

1 GEORGE L. MALLORY, JR., ESQ. (SBN 86311)  
2 **GEORGE L. MALLORY, JR. & ASSOCIATES**  
3 1925 Century Park East, Suite 2000  
4 Los Angeles, California 90067-2701  
5 Telephone: (310) 788-5555  
6 Facsimile: (310) 788-5570

7 Attorneys for Plaintiff  
8 Nathan Davis, Jr.

9 UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 **NATHAN DAVIS, JR.,**

12 **Plaintiff,**

13 **vs.**

14  
15 **UNITED AIRLINES, INC,**  
16 **MANAAIR, LLC, EXPRESSJET**  
17 **AIRLINES, UNITED EXPRESS,**  
18 **JESSIE GUTIERREZ, AND**  
19 **CAPTAIN DOUGHTY, Employees of**  
20 **the Defendants.**  
**Defendant**

**Case No.:**

**COMPLAINT FOR DAMAGESAND  
DEMAND FOR TRIAL BY JURY**

21 The PLAINTIFF NATHAN DAVIS, JR., complaining of the Defendants,  
22 alleges as follows:

23 ***THE NATURE OF THE ACTION***  
24

- 25 1. This suit is brought to redress the racial discrimination and racial profiling  
26 of an African-American passenger by Defendants including but not limited  
27

28 to United Airlines. On December 31, 2019, the Plaintiff was a passenger on  
COMPLAINT FOR DAMAGESAND DEMAND FOR TRIAL BY JURY - 1

1 United Flight 4273 from Houston, Texas to Nashville, Tennessee. Upon  
2 boarding the flight and prior to takeoff, the Plaintiff was discriminated  
3 against, harassed, singled out, and humiliated by one of Defendant's flight  
4 attendants, identified as JESSIE GUTIERREZ.  
5  
6

- 7  
8 2. Plaintiff was removed from the flight without justification or legal cause  
9 and made an example of and spectacle in front of other passengers despite  
10 the fact that he posed no security risk, committed no violation of law and  
11 was adhering to rules and regulations in concert with other passengers.  
12

13 While in the course and scope of her employment and at the insistence of  
14 Defendant Jessie Gutierrez whose conduct was outlandish, unprofessional,  
15 and unjustified, the Plaintiff was summarily removed from the flight. The  
16 ultimate decision was made by Defendant Pilot CAPTAIN DOUGHTY  
17 who acted in concert with Defendant Jessie Gutierrez to discriminate and  
18 violate the Civil Rights of the Plaintiff. Defendant Captain Doughty also  
19 assaulted Plaintiff when he attempted to take the Plaintiff's cell phone as  
20 described below.  
21  
22  
23

24 ***JURISDICTION AND VENUE***  
25

- 26 3. The Plaintiff Nathan Davis, Jr. ("Davis, Jr."), an African-American man is  
27 an actor, singer, musician, and entertainer. The Plaintiff is a resident of the  
28

1 State of California.  
2

3 4. Defendant United Airlines, Inc. (“United”) is a major American Airline  
4 headquartered in Chicago, Illinois. Defendant is incorporated in Delaware.  
5 It conducts business throughout the United States and the world.  
6

7  
8 5. Defendant ManaAir, LLC is a Delaware limited liability company with  
9 headquarters in Atlanta, Georgia.  
10

11 6. Defendant ExpressJet Airlines, LLC is a North American regional Airline  
12 headquartered in College Park, Georgia and flies under the United Express  
13 brand for United Airlines.  
14

15 7. Defendant United Express is a DBA and brand name for the regional brand  
16 United Airlines.  
17

18  
19 8. At all times hereinafter mentioned, all of the acts and conduct hereinafter  
20 described of each and every corporate defendant was duly authorized,  
21 ordered and/or directed by the respective defendant's corporate employees,  
22 and the officers and management-level employees of said corporate  
23 defendants and that said corporate defendants participated in the acts and  
24 conduct of their said employees, agents and representatives and each of  
25 them, and upon completion of the aforesaid acts and conduct of said  
26  
27  
28

