on behalf of himself and as a representative party of the proposed class defined below. Plaintiff also asserts individual claims for damages on behalf of himself only as described below.

JURISDICTION AND VENUE

8.

This Court has jurisdiction over Defendant Aleece Bentzinger, who is an individual residing in Oregon.

9.

This Court has specific jurisdiction over Grifols. Grifols purposefully directed their activities toward Oregon and/or purposefully availed themselves of conducting activities in Oregon, Plaintiff and the class members’ claims arise out of or relate to Grifols’ forum-related activities, and the exercise of jurisdiction over Grifols is reasonable.

10.

Grifols committed an intentional act of discrimination by adopting their discriminatory policy in violation of Oregon law and expressly aimed their discriminatory acts at Oregon, which Grifols knew likely would cause harm in Oregon and did cause harm to Plaintiff and class members in Oregon.

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1 11.

2 Grifols serves a market for a product in Oregon – namely, the collection of plasma.
3 Defendants affirmatively targeted and continues to target Oregon residents to donate plasma.
4 Grifols recruits donors via the internet and targets Oregon residents by directing Oregon
5 residents to their four Oregon donation centers. Grifols has public Facebook pages targeting
6 Oregonians to donate at Oregon donation centers. Grifols has four donation centers in Oregon for
7 the purposes of the collection of plasma and Grifols benefits financially from Oregon plasma
8 donors.

9 12.

10 Plaintiff and class members were injured and continue to be injured by acts or omissions
11 of Grifols that occurred within this state. Furthermore, Grifols’ contacts with Oregon are
12 systematic and continuous, the acts or omissions alleged in the action arise out of those contacts,
13 and Grifols’ contacts are such that they would foresee being hauled into Court in Oregon, and the
14 exercise of jurisdiction over Grifols is not inconsistent with the due process clause of the United
15 States Constitution and would not offend traditional notions of fair play and substantial justice.

16 13.

17 Venue in Multnomah County is appropriate because Grifols conducts regular and
18 sustained business in Oregon and Multnomah County. Grifols conducts business at multiple
19 plasma donation centers in Multnomah County, including at 8033 SE Holgate Blvd, Portland,
20 Oregon 97206 and 10115 SE Stark St, Portland, Oregon 97216.

21 **FACTUAL ALLEGATIONS**

22 14.

23 On information and belief, Defendant Grifols, USA, LLC authorized or intended
24 Defendant Biomat to act on its behalf in enforcing its donor eligibility policies, including the
25 discriminatory policy at issue in this Complaint and/or directly or indirectly controls Defendant
26 Biomat’s enforcement of that policy. Grifols, by and through is staff, including regional manager

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1 Defendant Bentzinger, directly operate the donation centers in Oregon and actively participate in,
2 directly enforce, and/or ratify the discriminatory policy at all Oregon donation centers, as alleged
3 in this Complaint.

4 15.

5 As defined by ORS 659A.400, Grifols operate “place[s] of public accommodation”
6 because Grifols’ plasma donation centers are places or services offering accommodations,
7 advantages, facilities, services, and/or privileges to the public.

8 16.

9 Each of Grifols’ locations in Oregon—two in Portland, one in Eugene, and one in
10 Salem—are “places of public accommodation” pursuant to ORS 659A.400. Grifols operates
11 plasma donation centers in Oregon under its name “Grifols.”

12 17.

13 Grifols is a for-profit commercial and/or business enterprise that is open to the public.
14 Among other services, Grifols pay members of the public in exchange for “donations” of plasma
15 and then sells the plasma “donations” for profit to other entities for manufacture into
16 pharmaceutical products. Grifols advertises to the general public and seeks out donors from the
17 general public.

18 18.

19 Grifols provides services, advantages, and privileges to the public in the form of free
20 physicals, including blood pressure, pulse, body temperature, and hemoglobin checks. Grifols
21 provides prospective donors with free screening for diseases like Hepatitis B and C, Sexually
22 Transmitted Diseases, and HIV. Donors also receive monetary benefits in exchange for donating
23 plasma.

24 19.

25 Grifols recruits members of the public to donate plasma by claiming that the public
26 receives additional benefits and privileges from donating plasma, including “making a positive

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1 impact in your community,” “help[ing] save lives” and “making a difference,” “impact[ing] the
2 lives of thousands of people,” and having a “very rewarding experience.”

3 20.

