

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

Munir Zaniel,

Plaintiff,

v.

Spirit Boeing Employees' Association,

Defendant.

Case No.

COMPLAINT AND JURY DEMAND

Plaintiff Munir Zaniel, by and through his attorneys, brings this action against Defendant Spirit Boeing Employees' Association and alleges as follows:

INTRODUCTION

1. In an act of egregious racial profiling and blatant religious discrimination, Defendant caused the Federal Bureau of Investigation ("FBI") to investigate Plaintiff Munir Zaniel and restricted his membership rights simply because an employee had deemed him "suspicious." Defendant by its statements to the FBI and representations to Mr. Zaniel, formed its suspicion because he was seen with a Malaysian flag and associated with visibly Muslim people.

2. On September 2, 2017, Mr. Zaniel hosted a party to celebrate Eid-al Adhara at Spirit Boeing Employees' Association ("SBEA") Recreational Lake in Wichita, Kansas. Following the party, SBEA reported Mr. Zaniel to the Spirit Aerosystems ("Spirit") security team based on a concern that Mr. Zaniel was affiliated with radical Islamic terrorism and alleged that he had used the SBEA lake to hold an ISIS meeting. SBEA alleged that Mr. Zaniel and his

guests had an American flag that had been “desecrated by ISIS insignia” and were wearing “Muslim garb.” SBEA restricted Mr. Zaniel’s membership so he could no longer rent property to host events at the lake.

3. Spirit, based on SBEA’s report, filed a complaint with the Federal Bureau of Investigation (“FBI”).

4. Defendant never contacted Mr. Zaniel to express its concerns or notify him that his membership had been restricted. Mr. Zaniel brings this suit to ensure that he is never again subjected to unlawful and humiliating treatment by Defendant and restore equal access to places of public accommodations. Mr. Zaniel also seeks compensatory and punitive damages to remedy the discrimination he has experienced.

JURISDICTION AND VENUE

5. This civil rights action is brought pursuant to 42 U.S.C. §1981 and Title II of the Civil Rights Act of 1964, 42 U.S.C. §§2000a-2000a-6. This court has jurisdiction over Mr. Zaniel’s claims as an action arising under federal law, 28 U.S.C. §1331 and §1343(a)(4).

6. Venue is proper pursuant to 28 U.S.C § 1391(b) because a substantial part of the events or omissions giving rise to the claims herein occurred in the District of Kansas.

PARTIES

6. Plaintiff Munir Zaniel (hereinafter “Plaintiff” or “Zaniel”) is a lawful permanent resident of the United States and a resident of the State of Kansas. Plaintiff is a Malaysian national of Indian ancestry. Plaintiff, like the majority of Malaysian citizens, is a practicing Muslim. Mr. Zaniel’s first name and surname are Arabic in origin.

7. Since 2011, Mr. Zaniel has resided in Wichita, Kansas with his wife and two young children. Mr. Zaniel earned a master's degree in Aerospace Engineering from Wichita State University and completed a work study program at the National Institute for Aviation Research.

8. Mr. Zaniel is employed as a Senior Stress Engineer at Spirit. In 2016, Mr. Zaniel became a member of Spirit Boeing Employees' Association in order to access the association's recreational lake. He pays \$14 per month via payroll deduction to fish and enjoy other outdoor recreational activities available at the lake. Prior to his suspension, Mr. Zaniel also regularly rented property at the lake.

9. Defendant Spirit Boeing Employees' Association (hereinafter "SBEA") is a 501(c)(4) member-owned non-profit organization. SBEA is incorporated in Kansas and operates a recreational lake and several stores in Wichita, Kansas. Membership in SBEA is open to employees of Spirit, their family members, as well as armed services and emergency relief personnel.

10. Defendant SBEA's recreational lake (hereinafter "lake") is located in southwest Wichita and is open to all members, their family members, and guests. SBEA permits members to rent recreational areas at the lake to host events and parties. Access to recreational areas is not restricted. All members can rent recreational areas if they execute a rental agreement and pay a deposit and user fee.

