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STEVEN M. LARIMORE
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S. D. of FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Jonathan Corbett,
Plaintiff
v.
United States of America,
Defendant

10-CV-_____

**COMPLAINT FOR VIOLATIONS
OF THE 4TH AMENDMENT TO
THE UNITED STATES
CONSTITUTION**

JURY DEMANDED

SUMMARY

1. Plaintiff Jonathan Corbett ("CORBETT") is a frequent air traveller who objects to the Transportation Security Administration's ("TSA") use of "nude body scanners" to generate images of his body at airport security checkpoints, as well as "enhanced pat downs" that require the touching of his genital area by TSA officers.
2. The TSA has stated that it is now using these nude body scanners as its "primary" screening method, and that all passengers will be required to submit to their use wherever these scanners are available, or else submit to an enhanced pat down.
3. Due to CORBETT's frequent air travel, it is nearly a certainty that CORBETT will be subjected to the aforementioned treatment. The TSA has further stated that passengers who refuse the aforementioned treatment may be prosecuted and subjected to large fines (quoted by the TSA at \$11,000).

JURY TRIAL

4. CORBETT demands a jury trial.

PARTIES

5. CORBETT is an individual residing in the State of Florida.
6. PLAINTIFF is the United States of America, through its agency, the Department of Homeland Security, and its subdivision, Transportation Security Administration.

JURISDICTION & VENUE

7. This court has subject matter jurisdiction under 28 USC § 1331, on the basis of there being a federal question. See *Bivens v. Six Unknown Narcotics Agents*, 403 U.S. 388 (1971). This suit specifically does not call for subject matter jurisdiction under 28 USC § 2679.
8. Venue is appropriate because CORBETT presently has a ticket to fly out of Miami International Airport on November 18th, 2010. Further, even if CORBETT's rights are not violated on that date, the point at which CORBETT's rights are most likely to be violated in the future is within the District, as CORBETT resides within the District and the two major airports near CORBETT (Miami International Airport and Fort Lauderdale-Hollywood International Airport) both presently employ nude body scanners. As implied above, the Defendant, and specifically the TSA, indeed maintains a permanent presence within the District.

ALLEGATIONS OF FACT

9. On or about the beginning of November 2010, the TSA significantly deployed new procedures for airport security screening across the United States.
10. Of relevance to this case, these procedures now call for the use of nude body scanners, also known as "AIT devices," "backscatter x-rays," and according to a media report of at least one TSA agent's words, a "penis¹ measuring device," as the "primary" inspection device, where formerly the primary inspection device was a metal detector.
11. These nude body scanners produce clear images of the nude body of the searched party.
12. The new procedures allow for travellers to "opt-out" of being subjected to a nude body scanner, instead receiving an "enhanced pat down."
13. An enhanced pat down is different from the pat downs the TSA formerly used, and necessarily, and in accordance with TSA rules, involves the touching of the genitals, buttocks, and, in the case of female passengers, breasts, of the individual being screened.
14. There have been many reports of the enhanced pat down going beyond touching, and being better described as prodding, squeezing, lifting, and twisting of the genitals, buttocks, and/or breasts, as well as reports of touching bare skin by reaching inside clothing.

¹ The exact quotation used a less pleasant synonym.