4 Grifols is open to the public broadly, except that Grifols imposes a blanket ban
5 prohibiting men who have ever had sexual contact with another man from donating plasma.
6 Grifols’ materials indicate that they prohibit donations from men who have ever had “sexual
7 contact” with another man—which could capture anything from kissing to other forms of sexual
8 contact that present no risk of spreading HIV. In contrast, Grifols does not ban women who
9 “have ever had sexual contact with a man.” Because Grifols engages in no actual risk assessment
10 related to the spread of HIV, its blanket ban against men who have had ever had sexual contact
11 with another man is simply a proxy for discrimination on the basis of sex, gender identity, and
12 sexual orientation, as those phrases are defined in ORS 174.100.

13 21.

14 Other than Grifols’ discriminatory policy excluding men who have ever had sexual
15 contact with another man from donating plasma, all members of the public who weigh at least
16 110 pounds, are “generally in good health,” and are between 18 and 69 years old are eligible to
17 donate plasma. Grifols provides their free health screening services to all potential donors that
18 meet these qualifications. Except for Grifols’ discriminatory exclusion of men who have ever
19 had sexual contact with another man, Grifols’ services are open to virtually all members of the
20 public.

21 22.

22 Other than the blanket discriminatory ban, Grifols’ service is provided to the public
23 broadly and all or nearly all applicants are otherwise accepted with a nominal health screening to
24 rule out potential plasma donors with transmittible diseases.

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1 23.

2 The U.S. Food and Drug Administration (“FDA”) historically has published guidelines
3 for reducing the risk of HIV transmission in blood plasma donation. FDA guidance “represents
4 the agency’s ‘current thinking’ on a particular topic and are framed as recommendations; they
5 are not legally binding.”³ Plasma donation centers like Grifols “treat FDA guidance as
6 requirements and use them to create standard operating procedures.”⁴

7 24.

8 Gay and bisexual men have experienced historic discrimination in the area of blood and
9 plasma donations. From 1983 until 2015, the FDA guidelines recommended that blood and
10 plasma donation centers ban men who have had sex with men (“MSM”) from donating blood or
11 plasma. This discriminatory blood ban arose out of the AIDS crisis and the harmful stigmas that
12 blamed certain groups of people, including gay and bisexual men, for causing the crisis. At the
13 time the FDA guidelines went into place, there was little known about the spread of HIV and
14 generally no scientifically accepted way to test, treat, or prevent HIV.

15 25.

16 The FDA’s outright ban prohibiting MSM from donating blood or plasma was heavily
17 criticized as discriminatory and not based on current medical science. In 2015, based on the
18 updates in medical science related to HIV testing and treatment, the FDA updated its guidelines
19 and lifted the discriminatory lifetime blood ban. The FDA replaced the lifetime prohibition with
20 a new guideline that recommended that blood and plasma centers defer prospective donors who
21 are MSM one year from the most recent sexual contact with another man. In April 2020, the
22
23

24 ³ See

25 <https://crsreports.congress.gov/product/pdf/IN/IN12108#:~:text=The%20donor%20history%20questionnaire%20incorporates,they%20are%20not%20legally%20binding> (last viewed on July
26 15, 2024).

⁴ *Id.*

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1 FDA reduced the deferral period from one year to three months from the most recent sexual
2 contact with another man.

3 26.

4 The deferral period remained discriminatory as it still treated gay and bisexual men
5 differently by denying those potential donors any individualized risk assessment regardless of
6 sexual orientation. In May 2023, the FDA again updated its guidelines based on the best
7 available scientific evidence and repealed *all* deferral and waiting periods for MSM and ceased
8 assessment-based questions specific to MSM.⁵ Today, the FDA recommends that blood and
9 plasma donation centers conduct individualized health risk assessments for *all* donors, regardless
10 of sex, gender identity, or sexual orientation, and advises donation centers to “now implement
11 these recommendations by revising their donor history questionnaires and procedures.”⁶

12 27.

13 As a result, the current FDA guidelines recommend that plasma donation centers, like
14 Grifols, remove blanket bans against donations from MSM. Instead, the guidelines direct
15 donation centers to inquire of all prospective donors, regardless of their sex, gender identity, or
16 sexual orientation, about new or multiple sexual partners and - only if a prospective donor has
17 had new partners - whether they have engaged in anal sex activities within the last three months.
18 Under the FDA guidelines, only if prospective donors answer yes to *both* of those questions
19 should they then be deferred from donating for three months – regardless of their sex, gender
20 identity, or sexual orientation.

