CHRISTINA E. STEPHENSON
COMMISSIONER

JESSICA N. GIANNETTINO VILLATORO
DEPUTY COMMISSIONER

BUREAU of LABOR & INDUSTRIES

BEFORE THE COMMISSIONER OF THE BUREAU OF LABOR AND INDUSTRIES OF THE STATE OF OREGON

In the Matter of:	Case No. 17-24
Dava Tea, LLC, DBA Portal Tea Company (FKA Tea Chai Té); Dominic Valdes, an individual; Angela Valdes, an individual	FINDINGS OF FACT CONCLUSIONS OF LAW OPINION ORDER
Respondent.	

SYNOPSIS

The forum concluded that Respondent Dava Tea, LLC committed an unlawful practice by refusing to accept cash from Complainant as payment for goods and services in a place of public accommodation on six occasions in violation of ORS 659A.410(1)(a)(B). All charges against the two individual respondents were dismissed when the Formal Charges did not include unlawful practice allegations against them. The forum awarded $600 in compensatory damages, and ordered, among other things, Respondent Dava Tea, LLC and its owners, managers and supervisors to complete training on the requirements of ORS 659A.410.

The above-entitled case came on regularly for hearing before Kari Furnanz, designated as Administrative Law Judge ("ALJ") by the Commissioner of the Bureau of Labor and Industries for the State of Oregon. The hearing was held on January 28, 2026, via the Zoom video conference application.

The Bureau of Labor and Industries ("BOLI" or "the Agency") was represented by

Administrative Prosecutor Jesse Nielson, an employee of the Agency. Complainant, Erik Harper ("Harper") was present throughout the hearing. Additionally, some BOLI employees who were not witnesses observed the hearing. Respondents were unrepresented by counsel. Respondent Dominic Valdes ("D. Valdes") was present on his own behalf and as the authorized representative of Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Té) (hereinafter "Dava Tea"). Respondent Angela Valdes ("A. Valdes") was also present.

The Agency called the following witnesses: Harper, BOLI Civil Rights Intake and Support Manager Lloyd Perez ("Perez") and Ted Wenk ("Wenk"), BOLI Field Operations Manager, Civil Rights Division.

A. Valdes testified as the sole witness for Respondents.

The forum received into evidence: (a) Administrative exhibits X1 through X15; (b) Agency's exhibits A1-A23;[1] and (c) Respondents' exhibits R1 and R3-R4.

Having fully considered the entire record in this matter, I, Christina Stephenson, Commissioner of the Bureau of Labor and Industries, hereby make the following Findings of Fact (Procedural and on the Merits), Conclusions of Law, Opinion, and Order.[2]

FINDINGS OF FACT – PROCEDURAL

1) Harper filed a signed complaint with the Agency's Civil Rights Division ("CRD") on January 23, 2023. Harper's complaint in CRD Case No. STPAOT230123-10146 alleged that Dava Tea unlawfully discriminated against him in a place of public

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[1] Respondents stipulated to the admission of Exhibits A1 and A18-A23.

[2] The Ultimate Findings of Fact required by OAR 839-050-0370(1)(b)(B) are subsumed within the Findings of Fact – The Merits.

accommodation by refusing to accept his US coins and currency. (Ex. A6)

2) On September 19, 2023, the Agency's Civil Rights Division issued a Notice of Substantial Evidence Determination ("SED") for Case No. STPAOT230123-10146 in which it found substantial evidence that Dava Tea committed an unlawful practice by "refusing to accept United States currency in a place of public accommodation," in violation of "ORS 659A.820; Oregon Senate Bill 1565 (2022 Regular Session)." (Ex. A1, A23)

3) On November 21, 2025, the contested case forum issued a Notice of Hearing to Respondents and the Agency, stating the time and place of the hearing as January 28, 2026, beginning at 9:00 a.m., and that the hearing would be held by video conference. Together with the Notice of Hearing, the forum sent a copy of the Agency's Formal Charges, a document entitled "Summary of Contested Case Rights and Procedures" containing the information required by ORS 183.413, a document entitled "Servicemembers Civil Relief Act (SCRA) Notification," a multi-language notice explaining the significance of the Notice of Hearing, a copy of the forum's contested case hearings rules, OAR 839-050-0000 to 839-050-0445, and a blank email service agreement. (Exs. X2, X2a-X2k)

4) The Formal Charges alleged that Dava Tea "committed an unlawful practice by refusing to accept United States currency from Complainant as payment for goods and services in a place of public accommodation in violation of ORS 659A.410(1)(a)(B)." (Ex. X2a)

5) On December 9, 2025, Respondents filed a response to the Formal Charges in which they denied the allegations. (Ex. X4)

6) On December 18, 2025, the ALJ issued an interim order requiring case summaries to be filed no later than January 14, 2026, and set out the requirements for what each participant must include in their case summary. (Ex. X5)

7) The ALJ issued an interim order on December 22, 2025, scheduling a prehearing conference for Friday, January 9, 2026, at 10:30 a.m. for the purpose of discussing case summary requirements, the procedures for hearing and to address the parties' question about what to expect at hearing. (Ex. X6)

8) A virtual prehearing conference was held on Friday, January 9, 2026, at 10:30 a.m. Administrative Prosecutor Jesse Neilson appeared on behalf of the Agency. D. Valdes and A. Valdes appeared on behalf of Respondents. During the conference, the ALJ reviewed the case summary requirements, discussed the procedures for the upcoming hearing, and addressed the parties' questions. Later that day, the ALJ issued an interim order summarizing the rulings made during the conference, which were as follows:

"**Location of Hearing**

"The hearing will be held in person at the following address:

Bureau of Labor and Industries
1800 First Avenue, Suite 500
Portland, OR 97201

Witnesses may appear virtually using the Zoom link sent to the parties with the Notice of Hearing. Prosecutor Neilson stated that he believed the Complainant will only be appearing by video for his testimony. In the event that changes and the Complainant intends to appear during other portions of the hearing, Prosecutor Neilson will inform the forum and the parties.

