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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF HAWAII

11 U.S. EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION,

13 and

14 ABDULLAH YAHIA, AHMED AL-
MLHANY, AHMED ALMRAISI, NAGI A.
15 ALZIAM, MUTHANA A. SHAI BI, NORK
YAFIAIE, and SAMED KASSAM,

16 Plaintiff-Intervenors,

17 v.

18 NCL AMERICA, INC., NORWEGIAN
CRUISE LINE Ltd., and NORWEGIAN
19 CORPORATION Ltd.,

20 Defendants.
21

NO. CV06-00451 SPK-BMK

COMPLAINT OF
PLAINTIFF-INTERVENORS

22 COMES NOW the Plaintiff-Intervenors Abdullah Yahia, Ahmed Al-Mlhany, Ahmed
23 Almraisi, Nagi A. Alz iam, Muthana A. Shai bi, Nork Yafaie, and Samed Kassam, and, for
24 cause of action against the defendants, alleges and states as follows:
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I. NATURE OF ACTION

1.1 This is an action to recover damages arising from unlawful discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et. seq*, the Civil Rights Act of 1991; 42 U.S.C. §1981; and Section 378-2 of Hawaii's Employment Practices Act, H.R.S. Chapter 378.

1.2 Plaintiff-Intervenors have an unconditional statutory right to intervene in this action pursuant to 42 U.S.C. §2000e-5(f)(1) and Federal Rule of Civil Procedure 24(a).

II. PARTIES

2.1 Plaintiff Equal Employment Opportunity Commission ("Commission") is the agency of the United States charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action under §706(f)(1) and (3) of Title VI I, 42 U.S.C. §2000e-5(f)(1) and (3).

2.2 Plaintiff-Intervenor Abdullah Yahia is a resident of Tacoma, Washington. At all relevant times, Yahia was an "employee" within the meaning of 42 U.S.C. 2000e-(f) and was engaged in "employment" with defendants within the meaning of Hawaii Revised Statute §378-1.

2.3 Plaintiff-Intervenor Ahmed Al-Mlhany is a resident of Dearborn, Michigan. At all relevant times, Al-Mlhany was an "employee" within the meaning of 42 U.S.C. 2000e-(f) and was engaged in "employment" with defendants within the meaning of Hawaii Revised Statute §378-1.

2.4 Plaintiff-Intervenor Ahmed Almraisi is a resident of Tacoma, Washington. At all relevant times, Almraisi was an "employee" within the meaning of 42 U.S.C. 2000e-(f) and

1 was engaged in “employment” with defendants within the meaning of Hawaii Revised Statute
2 §378-1.

3 2.5 Plaintiff-Intervenor Nagi A. Alziam is a resident of Brooklyn, New York. At
4 all relevant times, Alziam was an “employee” within the meaning of 42 U.S.C. 2000e-(f) and
5 was engaged in “employment” with defendants within the meaning of Hawaii Revised Statute
6 §378-1.

7 2.6 Plaintiff-Intervenor Muthana A. Shaibi is a resident of Brooklyn, New York.
8 At all relevant times, Shaibi was an “employee” within the meaning of 42 U.S.C. 2000e-(f)
9 and was engaged in “employment” with defendants within the meaning of Hawaii Revised
10 Statute §378-1.

11 2.7 Plaintiff-Intervenor Nork Yafaie is a resident of Brooklyn, New York. At all
12 relevant times, Yafaie was an “employee” within the meaning of 42 U.S.C. 2000e-(f) and was
13 engaged in “employment” with defendants within the meaning of Hawaii Revised Statute
14 §378-1.

15 2.8 Plaintiff-Intervenor Samed Kassam is a resident of Seattle, Washington. At all
16 relevant times, Kassam was an “employee” within the meaning of 42 U.S.C. 2000e-(f) and
17 was engaged in “employment” with defendants within the meaning of Hawaii Revised Statute
18 §378-1.

19 2.9 At all relevant times, Defendant NCL America, Inc., a Delaware corporation,
20 has been continuously doing business within the jurisdiction of the United States District Court
21 for the District of Hawaii. Norwegian Cruise Line Ltd., a Bermuda corporation, is the parent
22 corporation of Defendant NCL America, Inc.
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1 2.10 Defendant NCL Corporation Ltd., a foreign corporation, is the parent
2 corporation of Defendants NCL America, Inc., and Norwegian Cruise Line Ltd., and oversees
3 their operations in the State of Hawaii. All the corporate entities are hereinafter collectively
4 referred to as “Defendants.”

5 2.11 At all relevant times, all Defendants have continuously been employers
6 engaged in an industry affecting commerce within the meaning of sections 701(b), (g) and (h)
7 of Title VII, 42 U.S.C. §§2000e-(b), (g) and (h), and are employers within the meaning of
8 Hawaii Revised Statute §378-1.

9 2.12 At all relevant times, all Defendants have continuously employed fifteen (15) or
10 more persons.

11 **III. JURISDICTION AND VENUE**

12 3.1 This Court has original jurisdiction over the Plaintiff-Intervenors’ federal
13 claims under 28 U.S.C. § 1331.

