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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELLA FITZGERALD, JOHN LEWIS,
GEORGIANA HENRY and NORMAN GRANZ,

: Civil Action
No. 97-356

Plaintiffs,

: COMPLAINT

-against-

PAN AMERICAN WORLD AIRWAYS, INC.,

Defendant .

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FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
DEC 23 1954 AM

1. The action arises under the Civil Aeronautics Act of 1938, 52 Stat. 977, USC Title 49, Section 401 et seq., as hereinafter more fully appears.

2. The plaintiffs are citizens and residents of the United States. The plaintiff Fitzgerald is a singer who has achieved an international reputation and is widely renowned for her ability as a singer. The plaintiff Lewis is a pianist and accompanist of the plaintiff Fitzgerald. The plaintiff Henry is the personal secretary of the plaintiff Fitzgerald. The plaintiff Granz is in the business of concert promotion and management of artists and is the personal manager and representative of the plaintiff Fitzgerald.

3. During all the times herein mentioned the defendant, a corporation organized under the laws of the State of New York, operated an airline for the transportation of passengers by air between the United States and Australia, and in such business was a common carrier and an air carrier subject to the provisions of the Civil Aeronautics Act of 1938, 52 Stat. 977, USC Title 49, Section 401 et seq.

4. Prior to July 19, 1954 the defendant issued to the plaintiffs, for value, separate tickets for first-class transportation by air from San Francisco, California to Sydney, Australia, and the defendant made a reservation for the plaintiffs on its Flight No. 841 departing from San Francisco, California on July 19, 1954 bound for Sydney, Australia, which reservation it confirmed to the plaintiffs.

5. The plaintiffs were proceeding to Australia for the purpose of concert performances by the plaintiff Fitzgerald in various cities of Australia which had been booked prior to July 19, 1954.

6. In accordance with the provisions of the said tickets and reservations, the plaintiffs, with the exception of the plaintiff Granz, boarded an aircraft operated by the defendant at San Francisco, California on July 19, 1954 known as Flight No. 841 bound for Sydney, Australia and became passengers on the said flight with first-class accommodations, including assigned seat numbers for seats all the way to Sydney.

7. The plaintiff Granz made arrangements with the defendant to join Flight No. 841 at Honolulu, Hawaii and to continue on the said flight to Sydney, Australia pursuant to the ticket held by him, and such arrangements were confirmed by defendant prior to July 19, 1954.

8. The said aircraft descended at Honolulu, Hawaii on July 19, 1954 for a temporary stop. When the aircraft was about to continue its flight to Sydney, Australia, the agents of the defendant in Honolulu, Hawaii refused to allow the plaintiffs to reboard the said plane and to continue on the flight to Sydney, in their assigned first-class seats, and the said aircraft departed from Honolulu without the plaintiffs.

9. The said refusal was willful and malicious and was motivated by prejudice against the plaintiffs Fitzgerald, Lewis and Henry because of their race and color, and the said conduct subjected plaintiffs to unjust discrimination and undue and unreasonable prejudice and disadvantage, in violation of Section 404, Subdivision (b) of the Civil Aeronautics Act of 1938, 52 Stat. 993, USC Title 49, Section 484 (b).

10. The said conduct and the said unjust prejudice and discrimination were committed openly and in public before other passengers on the said Flight No. 841 and other persons then located at the airfield at Honolulu, causing the plaintiffs to be personally humiliated and embarrassed and resulting in mental pain and suffering to them.

11. The plaintiffs Fitzgerald, Lewis and Henry were further subjected to humiliation and embarrassment, and their mental pain and suffering in the circumstances was aggravated by the refusal of the agents of the defendant to permit said plaintiffs to temporarily reboard the aircraft for the purpose of retrieving their personal articles and wearing apparel which had been left at their seats.

12. The said conduct of the defendant constituted a breach of its duty as a common carrier and an air carrier to the plaintiffs and a breach of the contracts for air transportation respectively held by the plaintiffs, causing the plaintiffs to be seriously damaged.

13. By reason of the said conduct of the defendant, plaintiffs were required to spend three days in Honolulu, Hawaii before other transportation to Australia could be

secured, and the plaintiff Fitzgerald was unable to fulfill concert engagements that had been previously made for her in Australia, to her consequent damage and the damage of the other plaintiffs; the reputation of the plaintiffs Fitzgerald and Granz with the public in Australia and with the promoters of concerts there was also injured because of their failure to appear when scheduled.

WHEREFORE, the plaintiffs demand judgment against the defendant as follows:

(a) Plaintiff Fitzgerald: Twenty-Five Thousand Dollars (\$25,000.) plus punitive damages of Fifty Thousand Dollars (\$50,000.);

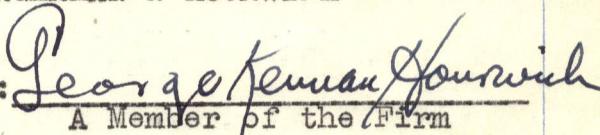
(b) Plaintiff Lewis: Ten Thousand Dollars (\$10,000.) plus punitive damages of Fifty Thousand Dollars (\$50,000.);

(c) Plaintiff Henry: Ten Thousand Dollars (\$10,000.) plus punitive damages of Fifty Thousand Dollars (\$50,000.);

(d) Plaintiff Granz: Twenty-Five Thousand Dollars (\$25,000.) plus punitive damages of Fifty Thousand Dollars (\$50,000.).

Dated: December 22, 1954.

BERGERMAN & HOURWICH

By: 

A Member of the Firm

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