

NO. D-1-GN-24-000786

<b>JANE DOE and JOHN DOE, as parents</b>	§	<b>IN THE DISTRICT COURT</b>
<b>and next friends of MARY DOE, a minor,</b>	§	
	§	
<b>Plaintiffs,</b>	§	
<b>vs.</b>	§	<b>261<sup>st</sup> DISTRICT COURT</b>
	§	
<b>AMERICAN AIRLINES GROUP, INC.,</b>	§	
<b>AMERICAN AIRLINES, INC.,</b>	§	
<b>and ESTES CARTER THOMPSON III,</b>	§	<b>TRAVIS COUNTY, TEXAS</b>
	§	
<b>Defendants.</b>	§	

**DEFENDANT AMERICAN AIRLINES, INC.’S  
ANSWER TO PLAINTIFF’S FIRST AMENDED PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT,**

COMES NOW, AMERICAN AIRLINES, INC. (herein “Defendant”) in the above-captioned cause, by and through its undersigned counsel of record, and files its Answer to Plaintiffs’ First Amended Petition, and would respectfully show the Court the following:

**GENERAL DENIAL**

As permitted by Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation contained in Plaintiffs’ Original Petition and any subsequent amendments or supplements thereto and demands strict proof thereof in accordance with the Texas Rules.

**AFFIRMATIVE DEFENSES**

This Defendant sets forth the following affirmative defenses to the claims made in the Complaint. In doing so, this Defendant does not assume the burden of proof with respect to any of the affirmative defenses where the substantive law provides otherwise.

### **FIRST AFFIRMATIVE DEFENSE**

Defendant Thompson was not acting within the course and scope of his employment at the time of the alleged wrongful conduct against Plaintiff. As such, the theory of *respondeat superior* does not apply in this case, and this Defendant cannot be held vicariously liable for Defendant Thompson's alleged actions that occurred outside the course and scope of his employment.

### **SECOND AFFIRMATIVE DEFENSE**

This Defendant is not responsible for intentional acts or crimes committed by its employees, including Defendant Thompson.

### **THIRD AFFIRMATIVE DEFENSE**

In the event Plaintiffs establishes that Defendant Thompson acted intentionally, this Defendant had no actual or constructive notice of the any propensity to behave in that manner.

### **FOURTH AFFIRMATIVE DEFENSE**

The injuries and damages allegedly sustained by Plaintiff were not proximately caused by an alleged conduct of Defendant, nor did any conduct of Defendant contribute to such alleged injuries and damages. Any injuries, damages, or disabilities alleged suffered or sustained by Plaintiff, and which Defendant denies, were caused or contributed by conditions over which Defendant had no control and for which it was not responsible, such as the alleged motive and plan by Defendant Thompson to carry out illegal criminal conduct while onboard and American Airlines Flight.

### **FIFTH AFFIRMATIVE DEFENSE**

The claims against the Defendant are barred by the doctrine of comparative negligence, contributory negligence, comparative responsibility and/or comparative causation. Defendant would show that any injuries or illnesses alleged to have been sustained by Plaintiff, Mary Doe,

were proximately caused by Plaintiff's own fault and negligence, were proximately caused by Plaintiff's use of the compromised lavatory, which she knew or should have known contained a visible and illuminated recording device.

#### **SIXTH AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiff's damages, if any, were caused by the negligent acts or omissions or breach of warranty or third parties or other Defendants and/or exposure, and, under the Supreme Court of Texas Opinion *Duncan v. Cessna Aircraft Company II*, Defendant is entitled to a comparative apportionment of fault, if any, as to the other Defendant and is entitled to a judgment against them herein for contribution and/or indemnity or a percentage reduction in accordance with the apportionment of fault.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Defendant is not liable to Plaintiff because it had no legal duty to disclose any of the information not disclosed. If a duty to warn is found to have existed, then Defendant asserts that it provided all required warnings regarding the flight.

#### **EIGHTH AFFIRMATIVE DEFENSE**

All defenses which have been or will be asserted by other Defendants are adopted and incorporated by reference as if fully set forth herein as defenses to the First Amended Petition to the extent the same are applicable and consistent with positions taken by American Airlines in this Answer and are not adverse to American Airlines.

#### **RESERVATION OF RIGHTS**

To the extent that this Defendant may have other separate and/or additional defenses of which it is not aware, this Defendant reserves the right to assert them by amendment to this Answer as discovery continues.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant AMERICAN AIRLINES, INC., respectfully prays that Plaintiffs take nothing by their claims and that Defendant have judgment for its costs and for such other and further relief to which it may show itself justly entitled.

**JURY DEMAND**

This Defendant demands a trial by jury of all causes of action as to which the law entitles it to a trial by jury.

**WILSON, ELSER, MOSKOWITZ, EDELMAN  
& DICKER LLP**

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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned caused the foregoing **DEFENDANT AMERICAN AIRLINES, INC.'S ANSWER TO PLAINTIFFS' FIRST AMENDED PETITION** to be filed and served on all counsel of record using the CM/ECF filing system:

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This 20th day of May, 2024.

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