



2. US Airways denies the allegations contained in paragraph 2.

3. US Airways denies the allegations contained in paragraph 3.

4. US Airways states that paragraph 4 contains a statement of the law as opposed to averments of fact and therefore does not require a response.

5. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 5 and therefore denies the same and demands strict proof thereof.

6. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 6 and therefore denies the same and demands strict proof thereof.

7. US Airways denies the allegations contained in paragraph 7 insofar as they relate to US Airways. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 7 to the extent they relate to other airlines.

8. US Airways admits that Plaintiffs' Second Amended Complaint asserts claims based upon federal and state law and seeks various damages/relief. US Airways denies that it engaged in any unlawful discrimination or violated any federal or state law.

9. US Airways denies the allegations contained in paragraph 9.

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America West. Thus, for ease of reference, and in order to avoid confusion, these various entities will be referenced individually and collectively as "US Airways."

**JURISDICTION AND VENUE**

10. US Airways states that the allegations contained in paragraph 10 are conclusions of law as opposed to averments of fact and therefore do not require a response. To the extent a response may be required, the allegations are denied.

11. US Airways admits only that it maintains a business presence at Minneapolis-St. Paul International Airport in Minneapolis, Minnesota. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in the first sentence of paragraph 11 and therefore denies the same and demands strict proof thereof. US Airways states that the allegation in the last sentence of paragraph 11 is a conclusion of law as opposed to an averment of fact and therefore does not require a response. To the extent an answer may be required, the allegation is denied.

**PARTIES**

12. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 12 and therefore denies the same and demands strict proof thereof.

13. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 13 and therefore denies the same and demands strict proof thereof.

14. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 14 and therefore denies the same and demands strict proof thereof.

15. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 15 and therefore denies the same and demands strict proof thereof.

16. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 16 and therefore denies the same and demands strict proof thereof.

17. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 17 and therefore denies the same and demands strict proof thereof.

18. US Airways admits that it is incorporated in Delaware and maintains headquarters in Tempe, Arizona. US Airways admits that it maintains a business presence at Minneapolis-St. Paul International Airport in Minneapolis, Minnesota.

19. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 19 and therefore denies the same and demands strict proof thereof.

20. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 20 and therefore denies the same and demands strict proof thereof.

21. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 21 and therefore denies the same and demands strict proof thereof.

22. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 22 and therefore denies the same and demands strict proof thereof.

23. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 23 and therefore denies the same and demands strict proof thereof.

24. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 24 and therefore denies the same and demands strict proof thereof.

25. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 25 and therefore denies the same and demands strict proof thereof.

### **FACTS**

26. US Airways admits that Captain John Wood was the captain of Flight 300 on November 20, 2006, was an employee of the airline, and was acting within the scope of his employment when he made the decision to deny transportation to Plaintiffs on Flight 300. US Airways denies the remaining allegations contained in paragraph 26 and demands strict proof thereof.

27. US Airways admits that Kevin Kelly, Teri Boatner, Suzanne Messner, Danielle Manning and Penny Breedlove were employees of US Airways on November 20 and 21, 2006, and that their actions relating to the subject incident were within the scope

of their employment. US Airways denies the remaining allegations contained in paragraph 27 and demands strict proof thereof.

28. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 28 and therefore denies the same and demands strict proof thereof.

29. US Airways states that the allegation contained in paragraph 29 is a conclusion of law as opposed to an averment of fact and therefore does not require a response. To the extent an answer may be required, the allegation is denied and strict proof thereof demanded.

30. US Airways admits that Plaintiff Shahin was a Gold Elite member of US Airways' frequent flyer program on November 20 and 21, 2006 and that US Airways sent him an email approximately forty-eight hours before his scheduled departure notifying him that he had been upgraded him to first class.

31. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 31 and therefore denies the same and demands strict proof thereof.

32. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 32 and therefore denies the same and demands strict proof thereof.

33. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 33 and therefore denies the same and demands strict proof thereof.

