

## STATE OF MICHIGAN

## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

RHONDA COSTIGAN,

Plaintiff,

vs

Case No.: 17-  
Hon.:

-NO

DELTA AIRLINES, INC., a Foreign  
Corporation and EXPRESSJET  
AIRLINES, INC., a Foreign Corporation,

Defendants,

17-008558-NO

FILED IN MY OFFICE  
WAYNE COUNTY CLERK  
6/9/2017 2:31:36 PM  
CATHY M. GARRETT\_\_\_\_\_  
GERALD H. ACKER P32973  
Attorney for Plaintiff  
17000 W. Ten Mile Road, 2<sup>nd</sup> Floor  
Southfield, Michigan 48075  
(248) 483-5000  
\_\_\_\_\_

THERE IS NO OTHER PENDING OR RESOLVED CIVIL ACTION ARISING OUT OF THE SAME TRANSACTION OR OCCURRENCE AS ALLEGED IN THIS COMPLAINT.
---

**PLAINTIFF'S VERIFIED COMPLAINT AND JURY DEMAND**

NOW COMES Plaintiff herein, RHONDA COSTIGAN, by and through her attorneys, GOODMAN ACKER, P.C., and for her cause of action against Defendant, DELTA AIRLINES, INC., states as follows:

**COMMON ALLEGATIONS**

1. That Plaintiff, RHONDA COSTIGAN, is a resident of the City of Garden City, County of Macomb, State of Michigan.
2. That Defendant, DELTA AIRLINES, INC., hereinafter referred to as "DELTA", is a Foreign corporation duly authorized to transact the business in the State of Michigan and does in fact regularly and systematically conduct this business in the County of Wayne, State of

Michigan accepting service through CSC-Lawyers Incorporating Service (Company), 601 Abbot Road, East Lansing, MI 48823.

3. That Defendant, EXPRESSJET AIRLINES, INC., hereinafter referred to as "EXPRESSJET", is a Foreign corporation duly authorized to transact the business in the State of Michigan and does in fact regularly and systematically conduct this business in the County of Wayne, State of Michigan accepting service through The Corporation Company, 40600 Ann Arbor Road E, Suite 201, Plymouth, MI 48170.
4. That the amount in controversy exceeds the sum of Ten Million (\$10,000,000.00) Dollars, exclusive of interest, costs and attorney fees.
5. At all relevant times Defendant DELTA and/or EXPRESSJET owned, possessed, and/or controlled Flight No. 5203 whereon the acts described below were committed.

#### **FACTUAL ALLEGATIONS**

6. That Plaintiff incorporates by reference the previous allegations, as if restated word for word and paragraph by paragraph.
7. On or about April 12, 2016, Plaintiff purchased an airplane ticket on Defendants DELTA and/or EXPRESSJET flight for a round trip flight from Detroit, Michigan to Myrtle Beach, South Carolina.
8. On or about July 15, 2016, Plaintiff flew aboard Defendants DELTA and/or EXPRESSJET Flight Number 5203 from Detroit, Michigan to Myrtle Beach, South Carolina.

9. On or about July 27, 2016, Plaintiff, along with her fifteen (15) year old daughter, boarded Defendants DELTA's and/or EXPRESSJET's Flight No. 5203, along with other passengers at Myrtle Beach International Airport.
10. After takeoff from Myrtle Beach International Airport, a Defendants DELTA and/or EXPRESSJET flight attendant observed another passenger in his assigned, first class seat masturbating with his penis exposed.
11. Upon information and belief, Defendants DELTA and/or EXPRESSJET employee then notified the pilot who contacted the Detroit Metro Airport Police regarding the incident.
12. Rather than supervising the sexual deviant passenger known to Defendants DELTA and/or EXPRESSJET, Defendants DELTA and/or EXPRESSJET allowed the sexual deviant passenger to roam the plane without supervision.
13. Before the plane landed, and with knowledge of a Defendants DELTA and/or EXPRESSJET employee, the sexual deviant passenger went to the back of the plane to use the bathroom.
14. On the way back from the bathroom, the sexual deviant passenger sat in an empty seat next to Plaintiff, who was seated in a window seat.
15. Shortly after the sexual deviant passenger sat down, he placed his hand on Plaintiff's upper thigh and began to rub her bare skin.
16. While he was doing this, the sexual deviant passenger told Plaintiff that he "liked white women" and asked "where's your man?"



17. The sexual deviant passenger continued to touch the Plaintiff's bare thigh and Plaintiff repeatedly asked him to stop.
18. The sexual deviant passenger then put part of his hand underneath Plaintiff's shorts and continued to touch her.
19. Plaintiff, seated in a window seat, was trapped by the sexual deviant passenger and had no place to flee.
20. When the sexual deviant passenger realized the plane was landing, he returned to his seat.
21. After returning to his seat, the sexual deviant passenger resumed rubbing his exposed penis, which was observed by a second Defendants DELTA and/or EXPRESSJET flight attendant.
22. After the plane landed, the sexual deviant passenger was arrested for incident exposure and assault.