"A private meeting room has been reserved for Respondents to use during breaks in the hearing.

"**Attorney Referral List**

"Respondents indicated they may seek to retain an attorney in this matter. Prosecutor Neilson stated that immediately after the prehearing conference, he would email Respondents a list of attorneys who agreed to represent parties in BOLI matters.

"If Respondents retain an attorney, the attorney should file a notice of appearance. If a delay of the hearing is needed, the attorney may file a motion for postponement.

"**ADR Requirement**

"The parties have satisfied their obligation to confer about alternative dispute resolution. They do not need to address that when filing their case summaries.

"**Email Service**

"Respondents expressed a desire to use email service in this matter and they were instructed to complete and return an email service agreement. The Contested Case Coordinator sent an agreement to them by email for this purpose.

"If the parties would prefer that physical mail be sent to a different address than the ones on file with the forum, they may indicate that on their email service form.

"**Authorized Representative Form**

"As Dava Tea LLC is a limited liability company, it must be represented by an 'authorized representative' at a BOLI contested case hearing. Attached is a form that can be completed and returned in order to satisfy this requirement."

(Ex. X7)

9) On January 12, 2026, the forum issued an interim order noting that the parties filed consents to accept filings by email, and provided instructions for how the parties could file documents by email. (Exs. X3, X9-X10)

10) The Agency and Respondents filed their case summaries on January 14, 2026. (Exs. X11-X12)

11) On January 14, 2026, Dava Tea submitted a signed form stating that D.

Valdes was acting as its Authorized Representative. (Exs. X13)

12) On January 16, 2026, Respondents sent an email requesting that the hearing take place by video due to "safety concerns." Nielson responded to the email, stating that the Agency did not object to the request. On January 20, 2026, the ALJ issued an interim order stating that hearing will now take place virtually via the Zoom video conference application, instead of in person. The interim order further instructed that the parties should use the link and connection information provided to them in the Notice of Hearing to connect to the hearing. In addition, the Contested Case Coordinator sent the parties Outlook calendar invites with the Zoom meeting link. (Exs. X14-X15)

13) At the start of the video hearing, pursuant to ORS 183.415(7), the ALJ orally informed the participants of the issues to be addressed, the matters to be proved, and the procedures governing the conduct of the hearing. (Hearing Record)

14) On September 28, 2026, the ALJ issued a Proposed Order that notified the participants that they were entitled to file exceptions of the Proposed Order within 10 days of its issuance. The Agency and Respondents filed exceptions on October 8, 2026.

FINDINGS OF FACT – THE MERITS

Background

1) Dava Tea operates a tea shop in the Sellwood neighborhood of Portland, Oregon, and sells brewed teas and looseleaf tea for purchase. The tea shop was originally named "Tea Chai Te."[3] (Testimony of Harper; A. Valdes)

2) Harper moved to the Sellwood neighborhood in 2012 or 2013, and began

[3] Although the shop previously had a different name, "Dava Tea" will be used throughout to avoid confusion.

purchasing drinks and looseleaf tea from Dava Tea. (Testimony of Harper)

3) During 2021, at least one Dava Tea staff member told A. Valdes that Harper was harassing the staff when they asked him to wear a face mask in the tea shop due to government COVID-19 guidelines. A. Valdes spoke to employees and coached them on how to politely respond, which included suggesting that he could take his tea as a to-go order, rather than drinking it inside the shop. (Testimony of A. Valdes; Ex. A20)

4) On November 23, 2021, Harper sent a message to Dava Tea through its online portal, and a staff member forwarded the message to A. Valdes. Harper's message stated:

> "I am a regular customer at the Sellwood location and have been shopping mask-free several times a week, but just today I was told to put a mask on when I was not at my table, despite there being no signage saying that this was a requirement. I am aware of the state mask 'mandate' but that doesn't override existing discrimination law that allows for exemptions to things like mask wearing. I have the right to breathe normally and act normally while shopping, and wearing a mask prohibits me from feeling comfortable in your shop.
>
> "It seems that some workers care more about this than others, because like I said I've been shopping mask-free for several weeks now and never been told I had to do that. I appreciate [Dava Tea] not putting up any mask required signs. That is the reason I have been regularly visiting the shop so often. I'm not writing this to tell you to put up signs and start telling your staff to discriminate by enforcing this unlawful 'mandate[.]' I'm writing to hopefully persuade you that it should be up to each individual's choice whether they cover their face or not. It is no different than disallowing a [M]uslim to wear a Burqa while in the shop.
>
> "I thank you today for hearing what I have to say, and I hope you can have some compassion for those who object to these measures. I hope you continue to stay open regardless of what government authorities are trying to make you do, and I hope to convince you to instruct your employees to respect individual's choice in this matter. All should be welcome in your tea shops, and that includes people who choose not to wear face coverings.
>
> "Thank you for your time,
>
> "Sincerely,
> Erik"

(Testimony of A. Valdes; Ex. R1)

5) After receiving Harper's mask complaint, A. Valdes expressed concerns in an internal message about staff members being harassed when they asked customers to comply with the government mask mandate. She instructed her staff to put up a "mask required" sign in the hopes that staff members could avoid harassment from "crazies" who did not want to comply with the mask mandate. Harper's message created an impression in A. Valdes's mind that he was a "crazy loon" who "torment[ed] staff."[4] (Testimony of A. Valdes; Ex. R1)

Harper's Use of Cash and Dava Tea's Cashless Policy

6) During the COVID-19 pandemic, Dava Tea experienced several burglaries in which cash was stolen at its shops. Some staff reported that they were afraid to come to work because of the burglaries. Dava Tea decided to implement a cashless policy, hoping to prevent the burglaries. (Testimony of A. Valdes)

