

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK-----X  
KAREN SHIBOLETH,

Plaintiff,

Index Number:

- against -

**SUMMONS**

UNITED AIRLINES, INC.

Defendant.  
-----X

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE SUMMONED AND REQUIRED to serve upon plaintiff, at their address stated below, an answer to the attached complaint. If this summons was personally served upon you in the State of New York, the answer must be served within twenty days after such service of the summons, excluding the date of service. If the summons was not personally delivered to you within the State of New York, the answer must be served within thirty days after service of the summons is complete as provided by law. If you do not serve an answer to the attached complaint within the applicable time limitation stated above, a judgment may be entered against you, by default, for the relief demanded in the complaint, without further notice to you.

Plaintiff designates New York County as the place of trial. The basis for venue is CPLR § 503(a).

Dated: April 24, 2017  
New York, New York

SHIBOLETH LLP

By: 

Daniel S. Goldstein  
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T: 212-244-4111 (x207)  
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SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

-----X  
 KAREN SHIBOLETH,

Plaintiff,

Index Number:

- against -

**COMPLAINT**

UNITED AIRLINES, INC.

Defendant.  
 -----X

Plaintiff Karen Shiboleth ("Plaintiff"), by and through her undersigned counsel, alleges as follows:

### **PARTIES**

1. Plaintiff Karen Shiboleth is an individual and resident of the State of New York. Plaintiff is a graduate of Columbia University, with honors, and is currently enrolled in a Master's Degree Program in International Relations at Kings College in London.

2. Defendant United Airlines, Inc. ("United") is a corporation formed and organized under the laws of Delaware, with a principal place of business in Chicago, Illinois.

### **JURISDICTION AND VENUE**

3. United conducts business in the County of New York, State of New York, and maintains a registered agent in the County of New York, State of New York.

4. This Court has jurisdiction over this action pursuant to CPLR 301 and 302.

5. Defendant United regularly solicits business and derives substantial revenue from services rendered in the State of New York.

6. Venue in New York County is proper pursuant to CPLR 503(a).

### FACTUAL BACKGROUND

7. On September 10, 2016, Plaintiff was a passenger on a United flight from Newark Liberty International Airport (EWR) to London's Heathrow Airport (LHR) (the "Flight").

8. Plaintiff originally paid \$1,498.90 for a window seat in the economy cabin of a flight departing on September 5, 2017.

9. On August 18, 2016, Plaintiff changed her reservation and used approximately 60,000 American Express MileagePlus Miles and paid an additional \$498.56 in fees and expenses for a window seat in the "Economy Plus" cabin on the Flight, departing five days later on September 10, 2016.

10. At the airport on September 10, 2016, Plaintiff again upgraded her seat and paid an additional \$1,149.00 for a Premier Cabin Upgrade to "United BusinessFirst."

11. A copy of the Plaintiff's receipt reflecting her payment of \$1,149 for Seat 1B in the United BusinessFirst cabin is attached hereto as **Exhibit 1**.

12. In total, Plaintiff paid approximately \$3,146.46 plus 60,000 American Express MileagePlus Miles for her BusinessFirst seat on the Flight.

13. Upon paying \$1,149 for a Premier Cabin Upgrade to United BusinessFirst, Plaintiff received a boarding pass for seat 1B. A copy of Plaintiff's electronic boarding pass is attached hereto as **Exhibit 2**.

14. Although Plaintiff normally does not fly BusinessFirst class, Plaintiff was moving from New York to London where she was beginning a (minimum) year-long Master's Degree

Program at Kings College. She was traveling with heavy luggage and large carry-on bags which contained a significant amount of her personal belongings and valuables. The upgraded BusinessFirst ticket was to ease the burden of Plaintiff's move, improve the care and safety of her personal belongings, and provide convenience from the stresses that accompany moving – especially moving to a new country nearly halfway across the world. For this care, security and convenience, Plaintiff paid a substantial premium.

15. Plaintiff boarded the Flight, her luggage was checked, her carry-on luggage was safely stored in the compartments above and below her seat, and she was conversing with the flight attendant, pilot and other nearby passengers in a friendly manner. The seat next to Plaintiff was empty and the flight attendant and pilot lightheartedly joked that she was quite fortunate to have an empty seat next to her for such a long flight. Plaintiff also noticed that there were other empty seats in the BusinessFirst cabin.

