

ENDORSED

2011 MAY 25 A 8:58

David H. Vance, Jr. Clerk of the Superior Court
County of Santa Clara, California

L. Kontorovsky

1 Richard G. Grotch, Esq. - SBN 127713
2 Alisha A. Beltramo, Esq. - SBN 267423
3 **CODDINGTON, HICKS & DANFORTH**
4 **A Professional Corporation, Lawyers**
5 555 Twin Dolphin Drive, Suite 300
6 Redwood City, CA 94065-2133
7 Telephone: (650) 592-5400
8 Facsimile: (650) 592-5027

ATTORNEYS FOR Defendant
US AIRWAYS, INC.

9
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11
12 IN AND FOR THE COUNTY OF SANTA CLARA

13 JING FANG WANG

14 Plaintiff,

15 vs.

16 US AIRWAYS, INC., DOES 1 to 10, inclusive

17 Defendants.

Case No. 111CV196557

ANSWER TO UNVERIFIED COMPLAINT

BY FAX

18 COMES NOW defendant US AIRWAYS, INC. and in response to the unverified complaint of
19 plaintiff on file herein, herewith denies each and every, all and singular, the allegations therein contained,
20 and in this connection, defendant denies that plaintiff has been injured or damaged in any of the sums
21 mentioned in the complaint, or in any sum whatsoever or at all, as a result of any act or omission of this
22 answering defendant.

23 AS A FURTHER, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
24 ON FILE HEREIN, this answering defendant alleges that said complaint, and each cause of action
25 thereof, fails to state facts sufficient to constitute a cause of action against this defendant.

26 AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
27 FILE HEREIN, this answering defendant alleges that said complaint, and each cause of action thereof,
28 fails to state facts sufficient to constitute a cause of action for punitive or exemplary damages.

ANSWER TO COMPLAINT
Case No: 111CV196557

EXHIBIT E

1 AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
2 FILE HEREIN, this answering defendant alleges that plaintiff was herself careless and negligent in and
3 about the matters alleged in the complaint; that said carelessness and negligence on said plaintiff's own
4 part proximately contributed to the happening of the incident and to the injuries, loss and damage
5 complained of, if any there were; that should plaintiff recover damages, defendant is entitled to have the
6 amount thereof abated, reduced or eliminated to the extent that plaintiff's negligence caused or
7 contributed to her injuries, if any.

8 AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
9 FILE HEREIN, this answering defendant alleges that plaintiff acted with full knowledge of all the facts
10 and circumstances surrounding her injury and assumed the risk of the matters causing her injury, and that
11 said matters of which plaintiff assumed the risk proximately contributed to the happening of the incident
12 at bar and proximately caused her injury, if any.

13 AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
14 FILE HEREIN, this answering defendant alleges that named and/or unnamed third parties were careless
15 and negligent in and about the matters alleged in the complaint; that said carelessness and negligence of
16 said named and/or unnamed third parties proximately contributed to the happening of the incident and
17 to the injuries, loss and damage complained of by plaintiff, if any there were; that should plaintiff recover
18 damages, this answering defendant is entitled to have the amount thereof abated, reduced or eliminated
19 to the extent that said named and/or unnamed third parties' negligence caused or contributed to
20 plaintiff's injuries, if any.

21 AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
22 FILE HEREIN, this answering defendant alleges that plaintiff failed subsequent to the occurrence
23 described in the complaint properly to mitigate her damages and thereby is precluded from recovering
24 those damages which could have reasonably been avoided by the exercise of due care on the part of
25 plaintiff.

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1 AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
2 ON FILE HEREIN, this answering defendant alleges that to permit recovery in respect of the matters
3 herein alleged would violate the provisions of California Const. Art. I, §§ 1, 7, 9, 15 and 16.

4 AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
5 ON FILE HEREIN, this answering defendant alleges that to permit recovery in respect of the matters
6 herein alleged would violate the provisions of United States Const. Art. I, § 10.

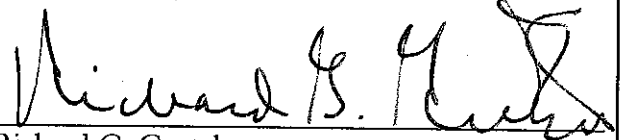
7 AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
8 FILE HEREIN, this answering defendant alleges that to permit recovery in respect of the matters herein
9 alleged would violate the provisions of United States Const., Amend. V, VII, VIII and XIV.

10 AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
11 FILE HEREIN, this answering defendant alleges that plaintiffs' complaint, and each cause of action
12 thereof, is preempted by federal law, including, but not limited to, the provisions of the Airline
13 Deregulation Act of 1978, 49 U.S.C. § 1305(a)(1), superseded by the Federal Airline Administration
14 Authorization Act of 1994, 49 U.S.C. § 41713, *et seq.*, and by the Federal Aviation Act of 1958, 49 U.S.C.
15 § 40101, *et seq.*

16 WHEREFORE, defendant prays that plaintiff take nothing against said defendant by her said
17 complaint; that defendant have judgment for its costs of suit herein incurred, together with such other
18 and further relief as may be just and proper.

19 Dated: May 23, 2011

CODDINGTON, HICKS & DANFORTH

20
21 By: 
22 Richard G. Grotch
23 Attorneys for Defendant
24 US Airways, Inc.