

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BARBARA TOLL,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	NO. 04-2399
v.	:	
	:	
AMERICAN AIRLINES, INC. and	:	
ASSOCIATION OF PROFESSIONAL	:	
FLIGHT ATTENDANTS,	:	
	:	
Defendants.	:	

MEMORANDUM AND ORDER

BUCKWALTER, S.J.

January 19, 2005

Both defendants have filed motions to dismiss. The defendant, American of Professional Flight Attendants (APFA) states, *inter alia*:

Pursuant to Rules 12(b)(1) and 12(b)(6) for failure to comply with the Order of the United States District Court for the Northern District of Texas dated June 6, 2002 in Toll v. American Airlines, et al., Case No. 3-02-CV-0208-M (N.D. Tex. removed February 1, 2001) (“Toll VII”), prohibiting Toll “from instituting any other legal proceedings against American Airlines or APFA without first obtaining permission from a court of competent jurisdiction.” Ex. 7, Order of Judge Lynn (attached in Exhibit 7 of the exhibits filed in support of Defendant APFA’s Memorandum in Support of Motion).

The Defendant, American Airlines, Inc. (American Airlines) states, *inter alia*:

In addition to dismissing Plaintiff’s Complaint with prejudice in Civil Action No. 02-248, Judge Buckwalter enjoined Plaintiff from filing any future lawsuits against American Airlines or its current or former employees, based on any facts alleged in any of her previous lawsuits, without her first obtaining approval from the court in which she intended to file the lawsuit. As a further condition of filing any additional lawsuit against American Airlines, Plaintiff was required to certify that the claims she sought to assert were new claims, based on new facts, which she had never raised before and which had not been dismissed on the merits by any federal court. In the event Plaintiff failed to make this certification or falsely certified, Judge

Buckwalter ordered Plaintiff to be found in contempt of court and punished accordingly. *See* September 24, 2002 Order.

In her reply to APFA, the plaintiff argues that since the Northern District of Texas and Eastern District of Pennsylvania are in two separate federal circuits, the case law and orders of each “can only have, at best, persuasive authority over each other.” (Plaintiff’s response at p. 6).

This court is persuaded to follow the U.S. District Court for the Northern District of Texas as to plaintiff’s suit against APFA.

As to the suit against American Airlines regarding this court’s order of September 24, 2002, plaintiff states the following:

As to APFA’s allegation that Plaintiff violated Judge Buckwalter’s Order of September 24, 2002, Plaintiff hereby avers that she was not aware of Judge Buckwalter’s order at the time she filed the instant *Pro Se* Complaint on or about June 1, 2004, and neither does Plaintiff remember ever receiving that Order, said Order having been issued over two years ago. Plaintiff is a *pro se* litigant, lacking any special legal training or knowledge. As such, she would not have known where to inquire in order to find if such an Order existed, even if she had somehow known that she needed to make such an inquiry.

While her alleged lack of notice appears to be patently false¹, her suggestion that she lacks any special knowledge is belied by the pleadings in this case as well as others. Boiled down, plaintiff has simply ignored the orders of this court and that of the Northern District of Texas. She is undoubtedly “litigation savvy”, having filed ten lawsuits relating to her employment at American Airlines and/or APFA.

She failed to obtain the permission of this court or any court of competent jurisdiction before filing the complaint in this case. Moreover, she admits that some of her complaint refers to facts previously litigated and that, once again, “as a *pro se* litigant with no special

1. A person who signed her name as Barbara Toll filed an appeal to the U.S. Court of Appeals for the Third Circuit on October 25, 2002 from the orders of this court filed September 25, 2002.

legal training or knowledge, she simply did not have the writing skills to properly express the distinction between these few background facts and the substantive, new facts and alleged wrongful actions of American.”

As sanctions for plaintiff’s bringing this suit, counsel fees will be awarded to defendants as set forth in the following order.

As to the motions to dismiss, the following **ORDER** is entered:

AND NOW, this 19th day of January, 2005, it is hereby ORDERED that the motion of defendant American Airlines, Inc. (Docket No. 2) is GRANTED, and plaintiff’s complaint is DISMISSED with prejudice. The motion of defendant APFA (Docket No. 5) is GRANTED, and plaintiff’s complaint is DISMISSED with prejudice.

Defendants will submit to the court and to plaintiff a copy of a bill for its counsel fees in connection with this litigation on or before February 1, 2005. Thereafter, plaintiff will file her response to such fees on or before February 14, 2005. In the absence of any response, the fees will be granted on the total amount requested.

Since it is now clear from plaintiff’s briefing in this matter that she is now aware of the previous order of this court dated September 24, 2002, and that of the Northern District of Texas dated June 6, 2002, no recitation of the requirements of these orders, which remain in effect, is necessary.

This case is **CLOSED**.

BY THE COURT:

RONALD L. BUCKWALTER, S.J.