

2015

Front Matter

Follow this and additional works at: <https://scholar.smu.edu/jalc>

Recommended Citation

Front Matter, 80 J. Air L. & Com. i (2015)
<https://scholar.smu.edu/jalc/vol80/iss1/10>

This Front Matter is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

The Journal of Air Law and Commerce

VOLUME 80

WINTER 2015

NUMBER 1

TABLE OF CONTENTS

ARTICLES

- Including Aviation in the European Union Scheme for Emission Allowance Trading: Stimulating Global Market-Based Measures *Melle Bakker* 3
- Development Fee in India Airports—A Case Study *Moses George* 17
- A Legal Analysis of 14 C.F.R. Part 91 “See and Avoid” Rules to Identify Provisions Focused on Pilot Responsibilities to “See and Avoid” in the National Airspace System *Professor Ernest E. Anderson, J.D.* 53
Professor William Watson, J.D.
Douglas M. Marshall, J.D.
Kathleen M. Johnson, J.D.

CASE NOTES

- The Montreal Convention—The Eleventh Circuit Embraces Airlines’ Practice of “Bumping” to Deny Plaintiffs’ Recovery for Personal Injury Under Article 17 ... *Lindsey Ray Altmeyer* 239
- A Slip of the Tongue: How the Supreme Court Placed Airline Immunity in the Clouds *Chase Cobern* 249
- Breadth of the ADA Preemption Provision—*Morales* and *Wolens* Reaffirmed and the Extension to the Common Law *Hannah Mason* 259
- The Montreal Convention’s Statute of Limitations—A Failed Attempt at Consistency *Allison Stewart* 267
- Employment Law—The FAA’s Exemption from the FLSA-Mandated Overtime-Pay Provision After the Appropriations Act of 1996 *Wendy Wilkins* 277

The *Journal of Air Law and Commerce* (ISSN 0021-8642) is published four times a year, (1) Winter, (2) Spring, (3) Summer, and (4) Fall, by the SMU Law Review Association. Subscription rates are \$43.00 per year, domestic, and \$50.00 per year, foreign. Single issues are available at \$16.00 per copy. Add 8.25% tax on all single issue orders within the State of Texas. Tax exempt institutions must include a copy of their exemption certificate with orders. An additional charge will be made for postage and handling. Periodicals postage paid at Dallas, Texas, and at additional mailing offices. Prior issues (vols. 1-77) available from William S. Hein & Co., 2350 North Forest Road, Getzville, New York 14068. Volumes 78-79 are available from the *Journal of Air Law and Commerce*, Southern Methodist University School of Law, P.O. Box 750116, Dallas, Texas 75275. POSTMASTER: Send address changes to *Journal of Air Law and Commerce*, Southern Methodist University, Dedman School of Law, P.O. Box 750116, Dallas, Texas 75275. Printed by Joe Christensen, Inc., P.O. Box 81269, Lincoln, Nebraska 68501.

Citations conform with *The Bluebook: A Uniform System of Citation* (19th ed. 2010) and *Texas Rules of Form* (12th ed. 2010). Please note that due to the justification of the articles, citations to internet sources may contain an additional space between double back slashes.

Please address all manuscripts electronically to the Editor in Chief, *Journal of Air Law and Commerce*, Southern Methodist University School of Law, P.O. Box 750116, Dallas, Texas 75275 or by email at jalceic@smu.edu. Submitted manuscripts should be double-spaced. Footnotes rather than endnotes should be used and should also be double-spaced. Word processing capabilities and requirements are available on request. A brief autobiographical statement should accompany the submission. Unsolicited manuscripts will not be returned unless return postage or a stamped, self-addressed envelope is enclosed.

Replacement copies are sent to subscribers upon prompt notification of non-receipt or defective copies. Subscriptions are cancelled automatically upon expiration. All notifications of change of address should include old address, including zip code, and new address, including zip code. Please notify one month in advance to ensure prompt delivery.

Address inquiries to the *Journal of Air Law and Commerce*, Southern Methodist University School of Law, P.O. Box 750116, Dallas, Texas 75275.

Published quarterly by the SMU Law Review Association.

© Copyright 2015 by the Southern Methodist University Dedman School of Law.

ADVISORY BOARD

Gary W. Allen
Attorney at Law
Williamsburg, VA

Marc S. Moller
Kreindler & Kreindler
New York, NY

Dr. P. Nikolai Ehlers
Ehlers, Ehlers & Partners
Munich, Germany

John J. Nance
Aviation Author & Attorney at Law
Roche Harbor, WA

Elizabeth Mireya Freidenberg
Freidenberg, Freidenberg & Lifsic
Buenos Aires, Argentina

David T. Norton
Shackelford, Melton & McKinley, LLP
Dallas, TX

Eileen M. Gleimer
Crowell & Moring, LLP
Washington, DC

John F. Pritchard
Holland & Knight
New York, NY

H. Norman Kinzy
SettlePou
Dallas, TX

Don G. Rushing
Morrison & Foerster LLP
San Diego, CA

Paul B. Larsen
Attorney at Law
Bainbridge Island, WA

Mark R. Shaw
Associate General Counsel
Southwest Airlines
Dallas, TX

Robert Lawson
Quadrant Chambers, Quadrant House
London, England

Charles H. Smith
Cantey Hanger LLP
Dallas, TX

Andreas F. Lowenfeld
Professor of Law
New York University School of Law
New York, NY

