

**BEFORE THE DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, D.C.**

AYASKANT SAHU, SUSMITA SAHU
AND THEIR MINOR CHILD

v.

AEROFLOT – RUSSIAN AIRLINES

Docket _____

**COMPLAINT OF AYASKANT SAHU, SUSMITA SAHU AND THEIR MINOR
CHILD**

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COMPLAINT OF AYASKANT SAHU, SUSMITA SAHU, AND MINOR CHILD

Muslim Advocates and Lewis Baach Kaufmann Middlemiss PLLC respectfully submit this complaint to the U.S. Department of Transportation (“DOT”) on behalf of three United States Lawful Permanent Residents who were subjected to grossly discriminatory treatment by Aeroflot Russian Airlines (“Aeroflot”) in January 2018. What should have been a routine return flight home turned into a harrowing ordeal after Aeroflot staff steadfastly refused to allow these American residents who were, or who were perceived to be, of South Asian descent to return to the United States, “deporting” them instead to India — all while providing customers on the same flight who were, or who were perceived to be White Americans, with accommodations and connecting flights to the United States. Aeroflot’s treatment of these American residents was not only unjust and unfair, it also violates Aeroflot’s internal protocols as well as federal aviation and nondiscrimination laws. Accordingly, we urge DOT to conduct a full and thorough investigation of this matter.

SUMMARY OF FACTS

On January 7, 2018, a family of three United States residents of South Asian descent, Ayaskant and Susmita Sahu and their minor daughter (collectively, “the Sahus”), were returning home on Aeroflot after a trip to India.¹ Upon landing in Moscow at 6:00 am, where they were expecting to catch their connecting flight to New York’s John F. Kennedy International Airport (“JFK”),² the Sahus learned that their flight had been canceled due to inclement weather. Aeroflot staff requested the passengers to return at

¹ The Passengers flew on Aeroflot Flight SU233 from Indira Gandhi Airport in New Delhi to the Sheremetyevo Airport in Moscow. Aeroflot’s confirmation code for this trip is “HUTVVQ”.

² The connecting flight was Aeroflot SU102.

10:00 am for an update. Upon returning at 10:00 am, Aeroflot again asked the passengers to return later — this time at 1:00 pm.

As instructed, the passengers returned at 1:00 pm. It was at this juncture that Aeroflot employees began engaging in grossly discriminatory conduct towards passengers whom they perceived to be of South Asian descent. Specifically, when the Sahus — along with the dozens of other travelers who were perceived by Aeroflot of being of South Asian descent (“South Asian Travelers”), including a group of five American citizens who have also raised complaints of discrimination pertaining to the same flights before this same agency³ — arrived for the 1:00 pm update, they were informed that no seats were available on a later flight to New York and that Aeroflot’s partner airlines, which operate alternative routes to the United States through Europe, were already fully booked and also unavailable. Aeroflot staff further informed the Sahus and the South Asian Travelers that they would not be provided with any accommodations while they remained stranded in Moscow’s airport.⁴

An Aeroflot representative, identified by his name tag as “Mikhail,” then informed the Sahus and the South Asian Travelers that Aeroflot would not be issuing them transit visas, and as a result, they could not stay in Moscow for more than 24-hours due to Russian regulations. As such, Mikhail informed them that their only choice would be to “go back to India” on a later flight or “face criminal proceedings” and be forcibly “deported” to India by Russian officials. At one point in time, Mikhail stood on a chair

³ The Formal Complaint was filed on March 22, 2018 on behalf of Marc Fernandes, Shahana Islam, Sabiha Islam, Bakiul Islam, and Anshul Agrawal (collectively, the “US Citizen Passengers”). *See* Docket DOT-OST-2018-0043

⁴ As explained in greater detail below, such actions violated Aeroflot’s own internal policies.

or table so that he can be heard by all the South Asian Travelers in the waiting area, and reiterated those same statements.

Some South Asian Travelers — including the Sahus — repeatedly informed Mikhail and other Aeroflot staff that they could not be “deported” to India because they were United States citizens and/or residents. As proof, the Sahus showed Aeroflot staff their United States green cards while many others showed their US passports. Mikhail and the other employees refused to listen; as Mikhail grew increasingly frustrated and angry, he began threatening the Sahus and the South Asian Travelers with civil and criminal sanctions, including forfeiture of their Aeroflot tickets if they refused to accept that they were “Indians” who had to return “back to India.” He also stated that their luggage had already been sent back to New Delhi. He then left to speak with other Aeroflot staff.

