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Aviation Law After September 11th: Cases and Materials by Timothy M. Ravich, Lake Mary, FL: Vandeplas Publishing, 2010. ISBN: 978-1-60042-118-1.

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**FORUM**

**BOOK REVIEW: Aviation Law After September 11<sup>th</sup>: Cases and Materials by Timothy M. Ravich. Lake Mary, FL: Vandeplas Publishing, 2010. ISBN: 978-1-60042-118-1.**

S.V. (Steve) Dedmon \*

Since the events leading to and after September 11<sup>th</sup>, aviation, aviation legislation and aviation case law has taken on a greater role in legal education. This book endeavors to put into context how aviation law has, and will, affect aviation into the next decades by looking at pertinent case law and raising relevant aviation legal issues. This text includes a three-page table of contents, a total of 908 pages of cases, notes, reference materials and a four-page index. For use as graduate, and reference text this would be an excellent resource.<sup>1</sup>

The first thing that needs clarification is the book includes cases prior to September 11<sup>th</sup>, so the title could be a bit misleading. However, these prior cases, give a historical context that is necessary to introduce the various aviation related legal issues and their development post 9/11. For those aged cases, there are also those as timely and recent as mid 2010. The cases are drawn primarily from federal district courts and the United States Supreme Court. Some are included in their entirety, others edited for brevity. When edited, they are done so without compromising their legal integrity or the point the author wishes to convey. Most of the cases are relatively short, as cases go. This can be a blessing as well as a curse for the reader, whether they are a student or practitioner. On one hand, in this generation of instant everything, students' attention spans can be relatively short and thus they like brevity. However, as those of us who actually read court opinions, succinctness is the exception, not the rule. Ultimately, the conclusions the cases identify and the law they are attempting to convey is clearly recognizable.

As with typical law text, there are concluding notes after each set of cases. The notes are relevant and add exponentially to not only understanding the cases, but also to other legal sources/treaties dealing with the subject matter introduced by the cases. The author also uses, what may be considered unconventional means, such as remarks from speeches to convey a new or important legal matter or provide context for related case law. In this vein, I suggest writing a short introduction for each chapter. The benefits would be twofold. First, it would be an overview of what is to come and second, it would focus the student's attention on the emphasis of the chapter. I would also like the inclusion of a teacher's manual. The benefit of this would be to focus the professor. Law school professors may cringe at the notion they would need guidance, but it would help set the overall tone and specifics of the text. It may also help expand the book's appeal to the undergraduate market as it would help those professors who are looking to expand their aviation courses, but need some assistance dealing with interpreting aviation case law.

Without prolonging my opinion, this book is well written, informative and, even though it has nothing to do with content, does not look like a typical law textbook with its reddish color with gold lettering. This cover has color and includes a picture. There is also another subtle difference that took me half the book to realize. The font is larger than traditional law text, a trend I hope others follow! It includes a forward, which gives an overview of it

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<sup>1</sup> At the outset in an attempt at full disclosure and to avoid any perceived bias, Tim Ravich is a colleague. We served together on the Florida Bar Aviation Law Committee when I chaired and he was one of my vice chairs. Additionally, I am now on the same committee, he now chairs.

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focus, an extensive acknowledgement page to give one the sense that books of this magnitude are rarely the work of only one person, and a page about the author. Next is a three-page table of contents, 908 pages of text, notes and problems, followed by a four-page index. There are six chapters, each broken down into two or three sub-sections. The sub-sections highlight a different aspect the author wishes to emphasize. Depending on the length of the cases there may be as few as eight, or as many as 18 cases per chapter. As this is a typical law school text, aimed specifically at law school students,<sup>2</sup> the notes at the end of each chapter are as informative as the cases themselves. Although typically lost on a law school student, the information provided in the notes is as, or more, informative than the cases themselves. As such, they provide a surfeit of valuable aviation source related legal material from which to continue aviation research, should one be so inclined. This raises an interesting dichotomy, which even though informative, are extensive notes necessary for legal education, or just a traditional academic scholastic exercise to which we appear to be eternally bound.<sup>3</sup> In the future, should the author consider it applicable and the publisher economically feasible, the notes section could be included as a supplement and thus a resource independent or at the least, detachable from the text.

