



May 21, 2015

Via U.S. Mail

Robert A. Iger
Chief Executive Officer
The Walt Disney Company
500 South Buena Vista Street MC 9722
Burbank, CA 91521

Stephen Michael Silver
Director, Legal Department
Walt Disney World Co.
P.O. Box 10,000
Lake Buena Vista, FL 32830

Bob Chapek
Chairman, Walt Disney Parks and Resorts
Walt Disney World Co.
P.O. Box 10,000
Lake Buena Vista, FL 32830

Alan Braverman
Senior Executive Vice President, General Counsel & Secretary
The Walt Disney Company
500 South Buena Vista Street MC 9722
Burbank, CA 91521

RE: Gurdit Singh, Disney Distribution Services Assistant

Dear Mr. Iger and Mr. Michael-Silver,

The Sikh Coalition¹ and the American Civil Liberties Union (ACLU) represent Mr. Gurdit Singh (“Mr. Singh”) with respect to his employment at Walt Disney World Co. (“Disney”). Please direct all future correspondence regarding this matter to us.

¹ By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh Americans. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh-Americans and other forms of bias-based discrimination.

AMERICAN CIVIL
LIBERTIES UNION

PROGRAM ON FREEDOM OF
RELIGION AND BELIEF
915 15TH STREET, NW, 6TH FL.
WASHINGTON, DC 20005-2313
T/202.675.2330
F/202.546.0738
WWW.ACLU.ORG

DANIEL MACH
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

RICHARD ZACKS
TREASURER

Mr. Singh is of South Asian (Indian) origin and is an observant Sikh American who maintains unshorn hair and a beard and wears a turban consistent with his sincere religious beliefs. Since hiring Mr. Singh in 2008 as a Distribution Services Assistant (“DSA”), Disney has segregated him from colleagues and customers based upon his religion, national origin, and race/ethnicity.

Specifically, because of his racial/ethnic and religious appearance, Disney has assigned Mr. Singh to one mail-delivery route, the Celebration route, while rotating route assignments every three weeks for all other DSAs. Although these assignments permit other DSAs to deliver mail in areas where they are visible to guests, including Disney hotels and theme parks, the Celebration route physically segregates Mr. Singh from Disney’s customers. This segregation relegates Mr. Singh to an inferior DSA position, directly impacts his workload, and precludes opportunities for advancement.

We write to inform you that Disney’s ongoing segregation of Mr. Singh and failure to reasonably accommodate his religious beliefs violate Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and the Florida Civil Rights Act of 1992, Fla. Stat. §760.01 *et seq.* We demand that Disney immediately undertake the following corrective measures:

- (1) De-segregate Mr. Singh so that he may access the same employment opportunities as other DSAs, including the option to run multiple routes and pursue opportunities for career advancement;
- (2) Provide a religious accommodation for Mr. Singh’s Sikh articles of faith, namely his turban and unshorn hair/beard; and
- (3) Revise Disney’s personnel policies to expressly (a) provide for religious accommodations of employees who maintain visible articles of faith – including, but not limited to, religious dress, headwear, jewelry, and artifacts, and grooming of hair on the head, face or body, and (b) ban segregation of employees based upon race/ethnicity, national origin, or religion.

I. Facts

A. *Background Facts*

Mr. Singh is an adherent of the Sikh faith,¹ the world’s fifth largest organized religion. His religious beliefs require him to wear articles of faith that include unshorn hair, an unshorn beard, and a turban to cover his hair. These articles of faith serve as external visual reminders that Mr. Singh has committed himself to the values of truthfulness, courage, service, and love.

¹ Sikhism was founded by Guru Nanak in Punjab, South Asia in 1469. His teachings, as well as the teachings of nine successive Gurus, form the basis of the Sikh religion. The Sikh religion is monotheistic, believing in one God, all loving, all pervading, and eternal. This God of love is obtained through grace and sought by service to mankind. Guru Nanak rejected the caste system and declared all human beings to be equal in rights and responsibilities and their ability to connect with God. He taught that God was universal to all – not limited to any religion, nation, race, color, or gender.

Mr. Singh first sought employment at Disney World in approximately 2005. An interviewer informed him that he could receive a job in the back, cleaning the parking lot or working in a kitchen. The interviewer indicated that he could not work in front of guests because of his turban and beard. Mr. Singh declined the offer of a segregated position.

Mr. Singh reapplied for employment with Disney in approximately 2008. In 2008, a Disney Human Resources Representative interviewed him. The representative was impressed with Mr. Singh's prior employment as a doorman at prestigious hotels and recommended him for a doorman position with a Disney hotel. After conversations about Mr. Singh's faith and religious appearance, the representative instructed him to write a statement to the effect that, "I will not shave my beard or remove my turban. This is my religious faith," and sign the document. Subsequently, the representative told him that Disney had denied him the doorman position because his "costume" did not match the "costume" necessary for the position. Mr. Singh understood his "costume" to mean his turban and beard, articles of his Sikh faith.

