

Retirement runaround

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Hilton faces questions in pension suit

By Kathy M. Kristof
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Jamal Kifafi is a simple man who lives a simple life.

Trained as a shopkeeper, the Jordanian immigrant works as a security guard and lives with his wife of 30 years in the modest Washington, D.C., apartment building where he works. Yet the affable 57-year-old is ensnared in a complicated legal battle that could affect how one of America's largest corporations calculates pension benefits for thousands of workers.

Kifafi, who is at the center of a class-action suit filed in June against Hilton Hotels Corp., charges that the Beverly Hills-based hotel chain systematically miscalculates pension benefits in a way that leaves many current and former employees with less than half of the monthly benefits they're due.

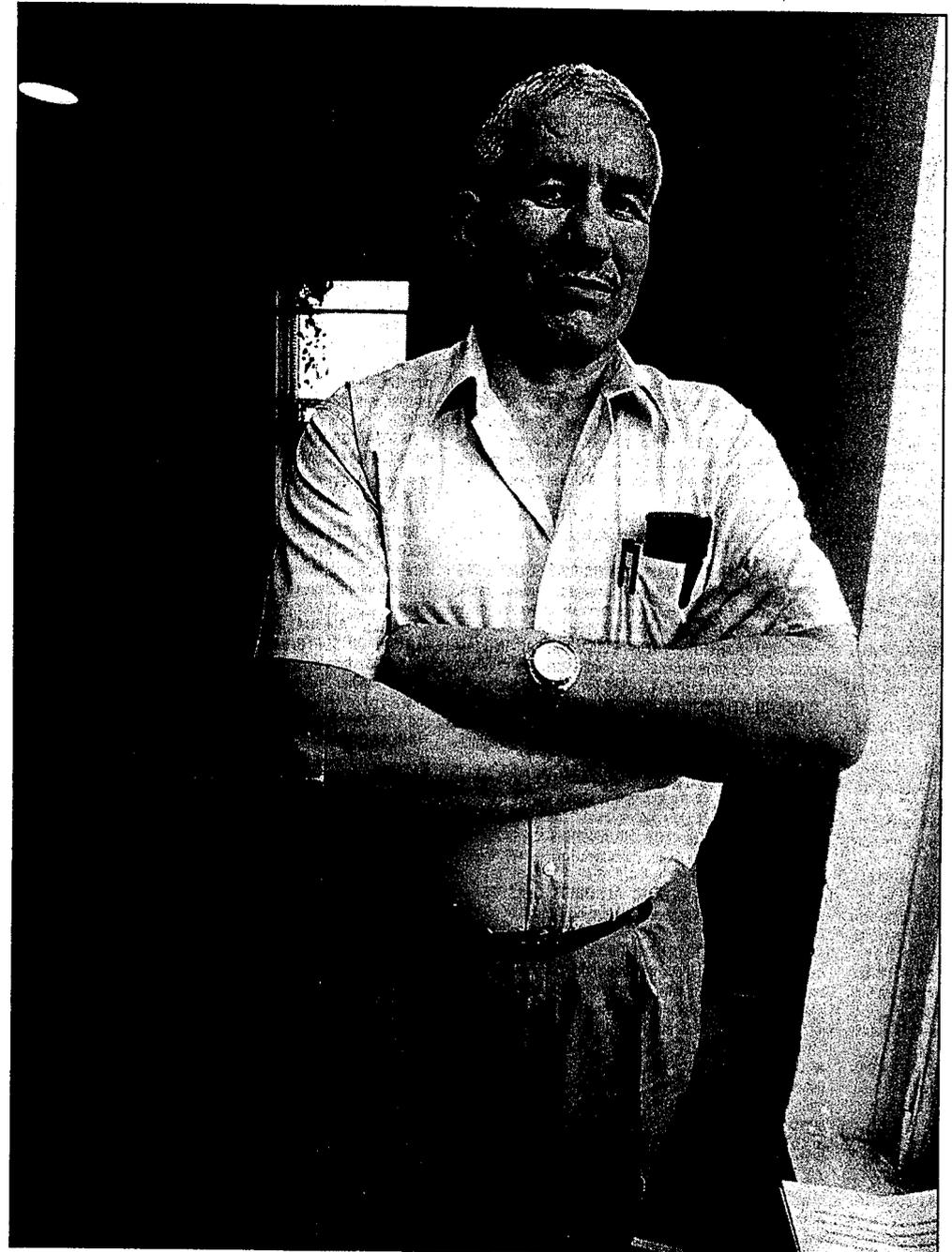
Moreover, a host of corporate policies may deter the hotel company's workers from claiming their pensions at all, the suit alleges.