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25 ⁵ See [https://www.fda.gov/news-events/press-announcements/fda-finalizes-move-recommend-](https://www.fda.gov/news-events/press-announcements/fda-finalizes-move-recommend-individual-risk-assessment-determine-eligibility-blood-donations)
26 [individual-risk-assessment-determine-eligibility-blood-donations](https://www.fda.gov/news-events/press-announcements/fda-finalizes-move-recommend-individual-risk-assessment-determine-eligibility-blood-donations) (last viewed on July 15,
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⁶ *Id.*

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1 28.

2 Despite these changes to the FDA guidelines, Grifols continues to enforce their
3 discriminatory, categorical exclusion of men who have ever had sexual contact with another man
4 without any individualized assessment of the prospective donor's qualifications.

5 29.

6 Grifols does not conduct the non-discriminatory individualized risk assessment
7 recommended by FDA guidelines to determine whether gay or bisexual men pose any actual
8 health risk as donors.

9 30.

10 Members of the public who wish to donate plasma at one of Grifols' centers watch a
11 video before donating. The video informs potential donors to that they must "NOT Donate
12 Plasma If * * * You are a Male and Have EVER had Sexual Contact with Another Male."

13 31.

14 Members of the public who wish to donate plasma at one of Grifols' centers fill out a
15 health history questionnaire, which requires prospective donors to answer yes or no to the
16 question of whether they have ever had sexual contact with another male. Prospective donors
17 who answer yes to that question are permanently banned from donating at all Grifols' locations.

18 32.

19 To date, Grifols continues to refuse donations from men who have ever had sexual
20 contact with another man *carte blanche* and without any further examination or individualized
21 assessment of the potential donor's qualifications.

22 33.

23 On or around January 21, 2024, Plaintiff, a gay man, went to Grifols' Eugene, Oregon
24 location, prepared and intending to donate plasma on a regular basis. Plaintiff is entitled to the
25 full and equal accommodations, advantages, facilities, and privileges offered at Grifols' plasma
26 donation centers.

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1 34.

2 At Grifols' donation center, Plaintiff reviewed materials stating that a male who had ever
3 had sexual contact with another male could never donate plasma. At first, Plaintiff believed those
4 materials simply had not been updated since the FDA had changed its guidelines. Plaintiff
5 therefore filled out Grifols' health screening questionnaire and disclosed that he has had sexual
6 contact with another man during his lifetime.

7 35.

8 A Grifols employee reviewed Plaintiff's questionnaire, and, based on his answer in the
9 affirmative that he had sexual contact with another male, told Plaintiff that he was "forever
10 banned" from donating plasma at all Grifols' locations. The application of this discriminatory
11 blanket ban devastated Plaintiff and has caused him significant and ongoing emotional distress.
12 Plaintiff asked to speak with a supervisor. Approximately three days later, a "supervisor" called
13 Plaintiff and explained that Grifols would not accept donations from any man who has had
14 sexual contact with another man and that Grifols would continue to enforce this longstanding
15 practice.

16 36.

17 Once Grifols learned that Plaintiff had had sex with another man *at some point in his*
18 *lifetime*, Grifols refused to complete any further physical examination of Plaintiff, denying him
19 services and benefits that it provides to other prospective donors. Plaintiff was also denied the
20 monetary benefits and other nonmonetary privileges and benefits of donating plasma, including
21 the ability to make a difference, feel generous, and help others.

22 37.

23 As a result of Grifols' discriminatory conduct, Plaintiff was shocked and felt sick,
24 triggering decades of feeling like a second-rate citizen as a gay man and because he had believed
25 that blanket bans based on sex, gender identity, and sexual orientation were no longer in place.
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1 38.

2 Grifols permanently banned Plaintiff from donating plasma but did not conduct an
3 individualized assessment of the risks as recommended by the FDA and did not ask whether
4 Plaintiff had new or multiple sexual partners within the last three months. Indeed, had Grifols
5 conducted such an individualized assessment, they would have discovered that Plaintiff did not
6 present any risk factors for HIV because he had not had any new sexual partners within the last
7 three months.

8 39.

9 On or about March 27, 2024, Defendant Aleece Bentzinger, Grifols' regional operations
10 manager, enforced Grifols' discriminatory policy by confirming that men who have ever had
11 sexual contact with another man were prohibited from donating at any Grifols locations,
12 explaining that Grifols does not yet follow FDA guidelines because donations are sent all around
13 the world and Grifols follows the "rules and regulations created by * * * other countries and not
14 all countries are as progressive as the United States in terms of who is eligible to donate." Grifols
15 continues to prohibit any donations from people who have ever had "male to male contact."

