

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

INDERJIT SINGH

Plaintiff,

v.

AIR SERV CORPORATION

Defendant.

§
§
§
§
§ **Civil Action No.**
§
§
§

PLAINTIFF'S COMPLAINT AND JURY TRIAL DEMAND

Plaintiff Inderjit Singh (Plaintiff Singh), by counsel, for his Complaint and Jury Trial Demand against Air Serv Corporation (Air Serv) states as follows:

NATURE OF THE CASE

1. Plaintiff Singh seeks redress for Air Serv's refusal to reasonably accommodate Plaintiff Singh's sincerely held religious beliefs as a member of the Sikh religion; for its refusal to hire Plaintiff Singh because of his religion; and for its policies, practices, and adverse conduct which had a disparate impact on Plaintiff Singh as a member of the Sikh religion.

JURISDICTION AND VENUE

2. This action arises out of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 *et. seq.* (Title VII).
3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 and § 1343.
4. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Indiana, Indianapolis

Division, and therefore venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3).

PARTIES

5. Plaintiff Singh is a citizen of the United States of America and the state of Indiana, and resides in Johnson County, Indiana.
6. According to its website, Air Serv is a nationwide company providing ground transportation, cargo, cleaning, passenger, and security services at airports.
7. Air Serv's corporate headquarters are located at 3399 Peachtree Road, NE, Suite 1800, Atlanta, GA 30326. Air Serv maintains an office in Indianapolis, Indiana at 1810 South Lynhurst Drive.
8. Air Serv is a for-profit foreign corporation authorized to do and doing business in Indiana, and the alleged unlawful discriminatory practices occurred in Marion County, Indiana.
9. At all relevant times Air Serv employed more than 15 employees.

ADMINISTRATIVE PROCEDURES

10. On or around August 25, 2008, Plaintiff Singh timely filed a charge of discrimination against Air Serv with the Indianapolis District of the Equal Employment Opportunity Commission (EEOC). A true and correct copy of charge number 470-2008-03813 is attached as Exhibit 1.
11. On July 27, 2009, the EEOC issued a Determination stating that there was reason to believe that Title VII violations had occurred and that the evidence obtained during the investigation revealed that Plaintiff Singh was denied employment because Air Serv "was

unwilling to accommodate his need to wear a turban and beard.” A true and correct copy of the EEOC Determination is attached as Exhibit 2.

12. On September 4, 2009, the EEOC mailed a Notice of Right to Sue (Conciliation Failure) to Plaintiff Singh. A true and correct copy of the Notice of Right to Sue (Conciliation Failure) is attached as Exhibit 3.
13. This civil action is being initiated within 90 days of Plaintiff Singh’s receipt of the EEOC Notice of Right to Sue (Conciliation Failure).

GENERAL FACTUAL ALLEGATIONS

14. Plaintiff Singh is a member of the Sikh faith. Sikhism is a monotheistic religion that originated in the fifteenth century in the Punjab region of South Asia. Sikhism teaches honesty, compassion, humility, universal equality, and respect for all religions. It is one of the world’s largest religions, with approximately 25 million adherents worldwide. Approximately 500,000 Sikhs live in the United States.
15. As a Sikh, Plaintiff Singh has a sincerely held religious belief that he may not cut his hair, including his facial hair, and must wear a turban on his head. As a Sikh, Plaintiff Singh also has a sincerely held religious belief that he wear a steel bracelet, or *Kara*, around his wrist. These practices are required by his religious faith.
16. Plaintiff Singh was born and raised in a practicing Sikh family. Plaintiff Singh has never cut his hair since birth, and he has covered his hair since childhood.
17. Plaintiff Singh keeps his beard tied back with thread, and has worn a turban, beard, and *Kara* in previous jobs without incident.
18. In or around October 2007, Plaintiff Singh learned about a job opening for an airport bus driver with Air Serv.

19. Air Serv had an open position for a bus driver who would shuttle FedEx employees between the parking lot and FedEx office at the Indianapolis airport.
20. At or around the end of October 2007, Plaintiff Singh went to Air Serv's offices, located at 1810 S. Lynhurst Drive, Suite D, Indianapolis, Indiana 46241, to apply for the bus driver position. He was given and completed an application for the open driver position. A female Air Serv employee named Jane Risley gave him forms for a drug test at a medical center and confirmed that he had the type of driver's license needed for the job. Plaintiff Singh also spoke with a supervisory employee named Charlie Moore, who reviewed his application.
21. Plaintiff Singh then took and passed the drug test. The medical center where Plaintiff Singh took the test told him that the results would be sent directly to Air Serv.
22. On information and belief, Air Serv conducted a background check on Plaintiff Singh and found no cause for concern over his hiring.
23. When Plaintiff Singh applied for the job at Air Serv's office, he wore his turban and had his beard tied back with thread.
24. Shortly after passing Air Serv's drug test, Plaintiff Singh was informed that he could not work for the company because of its grooming policy. He was given a copy of a page from Air Serv's employee handbook, which set forth the company grooming policy, and included the words "[n]o beard." Those words were highlighted on the page given to Plaintiff Singh.
25. Air Serv's employee handbook provided in relevant part:

1. UNIFORM STANDARDS

* * *

- Hat: Hats are not permitted unless part of the uniform. If a hat is part of the uniform, the brim shall be worn facing forward and parallel or slightly below parallel to the ground.