16. After Plaintiff had been sitting in her seat for about twenty minutes, and some ten minutes before take-off, a United employee named Eunice Daly ("Daly") (upon information and belief, a gate attendant) boarded the plane, and without explanation, demanded that Plaintiff vacate her seat in United BusinessFirst and move to the back of the boarded plane to seat 21B.

17. Despite numerous requests by Plaintiff, neither Ms. Daly nor any flight attendant would give Plaintiff an explanation for this demand. Nor did Ms. Daly explain why Plaintiff had to move to the back of the plane instead of to one of the other open seats in BusinessFirst – for which Plaintiff held a ticket, had paid a substantial amount, and where her personal belongings and carry-on luggage were located. In fact, Ms. Daly at first would not even give Plaintiff her name, and attempted to cover her name badge on her shirt from Plaintiff's view.

18. Although Plaintiff showed Daly that her plane ticket was for seat 1B in the United BusinessFirst cabin, Daly took Plaintiff's arm without consent and forced Plaintiff to a middle seat in the back of the plane, which was substantially worse than even Plaintiff's original window seat in the Economy Plus cabin.

19. Plaintiff was startled at being touched without her consent. Daly – who was not a flight attendant – evidently boarded the plane for the sole purpose of harassing, humiliating, embarrassing and physically accosting Plaintiff in front of the other passengers. Daly's behavior was erratic, abusive, and inexplicable.

20. While Daly was touching Plaintiff without consent and forcing her to the back of the plane, Daly further insulted and humiliated Plaintiff by raising her voice and calling Plaintiff a "cunt" in front of other passengers.

21. The physical and verbal abuse by Daly was completely unprovoked.

22. All of the passengers in United BusinessFirst, as well as the first few rows of passengers in Economy Plus, were within earshot of Daly's vulgar statements to Plaintiff.

23. Thoroughly humiliated and emotionally distressed, Plaintiff was paraded to the back of the plane in tears and in full view of the other passengers on the Flight.

24. The flight attendants on the plane were later apologetic to Plaintiff for Daly's behavior but still could not give Plaintiff any explanation for Daly's actions.

25. A copy of Plaintiff's ticket reflecting her new seat, 21B, is attached as **Exhibit 3**.

26. Plaintiff had informed Daly during this ordeal that she had paid \$1,149 for a Premier Cabin Upgrade to United BusinessFirst, and asked to be reimbursed for her no-longer-existent upgrade. Astonishingly, Daly refused to reimburse Plaintiff for the \$1,149 she had just paid, and ludicrously would only give a \$750 *voucher* toward the *future purchase* of an

electronic ticket on United. A copy of the \$750 voucher, which has never been used, is attached hereto as **Exhibit 4**.

27. Despite being notified about this incident, United has failed to reimburse Plaintiff for the value of her *two* upgrades.

28. Indeed, United apparently does not consider its breaches and ill treatment of passengers to be worthy of any attention at all. United was formally advised, in writing, *twice*, of the facts and circumstances described herein, on December 19, 2016 and again on April 13, 2017, including a courtesy copy of this complaint, which to date United has simply ignored.

29. United is liable for the actions and omissions its agents or employees performed, or did not perform, in the scope of their employment pursuant to the doctrine of *respondeat superior* and as a common carrier.

#### **FIRST CAUSE OF ACTION**

##### **(Common Carrier Intentional Tort to Passenger)**

30. Plaintiff repeats the preceding allegations.

31. A common carrier is under a duty to protect their customers from injury, annoyance, or mistreatment through the acts of agents and employees. The law imposes an obligation upon common carriers to see that their agents and employees extend courteous and decent treatment to guests, and hold themselves liable in violation of this obligation by the use of insulting and abusive language.

32. Defendant breached its common carrier duties to extend courteous and decent treatment to Plaintiff, and intentionally insulted and humiliated Plaintiff, causing Plaintiff injury, embarrassment, outrage and inconvenience, and mental distress.

33. Plaintiff seeks actual damages, general damages and special damages in an amount to be determined at trial but not less than \$9,146.16, and punitive damages in an amount to deter such behavior in the future of not less than \$150,000.

## **SECOND CAUSE OF ACTION**

### **(Breach of Contract)**

34. Plaintiff repeats the preceding allegations.

35. After paying \$1,498.90 for her original ticket, Plaintiff used approximately 60,000 American Express MileagePlus Miles and paid an additional \$498.56 in fees and expenses for a window seat in the “Economy Plus” cabin on the Flight. She then paid an additional \$1,149.00 in exchange for a first row seat in United BusinessFirst on the Flight. Plaintiff performed under the contract by paying substantial fees to United, which United accepted.

