

FREEDOM FROM RELIGION *foundation*

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Sent via U.S. Mail and email

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Jacques D’Rovencourt
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Re: Hilton and/or Starbucks violate civil rights of ex-Muslims

Dear Mr. Nassetta, Mr. Johnson, and Mr. D’Rovencourt:

I am writing on behalf of the Freedom From Religion Foundation to inform you of a serious civil rights violation that occurred at the Starbucks in the Hilton-Americas Houston at 1600 Lamar St, Houston, Texas when members of the Ex-Muslims of North America were ejected for no reason other than their lack of religion. It was “dehumanizing.” FFRF is a nationwide nonprofit organization with nearly 32,000 members, including more than 1,300 in Texas. We educate on nontheism and protect the constitutional separation between state and church.

ExMNA is the first organization of its kind; it establishes communities for ex-Muslims that foster a sense of camaraderie and are free of judgment for lack of religiosity. ExMNA aims to reduce discrimination faced by those who leave Islam and shed a light on religiously-motivated abuse and oppression.

Members of ExMNA were in Houston for the Islamic Society of North America’s conference to share their personal stories and pass out fliers to attendees. They were respectful and quiet and only engaged with those who wished to discuss their stories. This is critical to aide in stopping the backlash against Muslims doubting their faith and in providing a community for them. They were wearing t-shirts that said “I’m an Ex-Muslim, Ask Me Why” and “God Love is Greatest” and passively distributing some of the educational fliers. See enclosed. They were not protesting the conference, as they repeatedly explained. They also contrasted with the many armed, masked protesters, which included Black Panthers, Antifa, and about 30 members from white supremacist groups—not minorities quietly sipping coffee.

These ex-Muslims were ejected from the Hilton Starbucks for their lack of religion.

Members of ExMNA visited the Starbucks in the Hilton-Americas Houston and the incident in question occurred at about 1 p.m. The Starbucks is advertised to pedestrians and passersby with signage on Dallas and Lamar Streets, Polk Street, and the Avenida de las Americas, not to mention online and on the Starbucks website and app. There are entrances to the Starbucks through the Hilton lobby, and from Polk and Dallas Streets. We understand other businesses serving the public are located in the Hilton as well, including FedEx Office Print & Ship Center, Pappasito's Cantina, and the 1600 Bar + Grille, the Hilton's own restaurant.

At this stage, we are not clear on the business relationship between Starbucks and Hilton or who is ultimately responsible for removing paying customers because of their lack of religion. We leave that to you sort out and tell us. The security guards who ejected these paying patrons were Hilton employees, but Starbucks obviously is responsible for what happens in its stores.

Members of ExMNA entered the Starbucks in the Hilton, purchased drinks, and sat down to drink them. They described what happened next:

I was simply drinking my iced coffee and scrolling through my phone, and they told me I needed to leave, so I asked why. I was told that they are not allowing protestors at the property, I assured the woman that I was not a protestor. She then asked me if I was part of the event or a guest at the hotel. I was neither. I was then told that even though I was a paying customer, I was not allowed to be on the premise as it was reserved for guests and event members for the weekend and that they will not be allowing anyone else on their private property.

Importantly, "the Starbucks was still open to the public and I didn't see anyone else being asked to leave." But members of ExMNA were ejected. Two members were asked to leave immediately. The third, upon returning from the bathroom, was also told to leave.

The initial encounter was not recorded, but after their humiliating rejection, the members returned to understand precisely why they were kicked out. Security guards continually explained that they were trespassing, even though this was a public cafe at which they had purchased drinks.

At one point, an ExMNA representative asked "He's not wearing a shirt," referring to the t-shirts proclaiming their lack of religion, "can he come in?" The guard responded, "No." Moments later the guard said, "You can do what you want to but you come on my property you will be arrested for trespass, because you've been warned not to trespass on our property at this point."

ExMNA representatives continually explained to the guards that they were not part of any protest and the guard finally said, "It doesn't matter, at this point, you've been told: We don't want you on our property." Trying to understand the guard's open hostility and choking back tears, Hazar, an ExMNA representative, had this exchange:

Hazar: “If I cross this line, you will arrest me—”

Guard: “I will have HPD [the Houston Police Department] arrest you for trespassing.”

Lina: “—because I have a shirt that says I’m an ex-Muslim?”

Hazar: “Because I’ve already warned you not to come on our property.”

In the video, passersby can be seen staring and ex-Muslims being refused entry by the guards on their walkie-talkies.

This is illegal discrimination against nonreligious citizens.

Unlike the blatant discrimination some Christian bakeries have shown to LGBTQ Americans in the name of religious freedom, this is discrimination against customers’ lack of religious belief—the Hilton and Starbucks essentially refused to serve a group of nonbelievers. From a legal standpoint, it is irrelevant that they were served at first—much like the case from April involving two black men being forcibly ejected from a Philadelphia Starbucks, the ex-Muslims were ejected and all service cut off on the basis of their beliefs about religion.¹ This raises serious concerns under federal civil rights laws.

