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By LESLIE WILKINS, Deputy
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CASE# CV2006-092488
CIVIL NEW COMPLAINT 001 245.00
TOTAL AMOUNT 245.00
Receipt# 00008402718

7 THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN AND FOR THE COUNTY OF MARICOPA

9 EDWARD T. GANNON, a single male,

10 Plaintiff,

11 v.

12 PAULA WALKER and JOHN DOE
13 WALKER, SUE BURRIS and JOHN DOE
14 BURRIS, BRIAN SHUNICK and JANE
15 DOE SHUNICK

16 Defendants.

CV2006-092488

COMPLAINT

17 COMES NOW EDWARD T. GANNON, Plaintiff in the above styled matter, by
18 and through his attorney, and makes this Complaint against the above named Defendants.

19 In support thereof, he shows the Court as follows:

20 JURISDICTION AND VENUE

- 21 1. Plaintiff EDWARD T. GANNON ("GANNON") resides at 16018 N. Tabasco
22 Circle, Fountain Hills, Arizona, 85268- 1258.
23 2. Defendant PAULA WALKER ("WALKER") is believed to reside at 42418 N
24 Tonto Road, Cave Creek, Arizona, 85331-2857.
25 3. Defendant JOHN DOE WALKER is believed to be the spouse of WALKER and

1 whose identity is not known at this time but which will be discovered during the course of
2 this lawsuit and the Complaint amended accordingly.

3 4. Defendant SUE BURRIS ("BURRIS") is believed to reside at 13326 E Butler
4 Street, Chandler, Arizona, 85225-6109.

5 5. Defendant JOHN DOE BURRIS is believed to be the spouse of BURRIS and
6 whose identity is not known at this time but which will be discovered during the course of
7 this lawsuit and the Complaint amended accordingly.

8 6. Defendant BRIAN SHUNICK ("SHUNICK") is believed to reside at 349 E
9 Thomas RD #E501, Phoenix, Arizona, 85012-3234.

10 7. Defendant JANE DOE SHUNICK is believed to be the spouse of SHUNICK and
11 whose identity is not known at this time but which will be discovered during the course of
12 this lawsuit and the Complaint amended accordingly.

13 8. All of the Defendants are either residents of Maricopa County, Arizona, or have
14 caused the majority of the events complained of herein to occur within Maricopa County,
15 Arizona, and, therefore, this Court has Jurisdiction and venue is proper.

16 FACTUAL BASIS OF COMPLAINT

17 9. On or about January 24, 2003, Captain Frank M. Gonzalez ("Gonzalez"),
18 GANNON, WALKER, BURRIS and SHUNICK were crewmembers on a scheduled US
19 Airways passenger flight from Calgary, Alberta, Canada, to Phoenix, Arizona.

20 a. All of the crew members had spent the preceding night in the same hotel in
21 Calgary, but they had arrived in Calgary on separate flights and did not know each
22 other. Captain Gonzalez was the first crewmember down in the lobby for a
23 scheduled 5:30 a.m. limo departure. Being the first crewmember downstairs and
24 being familiar with Calgary weather from numerous previous trips to Calgary,
25 Captain Gonzalez walked outside to see if any frost or snow as he had seen on any

1 previous trips was evident. Captain Gonzalez looked at the vehicles parked in an
2 adjacent dealership lot and at the immediate surface in front of the hotel. He saw
3 nothing. Being that the limo ride from the hotel to the airport took only about ten
4 minutes, Captain Gonzalez made the judgment that it was unlikely that there would
5 be any frost at the airport.

6 b. After making his observation, Captain Gonzalez went back into the lobby and
7 waited for the First Officer (GANNON). Unexpectedly, the flight attendants,
8 WALKER, BURRIS and SHUNICK showed up in the hotel lobby with
9 GANNON. Captain Gonzalez observed that flight attendants are expected to be at
10 the airport forty-five minutes prior to departure, but these flight attendants
11 (Defendants) were leaving the hotel late. As the flight was scheduled to depart at
12 about 6:30 a.m., the flight attendants had not allowed enough time to travel to the
13 airport and clear customs so as to be at the gate the required forty-five minutes
14 before departure.