36. United breached its contract obligations to Plaintiff by taking away Plaintiff’s United BusinessFirst upgrade seat, by refusing to reimburse Plaintiff for the costs of her ticket and upgrades, and by using insulting and abusive language towards Plaintiff, causing embarrassment, humiliation, outrage, inconvenience and damage.

37. Plaintiff seeks actual damages, general damages and special damages in an amount to be determined at trial but not less than \$9,146.16, and punitive damages in an amount to deter such behavior in the future of not less than \$150,000.

## **THIRD CAUSE OF ACTION**

### **(Defamation/Slander)**

38. Plaintiff repeats the preceding allegations.

39. By loudly calling Plaintiff a “cunt” and casting aspersions at Plaintiff as she was forced to parade the length of the plane in tears and in full view of the other passengers on the

Flight, Defendant United and its agents and employees, acting within the scope of their employment, made false public statements about Plaintiff that exposed Plaintiff to public contempt, ridicule, aversion and/or disgrace.

40. The statements by United's agents or employees were intentional.

41. The statements by United's agents or employees were false.

42. As a result of the foregoing, Plaintiff has been injured and is entitled to damages against United, including actual damages, general damages, special damages, and punitive damages in an amount sufficient to deter defendants from engaging in similar unlawful conduct in the future, in an amount to be determined by a jury at trial, but in an amount not less than \$150,000.

#### **FOURTH CAUSE OF ACTION**

##### **(Battery)**

43. Plaintiff repeats the preceding allegations.

44. As Plaintiff was sitting in her United BusinessFirst seat, United's agent or employee, acting within the scope of her employment, forcibly touched Plaintiff without consent. The touching by Daly was wrongful and unwanted by Plaintiff. Plaintiff did not consent to being forcibly touched and the agent had no excuse or justification to do such, causing great shock and distress to Plaintiff. The actions of United's employee or agent were intentional, malicious, willful, and wanton.

45. As a direct and proximate result of United and its agents' or employees' acts, Plaintiff has sustained legally presumed damages, including but not limited to embarrassment, humiliation, mental distress, special damages, actual damages, and consequential damages.



46. As a result of the foregoing, Plaintiff has been injured by no less than \$150,000, and is entitled to damages against United for actual damages, general damages, special damages, and punitive damages in an amount sufficient to deter defendants from engaging in similar unlawful conduct in the future, to be decided by a jury.

### **FIFTH CAUSE OF ACTION**

#### **(Negligence)**

47. Plaintiff repeats the preceding allegations.

48. United owed a duty to Plaintiff to prevent the actions and subsequent harms of its agents and employees as described in the prior allegations of this Complaint.

49. Defendant breached its duties in the following particulars:

- a. by failing to properly supervise its employees;
- b. by failing to adequately train its employees; and
- c. by failing to properly investigate the incident before forcing Plaintiffs removal from her seat.

50. As a direct and proximate result of United and its agents' or employees' acts and omissions, all performed within the scope of their employment, Plaintiff has sustained damages, including but not limited to embarrassment, humiliation, and mental suffering, special damages, actual damages, attorney's fees, and consequential damages.

51. As a result of the foregoing, Plaintiff has been injured by no less than \$150,000, and is entitled to damages against United for actual damages, general damages, special damages, and punitive damages.

**SIXTH CAUSE OF ACTION****(Unjust Enrichment)**

52. Plaintiff repeats the preceding allegations.

53. After paying \$1,498.90 for her original ticket, Plaintiff used approximately 60,000 American Express MileagePlus Miles and paid an additional \$498.56 in fees and expenses for a window seat in the “Economy Plus” cabin on the Flight. She then paid an additional \$1,149.00 in exchange for a first row seat in United BusinessFirst on the Flight.

54. United accepted all of these payments.

55. United, however, inexplicably took these upgrades away from Plaintiff, yet has refused and ignored requests to reimburse Plaintiff for her payments, essentially stealing Plaintiff’s payments for the rescinded upgrades.

