

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
RICHARD W. NAGEL
CLERK OF COURT
2015 FEB 23 AM 9:31
DISTRICT COURT
SOUTHERN DISTRICT
CINCINNATI

Mohamed Fall
c/o Manley Burke LPA



Plaintiff,

vs.

LA Fitness
4700 Marburg Avenue
Cincinnati, Ohio 45209

and

Fitness International of Ohio, LLC
3161 Michelson Dr. Suite 600
Irvine, CA 92612

and

Fitness International, LLC
3161 Michelson Dr. Suite 600
Irvine, CA 92612

and

John Does 1-4

Defendants

Case No. 1:15CV127

Judge J. DLOTT

VERIFIED COMPLAINT FOR
TEMPORARY RESTRAINING ORDER
AND DECLARATORY AND
INJUNCTIVE RELIEF

JURY DEMAND ENDORSED HEREON

Now comes Plaintiff Mohamed Fall, by and through counsel, and for his cause of action against the Defendants states as follows:

JURISDICTION, VENUE and PARTIES

1. Plaintiff Mohamed Fall is an Ohio resident, domiciled in Cincinnati, Ohio.
2. Defendant LA Fitness is a fitness center located in Cincinnati, Ohio.

3. Defendant Fitness International of Ohio, LLC is a Delaware Limited Liability Company (“Fitness Ohio”) and wholly owned subsidiary of Defendant Fitness International, LLC, a California Limited Liability Company (“Fitness International”).

4. Defendants John Doe 1-3 are employees and/or managers of Fitness Ohio who work at or manage the LA Fitness center located at 4700 Marburg Ave., Cincinnati, OH 45209.

5. Based upon knowledge and belief Defendant John Doe 4 is an employee of either Fitness Ohio or Fitness International.

6. The Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331, federal question jurisdiction, and 28 U.S.C. § 1367, supplemental jurisdiction, as this matter pertains to 42 U.S.C. 2000a, et seq.

7. Venue is proper pursuant to 28 U.S.C. § 1391(b).

8. The operation of Defendants’ business affects commerce within the meaning of 42 U.S.C. 2000a et seq.

FACTUAL BACKGROUND

9. Mohamed Fall is a 28 year old graduate of Western Hills High School in Cincinnati, Ohio.

10. Mr. Fall was born in Senegal and immigrated to the United States in 1999 with his family as a refugee from Mauritania when he was 12 years old. He has maintained legal permanent resident status in the United States ever since.

11. Mr. Fall graduated from Ohio Christian University in Circleville, Ohio, in 2012 with a B.S. degree in Business Management.

12. Mr. Fall played basketball at Ohio Christian University, and, prior to that, at Tiffin University in Tiffin, Ohio.

13. Mr. Fall was a captain on both teams.

14. During his senior season at Ohio Christian University, Mr. Fall was the Ohio Collegiate Athletic Conference Player of the Year, and a Second Team National Christian College Athletic Association (“NCCAA”) All-American. He was also named to the NCCAA All-Tournament Team.

15. Mr. Fall’s mother is of French and Senegalese descent and his father is Arabic.

16. Mr. Fall speaks at least four languages fluently including French, English, Arabic, and Wolof, a West African language.

17. He was raised in a Muslim home and considers himself Islamic.

18. Since October, 2013 Mr. Fall has exercised regularly at the LA Fitness facility at 4700 Marburg Avenue in the Oakley neighborhood of Cincinnati.

19. After exercising, which often consists of playing basketball and lifting weights, Mr. Fall customarily retreats to an empty, obscure corner of the men’s locker room, next to an empty coat rack, faces the wall and conducts Salat, or prayer, quietly to himself for approximately 5-10 minutes.

20. While praying, Mr. Fall is standing up, facing the wall, dressed in his workout clothes and not making audible noises. He is not using any kind of mat or religious clothing.

21. On Thursday, January 29, 2015, after working out at LA Fitness, Mr. Fall began his usual practice of praying in the obscure corner of what was at the time an otherwise unoccupied locker room.

22. He was in the middle of his prayer when he noticed that he was surrounded by three men, who were managers and/or employees at LA Fitness.

23. These three men interrupted Mr. Fall, stopping him in the middle of his prayer.

24. They demanded that he immediately stop praying and ordered that he no longer pray at LA Fitness.

25. Mr. Fall was confused and concerned, since he had been praying after his workouts at LA Fitness since 2013 and no one had ever once indicated that his behavior was a problem.

26. Mr. Fall takes great pains to be conscientious of others and discreet during his prayers. During his days playing college basketball at a Christian university, coaches regularly let him pray in the team's locker room before or after practice or games.

27. Indeed, at the time his prayer was interrupted, other than the managers from LA Fitness, no one else was in the locker room.

28. Mr. Fall has many friends at LA Fitness and has never directly or indirectly heard any complaints about his prayer activities.

29. The three men informed Mr. Fall that someone from LA Fitness's corporate office, John Doe 5, had been in the Marburg Avenue facility that day, became aware of Mr. Fall's prayer, didn't like it and made the decision that Mr. Fall would no longer be able to pray anywhere at the gym. The employees and/or managers from LA Fitness made it very clear to Mr. Fall that if he did not comply with their directive he would no longer be allowed at the gym.

30. Upon being ordered to stop his prayer, and being told he was not to ever again pray at LA Fitness, Mr. Fall followed the instruction, quickly gathered his belongings and left. Mr. Fall is now very uncomfortable at LA Fitness and understands that should he ever again attempt to pray at the facility, he will no longer be allowed there.

