

UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 19 2010

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

ABDUL RAZAK AZIZ; KASHIF IRFAN,)
individually and on behalf of his minor)
children, S.I., M.I., and L.I.; INAYET)
SAHIN, individually and on behalf of her)
minor children, S.I., M.I., and L.I.; ATIF)
IRFAN; SOBIA IJAZ; and SUMAYYA)
SAHIN,)

Plaintiffs,¹

v.

AIRTRAN AIRWAYS, INC.)
c/o CT Corporation System)
1015 15th Street, N.W., Suite 1000)
Washington, D.C. 20005)

and)

AIRTRAN HOLDINGS, INC.)
c/o Corporation Trust Company of Nevada)
6100 Neil Road, Suite 500)
Reno, NV 89511)

Defendants.)

Case No. _____

Case: 1:10-cv-01995
Assigned To : Friedman, Paul L.
Assign. Date : 11/19/2010
Description: Civil Rights-Non. Employ.

**JURY
ACTION**

COMPLAINT

Plaintiffs Abdul Razak Aziz, Kashif Irfan and Inayet Sahin, individually and on behalf of their minor children, S.I., L.I., and M.I., Atif Irfan, Sobia Ijaz, and Sumayya Sahin (collectively, "Plaintiffs") bring this discrimination action against Defendants AirTran Airways, Inc. and AirTran Holdings, Inc. (collectively, "AirTran"), stating as follows:

¹ Plaintiffs' addresses have been submitted under seal.

NATURE OF THE ACTION

1. On January 1, 2009, Plaintiffs were ticketed passengers on AirTran Flight 175 (“AT 175”) departing from Ronald Reagan Washington National Airport (“National Airport”) to Orlando, Florida. Based on allegations from other passengers that one of the Plaintiffs made a seemingly inappropriate remark, AirTran removed all of the Plaintiffs from AT 175. After conducting an investigation, the United States Federal Bureau of Investigation (“FBI”) determined that no threat to AT 175 existed and cleared all Plaintiffs for travel. Although the FBI informed AirTran that Plaintiffs posed no security threat and had been cleared by the FBI for air travel, AirTran refused to rebook Plaintiffs on another AirTran flight.
2. After the FBI cleared Plaintiffs for air travel, AirTran had no legitimate safety or security justification for refusing to fly Plaintiffs. AirTran nonetheless refused to fly Plaintiffs because they are Muslims whom AirTran believed to be of Arab, Middle Eastern, or South Asian descent.
3. By refusing to honor Plaintiffs’ tickets and rebook them on another flight, AirTran intentionally discriminated against Plaintiffs because of their actual or imputed race, color, national origin, religion, ethnicity, or ancestry, in violation of 42 U.S.C. § 1981 (discrimination in the making and enforcement of contracts) and 49 U.S.C. § 40127 (discrimination in air transportation). Further, by refusing to honor Plaintiffs’ tickets, AirTran breached their contract of carriage.
4. As a result of AirTran’s discriminatory and unlawful acts, Plaintiffs suffered and continue to suffer humiliation, mental pain and anguish, emotional distress, embarrassment, inconvenience, and economic loss. To this day, Plaintiffs remain afraid of and anxious about air travel.
5. Plaintiffs pray that this Court will make them whole for the injuries they have suffered,

deter AirTran from engaging in further discrimination, and uphold our Nation's longstanding commitment to equal treatment.

PARTIES

6. Plaintiff Abdul Razak Aziz is a resident of the District of Columbia. He is a Muslim of African-American descent. He is a lawyer.

7. Plaintiff Kashif Irfan is a resident of Virginia. He is a Muslim of Pakistani descent. He is a doctor.

8. Plaintiff Inayet Sahin is a resident of Virginia. She is a Muslim of Turkish descent. She has a masters in education policy and leadership and is a part-time consultant.

9. Plaintiff Atif Irfan is a resident of Maryland. He is a Muslim of Pakistani descent. He is a lawyer.

10. Plaintiff Sobia Ijaz is a resident of Maryland. She is a Muslim of Pakistani descent. She is an honors student at a university.

11. Plaintiff Sumayya Sahin is a resident of Maryland. She is a Muslim of Turkish descent, and was 16 years old at the time of the incident.

12. Plaintiff S.I., son of Kashif Irfan and Inayet Sahin, is a resident of Virginia. He is a Muslim of Pakistani and Turkish descent, and was 2 years old at the time of the incident.

13. Plaintiff L.I., son of Kashif Irfan and Inayet Sahin, is a resident of Virginia. He is a Muslim of Pakistani and Turkish descent, and was 4 years old at the time of the incident.

