

Screenwriter's Harassment Lawsuit Fails to Sway Jury

Plaintiff Said Distress Silenced Her Muse

By Eron Ben-Yehuda

Academy Award winning screenwriter Nancy E. Dowd knows how to tell a good story.

But when she claimed at a trial last month that employees of American Eagle Airlines had committed outrageous acts against her, the jury didn't buy her tale.

Dowd, who won an Oscar as one of the writers for the 1978 film "Coming Home," owns an estate on the Caribbean island of St. Lucia, part of the British Virgin Islands. She often flew into and out of the local airport on American Eagle, a subsidiary of American Airlines.

In her suit, she alleged that airline employees verbally abused her, tried to have her falsely arrested at her home and contacted local authorities in an attempt to have her alien property license revoked. She sued for intentional infliction of emotional distress and negligent supervision of airline employees. *Dowd v. American Airlines Inc.*, BC263415 (L.A. Super. Ct., filed Dec. 11, 2001).

Because of the company's alleged disregard for Dowd's well-being, the 57-year-old claimed that she became so distressed that she couldn't write, losing \$2 million of income based on her rate of \$875,000 per screenplay.

Defense attorney Jeffrey S. Behar considers the damages sought "bordering on absurd."

"A simple search of the plaintiff's writing credentials shows that the plaintiff has not sold a screenplay in almost a decade," Behar wrote in court papers. "[T]he defendant should not be blamed for what can, at best, only be referred to [as] 'writer's block.'"

Moreover, the events that she claims caused her trauma are of her own making, Behar says.

"It was the plaintiff who was the aggressor, who provoked any of the incidents that were complained of," says Behar of Long Beach's Ford, Walker, Haggerty & Behar.

Among examples of Dowd's unpleasant behavior, she allegedly called male ticket agents working at the airline counter "little black boys or sometimes black monkeys," according to a letter dated Dec. 4, 2001, signed by a group of American Eagle employees and sent to the airline company's president.

Dowd would not comment for the story. Her attorney Joseph F. Hart denies that his client made racial slurs.

Hart says that Dowd and other witnesses favorable to her case were threatened and harassed by American or one of its insurers. Los Angeles County Superior Court Judge David A. Workman did not allow that evidence to be introduced at trial. He did not give a reason for his ruling.



Photo by Robert Levins

"[T]he defendant should not be blamed for what can, at best, only be referred to [as] 'writer's block,'" defense attorney Jeffrey S. Behar wrote in court papers.

"[If jurors] had all the evidence, including the threats, they would have been on our side," says Hart of Los Angeles' Donaldson & Hart.

Behar says the judge didn't permit the plaintiff to make these allegations because they were "totally fabricated."

"It was a wild case," Behar says.

Hart says he won't rule out an appeal.

Dowd referred to several ugly encounters in her complaint.

The majority of the trial was spent sorting through an incident that occurred May 18, 2001, Behar says.

On one of Dowd's return flights to St. Lucia, some of her bags didn't arrive with her. A courier service delivered the luggage to her home a few days later on May 18, with one of the bags badly damaged. Dowd called American and asked for a claim form to be faxed to her so that she could report and receive reimbursement for the damage. An airline agent refused and then, according to Dowd, the agent's supervisor called St. Lucia police to make a false report that Dowd had released her dogs into her front yard to prevent the delivery man from leaving until she received the form. Court papers refer to this as a "hostage situation."

According to the defense, the courier, Ian Morrell, had called American to say that he was being held against his will. By the time police had arrived, Morrell had left. Dowd was not arrested or charged with any wrongdoing.

At trial, Morrell denied that Dowd had held him hostage, Hart says.

"He was never in danger," Hart says. "There was no reason to call the police."

For Behar, the cross-examination of Dowd made a critical difference at trial.

Dowd claimed that American, as part of its continuing effort to cause her emotional distress, tried to have her alien property license revoked. Dowd is not a citizen of the British Virgin Islands so she holds title to property there only with the permission of the government.

With Dowd on the witness stand, Behar says that he pressed her to provide evidence to support the claim. He says that he asked her three or four times, but she kept giving evasive answers.

"It illustrated her propensity to exaggerate and sometimes fabricate evidence," he says.

Hart concedes that his client had "no definite proof." But he says that Dowd had lived on St. Lucia for 20 years and the issue had never come up before.

"It was only after her problems with American that things started to happen," Hart says.

The trial lasted eight days. After deliberating for 1½ hours, jurors returned a unanimous defense verdict on Dec. 18.

In Behar's estimation, Dowd got her comeuppance.

"Just because you're someone of fame and fortune does not allow you to mistreat others that are not so fortunate," Behar says.