

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

-----X
CHARLES JOHNSON and HELGA JOHNSON,

Plaintiffs,

v.

AMERICAN AIRLINES, INC.,

Defendant.
-----X

**COMPLAINT AND
JURY DEMAND**

Civil Action No. 17-CV-

JUDGE:

COMPLAINT

Plaintiff CHARLES JOHNSON (hereinafter “Mr. Johnson”) and Plaintiff HELGA JOHNSON (hereinafter “Ms. Johnson”), collectively the Plaintiffs, by and through their attorneys, Corbally Gartland, and Rappleyea, LLP, as and for Plaintiffs’ Complaint against Defendant AMERICAN AIRLINES, INC. (hereinafter “Defendant” or “American Airlines”), allege the following:

NATURE OF ACTION

1. This is an action for damages on behalf of Mr. Johnson and Ms. Johnson.
2. Mr. Johnson was injured on American Airlines Flight 1941 traveling from Bradley International Airport (BDL) Connecticut to Charlotte Douglass Airport (CLT), North Carolina on or about April 28, 2016. Mr. Johnson suffered physical injuries, emergency hospital and other medical treatment costs, emotional and psychological injuries, an open head injury and other losses.

THE PARTIES

3. Mr. Johnson and Ms. Johnson were and are citizens and residents of the State of New York at all times relevant to this Complaint. Mr. Johnson and Ms. Johnson reside in the Town of Stanfordville, County of Dutchess and State of New York.

4. Upon information and belief, Defendant American Airlines was and still is a Delaware corporation engaged in the business of air transportation as a common carrier in the United States and abroad, with its principal place of business in Fort Worth, Texas.

5. Upon information and belief, at all times relevant herein, Defendant American Airlines and each of its respective agents, contractors, and employees was acting within the business purpose and scope of said agency and employment. Whenever reference in this Complaint is made to any act, omission, or transaction of Defendant American Airlines, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, contractors, and/or representatives of Defendant American Airlines committed, knew of, performed, authorized, ratified, and/or directed such act, omission, or transaction on behalf of Defendant American Airlines while actively engaged in the scope of their duties.

JURISDICTION AND VENUE

6. Jurisdiction is conferred upon this Court by 28 U.S.C. 1332(a)(1), as this action is between citizens of different States and the matter in controversy exceeds the sum of value of \$75,000.00.

7. This Court is the proper venue pursuant to 28 U.S.C. 1391(b)(1), as this is a judicial district in which Defendant offers their services and regularly solicit or conduct business, thereby making them subject to personal jurisdiction before this Court.

FACTS COMMON TO ALL COUNTS

8. Mr. Johnson and Ms. Johnson purchased tickets from American Airlines for travel on April 28, 2016, on American Airlines flight 1941, Aircraft 319, Airbus Jet 124 (hereinafter "AA 1941") scheduled to depart at 6:15 A.M. from Bradley International Airport, Connecticut to Charlotte Douglass Airport, North Carolina. with a final destination of Gulfport-Biloxi International Airport (GPT), Mississippi, where they intended to rent a car and drive to New Orleans, Louisiana for the New Orleans Jazz & Heritage Festival.

9. After boarding AA 1941 at Bradley International Airport, Mr. Johnson and Ms. Johnson took their seats. Mr. Johnson was seated at #11D, an aisle seat. Ms. Johnson was seated a row in front of him at #10E.

10. During takeoff, an unsecured, fully stocked beverage cart, weighing approximately 300 lbs., situated at the front of the plane flew down the aisle of the plane.

11. As the beverage cart flew down the aisle, it hit Mr. Johnson in the head with such force that his hat was pierced and ripped off his head onto the floor. Upon information and belief, the beverage cart also injured several other passengers and a flight attendant.

12. The impact from the beverage cart caused a large gash in Mr. Johnson's forehead and severe bleeding, causing him to lose consciousness and suffer other serious and permanent injuries. Ms. Johnson and several passengers immediately notified the stewardess that Mr. Johnson was severely injured, bleeding profusely and in need of immediate medical assistance.

13. Despite Federal Aviation Administration regulations requiring all American commercial flights weighing 7,500 lbs. or more to carry a properly equipped medical or first aid kit, the stewardess was unable to locate any bandages, gloves or first-aid kits on the aircraft.

14. After the stewardess asked over the intercom if any medical personnel were present, a passenger on the plane, who was a nurse, came forward and attended to Mr. Johnson in attempts to slow the bleeding while another passenger provided a first aid kit.

15. Despite Mr. Johnson's severe injury occurring immediately upon takeoff and the stewardess initially announcing that the flight would be diverted due to a medical emergency, American Airlines continued ascending and proceeded to Charlotte, its original destination, over two (2) hours away.

16. Due to the severity of Mr. Johnson's injury, throughout the two-hour flight various passengers were required to take turns holding Mr. Johnson's head stable, applying ice to his head to slow the bleeding and holding a portable oxygen mask on his face.

17. Additionally, without concern for Mr. Johnson's privacy, the stewardess repeatedly and loudly asked Mr. and Ms. Johnson for Mr. Johnson's medical history and medications and proceeded to loudly repeat this information in the presence of other individuals on the flight.

18. Upon information and belief, a stewardess stated to a passenger that the pilot never announced "prepare for take-off" to the crew members.

19. Ms. Johnson spent the entire flight in extreme agony and in a state of anxiety, fearing the unknown condition of her husband, as he was profusely bleeding and falling in and out of consciousness. The airline crew's apparent lack of capability to handle the emergency added to Ms. Johnson's panic and anxiety.

