

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 22 2006

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SUE BEITIA, CLERK

1 ANNA Y. PARK -- Bar No. 164242 (CA)
2 CONNIE LIEM -- Bar No. 791113 (TX)

3 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

4 Los Angeles District Office
5 255 East Temple Street, 4th Floor
6 Los Angeles, CA 90012

7 Telephone: (213)894-1083
8 Facsimile: (213) 894-1031

9 E-mail: lado.legal@eeoc.gov

10 WILFREDO TUNGOL, Bar No.2550 (HI)

11 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

12 Honolulu Local Office
13 300 Ala Moana Blvd., Rm. 7-127
14 Honolulu, HI 96850-0051

15 Telephone: (808) 541-3121

16 Facsimile: (808) 541-3390

17 E-mail: wilfredo.tungol@eeoc.gov

18 Attorneys for Plaintiff

19 UNITED STATES DISTRICT COURT
20 FOR THE DISTRICT OF HAWAII

21 U.S. EQUAL EMPLOYMENT
22 OPPORTUNITY COMMISSION,

23 Plaintiff,

24 v.

25 NCL AMERICA, INC.,
26 NORWEGIAN CRUISE LINE Ltd.,
27 and NORWEGIAN CORPORATION
28 Ltd.,

Defendants.

Civil Action No.

COMPLAINT

(Civil Rights-Employment
Discrimination)

JURY TRIAL DEMAND

CV06 0045 ISP

BMK

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991 ("Title VII") to correct unlawful employment practices on the bases of national origin (Middle-Eastern/Yemeni) and religion (Muslim), and to provide appropriate relief to Charging Parties Abdullah Yahva,

1 Ahmed Al-Mlhany, Ahmed Almraisi, Nagi A. Alziam, Muthana A. Shaibi, Nork
2 Yafaie, Samed Kassam, and other similarly situated individuals.

3 Plaintiff United States Equal Employment Opportunity Commission (the
4 “Commission”) alleges that Defendants NCL America, Inc., Norwegian Cruise
5 Line Ltd., and Norwegian Corporation Ltd. (hereinafter collectively referred to as
6 “Defendants”) subjected the Charging Parties and other similarly situated
7 individuals to unlawful employment practices on the basis of their national origin
8 and religion. More specifically, Charging Parties Abdullah Yahva, Ahmed Al-
9 Mlhany, Ahmed Almraisi, Nagi A. Alziam, Muthana A. Shaibi, Nork Yafaie and
10 other similarly situated individuals were discharged by Defendants on the basis of
11 their national origin (Middle-Eastern/Yemeni) and/or religion (Muslim) in violation
12 of Section 703(a) of Title VII. Further, Charging Party Samed Kassam, and
13 similarly situated individuals was constructively discharged on the basis of his
14 national origin (Middle-Eastern/Yemeni) and/or religion (Muslim) in violation of
15 Section 703(a) of Title VII.

16
17 JURISDICTION AND VENUE

18 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
19 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to
20 § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42
21 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and § 102 of Title I of the Civil Rights
22 Act of 1991, 42 U.S.C. § 1981a.

23 2. The employment practices alleged to be unlawful were committed in
24 the City and County of Maui, State of Hawaii and within the jurisdiction of the
25 United States District Court for the District of Hawaii.

26
27 PARTIES

28 3. Plaintiff, U.S. Equal Employment Opportunity Commission is the

1 agency of the United States of America charged with the administration,
2 interpretation, and enforcement of Title VII, and is expressly authorized to bring
3 this action under §706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e- 5(f)(1) and (3).

4 4. At all relevant times, Defendant NCL America, Inc., a Delaware
5 corporation, has been continuously doing business within the jurisdiction of the
6 United States District Court for the District of Hawaii. Norwegian Cruise Line
7 Ltd., a Bermuda corporation, is the parent corporation of Defendant NCL America,
8 Inc.

9 Defendant NCL Corporation Ltd., a foreign corporation, is the parent
10 corporation of Defendants NCL America, Inc., and Norwegian Cruise Line Ltd.,
11 and oversees their operations in the State of Hawaii. All the corporate entities are
12 hereinafter collectively referred to as “Defendants.”

13 5. At all relevant times, all Defendants have continuously been
14 employers engaged in an industry affecting commerce, within the meaning of
15 Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000e(b), (g), and (h).

16 6. At all relevant times, all Defendants have continuously employed
17 fifteen (15) or more persons.

18

19 STATEMENT OF CLAIMS

20 7. More than thirty days prior to the institution of this lawsuit, Abdullah
21 Yahva, Ahmed Al-Milhany, Ahmed Almraisi, Nagi A. Alziam, Muthana A. Shaibi,
22 Nork Yafaie and Samed Kassam filed charges with the Commission alleging
23 violations of Title VII by Defendants. The Commission issued Letters of
24 Determination finding that these Charging Parties and other similarly situated
25 individuals were discharged on the basis of their national origin (Yemeni/Middle
26 Eastern) and/or religion (Muslim). All conditions precedent to the institution of
27 this lawsuit have been fulfilled.

