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Digest of Recent Cases

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DIGEST OF RECENT CASES

AIRCRAFT MANUFACTURER'S LIABILITY TO AIR CARRIER — STATUTE OF LIMITATIONS

Northwest Airlines v. Martin

5 CCH Aviation L. Rep. 18,069 (F. Supp., D.C. Md. 1958)

An action for indemnity was commenced by an air carrier against the manufacturer of a plane which crashed due to negligent and defective construction. The court applied the law of Wisconsin since the accident occurred there and held that an action for indemnity or contribution started nine years after the accident but only two years after the last settlement of liability is not beyond the three years statute of limitations. Prior to settlement the plaintiff's rights are inchoate but upon payment these rights ripen into a cause of action.

TARIFFS OF AIR CARRIERS — LIMITATIONS OF LIABILITY — EXCESS VALUATION CHARGES

Tannenbaum v. National Airlines

5 CCH Aviation L. Rep. 18,136 (N.Y.S. 2d, June 1958).

Provisions in air carrier tariffs that limited liability for baggage carried in interstate commerce and checked on air line tickets are valid—even though excess valuation may be declared and additional payments made pursuant thereto, as long as the tariffs have been filed with the Civil Aeronautics Board as required in the Civil Aeronautics Act. Further held that it is not necessary for the carrier to specifically call the limitation to the attention of the passenger regardless of whether the action is one sounding in negligence, conversion, or breach of a bailment contract.

CIVIL AIR PATROL — CHARITABLE CORPORATION — IMMUNITY FROM LIABILITY FOR ACTS OF EMPLOYEES

Hooten v. Civil Air Patrol

5 CCH Aviation L. Rep. 18,113 (E.D. Wis. Apr. 29, 1958)

A child injured as the result of negligence by Civil Air Patrol employees was denied recovery in a state where charitable corporations are immune from suit. The Act of Congress which set up the Civil Air Patrol has been interpreted to provide that the agency shall be of a benevolent character and a non-profit corporation. Under applicable state law, charitable corporations are not liable under *respondeat superior* for the negligence of their servants. Furthermore, the Federal Torts Claims Act is inapplicable, since it provides for liability only if, under like circumstances, a private citizen would be liable.