7) Dava Tea attempted to implement a policy to give away tea for free if someone was unable to pay with cash. However, there was not a system in place to log when cash payment was offered and free tea was provided. Individual employees may have made mistakes and did not follow instructions to offer free tea. (Testimony of A. Valdes; Ex. X12 at ¶ 4)

8) Harper prefers to pay cash at tea shops because it is more convenient for him and it works well for budgeting. He usually carries a $20 bill in his wallet for these

[4] There is no direct evidence in the record that Harper harassed staff members about the mask mandate. However, the forum finds the mask mandate communications to be relevant in explaining A. Valdes's reaction to the subsequent complaints made by Harper and his wife regarding the cashless policy, and provides context for how A. Valdes and D. Valdes communicated with Harper.

kinds of purchases at coffee and tea shops. (Testimony of Harper)

9) The Oregon Legislature passed Senate Bill 1565 on March 2, 2022. SB 1565 identified the refusal to accept United States coins or currency from customers as payment for goods and services as an unlawful practice under ORS chapter 659A for a place of public accommodation. The law specified that it would take effect on the 91st date after the legislature adjourned *sine die*. (Ex. A11)

10) Sometime in the spring of 2022, Harper noticed signs posted in Dava Tea stating that cash payments were not accepted. Prior to this time, Harper paid for his purchases with cash "many times." (Testimony of Harper)

11) In early May of 2022, Harper sent an electronic message to Dava Tea raising concerns about Dava Tea adopting a cashless policy. On May 2, 2022, D. Valdes responded to Harper's email, stating:

> "Hi Erik[,]
>
> "Thank you for reaching out and for supporting us. We sincerely appreciate it. We made the decision to go cashless to protect our staff and customers from break-ins, theft and robbery. We will also be providing a cash accepting TCT gift card vending machine in the near future.
>
> "All the best,
> Dominic Valdes
> Owner"

(Testimony of Harper; Ex. A10)

12) Harper's wife, Angela Dicianno ["Dicianno"], also submitted an electronic message to Dava Tea with concerns about the cashless policy in late April or early May of 2022. D. Valdes sent a response to Dicianno's message on May 2, 2022, at 10:32 a.m., which read:

"Hi Angela,

"This email was sent to you last week but it bounced back so I am trying again.

"Thank you for taking the time to contact us with your concerns about some of our shops needing to go cashless. You have expressed how you see that cash used in our community in your view lends to the legitimacy of cash as a government backed form of exchange and currency. We completely agree with you- we have tried for years to make receiving cash as currency as sustainable as we can for our shops. Unfortunately, we recently suffered another break in after hours at our Sellwood location, resulting in the loss of our register drawer among other things, such as needing to rekey the whole shop. We have had to accept that due to the expense of recouping from many break-ins, we see no secure way to accept cash or make change at that shop at this time.

"We have tried to create internal systems to track cash in our shops- but those steps just haven't stopped outright theft. We understand your disappointment- we too are very frustrated and wish there was a less expensive route for us when dealing with continued break ins. The thing that draws people to do those things is their desire to find cash - so by removing cash from the equation at this time, we are making our shops safer and more sustainable for both staff and customers.

"We are looking into other ideas, such as gift card machines that accept cash. It is just taking some time to find the right product for us.

"We appreciate that you have supported our business and thank you so much for it- we've been doing this now for almost 20 years and we aim to be able to continue to provide safe jobs and gathering spaces for our staff and customers.

"We have to continue to do our best to adapt our business to ensure our staff's jobs are safe- making sure the money we receive for sales (that goes to funding our staff's paychecks) doesn't walk out the door from another break in or from cash mismanagement. We respect it if you decide to go elsewhere and you probably should as this relationship doesn't seem like a good fit.

"I apologize if prioritizing our safety over your ideology is upsetting to you. Not everything is about you:)

"Dominic Valdes
Owner"

(Ex. A9, pp. 4-5)

13) Dicianno responded to D. Valdes on May 2, 2022, at 10:54 a.m., stating:

"'Not everything is about you.' Unfortunately for you, the Oregon legislature agrees

> with me that this type of discrimination cannot stand. As of June 3rd, 2022[,] businesses are required by law to accept cash (see email below from my legislator's office). Failure to do so will result in discrimination complaints through BOLI at the least and potential financial fines against your business. As of June 3rd, 2022[,] Tea Chai Te will be breaking the law.
>
> "I'm sorry about your break-ins. Perhaps in the future you can deposit the money each day after close into the bank and then pick up new change from the bank again in the morning (I've had to do this at several jobs I've had in my life).
>
> "The condescension of your email, picking at my supposed 'ideology,' is very unprofessional and unappreciated. I look forward to your business coming into alignment with the laws of the state and finding a new strategy for issues with theft."

At the end of Dicianno's email, she included an email from the office of Oregon House Representative Karin Power, indicating that Power's office would "reach out to BOLI" to find out about how it was educating business about the new law. (Ex. A9)

14) D. Valdes responded to Dicianno's email four minutes later, at 10:58 a.m. on May 2, 2022, as follows:

> "You seem to have an incredible amount of time on your hands. Maybe actually help people by volunteering?
>
> "We are all trying our best to navigate business during this pandemic. You aren't helping.
>
> "Please don't ever step foot in our shops ever again. We don't need your negative energy."

(Ex. A10)

15) Dicianno replied to D. Valdes on May 3, 2022, at 5:01 p.m., expressing:

> "I apologize. Email can be a pesky way of having a nuanced discussion and this unfortunately was no exception. I assure you I did not intend for this to be a negative exchange. You're completely correct that this world doesn't need more negative energy.
>
> "May we try starting over?
>
> "I'm a member of your community who prefers to pay cash for small purchases, to make my day to day life much simpler in regards to managing my budget. I hear

your completely valid concerns for why your business has moved towards not accepting that cash.