Charles A. Tarpley
Attorney at Law
Dallas, TX

Allan I. Mendelsohn
Attorney at Law
Washington, DC

William E. Thoms
Professor Emeritus of Law
Upper Great Plains Transportation Institute
Little Falls, MN

Dr. Pablo M.J. Mendes de Leon
Director, Int'l Institute of Air & Space Law
University of Leiden
The Netherlands

Windle Turley
Turley Law Firm
Dallas, TX

Dr. Michael Milde
Director Emeritus
Institute of Air & Space Law
McGill University
Montreal, Canada

William R. Wyatt
Sheppard, Mullin, Richter & Hampton,
L.L.P.
New York, NY

SMU Law Review

VOLUME 80

WINTER 2015

NUMBER 1

THE SMU LAW REVIEW ASSOCIATION 2014 – 2015 BOARD OF EDITORS

President

SCOTT LARSON

Journal of Air Law & Commerce Editor-in-Chief

ANDRIA RAE MINYARD

SMU Law Review Editor-in-Chief

BRYAN CLEGG

Journal of Air Law & Commerce Managing Editor

EMILY LEEZER LANDEROS

Texas Survey Editor

KELLI GAVIN

SMU Law Review Managing Editor

JOSHUA PELFREY

Associate Texas Survey Editors

ALLISON CHILDS

MICHAEL SHEETZ

JALC Associate Managing Editors

JOHN ATKINS

JENNY SMILEY

Lead Articles Editors

FAHAD JUNEJA

CHRISTOPHER KNIGHT

SMU Associate Managing Editors

HUY LY

CHEYENNE ROGERS

Articles Editors

RACHEL FREEMAN

DEAN GALARO

ALLYSON GAULT

NICOLE HAGET

TROY HALE

ERIC HEDLUND

SETH JASKOVIK

MEAGAN LANIER

ANGELA OLIVER

JOHN MCGREGOR

CATHERINE PETERMAN

JESSICA PHILLIPS

AMY RAUCH

KYLE ZUNKER

ANNA BOOTH

AARON CHIBLI

CC COPELAND

CODY CRAVENS

JAIME DEWEES

NINA DINH

ERIK FOUNTAIN

JALC Comment Editors

JOHN ADAMS

PETER THOMPSON

Executive Editor

FARSHEED FOZOUNI

SMU Comment Editors

SAMUEL BRAGG

JAMES LUCAS

KELSEY TAYLOR

Air Law Symposium Editor

HEATHER MCKINNEY

Administrative Managing Editors

ALEX POOR

SETH RASMUSSEN

Corporate Counsel Symposium Editors

JILLIAN BEYTHAN

CLINTON KUYKENDALL

Air Law Associate Symposium Editor

CASSIE SUTTLE

Symposium CLE Editors

ASHLEY DEWEESE

J. BRYAN WHITE

Journal of Air Law and Commerce Faculty Advisor

GREGORY S. CRESPI

Symposium Technology Editors

AMANDA BRETT

BRYAN MCKOWN

SMU Law Review Faculty Advisor

THOMAS WM. MAYO

ANTHONY J. COLANGELO

Journal of Air Law and Commerce

Administrative Assistant

LISA BROWNING

SMU Law Review

Administrative Assistant

TALIBRA FERGUSON

MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS

THE SMU LAW REVIEW ASSOCIATION PUBLISHES BOTH
THE SMU LAW REVIEW AND THE JOURNAL OF AIR LAW AND COMMERCE

SMU Law Review

VOLUME 80

WINTER 2015

NUMBER 1

THE SMU LAW REVIEW ASSOCIATION 2014-2015 STAFF

Braxton Adamson	Bethanie Livernois
Lindsey Altmeyer	Kent Love
Uanna Milena Falcão	Elizabeth Lyles
Alves	Christina Martinez
Michael Andrews	Squiers
Taylor Anthony	Hannah Mason
Katherine Bailey	Kayla McDaniel
Brittany Benditz	Jeff Nanson
William H. Betts III	Samantha Pace
Meredith Brewster	Andrew Palmer
Leslie Brockhoeft	Harrison Papaila
Bryant Buechele	Alice K. Parker
Courtney Clay	Allison Payne
Chase Cobern	Haley Pomroy
Gary Enis	Grant Robinson
Amy Estes	Callum Ross
Lucas Henry	Jordan T. Sawyer
Alexandra Hunt	Devanshi Somaya
Ryan Jones	Sarah Michelle Stearns
Jaclyn Kalinoski	Michael Walraven
Jessica Kirk	Wendy Wilkins
Christie Latimer	William Williamson Jr.
Lauren Lieberman	Katherine Wright