1 corporate employees, agents and representatives, the defendant  
2 corporations, individually and collectively, ratified, accepted the benefits  
3 of, condoned, lauded, acquiesced, approved and consented to each and  
4 every one of the said acts and conduct of the aforesaid corporate  
5 employees, managing agents, directors, executives and representatives. At  
6 all times hereinafter mentioned, defendants retained the ability to  
7 exercise, and in fact exercised, substantial control, whether contractual,  
8 actual, implied or otherwise, over the means and manner in which the  
9 remaining defendants conducted their business and had the power to  
10 influence the remaining defendants.  
11  
12  
13  
14  
15

16 9. At all times hereinafter mentioned, plaintiff will show, according to proof,  
17 that various defendants were, and remain, the alter egos, successors, and/or  
18 successors in interest, of the remaining defendants.  
19

20 10. As to "alter ego liability" defendants, it is alleged, upon information and  
21 belief, that as to those defendants, that at all times there existed such a  
22 unity of interest and ownership among those defendants such that any  
23 separateness ceased to exist that one was a mere shell or instrumentality  
24 through which the other carried out their business and that each defendant  
25 exercised such complete control over the other and so dominated it to  
26  
27  
28

1 achieve individual goals and so ignored business formalities that any  
2  
3 separateness was merely a fiction, and did not in fact exist, and should be  
4  
5 deemed not to exist, and as such, if acts are alleged as against one defendant  
6  
7 in this complaint, it is alleged that that defendant acted for itself as well  
8  
9 as on behalf of its alter egos. Among other things, those defendants did one  
10  
11 or more of the following acts supporting its alter ego liability: commingled  
12  
13 corporate funds; failed to observe corporate formalities including  
14  
15 maintaining minutes and failure to contribute sufficient capital;  
16  
17 commingled funds or other assets; used corporate funds for something other  
18  
19 than corporate uses; failed to maintain adequate corporate records;  
20  
21 deliberately confused the records of the separate entities; had the same  
22  
23 directors and officers of the two or more corporations; used the same  
24  
25 office or business location; utilized the same employees and/or attorney;  
26  
27 failed to adequately capitalize the corporation; used the corporation as a  
28  
mere shell, instrumentality or conduit for a single venture; failed to  
maintain an arm's length relationship among related entities; and/or used a  
corporate entity to procure labor, services or merchandise for another entity.  
Moreover, injustice would result but for the finding of alter ego liability as  
to these defendants, and as such this Court should pierce the corporate veil.

1 Further, since alter ego applies here, a corporation's shareholders are treated  
2 as "partners" and are held jointly and severally liable for its debts and  
3 plaintiff notes that ownership of even one share is sufficient to impose alter  
4 ego liability, and it is thus alleged, upon information and belief, that various  
5 defendants as alter egos, are also active shareholders in the remaining  
6 defendants, influenced and governed the remaining corporate defendants  
7 and as such can, and should, be held liable as an alter ego of each and every  
8 remaining defendant.  
9

- 10
- 11
- 12
- 13 11. As to those defendants liable under theories of "successor liability and/or  
14 successor in interest liability," it is alleged that, as to those defendants, one  
15 or more of the following factors exists: there is a mere continuation on the  
16 part of defendants; a common identity of directors, officers and shareholders  
17 from predecessor corporations to successor corporations; that assets were  
18 purchased; that the defendants are successors and successors in interest, of  
19 both assets and liabilities of the others; and that among other things, one or  
20 more of the following facts exist and/or are in play: a continuation of the  
21 enterprise, i.e., that key people of the predecessor are involved in the new  
22 entity, the same name, location, facilities or product is used, the assets were  
23 bought by the new entity and the operations are the same; the seller  
24  
25  
26  
27  
28

1 dissolved or ceased doing business after the sale; the purchaser assumed  
2 the liabilities and obligations ordinarily necessary to continue doing  
3 business; and/or the new entity holds itself out as an effective continuation  
4 of the seller.  
5  
6

7 12. At all times herein mentioned, each of the defendants was the agent,  
8 servant, employee, and joint venturer of each of the remaining  
9 defendants and at all times alleged hereinafter mentioned, defendants  
10 were acting within the purpose and scope of said agency, employment,  
11 and joint venture, and each defendant has ratified and approved the acts of  
12 the remaining defendants.  
13  
14