16 40.

17 On information and belief, Defendant Bentzinger maintains and enforces Grifols' policies
18 on an ongoing basis that discriminate based on sex, gender identity, and sexual orientation, even
19 while acknowledging that such policies are discriminatory.

20 41.

21 Plaintiff and all class members have a legally recognized interest in accessing Oregon
22 public accommodations, such as Grifols, that do not discriminate in violation of Oregon law.
23 Plaintiff and others similarly situated wish to take advantage of the full and equal
24 accommodations, services, advantages, facilities, and privileges of Grifols and are entitled to do
25 so without any distinction, discrimination, or restriction on account of their sex, gender identity,
26 and sexual orientation.

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42.

Grifols’ policies categorically exclude members of the public in Oregon from donating plasma and receiving all the services, advantages, facilities, and privileges offered by Grifols, based on sex, gender identity, and sexual orientation.

43.

Grifols refuses to offer its public accommodations in Oregon to men who have ever had sexual contact with another man based on an individualized assessment of a person’s qualifications to donate. Instead, Grifols enforces a blanket ban against such prospective donors based on sex, gender identity, and sexual orientation.

44.

Grifols’ policies deny men who have ever had sexual contact with another man within Oregon the full and equal accommodations, services, advantages, facilities, and privileges of a place of public accommodation.

45.

Grifols’ ongoing discriminatory policies and its refusal to allow Plaintiff and members of the class to access Defendants’ services 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.

46.

The injury to and impact on the legally recognized interest is real or probable in that Grifols refuses to allow Plaintiff and members of the class access to an accommodation that provides services free of any distinction, discrimination, or restriction based on sex, gender identity, and sexual orientation.

47.

Plaintiff, on his own behalf and on behalf of the proposed class, seeks injunctive relief prohibiting Grifols from enforcing their blanket ban. By granting the relief Plaintiff and members

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1 of the class seek, this Court will rectify that injury to and impact on their legally recognized
2 interest by allowing Plaintiff and members of the class access to the public accommodations
3 available at Grifols' centers in a manner that complies with Oregon law and is free of any
4 distinction, discrimination, or restriction on account of sex, gender identity, and sexual
5 orientation.

6 48.

7 Plaintiff also seeks individual damages for his economic and noneconomic losses
8 resulting from Defendants' illegal conduct.

9 **CLASS ALLEGATIONS**

10 49.

11 Plaintiff brings this action as a representative party pursuant to ORCP 32, and on behalf
12 of a class initially defined as: All gay or bisexual men who have ever had sexual contact with
13 another man and who are residents of Oregon.

14 50.

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

17 A. Whether Grifols is a public accommodation under Oregon law;

18 B. Whether Grifols' refusal to allow plaintiff and members of the class to donate
19 plasma based on their sex, gender identity, and sexual orientation violates Oregon's Public
20 Accommodations Act;

21 C. Whether Defendant Bentzinger aided or abetted Grifols in its distinction,
22 discrimination, and/or restriction of Plaintiff and members of the class on account of sex, gender
23 identity, and sexual orientation;

24 D. Whether Grifols' refusal to allow Plaintiff and members of the class to donate
25 plasma and access Grifols' public accommodation based on sex, gender identity, and sexual
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1 orientation has caused an injury and impact on the legally recognized interest to access public
2 accommodations free of discrimination; and

3 E. Whether Grifols' refusal to allow Plaintiff and members of the class to donate
4 based on sex, gender identity, and sexual orientation resulted in unequal treatment of individuals
5 based on protected characteristics because members of the class do not receive the full and equal
6 accommodation of Grifols' services.

7 51.

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

9 A. All claims involve identical conduct because Grifols' unlawful and discriminatory
10 policies apply to all prospective donors in the same manner;

11 B. Grifols refuses to allow Plaintiff and members of the class the opportunity to
12 donate plasma free of its discriminatory policy because its policies apply uniformly to all
13 prospective donors; and

14 C. Plaintiff's claim is based on the same legal theory that all members of the class
15 will advance in this action.

16 52.

17 Plaintiff will fairly and adequately protect and represent the interests of the class in that:

18 A. Plaintiff's claim is typical of the claims of all class members;

19 B. Plaintiff's counsel is qualified to represent him and members of the class and will
20 vigorously prosecute the litigation; and

21 C. Plaintiff's interests are not in conflict with the interests of members of the class
22 and those interests are aligned.

