

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

HASSAN SADER, P.O. Box 17731, Arlington,
VA, 22216, and

THE AMERICAN ARAB ANTI-
DISCRIMINATION COMMITTEE, 4201
Connecticut Ave., N.W.; Suite 300, Washington,
D.C. 20008, on behalf of its members and
constituents,

Plaintiffs,

vs.

AMERICAN AIRLINES, INC., 4333 Amon
Carter Blvd., Fort Worth, Texas, 76155, and
AMR CORPORATION, 4333 Amon Carter
Blvd., Fort Worth, Texas, 76155,

Defendants.

Civil Action No.:

COMPLAINT

Plaintiffs allege as follows:

I. NATURE OF THE CASE

Plaintiffs Hassan Sader and the American-Arab Anti-Discrimination Committee (“ADC”) bring this action seeking declaratory, injunctive, and monetary relief against Defendant American Airlines, Inc. in response to the discriminatory and wholly unjustified removal of a United States citizen from an American Airlines flight, on the basis of his race and national origin, in violation of the laws of the United States, and in response to similar actions against other persons.

II. JURISDICTION AND VENUE

This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiffs' action for declaratory, injunctive, and monetary relief is authorized by 28 U.S.C. §§ 1343(a)(4), 2201, and 2202.

Venue is proper in this District pursuant to 28 U.S.C. § 1319(b) because a substantial part of the events or omissions giving rise to plaintiffs' claims occurred in this District.

III. INTRODUCTORY STATEMENT

This civil rights lawsuit is brought to ensure that the promise of equal treatment embodied in federal anti-discrimination laws does not become a meaningless guarantee for persons perceived to be of Arab ancestry. Since the horrific events of September 11, our nation has witnessed an alarming rise in incidents of discrimination against Arab and Muslim Americans, and against persons perceived to be Arab or Muslim. In response to this troubling trend, President Bush, in his first address to Congress following the attacks, felt compelled to declare that "no one should be singled out for unfair treatment or unkind words because of their background or religious faith." Attorney General Ashcroft was equally adamant in proclaiming, just days after the attacks, that "we must not descend to the level of those who perpetrated Tuesday's violence by targeting individuals based on their race, their religion, [or] their national origin."

Federal law expressly provides that an "air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry." 49 U.S.C. § 40127(a). Nevertheless, since September 11, reports of air carriers discriminating against passengers of Arab and Middle Eastern appearance have risen alarmingly. As early as September 21, 2001, the Department of Transportation ("DOT") responded to these incidents by sending an e-mail to several

major airlines, including American Airlines, in which it warned that it had “seen several reports of airlines apparently removing passengers from flights because the passengers appeared to be Middle Eastern and/or Muslim.” The DOT cautioned airlines “not to target or otherwise discriminate against passengers based on their race, color, national or ethnic origin, religion, or based on passengers’ names or modes of dress that could be indicative of such classification.” On October 17, 2001, the DOT sent a second e-mail to the airlines, stating that “it is important to reemphasize that in performing our critical duties, we may not rely on generalized stereotypes or attitudes or beliefs about the propensity of members of any racial, ethnic, religious, or national origin group to engage in unlawful activity.”

Notwithstanding the forceful statements of the DOT and the clear mandates of federal law, passengers of Arab or Middle Eastern appearance have continued to be subjected to discriminatory treatment by American Airlines. Indeed, the DOT, which tracks consumer complaints in a monthly “Air Travel Consumer Report,” has for the first time added a category of complaints specifically addressing alleged incidents of discrimination. Between January and March, 2002 – the first period for which these statistics are available – the DOT has documented 84 complaints of discrimination by United States air carriers, including 10 complaints against American Airlines alone.

This suit is brought in response to one such egregious incident. In an act of blatant racial discrimination, Plaintiff Hassan Sader, an American citizen of Moroccan descent, was removed from a flight for which he had purchased a valid ticket simply because, he was told, another passenger was “not comfortable” having him on board. American Airlines, by its conduct during and after Mr. Sader’s removal from his scheduled flight, has effectively conceded that its actions were not based on legitimate security considerations:

following Mr. Sader's removal from the plane, he was never once questioned or searched by security personnel, and he was promptly offered a boarding pass for the next flight. Mr. Sader brings this suit to ensure that he is never again subjected to such unlawful and humiliating treatment by American Airlines, and he is joined in this action by the American-Arab Anti-Discrimination Committee, which seeks similar relief on behalf of its members and constituents.

