

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ALAN HONARMAND

PLAINTIFF

VS.

CASE NO.: 4:07-CV-00680 JMM

J.C. PENNEY, et al.

DEFENDANT

ORDER

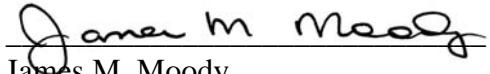
Plaintiff brought suit contending that Defendants discriminated against him by terminating his employment based upon his Persian national origin in violation of Title VII, 42 U.S.C. § 2000e, *et seq.* Pending is Defendants' second motion for summary judgment (Docket # 105) to which Plaintiff has filed a response (Docket # 115). For the reasons set forth below, Defendants' motion is DENIED.

After this Court denied Defendants' first motion for summary judgment (Docket # 67) both parties continued with discovery in anticipation of trial. Defendants now argue that Plaintiff cannot establish an actionable claim for national origin discrimination and J.C. Penney can establish that it terminated Plaintiff for insubordination. Defendants also argue that Plaintiff's retaliation claim is barred based upon his failure to exhaust administrative remedies.

After a review of the record and the law, the Court finds that material disputes remain as to whether Plaintiff adequately performed his employment duties, whether he suffered an adverse employment action under circumstances that would permit the Court to infer that unlawful discrimination occurred, and whether the Defendants' stated reason for his termination was in fact pretext. Further, Plaintiff states that he did not make a separate claim for retaliation.

For these reasons, Defendants' motion for Summary Judgment (Docket # 105) is denied.

IT IS SO ORDERED THIS 7th day of July, 2010.



James M. Moody
United States District Judge