During Mikhail’s absence, a different Aeroflot employee with the name tag “Kitora” acknowledged to the Sahus and the South Asian Travelers that Aeroflot had been diverting other passengers who had been stranded in Moscow through return flights via Europe. Kitora expressed surprise that such an option had not been provided to them, and she reassured them that United States citizens and/or residents would not only avoid “deportation” to India but that they would have priority for Aeroflot’s flight that evening to JFK. As Kitora was explaining that many United States citizen travelers had already been issued their boarding passes for that flight, Mikhail returned with boarding passes to New Delhi for the Sahus. Kitora left to speak with other customers, and when the Sahus, along with other South Asian Travelers informed Mikhail what Kitora had just explained about the flight to JFK, he became combative and rude.

The Sahus then waited an hour to speak again with Kitora, who was busy assisting other South Asian Travelers who had overheard what she said to the Sahus and were also seeking assistance. Although Kitora initially took the Sahus' documents to assist them, she left to confer with her supervisors and upon returning, exhibited a markedly changed demeanor: suddenly, she refused to engage with *any* of the South Asian Travelers, including the Sahus, instead repeatedly stating that there was nothing she could do for them. Other Aeroflot representatives, who initially had no problems communicating with the Sahus in English, also began expressing their difficulty in understanding the South Asian Travelers in an attempt to avert their questions.

Mikhail, meanwhile, had left again to speak with other Aeroflot officials. Upon returning, he abruptly informed the Sahus that they had been placed on the list for the 7:50 pm flight to New Delhi. Video footage taken at this time shows Mikhail holding up one of the U.S. Citizen South Asian Travelers' United States passport and threatening them with deportation as he angrily informed passengers of South Asian descent that "I am only talking with Indian passengers!"⁵ Some of the passengers of South Asian descent respond that they were United States citizens and could not be "deported" but only returned to their home country, the United States. In response, as the video shows, Mikhail slammed the passport down onto the counter and walked away.

Increasingly concerned about the situation, the Sahus witnessed some of the passengers of South Asian descent frantically call the United States Embassy in Moscow. As the Sahus observed, Aeroflot employees refused to speak with officials at the U.S. Embassy, instead reiterating their threat to the South Asian Travelers that they would be

⁵ Dory Jackson, *Airline Allegedly Sends Couple Back to India Despite Being American*, International Business Times (Jan. 10, 2018), <http://www.ibtimes.com/airline-allegedly-sends-couple-back-india-despite-being-american-2639789>.

deported and that if they did not return to India, and that Aeroflot would “make matters worse” for them — including through criminal deportation and heavy fines. Mikhail, who had returned, informed the US Citizen Passengers of South Asian descent that he would ensure that Aeroflot would not provide them with any other tickets if “they made any more trouble” and that they would be forced to pay for their own return tickets to the United States.

The Sahus also attempted to contact officials at the Indian Embassy in Moscow, who stated that Aeroflot’s behavior was completely improper under both Russian law and the regulations pertaining to inclement weather cancellations. This official asked to be patched through to one of the Aeroflot officials so that he could communicate his concerns in Russian. Mr. Sahu located an Aeroflot representative who took the call and discussed the matter with him for several minutes. After more time passed and there was still no action on the part of the Aeroflot representatives, however, Mr. Sahu called the Indian Embassy again and attempted to patch them through to the Aeroflot manager on duty who was overseeing Mikhail and Kitora’s actions. An Aeroflot representative took the phone to the manager, but he refused to accept the call. After the Sahus relayed Aeroflot’s threat to the Embassy, the official on the phone advised them that deportation — particularly in Russia — could have serious legal ramifications, and that the Sahus should do what they could to avoid that process.

Aeroflot’s treatment of travelers on the same originating flight who they perceived to be white Americans (“White Travelers”) was markedly different than the treatment received by the Sahus and the other South Asian Travelers. While South Asian Travelers were being rudely treated by Mikhail and the other Aeroflot employees, two of

the White Travelers, who had also been in Moscow for many hours and were eager to return home, were provided with lounge access so they could rest until seats became available on a flight to the United States. At no point did the Sahus hear any Aeroflot representative warn these White Travelers about the 24-hour limitation for stays in Moscow.

