

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division**

Case No:

AVIGAIL DIVEROLI

Plaintiff,

vs.

AMERICAN AIRLINES, INC.

Defendant.

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**COMPLAINT**

**COMES NOW** Plaintiff, AVIGAIL DIVEROLI (hereafter “Plaintiff”) by and through her undersigned counsel, and states its Complaint against the Defendant, AMERICAN AIRLINES, INC. (hereinafter, “AA”), and alleges the following:

**PARTIES**

1. Plaintiff is a United States citizen who is a permanent resident of Miami-Dade County, Florida, and are otherwise *sui juris*.
2. United is a foreign corporation organized under the laws of Texas. AA has a principle address of 4333 Amon Carter Blvd., MD5675 FORT WORTH, TX 76155. AA is a common air carrier conducting business in Miami-Dade County, Florida. AA operates flights daily in North America throughout the whole United States, and elsewhere around the globe.
3. AA maintains its principle place of business in Fort Worth, Texas and maintains an agent for service of process in Florida.

### **JURISDICTION**

4. This is an action for damages in excess of \$75,000, exclusive of interests, costs, attorney's fees, and combined with the diverse citizenship of the parties is within the subject matter jurisdiction of this Court pursuant to 28 U.S.C. §1332.
5. Moreover, at all material times, AA is defined as an air carrier by 49 U.S.C. §40102(a)(2), and presumptively held a valid Certificate of Public Conveyance and Air Carrier Operating Certificate, as set forth in 49 U.S.C. §41101(a)(1) and 49 U.S.C. §44705 respectively.

### **VENUE**

6. Venue is proper in this District, pursuant to 28 U.S.C. § 1391(b).
7. All Parties as well as the acts and omissions complained of herein occurred and will continue to occur in Miami-Dade County of the Southern District of Florida.
8. Venue is proper in this district, as this district is the commencement and departure point for Plaintiff. Moreover, the incident which gave rise to the Plaintiff's injuries, occurred in Miami-Dade County, Florida.

### **DEMAND FOR JURY TRIAL**

9. Plaintiff is entitled to, and hereby respectfully demands, a trial by jury on all counts stated within and any issues so triable.

### **FACTS GIVING RISE TO A CAUSE OF ACTION**

10. This is a terrible case where AA completely ignored the mental anguish of a passenger, ignored their own carrier agreement with passengers, and violated every standard of decency.

11. On or about April 9, 2019, Plaintiff, who is pregnant and suffers from severe anxiety, purchased a business-class ticket from Miami to Los Angeles, California (See Exhibit A). On or about April 17, 2019 a medically necessary comfort animal, a dog by the name of Simba (a picture of which is attached as Exhibit B) was added to reservation. Record for pet – WPCORU.
12. Plaintiff was flying with her husband, Menachem Mendel Gross and Yoav Botach, Plaintiff's 87-year old grandfather who has severe medical issues because of his advanced age.
13. When Plaintiff called AA on April 17, 2019, AA confirmed that Simba could also fly business class. Moreover, the night before Plaintiff's flight, Plaintiff again called AA and confirmed that Simba could sit in the business class cabin because the dog was an emotional support animal.
14. At a certain point, Regina, a flight attendant for AA, notices Simba, and screams loudly that the dog is not allowed in the cabin, and that it's an FAA violation.
15. Regina told Plaintiff that she is filing an FAA Complaint. Regina yelled at Plaintiff and her husband the whole trip, even stating so much that the dog is not allowed to be wrapped with an AA blanket<sup>1</sup>.
16. After more yelling and abusive behavior, Regina takes a picture of the kennel, as well as of Plaintiff, which was without Plaintiff's consent.
17. Midflight, Plaintiff is forcefully downgraded, and then moved to a different seat. After Plaintiff voiced her concern, indicating that she has severe anxiety, Regina stated that she does not care, and that everything she was doing was ordered by the

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<sup>1</sup> Originally, the dog was held on the lap, wrapped in an AA blanket. This is allowed under the AA Carrier Contract for Emotionally Support Animals

captain.

18. To make matters worse, Regina informs Plaintiff that her having an emotional support animal is against FAA regulations and that Plaintiff will be “cuffed” when the plane lands. After terrifying Plaintiff, Regina tells Plaintiff that she needs to lock up Simba in the bathroom for the last hour of the flight.
19. Throughout the whole ordeal, other flight attendants kept walking over to Plaintiff and apologizing, saying that Regina is a “sour apple” and that this [animals within the cabin] is a known issue for her.
20. Although being a “sour apple” is no excuse for traumatizing Plaintiff, Plaintiff did not want to argue and requested a bathroom close to her, as this dog was an emotional support dog and Plaintiff had severe anxiety. Instead, Regina wanted to put him in a very small bathroom. She took the kennel and started slamming the dog, in its kennel, with the door to the bathroom. Plaintiff was horrified by this and yelled, “What are you doing to my dog?”
21. Once Plaintiff landed, she was escorted off the plane by police, leaving her 87-year old grandfather to sit by himself. It should be understood Plaintiff’s 87-year-old grandfather was confused and started getting irate because he did not know what was happening.
  - a. The “other flight attendants” who kept walking over to Plaintiff and apologizing for Regina’s terrible behavior were Brian and Gary, whose badge ID numbers are 345206 and 50972, respectively.
22. After Plaintiff was escorted out by police, Plaintiff’s husband met with a representative from AA named Jamar, who told them that the airline made a

mistake by letting a kennel that big on the plane, but that Plaintiff should not have been treated that way.