14. Plaintiff M.I., son of Kashif Irfan and Inayet Sahin, is a resident of Virginia. He is a Muslim of Pakistani and Turkish descent, and was 7 years old at the time of the incident.

15. Defendant AirTran Airways, Inc. is a Delaware corporation with its principal place of business in Orlando, Florida. On April 12, 2001, AirTran Airways, Inc. registered as and has

since maintained its registration as a foreign business corporation in the District of Columbia with the Department of Consumer and Regulatory Affairs.

16. Defendant AirTran Holdings, Inc. is the parent company of AirTran Airways, Inc. and is a Nevada corporation with its principal place of business in Orlando, Florida.

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(4), and 1367.

18. Venue is proper in the District of Columbia under 28 U.S.C. § 1391(b)(1) because AirTran is a corporation and therefore is deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced, see id. § 1391(c).

19. AirTran is subject to personal jurisdiction in the District of Columbia under the District of Columbia's long-arm statute. See Fed. R. Civ. P. 4; D.C. Code Ann. § 13-423(a).

FACTS

20. On October 31, 2008, Abdul Razak Aziz purchased a round-trip plane ticket for AT 175, departing from National Airport on January 1, 2009, at 12:59 p.m. and arriving in Orlando, Florida at 3:15 p.m. The ticket was purchased in Washington, D.C. and cost \$185.00. Upon purchasing his plane ticket, Abdul Razak Aziz entered into a contract with AirTran.

21. On November 9, 2008, Inayet Sahin, Sumayya Sahin, and the children purchased round-trip plane tickets for AT 175, departing from National Airport on January 1, 2009 at 12:59 p.m. and arriving in Orlando, Florida at 3:15 p.m. The tickets cost \$865.00. Upon purchasing their plane tickets, Inayet Sahin, Sumayya Sahin, and the children entered into a contract with AirTran.

22. On November 16, 2008, Atif Irfan and Sobia Ijaz purchased round-trip plane tickets for

AT 175, departing from National Airport on January 1, 2009 at 12:59 p.m. and arriving in Orlando, Florida at 3:15 p.m. The tickets cost \$459.00. Upon purchasing their plane tickets, Atif Irfan and Sobia Ijaz entered into a contract with AirTran.

23. On December 24, 2008, Kashif Irfan purchased a round-trip plane ticket for AirTran Airways Flight 172, departing from National Airport on January 3, 2009 at 8:58 a.m. and arriving in Orlando, Florida at 11:14 a.m. The ticket cost \$196.00. That same day, Kashif Irfan changed his flight to AT 175, departing from National Airport on January 1, 2009 at 12:59 p.m. and arriving in Orlando, Florida at 3:15 p.m. The change fee was \$90.00. Upon purchasing his plane ticket, Kashif Irfan entered into a contract with AirTran.

24. On January 1, 2009, each of the Plaintiffs arrived at National Airport with the intention of satisfying their contracts with AirTran and traveling on AT 175 from National Airport to Orlando, Florida.

25. In accordance with their faith and customs, Inayet Sahin, Sobia Ijaz, and Sumayya Sahin wore headscarves (hijabs). Abdul Razak Aziz, Kashif Irfan, and Atif Irfan wore beards.

26. Upon arriving at National Airport, Plaintiffs checked their luggage, passed through security without incident, and proceeded to the gate from which their flight was scheduled to depart.

27. In view of AirTran's agents and the other passengers, some of Plaintiffs prayed before boarding the plane.

28. Abdul Razak Aziz boarded the plane and took his assigned seat. His seat was located in the middle of the plane. Abdul Razak Aziz was not traveling with the other Plaintiffs and did not sit with them on the plane.

29. Kashif Irfan, Inayet Sahin, Atif Irfan, Sobia Ijaz, Sumayya Sahin, and the three children's

seats were located in the rear of the plane.

30. As Atif Irfan, Sobia Ijaz, Inayet Sahin, and Sumayya Sahin were walking towards their seats, Sobia Ijaz and Sumayya Sahin commented that they did not like sitting in the rear of the plane because of the smell from the bathrooms. A discussion ensued regarding whether the safest seats are in the rear of the aircraft.

31. Atif Irfan, Sobia Ijaz, Inayet Sahin, and Sumayya Sahin quietly took their seats. Inayet Sahin gave the younger children their toys and began to unpack their lunch.

32. After most, if not all, of the passengers were seated, two Caucasian minors, who were sisters (“Two Minors”), deplaned.

