

Jurisdiction and Venue

1. This action arises under the Constitution and laws of the United States and presents a federal question within this Court's jurisdiction under 28 U.S.C. §§ 1331, 1367, 1391, 2201, 2202, 42 U.S.C. § 2000e-5(f) *et seq*, and 42 U.S.C. § 1981.

2. This Court has supplemental jurisdiction over Plaintiff's further and other claims pursuant to 28 U.S.C. § 1367.

3. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, as Plaintiff was employed by the Mandarin Hotel within this district. The defendant operates business facilities in this district, and the actions and unlawful employment practices alleged herein were and are being committed within the District of Columbia. The Plaintiff is a resident of the State of Maryland.

4. Plaintiff has exhausted his administrative remedies and is entitled to file this civil action pursuant to 42 U.S.C. § 2000e-5(f).

Parties

5. Plaintiff Mohamed Arafı is a citizen of the State of Maryland and resides in Kensington, Maryland. The plaintiff, a Muslim, was born in the north African country of Morocco, in a territory called Western Sahara. He is of Arab ancestry. He is a naturalized citizen of the United States and identifies himself as an Arab-American and a Moroccan-American.

According to Defendant's website, the Mandarin Oriental Hotel Group "is an international hotel investment and management group with deluxe and first class hotels, resorts and residences in sought-after destinations around the world." The Group operates, or has under development, 41

hotels representing in 26 countries. *See:*

http://www.mandarinoriental.com/about_mo/investors/financial_reports/

6. Mandarin Oriental's aim is to be recognized widely as the best global luxury hotel group, providing 21st century luxury with oriental charm in each of its hotels. The hotel claims to regularly receive "recognition and awards for outstanding service and quality management".

See: http://www.mandarinoriental.com/about_mo/investors/financial_reports/

7. One of the defendant's hotels, the hotel at issue in this case, is located in Washington, D.C. at 1330 Maryland Avenue, South West. The hotel has continuously conducted business in the District of Columbia since 2004

8. Defendant is the employer of the plaintiff, with approximately 50 or more employees at all times relevant to the matters alleged herein.

Facts

9. Plaintiff began employment with Defendant on or about November 11, 2009. He is employed by Defendant as a Valet Dry Cleaner.

10. Prior to beginning his employment, Defendant required Plaintiff to undergo a thorough employment screening evaluation. This screening included an FBI criminal background check. After conducting this intensive background check, Defendant authorized Plaintiff to begin working at Defendant's hotel and placed him into a position of trust.

11. Plaintiff's position at Defendant's hotel is particularly sensitive insofar as Defendant provided him with access to every guest room in the hotel. Plaintiff's job duties require him to go to guests' rooms and gather dry cleaning when requested to do so. He later delivers laundered clothing back to the room. To fulfill his duties, Defendant has entrusted Plaintiff to enter rooms even when guests are not present, using an electronic key. In those

cases, guests typically put clothes in a designated dry cleaning bag or otherwise direct Plaintiff to retrieve their garments from the in-room closet.

12. Plaintiff often receives tips from guests to whom he directly provides his services.

13. Throughout Plaintiff's employment at Defendant's hotel, Plaintiff services delegations of foreign government officials, high ranking executives of international organizations such as the International Monetary Fund, and even former U.S. presidents. At time other than the incident described below did Defendant place any restrictions on Plaintiff's job duties as a result of particular guests being present at Defendant's hotel.

14. At all relevant times hereto, Mr. Arafi satisfactorily performed the duties of his employment as required from the Mandarin Hotel.

15. On December 10, 2010, Plaintiff came to work at his regularly scheduled time and location. On that day, Ms. Elham Escander, an agent of the Mandarin Hotel, the Director of Housekeeping and Mr. Arafi's direct supervisor, told another employee, Boris that a delegation from the country of Israel had arrived at Defendant's hotel. She added that they would be guests until December 12, 2010.

16. Upon information and belief, this delegation from Israel is a regular guest of the United States Department of State that has stayed at Defendant's hotel each of the past several years.

