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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

SAFET HAJRA,	:	
	:	
	:	
Plaintiff,	:	Civil Action No.
	:	
vs.	:	
	:	
WAWA INC.	:	COMPLAINT AND
	:	JURY DEMAND
	:	
Defendants.	:	
	:	

INTRODUCTION

1. This is an action for declaratory, injunctive and equitable relief, as well as monetary damages, to redress Defendants unlawful employment practices and retaliation against Plaintiff, including Defendant’s unlawful discrimination, harassment and retaliation against Plaintiff because of his race/color, national origin and religion and because of his complaints about such unlawful discrimination, harassment and retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;Section 1981 of the Civil Rights Act of

1866, 42 U.S.C. § 1981 (“Section 1981”); to remedy acts of employment discrimination perpetrated against him by WAWA (hereinafter “Defendants”).

I. JURISDICTION

2. This Court has jurisdiction over the subject matter of this civil action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-16 and Section 1981. The jurisdiction of this Court is invoked to secure protection of and redress deprivation of rights guaranteed by federal law which provides for injunctive relief and other relief against discrimination in employment practices.
3. Liquidated damages, compensatory and punitive damages are available and sought under the pendant claims.
4. Costs and attorney’s fees may be awarded pursuant to 29 U.S.C.A. § 216(b) and Fed. R. Civ. P. 54.

II. VENUE

5. This action properly lies in the District of New Jersey pursuant to 28 U.S.C.A. §1391 (b), because the claim arose in this judicial district.

III. PARTIES

6. Plaintiff, Safet Hajra, is a Kosovo immigrant to the United States. Plaintiff is a Muslim. At all times relevant and until his termination in May 4, 2012, Hajra was employed as a gas attendant by WAWA at its store # 0982 located at 3 Arney’s Mount Road, Pemberton, New Jersey. (“Defendant”).

7. Defendant is a corporation authorized to conduct business in the State of New Jersey with its principle executive offices located at 260 W. Baltimore Pike, Media, PA 19063. At all relevant times, Defendant owned, operated and maintained WAWA store # 0982 in Pemberton, New Jersey. Defendant engages in an industry affecting commerce and employs more than 500 regular employees. At all relevant times, Defendant met the definition of an “employer” under all applicable statutes.

IV. PROCEDURAL REQUIREMENTS

8. Plaintiff has complied with all statutory prerequisites to filing this action.
9. Plaintiff Hajra filed a charge based on Title VII violations based on national origin, religion and retaliation with the Equal Employment Opportunity Commission (“EEOC”). On June 2, 2015, the EEOC determined that there was a violation of Title VII rights and concluded that Respondent’s discharge decision is a pretext to mask retaliatory motive.
10. The EEOC issued a Notice to Sue Letter on August 3, 2015, after Defendants did not agree to participate in conciliation of the claims.
11. This action has been filed within the 90 days of Plaintiff’s receipt of his right-to-sue letter from the EEOC.

IV. FACTUAL ALLEGATIONS

12. Plaintiff, Safet Hajra is a hard working Kosovo immigrant to the United States of America who worked as a gas attendant at WAWA since September 24, 2010.
13. Plaintiff is a conscientious and reliable employee who performs his duties in an exemplary manner at all times. Plaintiff worked more than one job in order to provide for himself and his family.

14. During his third month of working at WAWA, Plaintiff's work duties were changed to Fuel/Gas Station Attendant, however his title remained customer service representative.
15. During his employment with Defendant, Plaintiff was the only employee who was made to clean toilets, sweep, mop, and clean the store while no other gas station attendant was directed to do this work. None of the other employees were required to do any of the above duties.
16. Plaintiff was never allowed to order new uniforms despite every other gas station attendant being allowed to order new uniforms. Plaintiff had to wear used uniforms of ex employees.
17. Plaintiff was paid lower hourly wages compared to other gas attendants. At the time of his termination Plaintiff earned less hourly wages than other employees. Plaintiff earned \$9:25 per hour while other employees, one in particular Peter, was paid \$9.75 per hour.
18. On or about April 29, 2012, Plaintiff was told by Elaine Crawford, a new manager at WAWA, on more than one occasion, that he needed to speak in English as no one understands what he was saying. This was said in front of other employees and customers.
19. On two other occasions Elaine again told Plaintiff to speak English. Mr. Hajra was surprised by this comment as he only spoke in English at work and no one ever had a problem understanding him or speaking to him.
20. No other employee besides Plaintiff was told to speak in English by Elaine.
21. It was only after the third instance that Mr. Hajra advised General Manager, Emmanuel Paul about Elaine's comments as it had created a hostile work environment for Mr. Hajra. Mr. Paul spoke to Elaine who verbally expressed regret about her comment.