Chapter One (150 pages) is entitled Aviation Travel Rights and looks at basic rights relating to travel by air, passenger rights, and environmental and property rights related to air travel. The chapter begins with a historical look at travel as a liberty interest and ends with contractual obligations related to passenger screening services. Section A addressing the right to travel as a liberty interest under the 5<sup>th</sup> amendment in *Kent v. Dulles*,<sup>4</sup> constitutional challenges to state laws restricting rights to travel in *ABC Charter, Inc. v. Bronson*,<sup>5</sup> and constitutional rights to travel by air in *Gilmore v. Gonzales*.<sup>6</sup> Section B's emphasis is on passenger rights as *In Re JetBlue Airways Corp. Privacy Litigation*,<sup>7</sup> (collecting and retaining personal information<sup>8</sup>) *Nader v. Allegheny Airlines, Inc.*,<sup>9</sup> (overbooking) *Buck v. American Airlines, Inc.*,<sup>10</sup> (reimbursement of fees, taxes, and non-refundable tickets as related to preemption under the Airline Deregulation Act (ADA)) and *Delta Airlines, Inc. v. Barnard*<sup>11</sup> (lost baggage claim and preemption under the ADA). Free speech and taking of property is the focus of Section C and are readily familiar to aviation attorneys. Freedom of speech/religious speech is the focus of *Int'l Soc. for Krishna Consciousness, Inc. v. Lee*<sup>12</sup> as related to activities on airport property. There is the proverbial "chicken case," dealing with whether or not overflight of military aircraft causing the death of chickens was a taking under the 5<sup>th</sup> Amendment under *United States v. Causby*.<sup>13</sup> The remaining cases deal with state and local ordinances related to late night commercial flight operations, protection of designated wetlands, takings issues related to commercial air operations as a result of banning flight operations in and around Washington D.C.,<sup>14</sup> and finally, can commercial contracts be protected by the takings clause. The *Goodspeed* case did seem a bit out of place in relationship to the 5<sup>th</sup> Amendment cases it was surrounding it.

<sup>2</sup> Foreword, page i, Timothy M. Ravich, AVIATION LAW AFTER SEPTEMBER 11<sup>TH</sup>: CASES AND MATERIALS (2010).

<sup>3</sup> This is totally editorial dictum and should not be considered as substantive to the merits of the text. Additionally, I have written in the past my personal preferences to the positioning of the notes related to a case to be immediately after the case as opposed to at the conclusion of all the cases (see Journal of Air Law and Commerce, Volume 71, Issue 4, page 738) as I tend to forget the subject matter of the case before getting to the notes related to it.

<sup>4</sup> *Kent v. Dulles*, 357 U.S. 116 (1958).

<sup>5</sup> *ABC Charters, Inc. v. Bronson*, 2009 WL 1010435 (S.D. Fla. 2009).

<sup>6</sup> *Gilmore v. Gonzales*, 435 F.3d 1125 (9<sup>th</sup> Cir. 2006).

<sup>7</sup> *In Re JetBlue Airways Corp. Privacy Litigation*, 379 F. Supp. 2d 299 (E.D. N.Y. 2005).

<sup>8</sup> Specifically related to the Electronic Communications Privacy Act of 1986, 18 U.S.C. § 2701. This case also includes a history of legislation directly related to American civil aviation.

<sup>9</sup> *Nader v. Allegheny Airlines, Inc.*, 426 U.S. 290 (1976).

<sup>10</sup> *Buck v. American Airlines, Inc.*, 476 F.3d 29 (1<sup>st</sup> Cir. 2007).

<sup>11</sup> *Delta Airlines Inc. v. Barnard*, 799 So. 2d 208 (Ala. Civ. 2001).

<sup>12</sup> *Int'l Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992).

<sup>13</sup> *United States v. Causby*, 328 U.S. 256 (1946).

<sup>14</sup> These cases look at field preemption related to the Federal Aviation Act 49 U.S.C. §§ 40101, 40102 and 40103 Airline Deregulation Act, 49 U.S.C. § 41713 apply to constitutional protection.