17. Ms. Escander stated to Boris, "Boris, Israel is here. You go up and get the dry cleaning for Mohamed." Mr. Arafi was confused and asked for an explanation. Ms. Escander stated to Plaintiff, "You know the Israeli delegation is here. You cannot go on the 8th and 9th floor (to pick up or deliver laundry)." Plaintiff asked for further explanation. Ms. Escander stated, "You know how the Israelis are with Arabs and Muslims. It's better if you just let Boris

go.” Boris is of European and Caucasian descent. Boris was not employed in the dry cleaning department and retrieval and deliver of dry cleaning was not a part of his regular work duties.

18. Ms. Escander offered no further explanation as she had completed her shift for the day and was leaving the hotel, but she did instruct Boris, Plaintiff’s equal, to reiterate and remind Plaintiff not to go on the 8th and 9th floors. Boris’s explanation was that “They don’t want no Muslims to go to their rooms. You know how they are.” For the remainder of his shift, Plaintiff complied with the Mandarin Hotel’s request.

19. By not allowing Plaintiff to service guests on the floors occupied by the Israeli delegation, Defendant deprived Plaintiff of the tips he would otherwise have received for servicing those guests.

20. Later the same evening, Plaintiff spoke with other colleagues at the hotel. Plaintiff’s colleagues indicated that Defendant ordered other employees who were either Arab or Muslim to refrain from entering the floors occupied by the Israeli delegation. Plaintiff’s colleagues explained that Ms. Escander had acted similarly on each occasion that the Israeli delegation stays at Defendant’s hotel.

21. On or about December 11, 2010, Plaintiff confronted another Mandarin supervisor called “Jimmy” to complain of the discriminatory treatment. Plaintiff asked Jimmy why Ms. Escander had forbidden him from entering the floors occupied by the Israeli delegation. Jimmy explained that the Israeli delegation does not want to be served by Defendant’s Muslim employees and that Defendant accommodates this preference because it does not want to lose the Israeli delegation as clients. He stated that this is similar to how African-Americans and Whites “don’t like each other”. Jimmy emphasized that Plaintiff would particularly pose a problem for the Israeli delegation, because if they encountered him, members

of the delegation would easily be able to see his name—Mohamed—written on his employee nametag.

22. Throughout the weekend of the Israeli delegation's stay at Defendant's hotel, Plaintiff's colleagues learned of the restrictions Defendant had placed on the performance of Plaintiff's job duties. Several colleagues ridiculed Plaintiff as a potential terrorist, poking him in the stomach to feign checking his body for explosives.

23. The employees openly reasoned that Defendant was not allowing Plaintiff onto the floors occupied by the Israeli delegation, because he was somehow a danger to them. Defendant's discriminatory actions triggered a barrage of ridicule, questioning and harassment that Plaintiff's colleagues lobbed at Plaintiff. As a direct and proximate result of Defendant's actions, the plaintiff was caused great anguish and embarrassment and was maligned and diminished in the eyes of his colleagues.

24. On or about December 13, 2010, Plaintiff's supervisor, Ms. Escander, spoke with him, indicating that she was aware of the conversation that he had with Jimmy on December 11, 2010. Mr. Arafi again complained of the discrimination he had been facing starting December 10. He again asked her why she had forbidden him from entering the floors of Defendant's hotel occupied by the Israeli delegation.

25. Ms. Escander sought to console Plaintiff by emphasizing that the Israeli delegation is very selective about who serves them and that Defendant is obliged to accommodate the Israeli delegation's desires. She stated that the Israeli delegation is the only delegation that visits the Mandarin Hotel who "handpicks" who they want to serve them. "They tell us who they want," she said, "and we just go from there." Ms. Escander requested that Plaintiff be cognizant of the hostility Israelis have toward Arabs and Muslims. She elaborated

that the Israeli delegation does not want to encounter any Muslim persons while staying at Defendant's hotel. Ms. Escander told Plaintiff that the delegation had made a list of Mandarin Hotel employees who they did not want to service them. "They picked your name," she stated offhandedly and attempted to shrug off Mr. Arafí's concerns.

