

FIEGER, FIEGER, KENNEY & HARRINGTON, P.C. • A PROFESSIONAL CORPORATION
19390 WEST TEN MILE ROAD • SOUTHFIELD MICHIGAN 48075 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR WAYNE COUNTY

ALICIA BEVERLY

Plaintiff,

File No. 2020-
Hon.

-CZ

vs.

DANIEL CHALMERS, and
LOVE WINS MINISTRIES, INC.,

Defendants.

GEOFFREY N. FIEGER (P30441)
JAMES J. HARRINGTON, IV (P65351)
RAQUEL MUNOZ (P77420)
Fieger, Fieger, Kenney & Harrington, P.C.
Attorneys for Plaintiff
19390 West Ten Mile Rd.,
Southfield, MI 48075
P: (248) 355-5555
F: (248) 355-5148
r.munoz@fiegerlaw.com

COMPLAINT AND DEMAND FOR JURY TRIAL

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties arising out of the same transaction or occurrence as alleged in this complaint that is either pending, or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this court.

NOW COMES Plaintiff, ALICIA BEVERLY, by and through her attorneys FIEGER, FIEGER, KENNEY & HARRINGTON, P.C., and for her Complaint and Jury Demand, states as follows:

PARTIES AND JURISDICTION

1. At all times relevant hereto, Plaintiff, ALICIA BEVERLY, is a resident of Detroit, Wayne County, State of Michigan.

2. Upon information and belief, at all times relevant hereto, Defendant, DANIEL CHALMERS, (hereinafter “CHALMERS”) was a resident from North Carolina and an employee of Defendant MINISTRIES, who was acting within the course and scope of his employment.

3. Upon information and belief, at all times relevant hereto, Defendant LOVE WINS MINISTRIES, INC. (hereinafter “MINISTRIES”) was and is a non-profit corporation with its principal place of business in Raleigh, North Carolina.

4. All acts, transactions and/or occurrences giving rise to the injuries complained of herein, arose within the confines Wayne County, State of Michigan, on or about October 13, 2020.

5. The amount in controversy in this case exceeds Two Million (\$2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

6. Venue and jurisdiction are properly vested in this Court.

COMMON FACTUAL ALLEGATIONS

7. Plaintiff hereby reincorporates each and every allegation contained in the preceding paragraphs of this Complaint as if fully set forth herein.

8. Upon information and belief, and at all times relevant, Plaintiff, ALICIA BEVERLY, and her sister were on DELTA flight 874 from Las Vegas, NV to Detroit, MI on or about October 13, 2020.

9. Upon information and belief, and at all times relevant, Delta flight 874 from Las Vegas, NV to Detroit, MI had a scheduled departure of 11:30 p.m. on October 13, 2020 and an estimated arrival of 6:15 a.m. on October 14, 2020.

10. Plaintiff, ALICIA BEVERLY, and her sister boarded DELTA flight 874 and was assigned 23C and her sister was assigned to seat 23A.

11. Shortly after takeoff, Plaintiff, ALICIA BEVERLY, put a mask over her eyes and proceeded to fall asleep.

12. Upon information and belief, and at all times relevant, Plaintiff, ALICIA BEVERLY, felt something warm touching her and immediately woke up.

13. Upon information and belief, and at all times relevant, Plaintiff, ALICIA BEVERLY, observed Defendant, CHALMERS, standing next to her with his pants unzipped and his penis out, to which Plaintiff immediately screamed waking up the other occupants of the airplane.

14. Plaintiff, ALICIA BEVERLY, immediately realized that she had been urinated on by Defendant, CHALMERS.

15. Defendant, CHALMERS was immediately restrained and charged with assaulting Plaintiff, ALICIA BEVERLY.

16. Upon information and belief, and at all times relevant, Defendant, CHALMERS, was intoxicated while on DELTA flight 874.

17. At all times relevant hereto, Defendant, CHALMERS, was an employee of Defendant, MINISTRIES, and was acting within the course and scope of his employment, and as a result, Defendant, MINISTRIES, is vicariously liable for the acts of Defendant, CHALMERS.

COUNT I
NEGLIGENCE, GROSS NEGLIGENCE, WANTON AND
WILLFUL MISCONDUCT - DEFENDANT DANIEL CHALMERS

18. Plaintiff hereby reincorporates each and every allegation set forth in the preceding paragraphs of this complaint as if fully set forth herein.

19. At all times relevant hereto, and pursuant to Michigan Law, Defendant, CHALMERS, owed a duty to act with ordinary care for the safety of the public and specifically to Plaintiff, ALICIA BEVERLY.

20. Defendant, CHALMERS, as an employee employed of Defendant, MINISTRIES, had a duty to act as a reasonably prudent person in the same or similar circumstances.