33. After a period of time, two Federal Air Marshalls walked to the back of the plane and approached Atif Irfan and Sobia Ijaz. The Air Marshalls instructed Atif Irfan and Sobia Ijaz to deplane. Atif Irfan asked why they were told to deplane. The Air Marshalls refused to provide a reason and informed them that an explanation would be provided after they deplaned. Atif Irfan and Sobia Ijaz deplaned and were taken to the jet bridge used to board the plane. Although it was a cold winter day, they were not permitted to bring their coats or belongings.

34. After they deplaned, Atif Irfan and Sobia Ijaz noticed that the Two Minors and their father were also standing on the jet bridge. AirTran personnel gave the Two Minors a coat to keep them warm.

35. After Atif Irfan and Sobia Ijaz were removed from the plane, Abdul Razak Aziz walked to the back of the plane to check on Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children who were still onboard the aircraft.

36. After the removal of Atif Irfan and Sobia Ijaz, an individual who identified himself as the AirTran pilot used the plane’s speaker system to announce that there was a security breach and

that the remaining passengers on board the aircraft needed to deplane. Moments later, the pilot made a second announcement instructing the passengers to return to their seats.

37. Once the passengers returned to their seats, an AirTran employee approached Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children and removed them from the plane. Kashi Irfan, Inayet Sahin, Sumayya Sahin, and the children were not permitted to bring their coats or belongings. They were taken to the jet bridge where they joined Atif Irfan and Sobia Ijaz. They were instructed to line up and stand with their backs against the wall of the cold jet bridge.

38. Abdul Razak Aziz was approached by an AirTran employee, who inquired whether he was traveling with the family. Abdul Razak Aziz informed her that he was traveling alone.

39. The AirTran employee ordered Abdul Razak Aziz to deplane. Although it was a cold winter day, Abdul Razak Aziz was not permitted to bring his coat or belongings.

40. While Plaintiffs were forced to stand on the jet bridge with their backs against the wall, the remaining passengers deplaned. As the passengers walked by, they glared at Plaintiffs.

41. After all the passengers deplaned, Plaintiffs were led off the jet bridge, paraded in front of the other passengers, and taken to an empty gate area adjacent to the gate from where AT 175 was scheduled to depart.

42. Approximately six to twelve armed security personnel formed a perimeter around Plaintiffs to ensure that no one left or came into the circle. This was done in plain view of the other passengers.

43. An official believed to be from the Metropolitan Washington Airport Authority (“MWAA”) approached Plaintiffs and inquired whether they had any belongings still on board the aircraft. After answering in the affirmative, Abdul Razak Aziz, Atif Irfan, and Kashif Irfan

were escorted onto the plane to retrieve their belongings.

44. After retrieving their belongings, Plaintiffs asked someone they believed to be a MWAA officer whether they could retrieve food for their young children and change their youngest child's soiled diaper. Plaintiffs' requests were denied.

45. With the exception of Plaintiffs and the Two Minors, the passengers on AT 175 re-boarded the plane, which subsequently departed from the gate and departed for Orlando, Florida.

46. An individual who identified himself as a FBI agent approached Plaintiffs and told Abdul Razak Aziz, Atif Irfan, and Sobia Ijaz to come with him.

47. After Abdul Razak Aziz, Atif Irfan, and Sobia Ijaz left with the FBI agent, law enforcement personnel told Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children that they were free to go. Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children were released in full view of AirTran's gate agent.

48. Inayet Sahin walked over to AirTran's counter at the gate from which they were previously scheduled to depart and asked AirTran's gate agent to reschedule Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children on a later flight.

49. AirTran's gate agent refused to book them on a subsequent flight.

50. While Inayet Sahin was trying to schedule a later flight with AirTran's gate agent, Kashif Irfan phoned AirTran's toll free number and asked AirTran to schedule them on a later flight. AirTran's agent denied his request and informed him that the issue of rebooking the tickets needed to be resolved with AirTran's gate agent.

51. Kashif Irfan asked AirTran's gate agent to schedule his family on a later flight. AirTran's gate agent informed him that the pilot of AT 175 instructed her to not allow Plaintiffs to fly until they were cleared.

52. Kashif Irfan informed her that they had been cleared to fly.

53. Despite the fact that Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children were cleared for air travel, AirTran's gate agent refused to schedule them for a later flight that day.

54. Kashif Irfan then asked her if she would book his family on a flight for another day.

55. AirTran's gate agent refused to book Kashif Irfan and his family on a flight for another day.

56. AirTran personnel, however, did book the Two Minors on another flight that day.

57. After AirTran denied their requests to depart on a later flight, Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children proceeded to baggage claim to retrieve their luggage. They were only able to retrieve the items checked at AirTran's ticketing counter and not the stroller that they had checked at the gate.