56. As a result of the foregoing, an award for unjust enrichment is warranted to impose equity and to prevent injustice.

**PRAYER FOR RELIEF**

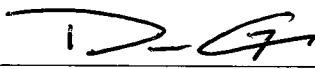
WHEREFORE, Plaintiff demands judgment against the Defendant as follows:

- (a) On the First Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount to be determined at trial but not less than \$9,146.16, and punitive damages in an amount to deter such behavior in the future of not less than \$150,000;
- (b) On the Second Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount to be determined at trial but not less than \$9,146.16, and punitive damages in an amount to deter such behavior in the future of not less than \$150,000;

- (c) On the Third Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount sufficient to deter Defendant from engaging in similar unlawful conduct in the future, in an amount to be determined by a jury at trial, but in an amount not less than \$150,000;
- (d) On the Fourth Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount sufficient to deter Defendant from engaging in similar unlawful conduct in the future, to be decided by a jury;
- (e) On the Fifth Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount to be determined by a jury at trial;
- (f) On the Sixth Cause of Action, Plaintiff is entitled to a judgment for damages against Defendant in an amount to be determined by a jury at trial;
- (g) An award of attorneys' fees, costs, disbursements and interest; and
- (h) Such other and further relief as the Court deems just and proper.


Dated: New York, New York  
April 24, 2017

SHIBOLETH LLP

By:   
Daniel S. Goldstein  
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New York, NY 10119  
T: 212-244- 4111 (x207)  
F: 212-563- 7108

