

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

| | | |
|----------------------------|---|----------------------------|
| MARLIN JACKSON, |) | |
| |) | |
| Plaintiff, |) | JURY TRIAL DEMANDED |
| |) | |
| vs. |) | Civil Action |
| |) | File No.: _____ |
| |) | |
| DELTA AIR LINES, INC., and |) | |
| RONALD K. MUNDY |) | |
| |) | |
| Defendants. |) | |

COMPLAINT

COMES NOW, MARLIN JACKSON (hereinafter referred to as "Plaintiff")
and files this complaint against Defendants DELTA AIR LINES, INC. and
RONALD K. MUNDY as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Marlin Termaine Jackson is a citizen of the state of Alabama and
resides in Alabama.

2.

Defendant Delta Air Lines, Inc. (hereinafter referred to as “Delta”) is a Profit Corporation, though incorporated in Delaware, maintains its principal place of business in Fulton County, Georgia and is authorized to transact business in Fulton County, Georgia, and is therefore subject to the jurisdiction of this Court as Delta is domiciled in the state of Georgia.

3.

Defendant Delta can be served with a copy of the Summons and Complaint via its registered agent, Corporation Service Company, located at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092 in Gwinnett County, Georgia.

4.

Defendant Ronald K. Mundy. (hereinafter referred to as “Mundy”) is a resident of the state of North Carolina.

5.

Defendant Mundy can be served with a copy of the Summons and Complaint at 229 Pennsylvania Road, Mills River, Henderson County, North Carolina 28759.

6.

Jurisdiction and Venue are proper in this Court as to Defendant Delta pursuant to the provisions of the O.C.G.A. §50-2-21 and O.C.G.A. §14-2-510(b)(3)(4) in that the tortious act was committed in Fulton County, Georgia and that Defendant Delta's principal office address, where it conducts business, is in Fulton County, Georgia.

7.

Jurisdiction and Venue are proper in this Court as to Defendant Mundy pursuant to the provisions of O.C.G.A. §9-10-91 and O.C.G.A. §9-10-93 in that the tortious act was committed in Fulton County, Georgia.

OPERATIVE FACTS

8.

On June 4th, 2017, at approximately 11:30 a.m., Mr. Jackson was a paying customer of Defendant Delta booked on Delta Flight 1430 from Atlanta Hartsfield-Jackson Airport to San Diego International Airport.

9.

Defendant Delta assigned Mr. Jackson a window seat in the 31st row of the cabin. Upon approaching the three (3) seat row, Mr. Jackson encountered Defendant Mundy in the middle seat with his large dog attempting to sit in his lap.

The animal was so large that it encroached into the aisle seat and window seat.

10.

Despite Defendant Delta's stated policy for larger animals, to receive special seating accommodations onboard, Delta assigned Defendant Mundy and his large dog, a middle seat in the thirty first (31st) row.

11.

Further, Defendant Delta's published policy states that animals, such as Defendant Mundy's dog, would be secured on the floor; however, Defendant Delta allowed the large animal to remain in Defendant Mundy's lap while Delta employees passed through the area in open disregard of said policy.

12.

Not only was the large animal not secured on the floor, the animal was not in a kennel which is required by Defendant Delta's policies, except when the animal meets the extensive training equivalent of a service animal. Upon information and belief, the large animal which attacked Mr. Jackson was neither a service animal nor had been verified by Delta to meet the training requirements of service animals.

13.

Upon information and belief, Defendant Delta took no action to verify or document the behavioral training of the large animal such as, but not limited to, requiring signed documentation that the animal is trained and can behave in the setting. Such measures were feasible at the time but were not in effect until after this attack.

14.

Prior to taking his assigned seat, Mr. Jackson inquired of Defendant Mundy if the animal would bite. Defendant Mundy put his arms around the animal and indicated that it was safe for Mr. Jackson. As such, Mr. Jackson tentatively proceeded past Defendant Mundy and the animal and took his seat next to the window.

15.

While Mr. Jackson was securing his seatbelt, the animal began to growl at Mr. Jackson and shift in Defendant Mundy's lap. Again Mr. Jackson asked if the dog was safe and Defendant Mundy again assured him that Mr. Jackson would be safe.

16.

Suddenly, the animal attacked Mr. Jackson's face, biting Mr. Jackson several times while pinning him against the window of the airplane.

17.