"The reality is that the state did pass a law that will require businesses to accept cash starting June 3rd, 2022. It sounds like you may have a solution with your idea to have a cash accepting gift card machine available.

"Would it be helpful for me to facilitate a conversation with BOLI through my state Representative to make sure that would be acceptable? BOLI has a whole section of their office to help businesses avoid any risks to non-compliance with the law.

"If not, that's completely fine. I'm only offering to help because your business is an asset to our community and I do not want you to face further issues, as you pointed out - the last 2 years have been difficult enough for small businesses in our community.

"Best to you as you continue to adapt your business to the varied issues and needs that arise.

"Thanks for your time,
Angela

Angela Dicianno"

16) On May 5, 2022, at 9:26 a.m., Harper responded to the message that D. Valdes sent to him on May 2, 2022, stating, "So would the cash that resides in the eventual Gift Card machines not also be at risk of theft as well." D. Valdes replied at 9:41 a.m. that day, stating, "Those machines are safer. There are also many other reasons besides theft that this decision was made. I outlined some to [Dicianno]. That is all I am going to say about it." (Ex. A10)

17) Senate Bill 1565 became effective on June 3, 2022. (Ex. A11; Official Notice[5])

[5] The forum takes official notice that the 81st Oregon Legislature Assembly Short Session adjourned *sine die* on March 4, 2022.

18) On or about June 23, 2022,[6] Harper attempted to purchase three "Caramel Crème Brulee" looseleaf tea canisters from Dava Tea with cash. Dava Tea staff told him that, as of that year, Dava Tea no longer accepted cash payments. Harper used his credit card to pay for the drinks, which totaled $10.50. (Testimony of Harper; Ex. A12)

19) On August 8, 2022, BOLI's Civil Rights Division sent a letter to Dava Tea, which read:

> "To whom it may concern:
>
> "Please Note: Currently, there is no complaint on file with the Civil Rights Division and a response to this letter is not necessary. However, we received information about a possible violation of Oregon Senate Bill 1565 – Cashless Ban Law that became effective on June 3, 2022.
>
> "Oregon Senate Bill 1565:
> 1) it is an unlawful practice under ORS chapter 659A for a place of public accommodation offering goods or services, or any person acting on behalf of such place, to:
> (a) Refuse to accept from customer or patron United States coins and currency, including federal reserve bank notes and circulating notes of federal reserve banks and national banks, as payment for goods and services.
> (b) Make any distinction, discrimination, or restriction because a customer or patron offers United States coins and currency, including federal reserve bank notes and circulating notes of federal reserve banks and national banks, as payment for goods and services.
>
> "2) Notwithstanding subsection (1) of this section, a place of public accommodation, or any person acting on behalf of such place, may refuse to accept as payment for goods and services:
> (a) United States coins, in any combination, in an amount equal to or greater than $100; or
> (b) United States currency in denominations of $50 or $100.
>
> "To learn more about this bill and its exemptions, please call our BOLI – Employer Assistance Division at 971-361-8400 or contact them by email at employer.assistance@boli.oregon.gov."

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[6] Harper testified that he received email receipts from his Dava Tea purchases "almost always" on the same date that he made the purchases. (Testimony of Harper)

(Testimony of Perez; Ex. A19)

20) Harper purchased a "Short Sands Chai" tea drink from Dava Tea for $6.60 on or about November 17, 2022, and paid with his credit card. Before Harper used his credit card, he attempted to pay with cash, but was not permitted to do so. (Testimony of Harper; Ex. A13)

21) On or about December 14, 2022, Harper attempted to purchase three "Caramel Crème Brulee" and three "Be Swell" looseleaf tea canisters from Dava Tea with cash, but staff told him that cash was not accepted.[7] He paid for the purchase by charging $24 on his credit card. (Testimony of Harper; Ex. A14)

22) On or about December 22, 2022, Harper attempted to purchase a Nitro Cold Brew drink and a "Short Sands Chai" latte drink from Dava Tea with cash. The cash was not accepted and he paid for the purchase by charging $11.35 on his credit card. (Testimony of Harper; Ex. A15)

23) On or about January 5, 2023, Harper attempted to purchase a "Vanilla Rooibos" tea latte drink from Dava Tea with cash. Dava Tea staff did not accept cash for payment, and he paid for the purchase by charging $10.20 on his credit card. (Testimony of Harper; Ex. A16)

24) On or about June 29, 2023, BOLI CRD Field Operations Manager Ted Wenk was in the Sellwood neighborhood of Portland. He was aware of the investigation involving Dava Tea and walked by the shop. He took a photograph of a sign on the door

[7] When discussing the purchase made on December 14, 2022, and other Dava Tea transactions, Harper did not explicitly state that his cash was refused. The forum infers that Dava Tea staff refused Harper's cash payments based on the surrounding evidence that (1) he first offered cash, (2) he paid with his credit card and (3) there was a policy and sign posted which stated that cash was not accepted.

which read:

"TO ENSURE OUR STAFF & THEIR
PAYCHECKS ARE PROTECTED
AGAINST SHOP BREAK INS

"**THIS SHOP
IS NOW
CASHLESS.**

"FOR CUSTOMERS WHO GIVE CASH TO THEIR KIDS
FOR PURCHASES IN OUR SHOPS – WE CAN LOAD
A RESUSABLE GIFT CARD WITH THE AMOUNT –
AND WE'LL GIVE YOU A FEW FREE TEA CARDS TOO!"