* * *

3. MALE GROOMING STANDARDS

- Haircut: Conventional haircut (no braids or dreadlocks). Collar length in back, less than half ear covered on the side. If longer than collar length in back, shall be pulled up. Hair shall be of professional and normal color and exhibit a professional image.
- Facial Hair: Conventional shave. No beard. Sideburns shorter than bottom of the ear. Mustache shall be trimmed so that corners extend no longer than the corner of the mouth. If worn, mustache shall be professional and normal color and exhibit a professional image. Goatee permitted only if fully grown (mustache connects with chin hair) and neatly trimmed. Employees who are not otherwise clean shaven (employees are not permitted to grow a beard while on the job) shall be subject to discipline and likely sent home for the shift.
- Necklaces, Bracelets, and Earrings: No visible earrings, necklaces, or bracelets. If a necklace or bracelet is worn, it shall be worn inside shirt and not visible.

26. Plaintiff Singh returned to the Air Serv office after receiving the page from the employee handbook. His son accompanied him to the office. Plaintiff Singh and his son took the handbook page with them.
27. Once at Air Serv's office, Plaintiff Singh and his son spoke to Charlie Moore and Jane Risley. Mr. Moore told Plaintiff Singh that he could not work for Air Serv because of his beard and turban. Plaintiff Singh and his son explained that the beard and turban are required by Plaintiff Singh's Sikh faith. They showed Mr. Moore a 2005 letter from the Chairman of Air Serv recognizing the superior job performance of an employee at the Dulles Airport in Virginia named Shingara Chahal, who was a friend of Plaintiff Singh and who also wears a beard and turban. Plaintiff Singh asked why he could not work for Air Serv with a beard and turban when other individuals with beards and turbans were permitted to work for Air Serv at other airports. He also asked why he was allowed to complete the job application and take the drug test if the company would not hire him because of its grooming policy. Mr. Moore reiterated that Plaintiff Singh could not work for Air Serv because of his beard and turban. Air Serv refused to provide a reasonable accommodation for Plaintiff Singh, although doing so would not, on information and belief, have placed an undue hardship on the company.
28. Plaintiff Singh and his son then left the Air Serv office.
29. On information and belief, Air Serv has in the past permitted some employees to wear hats or head coverings that were not issued by the company and were not part of the company uniform, including baseball caps with sports logos.

COUNT I

(Title VII—Refusal to Reasonably Accommodate Sincerely Held Religious Practices)

30. Plaintiff Singh repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.
31. Plaintiff Singh is fully qualified for the Air Serv position for which he applied.
32. As a member of the Sikh religion, Plaintiff Singh has a sincerely held religious belief that, among other things, requires him to wear a turban and maintain uncut hair, including facial hair.
33. Plaintiff Singh informed Air Serv of his Sikh religion and his religious belief that he must wear a turban and maintain uncut hair, including a beard, and asked Air Serv to accommodate his sincerely held religious belief.
34. Air Serv refused, and the company's repeated directive that Plaintiff Singh could not work for the company while wearing a turban and beard directly conflicted with Mr. Singh's sincerely held religious belief.
35. Plaintiff Singh suffered adverse employment consequences as a direct and proximate result of Air Serv's discriminatory conduct toward him.
36. Air Serv's conduct towards Plaintiff Singh constitutes illegal discrimination as prohibited by Title VII, as amended.
37. As a result of Air Serv's illegal discrimination, Plaintiff Singh has suffered and will continue to suffer harm, including, but not limited to, lost wages, lost benefits, and ongoing emotional distress and mental anguish.
38. Air Serv acted with malice or reckless indifference to Plaintiff Singh's civil rights thereby entitling him to punitive damages.

39. Plaintiff Singh is also entitled to recover his costs and reasonable attorneys' fees for bringing this action.

COUNT II
(Title VII—Refusal to Hire Because of Religion)

40. Plaintiff Singh repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

41. Plaintiff Singh is fully qualified for the Air Serv position for which he applied.

42. As a member of the Sikh religion, Plaintiff Singh has a sincerely held religious belief that, among other things, requires him to wear a turban and maintain uncut hair.