IV. PARTIES

Plaintiff Hassan Sader is a 36-year-old Arab-American citizen of Moroccan descent. Mr. Sader grew up in Kenitra, Morocco, and emigrated to this country in 1988. After spending several years working as a laborer and learning English, Mr. Sader began working as a tennis coach in Virginia in 1991, and subsequently in Massachusetts, building on his background playing on the professional tennis circuit in Morocco. He has taught at several country clubs and tennis camps, and has coached many private clients. Mr. Sader became a United States Citizen in 1994, because he loves this country, and the freedom and opportunity available here. He currently lives in Arlington, VA, where he recently moved to be closer to family. Subsequent to the incident described below in this Complaint, Mr. Sader became a member of ADC.

Plaintiff ADC is a non-sectarian, non-partisan, membership organization dedicated to defending the rights of people of Arab descent and to combating defamation and negative stereotyping of Arab Americans wherever it is practiced. It was founded in 1980 by former U.S. Senator James Abourezk, and has chapters throughout the United States. Its thousands of members and constituents fly on all major airlines, including American Airlines, on a regular basis, and at various times have been subjected to racially discriminatory practices similar to those described herein. ADC has 201 individual, and 78 family members in Maryland, many

of whom, upon information and belief, also fly on American Airlines, and fly out of Baltimore Washington International Airport (“BWI”). The ADC brings this action seeking declaratory and injunctive relief on behalf of its members and constituents who have been and will continue to be subjected to discrimination by American Airlines.

Defendant AMR Corporation is the parent company of Defendant American Airlines, Inc. AMR Corp. is a Delaware corporation, with headquarters at 4333 Amon Carter Blvd., Fort Worth, Texas, 76155. American Airlines, Inc. is a Delaware corporation with headquarters at 4333 Amon Carter Blvd., Fort Worth, Texas, 76155.

As of May 7, 2002, American Airlines, Inc. had received at least \$583,230,109.00 in payments from the U.S. Department of Transportation pursuant to sections 101 and 103 of the Air Transportation Safety and System Stabilization Act, P.L. 107-42.

V. FACTS

On October 31, 2001, Hassan Sader was planning to fly from BWI Airport to Seattle, Washington to visit a friend. American Airlines had a special fare at the time, and he wanted to take advantage of it. He was scheduled to fly on American Airlines flight 1531, leaving BWI at 1:22 p.m., and arriving at O’Hare Airport in Chicago at 2:26 p.m. In Chicago he was to connect with American Airlines flight 1103, leaving at 3:16 p.m., and arriving in Seattle at 5:42 p.m.

Mr. Sader arrived at BWI around 10:00 a.m. to leave plenty of time to check in. At the ticketing counter, he was told that the suitcase he had recently purchased for the trip was too big to be checked. He therefore purchased a duffel bag supplied by American Airlines for \$35.00, and transferred all of the items

from his suitcase to the duffel bag, in front of American Airlines staff. He gave his suitcase to American Airlines personnel at the ticketing counter to hold for his brother to pick up.

Mr. Sader checked the duffel bag without further incident, got his boarding pass, and proceeded to the security checkpoint with a carry-on tennis bag containing 3 tennis rackets, tennis shoes, and various toiletries.

Mr. Sader proceeded through the security checkpoint without incident. His carry-on luggage was x-rayed and hand-searched. Mr. Sader was searched with a magnetometer without any apparent problems. From the security checkpoint he proceeded to his departure gate.

At the departure gate, Mr. Sader was in the third group to board the plane. After his boarding pass was scanned, he was directed to step aside with several other persons for a further search. He was searched again with a magnetometer, and his carry-on bag was searched again by hand. He complied without protest, and, following the search, was directed to board the plane.

As he entered the jetway following the search, he walked in front of a woman who had just had her boarding pass scanned. Fearing that the woman might think he had cut in front of her in line, Mr. Sader stepped aside at the door to the plane so that the woman could board first. Mr. Sader thought this was a polite gesture.

In response to his offer, the woman gave him a dirty look, and refused to go ahead of him. Mr. Sader therefore boarded the plane, and proceeded to his seat. He placed his carry-on bag in the overhead compartment, and started reading a magazine. While reading, he noticed the same woman who had refused to board ahead of him talking to a stewardess and looking at him.

Shortly thereafter, the gate agent who had been scanning the boarding passes came to his seat and asked him to follow her off the plane. He asked why, and was told that she would explain outside. Although he was confused and humiliated at being taken off of the plane in front of all the other passengers, he gathered his carry-on bag and followed her out to the boarding ramp without protest. At the boarding ramp, the gate agent exited to the tarmac to ensure that Mr. Sader's checked baggage did not get loaded onto the plane, then told him to follow her to the gate area.