The attack was briefly interrupted when the animal was pulled away from Mr. Jackson. However, the animal broke free and again mauled Mr. Jackson's face.

18.

The attacks caused extensive facial damage including deep lacerations and punctures to the nose and mouth. In fact, Mr. Jackson bled so profusely that the entire row of seats had to be removed from the airplane.

19.

As a result of the vicious attacks and Defendants' negligence, Mr. Jackson's damages included, but were not limited to the following:

- Mr. Jackson suffered numerous lacerations and punctures to the face and upper body requiring twenty eight (28) stitches and ongoing medical treatment throughout his attempted recovery;
- Mr. Jackson suffered permanent injury, scarring, and loss of sensation to the affected areas of his face;

- Mr. Jackson endured severe physical pain and suffering and is likely to suffer future physical discomfort;
- Mr. Jackson endured, continues to endure, and will likely experience future emotional distress and mental anguish related to this attack;
- Mr. Jackson sustained loss of income and/or earning potential;
- Mr. Jackson sustained lost life enjoyment and his entire lifestyle has been severely impaired by this attack.
- Mr. Jackson has incurred substantial medical bills as a result of this attack and will likely continue to incur medical bills related to this attack.

COUNT I. NEGLIGENCE AS TO DEFENDANT DELTA

20.

Plaintiff's allegations as set forth in Paragraphs 1-19 are hereby re-alleged as if fully set forth herein.

21.

At all material times related to this event, Defendant Delta owned, operated, maintained, or controlled all aspects related to this event including but not limited to the following: the airplane; the assigned seating of passengers; the boarding process; and cabin safety checks. Additionally, Mr. Jackson was an invitee for the

economic benefit of Delta.

22.

Defendant Delta was required to exercise ordinary care in protecting its invitees, including Mr. Jackson, from reasonably foreseeable harm. Further, Defendant Delta was not only required to exercise ordinary care, but, as carrier of passengers, Delta owed Mr. Jackson an even greater obligation “to exercise extraordinary diligence to protect the lives and persons of its passengers.”

(O.C.G.A. § 46-9-1; O.C.G.A. § 46-9-132; Delta Air Lines, Inc. v. Millirons, 87 Ga. App. 334 (1952)).

23.

Defendant Delta breached the standard of care by failing to protect its invitee, Mr. Jackson, from reasonably foreseeable harm. The harm of large, untrained, and unrestrained animals in the cabin of an airplane was reasonably foreseeable to Delta, or should have been. Moreover, Defendant Delta, as common carrier in the airline industry, knew or should have known that subjecting passengers and animals to close physical interaction in the confined, cramped, and anxious quarters of the cabin, presented a reasonably foreseeable harm. The foreseeably harmful setting was within the control and direction of Delta at all material times.

24.

Despite what Defendant Delta knew or should have known, it assigned Mr. Jackson a seat on an airplane confined between the window of the cabin on one side and a large animal without verified training on the other. Further, Delta allowed the large animal to encroach the space of others from the lap of its owner instead of being securely positioned on the floor.

25.

In addition to the examples above, the negligence of Defendant Delta and its employees and agents included, but was not limited to, the following particulars:

- a) In allowing a passenger onboard its airplane with a large dog without any verification of the animal's adequate situational training;
- b) In allowing a passenger onboard its airplane with a large dog without any verification of proper restraints on the animal to protect invitees such as Mr. Jackson from attack;
- c) In failing to inspect the premises to discover that passengers were bringing unsecured animals, with unverified training, onboard its airplane;
- d) In failing to warn guests of the dangers of unsecured animals onboard its airplane so that they could protect themselves.

Moreover, Defendant Delta failed to meet its legal obligations by violating its own policies and procedures intended to regulate animals travelling within the passenger cabin. These safety policies, which were posted publicly for the protection of and reliance by all airplane occupants, serve as illustrative evidence of the standard of care and were violated as follows:

- a) Although Defendant Delta's policy states that "no animals are allowed to occupy seats..." and that animals are, "expected to be seated in the floor space below [your] seat", Delta allowed the large animal which attacked Mr. Jackson to remain in Defendant Mundy's seat during the boarding process;
- b) Although Defendant Delta's policy states that with regards to "larger service animals...[Delta] may need to re-accommodate...if the animal encroaches on other passengers", Delta failed to re-accommodate the large animal from its position in the middle seat, despite the animal, due to its size, noticeably encroaching the seats beside it;
- c) Although Defendant Delta's policy states that Emotional Support Animals (hereinafter, "ESA") "must be trained to behave properly in public settings as service animals" and "a kennel is not required" if the ESA is "fully trained

and meet(s) the same requirements as a service animal”, Delta failed to require a kennel for the large animal and/or failed to verify that the large animal, allegedly an ESA, was trained and met the same requirements as a service animal.

