

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	x	
WILFRED SAMUEL RATTIGAN,	x	
Plaintiff,	x	<b>04 CV 6709 (AKH)</b>
-against-	x	<b>COMPLAINT</b>
JOHN ASHCROFT, Attorney General, United States Department of Justice; ROBERT S. MUELLER, III, Director, Federal Bureau of Investigation,	x	<b>ECF CASE</b>
Defendant.	x	<b>JURY TRIAL DEMANDED</b>
-----	x	

**PRELIMINARY STATEMENT**

1. This is a civil action in which the Plaintiff, WILFRED SAMUEL RATTIGAN (“Rattigan”), a current employee of the Federal Bureau of Investigation (hereinafter referred to as the “FBI” or the “Bureau”), seeks relief for violations of his rights secured by Title VII of the 1964 Civil Rights Act, 42 U.S.C. §2000e et seq., as a result of discrimination in the terms and conditions of his employment by the FBI. The Plaintiff seeks damages, both compensatory and punitive, affirmative and equitable relief, an award of costs and attorneys fee, and such other and further relief as this Court deems just and equitable.

**JURISDICTION**

2. Jurisdiction is conferred upon this Court by 28 U.S.C. §§1331, 1343(3), this being an action seeking redress for violation of the Plaintiff’s constitutional and civil rights.

3. Plaintiff’s claim for declaratory and injunctive relief is authorized by 28 U.S.C. §2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. The Plaintiff demands a trial by jury on each and every one of his claims as pled

herein.

### **VENUE**

5. Venue is proper for the United States District Court for the Southern District of New York pursuant to 29 U.S.C. §621 et seq., and 28 U.S.C. §§1391 (a), (b) and (c).

### **EXHAUSTION**

6. On May 6, 2002, Plaintiff Rattigan filed with the FBI a formal complaint alleging discrimination on account of his race and national origin. On July 8, 2002, Rattigan requested that his complaint be amended to include an allegation that he was the subject of a baseless investigation in retaliation for EEO activity.

7. On May 24, 2004, Joel A. Kravetz, Administrative Judge in the Washington Field Office of the United States Equal Employment Opportunity Commission, granted Rattigan's request to withdraw his complaint before the agency so that he might pursue his remedies in court. This complaint is being filed within 90 days of the order granting Rattigan the right to withdraw his complaint.

### **PARTIES**

8. The Plaintiff, WILFRED SAMUEL RATTIGAN, is a citizen and resident of the United States, and is currently a resident of the City and County of Queens, State of New York. He is a Black man of Jamaican descent. The Plaintiff graduated from John Jay College in 1981 with a B.A., and from Howard University in 1984 with a J.D. He is admitted to practice law in the states of New York and Connecticut.

9. The Defendant, JOHN ASHCROFT, is the Attorney General of the United States, and in that capacity, is the chief executive officer of the United States Department of Justice, of

which the Federal Bureau of Investigation is a part.

10. The Defendant, ROBERT S. MUELLER, III, is the Director of the Federal Bureau of Investigation, and in that capacity is the chief executive officer of the Federal Bureau of Investigation, an agency of the United States government.

### **STATEMENT OF FACTS**

11. In December, 1987, Rattigan was hired as a special agent with the FBI at an entry grade level. Following graduation from the FBI Academy, Rattigan was assigned to the New York Office (“NYO”), Foreign Counterintelligence Division. While working in the NYO, Rattigan had assignments in foreign counterintelligence, drugs, undercover investigations and white collar crime. In 1996, Rattigan transferred to the FBI office at JFK International Airport, where his duties included the investigation of white collar crimes, cargo thefts, crimes aboard aircrafts and terrorism. Throughout this period Rattigan received good evaluations of his work.

12. In February, 1999, Rattigan applied for and was transferred to Riyadh, Saudi Arabia and assigned to the Office of Legal Attache as the Assistant Legal Attache (“ALAT”) in Saudi Arabia. The Legal Attache job in Riyadh had responsibility for FBI activities in seven countries: Kuwait, Saudi Arabia, Bahrain, Oman, United Arab Emirates, Yemen and Qatar.

