

Aviation Law

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Aviation Law

Cases and Materials

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CAROLINA ACADEMIC PRESS

Durham, North Carolina

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ISBN 1-59460-030-9
LCCN 2006921462

CAROLINA ACADEMIC PRESS
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

To Walter E. Rutherford, Esq.,
who gave me my first job
in the aviation industry
—R.M.J.

To Edna,
with all my love
—J.T.C.

To my son,
Henry Maxwell Fox
—J.R.F.

To my wife Glenda,
for her love, patience,
and understanding
—G.S.W.

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Preface

Because of its perceived specialized nature and a lack of demand from both sides of the lectern, aviation law has tended to rank low in the curriculum priorities of most law schools. The absence of a suitable casebook—indeed, of any casebook until just recently—has only added to the challenges faced by those who have sought to take or teach the course. Accordingly, it is our hope that this text—which examines contemporary issues through intriguing cases, detailed notes, challenging problems, and frequent references to popular culture—will spur more professors and students to embrace the subject.

In addition to wanting a fun, interesting, and up-to-date book, we had a second goal in mind when we undertook this project. Unlike other casebook authors, who have approached the subject as both esoteric and self-contained, we see aviation law as a microcosm of the law school experience, touching as it does on (among others) administrative law, antitrust, bankruptcy, conflicts, constitutional law, contracts, environmental law, international law, labor law, local government law, professional responsibility, property, sales, taxation, and torts. Accordingly, we have eschewed the narrow and the technical and instead focused on broad themes and questions. In this way, we hope to make clear just how much of everyday life is touched by flying and dispel the myth that an aviation law course is useful only for those few students who either hold a pilot's license or already have decided to enter the field upon graduation.

Several procedural matters should be noted. First, the research for this book closed in October 2005 (although a few last-minute additions did find their way into the text). Second, we have been liberal in our editing and normally have not indicated where language has been deleted, repositioned, or, in the event of errors in the original, corrected. Third, the principal air law treaties referred to in the readings can be found in the book's appendices. Lastly, for those who want to become better acquainted with the industry, Chapter 1 contains numerous suggestions for doing so.

In closing, we hope you will enjoy using this book as much as we have enjoyed writing it, and to that end we invite your comments and suggestions for future editions. All such thoughts should be sent to Professor Robert M. Jarvis, Nova Southeastern University Law Center, 3305 College Avenue, Fort Lauderdale, FL 33314-7721, telephone (954) 262-6172, telefax (954) 262-3835, e-mail jarvisb@nsu.law.nova.edu.

Acknowledgments

In preparing this work, we have received help from countless individuals and institutions as well as from the Publisher's staff. We are particularly grateful, however, to Linda Heller, Zane J. Kelleher, and Michael E. Meyer.

We also wish to express our appreciation to the following authors and their publishers for permission to reprint their works:

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To invent an airplane is nothing. To build one is something. But to fly is everything.

—*Otto Lilienthal (1848–96),
German aviation pioneer*

[As] the patent in suit is a valid one, the patentees may fairly be considered pioneers in the practical art of flying with heavier-than-air machines.

—*Wright Co. v. Herring-Curtiss Co.,
211 F. 654, 655 (2d Cir. 1914)
(upholding the Wright Brothers' patent)*

Come fly with me!
Let's fly, let's fly away!

—*Frank Sinatra (1957)*

Gimme a ticket for an aeroplane,
Ain't got time to take a fast train.

—*Joe Cocker (1970)*

Let's roll!

—*Final words of Todd Beamer before he
and the other passengers on United Airlines
Flight 93 stormed the cockpit on 9/11*

It is a new world for this industry.

—*Jane F. Garvey, FAA Administrator, in
a speech to the National Press Club
shortly after 9/11*

