

CAUSE NO. _____

**CHRISTOPHER J. BRIDGEMAN
and MARTIN A. BORGER**

Plaintiffs,

v.

**UNITED CONTINENTAL
HOLDINGS, INC., and
CONTINENTAL AIRLINES, INC.**

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ **JUDICIAL DISTRICT**

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE COURT:

Plaintiffs, Christopher J. Bridgeman and Martin A. Borger, file this Original Petition against Defendants, United Continental Holdings, Inc. and Continental Airlines, Inc., and respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1. Plaintiffs intend to conduct Level 2 discovery under the Texas Rules of Civil Procedure 190.

II. PARTIES

2. Plaintiff CHRISTOPHER J. BRIDGEMAN is an individual resident of Norfolk, Virginia.

3. Plaintiff MARTIN A. BORGER is an individual resident of Norfolk, Virginia.

4. Defendant UNITED CONTINENTAL HOLDINGS, INC. is a Delaware corporation authorized to do business in the State of Texas, and may be served with process by serving its registered agent, The Prentice-Hall Corporation System, Inc., 2711

Centerville Road Suite 400, Wilmington, Delaware 19808. Because the registered agent is in another state, process may be served on the Texas Secretary of State.

5. Defendant CONTINENTAL AIRLINES, INC. is a Delaware corporation and wholly owned subsidiary of Defendant United Continental Holdings, Inc. authorized to do business in the State of Texas, and may be served with process by serving its registered agent, The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801. Because the registered agent is in another state, process may be served on the Texas Secretary of State.

III. JURISDICTION AND VENUE

6. Suit is proper in Harris County, Texas because a substantial part of the events giving rise to this lawsuit occurred in this county.

IV. STATEMENT OF FACTS

7. On May 21, 2011, Plaintiffs, a homosexual couple, were returning from vacation on a flight provided by Defendants United Continental Holdings, Inc. and Continental Airlines, Inc. (collectively referred to as "Continental") from Costa Rica to Norfolk, Virginia with a layover at George Bush Intercontinental Airport in Houston, Texas. When Plaintiffs arrived in Houston, they retrieved their checked luggage, which was undisturbed at that time. After going through customs, Plaintiffs rechecked their bags, and proceeded to board their flight to Norfolk. Upon arriving in Norfolk, Plaintiffs exited the aircraft and went to the baggage claim area. Plaintiffs' bags were sent to the baggage carousel where Plaintiffs discovered, to their horror, that a private sex toy had been removed from one of their bags, covered in a greasy foul-smelling substance, and taped prominently to the top of their bag.

8. Plaintiffs experienced extreme shock and horror when they observed the above-described bag and when observing the surprised and/or laughing faces of numerous onlookers in the baggage claim area. Plaintiffs were experiencing such a high degree of shock and embarrassment that they felt compelled to call two friends to come to the airport to assist them. Fortunately, the friends arrived and were able to assist Plaintiffs out of the airport and to their home, but by that time the damage had already been done, and Plaintiffs had suffered severe emotional trauma.

9. At all times from when Plaintiffs checked their bags in Houston to the time Plaintiffs' bags were sent to the baggage carousel in Norfolk, the bag at issue was in the custody and control of the employees of Defendants. It was one or more of Defendants' employees that searched through Plaintiffs' private items contained in their bag with no feasible basis, removed the sex toy, defiled the sex toy, and taped it on display with the intent to inflict extreme emotional distress and mental anguish upon Plaintiffs. Because of the fact that the sex toy was contained in the bag of a male, and because the employee(s) responsible knew that the bag belonged to a male due to the name tag attached to the bag and the male clothing contained in the bag, there is a high likelihood that these egregious acts were directed towards Plaintiffs because they are homosexuals and because they are males.

10. At all times relevant, Defendants owed a duty to Plaintiffs to adequately supervise and control its employees, and Defendants' employees had a duty to prevent Plaintiffs' bag from being put on display in such an extremely offensive condition. Several of Defendants' employees observed the bag in its condition, and with knowledge that it would cause severe injury to Plaintiffs, did nothing to prevent the bag from being sent into the public baggage claim area. As a result of the actions of Defendants'

employee(s), Plaintiffs have suffered severe emotional distress and mental anguish, which has had a significant negative impact on their daily lives and which has necessitated treatment from mental health care professionals.