15. Travellers are not permitted to “opt-out” of the enhanced pat down and receive a standard pat down (the former, less invasive pat down technique) and/or a metal detection inspection.
16. There have been at least 2 reported incidents of travellers (reported as Meg McLain and John Tyner) who have refused both new procedures. Both passengers were forced to leave the screening area.
17. The TSA admitted, through TSA employee Mike Aguilar, on or about November 15th, 2010, that it had threatened Mr. Tyner with a \$10,000 civil penalty at the airport for failure to submit to having his genitals touched, and that it actually may prosecute for up to \$11,000. Ms. McLain may very well face the same charges.
18. Upon information and belief, the TSA has had no public hearings or study on the efficacy of the nude body scanners.
19. Upon information and belief, the TSA has had no public hearings or study on the efficacy of enhanced pat downs.
20. The TSA has repeatedly cited the incident of the alleged “underwear bomber,” whom they allege attempted to board a plane with explosives in his underwear, as justification for these new procedures.
21. Upon information and belief, the Defendant has, through a GAO study, determined nude body scanners likely would not have detected the explosives on the underwear bomber.
22. The TSA has not claimed, and it stands against reason, that either the nude body scanners or the enhanced pat downs would detect an explosive hidden in a body cavity.
23. The TSA has many other effective and less invasive options available to it, including but not limited to metal detectors (both freestanding and hand wands), standard pat downs, explosive trace detection (both via swab and via “puffer machine”), explosive sniffing dogs, behavioral analysis, traveller databases (including the no-fly list), intelligence gathering, and others.
24. CORBETT has already purchased 3 tickets departing from US airports with nude body scanners, departing within the next 30 days, booked before CORBETT was fully aware of the new procedures.
25. CORBETT is opposed to the new scanning procedures because he feels that the violation of his privacy would be emotionally traumatizing.

26. Indeed, the enhanced pat down procedure, if done non-consensually, would amount to a sexual assault in most jurisdictions, and the intrusion of peering under his clothes would be similarly illegal.
27. CORBETT is experiencing emotional distress at the thought of being subjected to the new screening procedures, as well as the possibility of a large civil penalty being assessed against him for declining, in addition to the likely embarrassment of being confronted by TSA agents for declining these invasive searches.

CLAIM FOR RELIEF

The Fourth Amendment to the United States Constitution

28. The requirement of a search in which the searching party necessarily sees the nude body of the party being searched, either directly or through the use of imaging equipment, with neither probable cause nor warrant, is an unreasonable search under the 4th Amendment.
29. The requirement of a search in which the searching party necessarily touches, prods, lifts, and/or squeezes the genitals, buttocks, and/or breasts of the party being searched, with neither probable cause nor warrant, is an unreasonable search under the 4th Amendment.
30. The abstract risk of terrorism without a credible, specific threat (with information such as at least some of the following: date/time, location, description of parties involved, plot details, *etc.*) does not justify the above searches.
31. The above searches are further unjustified because they have not been proven to be any more effective than the less invasive options described in paragraph 23.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for the following relief:

1. Declaratory relief stating that the new procedures as described herein constitute an unreasonable search under the 4th amendment.
2. An emergency temporary restraining order and/or preliminary injunction requiring that the TSA allow CORBETT to pass through security without using the new procedures (see separate motion).
3. Permanent injunctive relief requiring the Defendant to discontinue the requirement that "ordinary air passengers" submit to searches that involve nude body scanners or pat

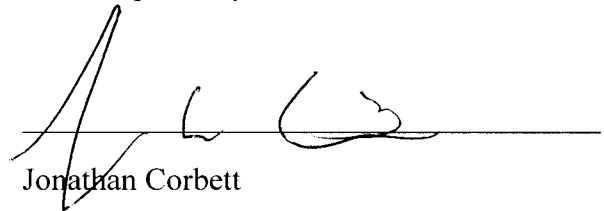
downs that touch genital, buttock, or breast areas, except that nothing herein shall be interpreted as preventing the Defendant from using these methods as optional screening methods or as methods of screening when probable cause or other reasonable suspicion would make it prudent.

4. Cost of the action.
5. Reasonable attorney's fees, should CORBETT retain an attorney¹.
6. Any other such relief as the court deems appropriate.
7. CORBETT is not presently seeking actual or punitive damages; however, should CORBETT be denied boarding as a result of refusing the herein described new procedures, CORBETT may seek leave to amend this complaint and/or file a separate action, as appropriate.

Dated: Miami, Florida

November 16th, 2010

Most respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jonathan Corbett', is written over a horizontal line. The signature is stylized and cursive.

Jonathan Corbett

Plaintiff, *Pro Se*

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Miami Beach, FL 33139

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¹ CORBETT is presently representing himself in this action *pro se*, and is not seeking attorney's fees for any *pro se* work. CORBETT only seeks attorney's fees in the event that he retains an attorney at a later point, and only for the work completed by said attorney.