STATEMENT OF FACTS

11. On September 2, 2017, Mr. Zaniel rented space at the SBEA recreation lake to host a party celebrating the end of Ramadan. The party was attended by approximately 45 guests, the majority of whom were of Malaysian Indian ancestry. Several of Plaintiff's female guests, including his wife, were wearing hijabs.

12. Because the party took place shortly after the 60th Anniversary of Malaysian Independence Day, Mr. Zaniel's guest, Nik Azri brought a Malaysian flag to the party. Mr. Zaniel and his guests took turns posing with the flag.

13. Mr. Zaniel arrived at the lake at 2:00 P.M. to set up the picnic area he had reserved for the party. His guests arrived shortly after. During the party Plaintiff and his guests fished and boated in the lake. Mr. Zaniel was fishing while his guests took turns riding in the paddleboats. On one occasion, Plaintiff observed the lake ranger speaking to his guests while they were in a boat. Otherwise, Mr. Zaniel does not recall his guests being approached or addressed by a SBEA employee. Mr. Zaniel departed from the lake at 5:30 P.M. after the majority of his party had dispersed.

14. On information and belief, the ranger made a complaint to SBEA alleging that Mr. Zaniel and his guests were in possession of an ISIS flag during the September 2nd party at the lake. Defendant then filed a report about Mr. Zaniel with the Spirit Security Team.

15. At no point did Defendant SBEA speak to or question Mr. Zaniel about the ranger's allegations prior to reporting the matter to Mr. Zaniel's employer, Spirit AeroSystems.

16. On information and belief, Spirit filed a complaint with the FBI reiterating the allegations provided by SBEA.

17. On October 3, 2017, Mr. Zaniel received a notification from Facebook's Law Enforcement Response Team stating that the company had received legal process from law enforcement seeking information about his account. Facebook provided Mr. Zaniel with a copy of the subpoena as well as the National Security Investigation number assigned to his case.

18. On October 17, 2017, FBI Special Agent Tracy Jenkins, notified Mr. Zaniel that the

investigation had been initiated in response to a report made by SBEA regarding an incident that occurred at SBEA's recreation lake. Special Agent Jenkins explained that a SBEA "groundskeeper" had observed a "group dressed in Muslim garb" and "an American flag desecrated with ISIS symbols." Special Agent Jenkins explained that through an open source search he was able to determine the desecrated flag was a Malaysian flag. He expressed his intent to recommend closing the investigation.

19. On October 26, 2017, Special Agent Jenkins reiterated that he would recommend that the FBI end its investigation into Mr. Zaniel but warned that SBEA was working with a private investigator. Jenkins explained that the investigator had been sharing information with the FBI, including social media posts that purportedly belonged to Mr. Zaniel and the license plate numbers of all of the guests.

20. On information and belief, the FBI closed its investigation into Mr. Zaniel.

21. On October 26, 2017, Defendant SBEA still had not contacted Mr. Zaniel about the September 2nd party though it continued to accept membership dues payments from him. Mr. Zaniel used the lake property to fish on three days in November 2017. He registered with the ranger each time he entered the lake and was never told his rental benefits had been restricted.

22. On January 10, 2018, Mr. Zaniel applied to rent SBEA's enclosed pavilion. After submitting the rental agreement, Mr. Zaniel was informed that he was barred from renting the pavilion and directed to call SBEA Executive Director, Trish Pulliam. Pulliam told Mr. Zaniel that his membership had been restricted due to an incident that occurred during his September 2nd party. Pulliam described the incident as involving a guest holding a flag. Mr. Zaniel was told he would have to attend a meeting of the board of directors for a full description of the reasons his membership had been restricted.

23. Mr. Zaniel continues to experience stress and anxiety relating to the FBI investigation. He is concerned that the investigation could affect his lawful permanent resident status. He also feels distress and humiliation based on this experience of being singled-out because of his ethnicity, race, and religion.