27.

As a result of Defendant Delta’s negligence, Mr. Jackson sustained economic and non-economic damages as indicated above in paragraph 19.

COUNT II. NEGLIGENT HIRING, TRAINING AND SUPERVISION AS TO

DEFENDANT DELTA

28.

Plaintiff’s allegations as set forth in Paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29.

Defendant Delta was negligent in hiring, training and supervising its employees working on the premises.

30.

Defendant Delta and/or its employees knew or should have known before and during the boarding process that the animal in question would be on the plane

thus presenting Delta's employees with numerous opportunities to evaluate the animal and take reasonable measures to ensure the safety of the other passengers, including Mr. Jackson. However, Defendant Delta's employees, who were in the area prior to the attack, failed to act reasonably in preventing the attack, including but not limited to, by failing to enforce Delta's own policies noted above. As such, Defendant's Delta's negligence in hiring, training and supervising its employees resulted in the vicious attack on Mr. Jackson.

COUNT III. NEGLIGENCE AS TO RONALD K. MUNDY

31.

Plaintiff's allegations as set forth in Paragraphs 1-30 are hereby re-alleged as if fully set forth herein.

32.

Defendant Mundy, who owned the animal that attacked Mr. Jackson, knew or in the exercise of reasonable care, should have known that his large animal was foreseeably dangerous, especially when confined to the cramped and anxious quarters of the passenger cabin of an airplane.

33.

Prior to subjecting the large animal to the foreseeably dangerous confines of

a crowded airplane, Defendant Mundy failed to reasonably ascertain that his large animal would behave appropriately in such a setting.

34.

Prior to subjecting the large animal to the foreseeably dangerous confines of a crowded airplane, Defendant Mundy failed to act reasonably, consistent with the standard of ordinary care, to prevent harm to his fellow passengers, including Mr. Jackson.

35.

During the boarding process, Defendant Mundy repeatedly failed to secure his large animal consistent with the requirements of the standard of care and according to Defendant Delta's requirements for travelling with an animal, despite the animal's aggressive display of behavior towards other passengers.

36.

Subsequent to the animal's aggressive display of behavior, Mr. Jackson inquired of Defendant Mundy whether the animal was safe and/or would bite, at which time Defendant Mundy voluntarily undertook the responsibility for Mr. Jackson's safety by assuring Mr. Jackson that the dog was safe while physically securing the animal. Subsequent to the initial assurance by Defendant Mundy, Mr.

Jackson proceeded into the row and took his seat by the window. However, the animal's behavior became even more aggressive prompting Mr. Jackson to once again question Defendant Mundy regarding the likelihood of the animal to bite, only to be assured again that the animal was safe.

37.

Mr. Jackson relied on Defendant Mundy's undertakings, prior to entering the row and then again prior to fastening his seatbelt, however Defendant Mundy failed to secure his animal and therefore was negligent under the principle of voluntary undertaking.

38.

As a result of Defendant Mundy's negligence, Mr. Jackson sustained numerous injuries outlined above.

CONCLUSION AND PRAYER FOR RELIEF

39.

Defendants were negligent as described above, and said negligence resulted in severe injuries to Mr. Jackson. Thus, Mr. Jackson is entitled to recover of Defendants, jointly and severally, all damages allowed under Georgia law, including but not limited to, damages for pain and suffering, past and future lost

wages, past and future medical expenses, as well as past and future emotional pain, suffering, and mental anguish.

WHEREFORE, Plaintiff prays as follows:

- (a) That process issue and Defendants be served according to law;
- (b) That Plaintiff have a trial by a jury of his peers;
- (c) That Plaintiff have a judgment against Defendants for all damages allowed under Georgia law and in an amount to be proven at trial;
- (d) That the costs of the within action be cast upon the Defendants; and
- (e) Such other, further and different relief as this Court deems just and appropriate.

This 24th day of May, 2019.

ALEXANDER SHUNNARAH INJURY LAWYERS, P.C.



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