23 53.

24 A class action is superior to other methods available for adjudication of this action in
25 that:

26 A. Common questions of law and fact predominate over factors affecting individuals;

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COMPLAINT

1 B. Upon information and belief, no other class action that purports to represent
2 Oregon residents wishing to access Grifols' public accommodations free of discrimination that
3 violates Oregon law has been commenced;

4 C. Individual members of the class will have little to no interest in controlling the
5 litigation due to the high costs of individual actions and because the class claim seeks injunctive
6 relief only and, for that reason, the action is a "mandatory" class and the relief sought will
7 prevent further harm to plaintiff and members of the class; and

8 D. This Court is experienced in managing class action litigation and is a desirable
9 forum because Grifols conducts significant business in this county and in Oregon.

10 **FIRST CLAIM FOR RELIEF**

11 **Sex, Gender Identity, and Sexual Orientation Discrimination in Violation of ORS 659A.403**

12 **(On behalf of Plaintiff and the Proposed Class)**

13 **Against Defendants Grifols USA, LLC and Biomat USA, Inc.**

14 54.

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

16 55.

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

21 56.

22 As defined by ORS 659A.400, Defendants Grifols are "place[s] of public
23 accommodation" because Defendants Grifols are places or services offering to the public
24 accommodations, advantages, facilities, or privileges in, at least, the nature of services or
25 otherwise.

26
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COMPLAINT

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57.

Grifols' blanket ban on plasma donations from men who have ever had sexual contact with another man denies Plaintiff and members of the class, full and equal public accommodations, advantages, facilities, and privileges from Grifols' centers on the basis of their sex, gender identity, and sexual orientation.

58.

Plaintiff, on behalf of himself and the class, seeks injunctive relief granting access to the public accommodations available through Grifols' donation centers 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.

59.

Pursuant to ORS 659A.885, Plaintiff, on his own behalf and as a representative of the class defined above, seeks an injunction requiring Grifols and its operators, managers, and employee acting on behalf of Grifols to allow men who have ever had sexual contact with another man and who are residents of Oregon to access accommodations available at Grifols' centers, but without imposing on Plaintiff and other members of the class those policies which render Grifols' donation eligibility assessment discriminatory.

60.

Plaintiff seeks an award of reasonable attorney fees, costs, and expert witness fees pursuant to ORS 20.107 and 659A.885. Plaintiff reserves the right to amend this Complaint to seek compensatory and punitive damages and other available equitable relief.

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COMPLAINT

1 **SECOND CLAIM FOR RELIEF**

2 **Aiding and Abetting Sex, Gender Identity, and Sexual Orientation Discrimination in**

3 **Violation of ORS 659A.406**

4 **(On behalf of Plaintiff and the Proposed Class)**

5 **Against Defendant Bentzinger**

6 61.

7 Plaintiff restates and incorporates the allegations stated in paragraphs 1 through 53 above
8 as if stated herein.

9 62.

10 Defendant Bentzinger aided or abetted Grifols in making a distinction, discrimination,
11 and/or restriction on account of sex, gender identity, and sexual orientation.

12 63.

13 Alternatively, Defendant Bentzinger is an employee or person acting on behalf of
14 Defendants Grifols in making a distinction, discrimination, and/or restriction on account of
15 sex/gender and/or sexual orientation.

16 64.

17 Pursuant to ORS 659A.885(6), Defendant Bentzinger, as the operator or manager of the
18 place of public accommodation, is jointly and severally liable for all violations stated herein and
19 is jointly and severally liable for all relief awarded in the action.

20 65.

21 Plaintiff, on his own behalf and as a representative of the class defined above, seeks an
22 injunction requiring Defendant Bentzinger, as an operator, manager, and employee acting on
23 behalf of Grifols to allow men who have ever had sexual contact with another man and who are
24 residents of Oregon to access accommodations available at Grifols' centers, but without
25 imposing on Plaintiff and other members of the class those policies which render Grifols'
26 donation eligibility assessment discriminatory.

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COMPLAINT

1 66.

2 Plaintiff seeks an award of reasonable attorney fees, costs, and expert witness fees
3 pursuant to ORS 20.107 and 659A.885. Plaintiff reserves the right to amend this Complaint to
4 seek compensatory and punitive damages and other available equitable relief.