UNLAWFUL RETALIATION COMMITTED AGAINST MR. HAJRA

22. Almost immediately after the “Speak English” incident, on or about May 4, 2012, Patricia Wallace, Investigator, inquired about missing money from the registers and started questioning Mr. Hajra. She accused Mr. Hajra of stealing money and harassed him and called him a criminal and threatened to have him deported. All of this was done under the guise of an investigatory interview.
23. Mr. Hajra was shocked at the allegations and continued to proclaim his innocence and asked for the basis of this allegation. Defendant did not show him any proof of the alleged theft.
24. Instead he was questioned for over an hour and was called a “criminal” and threatened continuously by Wallace with deportation.
25. Plaintiff was discharged from employment after this interview. Defendant then filed a police complaint and had plaintiff arrested and charged with theft
26. Defendant alleged that Mr. Hajra stole money from the registers based on their observations of numerous drive offs that had occurred from April 1 - April 28, 2012, the period of time immediately preceding Mr. Hajra’s complaints about “Speak English”.
27. Defendant alleged that Mr. Hajra performed these drive offs by using a manager’s pin number which is that individual’s social security number, to access the register and void the sales and pocketed the money in the amount of approximately \$353.00.
28. Mr. Hajra was never provided with the manager’s pin number and he never voided any transaction.

29. In fact, Mr. Hajra knows of another employee, Cory, who was given this number but the focus was only on Mr. Hajra and no one else was questioned. These events were suddenly discovered only after the 'Speak English' incident.
30. There were other employees who were given the number by Mr. Ashton but only Mr. Hajra was suspected of drive offs and was terminated. In support of the allegations, Defendant submitted a hand written note to the police from Mr. Ashton indicating that he gave his number only to Plaintiff.
31. Defendant's policies prohibit employees from providing their pin number to any other employee and it is a violation of company policy, yet Mr. Ashton was not discharged and it was presumed that Mr. Hajra was the wrong doer.
32. Defendant's policies enforce the repayment of any difference in collections at the end of each shift. The registers are tallied at the end of every shift separately and the employee is notified immediately of any discrepancy in their collections. The employees are held accountable for the difference.
33. In fact, in the past Mr. Hajra has witnessed drive offs at his pump and has paid the difference in the amounts collected that occurred on his shift. The police were immediately notified as well when each of these drive offs had occurred.
34. Even while he was being interrogated, Mr. Hajra offered to pay any discrepancy for drive offs that truly occurred during his shift as long as Defendants provided proof that he was the responsible employee. However, Defendant failed to give him any details and continued to harass him in the interview, threatened and discharged him.

35. The theft charge was a pretext used by Defendant to remove plaintiff in retaliation of his complaint that he was asked to speak in English.
36. Mr. Hajra was charged with two criminal offenses, one was dismissed and the second one was downgraded to a Municipal Court offense. This charge was further plead down to violation of a municipal ordinance.
37. The impact of the police arrest and defending the legal proceedings have caused a financial and emotional burden causing immense anxiety to Mr. Hajra. Plaintiff has suffered and continues to suffer on a personal level and at work on account of the false charges and termination.
38. Mr. Hajra was asked to speak in English on more than one occasion creating a hostile work environment, and when he complained, he was retaliated against, threatened with deportation, called a criminal, harassed and terminated. He was then arrested and charged with theft.
39. Mr. Hajra has been discriminated because of his religion and national origin and has been retaliated against in violation of the law.

V. CAUSES OF ACTION

Count One

(National origin and Religious Discrimination in Violation of Title VII of the Civil Rights Act of 1964, 42 USC § 2000e. et. seq.)

40. The allegations in the foregoing paragraphs 1 through 39, are re-alleged and incorporated by reference herein.
41. Defendant has discriminated against the Plaintiff on the basis of his national origin and religion in violation of Title VII by denying him the same terms and conditions of employment

available to employees who are not Kosovo Muslims including but not limited to, subjecting him to disparate working conditions and denying him the opportunity to work in an employment setting free of unlawful harassment.