15 13. To the extent a corporate defendant is named herein, it is believed that any  
16 such defendant's corporate officers and directors ratified and approved any  
17 wrongful conduct alleged in this complaint, or were directly responsible for  
18 perpetrating such conduct.  
19  
20

21 14. The Corporate and Limited Liability Company Defendants described  
22 herein will be referred to as United Airlines.  
23

24 15. Defendant Jessie Gutierrez is a female flight attendant who was employed  
25 by the Defendants and was working in the course and scope of her  
26 employment on United Flight 4273 from Houston, Texas to Nashville,  
27  
28

1 Tennessee on December 31, 2019.

2  
3 16. Defendant Captain Doughty is a Caucasian male pilot who was employed  
4 by the Defendants and was working in the course and scope of his  
5 employment on United Flight 4273 from Houston, Texas to Nashville,  
6 Tennessee on December 31, 2019.  
7

8  
9 17. This lawsuit is based upon the discriminatory and unjustified removal of the  
10 Plaintiff, a United States citizen from a United flight in violation of the  
11 United States Constitution. This case is brought pursuant to 42 U.S.C.  
12 Section 1981. This Court has jurisdiction over this action pursuant to 28  
13 U.S.C. Section 1331, 1332, 1343, and 1367.  
14  
15

16  
17 18. This Court has personal jurisdiction over defendants because defendants are  
18 an airline that regularly conducts business in the City and County of Los  
19 Angeles and State of California in the Central District of California.  
20

21 19. The venue is proper in the Central District of California under 28 U.S.C.  
22 Section 1391 in that Defendant's conduct substantial business in this district  
23 and operates out Southern California airports including but not limited to  
24 Los Angeles International Airport.  
25  
26  
27  
28



***FACTS***

20. In December 2019, during the Christmas holidays Plaintiff Davis, Jr. visited family in Houston, Texas.

21. On December 31, 2019, the Plaintiff was a ticketed passenger on United Flight 4273 from Houston, Texas to Nashville, Tennessee. The Plaintiff was initially assigned to seat 20D, however at the request of 2 passengers traveling together, he agreed to relocate to a single seat in row 23A in the last row of the aircraft.

22. The Plaintiff who is an actor, singer, musician, and entertainer was scheduled to perform a New Year's Eve concert in Nashville, Tennessee. Prior to the aircraft taxing for takeoff Plaintiff Davis, Jr. was seated with a "natural" hairstyle, wearing a "hoody," and donning an artificial nose ring while listening to music from his cell phone with his air pods headset. Plaintiff Davis, Jr. was the only African-American male on the flight.

23. While minding his own business seat belted and listening to music Defendant Jessie Gutierrez rudely singled out Plaintiff Davis, Jr. and advised that she heard music in the general area where several passengers were wearing headphones, however she only addressed Plaintiff Davis, Jr.

1           advising that his music was too loud.

2  
3       24. Although Plaintiff Davis, Jr. did not perceive his music listening activities  
4       as annoying or impacting any other passenger he nevertheless complied  
5       with the request of Defendant Jane Doe and turned his music down. Upon  
6       observation, while Plaintiff Davis, Jr. noted other passengers listening to  
7       music that was also displayed on their personal devices the flight attendant  
8       Jessie Gutierrez dogmatically returned to Plaintiff Davis, Jr. who was  
9       seated in the last row and again advised him to turn down his music. The  
10      Plaintiff noted that no other passengers were approached or requested to  
11      turn down their music although it was patently obvious that they were  
12      listening to music on their personal devices during the same frame.