5 **THIRD CLAIM FOR RELIEF - ORS 659A.403**

6 **Sex, Gender Identity, and Sexual Orientation Discrimination in Violation of ORS 659A.403**

7 **(On behalf of Plaintiff, individually)**

8 **Against Defendants Grifols USA, LLC and Biomat USA, Inc.**

9 67.

10 Plaintiff restates and incorporates the allegations above in paragraphs 1 through 48 as if
11 stated herein.

12 68.

13 As described above, as a direct and proximate result of Grifols' discrimination, Plaintiff
14 was and has continuously been denied access to Grifols' centers and will continue to be denied
15 the ability to access these accommodations on the basis of his sex, gender identity, and sexual
16 orientation.

17 69.

18 Plaintiff's sex, gender identity, and sexual orientation was a substantial factor in Grifols'
19 denial to him of the full and equal accommodations, advantages, facilities and/or privileges of
20 their place of public accommodation.

21 70.

22 Grifols' unlawful actions have caused Plaintiff to suffer and continue to suffer
23 compensatory damages, including but not limited to noneconomic damages for embarrassment,
24 increase in mental health symptoms, humiliation, and emotional distress, in an amount to be
25 determined at trial, but not to exceed \$950,000.

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1 71.

2 Plaintiff has also incurred compensatory damages, including but not limited to the
3 economic damages for loss of payments that Plaintiff should have received in exchange for his
4 plasma donations, in an amount to be determined at trial, but not to exceed \$10,400.

5 72.

6 Plaintiff also seeks an award of reasonable attorney fees, costs, and expert witness fees
7 pursuant to ORS 20.107 and 659A.885. Plaintiff reserves the right to amend this Complaint to
8 seek compensatory and punitive damages and other available equitable relief.

9 **FOURTH CLAIM FOR RELIEF**

10 **Sex, Gender, and Sexual Orientation Discrimination in Violation of ORS 659A.406**

11 **(On behalf of Plaintiff individually)**

12 **Against Defendant Bentzinger**

13 73.

14 Plaintiff restates and incorporates the allegations above in paragraphs 1 through 48 as if
15 stated herein.

16 74.

17 Defendant Bentzinger aided or abetted Grifols in making a distinction, discrimination,
18 and/or restriction on account of sex, gender discrimination, and sexual orientation.

19 75.

20 Alternatively, Defendant Bentzinger is an employee or person acting on behalf of Grifols
21 in making a distinction, discrimination, and/or restriction on account of sex, gender identity, and
22 sexual orientation.

23 76.

24 Pursuant to ORS 659A.885(6), Defendant Bentzinger, as the operator or manager of the
25 place of public accommodation, is jointly and severally liable for all violations stated herein
26 and is jointly and severally liable for all relief awarded under the Third Claim for Relief.

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1 77.

2 Plaintiff seeks an award of reasonable attorney fees, costs, and expert witness fees
3 pursuant to ORS 20.107 and 659A.885. Plaintiff reserves the right to amend this Complaint to
4 seek compensatory and punitive damages and other available equitable relief.

5 **JURY TRIAL DEMAND**

6 78.

7 Plaintiff demands a jury trial as to all claims and issues for which that right is available,
8 including pursuant to ORS 659A.885.

9 **PRAYER FOR RELIEF**

10 79.

11 WHEREFORE, Plaintiff seeks judgment against Defendants and the following relief:

12 A. An order certifying the matter as a class action pursuant to ORCP 32, designating
13 Plaintiff as the class representative, and designating the undersigned counsel as class counsel;

14 B. On Plaintiff's First and Second Claims for Relief, an injunction requiring
15 Defendants Grifols USA LLC, Biomat USA Inc, and Bentzinger to cease enforcing Grifols'
16 discriminatory policy and to allow Plaintiff and other men who have ever had sexual contact
17 with another man and who are residents of Oregon who would otherwise be eligible to donate
18 plasma to access accommodations available at Grifols' centers, but without imposing on plaintiff
19 and other members of the class those policies which render Grifols' accommodations
20 discriminatory;

21 C. On Plaintiff's Third and Fourth Claims for Relief, an award of noneconomic
22 damages in an amount determined at trial but not to exceed \$950,000, and an award of economic
23 damages to be determined at trial but not to exceed \$10,400;

24 D. An award of reasonable attorney fees, costs, and expert witness fees; and

25 E. All other relief the Court finds equitable and appropriate.
26

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1 RESPECTFULLY SUBMITTED this 17th day of July, 2024.

2
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