15 c. In the van on the way to the airport, because the flight attendants had shown
16 up late and he was concerned about a late departure, Captain Gonzalez stated to
17 the crew that there was a possibility that we would not have to deice the airplane.
18 WALKER immediately challenged Captain Gonzalez by saying, "[w]hat do you
19 mean we're not going to deice, I've always deiced every time I've come up here."
20 As WALKER was not qualified to make that judgment, Captain Gonzalez did not
21 respond. Then WALKER asked, "[w]hat about the thrust reversers?" Both
22 Captain Gonzalez and GANNON stated that they were unaware of a problem with
23 the thrust reversers. GANNON told WALKER that if there was any problem with
24 the thrust reversers, the company would have called the pilots about it.
25 WALKER's reply was, "[w]hat airline to you work for?" There was no further

1 discussion in the van as, by that time, the van had arrived at the airport.

2 d. When walking down the jetway Captain Gonzalez stopped and looked out the
3 jetway porthole at the left wing of the aircraft to see if there was any
4 contamination, and he saw nothing. Once inside the aircraft, Captain Gonzalez
5 asked GANNON to let him know if HE saw anything on HIS walk-around
6 inspection of the aircraft. When GANNON returned HE reported that HE hadn't
7 seen anything unusual. Captain Gonzalez didn't give GANNON any special
8 instructions for the walk-around because in previous conversations with
9 GANNON he learned that GANNON had considerable experience flying in the
10 northeast where icing conditions are common. Captain Gonzalez felt confident in
11 GANNON's judgment and proceeded with preparations for the flight.

12 e. Captain Gonzalez called local operations to ensure that if the Winter
13 Operations Coordinator had determined that deicing was required he would be so
14 informed. Since the person at local operations did not provide any deicing
15 information, and since the Winter Operations Coordinator had not contacted
16 Captain Gonzalez, he advised them that deicing would not be required.

17 f. A few minutes later, WALKER came to the cockpit and asked if the aircraft
18 would be deiced. Captain Gonzalez told HER that it wouldn't be necessary.
19 WALKER closed the cockpit door and left without further comment. WALKER
20 said nothing to either pilot about seeing ice on the wings of the airplane. Shortly
21 thereafter the aircraft was pushed back and after moving about twenty feet,
22 WALKER called the flight deck and told Captain Gonzalez that passengers
23 reported seeing ice on the wing and were wondering why the aircraft hadn't been
24 deiced. Captain Gonzalez asked WALKER to come to the flight deck in
25 compliance with flight deck security procedures so that GANNON could go back

1 and investigate.

2 g. WALKER came to the flight deck and Captain Gonzalez sent GANNON
3 back to check for contamination. GANNON performed the prescribed
4 contamination check and upon his return to the cockpit informed Captain Gonzalez
5 that there was a small patch of frost by the spoilers on the right wing. Captain
6 Gonzalez called operations and advised them that the aircraft needed deicing.
7 Captain Gonzalez instructed GANNON to review the Quick Reference Handbook
8 to ensure that the aircraft was properly configured for deicing. The deicing crew
9 arrived and deiced the wings and tail of the aircraft. The aircraft was reconfigured
10 and departed Calgary.

11 h. During the flight back to Phoenix, WALKER called the cockpit and told
12 Captain Gonzalez that deicing fumes could be smelled in the aircraft. Captain
13 Gonzalez made a general announcement to the passengers that the smell would go
14 away. Later in the flight GANNON had to use the rest room, and while WALKER
15 was in the cockpit she asked if GANNON was okay with the deicing issue.
16 Captain Gonzalez had the belief that WALKER was questioning GANNON's
17 competence regarding the deicing situation and Captain Gonzalez advised
18 WALKER that GANNON had considerable icing experience on the east coast.

19 i. Because GANNON was the pilot flying the leg to Phoenix, about twenty to
20 twenty-five minutes prior to landing Captain Gonzalez suggested to GANNON
21 that it would be helpful to compensate for the short ground time to use the thrust
22 reversers as little as necessary so as to eliminate the required engine cool down
23 period of three minutes at the gate. GANNON agreed and Captain Gonzalez
24 called the air traffic control tower and asked for a long landing rollout after
25 touchdown, which was approved. Captain Gonzalez told GANNON that he could

1 use the thrust reversers if he needed them. GANNON completed the landing using
2 the thrust reversers as planned.

