

Shannon D. Sims, OSB#072029
610 SW Alder, Suite 502
Portland, OR 97205
Telephone (503) 347-6317
sds@sdsimslaw.com
ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

CHARLES HAGEN and MARY ELLEN
HAGEN,

Case No.:

Plaintiff,

COMPLAINT

v.

[Negligence; Intentional Infliction of
Emotional Distress]

CONDOR FLUGDIENST GMBH and
THOMAS COOK AIRLINES LTD,

DEMAND FOR JURY TRIAL

Defendants.

I INTRODUCTION

1. Plaintiffs file this their Complaint against the Defendants. This is an action for damages brought by Plaintiff, against Defendants, for tort claims as related to flight from Frankfurt to Portland.

II JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. 1332, as the amount in controversy exceeds \$75,000.00 and are between a citizen of the United States and a foreign entity.

3. Venue is proper in this district because the entities are doing business within the District of Oregon.

III PARTIES

4. Plaintiffs, Charles and Mary Ellen Hagen are residents of the State of Oregon and the United States.

5. Defendant, Condor Flugdienst, GMHB is an entity organized under the laws of Germany, and it conducts business within the United States and the State of Oregon.

6. Defendant, Thomas Cook Airlines, is an entity organized under the laws of the United Kingdom, and it conducts business within the United States and the State of Oregon.

7. Plaintiffs reserve the right to add additional Defendants as discovery progresses.

IV FACTUAL ALLEGATIONS

8. On October 16, 2018 the Plaintiffs, Charles and Mary Ellen Hagen, boarded a plane operated by Defendant Condor traveling from Frankfurt to Portland.

9. Almost immediately the Plaintiffs noticed a female passenger sitting directly behind them acting strangely.

10. The female passenger, hereinafter Passenger 1, was speaking loudly, and she was engaging in erratic behavior. She would have outbursts of profanity and incoherent rambling.

/// ///

11. Another passenger, who was sitting next to Passenger 1, asked to be moved, and Defendant Condor's flight attendant accommodated this request.

12. Plaintiffs asked to be moved, but the flight attendant denied the request.

13. The Plaintiffs asked for the flight steward. He arrived, and he asked Passenger 1 what drugs she was taking; she replied that she had taken anti-biotics.

14. The Plaintiffs expressed their concerns to the flight steward about Passenger 1. He assured the Plaintiffs that Condor personnel were aware of Passenger 1's behavior, and that he would keep an eye on her. He never returned.

15. At this point the plane had yet to leave the ground.

16. Passenger 1's behavior continued throughout the first few hours of the flight, and she began making obscene references. Her erratic behavior escalated, and she began punching the back of the Plaintiffs' seats.

17. Plaintiff Charles Hagen went to the rear of the plane to ask for assistance from the flight crew, but no one would help. The flight crew seemed to avoid that portion of the plane.

18. Approximately four hours into the flight, Passenger 1's behavior became threatening. She loudly declared that she wanted to "act up with a fucking icepick."

19. Charles Hagen went to the front of the plane to seek the assistance of the flight crew. This time he was even more upset, as he feared for he and his wife's safety.

20. The flight steward told Charles that he (the steward) had checked with the pilot prior to the flight and that Passenger 1 was considered okay to fly. He continued that people like Passenger 1 were common in Portland, and that Charles should not care.

/// ///

21. The steward inferred that Condor offered affordable flights, so this type of person was more common. The attendant refused to even relocate Passenger 1, however he did offer ear plugs.

22. While Charles was trying to get assistance, Plaintiff Mary Ellen Hagen was alone. Passenger 1 began violently shaking Mary Ellen's seat, and stated directly to Mary Ellen that she wanted to kill Mary Ellen with an icepick. Mary Ellen quickly left her seat in fear for her safety.

23. She fled to the rear of the plane searching for assistance. She approached four or five members of the flight crew, but her pleas were met with indifference. The flight crew was condescending and rude, and left Mary Ellen, who was in fear of being murdered by Passenger 1, in tears and afraid to return to her seat.

24. Passenger 1's conduct continued throughout the flight.

25. Upon approaching Portland, Passenger 1 began shouting that they (the passengers) were being kidnapped, and she remained in her seat shouting as passengers disembarked.

26. Once in the terminal, Passenger 1 ran ahead of the line shouting and ranting until the police became involved.

27. Passenger 1 was arrested on outstanding warrants.

28. The Plaintiffs were forced to endure these threats throughout the entire flight, although Passenger 1's conduct was obvious prior to take off. The Condor personnel considered Passenger 1's conduct and allowed her to remain onboard.

29. As a result of Condor's intentional failure to act, the Plaintiffs suffered intense emotional distress and anxiety.

V FIRST CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress – All Defendants)

30. Paragraphs 1 through 29 are incorporated herein.

31. Defendants are liable to Plaintiffs for intentional infliction of emotional distress, in that Defendants intended to inflict severe emotional distress on the Plaintiffs by engaging in conduct that was an extraordinary transgression of the bounds of socially tolerable behavior.

32. Defendants' conduct began upon the Defendants learning of the Plaintiffs' national origin. This conduct caused the Plaintiffs severe emotional distress.

33. This conduct was committed with malice, or, in the alternative, with such a degree of reckless indifference to the welfare of others to also warrant the impositions of punitive damages in an amount to be proven at trial.

VII SECOND CLAIM FOR RELIEF

(Negligence – All Defendants)

34. Paragraphs 1 through 33 are incorporated herein.

35. The Defendants owed a duty to the Plaintiffs to provide safe transport in a safe environment.

36. The Defendant breached this duty and created an unreasonable risk and was negligent in failing to provide for a safe environment.

37. The Defendants, by and through its agents, were aware of the risk to safety and actively chose to allow the safety risk to continue.

38. It was reasonably foreseeable that Defendants' negligence would create unreasonably Dangerous conditions and that the Plaintiffs would suffer harm.

39. As a direct and proximate result of the Defendants' negligence Plaintiffs suffered economic and non-economic damages, including but not limited to damages to their health, severe stress, and anxiety.

40. Defendant's negligence resulted in physical injury to the Plaintiffs, and was of such kind that severe emotional distress was a particularly likely result.

WHEREFORE, Plaintiff respectfully request that judgment be entered against Defendants for the following:

- A. A jury trial to determine the factual questions raised herein;
- B. On the First Claim for Relief, Plaintiffs request damages of not less than ten million dollars;
- C. On the Second Claim for Relief, Plaintiffs request damages of not less than ten million dollars;
- D. For such other and further relief in law or equity as the Court may deem just and proper.

Respectfully submitted this 22nd Day of March 2019,

/s Shannon D. Sims
Shannon D. Sims, OSB #072029
610 SW Alder, Suite 502
Portland, OR 97205
Telephone (503) 347-6317
ATTORNEY FOR PLAINTIFFS

DEMAND FOR JURY TRIAL

Please take notice that Plaintiffs demand a trial by jury in this action.

/s Shannon D. Sims