CAUSES OF ACTION

COUNT I VIOLATION OF 42 U.S.C. §1981 Discrimination Based on Race or Ethnicity

24. Plaintiff incorporates all of the allegations contained in the previous paragraphs of this Complaint as though fully set forth herein.

25. Intentional race discrimination in the formation and enforcement of contracts is prohibited under 42 U.S.C. § 1981.

26. The ranger, director, and board members were at all relevant times agents and/or employees of Defendant SBEA.

27. Defendant is liable for the unlawful acts of its agents and employees directly and/or under the doctrine of *respondeat superior*.

28. Defendant identified Mr. Zaniel as a threat because of his perceived ethnicity or race.

29. Defendant engaged in intentional discrimination on the basis of Mr. Zaniel's perceived race, ethnicity, and national origin in causing him to be investigated by the FBI and denying him membership benefits. Defendant's actions deprived Mr. Zaniel of the right to make and enforce contracts regardless of his race, in violation of 42 U.S.C. § 1981.

30. In causing Mr. Zaniel to be investigated by a federal law enforcement agency, Defendant

engaged in intentional discrimination on the basis of Mr. Zaniel's race, ethnicity, and national origin. In doing so, Defendant deprived Mr. Zaniel of the same rights enjoyed by white citizens in the performance and enjoyment of their contractual relationships.

31. By restricting Mr. Zaniel's membership rights and alleging to his employer that he is affiliated with ISIS, Defendant SBEA discriminated against Mr. Zaniel in the making and enforcement of his contract with the association, namely his membership agreement.

32. Defendant acted with reckless or callous indifference to Mr. Zaniel's right to be free from discrimination in the making and enforcement of his contract with SBEA, entitling him to punitive damages.

COUNT II
VIOLATION OF TITLE II OF THE CIVIL RIGHTS ACT OF 1964
Discrimination in Public Accommodations Based on Race, Religion, or National Origin

33. Plaintiff incorporates all of the allegations contained in the previous paragraphs of this Complaint as though fully set forth herein.

34. Denying a person service, on account of his race, religion, or ethnicity, at a place of public accommodation whose operations affect commerce is prohibited by 42 U.S.C. §2000a.

35. SBEA is a place of public accommodation and is therefore subject to Title II of the Civil Rights Act of 1964, 42 U.S.C. §2000a.

36. The ranger, director, and board members were at all relevant times agents and/or employees of Defendant.

37. Defendant is liable for the unlawful acts of its agents and employees directly and/or under the doctrine of *respondeat superior*.

38. In denying Mr. Zaniel full use of SBEA property because of his race, ethnicity, and

religion, Defendant's conduct constituted discrimination in a place of public accommodation in violation of the Civil Rights Act of 1964.

PRAYER FOR RELIEF

Wherefore, Plaintiff makes the following prayer for relief, respectfully requesting that this Court:

1. Declare that Defendant violated Mr. Zaniel's rights to be free from discrimination under 42 U.S.C. § §1981 and Title II of the Civil Rights Act of 1964;
2. Enter a permanent injunction directing Defendant to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
3. Enter a permanent injunction ordering Defendant to provide Mr. Zaniel with an opportunity to publicly clear his name of false statements it has made about him.
4. Award Mr. Zaniel compensatory damages for the injury and distress he endured and continues to endure as a result of Defendant's unlawful conduct;
5. Award Mr. Zaniel punitive damages against SBEA for its unlawful conduct;
6. Award Mr. Zaniel reasonable attorneys' fees pursuant to 42 U.S.C. §1988; and
7. Grant any other relief the Court deems appropriate.

JURY DEMAND

Plaintiff respectfully requests a jury trial on all issues triable to a jury.

DESIGNATION OF THE PLACE OF TRIAL

Plaintiffs designate Kansas City, Kansas as the place of trial in this action.

Respectfully submitted,

/s/ Robert V. Eye

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