*Attorneys for Plaintiff*

# Exhibit 1

UNITED 

PASSENGER RECEIPT

1 OF 1

10SEP16

99/DB5235 /HOUSTON

SHIBOLETH/KAREN

\*\*NOT VALID FOR\*\*

\*\*TRANSPORTATION\*\*

EWR UA LHR

1 PREMIUM CABIN UPGRADE 1149.00

USD 1149.00

USD 1149.00

PSGR TICKET

01623146995363

M4C7MH

XXXXXXXXXXXXXXXXXXXX1007/XXXX/163392

1 016 2924984051 4

SPECI

THIS IS

FOR COND  
CONTRACT  
PASSENGER  
BAGGAGE

NOT VALI

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# Exhibit 2



UNITED



TSA Pre✓

**GATE**  
**C74**

NEWARK-LIBERTY INTL

## LONDON-HEATHROW

EWR



LHR

BOARDS  
8:05 PM

FLIGHT  
UA 16

SEAT  
1B

SEQ  
151

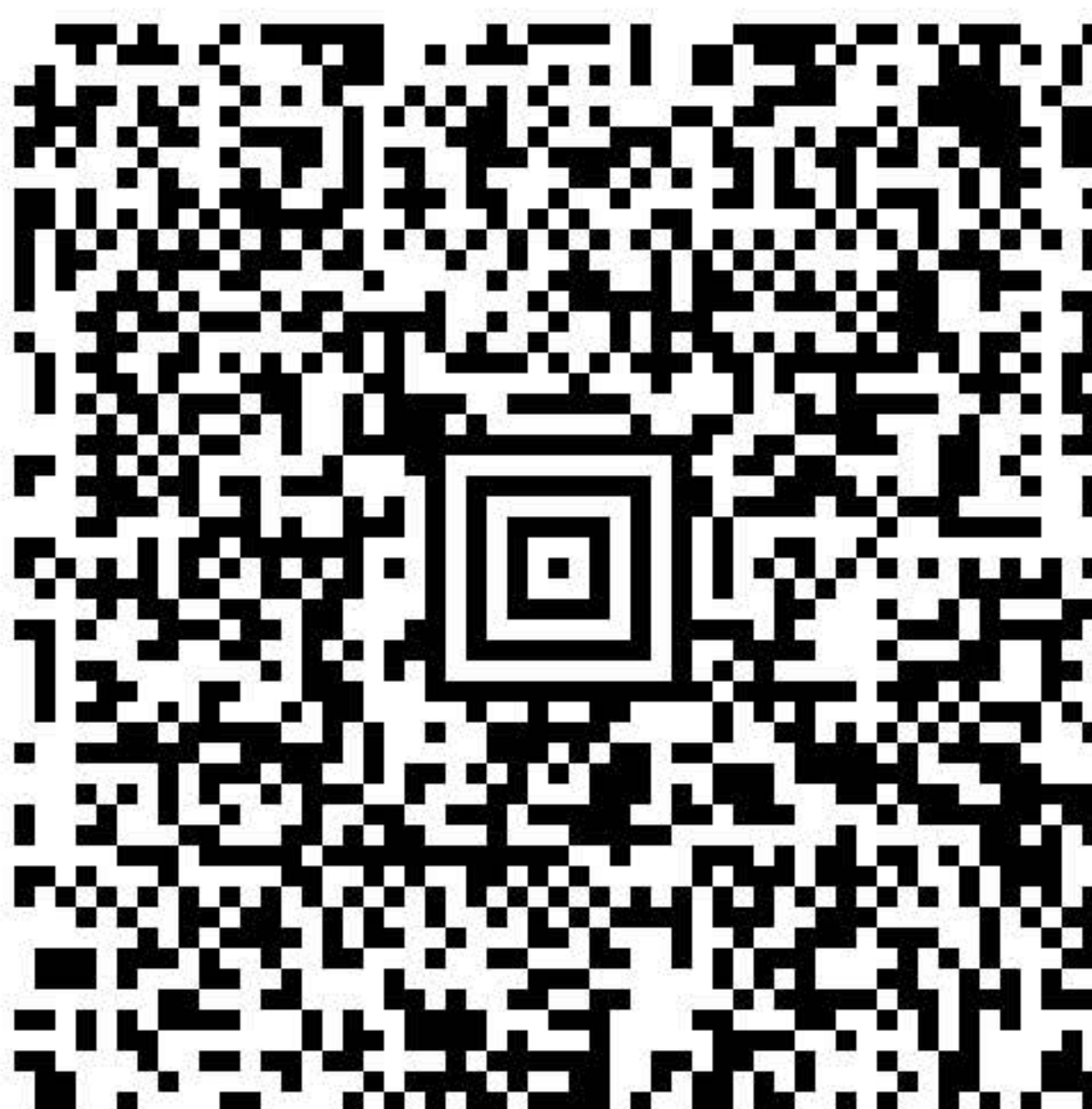
**GROUP**  
**1**

PASSENGER

SHIBOLETH/KAREN

# Premier Access

STAR ALLIANCE 



# Exhibit 3



HERE  
PRINTED IN U.S.A. BY MAGNETIC TICKET AND LABEL CORP., DALLAS, TX

REV. 11/12  
CSM957



SHIBOLETH/KAREN  
UA-\*\*\*891

TSA PRE

\*\* PREMIER \*\*  
\*\* ACCESS \*\*

INTL

M4C7MH 21B EXIT 151  
UA 16 D7BF0F

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NEWARK TO LONDON

UA16

EWR-LHR

SAT SEPTEMBER 10 2016

GATE

C74

GATE MAY CHANGE

BOARD TIME

8:05P

DEPARTS: 8:55 PM

ARRIVES: 9:20 AM

SEAT

21B

MIDDLE

ECONOMY

EXIT ROW

BOARDING  
GROUP

2


CONFIRMATION: M4C7MH

TICKET: 016 2314699536

A STAR ALLIANCE MEMBER



# Exhibit 4

UNITED 

## ELECTRONIC TRAVEL CERTIFICATE RECEIPT

NAME: SHIBOLETH/KAREN

PROMOTION CODE: 16TCVA

PIN: 6LC75UT5JN

VALID TOWARDS THE PURCHASE OF AN ELECTRONIC  
AIRLINE TICKET/S/ WHERE ELIGIBLE ON UNITED  
UP TO 750.00

EXPIRES: 11SEP17

ISSUED: 11SEP16

EWR

SEE ATTACHED TERM  
AND CONDITIONS

UA REF: GG ETC

1. FOR REDEMPTION LOGON TO UNITED.COM OR CALL UNITED RESERVATIONS AT  
800-UNITED-1 / 800-864-8331/ OR VISIT A UNITED TICKET OFFICE.

CERTIFICATES MAY NOT BE REDEEMED THROUGH A TRAVEL AGENCY.

2. ADVISE THE AGENT THAT YOU WILL BE REDEEMING AN ELECTRONIC TRAVEL CERTIFICATE.

3. BE PREPARED TO OFFER THE AGENT THE PROMOTION CODE, PIN AND VALUE.

## RELEASE OF LIABILITY

BY ACCEPTANCE OF THIS TRAVEL CERTIFICATE YOU RELEASE UNITED- THE OPERATING  
CARRIER- AND THEIR RESPECTIVE EMPLOYEES- AGENTS AND REPRESENTATIVES FROM ANY AND  
ALL LIABILITY- CLAIMS- OR DAMAGES RESULTING OR ARISING FROM THE MATTERS RELATING  
TO YOUR FLIGHT- COMPENSATION THEREFORE- OR ANY RELATED COMPLAINT.A STAR ALLIANCE MEMBER  
PAGE 1 OF