March 10, 2022

Senator Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

I am writing on behalf of the San Diego County Bar Association (SDCBA) to provide input on the issue of damage to assistive and mobility devices during transport on airlines. As the largest legal organization in San Diego County, we are committed to civil liberties and inclusion.

While the Air Carrier Access Act prohibits discrimination on the basis of disability in air travel, it is detached from the Americans with Disabilities Act and does not provide direction on how to store assistive and mobility devices. As a result, thousands of assistive and mobility devices are mishandled each year, as reported in the monthly United States Department of Transportation (DOT) Office of Aviation Consumer Protection, Air Travel Consumer Report. Differently-abled travelers in our community experience anxiety and are left incapacitated when assistive and mobility devices are damaged or broken during transit. (See Appendix I for community comments.)

To address this issue, we recommend the following:

- Direct the Federal Aviation Administration (FAA) to create regulations mandating airlines operating in the United States provide options (including the opportunity to use certified tie downs so an assistive or mobility device can be used as a seat) and ensure the safe transport of assistive and mobility device (including providing protective cases to store devices in the checked baggage compartment.)

- Require airlines provide mandatory training for all baggage employees regarding the proper procedures for safely handling and loading both power and manual wheelchairs, as well as other mobility devices. These requirements can be specified by the DOT and the Architectural and Transportation Barriers Compliance Board, in collaboration with experts in the field of plane accessibility and disabled citizens who have experienced breakage of such devices. (See Appendix II for detailed suggestions.)

- Direct the FAA to create an oversight office to audit airlines on how successfully they transport critical assistive and mobility equipment of customers. The office can then recommend practices in accordance with findings to prevent future damage. These measures will serve as a prophylactic measure, instead of the current process of simply reimbursing a customer for damage to a device.
We hope these issues can be addressed so travelers using assistive or mobile devices can feel confident these critical devices are handled safely and appropriately.

Thank you for your time and consideration. We are available to discuss our recommendations and assist in any other manner.

Sincerely,

David Majchrzak
President, San Diego County Bar Association

Cc: Mary Dover
Appendix I: Community Voices

Paul Jacobsen:
On November 5th, 2003, I was involved in a life-changing car accident that left me a quadriplegic and permanently confined to a motorized wheelchair. Left unable to walk, I was now faced with the challenges of being in the hospital and trying to make sense of what my new life might look like. As someone who was very active, my new injury was particularly devastating. I now needed to figure out what my purpose might be as someone living with a spinal cord injury (SCI). It became evident that helping others with a SCI was where I felt I could make a real contribution. I quickly discovered that the airlines were not effectively addressing the needs of wheelchair users. As someone who uses a five-figure power wheelchair and has complete reliance on its functioning, the stress of air travel is significant, to say the least. I have had my wheelchair damaged on more than one occasion forcing me to wait in the airport until an outside wheelchair service company can arrive to, hopefully, repair the damage. Because of this very common occurrence, I am now forced to take direct flights and need to arrive at a time where I can contact a wheelchair repair company, if need be. This means, no weekend or evening travel is possible. I can’t stress enough how the “not knowing” what will happen to my chair pre- and post-flight fills me with severe anxiety.

In terms of a solution, I can offer two thoughts. Firstly, the airplane can have a designated area for wheelchair users where they can wheel directly on to the plane, tie their chair down, and remain in their chair during the flight. Secondly, those working with luggage and cargo need to have training on the proper handling and stowage of the various types of wheelchairs.

Omar Acosta:
Last March I flew United from Charlotte NC to Mexico but had a connection in Houston. When I landed in Houston, the person responsible for helping me out of the plane arrived very late so I lost my connecting flight. The airline did not have a flight until the next day. They also gave me a voucher for a local hotel. The hotel shuttle arrived to pick me up, but the driver couldn’t get the lift to work after 1 hour trying. He and a person from the airline decided to pick me up in their arms so I could get inside the shuttle. When we got to the hotel they tried to do the same thing to get me out of the shuttle, but they didn’t really communicate with each other, so they dropped me to the ground. Once inside the hotel (Hilton’s property) they gave me a room that was supposed to be ADA accessible, but the bed was so high that I couldn’t really transfer to it. I had to sleep in my chair and just wait to leave the hotel at 6am to get my next flight to Mexico.

Rusty Krumm:
I only fly nonstop after losing a wheelchair in Denver that wasn’t transferred.