Two other White Travelers spoke to another passenger, Mr. Agrawal, and explained that they had flown into Moscow from Ho Chi Minh City, Vietnam on Aeroflot and were waiting to connect to JFK. They stated that they had stayed in Moscow over 24-hours without any threats or concerns from Aeroflot and had not faced any attempts at “deportation” back to Ho Chi Minh City. Instead, Aeroflot had provided them with lounge access as well.

When the Sahus asked Aeroflot representatives why they weren’t assisting them in locating a flight back to the United States like they were doing for the White Travelers, the representatives stated that the Sahus “have someone to go back to” in India. Furthermore, and in contrast to the accommodations provided to the White Travelers during their layover in Moscow, Aeroflot provided none of the Sahus — and to their knowledge, none of the South Asian Travelers — with any lounge access or other similar accommodations. Instead, for hours the Sahus observed numerous Aeroflot staff berating the South Asian Travelers, including demanding that they keep quiet and move their young children, who were understandably frustrated and exhausted, away from Aeroflot’s desks. Many of the South Asian Travelers were visibly upset and in tears, including the Sahus’ minor child. Some of the White Travelers who watched these events unfold confronted Aeroflot staff, demanding to know “why the [South Asian Travelers] are

being treated differently” and complaining that this grossly inconsistent treatment of passengers was discriminatory.

Fearing for their safety and feeling that they had no other choice after Aeroflot’s repeated threats, the Sahus — along with approximately 20-25 of the South Asian passengers, many of them young children and babies — boarded an Aeroflot flight back to New Delhi. The Sahus observed that this return flight was filled solely with individuals of apparent South Asian descent, even though the Sahus had seen that the incoming flight to Moscow comprised an estimated 30-40% White Travelers.

Aeroflot’s unjust and discriminatory treatment of the Sahus and the other South Asian Travelers continued even after they left Moscow. Despite Aeroflot’s assurances in Moscow that a full staff would be on the ground to assist them with accommodations and return flights when they landed, the Sahus and remaining South Asian Travelers arrived in New Delhi to find not a single Aeroflot representative present. To make matters worse, the Sahus’ baggage did not arrive to new Delhi, even though Mikhal had informed them in Moscow that they had already sent their baggage back to New Delhi. After finally finding one Aeroflot baggage handler, the Sahus were given the contact information for Aeroflot’s office in Connaught Place, New Delhi, located nearly an hour and a half away. This representative, Neeraj Bhatia, informed the Sahus that this local office would not open until 10:00 am, which was several hours after they had landed, and that they should receive a call from an Aeroflot representative at that time with more details. Mr. Bhatia further informed the Sahus that Aeroflot had informed him it would fully reimburse return tickets booked on any other airline.

Mr. Sahu visited the Aeroflot office but did not find anyone there. He also continuously called Aeroflot's customer service number but was not able to get in contact with anyone until the second day after his arrival. The representative on the phone informed him that there were no flights available back to the United States, and it could take up to ten days to get rebooked on an Aeroflot flight. The representative also informed him that the Sahus will be reimbursed for out of pocket expenses and for the cost of a flight on another airline.

Unfortunately, Mr. Sahu could not immediately purchase tickets on another airline because his family's luggage had not yet arrived. However, due to work and school commitments, the Sahus decided not to wait for their luggage and, on January 8, they purchased one-way tickets on Ethiopian Airlines leaving New Delhi to Washington, D.C. on the morning of January 10. Fortunately, their luggage arrived the morning of January 10, and the Sahus were able to claim it prior to their flight back to the United States.

Mr. Sahu's delayed return to the United States greatly jeopardized a project he was working on. Mr. Sahu's absence caused the team and the project great distress as they had a pre-scheduled process for that week. The Sahus' minor child also missed four days of high school classes. Upon his return, the Sahus contacted Aeroflot representatives to request reimbursement of the cost of the one-way tickets back to the United States, the canceled leg of the Aeroflot flights, and their out of pocket expenses for their accommodations in New Delhi, which totaled several thousand dollars. After continued and persistent efforts on the Sahus' part in reaching out to Aeroflot to follow-up on their requests, the Sahus received partial payment in April 2018.