At the gate area, he again asked what the problem was, and was told to wait while she made a telephone call. Mr. Sader overheard her speaking on the telephone to someone he assumed was a supervisor. He overheard her give his reservation confirmation number, and overheard her say that they had to pull him off the flight because another passenger did not feel comfortable, and that the pilot had made the final decision. Upon hearing this, Mr. Sader approached and repeatedly asked for an explanation as to why he had been removed from the flight.

The gate agent eventually explained to him that there was another lady on the flight who had not been comfortable flying with him because he was "acting strange." Mr. Sader was confused by this explanation because he did not believe he had acted the least bit strange, and he inquired whether anyone can be pulled off of an airplane if another passenger is uncomfortable. The gate agent explained that it was up to the captain to decide who could fly. When he again asked for an explanation of how this could happen to him, and whether he could have another passenger removed from a plane, the gate agent explained that it occurred because he was from the Middle East, and because his name was Hassan.

In response to his repeated protests that what was happening was not right, the gate agent also told him that he should just “blow it off” and not worry about what had happened.

As Mr. Sader was talking to the agent, and as he realized what was happening to him, he began to cry. The gate agent tried to comfort him, asking him where he was from, and explaining that she had been to Morocco, and that it was a beautiful country.

After the agent printed his new boarding pass for the 5:00 p.m. flight, she gave him a \$10.00 voucher to use at one of the airport concessions, and directed him to accompany her to another counter to retrieve his checked bag.

As they were walking, Mr. Sader saw the woman who had been on the jetway with him, and who had been talking to the flight attendant and looking at him. The gate agent whispered to him that she was the passenger who had been uncomfortable with him being on the flight.

At the counter, the gate agent retrieved Mr. Sader’s checked bag, but told him not to touch it since it had already been through security and she was in charge of it. She took the bag to another counter, where she checked it through on his new flight to Seattle. She directed Mr. Sader to go back through security, because they had exited the secure area of the airport, and wished him good luck.

Although he was exhausted at having spent the entire day at the airport, Mr. Sader took the 5:00 p.m. flight without incident, and arrived in Seattle approximately four hours late.

At no time following his removal from the aircraft was Mr. Sader questioned, nor were he or his carry-on bags searched, either by airline personnel, security guards, or law enforcement agents, nor, to his knowledge, was his checked bag searched again. At no time was Mr. Sader told that he had, in fact, acted

suspiciously. Instead, American Airlines put him on the next flight to his destination without subjecting him to any additional security measures. In short, the actions taken against Mr. Sader indicate that the American Airlines employees were attempting to accommodate the prejudices and fears of another passenger by removing him from the flight, not because he posed any true security threat.

Mr. Sader has been deeply affected by this incident. At the time he felt like a second class citizen, who could be humiliated and embarrassed simply to avoid offense to a fellow passenger whose feelings and concerns were given a privileged status. He describes the event as making him feel like “a piece of nothing.” Mr. Sader is also angry about what happened to him, because he thinks it goes against all that his adopted country stands for. He is also afraid that if he flies again, he will be similarly mistreated. Mr. Sader likes to travel, and plans to fly again, and would fly on American Airlines if he thought he could do so free from discrimination.

Unfortunately, what happened to Mr. Sader was not an isolated incident. Despite being on notice from the Department of Transportation that there was a danger that its employees would discriminatorily remove from its airplanes persons who appeared to be Arab, Muslim, or from the Middle East, American Airlines, upon information and belief, continued a custom or policy permitting airline personnel to exercise unfettered discretion to remove passengers from flights based upon their race, color, ancestry, ethnicity, or national origin. Furthermore, upon information and belief, American Airlines took no steps adequate to address the problem identified by the DOT, such as adopting specific corrective policies and procedures or providing new training for its employees.

As a result, American Airlines, upon information and belief, has engaged in a pattern or practice of unlawful intentional discrimination against Arab Americans, or persons perceived to be Muslim or from the Middle East, by treating those passengers differently than similarly situated non-Arab, or non-Muslim or Middle Eastern appearing passengers, as happened to Mr. Sader.

The members and constituents of ADC, including Mr. Sader, have been and may continue to be subjected to this policy, pattern, or practice of intentional discrimination by American Airlines. Since September 11, 2001, ADC has received or documented seven allegations of discrimination against Arab Americans, or persons perceived to be Muslim or from the Middle East, by American Airlines. It has also received or documented more than 50 similar allegations against other domestic and foreign airlines.