21. At all times relevant hereto, Defendant, CHALMERS, owed Plaintiff, ALICIA BEVERLY, the aforementioned duties in particular, by way of illustration and not limitation, and breached the same by doing the following:

- a. Actually and physically touching the body of Plaintiff, ALICIA BEVERLY, in a sexual and offensive manner without invitation, permission, or inducement;
- b. Urinating on the body of Plaintiff, ALICIA BEVERLY, without invitation, permission, or inducement;
- c. Inappropriately exposing himself in an extremely offensive and sexual nature toward Plaintiff, ALICIA BEVERLY, without invitation, permission, or inducement;
- d. Acting in a manner so reckless as to demonstrate a substantial lack of concern for whether injury resulted to Plaintiff;
- e. All other breaches of duty identified by Defendant, DANIEL CHALMERS, in deposition testimony and/or answers to interrogatories and/or all other discovery, all of which is hereby adopted by reference; and
- f. Any and all breaches that become known through litigation.

22. Defendant, CHALMERS, committed acts of negligence, gross negligence, willful and wanton misconduct against Plaintiff, ALICIA BEVERLY, as described previously, which constituted conduct so reckless and egregious as to amount to gross negligence.

23. As a and/or the proximate and direct cause of Defendant, CHALMERS', negligent and/or grossly negligent acts and/or omissions, Plaintiff, ALICIA BEVERLY, suffered numerous injuries and damages, including but not limited to the following:

- a. Severe emotional and mental distress;
- b. Inability to experience social pleasures and enjoyment;
- c. Humiliation, grief, embarrassment, mortification;
- d. Anxiety, fright, shock;
- e. Other damages that may become known through the passage of time and/or the course of discovery;
- f. Any and all damages allowed under Michigan law.

24. At all times relevant hereto, Defendant, CHALMERS, was an employee of Defendant, MINISTRIES, and was acting within the course and scope of his employment, and as a result, Defendant, MINISTRIES, is vicariously liable for the acts of Defendant, CHALMERS.

WHEREFORE, Plaintiff, ALICIA BEVERLY, respectfully requests judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount in excess of Two Million (\$2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

COUNT II
NEGLIGENT HIRING, TRAINING, SUPERVISION and/or INTERVENTION
DEFENDANT LOVE WINS MINISTRIES, INC

25. Plaintiffs hereby reincorporate each and every allegation set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

26. On the above date, Defendant, CHALMERS, was an employee and/or agent of Defendant, MINISTRIES.

27. At the time of the above incident, Defendant, MINISTRIES, owed duties to the general public, including Plaintiff, to properly hire, train and retain employees that could perform their job duties in a non-negligent manner and refrain from injuring the public, in general and Plaintiff, in particular.

28. At all times relevant hereto, Defendant, MINISTRIES, had the duty and capability to engage in proper screening of its employees before entrusting them to travel on their behalf.

29. At all times relevant hereto, Defendant, MINISTRIES, had the duty to train, monitor, and supervise its employees for the safety of the public.

30. Defendant, MINISTRIES, and its agents and its employees, were negligent and/or grossly negligent, in one or more of the following ways claimed by Plaintiff:

- a. Hiring a pastor, specifically Defendant, CHALMERS, who lacked the appropriate skills and/or knowledge to not urinate on others, specifically ALICIA BEVERLY;
- b. Failing to properly train employees and specifically Defendant, CHALMERS, in how to appropriately interact when flying ensuring that employees never resort to urinating on others;
- c. Failed to supervise and/or monitor Defendant, CHALMERS, after being hired by Defendant, MINISTRIES;
- d. Failed to put in place policies and procedures that would prevent such behavior shown by Defendant, CHALMERS;
- e. Failed to execute adequate screening and/or training procedures;
- f. All other breaches of duty identified by Defendant, MINISTRIES, in deposition testimony and/or answers to interrogatories and/or all other discovery, all of which is hereby adopted by reference; and

g. Any and all breaches that become known through litigation.

31. As a and/or the proximate and direct cause of Defendant, CHALMERS, negligent and/or grossly negligent acts and/or omissions, Plaintiff, ALICIA BEVERLY, suffered numerous injuries and damages, including but not limited to the following: Emotional and mental distress;

- a. Severe emotional and mental distress;
- b. Inability to experience social pleasures and enjoyment;
- c. Humiliation, grief, embarrassment, mortification;
- d. Anxiety, fright, shock;
- e. Other damages that may become known through the passage of time and/or the course of discovery;
- f. Any and all damages allowed under Michigan law.

WHEREFORE, Plaintiff, ALICIA BEVERLY, respectfully requests judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount in excess of Two Million (\$2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

COUNT III
VICARIOUS LIABILITY
AGAINST DEFENDANT MINISTRIES

32. Plaintiffs hereby reincorporate each and every allegation set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

33. At all relevant times hereto, Defendant, MINISTRIES, is vicariously responsible for the negligent acts and omissions of its employees and/or agents.

34. At all times relevant, Defendant, MINISTRIES, owed a duty to the public specifically Plaintiff, ALICIA BEVERLY, to exercise reasonable care given the circumstances.

