

1 WILLIAM D. KELLER
2 United States Attorney
3 FREDERICK M. BROSIO, JR.
4 Assistant U. S. Attorney
5 Chief, Civil Division
6 STEPHEN D. PETERSEN
7 Assistant U. S. Attorney
8 1100 U. S. Court House
9 312 North Spring Street
10 Los Angeles, California 90012
11 Telephone: (213) 688-3552

12 Attorneys for Defendants

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 RICHARD D. NEUMANN, DBA CALIFORNIA
16 AIR CHARTER, HOLIDAY AIRWAYS,

17 Plaintiffs,

18 v.

19 UNITED STATES OF AMERICA, CIVIL
20 AERONAUTICS BOARD, CENTRAL
21 INTELLIGENCE AGENCY, DOE ONE
22 THROUGH FIFTEEN, Inclusive,

23 Defendants.

NO. CV 75-4193-MML

JUDGMENT OF DISMISSAL

24 The defendants' Motion to Dismiss in the above-entitled
25 matter having come on regularly for hearing on September 20,
26 1976, before the Honorable Malcolm M. Lucas, United States
27 District Judge, said defendants being represented by their
28 attorneys, William D. Keller, United States Attorney,
29 Frederick M. Brosio, Jr., Assistant U. S. Attorney, Chief, Civil
30 Division, by Stephen D. Petersen, Assistant U. S. Attorney, and
31 plaintiffs being represented by Richard D. Neumann with counsel,
32 D. J. DeVanna, Esq., the Court having considered the pleadings,
legal memoranda, and oral arguments herein; and

WHEREAS it appears that plaintiff seeks (1) judicial
review of certain orders of the Civil Aeronautics Board; (2) an
award of damages for allegedly tortious conduct by defendants,

SDP:ph

1 and (3) certain injunctive and declaratory relief; and

2 WHEREAS, it further appears

3 (1) that judicial review of the Civil Aero-
4 nautics Board orders may be had only in the
5 appropriate United States Court of Appeals,
6 see 49 U.S.C. § 1486; Robinson v. Dow, 522 F.2d
7 855, 858 (6th Cir. 1975); Oling v. Air Line
8 Pilots Association, 346 F.2d 270, 276-278
9 (7th Cir. 1965), cert. denied, 382 U.S. 926
10 (1965);

11 (2) that this Court lacks subject matter jurisdiction
12 to entertain the claim for tort damages because
13 (a) plaintiffs have failed to file an admini-
14 strative claim pursuant to 28 U.S.C. § 2675(a)
15 and also because (b) the tort theories pleaded
16 are barred by the provisions of 28 U.S.C.
17 § 2680(h);

18 (3) that plaintiffs lack standing to seek the sought
19 injunctive and/or declaratory relief, and it is
20 therefore unnecessary for the Court to reach the
21 additional grounds for dismissal urged by
22 defendants; and

23 Accordingly, IT IS ORDERED, ADJUDGED AND DECREED:

24 That the action be and the same is hereby dismissed for
25 failure to state a claim upon which relief can be granted.

26 COSTS are taxed in the amount of _____.

27 DATED: This ____ day of September, 1976.

28
29
30 UNITED STATES DISTRICT JUDGE

31 ----

32 ----

1 WILLIAM D. KELLER
United States Attorney
2 FREDERICK M. BROSIO, JR.
Assistant U. S. Attorney
3 Chief, Civil Division

4 

5 STEPHEN D. PETERSEN
6 Assistant U. S. Attorney

7 Attorneys for Defendants
8
9
10
11
12
13
14
15
16
17
18
19
20
21