Hilton says it is aware of the suit and charges but would not comment on pending litigation.

Kifafi's story starts in 1974 when he immigrated to the U.S. from Jordan. Although he's fluent in Arabic, Hebrew and Spanish, his English isn't perfect, he says. He got a job setting up banquet rooms at the Capitol Hilton in Washington. Later, he moved to a security guard post, which he held for the next nine years.

Kifafi was content at Hilton and says he received several glowing performance reviews. But in 1993, his father fell ill and Kifafi returned to Jordan. When he came back to the U.S. three years later, Kifafi tried to return to Hilton, but the company didn't have a job for him.

He was struggling to find other work when a friend mentioned that because Kifafi was already age 55 he could apply for early retirement benefits with Hilton. But when he approached the company, Kifafi was told by Hilton's employee benefits representative that he didn't qualify for a pension. Yet, the benefit booklet that Kifafi took with him said that employees became vested in the com-



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Security guard Jamal Kifafi is suing Hilton Hotels over his lost pension benefits.

pany's pension plan after 10 years of service. Kifafi had worked for Hilton for 12.

Enter Steven Bruce, a Washington attorney specializing in pension law. On first meeting, Bruce calculated his client's benefits, based on the pension formula shown in Kifafi's benefit handbook. He figured Kifafi was due between \$150 and \$175 per month.

He shot off a letter to Hilton asking for a benefit statement, which would indicate how much Kifafi would receive and when. As an afterthought, he also

asked them for a termination work sheet that would explain the formula used to determine worker pension benefits.

Hilton was resistant, first telling Bruce that Kifafi hadn't worked at the company long enough to "vest" — or qualify — for pension benefits. Bruce provided Kifafi's employment records, showing that he had.

Finally, Hilton sent a letter saying Kifafi was due a benefit of \$75 per month. Surprised by the low amount, Bruce flipped to the termination work sheet and found what he considered

to be a glaring error.

Like many companies, Hilton had imposed a "Social Security offset," which reduces pension benefits by a portion of anticipated Social Security income. But the offset wasn't prorated — or reduced for employees with less than a lifetime of service with the company — which in effect "back loads" the pension plan. This type of back loading is illegal, according to the Employee Retirement Income Security Act of 1974. In Kifafi's case, it cut his pension benefit in half.

But pension benefits can be computed in a number of ways that all come up with different monthly payments to recipients. So Bruce spent hours on the phone with various Hilton employees culling more information on how their plan works. What he found, according to his suit, is a pension plan that is either woefully disorganized or purposefully mismanaged to the serious detriment of workers.

Although workers in the hospitality industry tend to move around a lot, Hilton's pension plan doesn't contact terminated workers until two years after they leave the company, according to the suit. By that time, a substantial number of statements come back as undeliverable. According to the suit, one Hilton pension administrator said that 50 percent of those who leave Hilton's employment after vesting in the pension don't receive benefits because they fail to claim them.

In addition, although the plan offers a benefit to surviving spouses if a Hilton employee dies before claiming a pension, the company does not keep records of a worker's marital status until the worker files for pension benefits - a virtual Catch-22.

Meanwhile, officials at the Department of Labor and the Internal Revenue Service - the two government agencies charged with ensuring that pension laws are followed - will not talk about pending litigation. But they acknowledge that the type of problems alleged in this suit would be difficult to uncover. Although labor officials have efficient means to require disclosure of plan rules and have cracked down on companies that abscond with pension assets, they may not be able to track more subtle issues of whether a company is keeping good enough records to locate pension beneficiaries.

The IRS, which enforces rules aimed at keeping pension formulas fair, notes that there are so many acceptable - and highly complicated - ways to calculate pension benefits that it's nearly impossible to determine if a plan is violating the law without a thorough audit. And there's no regular audit schedule.

The result is that individuals must try to monitor their own benefits, find out what the pension rules are and determine roughly what benefits they should receive, Bruce says. If your benefits are significantly less than expected, it may be a signal that something is wrong.

In the meantime, Bruce has set up a hotline - (800) 471-8013 - for Hilton employees and former employees who believe they have been shortchanged by the company's pension plan.