



1 Jay R. Strauss, State Bar No.: 58409  
 2 David C. Winton, State Bar No.: 152417  
 3 WINTON STRAUSS LAW GROUP, P.C.  
 4 2 Ranch Drive, Novato, CA 94945  
 5 Tel. (415) 985-2111  
 6 Fax. (415) 985-2112  
 7 JRS@wintonstrauss.com

**FILED**  
**ALAMEDA COUNTY**

SEP 06 2019  
 CLERK OF THE SUPERIOR COURT  
 By Debra [Signature] Deputy

8 Attorneys for Price

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

9 Raymond Price,  
 10 Plaintiff,  
 11 vs.  
 12 Southwest Airlines, Co., a foreign  
 13 corporation doing business in California,  
 14 and DOES 1 through 20,  
 15 Defendants;

) Case No.: **RG19034038**  
 ) **COMPLAINT FOR DAMAGES:**  
 ) **Discrimination in Employment;**  
 ) **Intentional Infliction of Emotional**  
 ) **Distress; Violation of Labor Code 96(k);**  
 ) **Violation of Labor Code 1101(b);**  
 ) **Wrongful Termination in Violation of**  
 ) **Public Policy; Unfair Business**  
 ) **Practices**  
 )  
 ) **JURY TRIAL DEMANDED**

16  
 17 Plaintiff Raymond Price alleges:

**STATEMENT OF THE CASE**

18 1. This is an action by Raymond Price ("Price"), an African American, who at  
 19 the time of his wrongful termination was employed by defendant Southwest Airlines,  
 20 Co., a foreign corporation doing business in California ("SWA"). Price was employed  
 21 as a Ramp Manager by SWA at the Oakland Airport, in Alameda County, California.  
 22 2. Price was subjected to discrimination in the workplace based on his race  
 23 and African American heritage, as more fully alleged hereinafter. SWA also violated  
 24 California Labor Code ("Labor Code") provisions protecting workers' off-duty lawful  
 25 activities and political activities.

**Filed By Fax**



1           11. Price did not publish or broadcast "*Pocket Full of Change*" at SWA.

2           12. In a letter dated March 1, 2019 (the "Termination Letter") SWA terminated  
3 Price's employment solely based on his off-duty production of *Pocket Full of Change*,  
4 citing a violation of its policy against "*derogatory language including epithets or slurs.*"  
5 The Termination Letter recites that although Price stated that he did not intend *Pocket*  
6 *Full of Change* to be " ... *circulated, the video was inadvertently posted on social media*  
7 ..."

8           13. *Pocket Full of Change* does not contain "*derogatory language, epithets or*  
9 *slurs.*" On the contrary, in the context in which it is used, the language SWA objected to  
10 is a cultural trope within the African American community used when addressing other  
11 members of that community and expressing brotherhood, friendship and shared  
12 experience in what has been and still is a society burdened by its racist history. The  
13 language of *Pocket Full of Change* reflects a repurposing of a term that has historically  
14 been employed by racists, but in the context of *Pocket Full of Change* it expresses a  
15 purely positive message.

16           14. The action of SWA in terminating Price's employment is a form of cultural  
17 racism in which the everyday language of the African American community is used as a  
18 pretext for overt race-based discrimination in employment. Price was fired for  
19 expressing a usage closely identified with a distinct subgroup of contemporary African  
20 Americans, including, for example, young black men and women who, like Price,  
21 produce and/or listen to hip-hop music.

22           15. *Pocket Full of Change* contains lyrics which, in the context of  
23 contemporary race relations in the United States (for example, the controversies  
24 surrounding the Black Lives Matter movement and the Colin Kaepernick protest) are by  
25 their nature "political." California law protects employees from adverse employer  
actions which enforce policies that seek to control or influence political expression (see,  
e.g., Labor Code Sec. 1101et seq.). As noted by one prominent commentator:

"Hip-hop has redefined the word [i.e., *nigga*]. It can mean a number of things. It can be a  
term of admiration. It can be a term of recognition. Hip hop is inherently political, the  
language is political. It uses language as a weapon — not a weapon to violate or not a  
weapon to offend, but a weapon that pushes the envelope that provokes people, makes  
people think. Hip-hop culture, with its street rhythms and explicit lyrics, is more relevant

1 in advancing civil rights today than the peaceful messages of Rev. Martin Luther King  
2 Jr." (Todd Boyd, professor of critical studies at the University of Southern California and  
3 author of the book "The New H.N.I.C.: The Death of Civil Rights and the Reign of Hip  
4 Hop.")

4 The United States Supreme Court has recently stated:

5 *Although the boundaries of what constitutes speech on matters of public concern are not*  
6 *well defined, this Court has said that speech is of public concern when it can "be fairly*  
7 *considered as relating to any matter of political, social, or other concern to the*  
8 *community," [citation], or when it "is a subject of general interest and of value and*  
9 *concern to the public," [citation]. A statement's arguably "inappropriate or controversial*  
10 *character ... is irrelevant to the question whether it deals with a matter of public*  
11 *concern [citation]." Snyder v. Phelps, 562 U.S. 443 (2011)*

#### 10 **FIRST CAUSE OF ACTION**

#### 11 **Discrimination in Employment Based on Race**

12 16. Price realleges, as if fully set forth herein, paragraphs 1 through 15 of this  
13 Complaint.