The representative offered Mr. Singh several segregated positions, away from Disney customer view and contact, such as stocking towels and toiletries for housekeeping attendants. Mr. Singh turned them down because they paid significantly less than his employment at the time.

Disney ultimately offered Mr. Singh the DSA position in July 2008. He eagerly accepted the position even though it entailed a slight pay cut because he believed that Disney would be a good employer with opportunities for advancement. After completing the necessary Human Resources paperwork, Mr. Singh met with [REDACTED], the Manager of Administration and Transportation Distribution Services, who informed him that he would be assigned to one particular route because the company could not send him out in front of guests. Mr. Singh understood this to mean that he would be segregated from guest view because of his turban and beard, which purportedly violated Disney's Look Policy.

Since he began employment as a DSA, Mr. Singh has been confined to delivering mail for the Celebration route, which is the only mail route that lacks exposure to Disney's customers. The Celebration route runs through Disney's business offices, well outside Disney World's theme parks, hotels, and other locations where guests congregate. It is our understanding that there are a total of seven mail routes staffed by DSAs and that DSA route assignments alternate every three weeks. However, Mr. Singh's managers have made clear that he will remain segregated from customers and will continue to be assigned to the Celebration route.

The Celebration route requires a significantly greater workload than other routes, as explained below. Moreover, because he is confined to this one route, Mr. Singh has been denied critical training and employment opportunities necessary for advancement. As a result of his segregation, he is also regularly humiliated and made to feel inferior in the workplace on the basis of his race, ethnicity, national origin, and religion.

B. Mr. Singh has Repeatedly Requested to be Integrated and that His Articles of Faith Be Accommodated

Mr. Singh has repeatedly and without success asked Disney for similar assignments and training opportunities as his colleagues. He has also expressed dissatisfaction about his restriction to one route, but no action has been taken to remedy the problem.

In his annual performance reviews, Mr. Singh has stated that one of his objectives is learning how to pitch and run mail for all other routes. Disney has denied or ignored his request. For example, former manager [REDACTED] emailed Mr. Singh and told him, "As we try to improve operational efficiency in all of our areas, I would ask what would be the benefit to the business having you learn to pitch all the other areas when we are aware that you most likely would not use this information. We have to ask ourselves what is the investment vs. the return. In this particular example, based on the information we have today, *you will not run those routes*" (emphasis added). Moreover, at least one other employee has offered to train Mr. Singh on other routes, but management refuses to allow the employee to train him.

In July 2013, Mr. Singh again raised the issue of alternating mail routes with his current manager, [REDACTED] during his performance review. He did not receive a response. He raised the issue again a few months later with [REDACTED], the Vice President of the Distribution Center. Msrs. [REDACTED] and [REDACTED] told Mr. Singh that they would speak with Employee Relations. In early 2014, [REDACTED] informed Mr. Singh that Employee Relations had denied his request to service alternate routes.

In addition, Mr. Singh has raised concerns to management about the heavy volume of the Celebration route as compared to other routes. Because Mr. Singh only handles one route, he is tasked with completing his own route data sheets, while all other DSA route data sheets are completed by another DSA. In March 2011, Mr. Singh complained about the additional work to then-Mail Operation Center Manager [REDACTED], who responded that would be assigned to the warehouse if he could not complete his assigned route.

Mr. Singh also has informed his superiors that his restriction to one route has created animosity among his co-workers. His co-workers have made comments that they are "upset" and "hate" that he only runs one route, unlike everyone else on the team. Further, Mr. Singh cannot help the other DSAs when they are short-staffed because of his limitation to one route. Because of co-worker animosity toward Mr. Singh, he often handles the pitching and delivery of the Celebration route on his own while the other DSAs informally assist each other with mail pitching.

On October 6, 2014, Mr. Singh completed an annual performance review. He noted that "Disney does not allo[w] me to do other routes because I have [a] Beard & [am] Wearing [a] Turban on my head..." He also noted that because of his restriction to one route and limited capacity, he is unable to gain experience in completing tasks performed by other DSAs, including x-rays and write-ups, which are necessary for advancement.

In December 2014, Mr. Singh again raised his concerns about his coworkers' animosity and the increased workload with both Msrs. [REDACTED] and [REDACTED]. He also explained that Mailroom Coordinator [REDACTED] has not allowed anyone else to assist him over the past few months. This request is still pending.

Mr. Singh has had satisfactory performance reviews, received annual raises, and has worked diligently for Disney since 2008. By all accounts, he is an exceptional employee and would benefit Disney if granted an opportunity to perform all designated employment duties allotted to other DSAs. Mr. Singh believes his requests to run other routes and appear in front of Disney guests have repeatedly been denied solely because of his South Asian (Indian) ancestry and Sikh religious appearance.