13  
14  
15  
16  
17      25. Concerned that he was being singled out, ostracized, and purposely  
18      harassed for no reason, Plaintiff Davis, Jr. remained seated with his  
19      headphones affixed however he “MUTED” the music on his personal  
20      device. Although his music was completely off the flight attendant  
21      Defendant Jessie Gutierrez approached only the Plaintiff, a third time and  
22      began mocking him while mouthing “you can’t hear me, can you?”  
23      Thereafter, Defendant Gutierrez retorted “Because your music is too loud.”  
24      After the flight attendant’s third encounter with the Plaintiff it became  
25  
26  
27  
28

1 patently obvious that Plaintiff Davis, Jr. was being chastised, singled out,  
2 and verbally abused unlawfully and unjustifiably as his music was  
3 “MUTED” when he was again purposefully harassed.  
4

5  
6 26. Defendant Gutierrez thereafter contacted the Defendant Captain Doughty  
7 who was in the cockpit from the telephone in the rear galley to as the plane  
8 was taxing to takeoff. After their conversation the Defendant Gutierrez  
9 advised and Defendant Doughty announced to the passengers over the  
10 intercom that the aircraft would return to the gate to remove a passenger  
11 (Plaintiff Davis, Jr.).  
12  
13

14  
15 27. Upon returning to the gate, an Operations Supervisor boarded the aircraft  
16 and Plaintiff Davis, Jr. was requested to deplane which he did voluntarily.  
17 While on the jetway, Plaintiff Davis, Jr. related the facts to Defendant  
18 Captain Doughty, who was not present during the Plaintiff’s contact and  
19 exchange with the Defendant Gutierrez however the Plaintiff was removed  
20 from the flight in spite of his verbalization of racial discrimination,  
21 desperate treatment and his New Year’s Eve professional engagement  
22 performance in Nashville, Tennessee. In addition, while on the jetway  
23 Defendant Doughty attempted to forcefully take away the Plaintiff’s cell  
24 phone while he recorded the interaction between the parties.  
25  
26  
27  
28

1  
2 28. In spite of his verbal protestation's embarrassment and emotional trauma,  
3 Plaintiff Davis, Jr. was ordered to return to the aircraft and remove his  
4 personal items and himself from the United flight. At the direction of the  
5 Defendants airline personnel, the Plaintiff hastily retrieved his tuxedo and  
6 although he mistakenly left his remaining carry-on luggage, he began to  
7 deplane pursuant to the orders of the Defendant airlines personnel.  
8  
9

10 29. As the Plaintiff deplaned in front of fellow passengers as a result of  
11 purportedly listening to music on his personal device, **SHOCKINGLY,**  
12 **RECKLESSLY** and without any basis, Defendant Jessie Gutierrez  
13 announced over the aircraft loudspeaker "**HE'S GOT A GUN**" referring to  
14 Plaintiff Davis, Jr. Although, Defendant Gutierrez' statement was made  
15 maliciously without any justification, Plaintiff Davis, Jr. shamefully left the  
16 aircraft emotionally distraught and tearful as a result of his unlawful and  
17 racially charged removal from the aircraft.  
18  
19  
20  
21

22 30. After deplaning the plaintiff was never contacted or detained by law  
23 enforcement nor was any action taken based upon Defendant Gutierrez'  
24 statement "**He's got a gun.**" Indeed, gate agents and other passengers  
25 recognized the Plaintiff as a law abiding actor and entertainer. Thereafter,  
26 the Plaintiff received apologies from other United personnel, was upgraded  
27  
28

1 to First Class and rebooked on a later flight from Houston, Texas to  
2  
3 Nashville, Tennessee.

- 4  
5 31. Plaintiff Davis, Jr. suffered personal and professional embarrassment as  
6 well as severe emotional trauma as a result of the actions of Defendants  
7 Jessie Gutierrez and Captain Doughty on United Airline Flight 4273.  
8

9 **FIRST CAUSE OF ACTION**

10 **NEGLIGENT HIRING, TRAINING, SUPERVISION, AND/OR**

11 **RETENTION OF AN UNFIT EMPLOYEE**

- 12  
13 32. The Plaintiff repeats and realleges the proceeding paragraphs as if set forth  
14 herein.