14 17. Price's employment was wrongfully terminated by SWA because of his  
15 race and his expression of a cultural trope associated with his race. Such discrimination  
16 violates the Fair Employment and Housing Act ("FEHA"), various other California  
17 Codes, the California Constitution, and other statutes and common laws.

18 18. SWA was obligated by said laws to refrain from discharging Price on the  
19 bases complained of in the preceding paragraphs.

20 19. As the direct and foreseeable result of the aforesaid acts of SWA, Price  
21 has lost and will continue to lose income in an amount to be proven at the time of trial.  
22 Price has also incurred attorney fees. Price claims such amount as damages together  
23 with prejudgment interest pursuant to Civil Code Section 3287 and/or any other  
24 provision of law providing for prejudgment interest.

25 20. As a result of the aforesaid acts of SWA, Price has become mentally and  
physically upset, distressed, and aggravated. Price claims general damages for such  
physical and emotional distress and aggravation in a sum to be proven at trial.

21 21. Because the actions taken toward Price by SWA, and their agents, were  
22 done in a deliberate, cold, callous, malicious, despicable, and intentional manner in

1 order to injure and damage Price, in conscious disregard of Price's rights, Price  
2 requests an assessment of punitive damages against the SWA in an amount to be  
3 proven at the time of trial.

4 **SECOND CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**

5 22. Price realleges, as if fully set forth herein, paragraphs 1 through 21 of this  
6 Complaint.

7 23. When SWA and their agents and employees, committed the acts  
8 complained of herein, they did so deliberately and intentionally to cause Price to suffer  
9 humiliation, mental anguish, physical harm, loss of his job and income, and emotional  
10 distress.

11 24. As a proximate consequence of the wrongful acts against Price by said  
12 SWA, Price has suffered lost earnings, emotional distress, and other general special  
13 damages.

14 25. Because the actions taken toward Price by SWA and their agents and  
15 employees, were done in a deliberate, cold, callous, malicious, despicable, and  
16 intentional manner in order to injure and damage Price, in conscious disregard of  
17 Price's rights, Price requests an assessment of punitive damages against defendant(s)  
18 in an amount to be proven at the time of trial.

19 **THIRD CAUSE OF ACTION**  
**Violation of California Labor Code 96(k)**

20 26. Price realleges, as if fully set forth herein, paragraphs 1 through 25 of this  
21 Complaint.

22 27. California Labor Code Section 96(k) makes the following illegal:

23 *"... demotion, suspension, or discharge from employment for lawful conduct  
24 occurring during nonworking hours away from the employer's premises."*

25 28. Price was discharged for recording *Pocket Full of Change*, which was  
both lawful and away from SWA's premises, while Price was off-duty.

26 29. As a proximate consequence of the wrongful acts against Price by SWA,  
27 Price has suffered lost earnings, emotional distress, and other general and special  
28 damages, subject to proof.





1           45. All the acts described herein as violations of, among other things, FEHA  
2 and the Labor Code are unlawful and in violation of public policy; and in addition are  
3 immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair and  
4 unlawful business practices in violation of Cal. Bus. & Prof. Code 17200 et seq.

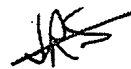
5           46. Price is entitled to, and does, seek such relief as may be necessary to  
6 restore to him the money and property which SWA has acquired, or of which Price has  
7 been deprived, by means of the above described unfair and unlawful business  
8 practices.

9           WHEREFORE, Price prays for judgment against SWA, and each defendant,  
10 according to proof as follows:

- 11 1. For a preliminary and permanent injunction against SWA to purge Price's  
12 employment records of all derogatory information and to preclude the dissemination  
13 of that information to prospective employers, employees or other persons;
- 14 2. For a preliminary and permanent injunction against SWA to return Price to his  
15 employment at the position and location existing at the time of his termination, with  
16 all appropriate pay increases and promotions that would have accrued to him had  
17 he not been wrongfully terminated;
- 18 3. For general damages according to proof;
- 19 4. For special damages according to proof;
- 20 5. For Interest or compensatory damages at the legal rate from the date of injury or  
21 pursuant to Code of Civil Procedure Section 3291;
- 22 6. For other compensatory damages for emotional distress and other economic and  
23 non-economic losses;
- 24 7. For punitive and exemplary damages;
- 25 8. For statutory damages pursuant to the Labor Code;
9. For attorney fees as allowed by law;
10. For costs and expenses of suit incurred herein; and
11. For other just and proper relief.

Dated: September 5, 2019

Winton Strauss Law Group, P.C.



By: \_\_\_\_\_  
Jay R. Strauss