26. Ms. Escander suggested that Defendant was doing Plaintiff—as well as the other employees on the list—a favor by forbidding him from servicing the Israeli delegation and other guests on the 8th and 9th floors of Defendant's hotel. She stated that it would be less work for him. She suggested that he "Just let it go."

27. On December 15, 2010, an article about the discriminatory event appeared in the Washington Post newspaper. *See*:

<http://www.washingtonpost.com/wp-dyn/content/article/2010/12/14/AR2010121407206.html>

28. Approximately one week later, Ms. Escander and the director of human resources, Elizabeth Vita-Fenzi met with Plaintiff. Mr. Arafí used the opportunity to again complain about the treatment he received. For the first time, the agents of the Mandarin Hotel told Mr. Arafí that a background check was performed by the U.S. Department of State, prior to the Israeli delegation's visit and that the check revealed some "irregularities". They added that his name was placed on a list of 11 other people who had "irregularities" in their background checks.

29. Mr. Arafí was shocked. He asked what irregularities were found in conjunction with him and his name. The Mandarin Hotel did not know what the supposed "irregularities" were, but stated that they fully accepted the decision made by the Department of State. They did not seem to care, either. Mr. Arafí was surprised by the defendant's lack of concern that a recent background check may have revealed irregularities, being as how he is placed in such a trusted position in the hotel and his access to the hotel has not otherwise been restricted.

30. In response to Plaintiff's complaints about the discriminatory treatment to which Defendant subjected him, Defendant drastically curtailed the number of hours it scheduled Plaintiff to work. For example, from December 19, 2010 to January 20, 2011, Defendant scheduled Plaintiff for only a single day of work. Prior to December 19, 2010, Defendant had typically scheduled Plaintiff for five to seven days of work each week. Defendant's curtailment of the hours it scheduled Plaintiff to work was retaliation for the complaints Plaintiff made about the discriminatory treatment to which Defendant subjected him.

31. Defendant has engaged in discrimination with indifference to Mr. Arafí's federally protected rights, thereby entitling him to punitive damages.

COUNT I
UNLAWFUL DISCRIMINATION BASED ON RACE
VIOLATION OF 42 U.S.C. § 1981

32. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

33. Plaintiff is and at all times relevant hereto an Arab-American whose nation of origin is Morocco.

34. Chapter 42, Section 1981 of the United States Code prohibits an employer from engaging in discrimination by treating an employee selectively and negatively in the terms and conditions of his employment, denying the plaintiff the benefits and privileges of contract and employment enjoyed by other similarly situation employees; interfering with and right to make and enforce privileges and contractual benefits of his employment; and depriving an employee of employment on the basis of his race.

35. Defendant and its agents and supervisors have individually, collectively, and/or with others engaged in intentional racial discrimination against the plaintiff in violation of the

provision of 42 U.S.C. §1981 by treating the plaintiff selectively and negatively in the terms and conditions of his employment on the basis of his race, denying plaintiff the benefits and privileges of contract and employment enjoyed by non-Arab employees, interfering with his right to make and enforce privileges and contractual benefits of his employment and depriving him of employment.

36. Other similarly situated employees not of Plaintiff's race were not subject to the same conditions of employment as Plaintiff

37. The Plaintiff has been damaged as a result of Defendant's unlawful conduct. As a direct and proximate result of the Defendant's conduct, the plaintiff has suffered, continues to suffer, and will in the future suffer great emotional distress, inconvenience, and other damages.

38. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employee benefits and their value, litigation expenses including attorney's fees, consequential damages, loss of employment opportunities, loss of business and development opportunities, and other injuries.

COUNT II
UNLAWFUL RETALIATION
VIOLATION OF 42 U.S.C. § 1981

39. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

40. Chapter 42 of the United States Code, Section 1981 as interpreted by the United States Supreme Court in CBOCS West, Inc., v. Hedrick G. Humphries, 553 U.S. 442 (2008), prohibits an employer from subjecting an employee to materially adverse actions as a result of that employee participating in a protected activity, such as opposing unlawful discrimination.