15 Plaintiff is informed and believes and thereon alleges that in doing the acts  
16 as heretofore alleged, Defendant, Jessie Gutierrez was incompetent and  
17 unfit to perform the duties for which she was employed, and that an undue  
18 risk to persons such as Plaintiff and other passengers existed because of her  
19 employment.  
20  
21

- 22 33. Plaintiff is informed and believes and thereon alleges that in doing the acts  
23 as heretofore alleged, Defendants including United Airlines failed to  
24 adequately train and supervise Defendant Gutierrez in the exercise of the  
25 tasks of her employment and/or failed to terminate her, thereby proximately  
26 causing plaintiffs' injuries as set forth heretofore.  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

34. Despite this advance knowledge of Defendant Gutierrez' unfitness to perform her duties, Defendant United retained Defendant Gutierrez as an employee in conscious disregard of the rights and safety of others.

35. Defendants including United Airlines are liable for the actions of its agents and employees directly and under the doctrine of respondeat superior.

36. Defendant United Airlines is a Common Carrier. A Common Carrier must carry passengers safely. Common carriers must use the highest care and the vigilance of a very cautious person. They must do all that human care, vigilance, and foresight reasonably can do under the circumstances to avoid harm to passengers. While a common carrier does not guarantee the safety of its passengers, it must use reasonable skill to provide everything necessary for safe transportation, in view of the transportation used and the practical operation of the business. Defendants breached their duty of care in its actions toward Plaintiff.

37. As a direct and proximate result of Defendants actions, Plaintiff suffered mental distress, anguish, personal and professional embarrassment as well as indignation. Plaintiff is thereby entitled to general and compensatory damage in an amount no less than ten million dollars.

38. Defendants acts alleged herein were malicious, oppressive, despicable, and

1 in conscious disregard of Plaintiff's rights. As such, punitive damages are  
2 warranted against Defendants in order to punish and make an example of  
3 each of them.  
4

## 5 **SECOND CAUSE OF ACTION**

### 6 **ASSAULT AGAINST PLAINTIFF DAVIS, JR.**

7  
8 39. The Plaintiff repeats and realleges the proceeding paragraphs as if set forth  
9 herein.

10  
11 40. Defendant Doughty, attempted to physically take the Plaintiff's cell phone  
12 as Plaintiff filmed the interaction between the parties on the jet bridge as  
13 described above. As an agent and employee of Defendants United Airlines,  
14 Defendant Doughty's actions by reaching and attempting to grab the cell  
15 phone held by Plaintiff Davis, Jr., placed Plaintiff in imminent  
16 apprehension and fear of an unwanted battery or bodily contact.  
17

18  
19 41. The actions of the Defendant Doughty in reaching and grabbing for the cell  
20 phone were intentional and unwarranted while interfering with Plaintiff's  
21 Constitutional Right to record the violation of his rights.  
22

23 42. At no time did Plaintiff Davis, Jr. consent to or in any way justify any of the  
24 acts of Defendants.  
25

26 43. Defendants United Airlines are liable for the actions of its agents and  
27 employees directly and under the doctrine of respondeat superior.  
28

1 The Corporate and Limited Liability Company Defendants are Common  
2 Carriers. Common Carriers must carry passengers safely. Common carriers  
3 must use the highest care and the vigilance of a very cautious person. They  
4 must do all that human care, vigilance, and foresight reasonably can do  
5 under the circumstances to avoid harm to passengers. While a common  
6 carrier does not guarantee the safety of its passengers, it must use  
7 reasonable skill to provide everything necessary for safe travel, in view of  
8 the transportation used and the practical operation of the business.

9 Defendants breached their duty of care in its actions toward Plaintiff Davis,  
10 Jr.

11 44. As a direct and proximate result of Defendants actions, Plaintiff Davis, Jr.  
12 suffered mental distress, anguish, and indignation. Plaintiff Davis, Jr. is  
13 thereby entitled to general and compensatory damage in an amount no less  
14 than ten million dollars.

15 45. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
16 conscious disregard of Plaintiff Davis, Jr.'s rights. As such, punitive  
17 damages are warranted against Defendants in order to punish and make an  
18 example of each of them.



**THIRD CAUSE OF ACTION**

**NEGLIGENCE**

46. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

47. Defendants had a duty and they breached their duty of care to Plaintiff by failing to provide a safe place for its passengers to conduct their travel. As a direct and proximate cause of Defendants' breach of duty as described above, Plaintiff suffered and continues to suffer shock, humiliation, embarrassment, trepidation, fright, nervousness, grief, anxiety, worry, mortification, indignity and extreme and enduring emotional distress, all to his damage in an amount to be determined according to proof at trial.