Wenk sent a Microsoft Teams message to the assigned investigator, Perez, with a copy of the photograph. (Testimony of Wenk; Ex. A18)

25) On or about November 15, 2024, Harper attempted use cash to purchase a "Short Sands Chai" tea latte drink and a pumpkin spice cookie from Dava Tea. Dava Tea staff did not accept cash for payment, and he paid for the purchase by charging $12.00 on his credit card. (Testimony of Harper; Ex. A17)

26) Harper continued to offer to pay in cash after he was told that cash was not accepted in order "to ensure that the policy was still in place," and because he enjoyed consuming Dava Tea products. (Testimony of Harper)

27) Dava Tea did not offer free items to Harper when he attempted to pay in cash. (Testimony of Harper)

28) In general, Harper's interactions with Dava Tea staff were typical customer/employee interactions. When employees told him that it was a cashless business, he did not protest but sometimes advised the workers of the requirements of the law. He then paid for his purchase with a credit card. If he ordered a tea drink, he stayed in the shop until he finished drinking it. There were no noteworthy interactions

with staff.[8] No one at Dava Tea told Harper to leave or refused to serve him. (Testimony of Harper)

OPINION AND CONCLUSIONS OF LAW

The Commissioner of the Bureau of Labor and Industries has jurisdiction of the matters alleged in the Formal Charges against Dava Tea. ORS 659A.800 - ORS 659A.865.

ALLEGED VIOLATION OF ORS 659A.410(1)(A)(B)

The Formal Charges allege that Dava Tea "committed an unlawful practice by refusing to accept United States currency from [Harper] as payment for goods and services in a place of public accommodation in violation of ORS 659A.410(1)(a)(B)." (Finding of Fact – Procedural, #4). ORS 659A.410(1)(a)(B) states that "it is an unlawful practice under ORS chapter 659A for a place of public accommodation offering goods or services, or any person acting on behalf of such place, to [r]efuse to accept" United States currency "from a customer or patron, as payment for goods and services."

The violation alleged in the Formal Charges does not state that either of the individual Respondents, D. Valdes or A. Valdes, committed an unlawful practice and fails to identify a factual or statutory basis for individual liability concerning the individual Respondents. (Finding of Fact – Procedural, #4). Further, no argument was presented at the hearing related to potential individual liability concerning the individual

[8] A. Valdes testified that when she received the BOLI Complaint, she "figured" that Harper was the same man who was banned from the shop after staff members reported that he yelled and threw money at them. However, no one testified that they witnessed these interactions and Respondents did not identify the names of the staff members who made the reports, citing employee safety and privacy concerns. The desire to protect staff members is understandable. However, without supporting testimony or documents, there is insufficient evidence for the forum to conclude that Harper was the individual who was banned from the store, or that he yelled and threw money at employees.

Respondents. Accordingly, all charges against D. Valdes and A. Valdes are hereby dismissed.

Regarding the liability of Dava Tea, as this is a case of first impression for the forum, no previous Final Order outlined the elements of a claim for a violation of ORS 659A.410(1)(a)(B). Based on the wording of the statute, the forum determines that the Agency must show that (1) Dava Tea was a place of public accommodation; (2) Harper was a "customer or patron" of Dava Tea; and (3) Dava Tea refused to accept United States currency from Harper as payment for goods and services.

A. Place of Public Accommodation

ORS 659A.400(1)(a) defines a "place of public accommodation" as "[a]ny place or service offering to the public accommodations, advantages, facilities or privileges whether in the nature of goods, services, lodgings, amusements, transportation or otherwise."[9] The evidence in this case established that Dava Tea operates a tea shop in the Sellwood neighborhood of Portland, Oregon, and sells brewed teas and looseleaf tea for purchase. (Finding of Fact - The Merits, #1) Accordingly, the forum concludes that it is a place of public accommodation.

B. Customer or Patron

As there is no definition of "customer" or "patron" in the statute, the forum looks to the "plain, natural, and ordinary meaning" of those terms. *State v. Eggers*, 372 Or 789, 798, 558 P3d 830 (2024). The dictionary definition is a starting point in defining statutory terms. *Id.* The applicable definitions of "customer" are "one that purchases some

[9] The Formal Charges also refer to the definition contained in OAR 839-006-0305(4)(a). However, that regulation applies to disability discrimination allegations, which are not at issue here.

commodity or service" and "one that patronizes or uses the services (as of a library, restaurant, or theater)." *Webster's Third New Int'l Dictionary,* 559. (unabridged ed. 2002). The most applicable definition of "patron" is "a steady or regular client: as * * * an habitual customer of a merchant." *Id.* at 1656. Harper met both of these definitions as he made several purchases of tea drinks and looseleaf tea from Dava Tea.

C. <u>Refusal to Accept U.S. Currency</u>

The evidence established that on the following dates, Harper attempted to make purchases at Dava Tea with cash,[10] but was informed that Dava Tea did not accept cash for payment:

1) June 23, 2022
2) November 17, 2022
3) December 14, 2022
4) December 22, 2022
5) January 5, 2023
6) November 15, 2024

(Findings of Fact – The Merits, ##18, 20-23, 25) After the refusals, Harper paid for those purchases with his credit card. Dava Tea raised several arguments regarding the reasons for implementing a cashless policy, including burglaries at its shops. However, the reasons offered do not exempt Dava Tea from having to comply with ORS 659A.410. As well, while there was evidence that Dava Tea attempted to provide free tea to customers who offered to pay in cash, there is no evidence that such a policy was consistently implemented and, in particular, Harper was not offered free tea.[11]

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[10] The forum infers that Harper offered to pay with United States currency as there is no evidence in the record that he attempted to pay with some other type of "cash" such as a Euro or Canadian dollar.

[11] Given that the facts did not support this contention, the forum declines to rule whether an offer of free tea would be in compliance with the law.

Therefore, the forum concludes Agency proved that Dava Tea violated ORS 659A.410(1)(a)(B) on six occasions.