V. CAUSES OF ACTION

Intentional Infliction of Emotional Distress

11. The conduct of Defendants' employees was intentional and was the proximate cause of severe emotional distress to Plaintiffs, and the conduct was extreme and outrageous in that it would be regarded as extreme and outrageous by a reasonable person. The employees responsible acted with the intent to inflict extreme emotional distress on Plaintiffs due to Plaintiffs' sexual orientation and due to their sex. As a result of this intentional infliction of emotional distress, Plaintiffs have suffered damages that are greater than the minimum jurisdictional limits of this Court.

12. Additionally, Plaintiffs are entitled to exemplary damages because Defendants' acted with malice.

Invasion of Privacy

13. Defendants' employees' actions constitute an intentional intrusion on Plaintiffs' common law right to privacy. The employees responsible acted with the intent to inflict extreme emotional distress on Plaintiffs due to Plaintiffs' sexual orientation and due to their sex. This invasion of Plaintiffs' privacy would be highly offensive to a reasonable person, and has caused damages to Plaintiffs that are greater than the minimum jurisdictional requirements of this Court.

14. Additionally, Plaintiffs are entitled to exemplary damages because Defendants' invasion of Plaintiffs' privacy was done with malice.

Negligence

15. Defendants owed Plaintiffs a duty of care to properly train, supervise, and control their employees. Defendants breached this duty by allowing its employees to improperly search Plaintiffs' bag and to maliciously vandalize Plaintiffs' personal and private property with the intent to inflict extreme emotional distress and mental anguish on Plaintiffs.

16. Defendants' employees owed Plaintiffs a duty of ordinary care and breached that duty by allowing Plaintiffs' bag to be sent to the baggage carousel in its extremely offensive condition. Defendants are liable for their employees' failure to act with ordinary care, which was the proximate cause of injury to Plaintiffs.

17. Defendants' acquiescence and toleration of their employees' actions amounts to reckless and/or conscious indifference to the rights, safety or welfare of others, including Plaintiffs. Thus, Defendants are liable to Plaintiffs for both actual and exemplary damages under the theory of gross negligence.

18. As a result of Defendants' negligence and gross negligence, Plaintiffs have suffered damages that are greater than the minimum jurisdictional requirements of this Court.

VI. RESPONDEAT SUPERIOR

19. Defendants are liable for both the intentional torts and negligence of their employees under the doctrine of *respondeat superior*. The above-described acts were committed by Defendants' employees in the course and scope of their employment with Defendants. It was through their employment with Defendants that these employees were able to commit the acts described herein.

VII. RES IPSA LOQUITUR

20. With respect to Plaintiffs' causes of action under the theory of negligence, Continental's negligence should be imputed under the doctrine of *res ipsa loquitur*. The character and circumstances surrounding Plaintiffs' injuries are such that the injuries would not have occurred without Continental's negligence. Furthermore, the instrumentality that caused Plaintiffs' injuries was under the sole management and control of Continental, as Plaintiffs' bags were in the sole management and control of Continental immediately prior to the infliction of the injury.

IX. CONDITIONS PRECEDENT

21. All conditions precedent to the filing of this suit have been performed or have occurred.

X. MENTAL ANGUISH

22. As a direct result of Defendants' wrongdoing, Plaintiffs have suffered severe mental anguish for which Defendants are liable under the theories of invasion of privacy and intentional infliction of emotional distress.

XI. EXEMPLARY DAMAGES

23. Defendants are liable to Plaintiffs for exemplary damages pursuant to Chapter 41 of the Texas Civil Practice & Remedies Code because the intentional conduct described herein was undertaken with malice and/or gross negligence.

XII. JURY TRIAL

24. Plaintiffs demand a jury trial on all claims triable by jury and tender the appropriate fee herewith.

XIII. REQUEST FOR RELIEF

25. Plaintiffs respectfully request that Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for Plaintiffs against Defendants for the following:

- A. Actual and consequential damages;
- B. Mental anguish damages;
- C. Exemplary damages;
- D. Attorney's fees and expenses;
- E. Costs of court;
- F. Pre- and post-judgment interest at the maximum rate allowed by law; and
- G. Any further relief to which Plaintiffs are entitled in law or in equity.

Respectfully submitted,

FAUBUS & SCARBOROUGH LLP

By: Harry L. Scarborough w/ JMD

Harry L. Scarborough
State Bar No. 24027838
Joshua P. Davis
State Bar No. 24027838
Mitchell A. Greene
State Bar No. 24078591
1001 Texas Avenue, 11th Floor
Houston, Texas 77002
(713) 222-6400
(713) 222-7240 – FAX

*Attorneys for Plaintiffs Christopher J.
Bridgeman and Martin A. Borger*