II. Disney's Treatment of Mr. Singh Violates Title VII.

Disney's continued segregation of Mr. Singh has had a deep and adverse emotional impact on him over the years. As a result of being segregated because of his South Asian (Indian) ancestry and his Sikh religious appearance, Mr. Singh feels that his employer and colleagues are punishing him. He does not believe he is fully considered a part of the DSA team, and feels singled-out, humiliated, and ashamed because of the way he looks and what he believes. Disney's treatment of Mr. Singh is not compatible with a company that claims to celebrate diversity and aims to attract visitors from all over the world, including many turbaned Sikhs. It also violates federal law.

A. *Disney Has Unlawfully Segregated Mr. Singh.*

Racial/ethnic, nationality, and religion-based segregation are unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964.² Under Title VII, "it shall be an unlawful employment practice for an employer to limit, segregate, or classify his employees . . . in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion . . . or national origin." 42 U.S.C. § 2000e-2(a). In recent years, the U.S. Equal Employment Opportunity Commission has taken significant enforcement action against employers who unlawfully segregate on the basis of membership in a protected class. *See, e.g., EEOC v. Autozone*, Case No. 1:14-cv-5579 (N.D. Ill., filed Sept. 2014) (EEOC filed suit where Autozone transferred a black employee to another store in the Chicago area in an effort to eliminate or limit the number of black employees at its Kedzie store because it believed that its customers preferred to be served by non-black, Hispanic employees); *EEOC v. DHL Express*, Case No. 1:10-cv-06136 (N.D. Ill., filed Sept. 2014) (EEOC files suit where DHL subjected a class of black employees to different terms and conditions, specifically to less desirable, more difficult and more dangerous route assignments because of their race.).

Disney may not rely on its "Look Policy" in defense of its segregation of Mr. Singh. As the EEOC has explained, assigning an employee "to a position out of public view" because his religious grooming and dress practices present the "wrong image" constitutes segregation in

² *See* EEOC Religious Garb and Grooming in the Workplace: Rights and Responsibilities, *available at* http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm.

violation of Title VII. *See* EEOC Religious Garb and Grooming in the Workplace, *supra* note 3. Nor may Disney cite customer preferences to justify its treatment of Mr. Singh: “Assigning applicants or employees to a non-customer contact position because of actual or feared customer preference violates Title VII’s prohibition on limiting, segregating, or classifying employees based on religion. Even if the employer is following its uniformly applied employee policy or practice, it is not permitted to segregate an employee due to fear that customers will have a biased response to religious garb or grooming. The law requires the employer to make an exception to its policy or practice as a religious accommodation, because customer preference is not undue hardship.” *Id.*

Disney has violated Title VII by restricting Mr. Singh’s route assignment because of his race/ethnicity, national origin, and religious identity, imposing a significant work-related burden on him without justification. Mr. Singh has repeatedly been denied the opportunity to: (1) learn how to pitch all seven routes; (2) learn all seven delivery routes and tasks including write-ups and x-rays; (3) rotate delivery routes every three weeks, similar to other DSAs; and (4) deliver on a route that has Disney guest contact, similar to other DSAs. While all other DSAs are able to learn and take advantage of these opportunities, Mr. Singh has been told on several occasions that he cannot be in a customer contact position because of his turban and beard. Thus, Disney’s actions have permanently deprived Mr. Singh of employment opportunities available to all other employees in his position.

B. *Disney Has Failed to Accommodate Mr. Singh in Violation of Title VII.*

Disney’s failure to accommodate Mr. Singh’s Sikh articles of faith because of his Sikh religious appearance and South Asian ancestry also violates Title VII of the Civil Rights Act of 1964. Title VII further provides that it is “an unlawful employment practice for an employer . . . to discriminate against any individual with respect to [his] . . . terms, conditions, or privileges of employment, because of such individual’s race, color, religion or national origin.” 42 U.S.C. § 2000e-2(a)(1). Under Title VII, an employer must offer a “reasonable accommodation” of an employee’s religious practices in the workplace unless doing so would cause an “undue hardship.” *Ansonia Bd. of Edu. v. Philbrook*, 479 U.S. 60, 76 (1986) (citing *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977)). Disney cannot make this showing.

Segregation of an employee because of his racial/ethnic, national origin and religious appearance is not a reasonable accommodation because it constitutes an independent violation of Title VII, as discussed above. Mr. Singh is the only DSA not allowed to have customer contact. This type of permanent segregation deprives him of experience granted to all other DSAs, making his position inferior, both in terms of tangible responsibilities and reputation. *See Holland v. Gee*, 677 F.3d 1047 (11th Cir. 2012) (finding that a permanent reassignment of an employee because of his/her protected status amounts to an adverse employment action when the reassignment involves significantly different duties that carry a reduction in both prestige and responsibilities.). In addition, the segregation imposes a significant work-related burden on Mr. Singh, as his workload is considerably greater than his fellow DSAs.

