

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

HICHAM ALI HASSAN,

Defendant.

CIVIL ACTION NO. 18-2285E



**AMENDED COMPLAINT**

The Commonwealth of Massachusetts, by and through Attorney General Maura Healey, brings this action pursuant to G.L. c. 272, §§ 92A and 98 (the Massachusetts Public Accommodation Law), and G.L. c. 93A (the Massachusetts Consumer Protection Act), against Hicham Ali Hassan, who owns and manages The Tannery (“The Tannery”) located in Boston, Massachusetts, arising out of his discriminatory treatment of customers based on race, color, national origin, and/or immigration status.

The Commonwealth seeks injunctive relief, compensatory and punitive damages, civil penalties, and attorneys’ fees and costs.

**PARTIES**

1. Plaintiff Commonwealth of Massachusetts is represented by and through its Attorney General, whose principal place of business is located at One Ashburton Place, Boston, Massachusetts.

2. Defendant Hicham Ali Hassan, also known as Sam Hassan, owns and manages The Tannery, a retail store located at 711 Boylston Street, Boston, Massachusetts. Mr. Hassan is sued in his individual capacity.

### **JURISDICTION AND VENUE**

3. The Court has jurisdiction over this action and the power to grant the relief requested pursuant to G.L. c. 93A, § 4, G.L. c. 151B, §§ 5 and 9, G.L. c. 12, § 10, and G.L. c. 214, § 1.

4. Venue properly lies in Suffolk County pursuant to G.L. c. 223, § 5, G.L. c. 151B, § 9, and G.L. c. 93A, § 4, because it is the county in which the unlawful and discriminatory conduct occurred and it is the county in which Defendant has his principal place of business.

### **FACTS**

5. The Tannery is an upscale shoe and clothing store located at the corner of Boylston Street and Exeter Street in Boston.

6. The Tannery's hours of operation are Monday through Saturday from 9:00 a.m. to 8:00 p.m., and Sunday from 10:00 a.m. to 7:00 p.m.

#### **December 2017 Incident**

7. Walter Lewis is a 64-year-old African American male and a Marine veteran.

8. On the evening of Friday, December 1, 2017, Mr. Lewis was shopping in the Back Bay neighborhood of Boston. He left a store on Newbury Street and called a friend on his cell phone. Mr. Lewis entered The Tannery at approximately 7:40 p.m. with his friend still on the phone.

9. Mr. Lewis went to The Tannery to browse the collection and potentially make a purchase. He was particularly interested in purchasing a Canada Goose jacket and he knew that he could find one at The Tannery.

10. Upon entering the store, Mr. Lewis was approached by a man who he understood to be the store owner (Mr. Hassan). Mr. Hassan was accompanied by a Caucasian woman who was an employee of the store. Mr. Hassan approached Mr. Lewis and said, "what's up brother man!" repeatedly. He told Mr. Lewis that the store was closing at 8 p.m.

11. After this initial dialogue with Mr. Hassan, which took place in the entryway of the store, Mr. Lewis observed various Caucasian patrons, including a Caucasian couple, enter the store and proceed to shop. Neither Mr. Hassan nor any other employee told them that the store would be closing soon. Mr. Lewis, on the other hand, was effectively prevented from proceeding beyond the store's entryway.

12. Mr. Lewis asked Mr. Hassan why he was being stopped and prevented from shopping when other customers who arrived after him were allowed to enter and shop.

13. Mr. Hassan's demeanor changed after Mr. Lewis confronted him. He became hostile with Mr. Lewis, telling him, "I do not want your kind in my store." The female employee said nothing and returned to the store counter.

14. Mr. Lewis responded by saying, "I barely walked in the store and you're telling me you do not want me in your store? Why? What did I do?" Mr. Hassan repeated that he did not want Mr. Lewis to shop in his store.