20. When the flight landed approximately two (2) hours after Mr. Johnson was severely injured, Mr. Johnson's head was bandaged by airport EMTs. He was wheeled off the plane and transported to Carolinas Medical Center (hereinafter the "Hospital"), where he received seven (7) Novocain shots in his head, a tetanus shot and stitches, and CT scans of his head.

21. Mr. Johnson has had extensive medical treatment due to his injuries. He has been diagnosed with chronic traumatic brain injury and post-concussive syndrome. Additionally, he continues to suffer from visual disturbances, headaches, mood swings and anxiety.

22. Due to his injuries, Mr. Johnson has been unable to work and physically unable to bend down or engage in hobbies he once enjoyed. Moreover, Mr. Johnson and Ms. Johnson's marriage is strained as a result of Mr. Johnson's injuries.

COUNT I

CLAIM FOR NEGLIGENCE

23. Plaintiff repeat, reiterate and re-allege each and every allegation contained in paragraphs 1 through 23 above, as if each and every allegation were set forth herein at length.

24. At all times mentioned herein, American Airlines managed, maintained, operated and/or was the entity in control of the airplane and beverage cart that caused Mr. Johnson's injuries.

25. At all times, American Airlines was a common carrier and owed a duty of care to the passengers aboard AA 1941, including Mr. and Ms. Johnson, to operate and control the aircraft and its contents with the highest degree of care, and to exercise the highest degree of care to prevent injury of any kind.

26. American Airlines operated AA Flight 1941 in violation of Title 14 CFR 91.513, 91.535, 121.557, 121.577, 121.803 and 121.805.

27. American Airlines breached its duties by negligently and carelessly failing to adequately lock and secure the beverage cart, which was a direct and proximate result of Mr. Johnson's injuries.

28. American further breached its duties by failing to provide proper medical attention to Mr. Johnson upon his sustaining serious personal injuries.

29. American Airlines exacerbated Mr. Johnson's injuries by refusing and failing to turn the plane around while still ascending from take-off and otherwise seeking proper and immediate medical assistance and attention for Mr. Johnson.

30. As a direct and proximate result of American Airlines' negligence, Mr. Johnson suffered severe and life threatening physical injuries, psychological trauma and injury, pain and suffering and was forced to incur substantial medical expenses, and continues to suffer from those physical and mental injuries.

31. Mr. Johnson to this day continues to incur medical expenses as a result of his injuries; he has been unable to work since he was injured and continues to suffer lost earnings and is expected to suffer future lost earnings.

32. By reason of the foregoing, Mr. Johnson is entitled to recover compensatory damages from the Defendant in an amount no less than Ten Million (\$10,000,000.00) Dollars and punitive damages in an amount to be determined by the trier of fact.

COUNT II

CLAIM FOR NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

33. Plaintiffs repeat, reiterate and re-allege each and every allegation contained in paragraphs 1 through 33 above, as if each and every allegation were set forth herein at length.

34. American Airlines' negligence caused Mr. Johnson and Ms. Johnson to suffer emotional distress.

35. American Airlines owed a duty of care to Mr. Johnson and Ms. Johnson.

36. American Airlines breached this duty and unreasonably endangered the physical and mental well being of Mr. Johnson and Ms. Johnson.

37. American Airlines' actions constituted conduct so extreme and outrageous in degree and character as to go beyond all possible bounds of decency.

38. American Airlines' conduct was intentional, deliberate, willful, malicious, reckless, and conducted in callous disregard for the safety of Mr. Johnson and Ms. Johnson.

39. As a direct and proximate result of American Airlines' conduct, Mr. Johnson and Ms. Johnson suffered and continue to suffer substantial emotional distress.

40. By reason of the foregoing, Mr. Johnson and Ms. Johnson are entitled to recover compensatory and punitive damages from the Defendant in an amount to be determined by the trier of fact.

COUNT III

LOSS OF CONSORTIUM

41. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in paragraph 1 through 41 above, as if each and every allegation were set forth herein at length.

42. Ms. Johnson and Mr. Johnson were, and remain married at all relevant times herein.

43. Ms. Johnson suffered the loss of services, support, assistance, comfort and consortium of her husband, Mr. Johnson, as a result of the injuries he suffered due to the negligence of American Airlines.

44. By reason of the foregoing, Mr. Johnson and Ms. Johnson are entitled to recover compensatory and punitive damages from the Defendant in an amount to be determined by the trier of fact.

JURY DEMAND

1. Plaintiffs hereby request trial by jury on all issues so triable.

WHEREFORE, Plaintiffs demand judgment against the Defendant as follows:

1. On the first count, a money judgment for compensatory damages of no less than Ten Million (\$10,000,000.00) Dollars, together with interest;
2. On the second count, a money judgment for compensatory damages in an amount to be determined by the trier of fact, together with interest;
3. On the third count, a money judgment for compensatory damages in an amount to be determined by the trier of fact, together with interest;
4. Mr. Johnson and Ms. Johnson are also entitled to an award of punitive damages in an amount to be determined at trial as a result of American Airlines' gross negligence and reckless disregard for the safety, well-being and rights of its passengers including the Plaintiffs herein.;
and
5. Such other and further relief that the Court deems proper.

Dated: Poughkeepsie, New York
June 15, 2017

Yours, etc.

CORBALLY, GARTLAND AND RAPPLEYEA, LLP

By: _____

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