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14 Sara Khalil Farsakh, et al.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF ORANGE**

17 SARA KHALIL FARSAKH, an individual;
18 SOONDUS AHMED, an individual; RAWAN
19 HAMDAN, an individual; SARA C., an
20 individual; YUMNA H., an individual; SAFA
21 R., an individual; MARWA R., an individual;

22 Plaintiffs,

23 v.

24 URTH CAFFE CORPORATION; URTH
25 CAFFE LAGUNA BEACH DEVELOPMENT,
26 LLC; URTH PAYROLL SERVICES, INC.; and
27 URTH CAFFE ASSOCIATES VI, LLC.

28 Defendants.

Case No: 30-2016-00849787-CU-CR-CJC

Judge John C. Gastelum

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES**

1. **Violation of the Unruh Civil Rights Act.**

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. Plaintiffs are a group of seven young Muslim women who sought to enjoy each other's company on the evening of April 22, 2016, during a night out at Defendant Urth Caffé's Laguna Beach-based café and restaurant. Urth Caffé is a local café chain known to sell premium coffee and healthy meals to customers, and had just opened the Laguna Beach location in 2015. It is also well-known as an establishment regularly frequented by Muslims, including sizeable populations of tourists and students from the Arabian Gulf who can enjoy its late-night but alcohol-free amenities. Plaintiffs' evening together came followed a series of racially charged incidents at the café in which its Muslim clientele were targeted by local neighbors unnerved by the increasing presence of Muslims in the otherwise monolithically white city of Laguna Beach. In recent weeks and months, Muslim customers experienced a number of hate crimes while at the location, including egg throwings, tire slashings, and the yelling of racial slurs directed at them.

2. In the context of a neighborhood rankled by the presence of young Muslims at the restaurant, Urth Caffé management responded not by protecting its patrons from these racist incidents, but punishing them. That night, Plaintiffs—six of whom wear a *hijab*, the Muslim headscarf—gathered at the Urth Café, collected a group of three small tables in the outside patio of the location at the entrance of the café, and ordered various food and drinks for the evening. But not long after receiving their meals, and with barely enough time to enjoy their purchases, Urth Caffé ordered them to vacate the premises ostensibly because they had violated the café's policy of limiting seating time to 45 minutes during peak hours. But Plaintiffs protested, pointing out that the location was half-empty with numerous vacant tables and the line at the counter being manageably short. Despite the presence of empty tables in the restaurant, management insisted on the removal of Plaintiffs, and called its own hired security guard and, eventually, local police to evict the women.

3. Humiliated, Plaintiffs were forced to give up their seats at the entrance of the restaurant. Other customers expressed their support for Plaintiffs, including a couple of non-Muslim women who were shocked at Plaintiffs' treatment as they had been seated at tables far longer than Plaintiffs had but were not instructed to leave. Urth Caffé's removal of Plaintiffs was motivated not by Plaintiffs' violation of any company policy, but by its desire to cleanse the restaurant of visibly Muslim patrons who have

1 been targets of recent neighborhood hate.

2 4. Urth Caffé's discriminatory refusal to serve and seat Plaintiffs violated not only the basic
3 ethical obligation of businesses who open their doors to the diverse Southern California public, but also
4 established California law that prohibits discrimination in public accommodations. By this action,
5 Plaintiffs seek to enjoin the discriminatory application of Urth Caffé policies that resulted in their refusal
6 of service at Urth Caffé, and to vindicate their right to be free from open discrimination on account of
7 their faith.

8 II. PARTIES

9 5. Plaintiff Sara Khalil Farsakh is a 29-year-old Muslim woman who resides in Orange
10 County, California.

11 6. Plaintiff Soondus Ahmed is a Muslim woman in her late 20s who resides in Orange
12 County, California.

13 7. Plaintiff Sara C. is a 24-year-old Muslim woman who resides in Orange County,
14 California.

15 8. Plaintiff Yumna H. is a 25-year-old Muslim woman who resides in Orange County,
16 California.

17 9. Plaintiff Safa R. is a 27-year-old Muslim woman who resides in Orange County,
18 California.