Chapter 2 titled, Deregulation and Federal Preemption and its 117 pages takes an in-depth look at how the courts have/have not defined routes, rates, and services under the ADA.<sup>15</sup> In Section A, the cases deal with state laws that have attempted to legislate aviation advertising and whether state law tort claims are preempted by the ADA. The *Morales v. Trans World Airlines, Inc.*<sup>16</sup> case lays the foundation for a series of cases as the court defines, refines, and delineates rights the states have associated with aviation legislation. *Morales*, in the dissenting opinion, also provides a historical overview of aviation legislation and its development. Interestingly, the author inserts an Appendix to Opinion of the Court (this is the actual wording) after *Morales*. At the sight of the word Appendix it appeared to be out of context and although I may have included it in a more traditional way, it did not detract from the emphasis of the chapter. The section ends with *Air Transport Ass'n of America v. Cuomo*<sup>17</sup> and the enactment by the state of New York of a passenger's bill of rights. Section B continues to look at preemption issues but does so in light of airline common carriage law. Each of the four cases look at different aspects of the law as it relates to frequent flyer mileage,<sup>18</sup> civil rights violations,<sup>19</sup> and being bumped from a flight.<sup>20</sup>

Chapter 3, Aviation Economics and its first subsection, Antitrust and Low Cost Carriers are some of the most difficult cases in the book. The chapter is 151 pages long and begins with a primer on predation as evidenced and experienced in the airline industry.<sup>21</sup> For a law school student, or me for that matter, who does not have an economic or experience in antitrust law, reading the cases was a challenge. Understanding the jest of a case was not difficult in and of itself, but understanding the court's reasoning for its decision was a bit hard to discern due to unfamiliarity with the economic subject matter. Suffice it to say I did a lot of rereading. *United States v. AMR Corp.*<sup>22</sup> begins the section and introduces the students to the different aspect of predatory pricing and highlights monopolization under § 2 of the Sherman Antitrust Act. *Spirit Airlines, Inc. v. Northwest Airlines, Inc.*<sup>23</sup> is a long case and continues in great detail predation factors considered by the court. If a student has never been exposed to "battle of experts testimony," this case will be a revelation. The section concludes with the affect of federally enacted regulations on individual airports and consequently air carrier airlines economics based on their, or its competitor's, use of the airport facility for commercial purposes. Section B introduces bankruptcy issues related to commercial air carriers, shareholder actions in relation to corporate airline decision making and policy, and pursuit of tort and insurance law remedies as a result of the destruction caused by the 9/11 attacks. The students are exposed to specifics of reorganization under Chapter 11 of the Bankruptcy Code, collective bargaining agreements, individual or shareholder derivative suit action requirements, the Air Transportation Safety and System Stabilization Act of 2001,<sup>24</sup> and specifics as related to insurance clauses detailing insurance company liability associated with terrorism and sabotage. In some of the cases the court gives a very distinctive review of basic negligence law and defenses, which helps refresh one's memory.

<sup>15</sup> 49 U.S.C. § 1305

<sup>16</sup> *Morales v. Trans World Airlines Inc.*, 504 U.S. 374 (1992).

<sup>17</sup> *Air Transport Ass'n of America v. Cuomo*, 520 F.3d 218 (2d Cir 2008).

<sup>18</sup> *American Airlines, Inc., v. Wolens*, 513 U.S. 219 (1995) and *Monzingo v. Alaska Air Group, Inc.*, 112 P.3d 655 (Alaska 2005).

<sup>19</sup> *Alasady v. Northwest Airlines Corp.*, 2003 WL 1565944 (D. Minn 2003). This case also asserts violations under 42 U.S.C. § 1981, Title VI of the Civil Rights Act of 1964.

<sup>20</sup> *Weiss v. El Al Israel Airlines, Ltd.*, 433 F. Supp. 2d 361 (S.D.N.Y. 2006). The case raises state tort and contract issues and introduces the Montreal Convention as a preemptive measure.