41. Defendant and its agents/supervisors have individually, collectively, and/or with others engaged in a continuing course of intentional retaliation against Plaintiff for opposition to illegal practices, all in violation of the provisions of 42 U.S.C. §1981.

42. Plaintiff has been damaged as a result of Defendant Mandarin Hotel's unlawful conduct. As a direct and proximate result of Defendant's conduct, the plaintiff has suffered, continues to suffer, and will in the future suffer great humiliation, distress, inconvenience, pain, embarrassment, suffering, mental anguish, loss of enjoyment of life, injury, and non-pecuniary damages, including damage to his reputation and good will.

43. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employee benefits and their value, litigation expenses including attorney's fees, consequential damages, loss of employment opportunities, loss of business and development opportunities, and other injuries.

Count III
UNLAWFUL DISCRIMINATION BASED ON RACE, COLOR,
RELIGION, AND NATIONAL ORIGIN
VIOLATION OF 42 U.S.C. § 2000

44. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

45. Plaintiff is and at all times relevant hereto was an Arab Muslim American of Moroccan descent.

46. Chapter 42, Section 2000 of the United States Code prohibits an employer from discriminating against an employee based on that employee's race, religion, national origin or color.

47. The aforementioned acts of Defendant were willful, reckless, and malicious acts of unlawful discrimination against Plaintiff, that were and are based on Plaintiff's race, religion, national origin, and color. Defendant's acts were and are in violation of the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et seq.

48. Other similarly situated employees not of Plaintiff's race, color, religion or national origin were not subject to the same conditions of employment as Plaintiff.

49. The aforesaid discriminatory treatment by Defendant towards Plaintiff caused tangible harm to Plaintiff in that they are affecting the terms, conditions and privileges of his employment.

50. Plaintiff also suffered anguish, helplessness, shock, insult, embarrassment, and other damages as a direct and proximate result of Defendant's actions.

51. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employment, loss of employee benefits and their value, litigation expenses including attorney's fees, and consequential damages, including the loss of employment opportunities, business and development opportunities, and other injuries.

COUNT IV
UNLAWFUL RETALIATION
VIOLATION OF 42 U.S.C. § 2000

52. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

53. Title VII of the Civil Rights Act of 1964 forbids an employer from retaliating against an employee because of the employee's opposition to "any practice made an unlawful practice" by Title VII, or the employee's participation in "an investigation, proceeding, or hearing under [Title VII]." 42 U.S.C. § 2000e-3(a).

54. Defendant and its agents/supervisors have individually, collectively, and/or with others engaged in a continuing course of intentional retaliation in against Plaintiff for opposition to illegal practices, all in violation of the provisions of 42 U.S.C. §2000.

55. Plaintiff has been damaged as a result of Defendant Mandarin Hotel's unlawful conduct. As a direct and proximate result of Defendant's conduct, the plaintiff has suffered, continues to suffer, and will in the future suffer great humiliation, distress, inconvenience, pain, embarrassment, suffering, mental anguish, loss of enjoyment of life, injury, and non-pecuniary damages, including damage to his reputation and good will.

56. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employee benefits and their value, litigation expenses including attorney's fees, and consequential damages, loss of employment opportunities, loss of business and development opportunities, and other injuries.

COUNT V
UNLAWFUL DISCRIMINATION BASED ON RACE, COLOR RELIGION AND
NATIONAL ORIGIN
VIOLATION OF D.C. CODE § 2-1401.01 ET SEQ. (2007)

57. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

58. Plaintiff is and at all times relevant hereto was an Arab Muslim American of Moroccan descent.

59. Under District of Columbia Human Rights Act ("DCHRA"), D.C. Code Ann. §2-1401.01 *et seq.* it is unlawful in the District of Columbia to discriminate against any individual, with respect to his compensation, terms, conditions, or privileges of employment; or to limit, segregate, or classify an employee in any way which would deprive or tend to deprive that

individual of employment opportunities, or otherwise adversely affect his status as an employee based upon the employee's race, color, religion or national origin.