15. Mr. Hassan then asked if Mr. Lewis had a "Black American Express Card," which is an exclusive invitation-only credit card available to a limited number of individuals. Mr. Hassan told Mr. Lewis that he (Mr. Hassan) had such a card and then motioned toward his

pocket. Mr. Lewis understood Mr. Hassan to be implying that he did not have enough money to shop at The Tannery.

16. Mr. Hassan then told Mr. Lewis that he did not want his money and to shop at a different store across the street.

17. Mr. Hassan stood very close to Mr. Lewis during this conversation and ultimately led Mr. Lewis back to the door.

18. Mr. Hassan then followed Mr. Lewis outside of the store.

19. At that point, a Caucasian male (another employee) walked outside and approached Mr. Lewis. He asked Mr. Lewis what had just happened. Mr. Lewis described his exchange with Mr. Hassan.

20. Mr. Lewis explained that he simply wanted to shop and perhaps purchase something from the store as he has done on previous occasions. He said that he did not understand why he was singled out while other customers were allowed to shop. Mr. Lewis told the employee that he did not do anything wrong and felt that he deserved an explanation for being treated so poorly.

21. Mr. Hassan remained outside while Mr. Lewis spoke to the employee. At one point, he made a show of removing his jacket in anger or frustration.

22. After Mr. Lewis finished describing what had happened, the employee turned away without a response, only further confusing Mr. Lewis.

23. After leaving the store, Mr. Lewis located a police officer a block away on Newbury Street. He asked about his rights and told the officer what had happened.

24. As Mr. Lewis reported to the officer, he felt humiliated and devastated by the incident. He left The Tannery feeling hurt, confused, and embarrassed.

Pattern of Discrimination

25. The December 2017 incident involving Mr. Lewis was not the first time that Mr. Hassan and The Tannery discriminated against a customer based on a protected characteristic—nor was it the last. In fact, the Commonwealth alleges that, dating back at least several years, Mr. Hassan has engaged, and continues to engage, in a pattern of such discrimination against customers based on race, color, national origin, and/or immigration status.

26. For example, Farah Hayek Mansour, a woman of Middle Eastern descent, experienced similar treatment by Mr. Hassan in 2016 while she was browsing shoes at The Tannery with her husband and 8-year-old daughter.

27. Ms. Mansour entered The Tannery because she thought she heard Arabic music playing from inside the store.

28. Shortly after entering The Tannery, Ms. Mansour saw Mr. Hassan and greeted him in Arabic.

29. At the time, Mr. Hassan was standing with two other male employees.

30. While Ms. Mansour's husband was trying on shoes, she asked one of the two employees standing with Mr. Hassan for a pair in a different size. The employee dismissively told her that the store did not have any other sizes and returned to his conversation with Mr. Hassan and the other man.

31. Mr. Hassan then turned toward Ms. Mansour and began speaking to her in a mock Arabic accent, saying, "Get out of here. I don't have anything for you here. Go back to your country and clean and cook mgadara." (Mgadara, also known as "mujaddara," is a traditional Middle Eastern dish.)

32. Ms. Mansour's 8-year-old daughter was grabbing on to her out of fear while Mr. Hassan was speaking.

33. Ms. Mansour left The Tannery confused, hurt, and shaken. She continues to feel troubled by the incident even after two years.

34. On the afternoon of March 26, 2017, at approximately 3 p.m., Miriam Yarima Ariza entered The Tannery store to browse the collection. Ms. Ariza is from Columbia but is often mistaken for Middle Eastern. When she visited The Tannery, Ms. Ariza wore a scarf around her neck.

35. When Ms. Ariza entered the store it was almost empty with the exception of a Caucasian woman who was also browsing shoes and another customer who the owner (Mr. Hassan) was conversing with on the other side of the store.

36. When Ms. Ariza found a pair of boots that she was interested in, she approached Mr. Hassan and inquired about the availability of her size. He immediately asked Ms. Ariza, "Where are you from?"