19 10. Plaintiff Marwa R. is a 26-year-old Muslim woman who resides in Orange County,
20 California.

21 11. Plaintiff Rawan Hamdan is a 27-year-old Muslim woman who resides in the county of
22 Jordan. Ms. Hamdan is an American citizen born in California who was visiting family and friends in
23 April 2016 when this incident occurred.

24 12. Defendant Urth Caffé Corporation is and was, at all relevant times herein, a California
25 corporation. According to its website, Jilla and Shallom Berkman founded Urth in 1989, and opened
26 their first location in 1991 in Manhattan Beach, California. Urth now operates five cafes in Southern
27 California, the newest one in Laguna Beach, and currently employs more than 400 "team members."

28 13. Defendant Urth Caffé Laguna Beach Development, LLC is and was, at all relevant times

1 herein, a California limited liability company. Plaintiffs are informed and believe and thereupon allege
2 that Urth Caffé Laguna Beach Development, LLC is in part responsible for and assists in the
3 management and operation of the Urth Caffé Laguna Beach restaurant and café.

4 14. Defendant Urth Payroll Services, Inc. is and was, at all relevant times herein, a California
5 corporation. Plaintiffs are informed and believe and thereupon allege that Urth Payroll Services, Inc. is
6 in part responsible for and assists in the management and operation of the Urth Caffé Laguna Beach
7 restaurant and café.

8 15. Defendant Urth Caffé Associates VI, LLC is and was, at all relevant times herein, a
9 California limited liability company. Plaintiffs are informed and believe and thereupon allege that Urth
10 Caffé Associates VI, LLC is in part responsible for and assists in the management and operation of the
11 Urth Caffé Laguna Beach restaurant and café.

12 16. Plaintiffs are informed and believe and thereupon allege that, at all times material herein,
13 each of the Defendants was the agent or employee of, and/or working in concert with, his/her co-
14 Defendants and was acting within the course and scope of such agency, employment, and/or concerted
15 activity. Plaintiffs allege that, to the extent certain act and omission were perpetrated by certain
16 Defendants, the remaining Defendant(s) confirmed and ratified said acts and omissions.

17 17. Whenever and wherever reference is made in this complaint to any conduct by
18 Defendants, such allegations and references shall also be deemed to mean the conduct of each of the
19 Defendants, acting individually, jointly, and severally.

20 III. FACTUAL ALLEGATIONS

21 A. Urth Caffé's Laguna Beach location

22 18. According to Urth Caffé's website, Jill and Shallom Berkman founded Urth Caffé in
23 1989, and opened its first café in Manhattan Beach in 1991. Since then, Urth Caffé has opened an
24 additional four locations in Southern California, with the latest in Laguna Beach opening in 2015. It
25 employs over 400 "team members" across its five locations, main kitchen, and corporate offices.

26 19. Urth Caffé prides itself as "the nation's first exclusively organic, heirloom coffee
27 company," since expanding to providing "healthy light meals and desserts" to its customers in its five
28 different locations.

1 20. Urth Caffé locations are typically open for approximately 18 hours per day, and close at
2 midnight on Friday and Saturday nights.

3 21. In recent times, Urth Caffé has become a popular location for many Muslims who can
4 enjoy a late-night meal and drinks in a setting that does not serve alcohol. This is particularly true of the
5 Laguna Beach location, which has become a destination for many of the large Muslim American
6 population who live in Orange County as well as visiting tourists and students from the Arab Gulf.

7 22. The increasing presence of Muslims at Urth's Laguna Beach location has caused tension
8 between the Muslim clientele and the local community. In recent months leading up to Plaintiffs'
9 expulsion, Urth Caffé has been the site of a number of hate crimes targeting visibly Muslim restaurant
10 patrons. In March and April of 2016, groups of Muslim customers were subjected to egg throwings, tire
11 slashings, and racial taunts and epithets while seated at Urth Caffé from locals unnerved by the
12 increasing presence of Muslims in their community—despite Orange County being home to one of the
13 largest Muslim American populations in America. Upon information and belief, Urth Caffé staff and
14 management were aware of these racially charged incidents occurring in the Laguna Beach café at the
15 time Plaintiffs gathered there.