34. US Airways admits that since there were no first class seats available at that time, the agent suggested that Plaintiff Shahin's companions be issued economy class boarding passes and be placed on the waiting list for first class.

35. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 35 and therefore denies the same and demands strict proof thereof.

36. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 36 and therefore denies the same and demands strict proof thereof.

37. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 37 and therefore denies the same and demands strict proof thereof.

38. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 38 and therefore denies the same and demands strict proof thereof.

39. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 39 and therefore denies the same and demands strict proof thereof.

40. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 40 and therefore denies the same and demands strict proof thereof.

41. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 41 and therefore denies the same and demands strict proof thereof.

42. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 42 and therefore denies the same and demands strict proof thereof.

43. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 43 and therefore denies the same and demands strict proof thereof.

44. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 44 and therefore denies the same and demands strict proof thereof.

45. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 45 and therefore denies the same and demands strict proof thereof.

46. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 46 and therefore denies the same and demands strict proof thereof.

47. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 47 and therefore denies the same and demands strict proof thereof.

48. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 48 and therefore denies the same and demands strict proof thereof.

49. US Airways admits only that Plaintiff Sadeddin switched seats with a passenger seated in row 9 on Flight 300.

50. US Airways admits that Plaintiff Sadeddin requested a seatbelt extender while aboard Flight 300. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 50 and therefore denies the same and demands strict proof thereof.

51. US Airways admits that Plaintiff Shahin walked from the first class cabin to the coach class cabin while aboard Flight 300. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 51 and therefore denies the same and requests strict proof thereof.

52. US Airways admits that Plaintiff Shahin requested a seatbelt extender while aboard Flight 300. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 52 and therefore denies the same and requests strict proof thereof.

53. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 53 and therefore denies the same and demands strict proof thereof.

54. US Airways admits that Plaintiffs Faja and Shqeirat's seats on Flight 300 were 25F and 25E. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 54.

55. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 55 and therefore denies the same and demands strict proof thereof.

56. US Airways admits that law enforcement officers boarded Flight 300. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 56 and therefore denies the same and demands strict proof thereof.

57. US Airways admits that law enforcement officers boarded Flight 300. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 57 and therefore denies the same and demands strict proof thereof.

58. US Airways admits that Danielle Manning advised Captain Wood that certain of the Plaintiffs on Flight 300 were traveling on one way tickets, which US Airways now knows is incorrect. US Airways denies the remaining allegations in paragraph 58.

59. US Airways admits that law enforcement officers asked Plaintiffs to deplane. US Airways denies the remaining allegations contained in paragraph 59.

60. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 60 and therefore denies the same and demands strict proof thereof.

61. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 61 and therefore denies the same and demands strict proof thereof.

62. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 62 and therefore denies the same and demands strict proof thereof.

63. US Airways denies the allegations contained in paragraph 63 insofar as they pertain to US Airways' employees. US Airways states that it lacks sufficient information to form a belief as to the truth of remaining allegations contained in paragraph 63 and therefore denies the same and demands strict proof thereof.

64. US Airways states that the allegations contained in paragraph 64 are conclusions of law as opposed to averments of fact and therefore no response is required. To the extent an answer may be required, the allegations are denied.

65. US Airways denies the allegations contained in paragraph 65.

66. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 66 and therefore denies the same and demands strict proof thereof.

67. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 67 and therefore denies the same and demands strict proof thereof.

68. US Airways admits that law enforcement officers accompanied Plaintiffs when they reboarded the aircraft to claim their carry-on luggage. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 68 and therefore denies the same and demands strict proof thereof.

69. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 69 and therefore denies the same and demands strict proof thereof.

70. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 70 and therefore denies the same and demands strict proof thereof.

71. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 71 and therefore denies the same and demands strict proof thereof.

72. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 72 and therefore denies the same and demands strict proof thereof.

73. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 73 and therefore denies the same and demands strict proof thereof.

74. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 74 and therefore denies the same and demands strict proof thereof.

75. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 75 and therefore denies the same and demands strict proof thereof.

76. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 76 and therefore denies the same and demands strict proof thereof.

77. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 77 and therefore denies the same and demands strict proof thereof.

78. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 78 and therefore denies the same and demands strict proof thereof.

79. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 79 and therefore denies the same and demands strict proof thereof.

80. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 80 and therefore denies the same and demands strict proof thereof.

81. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 81 and therefore denies the same and demands strict proof thereof.

82. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 82 and therefore denies the same and demands strict proof thereof.

83. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 83 and therefore denies the same and demands strict proof thereof.

84. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 84 and therefore denies the same and demands strict proof thereof.

85. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 85 and therefore denies the same and demands strict proof thereof.

86. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 86 and therefore denies the same and demands strict proof thereof.

87. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 87 and therefore denies the same and demands strict proof thereof.

88. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 88 and therefore denies the same and demands strict proof thereof.

89. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 89 and therefore denies the same and demands strict proof thereof.

90. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 90 and therefore denies the same and demands strict proof thereof.

91. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 91 and therefore denies the same and demands strict proof thereof.

92. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 92 and therefore denies the same and demands strict proof thereof.

93. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 93 and therefore denies the same and demands strict proof thereof.

94. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 94 and therefore denies the same and demands strict proof thereof.

95. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 95 and therefore denies the same and demands strict proof thereof.

96. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 96 and therefore denies the same and demands strict proof thereof.

97. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 97 and therefore denies the same and demands strict proof thereof.

98. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 98 and therefore denies the same and demands strict proof thereof.

99. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 99 and therefore denies the same and demands strict proof thereof.

100. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 100 and therefore denies the same and demands strict proof thereof.

101. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 101 and therefore denies the same and demands strict proof thereof.

102. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 102 and therefore denies the same and demands strict proof thereof.

103. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 103 and therefore denies the same and demands strict proof thereof.

104. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 104 and therefore denies the same and demands strict proof thereof.

105. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 105 and therefore denies the same and demands strict proof thereof.

106. US Airways admits that one of the Plaintiffs contacted US Airways that evening. US Airways states that it lacks sufficient information to form a belief as to the

truth of the remaining allegations in paragraph 106 and therefore denies the same and demands strict proof thereof.

107. US Airways admits that the Plaintiff who contacted US Airways that evening was told that he could not be rebooked. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 107 and therefore denies the same and demands strict proof thereof.

108. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 108 and therefore denies the same and demands strict proof thereof.

109. US Airways admits that Plaintiff Shahin asked a US Airways Reservations agent, contacted via the US Airways telephone reservations number, to speak with an individual whom Plaintiff Shahin identified as an FBI agent. US Airways denies the remaining allegations contained in paragraph 109.

110. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 110 and therefore denies the same and demands strict proof thereof.

111. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 111 and therefore denies the same and demands strict proof thereof.

112. US Airways admits that an individual identifying himself as a law enforcement officer contacted US Airways via the US Airways telephone reservations

number and spoke with a US Airways Reservations agent. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 112 and therefore denies the same and demands strict proof thereof.

113. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 113 and therefore denies the same and demands strict proof thereof.

114. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 114 and therefore denies the same and demands strict proof thereof.

115. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 115 and therefore denies the same and demands strict proof thereof.

116. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 116 and therefore denies the same and demands strict proof thereof.

117. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 117 and therefore denies the same and demands strict proof thereof.

118. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 118 and therefore denies the same and demands strict proof thereof.

119. US Airways admits that Plaintiff Shahin contacted US Airways via the telephone reservations number on the morning of November 21, 2006 and requested rebooking to Phoenix.

120. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 120 and therefore denies the same and demands strict proof thereof.

121. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 121 and therefore denies the same and demands strict proof thereof.

122. US Airways admits that it initially refused to provide transportation to Plaintiffs when they arrived at Minneapolis-St. Paul International Airport on the morning of November 21, 2006. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 122 and therefore denies the same.

123. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 123 and therefore denies the same and demands strict proof thereof.

124. US Airways admits that US Airways' employee Penny Breedlove contacted US Airways Systems Operations Control on the morning of November 21, 2006.