37. Puzzled by the question, Ms. Ariza responded "What do you mean? I am from here. I live in the area." Mr. Hassan repeated, "No, where are you from?" Ms. Ariza replied, "I live in Cambridge," and then proceeded to ask about the availability of the shoes for the second time.

38. Rather than assist Ms. Ariza, Mr. Hassan said "I don't have them and if I did they would cost 3 million dollars." Ms. Ariza was confused and asked Mr. Hassan to clarify. Instead, he turned to another customer and proclaimed, "I love Trump! I am glad he is going to get rid of all the immigrants because I do not trust immigrants!"

39. Mr. Hassan continued to talk about his distrust of immigrants, at which point Ms. Ariza decided she no longer wanted the shoes. As she was about to exit the store, Mr. Hassan shouted to her, "Get out of here! We don't want you here! I don't trust your people!"

40. Ms. Ariza left the store frustrated and shaken by the ordeal.

41. Aja Jackson also had a negative experience with Mr. Hassan at The Tannery Outlet on Boylston Street (now closed) during the Spring of 2017.

42. Ms. Jackson is African-American and was shopping at The Tannery with her 10-year-old daughter.

43. She was shopping for a pair of shoes with the help of one of the employees of the store when Mr. Hassan interrupted them and began arguing with the employee in a different language.

44. Based on Mr. Hassan's tone and mannerisms, Ms. Jackson suspected that Mr. Hassan was telling his employee to stop assisting her. As Mr. Hassan continued to yell, Ms. Jackson and her daughter decided to pack up and leave the store.

45. As she was approaching the door, Ms. Jackson noticed several Caucasian patrons walking into the store. Mr. Hassan abruptly stopped the argument with his employee and asked the Caucasian patrons if they needed any assistance.

46. Ms. Jackson and her daughter walked out of the store confused and embarrassed.

47. Rebecca Rolland and her husband Phillippe Rolland, who is a French immigrant, experienced similar mistreatment when trying to return a pair of boots at The Tannery in late December 2017.

48. When The Tannery's staff refused to accept Mrs. Rolland's return (even though she had just bought the boots that day), her husband approached Mr. Hassan separately to see if he would be willing to exchange them for a larger size.

49. Mr. Hassan responded to Mr. Rolland by asking him "Where are you from?" repeatedly. Mr. and Mrs. Rolland had been speaking French to each other and Mr. Rolland has a French accent.

50. Mr. Hassan became hostile. He told Mr. Rolland, "Donald Trump doesn't like the people from your country." He then instructed Mr. Rolland to leave the store immediately.

51. After Mr. Rolland left the store, he found Ms. Rolland waiting near the entrance. Mr. Rolland told his wife what Mr. Hassan had said to him. Shocked, Mrs. Rolland went back into the store to confront Mr. Hassan and to tell him how upset she was about the way he treated her husband. Mr. Hassan was clearly angry and responded that she "better watch out for what [he] can do to" her. Mr. Hassan then told Mrs. Rolland to get out of the store.

52. Mr. and Mrs. Rolland felt hurt, confused, and insulted by their experience. They also felt threatened by Mr. Hassan's behavior and the things he said to them.

53. The experiences of Mr. Lewis, Ms. Mansour, Ms, Ariza, Ms. Jackson, and Mr. Rolland are examples of a larger pattern of behavior by Mr. Hassan in which he makes unfair assumptions about customers based on their actual or perceived race, color, national origin, and/or immigration status; explicitly invokes customers' backgrounds during his interactions with him, often in explicitly derogatory terms; offers different levels of access or service to customers based on their actual or perceived race, color, national origin, and/or immigration status; and even goes so far as to openly belittle and humiliate customers who he deems



somehow less worthy of shopping in his store based on their actual or perceived race, color, national origin, and/or immigration status.

54. Mr. Hassan's discriminatory conduct has been ongoing for several years and continues.

55. Among other things, Mr. Lewis, Ms. Mansour, Ms. Ariza, Ms. Jackson, Mr. Rolland—and many others—felt humiliated and embarrassed following their experiences at The Tannery.