16 **B. Urth Caffé's eviction of Plaintiffs**

17 23. On April 22, 2016, rather than take proactive steps to ensure that Muslim clients felt
18 welcome at their location, Urth Caffé appeased the taunters, eggthrowers, and tire slashers by attempting
19 to cleanse the location of the visibly Muslim Plaintiffs.

20 24. That night, at approximately 6:50 p.m., Plaintiffs gathered at Urth Caffé Laguna Beach
21 for an evening meal and drinks together, intending to stay for a number of hours as is regular custom for
22 themselves and other Caffé customers.

23 25. This particular Urth Caffé location is comprised of two general seating areas, an indoor
24 cafe with numerous tables, and an outdoor patio that wraps around the recently constructed craftsman-
25 style building. Patrons wishing to dine in order their food and drinks at a counter located inside the café,
26 then are provided with numbers to place on the tables of their choosing. Staff then bring restaurant
27 patrons their orders.

28 26. At the time of the incident, Urth Caffé management placed written placards on each table

1 that state, among other instructions, that “During our busy rush times, if you have already been at a table
2 for 45 minutes or longer, please share or give your table to someone who is waiting. If tables are
3 available, you are certainly welcome to enjoy Urth for as long as you desire.” During peak hours, the
4 café is known to have little available seating either indoors or outside, with a counter line that would
5 overflow from inside into the outdoor space and wrap around the patio’s corner.

6 27. The night of April 22 was not one of those occasions. Although a number of tables were
7 occupied by guests of the café, over 20 tables inside and outside were empty and the line at the counter
8 was only a few individuals’ long.

9 28. Plaintiffs placed their initial orders for dinner between 7:09 p.m. and 7:15 p.m., and
10 proceeded to wait for their food to arrive at the three tables they reserved outside. Their reserved tables
11 were close to the entry staircase that led from the street into the café, and would have put Plaintiffs in
12 plain view of bystanders who could see restaurant patrons from the street.

13 29. Plaintiffs waited anywhere from 10 to 30 minutes for their dinner orders to arrive. Of the
14 seven Plaintiffs, five had ordered coffee along with their dinner, and three of those requested the coffee
15 be served after completing dinner. As was customary, café staff served the coffee to those Plaintiffs after
16 they finished their meal, two of which was served between approximately 8:00 p.m. and 8:10 p.m.

17 30. Along with their food and coffee, two Plaintiffs ordered desserts to share with the group,
18 which were made immediately available from the counter.

19 31. At approximately 8:00 p.m., an Urth Caffé manager came to Plaintiffs’ table to ask if
20 Plaintiffs were waiting on any additional orders. Plaintiffs responded that they were waiting on one
21 additional coffee order which had not arrived.

22 32. Following the initial orders, Plaintiff Yumna H. ordered coffee and dessert between 8:05
23 and 8:10 p.m. She received her order at approximately 8:13 p.m.

24 33. At approximately 8:15 p.m., the same Urth Caffé manager came to Plaintiffs’ table and
25 instructed them that they needed to leave within ten minutes. The manager explained that Urth Caffé
26 staff expected a busy evening and needed to clear tables of patrons who had been seated for longer than
27 45 minutes. Plaintiffs responded that ten minutes would not be enough time for them to complete their
28 food, and that they had recently ordered desserts and coffee. At the time, for instance, Plaintiff Yumna

1 H. had just received her order for coffee a few moments before the manager's arrival, and had not had
2 the opportunity to enjoy it. In addition, two of the other Plaintiffs received their drinks between
3 approximately 8:00 p.m. and 8:10 p.m. The manager refused to budge, and informed them that his
4 instruction to vacate the café stood.

5 34. Plaintiffs questioned whether the manager had instructed other customers to leave their
6 tables. He responded that he was instructing anybody who was seated longer than 45 minutes to leave
7 the restaurant. This was untrue, as management had not instructed a group of white women to vacate the
8 restaurant despite them having been seated at a table next to Plaintiffs before Plaintiffs took their seats.