<sup>21</sup> This section begins with *Predation in the Airline Industry*, 1997 WL 1187715. Remarks of Roger W. Fones, Chief Transportation, Energy, and Agricultural Section, Antitrust Division (June 12, 1997) speaking before the American Bar Association Forum on Air and Space Law.

<sup>22</sup> *United States v. AMR Corp.*, 335 F.3d 1109 (10<sup>th</sup> Cir. 2003).

<sup>23</sup> *Spirit Airlines, Inc. v. Northwest Airlines, Inc.*, 431 F.3d 917 (6<sup>th</sup> Cir. 2004).

<sup>24</sup> Pub L. No. 107-42, 115 Stat. 230 (2001) (codified at 49 U.S.C. § 40101).

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Chapter 4 is the shortest chapter in the book as it deals with Labor and Management in 90 pages. Subsection A is entitled Airmen Qualifications and lead me to believe it would look specifically at Federal Aviation Regulations (FARs); however, it took a bit of a different slant. The cases deal with pilots flying under the influence of alcohol and conflicting state and federal alcohol regulations,<sup>25</sup> the history and ramifications of the Age 60 rule,<sup>26</sup> revocation of a pilot's license due to national security concerns,<sup>27</sup> discriminatory hiring practices related to airport screeners,<sup>28</sup> and the criminalization of aviation based on actions of an aircraft maintenance facility.<sup>29</sup> Under the general heading of the subchapter, the latter two cases appeared to be out of context, as they did not deal with pilots. The notes following this section give a good overview of the various pilot's licenses and the Federal Aviation Administration's enforcement action proceedings. In the future, adding specific enforcement action cases would be welcomed addition, as it would provide a student with an example of the peculiarities of the administrative process faced by aviation attorneys. Collective Bargaining and the Railroad Labor Act (RLA) is the title of Section B and is aptly titled and rightfully included as it provides historical insight to labor issues related to commercial air carriers. The *Hawaiian Airlines*<sup>30</sup> and *Airline Pilots Ass'n, Int'l*<sup>31</sup> cases define legal terms associated with the RLA that are essential to understanding and analyzing an air carrier labor dispute. *Branch*,<sup>32</sup> as does *Hawaiian*,<sup>33</sup> includes whistleblower statutes<sup>34</sup> for the court to discuss as they pertain to federal preemption. The *Airline Pilots Ass'n, Int'l* is of such significance it is listed as suggested reading by the Florida Bar in preparation for becoming Board Certified in Aviation Law.<sup>35</sup> In the notes the process for resolving a major dispute is included. In this instance, I would suggest including more of the text of the RLA in an appendix as reference material.

Chapter 5 reminds us of the treat of terrorism and its consequences. The chapter is 177 pages long and shows how the court, and society, has progressed from viewing the commandeering of a commercial airliner as a hijacking, to an act of terrorism. In Section A, entitled Hijacking, Terrorism and Civil Rights, as the events leading to the legal cases were of such importance it was interesting to read how the court dealt with the legal issues and ramifications of such global events. Far too often, although no one's fault, legal cases are detached from their audience. Because of their global significance, these cases give the law student, or casual reader, like myself a greater kinship with the subject. For legal context, the *In re Air Disaster*<sup>36</sup> case introduces the Warsaw Convention, oral waivers of government regulations, expert testimony in aviation accidents, and the discrepancy of judges involving admission of evidence and should give students a realistic view of the inter workings of an aviation trial. Most law students do not place much emphasis on dissenting opinions, but in this case it added another dimension to the process of jurisprudence. In *Stanford*<sup>37</sup> the court revisited airline negligence when multi

<sup>25</sup> Hughes v. State, 943 So. 2d 176 (Fla. 3d DCA 2006).

<sup>26</sup> Baker v. Fed. Aviation Admin., 917 F.2d 318 (7<sup>th</sup> Cir 1990). This case also discusses the Administrative Procedure Act, which is a

<sup>27</sup> Jifry v. Fed Aviation Admin., 370 F.3d 1174 (D.C. Cir 2004)

<sup>28</sup> Goodwin v. Ridge, 2005 WL 2176936 (E.D. Ark, 2005)

<sup>29</sup> United States v. Sabretech Inc., 271 F.3d 1018 (11<sup>th</sup> Cir. 2001).