13. As the ALAT in Riyadh, Rattigan was responsible for establishing and developing liaison with local law enforcement officials in the seven countries listed above. His duties included, inter alia, arranging for training in country and at the FBI Academy for local law enforcement officials and handling requests for assistance from domestic and international FBI offices.

14. Rattigan held the position as ALAT in Riyadh until July, 2000. During the time

he was ALAT, Legat Riyadh had a permanent staff consisting of one (1) Legal Attache (“LEGAT”), one ALAT and one secretary. During the period of time that Rattigan was ALAT in Riyadh, he was subjected to discriminatory terms and conditions of his employment and a hostile work environment because of his race, nationality and/or religion. For example, the LEGAT during this period of time was Bassem Youssef, who treated Rattigan with disdain and disrespect because Youssef had supported another candidate for the ALAT position. For example, Youssef constantly failed to inform Rattigan about or involve him in various activities of the Legat Office in Riyadh. Youssef also directed that Rattigan cease attending classes for Arabic language training, even though he performed quite well on examinations in the courses that he took.

15. On another occasion, after Rattigan had departed for Europe for three weeks leave, Youssef incorrectly and deliberately assigned incomplete files to Rattigan for a file review conducted by Al Finch in an attempt to embarrass Rattigan and to improperly suggest to the file reviewer that Rattigan was not properly performing his duties as ALAT.

16. In or about June, 2000, Youssef departed Riyadh without providing for any kind of a transition for Rattigan who, in the absence of the assignment of a permanent LEGAT, would take over Youssef’s duties as acting LEGAT. While performing duties as the acting LEGAT, Rattigan requested an encrypted phone for “sensitive” communications. Although former LEGAT Youssef had been provided with an encrypted phone at a “secret” level, which was in violation of diplomatic security rules, Rattigan was never at any time provided with such a phone, which hindered him in the prompt performance of his duties.

17. In July, 2000, Rattigan was appointed to the vacant position of LEGAT Riyadh. Notwithstanding the fact that Rattigan was appointed LEGAT Riyadh, he continued to be

subjected to discriminatory terms and conditions of his employment and a hostile work environment because of his race, national origin and/or religion.

18. At the beginning of his tenure as LEGAT Riyadh, Rattigan informed his superiors at the FBI, including Unit Chief (“UC”) Knowles, that in order to perform effectively as LEGAT Riyadh, Rattigan would have to receive additional support and training from the Bureau. He also informed Knowles that the office in Riyadh, which was responsible for seven countries, was grossly understaffed and needed more manpower and support from the Bureau. Despite numerous requests throughout his tenure in Riyadh, the Bureau never provided Rattigan with sufficient permanent staff to fulfill the FBI’s vital mission in Riyadh, particularly at a time when the concern about terrorism was focused on Saudi Arabia.

19. On October 12, 2000, Gamel Abdel-Hafiz began a temporary duty assignment (“TDY”) as an assistant to Rattigan in Riyadh. On the same date, the USS Cole was attacked in Aden harbor, Yemen. Because this attack occurred in the jurisdiction of LEGAT Riyadh, the amount of work required to respond increased greatly. Rattigan was required to arrange for a trip to the region by then FBI Director Louis Freeh and to set up meetings for him with Yemeni and United States officials in Yemen. Even though the work load had increased because of the attack on the USS Cole, Rattigan was informed that a previously discussed shifting of territorial responsibility to lessen the burden on the Riyadh office was not made by the Bureau, even though such a transfer would have enhanced the mission of the Bureau, particularly with regard to its terrorism prevention responsibilities.

20. After being promoted to LEGAT Riyadh, the defendant, acting through supervisory personnel, including, *inter alia*, Investigatory Service Division (“ISD”)/International

Operations Branch (“IOB”) Deputy Assistant Director (“DAD”) Leslie Kaciban, Jr., ISD/IOB Section Chief (“SC”) Michael Pyszczymuka, ISD/IOB Unit Chief (“UC”) Cary Gleicher, and SSA Donovan Leighton, subjected Rattigan to a continuing course of conduct that was designed to humiliate and embarrass Rattigan, to effect the efficiency of the Riyadh office so that it would reflect negatively on Rattigan’s ability as the LEGAT Riyadh, and to force Rattigan to either seek transfer out of Riyadh or resign from the Bureau.