3 j. When exiting the aircraft, WALKER questioned GANNON as to why the
4 thrust reversers were not used, and she asked GANNON "Are you going to write
5 up the thrust reversers, because they sounded strange upon landing?" GANNON
6 said "No, there is nothing wrong with the thrust reversers system.." GANNON
7 advised WALKER that they were not used because they were not needed.

8 10. Some time after departing the aircraft WALKER contacted an Aviation Safety
9 Inspector of the Federal Aviation Administration and reported that Captain Gonzalez and
10 GANNON had attempted to depart Calgary with a substantial accumulation of ice on the
11 aircraft wings.

12 11. On or about January 30, 2003, WALKER, BURRIS and SHUNICK provided
13 Aviation Safety Inspector Christine Jordan of the Federal Aviation Administration with a
14 written statement alleging that Captain Gonzalez and GANNON had attempted to depart
15 Calgary with substantial contamination on the aircraft. In that statement, Defendants
16 stated that WALKER saw contamination on the wings of the aircraft and also that several
17 passengers also reported seeing contamination on the wings.¹

18 12. On or about February 21, 2003 Aviation Safety Inspector Jacqueline A. Clow sent
19 GANNON a letter of investigation stating that he failed to follow company procedures as
20 a Flight Crew Member of flight 851 departing Calgary, Canada on January 24, 2003 and
21 that the matter was under investigation.

22 13. On or about July 14, 2003, the Administrator of the Federal Aviation
23 Administration issued a Notice of Proposed Certificate Action to Captain Gonzalez and

24
25 ¹ WALKER, BURRIS and SHUNICK later admitted in deposition testimony that their
statements regarding the passenger reports were false.

1 GANNON charging both pilots with violating the following Federal Aviation
2 Regulations:

3 a. Section 119.5(1), in that you operated N829AW under C.F.R. Part 121 in
4 violation of operations specifications issued under Part 119; and

5 b. Section 121.535(f), in that you operated an aircraft in a careless manner so as to
6 endanger life or property.

7 14. Given the severity of the offenses charged by the Federal Aviation Administration
8 in its Notice of Proposed Certificate Action, Gannon could have suffered the loss of all
9 aviation licences, certificates and ratings as well as loss of employment and the
10 destruction of his chosen aviation career.

11 15. On or about July 1, 2005, the Administrator withdrew her Notice of Proposed
12 Certificate Action against Captain Gonzalez.

13 16. On or about October 4, 2005, the Administrator of the Federal Aviation
14 Administration entered an Order of Suspension of GANNON's Airline Transport Pilot
15 Certificate.

16 17. On or about November 28, 2005 GANNON, through his retained counsel, filed his
17 Notice of Appeal of the Administrator's Order with the National Transportation Safety
18 Board of the United States Government.

19 18. On or about February 7, 2006 the depositions of Defendants WALKER, BURRIS
20 and SHUNICK were taken by counsel for GANNON. In the course of their deposition
21 testimony Defendant's first repeated their false allegations then admitted that they
22 knowingly made false statements to Captain Gonzales and GANNON relating to the
23 operation of the aircraft and that their earlier statements to the Federal Aviation
24 Administration also contained materially false statements.

25 19. On or about February 14, 2006 Defendant WALKER complained to officials of

1 US Airways that she was physically threatened by Plaintiff GANNON. This complaint
2 was passed to Captain Daniel Rogers the Chief Pilot and a senior manager of US
3 Airways. Captain Rogers contacted GANNON and demanded that he explain his conduct
4 toward WALKER. GANNON was forced again to defend himself by explaining that the
5 only contact he had with WALKER was at her deposition in the presence of a Federal
6 Aviation Administration attorney and that he did not speak any words to WALKER
7 whatsoever.

8 20. On or about June 18, 2006, WALKER again complained that she was being
9 harassed by GANNON. GANNON was again contacted by US Airways Chief Pilot and
10 required to explain his conduct toward WALKER. In fact there had been no contact
11 between GANNON and WALKER since WALKER's deposition on February 7, 2006.

12 21. On or about August 3, 2006, Defendant WALKER was scheduled to serve as a
13 crewmember on a flight on which GANNON was scheduled to serve as the First Officer.

14 a. After seeing GANNON in the vicinity of the cockpit, WALKER gathered the
15 other two Flight Attendants in the rear of the aircraft and proceeded to relate to
16 them her false allegations of GANNON's unsafe operation of an aircraft. This
17 caused serious concern on the part of at least one of the other Flight Attendants
18 inasmuch as she questioned the Captain as to the safety of flying with GANNON.