58. While Kashif Irfan, Inayet Sahin, Sumayya Sahin and the three children were attempting to rebook another flight with AirTran, Abdul Razak Aziz, Atif Irfan, and Sobia Ijaz were taken to the airport police station and placed in a briefing room. Approximately twenty minutes later, they were placed in separate rooms.

59. Atif Irfan was held alone in a room for approximately forty-five minutes before a FBI agent and a MWAA officer came into the room. Atif Irfan provided his identification and background information to the agent and officer. The FBI agent asked him about the conversation that he had with Inayet Sahin and Sobia Ijaz when they boarded the plane. Atif Irfan recounted the conversation.

60. The FBI agent and the MWAA officer then brought Sobia Ijaz into the room with Atif Irfan.

61. After further questioning, the FBI agent told Atif Irfan and Sobia Ijaz that they were cleared for air travel and apologized profusely.

62. Abdul Razak Aziz was detained for an extended period of time, and then the FBI cleared him for air travel.

63. The FBI agent told Abdul Razak Aziz, Atif Irfan, and Sobia Ijaz that he would talk to AirTran and inform AirTran's agents that Plaintiffs were cleared for air travel and that they needed to be rebooked on another flight to Orlando, Florida.

64. After being cleared for air travel by the FBI, Abdul Razak Aziz, Atif Irfan, and Sobia Ijaz reunited with the remaining Plaintiffs in the front area of Terminal A, near where the AirTran ticket counter is located.

65. The FBI agent informed Plaintiffs that he would talk to AirTran and try to get Plaintiffs rebooked on another flight.

66. The FBI agent told AirTran's ticketing agent that Plaintiffs were not a safety threat and were cleared for air travel.

67. Despite the FBI agent informing AirTran's ticketing agent that Plaintiffs had been cleared to fly, AirTran's ticketing agent refused to schedule Plaintiffs on another flight.

68. In order to get to their destination in Orlando, Florida, Plaintiffs had no alternative but to obtain tickets from another airline.

69. The FBI agent accompanied Plaintiffs from Terminal A to Terminal B and assisted them with booking a flight to Orlando, Florida with U.S. Airways.

70. As an FBI spokesman, Richard Kolko, later explained to the press, "Our agents went way out of their way to make sure this family went on their trip."

71. Kashif Irfan, Inayet Sahin, Sumayya Sahin, and the three children booked tickets on U.S.

Airways Flight 1189, departing National Airport at 7:20 p.m., nearly seven hours after their scheduled departure, and arriving in Orlando, Florida at 9:41 p.m. The cost of these tickets was \$2,010.00, exclusive of baggage charges.

72. Atif Irfan and Sobia Ijaz booked tickets on U.S. Airways Flight 1189, departing National Airport at 7:20 p.m., nearly seven hours after their scheduled departure, and arriving in Orlando, Florida at 9:41 p.m. The cost of these tickets was \$846.40.

73. Abdul Razak Aziz booked a ticket on U.S. Airways Flight 1189, departing National Airport 7:20 p.m., nearly seven hours after his scheduled departure, and arriving in Orlando, Florida at 9:41 p.m. The cost of this ticket was \$423.20.

74. Plaintiffs proceeded through security in Terminal B and departed to and arrived in Orlando, Florida without further incident.

75. AirTran willfully and maliciously made derogatory statements about Plaintiffs' religion, race, ethnicity, and/or color to the press. For example, when a Washington, DC based ABC 7 News reporter asked an AirTran official if the family was singled out based on their Muslim appearance, the official said, "They made a stupid comment in today's environment. I'm sure it didn't help that they were in Muslim dress. That made the passengers uneasy."

76. Since the attacks of September 11, 2001, airline discrimination against passengers perceived to be of Arab, Middle Eastern, or South Asian descent and/or Muslim has been a persistent problem. Upon receiving reports of airlines unlawfully removing such passengers from flights or denying them permission to board, the United States Department of Transportation's Aviation Consumer Protection Division 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.” Upon information and belief, as a founding member of the Air Carrier Association of America, AirTran was among the airlines that received the Department of Transportation’s warning.

77. Plaintiffs did nothing that could justify AirTran’s decision to refuse to transport Plaintiffs after Plaintiffs had been investigated and cleared for travel by the FBI. AirTran had no legitimate non-discriminatory reason to refuse to rebook Plaintiffs on another flight.

78. Airtran refused to rebook Plaintiffs, even after they were cleared by the FBI, because AirTran believed that Plaintiffs were Muslims of Arab, Middle Eastern, or South Asian descent.