125. US Airways admits that US Airways' employee Penny Breedlove refused to provide transportation to Plaintiffs when they initially arrived at Minneapolis-St. Paul

International Airport on the morning of November 21, 2006, and that she asked them to step away from the ticket counter to allow other passengers access to the ticket counter. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 125 and therefore denies the same and demands strict proof thereof.

126. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations in paragraph 126 and therefore denies the same and demands strict proof thereof.

127. US Airways denies the allegations contained in paragraph 127.

128. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegation in the first sentence of paragraph 128 and therefore denies the same and demands strict proof thereof. US Airways denies the remaining allegations contained in paragraph 128.

129. US Airways denies the allegations contained in paragraph 129.

**CLAIMS FOR RELIEF**

**COUNT I**  
**DISCRIMINATION UNDER 42 U.S.C. § 1981**

130. US Airways hereby incorporates by reference its responses to paragraphs 1 through 129 as if fully set forth herein.

131. US Airways admits that the Flight 300 pilots, flight crew, and gate agents were US Airways employees on November 20, 2006. US Airways denies the remaining allegations contained in paragraph 131.

132. US Airways admits that the Flight 300 pilots, flight crew, and gate agents were US Airways employees on November 21, 2006. US Airways denies the remaining allegations contained in paragraph 132.

133. US Airways denies the allegations contained in paragraph 133.

134. US Airways denies the allegations contained in paragraph 134.

135. US Airways denies the allegations contained in paragraph 135.

136. US Airways denies the allegations contained in paragraph 136.

137. US Airways denies the allegations contained in paragraph 137.

138. US Airways denies the allegations contained in paragraph 138.

## **COUNT II**

### **TITLE VI OF THE CIVIL RIGHTS ACT OF 1964** **(42 U.S.C. § 2000d)**

139. US Airways hereby incorporates by reference its responses to paragraphs 1 through 138 as if fully set forth herein.

140. US Airways denies the allegations contained in paragraph 140.

141. US Airways denies the allegations contained in paragraph 141.

142. US Airways denies the allegations contained in paragraph 142.

143. US Airways denies the allegations contained in paragraph 143.

**COUNT III**

**42 U.S.C. § 1983, FOURTEENTH AMENDMENT**  
**DENIAL OF EQUAL PROTECTION**

144. US Airways hereby incorporates by reference its responses to paragraphs 1 through 143 as if fully set forth herein.

145. US Airways denies the allegations contained in paragraph 145.

146. US Airways denies the allegations contained in paragraph 146.

147. US Airways denies the allegations contained in paragraph 147.

148. US Airways denies the allegations contained in paragraph 148.

149. US Airways denies the allegations contained in paragraph 149.

150. US Airways denies the allegations contained in paragraph 150.

151. US Airways denies the allegations contained in paragraph 151.

152. US Airways denies the allegations contained in paragraph 152.

153. US Airways denies the allegations contained in paragraph 153.

**COUNT IV**

**UNREASONABLE SEIZURE**

154. US Airways hereby incorporates by reference its responses to paragraphs 1 through 153 as if fully set forth herein.

155. US Airways denies the allegations contained in paragraph 155.

156. US Airways denies the allegations contained in paragraph 156.

157. US Airways denies the allegations contained in paragraph 157.

158. US Airways denies the allegations contained in paragraph 158.

**COUNT V**

**MONELL CLAIM AGAINST METROPOLITAN AIRPORTS COMMISSON**

159-164. This Count does not assert claims against US Airways and therefore these paragraphs require no response.

**COUNT VI**

**FALSE ARREST**

165. US Airways hereby incorporates by reference its responses to paragraphs 1 through 164 as if fully set forth herein.

166. US Airways denies the allegations contained in paragraph 166.

167. US Airways denies the allegations contained in paragraph 167.

168. US Airways denies the allegations contained in paragraph 168.

169. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 169 and therefore denies the same.

170. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 170 and therefore denies the same.

171. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 171 and therefore denies the same.

