

Dear Mr Bastian

BREACH OF ACAA BY DELTA PERSONNEL AT HARTSFIELD-JACKSON AIRPORT, ATLANTA WITH REGARD TO A DISABLED PERSON TRAVELING WITH A PORTABLE DIALYSIS MACHINE

I am writing to you to inform you of my recent check in experience with Delta Airlines on June, 05,2018 for my flight from Atlanta Hartsfield Jackson Airport to London Heathrow. I want to make you aware of the problems encountered when we checked in for this flight with my portable dialysis machine, to ensure that other disabled passengers traveling with Delta such equipment in the future, are not treated in this manner.

It was clear that a number of your employees were either not aware of, or chose to ignore the requirements placed on Delta Airlines by virtue of the Air Carrier Access Act (ACAA), Section 382, and guidance specifically related to the carriage of portable dialysis machine. Section 382 defines the responsibility of US air carriers to exercise “**nondiscrimination on the basis of disability with air travel.**” The Department of Transportation guidance¹⁴ CFR Part 382 (thereafter referred to as DOT Guidance) provides specific information detailing how airlines can meet the requirements of the law with regard to dialysis patients traveling with their portable dialysis machines.

With regard to the definition of a disabled person under the ACAA, it is the same as it is for the American Disabilities Act, that is, “ **a person who has a physical or mental impairment that substantially limits one or more major life activities...**”

By virtue of these legal requirements and I am classed as a disabled person, as my kidneys no longer work.

The ACAA defines an assistive device as: “**any piece of equipment that assists a passenger with a disability to cope with the effects of his or her disability. Such devices are intended to assist a passenger with a disability to hear, see, communicate, maneuver, or perform other functions of daily life, and may include medical devices and medications.**”

My dialysis machine is clearly an assistive device since it literally keeps me alive. Despite this, like to travel just as any non-disabled person does. I have flown multiple times in the past with my machine, including with Delta as recently as March 2018. We have never received the total lack of knowledge and blatant disregard with regard to the law as it relates to the transportation of it, as we did on this occasion.

To detail our experience:

My husband had called Delta several months ago and spoken at length to a Delta employee to inform the airline that we would be checking in my dialysis machine in its case, and the combined weight of these items. This was to ensure that this information was present on the booking information and to endeavor to prevent problems when checking in.

Since we anticipated that not everyone is familiar with checking in such an item, we arrived at the airport very early. We placed the dialysis machine in its travel case on the scale. It weighs approximately 96 pounds, but even with scale variations, never over 100lb.

DOT Guidance states: ***“portable dialysis machines that weigh approximately 100 pounds or slightly more including the case used to transport the machine to be of reasonable size for carriage in the baggage compartment of most commercial aircraft”***.

The check in attendant, whose name badge identified her as Katrina, immediately stated that we would not be able to take the machine on the flight because of its weight. We were informed that there was some new rule that would not allow anything over 70 lb. to be checked, and “not even military personnel can check anything over that weight”. Another check-in attendant agreed with her colleague. Further dialog ensued between my husband and Katrina, with my husband explaining the importance of my machine being taken on our flight. We attempted to show them her the DOT Guidance, but she was unwavering in her assertion that my machine could not be taken on the flight. At one point she went and spoke to other colleagues, who were visibly smiling and laughing in our direction as they did so.

A supervisor called Christopher then came over, and told us “it’s a no from me’ and then proceeded to walk away while my husband was still trying to discuss the matter with him, and refused to return, despite the fact that he was being called by name.

At this point we asked for the Complaints Resolution Officer (CRO). Katrina refused to call for one, citing that she had to call a second supervisor in order to call one. My husband asked five times for the CRO, and each time she refused to call him. She was on the phone for an extended period of time, and we did not know at one point who she was attempting to call, so could only assume that she was just waiting on hold during that time. At one point she did request we move aside so she could deal with other passengers waiting to check in without attempting to resolve our issue.

The ACAA requires airlines including Delta to: ***“...make a CRO available at each airport you serve at all times you are operating at that airport.” “Furthermore, the CRO may be made available in person or via telephone, at no cost to the passenger”***. That right was clearly denied to us.

It also states: ***“In any situation in which a person complains or raises a concern with your personnel about discrimination, accommodations , or services with respect to passengers with a disability, and your personnel do not immediately resolve the issue to the customer’s satisfaction or provide the requested accommodation, your personnel must immediately inform the passenger of the right to contact the CRO and then contact the CRO on the passenger’s behalf, or provide a passenger the means to do so.....”***. Again, that right was denied to us.

Furthermore, no part of this particular check in process was “immediately”, and in fact, the whole process to just check our bags in took 70 minutes, and only then because we took action ourselves.

Having been denied taking my machine on the flight and the assistance of the CRO, we felt that we had no option other than to resolve the situation for ourselves. We looked up

disability assistance ourselves on the Delta website, in an attempt to get them to help us. They immediately sent a manager over to the desk. He also did not know the law and was not very helpful, until we handed our phone over to him and he spoke to the person at the Disability Assistance desk who we were still connected to. Following the latter's intervention, our baggage, including my dialysis machine, was checked in within the space of a few minutes.

At no time did anyone at the check in offer an apology, either with the manner in which we had been treated, or the fact that a check in process that should have taken a few minutes, took over seventy. Had we not managed this ourselves, we would have not only been late for our plane, but would actually been denied the right to even fly. We had the distinct impression that the personnel thought we were trying to circumvent normal airline rules in order to check in a heavier than normal regular baggage item.

I am very concerned about the attitude of these particular Delta Airlines personnel. This either reflects a failure by Delta Airlines to adequately train their employees about disability laws and general customer service, or the human resources department are selecting the wrong people for their job. If the latter applies, such people should be nowhere near paying customers, Katrina and Christopher being obvious examples.

What should have been an enjoyable trip to visit my family in the UK was certainly marred by our experience on this occasion. I do I look forward to hearing from you very soon.

Yours Sincerely

cc:
Aviation Consumer Protection Division, C-75, US Department of Transportation, 1200 New Jersey Avenue S.E., Washington DC 2050