42. Defendant has discriminated against Plaintiff on the basis of his national origin and religion in violation of Title VII by creating, fostering, accepting, ratifying and/or otherwise failing to prevent or remedy a hostile work environment that included amount other things, sever and pervasive harassment of Plaintiff because of his race/color and/or national origin and religion.
43. The Defendants' conduct as alleged at length herein constitutes discrimination based on national origin and religion in violation of Title VII. The stated reasons for Defendants' conduct were not true reasons but instead were pretext to hide the Defendants' discriminatory animus.
44. Defendant's unlawful and discriminatory conduct in violation of Title VII was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

Count Two

(Retaliation in violation of Title VII)

45. The allegations in the foregoing paragraphs 1 through 44, are re-alleged and incorporated by reference herein.
46. Defendant has retaliated against Plaintiff in violation of Title VII for opposing and/or complaining of Defendant's discriminatory practices against himself by inter alia subjecting

Plaintiff to acts of discrimination and retaliation by firing him from employment and falsely accusing and charging him with theft and threatening him with deportation.

47. As a direct and proximate result of Defendant's unlawful and retaliatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering as well as physical injury, from which he is entitled to an award of monetary damages and other relief.
48. Defendant's unlawful and retaliatory conduct in violation of Title VII was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

Count Three

(Discrimination and Harassment in Violation of Section 1981)

49. The allegations in the foregoing paragraphs 1 through 48, are re-alleged and incorporated by reference herein.
50. Defendant has discriminated against Plaintiff on the basis of his national origin and race/color in violation of Section 1981 by denying him the same terms and conditions of employment available to employees who are not Kosovo immigrants, including but not limited to, subjecting him to disparate working conditions and denying him the opportunity to work in an employment setting free of unlawful harassment.
51. Defendant has discriminated against Plaintiff on the basis of his national origin and race/color in violation of Section 1981 by creating, fostering, accepting, ratifying and/or otherwise failing to prevent or to remedy a hostile work environment that included, among other things,

harassment of Plaintiff because of his national origin and race/color and for wrongfully terminating him.

52. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of Section 1981, Plaintiff has suffered and continue to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.
53. Defendant's unlawful and discriminatory conduct in violation of Section 1981 was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

Count Four

(Retaliation in violation of Section 1981)

54. The allegations in the foregoing paragraphs 1 through 53, are re-alleged and incorporated by reference herein.
55. Defendant has retaliated against Plaintiff in violation of Section 1981 for opposing and/or complaining of Defendant's discriminatory practices against himself by inter alia subjecting Plaintiff to acts of discrimination and retaliation by falsely accusing and charging him with theft; threatening him with deportation; and by firing him from employment.
56. As a direct and proximate result of Defendant's unlawful and retaliatory conduct in violation of Section 1981, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and

anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

57. Defendant's unlawful and retaliatory conduct in violation of Section 1981 was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

VI. PRAYER FOR RELIEF

58. WHEREFORE, Plaintiff Safet Hajra prays that this Court enter judgment in his favor and against Defendant, containing the following relief:

- a. Declare the Defendants' conduct to be in violation of plaintiff's rights;
- b. An injunction and order permanently restraining Defendants from engaging in such unlawful conduct;
- c. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic harm;
- d. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for harm to his professional and personal reputations and loss of career fulfillment;
- e. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all non-monetary and/or compensatory harm, including but not limited to, compensation for his mental anguish, humiliation, embarrassment, stress and anxiety, emotional pain and suffering, emotional distress;
- f. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff in an amount to be determined at trial, plus prejudgment interest;

- g. An award of punitive damages;
- h. An award of costs that Plaintiff has incurred in this action, as well as Plaintiff's reasonable attorneys' fees to the fullest extent permitted by law; and
- i. Such other and further relief as the Court may deem just and proper.

LAW OFFICES OF SWATI M. KOTHARI, LLC

Dated: October 14, 2015

BY: /s/ Swati M. Kothari
Swati M. Kothari, Esq.
Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues of fact.

LAW OFFICES OF SWATI M. KOTHARI, LLC

Dated: October 14, 2015

BY: /s/ Swati M. Kothari
Swati M. Kothari, Esq.
Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Lists various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.