9 35. Again, Plaintiffs attempted to reason with the manager, informing him that per the
10 written policy in front of them, the empty tables at the restaurant meant that Plaintiffs could stay at the
11 café "as long as [they] desire[d]." Again, the manager refused. Throughout this incident, the manager's
12 tone was abrupt, brusque, and morphed into outright mocking and jeering.

13 36. Shortly thereafter, a security guard employed by Urth Caffé appeared and informed
14 Plaintiffs that management had instructed him to escort Plaintiffs out of the café. Following questioning
15 by Plaintiffs, the guard informed Plaintiffs that he had never been asked to enforce the 45-minute policy
16 when tables were available.

17 37. Moments later, two Laguna Beach Police Department officers, Corporal Derek Short and
18 Officer Zack Fillers, arrived at the behest of Urth Caffé staff. Plaintiffs informed the officers they were
19 being ejected from the café, and why management's decision was inconsistent with their written policy
20 to costumers. Although the police officers sympathized with Plaintiffs and agreed that they were not
21 breaking any Urth policy, the officers informed Plaintiffs that they nevertheless were obliged to
22 effectuate management's decision to expel them. According to a subsequent story written by the *OC*
23 *Weekly*, Corporal Short said "the women asked to leave were very nice, cooperative and still had their
24 desserts and coffees on their tables."

25 38. Humiliated by their expulsion in plain sight of other Urth customers, Plaintiffs reluctantly
26 left the café at the police officers' instructions.

27 39. Upon information and belief, the only patrons of the restaurant asked to leave that
28 evening were Middle Eastern or Muslim-looking. Other non-Muslim customers seated at tables for as

1 long as (if not longer) than Plaintiffs were not asked to leave.

2 40. Plaintiffs' discriminatory treatment comes in the context of repeated racially charged
3 incidents targeting Muslims at the Laguna Beach Urth Caffé. Familiar with the treatment its Muslim
4 clientele was receiving in the months leading up to this incident, Urth Caffé management appeased the
5 groups who attacked Muslims by choosing to target for expulsion Plaintiffs who were conspicuously
6 seated at the front of the Caffé, likely in an effort to avoid drawing the attention of those who disliked
7 the presence of Muslims in the restaurant. Rather than dealing constructively with the problem of racism
8 at its location, Urth Caffé instead decided to punish Plaintiffs.

9 **C. Aftermath of Plaintiffs' expulsion**

10 41. The following day, Plaintiff Sara Farsakh wrote a brief exposition of the incident on
11 Facebook, a post that soon went viral and captured the attention of *The Huffington Post*, the
12 aforementioned *OC Weekly*, local television station KABC Channel 7, and other media outlets. Urth
13 Caffé Laguna Beach responded to Farsakh's post on April 25 by stating that "we do apologize to you
14 and your friends for the unfortunate incident" and that they "do not believe our trained employees would
15 act in such a way."

16 42. One day later, on April 26, Urth Caffé changed its tune, posting on its own Facebook
17 page that it "categorically denies" all discrimination claims and alleging that Plaintiffs "violated
18 company policies and that the staff at Urth Caffé in Laguna properly and justifiably applied company
19 procedures." Urth Caffé owner Shallom Berkman offered a non-apology, stating that "We're very sorry
20 that [Plaintiff Sara Farsakh] has this feeling that this was something racist, but that is just not the case."

21 43. Upon information and belief, Urth Caffé directed the posting of an anonymous message
22 to an online social media page called "Bitchy Waiter" purporting to be from an Urth Caffé employee
23 who wanted "to make sure their side of the story is heard too." The anonymous message erroneously
24 claimed that Plaintiffs were at the restaurant for four hours, that the party was comprised of 12
25 individuals only four of whom ordered meals, that Plaintiffs yelled at staff, and that the owner "knew of
26 the entire event and agreed that after [Plaintiffs] started yelling we needed to get the police involved[.]"
27 This post has itself been widely shared, with many commenters using it as a forum to attack and vilify
28 Plaintiffs. Urth Caffé both instigated the post and allowed the hateful response to Plaintiffs to flourish

1 online without attempting to remove the post.