14 3.2 This Court has supplemental jurisdiction over the Plaintiff-Intervenors’ state
15 law claims under 28 U.S.C. § 1367(a).

16 3.3 Venue is proper pursuant to 28 U.S.C. §1391(2) as all of the unlawful acts
17 alleged herein occurred in the City and County of Maui, State of Hawaii and within the
18 jurisdiction of the United States District Court for the District of Hawaii.

19 **IV. FACTUAL ALLEGATIONS**

20 4.1 More than thirty days prior to the institution of this lawsuit Plaintiffs filed
21 charges with the Equal Employment Opportunity Commission alleging violations of Title VII
22 by Defendants. The Commission issued Letters of Determination finding the plaintiffs were
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1 discharged on the basis of their national origin (Yemeni/Middle Eastern) and/or religion
2 (Muslim). All conditions precedent to the institution of this lawsuit have been fulfilled.

3 4.2 More than thirty days prior to the institution of this lawsuit plaintiff Samed
4 Kassam filed a charge of discrimination with the Commission alleging violations of Title VII
5 by Defendants. The Commission issued a Letter of Determination finding that plaintiff Samed
6 Kassam was constructively discharged on the basis of his national origin (Yemeni/Middle
7 Eastern) and/or religion (Muslim). All conditions precedent to the institution of this lawsuit
8 have been fulfilled.

9 4.3 Since at least July 2004, Defendants have engaged in unlawful employment
10 practices at its Hawaii facility, in violation of § 703(a) of Title VII, 42 U.S.C. §2000e-2(a),
11 and Hawaii Revised Statute §378-2, by discharging the Plaintiffs on the basis of their national
12 origin (Yemeni/Middle Eastern) and/or religion (Muslim).

13 4.4 The effect of the actions complained of above has been to deprive the Plaintiffs
14 and other individuals of equal employment opportunities and otherwise adversely affect their
15 status as employees on the basis of their national origin (Yemeni/Middle Eastern) and/or
16 religion (Muslim).

17 4.5 The effect of the actions complained of above has been to deprive the Plaintiff
18 Samed Kassam and other individuals of equal employment opportunities and otherwise
19 adversely affect his status as employee on the basis of his national origin (Yemeni/Middle
20 Eastern) and/or religion (Muslim).

21 4.6 The unlawful employment practices complained of above were intentional.
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1 4.7 The unlawful employment practices complained of above were done with
2 malice and/or with reckless indifference to the federally protected rights of Plaintiffs and other
3 similarly situated individuals.

4 4.8 The unlawful employment practices complained of above were done with
5 malice and/or with reckless indifference to the rights of Plaintiffs and other similarly situated
6 individuals that are protected by the laws of the State of Hawaii.

7 4.9 As a direct and proximate result of Defendants' aforesaid acts, Plaintiffs and
8 other similarly situated individuals have each suffered emotional pain, suffering, ,
9 inconvenience, loss of enjoyment of life, humiliation and damages, according to proof.
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11 4.10 As a direct and proximate result of Defendants' aforesaid acts, Plaintiffs and
12 other similarly situated individuals have each suffered a loss of earnings in amounts according
13 to proof.

14 **V. CLAIM ALLEGATIONS**

15 Employment Discrimination

16 5.1 Defendants' conduct, described above, constituted discrimination on the basis
17 of Plaintiffs' national origin in violation of 42 U.S.C. §2000e-2(a).

18 5.2 Defendants' conduct, described above, constituted discrimination on the basis
19 of Plaintiffs' religion in violation of 42 U.S.C. §2000e-2(a).

20 5.3 Defendants' conduct, described above, constituted discrimination on the basis
21 of Plaintiffs' national origin in violation of §42 U.S.C. §1981.

22 5.4 Defendants' conduct, described above, constituted discrimination on the basis
23 of Plaintiffs' ancestry in violation of Hawaii Revised Statute §378-2.
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1 5.5 Defendants' conduct, described above, constituted discrimination on the basis
2 of Plaintiffs' religion in violation of Hawaii Revised Statute §378-2.

3 Intentional/Negligent Infliction of Emotional Distress

4 5.6 Defendants' negligently and/or intentionally and/or recklessly inflicted
5 emotional distress on Plaintiffs. Defendants' actions were outrageous and directly and
6 proximately caused Plaintiffs' injuries, including emotional distress.

7 **VI. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for judgment against defendants as follows:

9 6.1 For special and general compensatory damages on all of their claims in an
10 amount to be proven at trial;

11 6.2 For punitive damages for violation of 42 U.S.C §1981; 42 U.S.C. §§ 2000e-
12 2(a) and H.R.S. 378-2.

13 6.3 For back pay.

14 6.4 For front pay and other past and future pecuniary losses.

15 6.5 For attorneys' fees and costs of suit, pursuant to 42 U.S.C. §§ 2000e-5(k)
16 and/or the Laws of the State of Hawaii.

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7.1 Messrs. Yahia, Al-Mlhany , Almraisi, Alziam, Shaibi, Yafaie, and Kassam respectfully requests that this matter be tried to a jury of their peers.

S/ Thomas M. Geisness
THOMAS M. GEISNESS
Attorney for Plaintiff-Intervenors