**COUNT I - NEGLIGENCE, GROSS NEGLIGENCE AND/OR RECKLESSNESS  
AGAINST DEFENDANTS DELTA AND/OR EXPRESSJET**

23. That Plaintiff incorporates by reference the previous allegations, as if restated word for word and paragraph by paragraph.
24. At all times relevant to this lawsuit, Defendants DELTA and/or EXPRESSJET was the owner of the subject aircraft and was thus responsible for the negligence, gross negligence and/or recklessness of its employees.
25. Defendants DELTA and/or EXPRESSJET, via its employees, had a duty to its passengers, but specifically to Plaintiff, to keep Plaintiff reasonably

safe and to protect Plaintiff from all known hazards, including known sexual deviant passengers.

26. Defendants DELTA and/or EXPRESSJET committed acts of negligence, gross negligence, willful and wanton misconduct described previously. Defendants DELTA and/or EXPRESSJET committed acts of negligence which include, but are not limited to, the following:

- a. Allowing a passenger with known sexual deviant tendencies to roam around Flight 5203 as he pleased;
- b. Failing to properly supervise the passenger and provide protection to Plaintiff, as is the duty of a business to its business invitees;
- c. Failing to monitor the conduct of passengers, so as to provide a safe flight for business invitees;
- d. Failing to intervene on behalf of the Plaintiff so as to prevent the egregious acts of the known sexual deviant passenger;
- e. Failing to have safeguards in place to prevent sexual assaults of business invitee's
- f. Failing to implement safety policies, protocols and procedures to protect individuals such as Plaintiff, from known sexual deviant passengers;
- g. Negligent failure to make a proper pre-flight inspection;
- h. Negligent failure to maintain the aircraft in a safe condition for its passengers;
- i. Negligent failure to protect or warn its passengers from unreasonable risk of harm, such as a known sexual defiant passenger;
- j. All other damages learned through the course of discovery.

27. As a direct and proximate result of Defendants DELTA's and/or EXPRESSJET's negligence, gross negligence and/or reckless conduct, Plaintiff was seriously and permanently injured, and thus Plaintiff, has

and will continue to suffer damages into the future, including, but not limited to:

- a. Severe emotions and mental distress;
- b. Economic losses;
- c. Humiliation, grief, embarrassment;
- d. Fright and shock;
- e. Inability to experience social pleasures and enjoyment;
- f. Physical manifestations including shaking of hands, nausea, sleeplessness and other physical manifestations;
- g. Loss of earning capacity;
- h. All additional injuries and damages discovered throughout the course of this litigation.

28. That as a further direct and proximate result of the acts of negligence and/or omissions of the Defendants DELTA and/or EXPRESSJET, Plaintiff was required to incur substantial expenses for reasonable and necessary care and attention, and rehabilitative therapy, in an attempt to alleviate and cure the pain, discomfort, mental anguish and permanent injuries sustained in the hereinbefore incident, and will continue to do so in the future.

29. That in the event the Plaintiff, RHONDA COSTIGAN, was suffering from any of the medical or emotional conditions then, and in that event, Plaintiff claims that these injuries were precipitated, aggravated and/or accelerated by reason of the foregoing incident.



WHEREFORE, Plaintiff, RHONDA COSTIGAN, respectfully requests this Honorable Court enter Judgment in her favor and against DELTA AIRLINES, INC. and/or EXPRESSJET AIRLINES, INC. in the amount of Ten Million (\$10,000,000.00) Dollars, or whatever amount the trier of fact finds the Plaintiff to be entitled, along with an award of exemplary damages, including costs, interest and attorney's fees.

**COUNT II – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANTS DELTA AND/OR EXPRESSJET**

30. That Plaintiff incorporates by reference the previous allegations, as if restated word for word and paragraph by paragraph.
31. Defendants DELTA and/or EXPRESSJET, by and through its agents, inflicted great emotions distress upon Plaintiff by way of their negligent facilitation of the aforementioned inappropriate and improper acts.
32. The aforementioned inappropriate and improper acts constitute extreme and outrageous conduct, which caused Plaintiff to suffer severe injuries, including humiliation, indignity and injury to her psyche including, but not limited to the following, all of which shock the conscience of the community:
  - a. Failing to properly supervise a known sexual deviant passenger and provide protection to Plaintiff, as is the duty of a business to its business invitees.
33. As a direct and proximate results of the Defendants' actions, all of which constitute negligence infliction of emotion distress, Plaintiff has suffered:
  - a. Severe emotions and mental distress;
  - b. Economic losses;
  - c. Humiliation, grief, embarrassment;

- d. Fright and shock;
- e. Inability to experience social pleasures and enjoyment;
- f. Physical manifestations including shaking of hands, nausea, sleeplessness and other physical manifestations;
- g. Loss of earning capacity;
- h. All additional injuries and damages discovered throughout the course of this litigation.

WHEREFORE, Plaintiff, RHONDA COSTIGAN, respectfully requests this Honorable Court enter Judgment in her favor and against DELTA AIRLINES, INC. and/or EXPRESSJET AIRLINES, INC. in the amount of Ten Million (\$10,000,000.00) Dollars, or whatever amount the trier of fact finds the Plaintiff to be entitled, along with an award of exemplary damages, including costs, interest and attorney's fees.

Respectfully submitted,

**GOODMAN ACKER, P.C.**

/s/ Gerald H. Acker

GERALD H. ACKER P32973

Attorney for the Plaintiff

Dated: June 9, 2017



**RHONDA COSTIGAN**

I declare that the statements above are true to the best of my information, knowledge and belief.