<sup>30</sup> Hawaiian Airlines. Inc. v. Norris, 512 U.S. 246 (1994).

<sup>31</sup> Air Line Pilots Ass'n, Int'l. v. Eastern Air Lines 701 F. Supp. 865 (D.D.C. 1988)

<sup>32</sup> Branche v. Airtran Airways, Inc. 342 F.3d 124 (11<sup>th</sup> Cir. 2003)

<sup>33</sup> Supra see note 30.

<sup>34</sup> Hawaii Whistleblower Protection Act, Haw, Rev, Stat §§ 378-61 to 378-69 (1988) and Florida Whistleblower Act, Fla. Stat. § 448.102.

<sup>35</sup> Dedmon, S.V.(Steve) *Aviation Law: Cases and Materials*, Journal of Air Law and Commerce, Volume 71, Issue 4, page 740, footnote 24.

<sup>36</sup> In re Air Disaster at Lockerbie, Scotland on Dec. 21, 1988, 37 F.3d 804 (2d Cir 1994).

<sup>37</sup> Stanford v. Kuwait Airways Corp., 89 F.3d 117 (2d Cir. 1996).

carriers are involved and *Alejandro*<sup>38</sup> dealt with suing a country and in essence an empty chair and the inclusion of punitive damages and payment of the judgment from frozen governmental assets. The removal of passengers based on nationality and alienage are the focus of *Dasrath*<sup>39</sup> and *Al-Watan*<sup>40</sup> and an airline's liability when using its discretion when dealing with such issues. Section B highlights cases revolve around passenger behavior while aboard commercial aircraft and the civil<sup>41</sup> and criminal ramifications. The cases deal with unruly behavior, displeasure with seating arrangements, and the effect of passengers' behavior on other passengers.<sup>42</sup> As part of the opinions the courts cite specific FARs<sup>43</sup> that give aircrews legal authority to deal with passenger conduct as it relates to the safety of the aircraft, crew and passengers. The last part of this chapter analyzes security prior to boarding a commercial flight. In view of recent debatable behavior by Transportation Security Administrative personnel performing pat down inspections of air travelers, this section is quite timely. The cases highlight constitutional issues related to warrantless searches and the length and breath of their scope.<sup>44</sup> *Mustafa v. City of Chicago*<sup>45</sup> shows it is never wise to say "bomb" in an airport as it will lead to probable cause for purposes of arrest and detention. Passengers dealing with the constitutionality of No-Fly Lists is the focus of *Ibrahim v. Dep't. of Homeland Security*.<sup>46</sup> The following notes expound on what a No-Fly List consists of and gives another example of its effects on the flying public.

The last and longest chapter has 214 pages and the most cases, 18. As the subject matter of Chapter 6 is Accident Litigation, it should come as no surprise as aviation law deals with and has financial ramifications, nationally and internationally. The author uses a case involving state dangerous instrumentality law in *Vreeland v. Ferrer*<sup>47</sup> to introduce how the court looks at this issue as applied to aircraft.<sup>48</sup> The rights of affected parties and manufacturers being participants in National Transportation Safety Board (NTSB) investigations is discussed in *Graham v. Teledyne-Continental Motors* and *Thomas Brooks Chartered v. Burnett*,<sup>49</sup> respectively. The next case,<sup>50</sup> as does *Martin v. Midwest Express Holdings, Inc.*<sup>51</sup> appears to take us back to federal preemption and state

<sup>38</sup> *Alejandro v. Republic of Cuba*, 996 F. Supp. 1239 (S.D. Fla. 1997) As a note, Francisco R. Angones, the first Cuban born president of the Florida Bar was the plaintiff's attorney. Also, the two pilots who were killed were graduates, one posthumously, from Embry-Riddle Aeronautical University.

<sup>39</sup> *Dasrath v. Continental Airlines, Inc.*, 228 F. Supp. 2d 531 (D.N.J. 2002).