19 b. After presenting her false allegations to the other Flight Attendants,
20 WALKER left the aircraft, called a supervisory employee of US Airways and had
21 herself removed from the flight.

22 c. GANNON called the Chief Pilot's office to report WALKER's presence on
23 his flight in accordance with Instructions previously given him by Captain Duke
24 Dube, Assistant Chief Pilot, in spite of the fact he had followed the instructions
25 given by management.

- 1 22. On or about August 4, 2006, GANNON met with Assistant Chief Pilot Ken Woods
2 regarding the August 3, 2006, encounter with WALKER. GANNON was told that HE
3 had been accused of causing trouble for the company by refusing to take the flight and
4 that he could face investigation and disciplinary action. In truth of fact, GANNON had
5 not refused the flight, and WALKER's removal from the flight was at her own instigation
6 and with the approval of someone at US Airways not employed within the flight
7 operations department of the airline.
- 8 23. On or about March 31, 2006, the Administrator of the FAA filed her Withdrawal
9 of Complaint and Notice of Proposed Certificate Action in this case.
- 10 24. On or about April 17, 2006 GANNON filed an action against the Administrator of
11 the FAA and the United States Government pursuant to the Equal Access to Justice Act.
- 12 25. On or about May 7, 2006, Federal Aviation Administration Aviation Safety
13 Inspector Jacqueline Clow made professionally derogatory remarks regarding
14 GANNON's professional conduct during a US Airways pilot training class. Numerous
15 students contacted GANNON regarding Clow's comments.
- 16 26. On or about June 16, 2005, the Federal Aviation Administration filed its Answer to
17 GANNON's EAJ Complaint alleging that its enforcement action against GANNON was
18 "substantially justified" because it had relied on the false representations of Defendants
19 WALKER, BURRIS and SHUNICK.
- 20 27. On or about August 8, 2006, the Federal Aviation Administration entered into a
21 Settlement Agreement with GANNON whereby the United States Government paid
22 GANNON a sum of money in exchange for withdrawal of HIS claim under the Equal
23 Access to Justice Act and his promise not initiate any lawsuit against any employee or
24 agency of the United States Government.
- 25 28. On or about August 25, 2006, Gannon was called before the Airline Pilots

1 Association Professional Standards Chairman, John Scherf, regarding the removal of
2 WALKER from the US Airways flight on August 3, 2006. The Professional Standards
3 Committee had been notified by US Airways Chief Pilot, Captain Dan Rogers, to resolve
4 the conflict between GANNON and WALKER, instead of taking disciplinary action
5 against WALKER. GANNON was also informed of the company's negative view
6 regarding HIS alleged request to keep Paula Walker from working on flights with him.

7 29. On or about September 8, 2006, GANNON was called to a meeting with Federal
8 Aviation Administration Aviation Safety Inspector Tom Bailey regarding issuance of HIS
9 Second in Command (SIC) Type Rating Certificate. Mr. Bailey informed GANNON that
10 HIS SIC Type rating certificate could not be issued due to the record of suspension of
11 HIS pilot certificates being indicated in the Federal Aviation Administration certificate
12 data base. GANNON was again forced to prove that the allegations by WALKER,
13 BURRIS and SHUNICK had been dismissed. GANNON then completed an application
14 for the required type rating for a third time and was given a third temporary certificate
15 while Bailey acted to clear the record of suspension with the with the Federal Aviation
16 Administration Certificate Branch in Oklahoma.

17 CLAIMS FOR DAMAGES

18 **Count 1 - Defamation**

19 30. All of the allegations contained in the preceding paragraphs are restated and
20 incorporated by reference as if fully set forth herein.

21 31. WALKER's allegations made to the FAA on or about January 24, 2003 were false
22 and made with the obvious malicious intent to harm GANNON.

23 32. By their later joining WALKER in making these false allegations, Defendants
24 BURRIS and SHUNICK made themselves full parties to WALKER's conduct.

25 33. WALKER's allegations made to US Airways on or about February 14, 2006,

1 alleging that GANNON was physically threatening to her were groundless and made with
2 the obvious malicious intent to harm GANNON.