It would impose no undue hardship on Disney to reasonably accommodate Mr. Singh’s religious beliefs by permitting him to service all mail routes and obtain all training necessary for

advancement. The purpose of Disney's Look Policy, as applied to DSAs, does not relate to health or safety.³ Rather, Disney has described its appearance policy as "a fresh, clean and approachable look, ensuring that every guest feels comfortable with our entire cast."⁴ Companies may not rely on customers' discriminatory preferences or maintenance of a corporate image to justify segregating employees, as noted above. *See, e.g.*, EEOC, Compliance Manual § 47(C)(4)(a) (uniform and grooming standards); *EEOC v. Abercrombie & Fitch Stores, Inc.*, No. 4:11-cv-03162-YGR (N.D. Ca. Sept. 3, 2013). As Disney's justifications for the policy relate only to maintaining a certain image and customer comfort, providing Mr. Singh with a religious accommodation would not impose any cost on Disney.

Notably, Disney's Look Policy does not require employees to be clean-shaven or prohibit all beards. Rather, the policy allows facial hair up to "a quarter of an inch in length" and states that any facial hair must be "neatly groomed and well maintained."⁵ Mr. Singh's beard is, in fact, "neatly groomed and well maintained." He gathers his beard and ties it neatly, pushed against his chin. He uses gel to ensure that his facial hair remains neat and tidy. It is, thus, only the length of Mr. Singh's beard that deviates from the Disney Look Policy. Disney would not endure more than a *de minimis* cost (or, indeed, any cost) by allowing him to service routes visible to Disney guests.

Likewise, Disney would incur no undue hardship by accommodating Mr. Singh's turban. Disney has already granted religious headwear accommodations to at least two of its employees in customer contact positions. For example, in 2010, Disney granted a Muslim woman hired for a (paid) internship as a vacation planner an accommodation to wear her hijab in a customer contact position.⁶ Similarly, in 2012, Disney granted another Muslim employee, Imane Boudlal, an accommodation to wear her hijab in her position as a hostess at Storytellers Cafe.⁷

Finally, as you are likely aware, Mr. Singh's attempts to end Disney's unlawful discrimination towards him constitute protected activity under Title VII. The statute makes unlawful retaliation by an employer against an employee for engaging in protected activity. We will not tolerate any retaliation against Mr. Singh for attempting to exercise his rights.

³ *Cf. Bhatia v. Chevron U.S.A.*, 734 F.2d 1382 (9th Cir. 1984) (holding that a requirement that all machinists be clean-shaven was necessary because all machinists needed to be able to wear a respirator with a gas-tight facial seal).

⁴ Janna Oberdorf, *The Secret Behind the Magic of Disney*, NYULIVEWIRE, http://journalism.nyu.edu/publishing/archives/livewire/archived/the_secret_behind_the_magic_of (last visited Oct. 2, 2014).

⁵ Guidelines for All Male Cast Members, *available at* <http://cp.disneycareers.com/en/onboarding/fl/working-here/disney-look/male-cast-members/>.

⁶ Disney Agrees to Allow Hijab for Ill. Muslim Intern, CAIR, Sept. 27, 2010, *available at* <http://www.cair.com/press-center/press-releases/3566-disney-agrees-to-allow-hijab-for-ill-muslim-intern.html>.

⁷ Muslim Former Employee Sues Disney for Discrimination, ACLU, Aug. 13, 2012, *available at* <https://www.aclusocal.org/muslim-former-employee-sues-disney/>.

We are prepared to take all necessary legal action to vindicate Mr. Singh's rights. Please respond by June 22, 2015 to Heather Weaver or Gurjot Kaur. In the meantime, please do not hesitate to contact us if you have any questions or would like to discuss this matter further.⁸

Respectfully,

Heather L. Weaver
Daniel Mach
ACLU Program on Freedom of Religion and Belief
hweaver@aclu.org
dmach@aclu.org
[REDACTED]

Gurjot Kaur
Harsimran Kaur
The Sikh Coalition
gurjot@sikhcoalition.org
harsimran@sikhcoalition.org
[REDACTED]

cc:
Jayne Parker, Chief Human Resources Officer
Steve Crowley, Vice President

⁸ Although we hope to resolve this matter quickly and without litigation, please preserve all materials (including digital evidence) relating to the practices discussed above. *See, e.g., Graff v. Baja Marine Corp.*, 310 F. App'x 298, 301 (11th Cir. 2009) (noting duty of a party to “preserve property for another’s use as evidence in pending or reasonably foreseeable litigation” (quoting *West v. Goodyear Tire & Rubber Co.*, 167 F.3d 776, 779 (2d Cir.1999))).