<sup>40</sup> *Al-Watan v. American Airlines, Inc.*, 658 F. Supp. 2d 816 (E.D. Mich. 2009).

<sup>41</sup> The cases discuss tort claims for negligent infliction of emotional distress, false imprisonment, slander, loss of comfort, and assault.

<sup>42</sup> *United States v. Spellman*, 243 F. Supp. 2d 285 (E.D. Pa. 2003). The unruly passenger being a famous, or in this case, infamous NFL player. *Atlantic Coast Airlines v. Cook*, 857 N.E.2d 989 (Ind. 2006), *Rubin v. United Air Lines, Inc.*, 117 Cal. Rptr. 2d 109 (Cal. Ct. 2002), and *Sedigh v. Delta Airlines, Inc.*, 850 F. Supp. 197 (E.D.N.Y. 1994).

<sup>43</sup> Examples being 14 C.F.R. §§ 121.537 (d), pilot's complete control of the aircraft, crew, and passengers, 14 C.F.R. §§ 91.11, 121.580...to prohibit anyone from interfering, intimidating or threatening a crew member or interfering with his or her duties.

<sup>44</sup> *United States v. \$124,570 U.S. Currency*, 873 F.2d 1240 (9<sup>th</sup> Cir. 1989), *United States v. Lopez*, 328 F. Supp. 107 (E.D.N.Y. 1971) and *People v. Tiffany*, 118 Cal. Rptr. 462 (Cal. Ct. 1974). In all three cases the court, cites *Terry v. Ohio*, the benchmark warrantless search "stop and frisk" case so endeared to first year law students. Students will see *Terry* explained and expounded in these cases.

<sup>45</sup> *Mustafa v. City of Chicago*, 442 F.3d 544 (7<sup>th</sup> Cir. 2006).

<sup>46</sup> *Ibrahim v. Dep't. of Homeland Security*, 2006 WL 2374645 (N.D. Cal. 2006).

<sup>47</sup> *Vreeland v. Ferrer*, 28 So. 3d 906 (Fla. 3d DCA 2010).

<sup>48</sup> The court does find an airplane to be a dangerous instrumentality; however, there are federal preemption arguments the court deals with as well. The case also introduces the Uniform Aeronautics Act.

<sup>49</sup> *Graham v. Teledyne-Continental Motors*, 805 F.2d 1386 (9<sup>th</sup> Cir. 1987) and *Thomas Brooks Chartered v. Burnett*, 920 F.2d 634 (10<sup>th</sup> Cir. 1990).

<sup>50</sup> *Abdullah v. American Airlines, Inc.*, 181 F.3d 363 (3d Cir. 1998).

<sup>51</sup> *Martin v. Midwest Express Holdings, Inc.*, 555F.3d 806 (9<sup>th</sup> Cir. 2009).

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law remedies discussed in Chapter 2 so I am not sure it was necessary.<sup>52</sup> Jurisdiction, as it concerns contesting a federal issue in a state law suit, which is always a major concern in aircraft litigation cases, is the subject of *Bennett v. Southwest Airlines Co.*<sup>53</sup> Section B should not be lost on students or attorneys as it stresses the importance and availability of alternate theories under which to bring or defend aviation cases. This section brings to light such issues as forum non conveniens and its elements,<sup>54</sup> multidistrict litigation/contribution-indemnity/choice of law,<sup>55</sup> application of the Defense on the High Seas Act to aircraft accidents,<sup>56</sup> the Federal Torts Claim Act,<sup>57</sup> and the General Aviation Revitalization Act.<sup>58</sup> Each of these areas are extremely relevant to the aviation law students and practitioners.<sup>59</sup> The book's final section focuses on the implication of treaty law on aviation. The first case, *El Al Israel Airlines, LTD. v. Tseng*<sup>60</sup> should have been the second case in this section as it describes applying the law of the case that follows.<sup>61</sup> Ultimately, these cases deal with how the court looks at and interprets the wording of the Warsaw and Montreal Conventions, explicates the wording, and then applies the treaties. Through the cases, one get a sense (sometimes logical, some times not), of what defines an accident under international law.<sup>62</sup> Airline liability as it pertains to emergency equipment they are required to have on board the airplane is the subject of *Aziz v. Air India LTD.*<sup>63</sup> The last two cases<sup>64</sup> ask whether equitable relief is preempted by treaty law and what defines a "carrier" under treaty law. The last section also includes actual articles of treaty law.<sup>65</sup> As a personal preference, I would have liked to see this included as an appendix.

