

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

KIMBERLEY HINES and
MYRON EVANS

Plaintiffs,

vs.

No. _____

BARRY DAVIS, d/b/a KOKOAMOS
ISLAND BAR, GRILL AND YACHT
CLUB,

JURY DEMANDED

Defendant.

COMPLAINT

JURISDICTION

1. This is an action for damages and equitable relief, based on discrimination in a place of public accommodation undertaken by defendant against plaintiff based on their race. All of the parties reside in Virginia and the acts complained of occurred exclusively within Virginia.

2. This action arises under the Constitution of the United States, 42 U.S.C. § 1981 and 42 U.S.C. § 2000a. This Court has jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

PARTIES

3. Plaintiffs Kimberly Hines and Myron Evans are adult residents of Virginia Beach, Virginia.

4. Defendant Barry Davis is the sole owner of Kokoamos Island Bar, Grill and Yacht Club (hereinafter Kokoamos), an establishment that is generally open to the public. He is also the owner of Night Fever, a nightclub in Virginia Beach, and The Alley, a nightclub in Newport News.

5. Kokoamos offers food and alcoholic beverages for sale to the public in a bar and grill-type setting. Kokoamos also provides entertainment including pool tables, televised sporting events, music and dancing.

6. Kokoamos is a place of public accommodation as defined by 42 U.S.C. § 2000a(b).

FACTUAL BACKGROUND

Kimberley Hines

7. On August 18, 2006, plaintiff, who is African-American, and three friends, who are Caucasian, went to Kokoamos to enjoy the food, drink, and music there.

8. When they approached the entrance, a security guard told Ms. Hines that she could not enter because the club did not allow braids, twists, cornrows, or dreadlocks.

9. Another security guard told one of Ms. Hines' friends that she (the friend) was welcome to come in, but that he could not allow "that" (indicating Ms. Hines) to enter.

10. Ms. Hines and her friends thereafter left the premises.

11. Ms. Hines was embarrassed and humiliated that she was not allowed into Kokoamos. She was further embarrassed and humiliated by having other persons observe the exchange with the security guards and hear her being told publicly that she was being denied entry because of her hair.

Myron Evans

12. On June 1, 2006, plaintiff Myron Evans, who is African American, went to Kokoamos with a group of about ten friends. One member of the group was a Caucasian woman with spiked hair dyed black and platinum.

13. When the group reached the entrance of the club, the woman with spiked hair dyed black and platinum was permitted to enter, but Mr. Evans was not. Mr. Evans was told that he could not enter because he wore his hair in dreadlocks, and the club did not allow braids, cornrows or dreadlocks.

14. Mr. Evans, standing outside, asked to speak to the owner. Defendant Davis came outside to talk to him.

15. Defendant Davis told Mr. Evans: "There are other places that cater to your kind of crowd."

16. Mr. Evans was embarrassed and humiliated that he was not allowed into Kokoamos. He was further embarrassed and humiliated by having other persons observe the exchange with the security guards and hear him being told publicly that he was being denied entry because of his hair.

17. Later Mr. Evans' friend with the spiked, dyed hair told him that while inside Kokoamos, she had observed other Caucasian customers with spiked hair.

Defendant's Maintenance of Separate Clubs

18. Upon information and belief, the clientele of The Alley are predominantly African-American, while the clientele of Kokoamos and Night Fever are predominantly Caucasian.

19. Upon information and belief, defendant maintains his policy against dreadlocks, cornrows, braids and twists at Kokoamos and Night Fever, but not at The Alley.

20. In an article in *The Virginian-Pilot* on October 6, 2006, defendant is quoted saying that “The Alley is a black nightclub,” whereas Kokoamos is “for a mainstream crowd.”

21. The vast majority of those who wear the braids, dreadlocks, cornrows, and twists prohibited by the defendant are African American.

22. Braids, dreadlocks, cornrows, and twists are traditional African American hairstyles, and date back hundreds of years in Africa. In the United States, these hairstyles are closely associated with African Americans in public perception.

23. Individuals wearing braids, dreadlocks, cornrows and twists are no more likely to be violent or disruptive than any other person. Indeed, many respected African American professionals wear these hairstyles.

**COUNT I - RACIAL DISCRIMINATION
IN A PLACE OF PUBLIC ACCOMMODATION
IN VIOLATION OF 42 U.S.C. § 2000a**

24. Plaintiff incorporates herein the allegations in paragraphs 1-23 as if stated herein.

25. Plaintiffs had and have a right to full and equal enjoyment of defendant’s business establishment, a place of public accommodation affecting interstate commerce.

26. In denying plaintiffs that right, the defendant intentionally discriminated against them on the basis of her race.

27. Alternatively, defendant maintained and maintains a policy that had a disparate impact on plaintiffs and other African-Americans based on their race.

28. By maintaining his discriminatory hair policy at Kokoamos and Night Fever, while urging persons with prohibited hairstyles to attend The Alley, defendant is promoting and maintaining segregated public accommodations.

29. Defendant's actions constitute racial discrimination in violation of 42 U.S.C. § 2000a.

**COUNT II - DISCRIMINATION IN CONTRACTUAL RELATIONS
IN VIOLATION OF 42 U.S.C. § 1981**

30. Plaintiffs incorporate herein the allegations in paragraphs 1-29 as if stated herein.

31. Plaintiffs are members of a protected class based on their race.

32. Defendant intentionally discriminated against plaintiffs based on their race by keeping plaintiffs from entering a place of public accommodation.

33. Defendant's discriminatory actions interfered with plaintiffs' ability to enter into contractual relations with defendant, specifically to purchase food and beverages from defendant in his place of entertainment.

34. Defendant's denial of plaintiffs' rights constitutes discrimination in violation of 42 U.S.C. § 1981.

PRAYER FOR RELIEF

Plaintiffs respectfully request the following relief:

- A. Injunctive relief on the 42 U.S.C. § 2000 claim, enjoining the defendant from continuing his racially discriminatory policies;
- B. Compensatory and punitive damages in an as yet undetermined amount on the 42 U.S.C. § 1981 claim;
- C. Reasonable expenses and attorneys fees incurred in bringing this action; and,
- D. Such other relief as the Court deems just and proper.

Plaintiff demands trial by jury.

Respectfully submitted,

KIMBERLEY HINES

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