I can also tell you that I use about five zip ties to my controller just so it’s secure. Seems they love to grab the controller when lifting the chair into cargo, which drives me nuts when getting back in it. I also prefer to fly Southwest as they don’t use contracted personnel to transfer me into the seat. The chair is so much a part of me I am never comfortable without it. People have anxiety about flying. I have anxiety before and after flights because I am unsure how qualified those who are transferring me are and concerned about the condition of the chair when getting it back. I love it only takes six hours to fly coast-to-coast but love it a lot more when it’s over.
**Kendra Muller:**
Notably, all of the times that my chair has been broken has been inside the U.S., on U.S. flights only. This is interesting to me, considering I have taken my wheelchair on a variety of domestic flights in Italy, Thailand, Indonesia, and Mexico. Although the airlines are often (1) considered “lower quality” than most U.S. airlines and (2) there was a language barrier, they still succeeded in successfully handling the chair, taking precautions that I don’t see in the U.S. If I knew an U.S. airline provided adequate procedures to carry a wheelchair on board I would immediately use that airline. However, my chair has been broken on all the major U.S. airlines over the years. It cannot be understated that I would do anything to prevent my chair from breaking. Each and every time I get on a plane I prepare signs attached to the chair on how to handle it, zip tie and secure particularly breakable parts, speak to all the employees I come in contact with concerning the chair, and then sit in anxiety for the length of the flight. Each and every time I come off a flight and find my wheelchair broken, it is horribly devastating. The knowledge that you have done everything you can to ensure the safety of your chair, nevertheless you have no control over how it will be handled once it is out of your possession is debilitating. The knowledge that fixing my chair can take months, leaving me incapacitated for work and school during that time is debilitating. In what are supposedly some of the best airlines in the world, why must people with disabilities fail to receive simple acknowledgement that their mobility device is vital to their survival? My wheelchair has had the wheels completely broken, the metal frame bent, and parts missing that would simply not happen if there were training and tools to ensure mobility devices were properly managed.

**Michael Burke:**
On January 21st of 2010, I suffered a catastrophic injury in which a palm tree fell on me, crushing my legs and pelvis. As a result, I permanently have to use a power wheelchair to get around. Before my accident, I loved flying to different locations. I had been to Europe four times, Mexico City two times, and had flown twice to Chicago, and twice to New York. I also took numerous airplane trips to San Francisco and Phoenix, Arizona. I have only flown once since my accident. When I flew to San Francisco several years ago, I had to have my power wheelchair placed in storage. My wife and son and I were the last to get off plane, and I was deeply worried when there was a delay in producing my power wheelchair, which had been in the luggage compartment during flight. I knew it would cost at least $32,000 to replace my wheelchair. If my power wheelchair had been damaged to the extent that it was not usable, I would have been in a truly nightmarish predicament. I have since found out that such damage to power wheelchairs while in flight happens far too often. I made a decision never to fly again unless reasonable steps are taken to protect power wheelchairs while in flight. I sincerely hope that this dilemma can be resolved for all persons who use power wheelchairs so that we can free to use airlines to travel and explore the world.

**Lynn Houston**
I wouldn't classify them as "horror" stories, especially after what I've seen them do to some power chairs, but once they bent my front fork (all I can think is it was last in and when they closed the door, it hit the fork) and another time, the day after I flew, my cross brace broke, so correct or not, I blamed it on them, and they fixed it. Both were on my manual chair. I'm too afraid to fly with my power chair. I agree with DAG regarding the request to upgrade the storage of mobility devices by airlines, to require training for baggage handlers, and other procedures to assist those with disabilities.
Carol Pilgrim:
My husband started using a manual chair 15 years ago, and for at least 10 of those years we flew about 6-10 times per year. He had his chair damaged twice, has had transfer from chair issues numerous times until we started flying first class. Amazing how different the treatment is. I once watched a baggage handler toss his chair on the belt carrying luggage on the plane and it fell off. Saw him pick it up and toss it again, this time luckily landing on its side. Traveling while in a wheelchair is not for the weak.