48. Defendants United Airlines are liable for the actions of its agents and employees directly and under the doctrine of respondeat superior.

49. Defendants United Airlines is a Common Carrier. A Common Carrier must carry passengers safely. Common carriers must use the highest care and the vigilance of a very cautious person. They must do all that human care, vigilance, and foresight reasonably can do under the circumstances to avoid harm to passengers. While a common carrier does not guarantee the safety of its passengers, it must use reasonable skill to provide everything

1 necessary for safe travel, in view of the transportation used and the practical  
2 operation of the business. Defendants breached their duty of care in its  
3 actions toward Plaintiff.  
4

5  
6 50. As a direct and proximate result of Defendants actions, Plaintiff suffered  
7 mental distress, anguish, and indignation. Plaintiff is thereby entitled to  
8 general and compensatory damage in an amount no less than ten million  
9 dollars.  
10

11 51. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
12 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
13 warranted against Defendants in order to punish and make an example of  
14 each of them.  
15  
16

#### 17 **FOURTH CAUSE OF ACTION**

##### 18 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

19  
20 52. Plaintiff repeat and realleges the preceding and subsequent paragraphs as  
21 though set forth herein.  
22

23 53. Defendants engaged in outrageous conduct outlined herein which was  
24 intentional and malicious and done for the purpose of causing Plaintiff to  
25 suffer humiliation. As a direct and proximate cause of Defendants'  
26 outrageous conduct, Plaintiff suffered and continues to suffer shock,  
27  
28

1 humiliation, embarrassment, trepidation, fright, nervousness, grief, anxiety,  
2 worry, mortification, indignity and extreme and enduring emotional  
3 distress, all to his damage in an amount to be determined according to proof  
4 at trial.  
5  
6

7 54. Defendants United Airlines are liable for the actions of its agents and  
8 employees directly and under the doctrine of respondeat superior.  
9

10 55. Defendant United Airlines is a Common Carrier. A Common Carrier must  
11 carry passengers safely. Common carriers must use the highest care and the  
12 vigilance of a very cautious person. They must do all that human care,  
13 vigilance, and foresight reasonably can do under the circumstances to avoid  
14 harm to passengers. While a common carrier does not guarantee the safety  
15 of its passengers, it must use reasonable skill to provide everything  
16 necessary for safe travel, in view of the transportation used and the practical  
17 operation of the business. Defendants breached their duty of care in its  
18 actions toward Plaintiff.  
19  
20  
21

22 56. As a direct and proximate result of Defendants outrageous actions, Plaintiff  
23 suffered mental distress, anguish, and indignation. Plaintiff is thereby  
24 entitled to general and compensatory damage in an amount no less than ten  
25 million dollars.  
26  
27  
28

1  
2 57. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
3 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
4 warranted against defendants in order to punish and make an example of  
5 each of them.  
6

7 **FIFTH CAUSE OF ACTION**

8 **DISCRIMINATION UNDER 42 U.S.C. § 1981**  
9

10 58. Plaintiff repeats and realleges the preceding and subsequent paragraphs as  
11 though set forth herein.  
12

13 59. At all times relevant to the events described above, Defendant Jessie  
14 Gutierrez on December 31, 2019, was an employee and/or agent of  
15 Defendants United Airlines. The discriminatory practices described above  
16 were carried out: (a) at the direction of and with the consent,  
17 encouragement, knowledge, and ratification of the Defendants United; (b)  
18 under the Defendants United's authority, control, and supervision; and/or  
19 (c) within the scope of the employee' employment.  
20  
21

22 60. Defendants United is liable for the actions of its agents and employees  
23 directly and under the doctrine of respondeat superior.  
24

25 61. Defendant Jessie Gutierrez and by extension, Defendants United Airlines  
26 engaged in intentional discrimination based on Plaintiffs' race, color and  
27  
28

1 ancestry, by assaulting Plaintiff and by their hostile treatment of Plaintiff on  
2  
3 Defendant's December 31, 2019 flight. In so doing, Defendants violated  
4 Plaintiff's right to make and enforce the contract created when he  
5  
6 purchased a ticket and attempted to travel on Defendant United's December  
7  
8 31, 2019 flight from Houston, Texas to Nashville, Tennessee.