This book adds another excellent resource to the growing field of aviation law. The contents were well chosen, researched and edited to give law students, academics and practicing aviation attorneys, either a solid base from which to learn, research, or use as a reference. Students will be exposed to different concepts of aviation law as well as reinforcing legal theory they have previously learned. As aviation law is not offered at only a handful of law schools, those institutions wanting to expand their curriculum would have a sound text on which to begin. For the professor who is not familiar with aviation law, the book may offer some challenges, but they should be easily overcome. It is also an excellent resource for aviation attorneys. It can be used to refresh one's memory of aviation related issues, legal and otherwise, as well as keeping up to date on current aviation case law. For achieving all of the above I give the author a hearty *well done* and approvingly recommend adding this text as an academic or reference resource.

<sup>52</sup> However, in both cases we are exposed to interesting causes of action related to airplanes. In *Abdullah* the basis for the case was alleging negligence on the part of the pilot and flight crew for failing to avoid turbulent conditions and give passengers warnings so they could take steps to protect themselves. *Martin* gives us a look at a cause of action arising from a woman falling from airplane stairs, allegedly injuring herself and her fetus.

<sup>53</sup> *Bennett v. Southwest Airlines Co.*, 2007 WL 1215055 (7<sup>th</sup> Cir. 2007).

<sup>54</sup> *Piper Aircraft Co. v. Reno*, 454 U.S. 235 (1981).

<sup>55</sup> *In Re Air Crash Near Cali, Colombia* On December 20, 1995, 24 F. Supp. 2d 1340 (S.D. Fla. 1998).

<sup>56</sup> *Executive Jet Aviation, Inc. v. City of Cleveland, Ohio*, 409 U.S. 249 (1972) and *In re Air Crash off Long Island, New York*, on July 17, 1996, 209 F.3d 200 (2d Cir. 2000). Interestingly, Justice Sotomayor, who is now an Associate Justice on the United States Supreme Court, wrote this case's dissenting opinion.

<sup>57</sup> *United States v. S.A. Empresa de Viaco O Aerea Rio Grandense (Varig Airlines)*, 467 U.S. 797 (1984).

<sup>58</sup> *Castillo v. Cessna Aircraft Co.*, 2010 WL 1687750 (S.D. Fla. 2010).

<sup>59</sup> For example, these areas are frequent testing for board certification in aviation law in the state of Florida.

<sup>60</sup> *El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155 (1999).

<sup>61</sup> *Air France v. Saks*, 407 U.S. 1338 (1985).

<sup>62</sup> *Supra* see note 59 related to an intrusive search. An inner ear problem, *Supra* see note 60. Anaphylactic reaction to smoke in relation to seating assignments aboard an airplane, *Olympic Airways v. Husain*, 540 U.S. 644 (2003).

<sup>63</sup> *Aziz v. Air India LTD.*, 658 F. Supp. 2d 1144 (C.D. Cal 2009).

<sup>64</sup> *Bayaa v. United Airlines, Inc.*, 249 F. Supp. 2d 1198 (C.D. 2002) and *In Re Air Crash At Taipei, Taiwan*, 2002 WL 32155476 (C.D. Cal, 2002) deal with these issues.

<sup>65</sup> *Convention For The Unification Of Certain Rules For International Carriage By Air*, S. Treaty Doc. No. 106-45, 1999 WL 33292734.

As aviation continues to grow, the industry will face new legal challenges. To meet these challenges the legal community will need attorneys well versed in state, federal and international aviation law. They will also need to be familiar with and well versed in the legalities associated with an industry where there will be no pilots and where space travel will be available to the general public. Those writing aviation law text are providing a foundation to meet the needs of this dynamic, progressive field of law. This book is a welcome addition to that academic and practical foundation.