2 44. Since the demeaning events of April 22, Plaintiffs have suffered persistent feelings of
3 embarrassment, shame, and humiliation following their discriminatory treatment by Urth Caffé
4 personnel. Plaintiffs have become the subject of public ridicule and scrutiny, particularly on social
5 media. Urth Caffé's failure to take responsibility for its actions has only exacerbated these feelings.

6 **IV. CLAIM FOR RELIEF**

7 **FIRST CAUSE OF ACTION**

8 **Discrimination on the Basis of Religion**

9 **(Violation of Cal. Civil Code § 51—Against All Defendants)**

10 45. Plaintiffs reallege and incorporate by reference each and every allegation contained in the
11 preceding paragraphs as though fully set forth herein.

12 46. The Unruh Civil Rights Act, codified at California Civil Code section 51 subdivision (b),
13 states "All persons within the jurisdiction of this state are free and equal, and no matter what their sex,
14 race, color, religion, ancestry, national origin, disability, or medical condition are entitled to the full and
15 equal accommodations, advantages, facilities, privileges, or services in all business establishments of
16 every kind whatsoever." Enacted in 1959, the Unruh Civil Rights Act amended an 1897 version of Civil
17 Code section 51 that was declarative of a common law doctrine requiring places of public
18 accommodation "to serve all customers on reasonable terms without discrimination and ... to provide
19 the kind of product or service reasonably to be expected from their economic role." *In re Cox*, 3 Cal.3d
20 205, 212 (1970).

21 47. The Unruh Civil Rights Act applies to restaurants like Urth Caffé operated by
22 Defendants, and prohibits the kind of religiously-motivated discrimination suffered by Plaintiffs on
23 April 22, 2016. On that night, Defendants refused to provide equal access to their facility to Plaintiffs on
24 account of their religion by singling them out for expulsion, despite Plaintiffs not having violated any
25 Urth Caffé policies and despite other non-Muslims not receiving the same treatment.

26 48. Defendants' decision was substantially motivated by Plaintiffs' religion, which from their
27 wearing of a *hijab* was conspicuous. Upon information and belief, Defendants wished to avoid a racist
28 backlash that had been emerging against their Muslim clientele by expelling those who appeared

1 Muslim from the conspicuous tables of the café near its entrance.

2 49. As a direct and proximate cause of Defendants' actions, Plaintiffs were unable to enjoy
3 Defendants' restaurant. Plaintiffs have suffered and will continue to suffer emotional and psychological
4 injuries, including, but not limited to, intimidation, humiliation, embarrassment, anxiety, and other
5 forms of emotional distress. Plaintiffs are thereby entitled to compensatory damages in amounts to be
6 proven at trial.

7 50. The conduct of Defendants through their agents as described herein was malicious,
8 fraudulent, and oppressive and/or done with the knowledge that they were acting in violation of state
9 law, and/or with a willful and conscious disregard for Plaintiffs' rights and for the deleterious
10 consequences of their actions. Consequently, Plaintiffs are entitled to punitive damages.

11 51. Finally, Defendants' ongoing *de facto* policy of applying their seating policy in
12 discriminatory fashion to Muslims violates the Unruh Civil Rights Act, and entitles Plaintiffs to
13 injunctive relief to prohibit such discriminatory refusal of Defendants' services in the future.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs demand a trial by jury on all issues so triable.

16 **PRAYER FOR RELIEF**

17 Plaintiffs respectfully request the following judgment and relief:

- 18 1. Compensatory damages including mental and emotional distress and other special and
19 general damages according to proof but in excess of the jurisdictional threshold of this Court;
20 2. Injunctive and other equitable relief;
21 3. Punitive damages on all claims for which such damages are recoverable;

22 ///

23 ///

24 ///

4. Reasonable attorneys' fees and costs;
5. Interest, including pre-judgment interest, at the legal rate; and
6. Such other relief as this Court may deem just and equitable.

Dated: May 2, 2016

Respectfully submitted,

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