9 62. The foregoing actions by the Defendants thus constitute a deprivation of  
10  
11 Plaintiffs' right to make and enforce contracts regardless of his race, in  
12  
13 violation of 42 U.S.C. § 1981.

14 63. As a direct, foreseeable, and proximate result of Defendant's discrimination  
15  
16 and wrongful acts, Plaintiff suffered and continues to suffer fear, anxiety,  
17  
18 humiliation, mental pain and anguish, emotional distress, inconvenience,  
19  
20 and economic loss. The Plaintiff was injured on an amount no less than ten  
21  
22 million dollars.

23 64. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
24  
25 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
26  
27 warranted against Defendants in order to punish and make an example of  
28  
each of them.

///  
26  
27  
28

**SIXTH CAUSE OF ACTION**

**VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT of 1964**

65. Plaintiff incorporates by reference each and every allegation set forth above as though fully set forth herein.

66. The Defendant Pilot Captain Doughty and Defendant Jessie Gutierrez Flight Attendant on United Airlines United Flight 4273 from Houston to Nashville on December 31, 2019, were at all relevant times agents and/or employees of Defendant United and were acting within the course and scope of their employment.

67. Defendants United Airlines are liable for the unlawful acts of its agents and employees directly and/or under the doctrine of respondeat superior.

68. Defendants United Airlines are the recipient of federal funds and is thus covered by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d). Title VI and its implementing regulations prohibit recipients of federal monies from discriminating on the basis of, *inter alia*, race, color, or national origin.

69. Defendant Gutierrez' actions during the flight to include arranging for the Plaintiff to be made a public spectacle by having him escorted off of the plane as security risk in concert with Defendant Doughty's actions were

1 based upon the Plaintiffs' race, color, and/or national origin thus  
2 discriminated against the Plaintiff in violation of Title VI and its  
3 implementing regulations. Defendants actions were intentional and done in  
4 violation of Plaintiffs' civil rights.  
5  
6

7 70. As a direct, foreseeable, and proximate result of Defendant's discrimination  
8 and wrongful acts, Plaintiff suffered and continues to suffer fear, anxiety,  
9 humiliation, mental pain and anguish, emotional distress, inconvenience,  
10 and economic loss. The Plaintiff was injured on an amount no less than ten  
11 million dollars.  
12  
13

14 71. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
15 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
16 warranted against defendants in order to punish and make an example of  
17 each of them.  
18  
19

## 20 **SEVENTH CAUSE OF ACTION**

### 21 **FALSE IMPRISONMENT OF THE PLAINTIFFS**

22 72. The Defendant Pilot Captain Doughty and Defendant Gutierrez, Flight  
23 Attendant on United Airlines United Flight 4273 from Houston to Nashville  
24 on December 31, 2019, were at all relevant times agents and/or employees  
25 of Defendants United Airlines and were acting within the course and scope  
26  
27  
28

1 of their employment.

2  
3 73. Defendants United Airlines are liable for the unlawful acts of its agents and  
4 employees directly and/or under the doctrine of respondeat superior.  
5

6 74. Defendants caused the Plaintiff to be detained on the jetway by Defendants'  
7 employees where he was interrogated and summarily removed from United  
8 Airlines Flight 4273.  
9

10 75. The restraint, confinement, and detention compelled Plaintiff to remain on  
11 the jetway and thereafter in the airport for an appreciable amount of time.  
12

13 76. Plaintiff did not knowingly or voluntarily consent to such restraint,  
14 confinement, and detainment.  
15

16 77. Plaintiff was emotionally harmed by such restraint, confinement, and  
17 detainment and embarrassed before the public.  
18

19 78. Defendant's conduct was a substantial factor in causing Plaintiffs' harm.  
20 The Plaintiff was injured in an amount no less than ten million dollars.  
21

22 79. Defendants acts alleged herein are malicious, oppressive, despicable, and in  
23 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
24 warranted against defendants in order to punish and make an example of  
25 each of them.  
26  
27  
28



**EIGHTH CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS UPON THE  
PLAINTIFFS**

80. Plaintiff incorporates by reference each and every allegation set forth above as though fully set forth herein.

81. Defendants United Airlines and their employees and agents acted negligently and/or recklessly when they removed Plaintiff from United Airlines United Flight 4273.