31. Mr. Fall has observed others at LA Fitness engaged in religious prayer and related activities, such as making the sign of the cross. Upon information and belief, none of that

behavior has ever been banned by LA Fitness. Mr. Fall believes he was singled out because he is a Muslim.

32. LA Fitness is a place of public accommodation, as defined in 42 USC 2000a.

33. 42 U.S.C. 2000a states in relevant part:

“All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion or national origin.”

34. LA Fitness, Fitness Ohio and Fitness International are engaged in interstate commerce.

35. As a proximate result of Defendants’ discriminatory policies and practices, Plaintiff has suffered and continue to suffer damages including financial harm, the deprivation of his freedom of religion and other civil rights, and the deprivation of living a peaceful existence.

Count I -- DECLARATORY RELIEF AS TO THE CIVIL RIGHTS ACT

36. Plaintiff fully incorporates each and every allegation contained in the preceding paragraphs as if fully restated herein.

37. Defendants acted unlawfully in violation of the Civil Rights Act in discriminating against Mr. Fall on the basis of race and/or religion by prohibiting Mr. Fall from practicing his Muslim faith by praying quietly to himself in an unoccupied an inconspicuous corner of the LA Fitness locker room.

38. Defendants’ actions preventing Plaintiff from praying quietly and respectfully in the locker room has caused serious anxiety, stress and emotional distress.

39. Defendant engaged in discrimination against Mr. Fall a result of his status as a Muslim and as an African-American.

40. Defendant’s unlawful policies and practices have damaged Mr. Fall.

41. Defendants' harassment of Mr. Fall has made him feel that he had done something wrong by praying.

42. Defendants have violated 42 U.S.C. 2000a, et seq. through its discrimination against Mr. Fall.

43. Plaintiffs request that after notice and hearing that the Court enter judgment that Defendants has enforced policies, regulations, and practices and has engaged in conduct that has interfered with Mr. Fall's right to pray in violation of the Civil Rights Act.

Count II - TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

44. Plaintiff fully incorporates each and every allegation contained in the preceding paragraphs as if fully restated herein.

45. Plaintiffs seek temporary, preliminary and permanent injunctive relief restraining Defendants from prohibiting Mr. Fall's ability to pray in the locker room at LA Fitness.

46. Plaintiff request that the Court order Defendants to permit Mr. Fall from reasonably and respectfully exercising his Islamic faith without fear of discrimination, exclusion or persecution by Defendants.

47. A temporary restraining order and a preliminary injunction are warranted because (1) at trial, Plaintiff is likely to prevail on the merits because he was discriminated against at LA Fitness on the basis of his religion and race, 42 U.S.C. 2000a et seq. prohibits discrimination on the basis of religion and race at places of public accommodation, and LA Fitness is a place of public accommodation; (2) Plaintiff will suffer irreparable harm due to the fact that he is not able to practice his religion; (3) the balance of equities tips in Plaintiff's favor because the harm Plaintiff will sustain if this preliminary injunction is not granted is far greater than any potential

harm the Defendants may sustain; and (4) the issuance of a preliminary injunction is in the public's interest.

48. Plaintiffs further request that the Court order that Defendant is permanently precluded from prohibiting Mr. Fall from praying at LA Fitness.

DAMAGES

49. Plaintiff fully incorporates each and every allegation contained in the preceding paragraphs as if fully restated herein.

50. Plaintiff has been damaged financially as a result of the conduct of the Defendant and is entitled to both compensatory and punitive damages in amounts to be determined at trial.

ATTORNEY FEES & COSTS

51. Plaintiff fully incorporates each and every allegation contained in the preceding paragraphs as if fully restated herein.

52. Plaintiffs herein seek attorneys' fees and costs pursuant to the Civil Rights Act. See 42 U.S.C. § 2000a et seq.; 29 U.S.C. § 794a.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff hereby requests that this Court:

A. Declare Defendants' acts and omissions as described above to be in violation of the Civil Rights Act 42 U.S.C. § 2000a et seq.

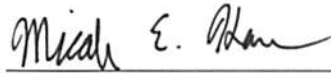
B. Grant Plaintiff's request herein for preliminary and permanent injunctive relief enjoining Defendants from denying Plaintiff his rights under federal law

C. Award compensatory damages for the Defendants' discrimination of Plaintiffs pursuant to statute.

D. Award punitive damages.

E. Award attorney's fees, costs and expenses incurred by Plaintiff in this action pursuant to statute.

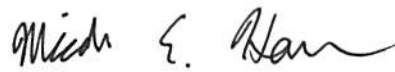
F. For any further relief the Court deems just and appropriate under the circumstances.



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JURY DEMAND

Plaintiff hereby demand a trial by jury on all issues so triable.



Micah Kamrass (0092756)

VERIFICATION

Under penalty of perjury under the laws of the United States of America and the State of Ohio, I declare that I have read the foregoing, and that the facts alleged therein are true and correct to the best of my knowledge and belief. I understand that a false statement in this Verification will subject me to penalties of perjury.

Mohamed Fall

Mohamed Fall

Sworn before me and subscribed in my presence this 20 day of February, 2015.

Rebekah R. Butcher

REBEKAH R. BUTCHER
Notary Public, State of Ohio
My Commission Expires 06-26-2016