DAMAGES

Emotional Distress Damages

The Agency seeks damages on behalf of Harper in the amount of at least $4,000 ($500 per violation) "to redress dignitary harm, inconvenience, and the economic burden undertaken in participating in the investigation and contested case proceedings." Pursuant to ORS 659A.850, the Commissioner of the Bureau of Labor and Industries has the authority to award money damages for emotional, mental, and physical suffering sustained. *In the Matter of Moho Enterprises LLC dba St. Johns Grocery Outlet,* 38 BOLI 284, 293 (2022). The commissioner has the authority to fashion a remedy adequate to eliminate the effects of unlawful practices. *Id.*

In determining an award for emotional and physical suffering, the forum considers the type of discriminatory conduct, and the duration, frequency, and severity of the conduct. It also considers the type and duration of the mental distress and the vulnerability of the aggrieved persons. A complainant's testimony, if believed, is sufficient to support a claim for mental suffering damages. *Id.*

This is the forum's first case involving the Cashless Ban Law, and there is no precedent providing guidance as to how to evaluate damages. In this matter, Harper credibly testified that he prefers to use cash for small coffee and tea purchases as it is more convenient and it helps him manage his budget. He usually carries a $20 bill with him for this purpose. Notably, Harper also testified that he had "normal" interactions with staff. No one told him to leave the shop or refused to serve him.

The forum notes that Harper's purchases from Dava Tea ranged from $6.60 to $24.00. Thus, the Agency's request of $500 per violation amounts to almost 20 times the amount of his largest purchase. There is no evidence that the purchase of tea was a culturally or personally significant purchase for Harper. As well, he was not attempting to purchase essential items such as water, food, medicine or diapers. Finally, there is no evidence that an employee embarrassed Harper or was rude to him when he attempted to pay with cash. Accordingly, the forum concludes that an award of $100 per violation, for a total of $600, is a more appropriate remedy for the harm suffered in this matter.

OTHER REQUESTED RELIEF

BOLI's Commissioner is authorized to issue an appropriate cease and desist order reasonably calculated to eliminate the effects of any unlawful practice found. ORS 659A.850(4). Among other things, that may include requiring a respondent to:

> "(a) Perform an act or series of acts designated in the order that are reasonably calculated to:
>
> > "(A) Carry out the purposes of this chapter;
> > "(B) Eliminate the effects of the unlawful practice that the respondent is found to have engaged in, including but not limited to paying an award of actual damages suffered by the complainant and complying with injunctive or other equitable relief; and
> > "(C) Protect the rights of the complainant and other persons similarly situated[.]
>
> "(b) Submit reports to the commissioner on the manner of compliance with other terms and conditions specified in the commissioner's order, and take other action as may be required to ensure compliance with the commissioner's order; and
>
> "(c) Refrain from any action specified in the order that would jeopardize the rights of the complainant or other persons similarly situated, or that would otherwise frustrate the purposes of this chapter."

OAR 839-003-0090(6) further provides:

"The commissioner may order the respondent to eliminate the effects of any unlawful practice found and may require respondent to:

> (a) Perform a designated act or series of acts that are calculated to carry out the policy of these rules in order to eliminate the effects of an unlawful practice and to protect the rights of those affected;
>
> (b) Take action and submit reports to the commissioner on the manner of compliance with the terms and conditions specified in the commissioner's order or agreement;
>
> (c) Refrain from any action prohibited by the order or agreement that would jeopardize the rights of the individuals or groups named in the complaint or would frustrate the purpose and the policy of these rules and relevant statutes."

In the Formal Charges, the Agency requested that the forum provide additional relief by issuing an order as follows:

"A. Declaring that Respondents' conduct and practices * * * violated the applicable laws and rules as stated in the [Formal Charges];

"B. Enjoining Respondents from:

> a. Refusing to accept United States coins or currency as payment for goods or services;
> b. Making any distinction, discrimination, or restriction, including banning customers or patrons from a place of public accommodation, because a customer or patron offers United States coins or currency as payment for goods or services;
>
> * * *

"D. **Acknowledgement**: Ordering that Respondents shall issue a written acknowledgement to the Complainant recognizing their contribution to protecting access to public accommodations for all, which shall include an apology for the repeated, deliberate unlawful denial of Complainant's rights.

"E. **Compliance Reports**: Ordering that Respondents submit to the Agency written compliance reports as described below:

> a. **Initial Compliance Report**: Within 15 business days of the effective date of the final order, a written Initial Compliance Report, which shall include the following items (the referenced provisions provide detailed requirements for each item):

i. A declaration that all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager, is compliant with ORS 659A.410, in that they accept United States coins and currency for all transactions for which an exception does not apply.

1. The declaration shall provide information for how each entity complies with the requirement to accept United States coins and currency for transactions for goods and services, and when each entity came into compliance with ORS 659A.410;

2. For all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager that do not accept United States coins and currency, the declaration shall indicate the reason that United States coins and currency is not accepted and explain how Respondents plan to bring the entity into compliance within 10 business days of the original due date of the Initial Compliance Report.

ii. Procedures for ensuring cash acceptance at all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager. These procedures shall include a summary of required point of sale modifications, if necessary, the anticipated timeline, and interim steps required to achieve compliance;

iii. A declaration that the Cash Compliance Policy has been fully implemented pursuant to part 21.F below. If it has not been fully implemented, details as to what remains to be completed and the plan for achieving full implementation within 10 business days of the original due date of the Initial Compliance Report;

iv. Plans for staff training on legal obligations and the Cash Compliance Policy as required under Part 21.G below;

v. Photographs of all corrective signage installed pursuant to part 21.H below, and a declaration that all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager is in compliance with part 21.H, and if any entity is not in Compliance, an explanation and implementation plan that shall be executed within 48 hours of the original due date of the Initial Compliance Report.