60. The defendant has discriminated against Mr. Arafı with respect to his compensation, terms, conditions, or privileges of employment. The defendant limited, segregated, and classified Mr. Arafı in a way which deprived him of employment opportunities, and adversely affect his status as an employee because of his race, color, religion or national origin.

61. Plaintiff has been damaged as a result of Defendant Mandarin Hotel's unlawful conduct. As direct and proximate result of Defendant's conduct, the plaintiff has suffered, continues to suffer, and will in the future suffer great humiliation, distress, inconvenience, pain, embarrassment, suffering, mental anguish, loss of enjoyment of life, injury, and non-pecuniary damages, including damage to his reputation and good will.

62. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employee benefits and their value, litigation expenses including attorney's fees, and consequential damages, loss of employment opportunities, loss of business and development opportunities, and other injuries.

COUNT VI
UNLAWFUL RETALIATION
VIOLATION OF D.C. CODE § 2-1402.61 (2007)

63. Plaintiff adopts and incorporates by reference each and every allegation set forth in the previous paragraphs as if the same were set forth in full in this Count.

64. It is unlawful discriminatory practice "to coerce, threaten, retaliate against, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under" the DCHRA. D.C. Code § 2-1402.61.

65. Defendant and its agents/supervisors have individually, collectively, and/or with others engaged in a continuing course of intentional retaliation in against Plaintiff for having exercise his rights granted and protected under the DCHRA, in violation of the provisions of D.C. Code § 1-2525.

66. Plaintiff has been damaged as a result of Defendant Mandarin Hotel's unlawful conduct. As a direct and proximate result of Defendant's conduct, the plaintiff has suffered, continues to suffer, and will in the future suffer great humiliation, distress, inconvenience, pain, embarrassment, suffering, mental anguish, loss of enjoyment of life, injury, and non-pecuniary damages, including damage to his reputation and good will.

67. He has additionally suffered loss of income, loss of employment, loss of earning capacity, loss of employee benefits and their value, litigation expenses including attorney's fees, and consequential damages, loss of employment opportunities, loss of business and development opportunities, and other injuries.

PRAYER FOR RELIEF

WHEREFORE, Mr. Arafi prays that this Court grant the following relief:

- a. A declaratory judgment that the conduct engaged in by Defendant was a violation of Plaintiff's legal rights;
- b. An injunction enjoining Defendant from engaging in such conduct in the future;
- c. An order requiring Defendant to provide adequate training to all Mandarin Oriental employees, including supervisors and managers regarding cultural sensitivity and racial discrimination;

- d. An order directing Defendant to provide sufficient remedial relief, including back pay with interest, to make Plaintiff whole for the loss he has suffered as a result of the discrimination against him as alleged in this Complaint;
- e. An order directing Defendant to pay an award of back pay and fringe benefits and/or front salary and benefits to the Plaintiff that he would have received but for the Defendant's actions;
- f. An order directing the Defendant to pay an award of statutory compensatory damages (pecuniary and non-pecuniary) up to the maximum amount permitted by relevant and applicable law;
- g. An order directing Defendant to pay reasonable attorney's fees and costs of this litigation as provided by 42 U.S.C § 2000e-5(k), 42 U.S.C. §1988(b), D.C. Code § 1-1401 et seq. and/or F.R.C.P. 54(d)(1);
- h. An order requiring Defendants to take other appropriate nondiscriminatory measures to overcome the effects of discrimination;
- i. Punitive damages in an amount deemed reasonable by this Court according to relevant and applicable law;
- j. An order requiring Defendant to adopt a non-discrimination and retaliation policy that includes clear, meaningful and well-publicized provisions describing responsibilities of all supervisors to report and respond to complaints of discrimination and retaliation, and to establish an effective mechanism for receiving and responding to complaints of discrimination and retaliation; and
- k. For any such incidental and other further relief to which the Plaintiff may show himself justly entitled.

JURY DEMAND

Mr. Arafı hereby demands a trial by jury of all issues of fact and law raised by the allegations in this Complaint.

Respectfully Submitted,
NADHIRA AL-KHALILI

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