28 8. More than thirty days prior to the institution of this lawsuit, Samed

1 Kassam filed a charge of discrimination with the Commission alleging violations of
2 Title VII by Defendants. The Commission issued a Letter of Determination
3 finding that Charging Party Samed Kassam was constructively discharged on the
4 basis of his national origin (Yemeni/Middle Eastern) and/or religion (Muslim),
5 and that other similarly situated individuals were discharged on the basis of their
6 national origin (Yemeni/Middle Eastern) and/or religion (Muslim). All conditions
7 precedent to the institution of this lawsuit have been fulfilled.

8 9. Since at least July 2004, Defendants have engaged in unlawful
9 employment practices at its Hawaii facility, in violation of §703(a) of Title VII, 42
10 U.S.C. § 2000e-2(a), by discharging the Charging Parties and other similarly
11 situated individuals named above on the basis of their national origin
12 (Yemeni/Middle Eastern) and/or religion (Muslim).

13 10. The effect of the actions complained of above has been to deprive
14 Charging Parties Abdullah M. Yahva, Ahmed Al-Milhany, Ahmed Almraisi, Nagi
15 A. Alziam, Muthana A. Shaibi, Nork Yafaie, Samed Kassam and other similarly
16 situated individuals of equal employment opportunities and otherwise adversely
17 affect their status as employees on the basis of their national origin
18 (Yemeni/Middle Eastern) and/or religion (Muslim).

19 11. The effect of the actions complained of above has been to deprive
20 Charging Party Samed Kassam and other similarly situated individuals of equal
21 employment opportunities and otherwise adversely affect their status as employees
22 on the basis of their national origin (Yemeni/Middle Eastern) and/or religion
23 (Muslim).

24 12. The unlawful employment practices complained of above were
25 intentional.

26 13. The unlawful employment practices complained of above were done
27 with malice and/or with reckless indifference to the federally protected rights of
28 Charging Parties Abdullah Yahva, Ahmed Al-Milhany, Ahmed Almraisi, Nagi A.

1 Alziam, Muthana A. Shaibi, Nork Yafaie, Samed Kassam and other similarly
2 situated individuals.

3 14. As a direct and proximate result of Defendants' aforesaid acts,
4 Charging Parties Abdullah Yahva, Ahmed Al-Mlhany, Ahmed Almraisi, Nagi A.
5 Alziam, Muthana A. Shaibi, Nork Yafaie, Samed Kassam, and other similarly
6 situated individuals have each suffered emotional pain, suffering, inconvenience,
7 loss of employment of life, humiliation and damages, according to proof.

8 15. As a direct and proximate result of Defendants' aforesaid acts, Charging
9 Parties Abdullah Yahva, Ahmed Al-Mlhany, Ahmed Almraisi, Nagi A. Alziam,
10 Muthana A. Shaibi, Nork Yafaie, Samed Kassam, and other similarly situated
11 individuals have each suffered a loss of earnings in amounts according to proof.

12
13 PRAYER FOR RELIEF

14 Wherefore, the Commission respectfully requests that this Court:

15 A. Grant a permanent injunction enjoining Defendants, their officers,
16 successors, assigns, and all persons acting in concert or participation with
17 Defendants, from engaging in any employment practice on the basis of national
18 origin and religion;

19 B. Order Defendants to institute and carry out policies, practices, and
20 programs which prohibit national origin discrimination, religious discrimination,
21 and any other employment practice which discriminates on the basis of national
22 origin or religion, and which eradicate the effects of their past and present unlawful
23 employment practices;

24 C. Order Defendants to make whole all the Charging Parties and others
25 similarly situated individuals, by providing appropriate back pay and benefits with
26 prejudgment interest, and/or other affirmative relief necessary to eradicate the
27 effects of their unlawful employment practices, including but not limited to
28 reinstatement and/or front pay and other appropriate relief to be determined at trial;

1 D. Order Defendants to make all the Charging Parties and others
2 similarly situated whole by providing compensation for past and future non-
3 pecuniary losses resulting from the unlawful employment practices complained of
4 above, including but not limited to, emotional pain and suffering, inconvenience,
5 loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

6 E. Order Defendants to pay all the Charging Parties and others similarly
7 situated punitive damages for their malicious and reckless conduct as described
8 above, in amounts to be determined at trial;

9 F. Grant such further relief as the Court may deem just and proper in the
10 public interest; and

11 G. Award the Commission its costs of this action.

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1 JURY TRIAL DEMAND

2 The Commission requests a jury trial on all questions of fact raised by its
3 complaint.

4 Respectfully submitted,

5 RONALD S. COOPER
6 General Counsel

7 JAMES LEE
8 Deputy General Counsel

9 GWENDOLYN YOUNG REAMS
10 Associate General Counsel

11 EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION
13 1801 "L" Street, N.W.
14 Washington, DC 20507

15 Dated: August 22, 2006

16 BY: Wilfredo Tungol

17 ANNA Y. PARK
18 Regional Attorney

19 WILFREDO TUNGOL
20 Trial Attorney

21 CONNIE LIEM
22 Senior Trial Attorney

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION
25 Honolulu Local Office
26 300 Ala Moana Blvd., Rm. 7-127
27 Honolulu, HI 96850-0051
28