b. **Quarterly Compliance Reports**: At the end of each business quarter, Respondents must submit written Quarterly Compliance Reports. The first Quarterly Compliance Report shall be due at the end of the first full business quarter following the submission of the Initial Compliance Report. Subsequent Quarterly Compliance Reports shall continue to be submitted no later than 10 days after the end of each business quarter for the duration of the two-year compliance period. The Quarterly Compliance Reports shall include the following:

i. A declaration that all Dava Tea, LLC operations, including Portal Tea Company locations, and all other businesses owned or

managed by any Respondent, remain compliant with ORS 659A.410, including any changes or updates to compliance procedures;

ii. Certifications that Cash Compliance Policy (part 21.F.) remains fully implemented and operational, including any updates or changes made since the initial implementation;

iii. Declaration that all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager, remain in compliance with signage requirements, with new photographs if there are any changes to the signage or their locations, pursuant to part 21.H;

iv. Copies of all signed acknowledgments from owners, managers, and employees who have been provided the training materials and Cash Compliance Policy, which have not previously been submitted to the Agency, pursuant to part 21.G;

1. In order to facilitate compliance with this requirement, Respondents shall provide a list with the names and roles of all owners, managers, supervisors, and employees of all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager.

c. **Final Compliance Report:** If the final quarterly report due within two years of the Final Order is due more than 45 days before the two-year period runs, Respondents shall submit a Final Compliance Report at least 10 days before the two-year period runs. The Final Compliance Report must include the following items:

i. A declaration that all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager, remain compliant with ORS 659A.410, including any changes or updates to compliance procedures;

ii. Certifications that the Cash Compliance Policy (*infra* part 21.F) remains fully implemented and operational, including any updates or changes made since the initial implementation;

iii. A summary of all staff training conducted over the two-year period pursuant to part 21.G,including the number of employees trained, training materials used, and all signed acknowledgement forms that were not previously submitted;

iv. Declaration that all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager, remain incompliance with corrective signage requirements pursuant to part 21.H, with new photographs if there are any changes to the signage or their locations;

v. Any additional information or documentation requested by the Agency to verify full compliance with the Final Order and ORS 659A.410.

"F. **Draft and Implement Cash Compliance Policy**: Dava Tea, LLC and all entities for which any Respondent is an owner, member, or manager, shall implement a written Cash Compliance Policy.

a. The Policy shall implement the following:

i. That Respondents accept U.S. coins and currency, including federal reserve bank notes and circulating notes of federal reserve banks and national banks, for all transactions for goods and services, in compliance with ORS 659A.410;

ii. That Respondents shall make no distinction, discrimination, or restriction because a customer or patron offers U.S. coins or currency as payment for goods and services;

1. Except that the policy may include provisions for offering incentives for customers or patrons to pay for goods or services in coin or currency;

iii. Designate a specific individual at each retail location who is responsible for implementing the policy and addressing any questions, concerns, and complaints from employees or the public regarding the acceptance of cash payments.

iv. Provide that customers or patrons who have a concern or complaint concerning the acceptance of cash are referred to the Bureau of Labor and Industries, Civil Rights Division;

b. The Cash Compliance Policy must be submitted to the Agency for approval no later than 10 days after the date of the Final Order. Once approved, implementation of the Cash Compliance Policy shall be initiated within 48 hours.

c. The policy shall be provided to all current employees, owners, members, and managers of all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager, as of the date of implementation;

d. The policy shall be provided to all new hires within a reasonable time of hire, but in no event more than 10 days after the date of hire;

e. In the Initial Compliance Report, Respondents must certify that the Cash Compliance Policy is fully implemented, providing the date of full implementation, and confirming that the policy was provided to all existing employees and new hires;

f. In all subsequent Compliance Reports, Respondents must certify that the Cash Compliance Policy remains in effect and must notify the Agency of any changes to the policy.

"G. **Mandatory Staff Training**: Respondents must undergo training at their own expense as follows:

a. Withing 60 days of the date of the Final Order, Respondents, and all owners or members, and all managerial and supervisory staff of all Dava Tea, LLC locations, along with any additional retail locations for which any Respondent is an owner, member, or manager, shall complete a training

program on the obligations and exceptions under ORS 659A.410, as well as the Cash Compliance Policy.

i. The training shall be conducted by a trainer approved by the Agency and cover the requirements of ORS 659A.410, as well as the purpose and importance of the law, as well as best practices and potential consequences of noncompliance, for both the business and the public;

ii. The trainer must provide signed certification to the Agency within 10 days of the completion of the training, which shall include the title of the training, a summary or outline of the training contents, a complete copy of the training materials, and a list of names and titles of all attendees.

b. All current employees, owners, members, and managers at all entities that any Respondent manages or has an ownership interest in shall be provided training materials along with the Cash Compliance Policy;

i. The training materials must include the legal requirements and purpose of ORS 659A.410, the importance of compliance, the consequences of noncompliance for businesses and the general public, and the procedures for accepting cash payments;

ii. the materials must be approved by the Agency before distribution;

iii. The training materials shall be provided to the required individuals no more than 15 days after the mandatory comprehensive training is complete;

iv. All recipients shall sign an acknowledgement indicating that they received copies of each and that they read and understand both the training materials and the Cash Compliance Policy;

c. All new employees hired within twenty-four (24) months from the date of the Final Order shall be provided with the training materials and Cash Compliance Policy and shall sign the acknowledgement within 10 days of hire indicating that they received, read, and understand the materials;

d. Signed acknowledgements not previously provided to the Agency shall be provided to the Agency in each Compliance Report.