172. US Airways denies the allegations contained in paragraph 172.

173. US Airways denies the allegations contained in paragraph 173.

174. US Airways denies the allegations contained in paragraph 174.

175. US Airways denies the allegations contained in paragraph 175.

**COUNT VII**

**AIR CARRIER ACCESS ACT**

176-182. This Count was dismissed pursuant to the Court's Order, dated November 20, 2007, and therefore these paragraphs require no response.

**COUNT VIII**

**MINN. STAT. § 363A.11 subd. 1**

183. US Airways hereby incorporates by reference its responses to paragraphs 1 through 182 as if fully set forth herein.

184. US Airways states that the allegations contained in paragraph 184 are conclusions of law as opposed to averments of fact and therefore do not require a response. To the extent an answer may be required, the allegations are denied.

185. US Airways admits that it denied Plaintiffs transportation on Flight 300 and subsequent flights on November 20, 2006, and that it initially denied Plaintiffs transportation on November 21, 2006.

186. US Airways denies the allegations contained in paragraph 186.

187. US Airways denies the allegations contained in paragraph 187.

188. US Airways denies the allegations contained in paragraph 188.

189. US Airways denies the allegations contained in paragraph 189.

**COUNT IX**

**MINN. STAT. § 363A.17**

190. US Airways hereby incorporates by reference its responses to paragraphs 1 through 189 as if fully set forth herein.

191. US Airways admits that it provides air transportation services. US Airways states that the remaining allegations contained in paragraph 191 are conclusions of law as opposed to averments of fact and therefore do not require a response. To the extent an answer may be required, the allegations are denied.

192. US Airways admits that it denied Plaintiffs transportation on Flight 300 and subsequent flights on November 20, 2006.

193. US Airways admits that it initially denied Plaintiffs transportation on the morning of November 21, 2006. US Airways states that it lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 193 and therefore denies the same.

194. US Airways denies the allegations contained in paragraph 194.

195. US Airways denies the allegations contained in paragraph 195.

196. US Airways denies the allegations contained in paragraph 196.

197. US Airways denies the allegations contained in paragraph 197.

**COUNT X**

**MINN. STAT. § 13.355 subd. 1**  
**AS TO METROPOLITAN AIRPORTS COMMISSON**

198-204. This Count does not assert claims against US Airways and therefore these paragraphs require no response.

**COUNT XI**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

205. US Airways hereby incorporates by reference its responses to paragraphs 1 through 204 as if fully set forth herein.

206. US Airways denies the allegations contained in paragraph 206.

207. US Airways denies the allegations contained in paragraph 207.

208. US Airways denies the allegations contained in paragraph 208.

209. US Airways denies the allegations contained in paragraph 209.

210. US Airways denies the allegations contained in paragraph 210.

211. US Airways denies the allegations contained in paragraph 211.

212. US Airways denies the allegations contained in paragraph 212.

213. US Airways denies the allegations contained in paragraph 213.

**COUNT XII**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

214-222. This Count was dismissed pursuant to the Court's Order, dated November 20, 2007, and therefore these paragraphs require no response.

**COUNT XIII**

**DEFAMATION**

223. US Airways hereby incorporates by reference its responses to paragraphs 1 through 222 as if fully set forth herein.

224. US Airways denies the allegations contained in paragraph 224.

225. US Airways denies the allegations contained in paragraph 225.

226. US Airways states that it lacks sufficient information to form a belief as to the truth of allegations contained in paragraph 226 and therefore denies the same.

227. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 227 and therefore denies the same.

228. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 228 and therefore denies the same.

229. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 229 and therefore denies the same.

230. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 230 and therefore denies the same.