35. At all relevant times, Defendant, MINISTRIES, and its agents and its employees, were vicariously responsible for the negligent acts and omissions of its employees and/or agents, in one or more of the following ways claimed by Plaintiffs:

- a. Hiring a pastor, specifically Defendant, CHALMERS, who lacked the appropriate skills and/or knowledge to not urinate on others, specifically ALICIA BEVERLY;
- b. Failing to properly train employees and specifically Defendant, CHALMERS, in how to appropriately interact when flying ensuring that employees never resort to urinating on others;
- c. Failed to supervise and/or monitor Defendant, CHALMERS, after being hired by Defendant, MINISTRIES;
- d. Failed to put in place policies and procedures that would prevent such behavior shown by Defendant, CHALMERS;
- e. Failed to execute adequate screening and/or training procedures;
- f. All other breaches of duty identified by Defendant, MINISTRIES, in deposition testimony and/or answers to interrogatories and/or all other discovery, all of which is hereby adopted by reference; and
- g. Any and all breaches that become known through litigation.

36. As a direct and proximate cause of the negligence and/or gross negligence and/or willful and wanton conduct of Defendant, MINISTRIES, and its agents and employees, the Plaintiffs suffered the following injuries and damages:

- a. Severe emotional and mental distress;
- b. Inability to experience social pleasures and enjoyment;
- c. Humiliation, grief, embarrassment, mortification;
- d. Anxiety, fright, shock;
- e. Other damages that may become known through the passage of time and/or the course of discovery;
- f. Any and all damages allowed under Michigan law.

WHEREFORE, Plaintiff, ALICIA BEVERLY, respectfully requests judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount in excess of Two Million (\$2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

COUNT IV
SEXUAL ASSAULT AND BATTERY
AGAINST DEFENDANT, DANIEL CHALMERS

37. Plaintiffs hereby reincorporate each and every allegation set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

38. At all relevant times, Defendant, CHALMERS, unlawfully, and without consent, actually and physically touched Plaintiff, ALICIA BEVERLY's, body, specifically, but not limited to, when he urinated on her while on Delta flight 874.

39. At all relevant times, Defendant, CHALMERS, negligently, intentionally, and/or willfully or maliciously sexually assaulted Plaintiff, ALICIA BEVERLY.

40. Defendant, CHALMERS, knew or should have known, that his conduct was illegal and malicious and was a violation of the statutes and common laws of the State of Michigan.

41. As a result of Defendant, CHALMERS' illegal, negligent, grossly negligent, intentional, and/or malicious conduct, Defendant breached the duties owed to Plaintiff, ALICIA BEVERLY, of not sexually assaulting a person, or touching, without consent, contrary to the laws and the rights of citizens in the State of Michigan.

42. As a and/or the proximate and direct cause of Defendant, CHALMERS, negligent and/or grossly negligent acts and/or omissions, Plaintiff, ALICIA BEVERLY, suffered numerous injuries and damages, including but not limited to the following: Emotional and mental distress;

- a. Severe emotional and mental distress;
- b. Inability to experience social pleasures and enjoyment;
- c. Humiliation, grief, embarrassment, mortification;
- d. Anxiety, fright, shock;
- e. Other damages that may become known through the passage of time and/or the course of discovery;
- f. Any and all damages allowed under Michigan law.

WHEREFORE, Plaintiff, ALICIA BEVERLY, respectfully requests judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount in excess of Two Million (\$2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

COUNT V
INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANT DANIEL CHALMERS

43. Plaintiffs hereby reincorporate each and every allegation set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

44. Defendant, CHALMERS, inflicted great emotional distress upon Plaintiff, ALICIA BEVERLY, by way of the aforementioned illegal and improper acts.

45. The aforementioned illegal and improper acts constitute extreme and outrageous conduct, which caused Plaintiff, ALICIA BEVERLY, to suffer severe injuries, including humiliation, indignity and injury to her psyche including, but not limited to the following, all of which shock the conscience of the community:

- a. Actually and physically touching the body of Plaintiff, ALICIA BEVERLY in a sexual and offensive manner without invitation, permission, or inducement;
- b. Urinating on the body of Plaintiff, ALICIA BEVERLY, without invitation, permission, or inducement;

- c. Inappropriately exposing himself in an extremely offensive and sexual nature toward Plaintiff, ALICIA BEVERLY, without invitation, permission, or inducement;
- d. All other breaches of duty identified by Defendant in deposition testimony and/or answers to interrogatories and/or all other discovery, all of which is hereby adopted by reference; and
- e. Any and all other breaches that become known through the course of litigation.

46. Defendant, CHALMERS, by and through his acts and/or omissions, inflicted emotional distress upon Plaintiff, ALICIA BEVERLY, by his unconsented sexual assault and battery directed toward Plaintiff.

47. The conduct of Defendant, CHALMERS, was extreme, outrageous, and of a character not to be tolerated by a civilized society.

WHEREFORE, Plaintiff, ALICIA BEVERLY, respectfully requests judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount in excess of Two Million (2,000,000.00) Dollars, exclusive of costs, interest and attorney fees.

Respectfully Submitted,

Fieger, Fieger, Kenney & Harrington, P.C.

/s/ Raquel A. Muñoz

GEOFFREY N. FIEGER (P30441)
JAMES J. HARRINGTON, IV (P65351)
RAQUEL A. MUNOZ (P77420)
Attorney for Plaintiff
19390 W. 10 Mile Road
Southfield, MI 48075
(248) 355-5555
r.munoz@fiegerlaw.com

Dated: October 29, 2020