79. Airtran’s discriminatory acts were intentional and proximately caused Plaintiffs to suffer emotional distress and financial loss. As a result of AirTran’s actions on January 1, 2009, Plaintiffs suffered and continue to suffer fear, humiliation, mental pain and anguish, emotional distress, embarrassment, and economic injury. Plaintiffs suffer fear and anxiety related to air travel.

80. AirTran’s actions against Plaintiffs were intentional, malicious, willful, wanton, callous, and showed reckless disregard for Plaintiffs’ civil rights.

CLAIMS FOR RELIEF

COUNT ONE (42 U.S.C. § 1981)

81. Plaintiffs reallege and incorporate by reference paragraphs 1 – 75 above as though fully set forth herein.

82. Plaintiffs are Muslims who are, or were perceived to be, of Arab, Middle Eastern, or South Asian descent. Plaintiffs are members of a protected class.

83. Plaintiffs had contracts with AirTran to travel from National Airport to Orlando, Florida on January 1, 2009.

84. By refusing to honor the contracts and rebook Plaintiffs on an AirTran flight after the FBI cleared them for air travel, AirTran intentionally discriminated against Plaintiffs because of their actual or imputed race, color, ethnicity, or ancestry, and unlawfully interfered with Plaintiffs' rights to make and enforce contracts, in violation of 42 U.S.C. § 1981.

85. AirTran's refusal to rebook Plaintiffs after the FBI cleared them for travel was arbitrary and capricious and beyond the scope of the permissive refusal provision of the Federal Aviation Act, 49 U.S.C. § 44902(b). AirTran had no legitimate safety or security justification for refusing to transport Plaintiffs.

86. As a direct, foreseeable, and proximate result of Defendants' breach and wrongful acts, Plaintiffs suffered and continue to suffer humiliation, mental pain and anguish, emotional distress, embarrassment, inconvenience, and economic losses. Plaintiffs are also now fearful of and anxious about flying.

COUNT TWO
(49 U.S.C. § 40127)

87. Plaintiffs reallege and incorporate by reference paragraphs 1 – 81 above as though fully set forth herein.

88. Plaintiffs are members of a protected class.

89. AirTran is an air carrier.

90. During the relevant time period on January 1, 2009, Plaintiffs were persons engaged in air transportation.

91. AirTran discriminated against Plaintiffs on the basis of race, color, national origin, religion, sex, or ancestry in violation of 49 U.S.C. § 40127.

92. As a direct, foreseeable, and proximate result of Defendants' wrongful acts, Plaintiffs suffered and continue to suffer humiliation, mental pain and anguish, emotional distress,

embarrassment, inconvenience, and economic losses. Plaintiffs are also now fearful of and anxious to fly.

**COUNT THREE
(Breach of Contract)**

93. Plaintiffs reallege and incorporate by reference paragraphs 1 – 87 above as though fully set forth herein.

94. Plaintiffs and AirTran had contracts for air travel from National Airport to Orlando, Florida on January 1, 2009.

95. AirTran breached its contracts with Plaintiffs when AirTran refused to fly Plaintiffs.

96. As a direct, foreseeable, and proximate result of AirTran's breach and wrongful acts, Plaintiffs suffered economic losses.

PRAYER FOR RELIEF

97. WHEREFORE, Plaintiffs respectfully request that this Court grant them the following relief:

- (a) Enter a declaratory judgment finding that the foregoing actions of AirTran violate 42 U.S.C. § 1981 and 49 U.S.C. § 40127 and constitute a breach of contract;
- (b) Enter a permanent injunction directing AirTran and its directors, officers, agents, and employees 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;
- (c) Award compensatory damages in an amount to be determined by a jury that would fully compensate Plaintiffs for the humiliation, mental pain and anguish, emotional distress, embarrassment, inconvenience, and economic losses that has been caused by the conduct of AirTran alleged herein;
- (d) Award punitive damages to the Plaintiffs in an amount to be determined by a jury that

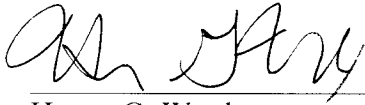
would punish AirTran for the willful, wanton, and reckless conduct alleged herein and that would effectively deter AirTran from engaging in similar conduct in the future;

- (e) Award Plaintiffs their reasonable attorneys' fees and costs to the extent allowable by law, including 42 U.S.C. § 1988; and
- (f) Order such other relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

98. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a trial by jury of all issues so triable as of right.

Respectfully submitted,



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Date: November 17, 2010