AEROFLOT’S TREATMENT OF THE SAHUS AND OTHER SOUTH ASIAN TRAVELERS WAS GROSSLY DISCRIMINATORY AND VIOLATES FEDERAL LAW

Aeroflot’s actions defy justification. Aeroflot employees repeatedly and systematically targeted and discriminated against the South Asian Travelers, in clear violation of federal law.

In particular, federal law prohibits air carriers, including foreign air carriers such as Aeroflot, from engaging in discriminatory practices. *See, e.g.*, 49 U.S.C. § 40127(a) (“An air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.”); 49 U.S.C. § 41702; 49 U.S.C. § 41310(a) (“An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.”); 49 U.S.C. § 41712(a) (prohibiting “unfair or deceptive practices” by air carriers or foreign air carriers). Aeroflot’s treatment of the Sahus and the other South Asian Travelers undeniably contravenes these protections. Due to the Sahus’ perceived race, color, national origin, and/or religion, Aeroflot’s employees engaged in a pattern of discriminatory conduct and treatment — including refusing to provide them with the accommodations and return flights they provided to White Travelers, and by threatening the South Asian Travelers with substantial civil and criminal penalties.

Aeroflot’s discriminatory intent is further evidenced by the fact that Aeroflot employees’ treatment of the Sahus is inconsistent with the airline’s internal policies and procedures. For example, Aeroflot’s own internal policies require that upon inclement weather delays such as the one at issue in this situation, it will provide passengers without

transit visas with hot meals, hotel accommodations, and transportation to and from lodging.⁶ Aeroflot provided no such measures here to the Sahus or to other South Asian Travelers — yet it did provide these benefits to its White Travelers. That Aeroflot employees deviated from their company’s protocols when dealing with the South Asian Travelers only further highlights the central role that discrimination played here.

Given that Aeroflot has a significant presence within the United States aviation industry, it is critical that DOT ensure that Aeroflot is fully complying with all federal antidiscrimination mandates. Aeroflot has a place of business in California and markets itself to American customers. It has regular flights to multiple major destinations in the United States, including but not limited to, Washington, D.C.; New York, New York; Los Angeles, California; and Miami, Florida. DOT has a strong interest in ensuring that an airline serving American customers is fully complying with its obligations under federal law to not discriminate against passengers on the basis of their perceived race, color, national origin, and/or religion.

CONCLUSION

The treatment endured by the Sahus and the other South Asian Travelers was grossly discriminatory and violates the fundamental protections that federal law requires should be afforded to all travelers. As a result of Aeroflot’s unjust and humiliating actions, the Sahus have suffered and continue to suffer significant emotional distress. They fear future travel through Russia and have incurred substantial monetary expenses due to the delays caused by their mistreatment.

⁶ Aeroflot Rules of Passenger and Baggage Carriage, Section 6.5: “For passengers without a visa, provisions shall be made for special accommodations with adherence to the procedure for serving transfer passengers without visas at the airport and for interaction with government agencies and other services when accommodating this category of passengers at hotels.”

While the Sahus received *de minimis* payments for some of the fees that they were made to pay out of pocket in the amount of \$1436.45, they have not released their claims for damages in this matter. The one document that they were made to sign, appended to this pleading as Exhibit A, does not indicate what claims they are releasing in exchange for receipt of the payment from Aeroflot, nor did they understand from their conversations with Aeroflot's representatives that they would be releasing claims for further payment.

The Sahus therefore request that the DOT conduct a full and thorough investigation into Aeroflot's actions to ensure that the airline be held accountable for its mistreatment of the Sahus — residents of the United States whom the airline discriminated against for no apparent reason other than their perceived race, color, national origin, and/or religion. Such mistreatment has no place in any setting, and the DOT should ensure that no other travelers endure this type of discrimination and mistreatment by Aeroflot.

Respectfully Submitted,

By: /s/ Waleed Nassar

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VERIFICATION

Pursuant to Title 18 United States Code Section 1001, I, Waleed Nassar, in my individual capacity and as the authorized representative of the pleader, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the pleading. I understand that an individual who is found to have violated the provisions of 18 U.S.C. § 1001 shall be fined or imprisoned not more than five years, or both.

Dated: June 20, 2018

/s/ Waleed Nassar
Waleed Nassar

CERTIFICATE OF SERVICE

I hereby certify that I have, this 20th day of June, 2018 caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

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/s/ Waleed Nassar
Waleed Nassar

Exhibit A