21. Deputy Assistant Director (“DAD”) Kaciban inexplicably directed that Rattigan cease all contact that he had with officials from the United Arab Emirates (“UAE”) regarding the establishment of the Middle Eastern Law Enforcement Training Center, even though that work was an important part of Rattigan’s work in LEGAT Riyadh.

22. Supervisory Special Agent (“SSA”) Swinkey falsely reported to DAD Kaciban that Rattigan was continuing to arrange a meeting with UAE officials to discuss training.

23. Upon receiving SAS Swinkey’s false report, DAD Kaciban called Rattigan and threatened to, in Kaciban’s words, “cut (Rattigan’s) balls off,” a comment which Rattigan understood to be direct evidence of racial bias against him.

24. Rattigan complained about Kaciban’s conduct and statement to the Director’s office, and specifically to Robert Bucknam, chief of staff to former Director Louis Freeh. The Bureau never took any action against Kaciban for this conduct, nor was Rattigan ever contacted to discuss this matter.

25. Unit Chief (“UC”) Cary Gleicher, Rattigan’s immediate supervisor, inappropriately went over the head of Rattigan, and without informing Rattigan, sought information directly from the Saudi government concerning an ongoing investigation. In doing

do, Gleicher discussed the matter first with former LEGAT Youssef, who had been gone from Riyadh for almost a year at that point, and not with Rattigan.

26. Before, but especially after 9/11, when the workload of the Riyadh office increased many fold, Rattigan continued to request additional assistance from UC Gleicher and Section Chief (“SC”) Michael Pyszczymuka. Throughout Rattigan’s time in Riyadh, the Bureau’s response to these requests, for the most part, fell on deaf ears or was turned down.

27. On another occasion following 9/11, Rattigan requested additional resources from UC Gleicher and SC Pyszcymuka to follow up on leads coming into LEGAT Riyadh. These resources were either consistently denied or delayed for inexplicable reasons.

28. On or about October 3, 2001, during a discussion of the anticipated support to the provided the Saudi Mabahith, the functional equivalent of the FBI in Saudi Arabia, DAD Kaciban stated, in connection with a discussion about the PENTTBOMB investigation, “Let’s see how much his (Rattigan’s) Arab brothers are going to help him on this one.”

29. In October, 2001, UC Gleicher visited the Riyadh office and met with Rattigan. Rattigan continued to request additional resources, as well as the authority to arm himself and his staff because of significant and credible threats to the United States Embassy in Riyadh that were made after 9/11. Gleicher’s and ISD/IOB management’s failed to timely respond to these requests.

30. Throughout Rattigan’s tenure as LEGAT Riyadh, the Bureau continuously sent representatives to Riyadh surreptitiously to investigate Rattigan, although another pretext for the visit was always given.

31. At some point, DAD Kaciban, UC Gleicher and SC Pyszczymuka essentially

discontinued communicating with Rattigan. The few times they were in contact, their approach to Rattigan was hostile, demeaning and/or condescending, and reflected their inability to set aside their own racial animus in order to deal with Rattigan in a professional manner.

32. During the time that Rattigan served as LEGAT Riyadh, other Legat offices, headed by white employees of the Bureau, received more assistance than Riyadh, even though they had less of a connection to the most important investigation (PENTTBOM) than ongoing in the Bureau. This was particularly troubling because 17 of the 19 identified terrorists who participated in the 9/11 attack were from the region covered by LEGAT Riyadh. Moreover, the support that LEGAT Riyadh received was generally temporary duty support for short periods of time, which limited the effectiveness of such support, particularly in the region of the world that Rattigan was working in.