ADC's members and constituents fly regularly on all major airlines, including American Airlines. For example, ADC holds an annual conference in Washington, D.C., which is regularly attended by thousands of ADC members and constituents from across the United States. On information and belief, more than 2,000 members and constituents will attend this year's conference in June 2002. As a result, the members and constituents of ADC face a likelihood of being subjected to the racially discriminatory practices described in this Complaint. ADC therefore seeks to ensure that American Airlines will be enjoined to take all necessary steps to ensure that its employees comply with federal anti-discrimination laws.

VI. REQUISITES FOR RELIEF

By reason of the factual allegations set forth above, an actual controversy has arisen and now exists between Plaintiffs and Defendants. A declaration from this Court that Defendants' actions violated Plaintiffs' rights is therefore necessary and appropriate.

Defendants' continued discriminatory conduct will result in irreparable harm to Plaintiffs, including, but not limited to violations of their legal rights. Plaintiffs have no plain, adequate, or complete remedy at law to address the wrongs described herein. Plaintiffs therefore seek injunctive relief restraining Defendant from engaging in the unlawful acts and practices described herein.

VII. CLAIMS FOR RELIEF

Count I: 42 U.S.C. § 1981

Discrimination in the Making and Enforcement of Contracts

Plaintiffs incorporate ¶¶ 1-35 of this complaint as if fully set forth here.

The pilot, flight crew, gate agents, and ground security personnel for American Airlines flight 1531 on October 31, 2001, were, at all relevant times, agents and/or employees of Defendant American Airlines, Inc.

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

Defendant AMR Corp. is liable for the unlawful acts of its wholly owned subsidiary American Airlines, Inc. directly and/or under the doctrine of *respondeat superior*.

Defendant American Airlines, Inc. engaged in intentional discrimination on the basis of Plaintiff Hassan Sader's perceived race, ancestry, or ethnicity in removing him from American Airlines flight 1531 on October 31, 2001. In so doing, Defendant discriminated against Plaintiff Hassan Sader in the making and enforcement of his contract to fly on American Airlines flight 1531 on October 31, 2001.

Defendant's actions against Plaintiff Hassan Sader, and a pattern or practice of similar actions against the members and constituents of ADC, have deprived Plaintiffs of the right to make and enforce contracts regardless of race, ancestry, or ethnicity, in violation of 42 U.S.C. § 1981.

Count II: 42 U.S.C. § 2000d (Title VI of the Civil Rights Act of 1964)

Discrimination in Federally Funded Activities

Plaintiffs incorporate ¶¶ 1-41 of this complaint as if fully set forth here.

The pilot, flight crew, gate agents, and ground security personnel for American Airlines flight 1531 on October 31, 2001, were, at all relevant times, agents and/or employees of Defendant American Airlines, Inc.

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

Defendant AMR Corp. is liable for the unlawful acts of its wholly owned subsidiary American Airlines, Inc. directly and/or under the doctrine of *respondeat superior*.

Defendant American Airlines has received Federal financial assistance to support its domestic air carrier operations.

Defendant American Airlines, Inc. engaged in intentional discrimination on the basis of Plaintiff Hassan Sader's perceived race, color, or national origin in removing him from American Airlines flight 1531 on October 31, 2001.

Defendant's actions against Plaintiff Hassan Sader, and a pattern or practice of similar actions against the members and constituents of ADC, have deprived Plaintiffs of the right to be free from discrimination in any program or activity receiving Federal financial assistance.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor:

Declaring that the actions of Defendants described above constitute discrimination on the basis of race, ancestry, ethnicity, color, or national origin in violation of 42 U.S.C. §§ 1981 and 2000d;

Permanently enjoining Defendants, and their directors, officers, agents, and employees to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described above, including discontinuing the custom or policy granting unfettered discretion to employees to remove passengers from airplanes based on race, and to prevent similar occurrences in the future;

Awarding Plaintiff Hassan Sader compensatory damages in an amount to be determined at trial for his loss and injury, including, but not limited to, humiliation, embarrassment, emotional distress, deprivation of his right to enter and enforce contracts regardless of his race, ancestry, or ethnicity, and deprivation of his right to be free from discrimination in any program or activity receiving Federal financial assistance;

Awarding Plaintiff Hassan Sader punitive damages in an amount to be determined at trial that would punish Defendants for their willful, wanton, and reckless conduct, and that would effectively deter them from engaging in similar conduct in the future;

Awarding Plaintiffs their expenses, costs, fees, and other disbursements associated with the filing and maintenance of this action, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988;

Awarding Plaintiff Hassan Sader prejudgment interest;

Awarding such other equitable and further relief as the Court deems just and proper.

Dated: June 4, 2002

Respectfully Submitted,

Dwight H. Sullivan

Bar # 024570

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