23. Ultimately, the police concluded that this is a private matter, and there was no criminal violation.

24. As Plaintiff's husband was exiting the airplane, the captain rushed out and yelled, "Don't bring that thing on to my plane! You see the belly of the plane, that's where he belongs. You see his belly, he belongs in the belly of the plane. Dogs should not be allowed on the plane."

25. It should be noted that Plaintiff and her husband have a long and positive history with AA. Plaintiff's husband has multiple family members that are part of the Million Mile Club, and Plaintiff's husband has been flying exclusively with AA for over 25 years.

26. To date, Plaintiff has been a nervous wreck, and has been severely distraught. Her anxiety has increased substantially, and she has not yet recovered from her mental pain and anguish.

27. As a direct and proximate result of AA's failure to accommodate Plaintiff, Plaintiff sustained serious injuries and damages including, but not limited to, loss of ability to enjoy life, mental disability, past and future medical expenses, and other mental pain and damages.

**COUNT I**  
**NEGLIGENCE**  
**(AGAINST AA)**

28. Plaintiff re-alleges and readopts Paragraphs one (1) through twenty-seven (27) as if set forth fully herein and further alleges:

29. At all times material hereto, the subject aircraft was operated under the ownership, direction, control, supervision and instruction of AA, by and through its authorized crewmembers, employees, servants, officers and/or agents acting in the scope of their agency or employment.
30. As a common carrier, AA owed a duty to its passengers, and in particular to Plaintiff, to provide carriage with a degree of care necessary to accommodate Plaintiff if she makes a reasonable request.
31. AA is also duty bound to exercise the requisite degree of care to prevent injury of any kind, and to maintain its aircraft in a safe condition.
32. AA, by and through its authorized crewmembers, employees, servants, officers, and/or agents acting in the scope of their agency or employment in the ownership, use, operation, training, control, inspection, repair, maintenance and servicing of the subject aircraft failed to take all necessary measures to avoid the subject accident. In fact, AA exacerbated it.
33. AA committed acts or omissions which demonstrate that it failed to take all necessary measures to avoid the subject accident and breached its duty of care. One such example of this is removing Plaintiff's comfort animal. Plaintiff is a pregnant woman with anxiety who was taking care of her 87-year-old grandfather.
34. Plaintiff has endured, and will continue to endure, great pain, suffering, inconvenience, embarrassment, mental anguish and emotional and psychological trauma.
35. Moreover, Plaintiff has been, and will be required to expend, large sums of money for medical treatment and care, rehabilitation and therapeutic treatment, and other

services.

36. As a direct and proximate result of AA's failure to accommodate Plaintiff, Plaintiff sustained serious injuries and damages including, but not limited to, loss of mobility, loss of ability to enjoy life, disability, past and future medical expenses, and other injuries and damages.

## **II. BREACH OF CONTRACT**

37. Plaintiff re-alleges and readopts Paragraphs one (1) through twenty-seven (27) as if set forth fully herein and further alleges:

38. AA has a carrier contract, which can be found at this website:

<https://www.aa.com/i18n/travel-info/special-assistance/service-animals.jsp>

39. This carrier contract deals with service and emotional support animals, as well as their requirements.

40. AA's requirements are as follows:

- a. 1 emotional support / psychiatric service animal per person
- b. Animal must be a cat or dog (trained miniature horse may be permitted as a service animal); 4 months or older
- c. Animal must be clean and well-behaved
- d. Animals must be able to fit at your feet, under your seat or in your lap (lap animals must be smaller than a 2-year old child)
- e. If the animal is in a kennel, it must fit under the seat in front of you with the animal in it

41. Plaintiff's animal meets all of these requirements. Instead of accommodating Plaintiff, AA staff yelled at Plaintiff, called the police on her, and threw her

emotional support dog in a bathroom, and repeatedly smashed the door on the dog while inside the kennel because the kennel did not fit.

42. Plaintiff provided AA with advanced notice, and even though AA staff was abusive to the Plaintiff, the emotional support dog did not bark or growl.

43. The reality is that Plaintiff's animal was in her control, or in the control of her husband, at all times.

44. As such, AA entered into a contract with Plaintiff

45. AA breached that contract by removing the dog from her possession, stuffing it into a bathroom, and causing severe trauma to Plaintiff

46. AA's breach caused the Plaintiff damage, not related to her emotional distress.

Obviously, the kennel was damaged, and the dog was traumatized by the event.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully request that this Court enter a judgment against Defendant, AMERICAN AIRLINES, INC., for damages together with interest and costs of this suit, along with any other and further relief as this Court may deem just, equitable and proper.

Dated: August 5, 2019

Respectfully submitted,

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/s/ Yvette J. Harrell Yvette J. Harrell Bar Number: 12936	<u>/s/ Andre G. Raikhelson</u> Andre G. Raikhelson Bar Number: 123657



**EXHIBIT A**

**PURCHASED TICKET**



PASSENGER AND BAGGAGE CHECK IN

AMERICAN AIRLINE

28APR19

INTERNAL

US

AMERICAN AIRLINES  
BOARDING PASS

DIVEROLI/AVIGIAL

MIAMI INTERNINL

AA 314

J 28APR530P

DIVEROLI/AVIGIAL

MIAMI INTERNINL

LOS ANGELES

AMERICAN AIRLINES

BOARDING PASS

BE READY TO BOARD

35 MINUTES BEFORE DEPARTURE

GROUP 1

SEAT 7A

PRIORITY FIRST

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1 001 2347760495 3

CS3 INT

AA 314 J 28APR530P  
D23 455P 7A NO

GROUP

**EXHIBIT B**

**PICTURE OF SIMBA**