"H. **Corrective Signage and Communications**: Respondents shall remove all 'cashless' signage from storefronts, menus, websites, and ordering platforms of all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager. In its place, Respondents shall post conspicuous signage indicating that the location accepts cash. All signage must be at least the same size and legibility as 'cashless' signs previously posted; In addition, Respondents shall inform its existing clientele via email and text message, including to all existing Dava Tea, LLC, email and text message lists, social media posts on all social media platforms for which Dava Tea, LLC is actively engaged;

a. The signage must explicitly state that the business accepts cash. For a standard paper or poster sized print, this language must be at least 72 point

font; for a smaller sign that could be placed on a counter at a point of sale, the font must be at least 36 point font;

b. The signage must explicitly state that that customers have a right to pay with cash under Oregon law. For a standard paper or poster sized print, this language must be at least 48 point font; for a smaller sign that could be placed on a counter at a point of sale, the language must be at least 24 point font;

c. The signage must include a notice in legible print explaining the public's legal right to pay with cash without different treatment, a statement of purpose pertaining to ORS 659A.410, and information on filing a complaint with the Oregon Bureau of Labor and Industries, Civil Rights Division; For a standard paper or poster sized print, the notice language must be at least 24 point font; for a smaller sign that could be placed on a counter at a point of sale, the notice must be at least 18 point font;

d. The signage shall include a designated contact for Respondents where customers may submit feedback regarding cash payment practices or notify management of problems or different treatment due to the exercise of the right to use cash in exchange for goods or services. For standard paper or poster sized print, this information must be at least 18 point font; for smaller signage that could be placed on a counter at a point of sale, the notice must be at least 14 points;

e. The signs must be posted conspicuously in all places where signs, at any time, indicated that Dava Tea, LLC stores were "cashless", and at minimum must be posted at all customer entrances and points of sale;

f. For email, text message, and social media communications, the communications shall contain the same substantive information as required above, except that for social media communications, the information required under H.c. and H.d. may be provided via conspicuous hyperlink and QR code;

g. The initial Compliance Report shall include photographs of these signs posted in all locations and printouts of email, text, and social media communications;

h. Subsequent Compliance Reports shall indicate whether all signs remain posted. If there are changes to the signs or their locations, the changes must be specified and the Compliance Report shall include a new picture demonstrating compliance with the Final Order;

i. At the Agency's discretion, the signage may be provided by the Agency or created by the Respondents or a third party; [and]

j. The signs shall be subject to Agency approval[.]

l. **On-site Compliance Audits**: Respondents shall permit unannounced compliance checks at all Dava Tea, LLC locations, and all entities for which any Respondent is an owner, member, or manager that conducts transactions for goods or services, by the Agency or a third-party designee for a period of twenty-four (24) months from the date of the Final Order[.]"

After reviewing and considering the Agency's requests for relief enumerated above, the forum issues the award reflected in Sections B and C of the Proposed Order below, which is consistent with past Final Orders issued by the forum. *See, e.g., In the Matter of Moho Enterprises LLC dba St. Johns Grocery Outlet,* 38 BOLI 284, 298-99 (2022). The forum also grants the Agency's request that Dava Tea remove any signage that is inconsistent with the requirements of ORS 659A.410 or communicates a refusal to accept United States coins or currency as payment for goods and services and is contrary to ORS 659A.410.

EXCEPTIONS TO THE PROPOSED ORDER

After consideration of the parties' Exceptions, the forum grants the Exceptions as reflected above, as appropriate. Any exception not expressly addressed or incorporated is denied.

ORDER

A. NOW, THEREFORE, as authorized by ORS 659A.850(2) and ORS 659A.850(4) and OAR 839-003-0090(a),(b),(c), and to eliminate the effects of the violations of ORS 659A.410(1)(a)(B) by Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)**, and as payment of the damages awarded, the Commissioner of the Bureau of Labor and Industries hereby orders Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)** to deliver to the Administrative Prosecution Unit of the Bureau of Labor and Industries, 1800 SW 1st Ave, Suite 500, Portland, Oregon 97201-5322, a certified check payable to the Bureau of Labor and Industries in trust for **Erik Harper** in the amount of:

1) SIX HUNDRED DOLLARS ($600), representing compensatory damages for inconvenience and economic burden by Erik Harper as a result of

Respondent's unlawful practices found herein; plus,

2) Interest at the legal rate on SIX HUNDRED DOLLARS ($600), starting ten (10) days following the date of the final order until paid.

B. NOW, THEREFORE, as authorized by ORS 659A.850(2) and ORS 659A.850(4), the Commissioner of the Bureau of Labor and Industries declares that the practices of Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)** violated the appliable laws and statutes referenced above, and enjoins Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)** and all owners, members, managerial and supervisory staff of **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)** from violating Oregon laws pertaining to the refusal to accept United States coins or currency as payment for goods and services and specifically ORS 659A.410.

C. The Commissioner further orders Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)** to undergo training at their own expense as follows: Within 75 days of the date of the Final Order, Respondent **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)**, and all owners or members, and all managerial and supervisory staff of all locations of **Dava Tea, LLC, dba Portal Tea Company (fka Tea Chai Te)**, shall complete a training program on the obligations and exceptions under ORS 659A.410.

i. The training shall be conducted by a trainer approved by the Agency and cover the requirements of ORS 659A.410, as well as the purpose and importance of the law, as well as best practices and potential consequences of noncompliance, for both the business and the public; and

ii. The trainer must provide signed certification to the Agency within 10 days of the completion of the training, which shall include the title of the training, a summary or outline of the training contents, a complete copy of the training materials, and a list of names and titles of all attendees.

D. The Commissioner further orders Respondent **Dava Tea, LLC, dba Portal**

Tea Company (fka Tea Chai Te) to remove any signage that is inconsistent with the requirements of ORS 659A.410, including any signage stating "cashless" or a refusal to accept United States coins or currency as payment for goods and services.

E. All charges against all Respondents **Dominic Valdes and Angela Valdes** are DISMISSED.



Christina Stephenson, Commissioner
Bureau of Labor and Industries

ISSUED ON: November 2, 2026