82. Defendants and their employees and agents should have known that their discriminatory treatment and confinement of Plaintiff would create an unreasonable risk of emotional and physical damages.

83. As a result of Defendant's actions, Plaintiff has suffered serious emotional distress, including suffering anguish, fright, nervousness, grief, anxiety, worry, shock, humiliation, and shame, all of which an ordinary reasonable person would be unable to cope.

84. Defendant's negligence was a substantial factor in causing Plaintiffs' serious emotional distress. The Plaintiff was injured in an amount no less than ten million dollars.

85. Defendants acts alleged herein are malicious, oppressive, despicable, and in

1 conscious disregard of Plaintiffs' rights. As such, punitive damages are  
2 warranted against defendants in order to punish and make an example of  
3 each of them.  
4

5  
6 **NINETH CAUSE OF ACTION**

7 **BREACH OF CONTRACT**

8  
9 86. Plaintiff incorporates by reference each and every allegation set forth above  
10 as though fully set forth herein.

11 87. Plaintiff and Defendants entered into a contract of carriage.

12  
13 88. Plaintiff performed all conditions, covenants, and promises required on his  
14 part to be performed in accordance with the terms and conditions of the  
15 contract.  
16

17 89. Defendant breached the contract by removing the Plaintiff from United  
18 Airlines United Flight 4273 and failing to provide safe transport.

19  
20 90. As a proximate result of Defendant's breach, Plaintiff has suffered damages  
21 in an amount to be proven at trial.  
22

23 **Prayer for Relief**

24 Plaintiff prays for judgment as follows:

25 A. For a declaratory judgment that the actions of Defendants described  
26 above constituted discrimination on the basis of race in violation of 42  
27  
28

1 U.S.C. § 1981;

2  
3 B. Permanently enjoining Defendant and its directors, officers, agents,  
4 and employees to take all affirmative steps necessary to remedy the effects  
5 of the illegal, discriminatory conduct described herein and to prevent  
6 similar occurrences in the future;

7  
8 C. Awarding Plaintiff his expenses, costs, fees, and other disbursements  
9 associated with the filing and maintenance of this action, including  
10 reasonable attorneys' fees pursuant to 28 U.S.C. § 1988, and any other  
11 applicable provision of law;

12  
13  
14 D. For compensatory damages in an amount not less than ten million  
15 dollars;

16 E. For statutory damages;

17 F. For punitive damages; and

18  
19 G. For such other relief as the Court may deem just and proper.  
20

21 Under Federal Rule of Civil Procedure 11, by signing below, I certify to the  
22 best of my knowledge, information, and belief that this complaint: (1) is not  
23 being presented for an improper purpose, such as to harass, cause  
24 unnecessary delay, or needlessly increase the cost of litigation; (2) is  
25 supported by existing law or by a nonfrivolous argument for extending,  
26 modifying, or reversing existing law; (3) the factual contentions have  
27 evidentiary support or, if specifically so identified, will likely have  
28 evidentiary support after a reasonable opportunity for further investigation

1  
2 or discovery; and (4) the complaint otherwise complies with the  
3 requirements of Rule 11.

4 Dated: June 23, 2020

George L. Mallory, Jr., and Associates

5 *George Mallory*  
6 George L. Mallory, Jr., Esq.  
7 Attorney for Plaintiff,  
8 Nathan Davis, Jr.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a trial by jury through his counsel of record.

11 Date: June 23, 2020

George L. Mallory, Jr., and Associates

12  
13 *George Mallory*  
14 George L. Mallory, Jr., Esq.  
15 Attorney for Plaintiff,  
16 Nathan Davis, Jr.