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## Digest of Recent Cases

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## DIGEST OF RECENT CASES

### AIRPLANE CRASH — NEGLIGENCE — AIRLINE METEOROLOGICAL DEFICIENCIES

#### *Stiles v. National Airlines*

5 CCH Aviation L. Rep. 18,028 (E.D. La. March 27, 1958)

Defendant airline was charged with negligence for allowing a flight into a storm area meteorologically described as "severe turbulence." Two and a half hours before defendant's airliner crashed due to the adverse weather conditions, an earlier flight of the same airline had engaged the storm, but upon landing, the pilot failed to report the encounter. Held negligent to dispatch a flight into turbulent weather when the airline had knowledge or the means of obtaining knowledge of the presence of such weather.

### MUNICIPAL AIRPORTS — FACILITY LEASE AGREEMENTS — ARBITRATION PROVISIONS

#### *Louisville etc., Air Board v. American Airlines*

5 CCH Aviation L. Rep. 18,034 (W.D. Ky. April 15, 1958)

Plaintiff Air Board entered into leasing agreements with the defendant airlines, said leases containing renewal option clauses and providing for an impartial arbitration board to determine the rent for the extended term in the event the contracting parties could not agree. Upon renewal of the option and failure of the parties to arrive at a mutually satisfactory rental, the Air Board brought suit and asked for a summary judgement. The airlines moved the proceedings be stayed until arbitration shall be had in accordance with the original lease. The court held the Air Board was an instrumentality of the Commonwealth of Kentucky, vested with public, governmental, and municipal powers, and as such comes within the general rule that discretionary duties of a public agency, as distinguished from ministerial duties, cannot be delegated. It was therefore concluded that the contract clause pertaining to arbitration was an unlawful delegation and consequently void.

### LOW FLYING AIRCRAFT — TRESPASS — AVIATION EASEMENTS — CONDEMNATION PROCEEDINGS — EQUITY OR LAW

#### *Gardner et al. v. County of Allegheny et al.*

5 CCH Aviation L. Rep. 17,997 (Pa. June 3, 1958)

Claiming low flights from the county-owned airport to be a nuisance and a trespass to their realty, adjoining landowners sued the county as well as the commercial airlines operating out of said airport, asking for injunctive relief against such activities and in the alternative for damages for "taking" of their property. The Pennsylvania Supreme Court said that the complaint filed in equity was proper for asking injunctive relief, but a court of equity could not assess damages for the trespass. In this instance, the county being a defendant and the plaintiff electing to pursue its remedy for damages rather than an injunction, the plaintiff must choose between an action for trespass or proceedings in condemnation against the county. Held proper that the present equity action be stayed until the adjudication of the eminent domain proceedings or the trespass action which may be brought by the plaintiff against some or all of the defendants.