Trish O’Neill Bonsall:
I wish that airplanes had open space "seats" like some tour buses where a person in a power chair could wheel in, be strapped to the floor and be able to tilt when they need to. I am the mother of a son who is a C4-5 Complete Spinal Cord injured son and we cannot afford to have his custom chair stored in the belly of the plane and possibly get damaged. What would do when we got to our final destination only to find a chair that does not work proper. In addition, if you have to change planes it would be so much easier for the person to wheel on and off the planes without transferring into a manual chair or aisle chair into a regular seat. Each time employees move my son it results in a risk of serious health issues including his condom catheter being displaced or coming off, triggering spasms, skin breakdown etc. He has been in the chair for 19 years and for 19 years we have not been able to fly because of these obstacles. I do not see why airlines cannot have a seat that can be removed if that seat is sold to a person in a power chair.

All of these community participants have consented to their names and stories being shared. They are appreciative of your time spent reading these stories.
Appendix II: List of Recommended Requirements for the Transport of Assisted and Mobility Devices

1. A certified storage box for assistive and mobility devices akin to other international airlines standards should be provided. The airline should request assistive and mobility device users to check a box when buying a ticket so the airline will know how many boxes they will need for a particular flight.
   a. This box will be primarily for manual and powered wheelchairs and scooters. If a walker or other smaller mobility device does not fit in the cabin, a protective box must be provided.
   b. The provided safety box should be made standard to ensure the safety of all mobility devices, including power wheelchairs, which can average 32 inches wide, and can weigh 500 lbs.

2. Luggage should not be touching, on top of, or leaning on an assistive or mobility device. Such devices are fragile and can break if luggage is pressed against it. Luggage may also move during the course of the flight, so these devices must be housed in a safe, secure space.

3. Assistive and mobility devices that are powered should never be placed on their side and must remain upright before, during and post-flight. This is for the safety of the battery, motor, and intricate parts of the device.

4. Airlines should provide a choice to use an assistive or mobility device as a seat, as other transportation options have done (buses, trains, boats). Technological advancements over the last 10 years have provided professional clamps for wheelchairs that are safe and can withstand force. Removable plane chairs can be stored in the luggage compartment to create space.

5. Assistance employees are to communicate directly with the patron before touching the assistive or mobility device. The customer needs to communicate the area on the assistive or mobility device of greatest concern and provide handling instructions. Assistance employees are to understand all directions before transferring a mobility or assistive device to baggage employees.

6. Assistance employees are to communicate directly with baggage claim employees on the way to get the mobility or assistive device on board without any breakage.

7. Airlines should provide a choice to use a mobility device as a seat, as other transportation options have done (buses, trains, boats). This also solves any issues of baggage employees needed to carry, handle, or lift a mobility device. Technological advancements over the last 10 years have provided professional clamps for wheelchairs that are safe and can withstand force. Airplanes should allow this technology on board to securely fasten a wheelchair to the floor of the plane to ensure that if a patron would like to stay in their wheelchair, they have this option. Removable plane chairs can be instead stored in the luggage compartment.

8. Assistance employees who help before touching any part of the mobility device and/or individual with the initial transfer of the patron onto the plane (aisle chair assistance, walking stability, luggage assistance, and transfers etc.) are to communicate directly with the patron before touching any part of the mobility device. The customer needs to communicate the area on the mobility device of greatest concern and provide handling instructions. Assistance employees are to read the informational tag throughout before transferring a mobility device to baggage employees.
9. Assistance employees are to communicate directly with baggage claim employees on the way to lift, maneuver, and otherwise get the mobility device on board without any breakage.

10. A coordinated system of information should be relayed between each crew member that will come in contact with the mobility device.

11. All mobility devices that must be stowed away from the customer must include an informational tag indicating exactly where to lift the mobility device for transportation. This tag should also indicate any potential points of breakage the device would have if handled incorrectly.

12. All employees that may handle mobility devices, (i.e. baggage claim and mobility assistance employees) are required to have yearly detailed training with ADA experts and practice with a disabled patron themselves or watch a video of best practices. This training should also detail the importance of assistive devices and their impact on the user. This must be pervasive because each time one flies, one encounters a new and different employee that may or may not have previous experience with the correct and nonharmful way to engage with mobility devices.

13. All employees that may participate in assisting disabled patrons on and off airplanes are required to have yearly detailed training with ADA experts and practice with a disabled patron themselves or watch a video of best practices. This training should also detail the importance of assistive devices and their impact on the user. This must be pervasive because each time one flies, one encounters a new and different employee that may or may not have previous experience with the specific disability.

14. Newly renovated or built aircraft and airports should consult a disabled individual with expertise in the ADA to make recommendations for best practice of building for and handling mobility devices.