3 34. WALKER's allegations conveyed to US Airways Chief Pilot On or about June 18,
4 2006, whereby she again complained that she was threatened by GANNON were
5 groundless and made with the obvious malicious intent to harm GANNON.

6 35. WALKER's allegations made to the flight crew on a US Airways flight on or
7 about August 3, 2006, where she proceeded to relate to them her false allegations of
8 GANNON's unsafe operation of an aircraft were groundless and made with the obvious
9 malicious intent to harm GANNON.

10 36. By their conduct, Defendants are jointly and severally liable for both actual and
11 punitive damages.

12 **Count 2 - Interference with Employment Relations**

13 37. All of the allegations contained in the preceding paragraphs are restated and
14 incorporated by reference as if fully set forth herein.

15 38. Defendant's actions in making false allegations of professional misconduct against
16 GANNON caused him to suffer investigations and legal proceedings that lasted over three
17 years and placed his employment within his lifelong chosen profession in serious
18 Jeopardy.

19 39. By their false allegations, Defendant's acted improperly and without privilege. No
20 person is permitted to make false allegations against another with impunity.

21 40. The Defendants' continued false representation to federal official, US Airways
22 managers and others could only be purposeful, with malice and with the specific intent to
23 harm GANNON.

24 41. By their false allegations, Defendants induced the Federal Aviation Administration
25 to investigate and prosecute Plaintiff with the possible loss of his pilot's license and his

1 employment with US Airways.

2 42. As the direct result of the Defendants' conduct GANNON incurred over
3 \$19,464.45 in legal fees and costs.

4 43. By their conduct, Defendants are jointly and severally liable for both actual and
5 punitive damages.

6 **Count 3 - Intentional Infliction of Emotional Distress**

7 44. All of the allegations contained in the preceding paragraphs are restated and
8 incorporated by reference as if fully set forth herein.

9 45. The making of false allegations relating to GANNON's professional conduct was a
10 wanton and intentionally wrong action by Defendants. No one has a right to make such
11 false allegations against another and no reasonable person would do so and their conduct
12 was atrocious and utterly intolerable in a civilized community.

13 46. The direct effect of the Defendants' conduct was to subject GANNON to
14 investigation and prosecution by the United States Government lasting over three years
15 while facing the potential for loss of income and destruction of his lifelong profession.

16 47. The Defendants making of false allegations jeopardizing GANNON's ability to
17 work in his profession is on its face is (1) intentional and/or reckless; (2) is extreme and
18 outrageous; (3) was the direct cause of his having to undergo over three years of
19 investigation and prosecution; and (4) his emotional distress could only be severe.

20 48. By their conduct, Defendants are jointly and severally liable for both actual and
21 punitive damages.

22 **SUMMARY**

23 49. The allegations made against Plaintiff GANNON by Defendants WALKER,
24 BURRIS and SHUNICK were false and the Defendants knew they were false at the time
25 they were made. Even when confronted with their false statements, these Defendants

1 continued to make these and other false allegations against Plaintiff GANNON.

2 50. The deliberate and malicious conduct of Defendants placed Plaintiff GANNON's
3 continued employment as a professional airline pilot in serious jeopardy. As a minimum,
4 GANNON faced the loss of several tens of thousand of dollars in lost wages and a very
5 damaging enforcement record with the Federal Aviation Administration that could harm
6 his future employment potential within his chosen career. Additionally, GANNON was
7 forced to expend over ten thousand dollars in attorney's fees and costs in his defense.

8 51. As a result of these egregious allegations, GANNON suffered mental anguish in
9 the face of these career damaging charges which languished over him for more than two
10 years.

11 52. By their conduct, Defendants are jointly and severally liable for both actual and
12 punitive damages.

13 **WHEREFORE**, Plaintiff requests that the Court grant the following relief:

14 A. Judgement in favor of Plaintiff and against all Defendants, jointly and severally,
15 for actual damages in the amount of \$19,464.45.

16 B. Judgement in favor of Plaintiff and against all Defendants, jointly and severally,
17 for exemplary damages in the amount of \$2,000,000.00.

18 C. Judgement in favor of Plaintiff and against all Defendants, jointly and severally,
19 for reasonable attorneys fees and for costs incurred in bringing this action.

20 D. For such other relief as the Court may find just and proper.


21 DATED THIS 20th day of November, 2006.

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C. RANDALL STONE, Attorney for Plaintiff