33. Upon their return from a TDY assignment in Riyadh, the returning TDYers were consistently questioned by ISD supervisors about Rattigan in a way designed to undermine Rattigan's effectiveness as a LEGAT and gave the clear impression to these TDYers that Rattigan was somehow acting in a way that was disloyal or incompetent. One such instance occurred when Special Agent Beth Babyak returned from temporary duty in Riyadh. Upon her return she was questioned for 90 minutes by SC Pyszczymuka. Babyak described the interview as an attempt to coerce her into making derogatory statements against LEGAT Riyadh in general and Rattigan in particular. Other agents, including, *inter alia*, SA Matt Taylor, reported similar experiences upon their return from temporary duty in Riyadh.

34. In October, 2001, Rattigan planned a two day trip to liaison with UAE officials in order to remove the obstacles that existed to the free flow of information from the UAE relative

to ongoing investigations being conducted by the Bureau, including PENTTBOM. On or about October 23, 2001, Rattigan advised UC Susan Curtis of this proposed trip and received her concurrence. However, approximately two days before the scheduled trip, Rattigan received an e-mail communication from UC Pyszcymuka directing Rattigan not to take the trip, even though Pyszcymuka had not even talked to Rattigan about the trip. This kind of conduct is evidence of how supervisory personnel in the Bureau did not want Rattigan to succeed, even at the expense of compromising or delaying important investigations, including the 9/11 investigation, than being conducted by the Bureau.

35. The actions of the defendant, acting through the above named individuals, were further motivated by the fact that ISD management did not want him, a black man and a naturalized citizen of Jamaican descent, to succeed in the Bureau, particularly since Rattigan was involved in one of the most important investigations (PENTTBOM) ever conducted by the Bureau. This motivation reflects the ongoing legacy of racial discrimination that has roiled the Bureau in the past 10 to 15 years.

36. Following the filing of his internal complaint on May 6, 2002, Rattigan has been subjected to continual harassment and retaliation for having complained about how he was treated, leading up to his eventual transfer out of Riyadh and demotion in rank. In addition, Rattigan has been subjected to harassment and discrimination in the terms and conditions of his employment based on the fact that he reverted to the Islamic religion in December, 2001.

34. As a direct and proximate result of the conduct of FBI supervisory officials toward him, Rattigan has been injured, including mental pain and suffering, embarrassment, humiliation, degradation, the denial of promotional opportunities, and involuntary re-assignment

and demotion in grade.

**FIRST CLAIM  
(Race and National Origin Discrimination)**

35. The Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 34 as if fully set forth herein.

36. The conduct and actions of the Defendant in subjecting the Plaintiff to harassment and a hostile work environment based on his race and/or national origin was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of its acts, was done without lawful justification and was designed to and did cause specific and serious injury, including mental pain and suffering, in violation of the Plaintiff's rights under 42 U.S.C. §2000e et seq.

**SECOND CLAIM  
(Retaliation)**

37. The Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 36 as if fully set forth herein.

38. The conduct and actions of the Defendant in subjecting the Plaintiff to harassment and a hostile work environment based on his race and/or his national origin was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of its acts, was done without lawful justification and was done in retaliation for the Plaintiff having complained about discriminatory treatment, and was designed to and did cause specific and serious injury, including mental pain and suffering, in violation of the Plaintiff's rights under 42 U.S.C. §2000e et seq.

**WHEREFORE**, the Plaintiff demands the following relief jointly and severally against the defendant:

- a. Compensatory damages for the Plaintiff in an amount to be determined by the jury or the finder of fact, including, but not limited to, back pay, front pay, lost pension benefits and retirement benefits, and the value of other lost benefits, mental anguish, pain and suffering, embarrassment and humiliation;
- b. Punitive damages in an amount to be determined;
- c. The convening and impaneling of a jury to consider the merits of the claims herein;
- d. Attorney's fees and the costs of this action;
- e. Such other and further relief as this court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

DATED: August 19, 2004  
New York, New York

Respectfully submitted,

/S/ \_\_\_\_\_  
JONATHAN C. MOORE, Esq.  
(JM-6902)

MOORE & GOODMAN, LLP  
740 Broadway at Astor Place  
New York, New York 10003  
(212) 353-9587

Attorney for the Plaintiff