43. Plaintiff Singh informed Air Serv of his Sikh religion and his religious belief that he must wear a turban and maintain uncut hair, including facial hair.

44. Air Serv refused to hire Plaintiff Singh because of his turban and beard, which violates Title VII, as amended.

45. Further, Air Serv refused to hire Plaintiff Singh because of his turban and beard, even though, on information and belief, Air Serv has in the past permitted some employees to wear hats or head coverings that were not issued by the company and were not part of the company uniform.

46. Air Serv treated Plaintiff Singh differently because of his religion, and its intentional, disparate treatment violated Title VII, as amended.

47. As a direct and proximate result of Air Serv's illegal discrimination, Plaintiff Singh has suffered and will continue to suffer harm, including, but not limited to, lost wages, lost benefits, and ongoing emotional distress and mental anguish.

48. Air Serv acted with malice or reckless indifference to Plaintiff Singh's civil rights thereby entitling him to punitive damages.

49. Plaintiff Singh is also entitled to recover his costs and reasonable attorneys' fees for bringing this action.

COUNT III
(Title VII—Disparate Impact)

50. Plaintiff Singh repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

51. Plaintiff Singh is fully qualified for the Air Serv position for which he applied.

52. Air Serv's policies, practices, and adverse conduct toward Plaintiff Singh, as described herein, have had an unjustified, adverse, and disparate impact on Plaintiff Singh as a member of the Sikh religion, and constitute illegal discrimination in violation of Title VII, as amended.

53. As a direct and proximate result of Air Serv's illegal discrimination, Plaintiff Singh has suffered and will continue to suffer harm, including, but not limited to, lost wages, lost benefits, and ongoing emotional distress and mental anguish.

54. Air Serv acted with malice or reckless indifference to Plaintiff Singh's civil rights thereby entitling him to punitive damages.

55. Plaintiff Singh is also entitled to recover his costs and reasonable attorneys' fees for bringing this action.

WHEREFORE, Plaintiff Singh respectfully requests that this Court enter an Order:

A. Requiring Air Serv to place him in the full-time position for which he applied and to reasonably accommodate Plaintiff Singh's sincerely held religious belief by allowing him to wear his turban, beard, and *Kara* while on the job;

B. Awarding all lost wages and/or salary and other employment-related benefits including, but not limited to, the value of any lost insurance benefits, any lost bonuses, stock

options, pension benefits, and/or profit sharing monies, as well as any diminution of social security benefits that Plaintiff Singh has sustained or will sustain as a result of Air Serv's refusal to hire him;

- C. Awarding front pay in an amount equal to the wages and/or salary and employment-related benefits that Plaintiff Singh may reasonably be entitled to after a trial on the merits should the Court determine that an order requiring Air Serv to hire Plaintiff Singh is not feasible or appropriate;
- D. Awarding compensatory damages in an amount to be determined by a jury to make Plaintiff Singh whole for the mental anguish, emotional distress and other non-pecuniary damages he has suffered because of Air Serv's unlawful conduct;
- E. Awarding punitive damages in an amount to be determined by a jury to punish Air Serv for its unlawful conduct which was malicious or undertaken with reckless indifference to Plaintiff Singh's rights and to deter others from similar conduct;
- F. Awarding pre- and post-judgment interest;
- G. Ordering injunctive relief as the Court may determine is just and proper;
- H. Awarding costs, expenses, and reasonable attorneys' fees in an amount to be determined according to proof; and
- I. Awarding all other relief proper in the premises.

Respectfully Submitted,

Kimberly D. Jeselskis
MACEY SWANSON AND ALLMAN
445 North Pennsylvania Street, Suite 401
Indianapolis, Indiana 46202
Phone: (317) 637-2345
Fax: (317) 637-2369
kjeselskis@maceylaw.com

TRIAL BY JURY

Plaintiff Inderjit Singh demands a trial by jury on all issues triable.

Respectfully Submitted,

Kimberly D. Jeselskis
MACEY SWANSON AND ALLMAN
445 North Pennsylvania Street, Suite 401
Indianapolis, Indiana 46202
Phone: (317) 637-2345
Fax: (317) 637-2369
kjeselskis@maceylaw.com

Of counsel:

Victoria W. Ni
Public Justice, P.C.
555 12th Street, Suite 1620
Oakland, CA 94607
Phone: (510) 622-8150
Fax: (510) 622-8155
vni@publicjustice.net

Claire Prestel
Matthew Wessler
Public Justice, P.C.
1825 K Street, N.W., Suite 200
Washington, D.C. 20006
Phone: (202) 797-8600
Fax: (202) 232-7203
cprestel@publicjustice.net
mwessler@publicjustice.net