First, the Civil Rights Act 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... without discrimination on the ground of race, color, religion, or national origin.” 42 U.S.C. §2000a(a). As a place of “public accommodation,” it is illegal for Hilton, Starbucks, or a Starbucks in a Hilton to discriminate on the basis of religion. See 42 U.S.C. §2000a(b)(1)-(4) (defining a place of public accommodation as any inn, hotel, motel, or other establishment which provides lodging *or* any establishment that provides for consumption of food on the premises, such as a café, bar, pub, or restaurant, or contains a facility that does so.) See also, *Daniel v. Paul*, 395 U.S. 298, 305, 89 S.Ct. 1697, 23 L.Ed.2d 318 (1969) and *Brown v. Whole Foods Mkt. Grp., Inc.*, 965 F. Supp. 2d 132, 137-8 (D.D.C. 2013), *rev’d and remanded on other grounds*, 789 F.3d 146 (D.C. Cir. 2015).

Refusing to serve a group of ex-Muslims is refusing to provide equal enjoyment of goods, services, privileges, and advantages on the basis of religious identification. It is unlawful discrimination.

The rationale the guards belatedly attempted to rely on, that the group were protestors, was pretextual. First, the members of ExMNA were not protesting, but sitting quietly drinking the beverages they’d purchased from your store, which is open to the public. In fact they were not engaging in any behavior to distinguish them from any other paying, non-disruptive Starbucks patron. The only possible thing distinguishing them was their t-shirts. Even had they been

¹ See, e.g., *Causey v. Sewell Cadillac-Chevrolet, Inc.*, 394 F.3d 285, 290 (5th Cir. 2004) (inspecting a car but refusing to provide warranty service based on race was discrimination); *Christian v. Wal-Mart Stores, Inc.*, 252 F.3d 862, 874 (6th Cir.2001) (“[W]e have no trouble concluding that [plaintiff] made herself available to enter into a contractual relationship for services ordinarily provided by Wal-Mart: the record reflects that she had selected merchandise to purchase ... and would, in fact, have completed her purchase had she not been asked to leave the store.”); Conduct that is marked hostility to plaintiffs is also problematic. *Sawyer v. Sw. Airlines Co.*, 243 F. Supp. 2d 1257, 1273 (D. Kan. 2003), *aff’d*, 145 F. App’x 238 (10th Cir. 2005); *McCaleb v. Pizza Hut of Am.*, 28 F.Supp.2d 1043, 1048 (N.D.Ill.1998) (Section 1981 cause of action exists where defendant denied plaintiffs opportunity to purchase and provided plaintiffs less than what they paid for); *Perry v. Burger King Corp.*, 924 F.Supp. 548, 551–52 (S.D.N.Y.1996) (denial of full services for which plaintiff paid).

protesters, they were not protesting. Once a protester does not mean always a protester. Second, they were clearly not part of the violent protests that were occurring under police supervision corrals a block away on the Discovery Green. Third, their educational mission was peaceful and inviting. Their goal was to show that, in this country, Muslims are free to exercise their religious freedom and explore their doubts. This is a defense of one of America's founding values, not a statement deserving of ejection from your cafe.

Even if this were not pretextual, the rationale for the discrimination suggests that leaving a religion is offensive. ExMNA are people who have left a particular religion behind. Their shirts are not insulting, denigrating, or mocking the religion. They simply state the views of these people. This is no different than kicking out customers for wearing crucifixes or turbans or yarmulkes or, to be more analogous, t-shirts with the John 3:16 verse.

This sort of treatment reinforces the stigma the 23% Americans who identify as nonreligious face in this country.² For example, when it comes to voting for an otherwise qualified candidate, atheists rank below Jewish, Mormon, LGBT and Muslim candidates—falling 14 percentage points below a gay or lesbian candidate, simply for not believing.³ The same holds for parents asked about their child's potential spouse—atheists are viewed as the least desirable.⁴

It is particularly difficult for Muslims to leave their faith behind. They often face deliberate alienation, intense pressure, and even violence. By kicking them out, humiliating and dehumanizing them, your companies stood on the side of alienation, coercion, and violence, not love and tolerance.

We hope that this was the result of misguided, low-level employees. But it is the responsibility of the corporate office to educate its employees on the civil rights laws and to enforce those regulations. Please direct all correspondence to me. I look forward to your response.

Sincerely,



Andrew L. Seidel
Constitutional Attorney
Director of Strategic Response

² *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

³ A more recent study put the number who would vote for atheists even lower. See Daisy Grewal, *In Atheists we Distrust*, SCIENTIFIC AMERICAN (Jan 17, 2012) (noting that only 45% of Americans would vote for an otherwise qualified atheist presidential candidate; and that atheists are rated the least desirable groups as potential son/daughters-in-law) available at <http://www.scientificamerican.com/article/in-atheists-we-distrust/>.

⁴ John Allen Paulos, *Who's Counting: Distrusting Atheists*, ABC News, April 2, 2006, available at <http://abcnews.go.com/Technology/story?id=1786422> (last accessed Feb. 11, 2015).