231. US Airways denies the allegations contained in paragraph 231.

232. US Airways denies the allegations contained in paragraph 232.

233. US Airways denies the allegations contained in paragraph 233.

**COUNT XIV**

**NEGLIGENCE**

234. US Airways hereby incorporates by reference its responses to paragraphs 1 through 233 as if fully set forth herein.

235. US Airways denies the allegation contained in paragraph 235.

236. US Airways denies the allegations contained in paragraph 236.

237. US Airways denies the allegations contained in paragraph 237.

238. US Airways admits the allegations contained in paragraph 238.

239. US Airways denies the allegations contained in paragraph 239.

240. US Airways denies the allegations contained in paragraph 240.

241. US Airways denies the allegations contained in paragraph 241.

242. US Airways denies the allegations contained in paragraph 242.

243. US Airways denies the allegations contained in paragraph 243.

244. US Airways denies the allegations contained in paragraph 244.

**COUNT XV**

**FAILURE TO TRAIN, SUPERVISE, AND DISCIPLINE  
AS TO US AIRWAYS**

245. US Airways hereby incorporates by reference its responses to paragraphs 1 through 244 as if fully set forth herein.

246. US Airways states that the allegations in paragraph 246 are incomplete and incomprehensible, and thus cannot be admitted or denied. To the extent an answer may be required, the allegations are denied and strict proof thereof is demanded.

247. US Airways denies the allegations contained in paragraph 247.

248. US Airways states that the allegations in paragraph 248 are vague and ambiguous, and thus cannot be admitted or denied. US Airways states that it lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 248 and therefore denies the same.

249. US Airways denies the allegations contained in paragraph 249.

250. US Airways denies the allegations contained in paragraph 250.

251. US Airways denies the allegations contained in paragraph 251.

252. US Airways denies the allegations contained in paragraph 252.

#### **COUNT XVI**

#### **CONSPIRACY TO DISCRIMINATE**

253. US Airways hereby incorporates by reference its responses to paragraphs 1 through 252 as if fully set forth herein.

254. US Airways denies the allegations contained in paragraph 254.

255. US Airways denies the allegations contained in paragraph 255.

256. US Airways denies the allegations contained in paragraph 256.

257. US Airways denies the allegations contained in paragraph 257.

258. US Airways denies the allegations contained in paragraph 258.

259. US Airways denies the allegations contained in paragraph 259.

**COUNT XVII**

**INVASION OF PRIVACY**  
**AS TO METROPOLITAN AIRPORTS COMMISSION**

260-265. This Count does not assert claims against US Airways and therefore these paragraphs require no response.

**GENERAL DENIAL**

All allegations not specifically and unequivocally admitted are denied.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The denial of transportation was permitted because the Captain of Flight 300 reasonably relied upon information given to him, which information he was entitled to rely upon notwithstanding its veracity based on hindsight, and this information caused him to believe that Plaintiffs were or may have posed a risk to the security of the flight.

**SECOND AFFIRMATIVE DEFENSE**

The decision to deny transportation was not arbitrary and capricious and was in accordance with the duties imposed by 49 U.S.C. § 44902, which affords airlines the discretion to refuse transport of a passenger who is or may be inimical to airline safety or security.

**THIRD AFFIRMATIVE DEFENSE**

The actions of US Airways were not the result in whole or in part of any unlawful discrimination prohibited by 42 U.S.C. § 1981, 42 U.S.C. § 2000d, 42 U.S.C. § 1983, the

Fourteenth Amendment to the United States Constitution, or the Minnesota Human Rights Act.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs cannot establish that US Airways or any of its employees acted with discriminatory intent.

**FIFTH AFFIRMATIVE DEFENSE**

US Airways' decision to deny transportation was based upon the legitimate, non-discriminatory business purpose of ensuring flight safety.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that Plaintiffs' perceived race, religion, color, and/or national origin played a part in US Airways' decision to deny transportation.

**EIGHTH AFFIRMATIVE DEFENSE**

US Airways is not a recipient of federal financial assistance within the meaning of 42 U.S.C. § 2000d.