### **CAUSES OF ACTION**

#### **Count I: Discrimination in a Place of Public Accommodation** **(G.L. c. 272, §§ 92A and 98)**

56. The Commonwealth re-alleges and incorporates the preceding paragraphs.

57. The Tannery is a place of public accommodation as defined in G.L. c. 272, § 92A, because it is open to and accepts or solicits the patronage of the general public.

58. Defendant Hicham Ali Hassan is the owner and manager of The Tannery.

59. Mr. Hassan unlawfully discriminated against Walter Lewis, Farah Hayek Mansour, Miriam Yarima Ariza, Aja Jackson, Philippe Rolland, and others by refusing them entry to The Tannery, refusing them service, or otherwise discriminating against these customers, based on their race, color, and/or national origin.

60. As a result of Mr. Hassan's unlawful conduct, Mr. Lewis, Ms. Mansour, Ms. Ariza, Ms. Jackson, Mr. Rolland, and others suffered damages, including emotional distress.

61. On May 14, 2018, the Commonwealth filed a complaint with the Massachusetts Commission Against Discrimination pursuant to G.L. c. 151B, §§ 5 and 9. On June 4, 2018, the Commission granted the Commonwealth's request to remove its claims under G.L. c. 151B to Superior Court.

**Count II: Violation of the Consumer Protection Act**  
**(G.L. c. 93A, § 2)**

62. The Commonwealth re-alleges and incorporates the preceding paragraphs.

63. Defendant Hicham Ali Hassan is a “person” as that term is defined in G.L. c. 93A, § 1.

64. As the owner, operator, and manager of a retail store, Mr. Hassan is engaged in trade or commerce as defined in G.L. c. 93A, § 1.

65. Mr. Hassan has engaged in unfair and deceptive business practices by engaging in a pattern of discriminatory treatment of customers based on their race, color, national origin, and/or immigration status, including by denying Walter Lewis, Farah Hayek Mansour, Miriam Yarima Ariza, Aja Jackson, and Philippe Rolland service and harassing them based on their race, color, national origin, and/or immigration status.

66. As a result of Mr. Hassan’s unlawful conduct, Mr. Lewis, Ms. Mansour, Ms. Ariza, Ms. Jackson, Mr. Rolland and others suffered damages, including emotional distress.

67. By letter dated May 14, 2018, the Commonwealth gave Mr. Hassan the required notice pursuant to G.L. c. 93A, § 4, of its intention to bring an action under the Massachusetts Consumer Protection Act.

**PRAYER FOR RELIEF**

WHEREFORE, the Commonwealth of Massachusetts requests that this Court:

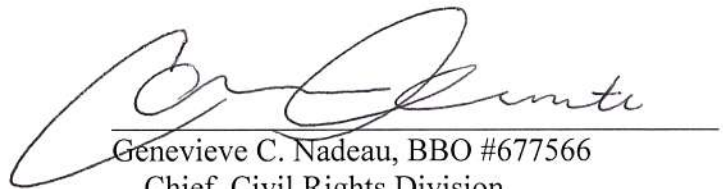
- (a) Find that Defendant violated G.L. c. 272, §§ 92A and 98, and G.L. c. 93A, § 2;
- (b) Issue injunctive relief requiring Defendant to comply with G. L. c. 272, §§ 92A and 98, and G.L. c. 93A;

- (c) Award compensatory and punitive damages to Walter Lewis, Farah Hayek Mansour, Miriam Yarima Ariza, Aja Jackson, Philippe Rolland, and any other individual victims of discrimination identified during the litigation or trial of this matter;
- (d) Award civil penalties up to \$5,000 for each of Defendant's unfair or deceptive acts or practices as determined by this Court;
- (e) Award attorneys' fees and costs; and
- (f) Order such other relief as the Court deems just and proper.

PLANTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

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ATTORNEY GENERAL



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Dated: September 21, 2018