**NINTH AFFIRMATIVE DEFENSE**

Pursuant to 42 U.S.C. § 2000d, Plaintiffs have failed to establish that they are the intended beneficiaries of the federal financial assistance US Airways is alleged to have received, and thus lack standing to sue under this statute.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways' actions were intentional, wanton, malicious, callous, or showed reckless disregard to Plaintiffs' civil rights, or were motivated by evil motive or intent.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways acted under color of law within the meaning of 42 U.S.C. § 1983.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways willfully participated and reached a mutual understanding with law enforcement to deprive Plaintiffs of their rights under the laws or Constitution of the United States.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways deprived them of rights, privileges, or immunities secured by the Constitution or laws of the United States.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways arrested or detained them.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Although US Airways denies that it arrested and/or detained Plaintiffs, the alleged arrest and/or detention was supported by probable cause.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways' actions were extreme, outrageous, intentional and/or reckless, and caused severe emotional distress.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways made any defamatory statements about them.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways' actions caused harm to their reputations.

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways owed them any legal duty which was breached by US Airways.

**TWENTIEH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to properly allege and/or establish a claim against US Airways based upon failure to train, supervise, and discipline.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Plaintiffs have failed to establish that US Airways aided or abetted the Metropolitan Airports Commission or any other party with respect to the Metropolitan Airports Commission's or any other party's violation of the Minnesota Human Rights Act and have therefore failed to establish a claim based upon conspiracy to discriminate pursuant to Minn. Stat. § 363A.14.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

The occurrences and damages alleged in Plaintiffs' Second Amended Complaint, if any, resulted from an unavoidable accident, sudden emergency, or conditions or occurrences for which US Airways is not liable or responsible.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' injuries and damages, if any, were the sole and proximate result of acts of third parties over whom US Airways has no control or right of control.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Without admitting any negligence or breach of duty on the part of US Airways, Plaintiffs' alleged injuries and/or damages, if any, were the result of an intervening, superseding cause.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are preempted by federal aviation law.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred under the doctrine of implied preemption.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs are not entitled to punitive damages because they have failed to establish the requisite elements of such a claim.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

Any claim for punitive damages is barred or limited by the due process clause of the 5th and 14th Amendments to the United States Constitution, the proscriptions of the

8th Amendment to the United States Constitution, and any applicable proscriptions in the Minnesota State Constitution.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

Plaintiffs are not entitled to punitive damages because they have failed to establish that US Airways acted with deliberate disregard for their rights.

**THIRTIETH AFFIRMATIVE DEFENSE**

Any award for damages may not exceed any applicable limits.

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' are not entitled to attorneys' fees because such an award would be unjust due to special circumstances.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

Plaintiffs cannot obtain the permanent injunctive relief they seek here based upon the facts alleged, or those that they might ultimately prove at the trial of this action.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiffs are not entitled to the injunctive relief sought.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs are not entitled to the declaratory relief sought.

**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

The claims raised in Plaintiffs' Second Amended Complaint may be barred by the doctrines of laches, waiver, estoppel, accord and satisfaction, arbitration and award, payment, release, and/or res judicata.

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

Some or all of the claims asserted by Plaintiffs may be barred by the doctrine of qualified immunity.

**THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

Some of Plaintiffs' claims may be barred by the doctrine of official immunity.

**THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims may be barred and/or limited by the Implementing Regulations of the 9/11 Commission Act of 2007.

**THIRTY-NINTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to mitigate their damages, if any.

**FORTIETH AFFIRMATIVE DEFENSE**

Plaintiffs' claims may be limited by applicable law.

**FORTY-FIRST AFFIRMATIVE DEFENSE**

All or part of the relief sought may be barred by applicable statutes of limitation.

**FORTY-SECOND AFFIRMATIVE DEFENSE**

US Airways reserves the right to amend this Answer to include additional affirmative defenses as this matter progresses.

**US Airways demands a trial by jury on all issue so triable.**

WHEREFORE, Defendant US Airways respectfully prays to the Court that:

1. The Plaintiffs have and recover nothing on the Second Amended Complaint, and that all claims asserted against US Airways be dismissed with prejudice;

2. That this Court deny Plaintiffs' request for injunctive relief;
3. That this Court deny Plaintiffs' request for declaratory relief;
4. That this Court grant US Airways such other and further relief as may be appropriate.

Dated: December 26, 2007

By: s/ Michael C. Lindberg

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