SOUTHERN METHODIST UNIVERSITY DEDMAN SCHOOL OF LAW

OFFICERS OF THE UNIVERSITY

R. Gerald Turner, *President*
Paul W. Ludden, *Provost and Vice President for Academic Affairs*
Thomas E. Barry, *Vice President for Executive Affairs*
Brad E. Cheves, *Vice President for Development and External Affairs*
Chris Regis, *Vice President for Business and Finance*
Paul J. Ward, *Vice President for Legal Affairs and Government Relations, General Counsel, and Secretary*
Lori S. White, *Vice President for Student Affairs*
Michael A. Condon, *University Treasurer*

DEDMAN SCHOOL OF LAW

FACULTY AND ADMINISTRATIVE STAFF

Julia P. Forrester, B.S.E.E., J.D., *Dean ad interim and Professor of Law*
John S. Lowe, B.A., LL.B., *Senior Associate Dean for Academic Affairs and George W. Hutchison Chair in Energy Law*
Nathan Cortez, B.A., J.D., *Associate Dean for Research and Associate Professor of Law*
Gail M. Daly, B.A., M.A., J.D., *Associate Dean for Library and Technology and Associate Professor of Law*
Ruth A. Cross, B.A., J.D., *Associate Dean for Administration, Director of Legal Research, Writing and Advocacy Program and Senior Lecturer in Law*
Lynn Switzer Bozalis, B.A., J.D., *Associate Dean for Development and Alumni Affairs*
Martin L. Camp, B.A., J.D., *Assistant Dean for Student Affairs*
Karen C. Sargent, B.B.A., J.D., *Assistant Dean and Executive Director for Career Services*
Jill Nikirk, B.A., J.D., *Assistant Dean for Admissions*
Rebecca Garza Greenan, B.S., B.A., M.Ed., J.D., *Director of Public Service Program and Director of Academic Skills Assistance Program*
Roland C. Webb, B.S., M.B.A., *Director of Financial Services*
Lynn McVicker Dempsey, B.B.A., *Director of External Relations*
Kristy Offenburger, *Director, Communications and Marketing*
Linda A. Hale, B.A., J.D., *Director of Career Services*
Stephen B. Yeager, B.B.A., J.D., *Director of Career Services*
J. Mark McWatters, B.B.A., M.B.A., J.D., LL.M., LL.M., *Director of Graduate Programs*
Laura Amberson, B.S., *Registrar*

FACULTY

John B. Attanasio, B.A., J.D., LL.M., *Dipl. in Law, Judge William Hawley Atwell Chair of Constitutional Law, Professor of Law and Former Dean*
Roy R. Anderson, B.A., J.D., LL.M., *Vinson & Elkins Distinguished Teaching Fellow and Professor of Law*
Maureen N. Armour, B.A., M.S.W., J.D., *Co-Director of Civil Clinic and Associate Professor of Law*
Lackland H. Bloom, Jr., B.A., J.D., *Professor of Law*
William J. Bridge, B.S.F.S., J.D., *Associate Professor of Law*
Alan R. Bromberg, B.A., J.D., *University Distinguished Professor of Law*
Cheryl Nelson Butler, B.A., J.D., *Assistant Professor of Law*
Regis W. Campfield, B.B.A., LL.B., *Professor Emeritus of Law and Marilyn Jeanne Johnson Distinguished Law Faculty Fellow Emeritus*
Beverly M. Carl, B.S.L., J.D., LL.M., *Professor Emerita of Law*
Michaela E. Cashen, B.A., J.D., *Senior Lecturer in Law*
Eric Cedillo, B.S., J.D., *Coordinator, Consumer Advocacy Project*
Anthony J. Colangelo, B.A., J.D., LL.M., J.S.D., *Associate Professor of Law*
Nathan Cortez, B.A., J.D., *Associate Dean for Research and Associate Professor of Law*
Gregory S. Crespi, B.S., M.S., Ph.D., J.D., *Professor of Law*
Ruth A. Cross, B.A., J.D., *Associate Dean for Administration; Director of Legal Research, Writing, and Advocacy Program; and Senior Lecturer in Law*

Gail M. Daly, B.A., M.A., J.D., *Associate Dean for Library and Technology, Director of the Underwood Law Library, and Associate Professor of Law*

David E. DePianto, B.A., J.D., Ph.D., *Assistant Professor of Law*

William V. Dorsaneo III, B.A., J.D., *Chief Justice John and Lena Hickman Distinguished Faculty Fellow and Professor of Law*

Beverly C. Dur  s, B.A., J.D., Th.M., *Senior Lecturer in Law*

Linda S. Eads, B.A., J.D., *Associate Provost and Associate Professor of Law*

Julia P. Forrester, B.S.E.E., J.D., *Dean ad interim and Professor of Law*

Jeffrey M. Gaba, B.A., J.D., M.P.H., *Professor of Law*

Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), *Altshuler University Distinguished Teaching Professor and Professor of Law*

Patricia S. Heard, B.A., J.D., *Senior Lecturer in Law*

JoAnn A. Hubbard, B.S., J.D., *Senior Lecturer in Law*

Christopher M. Jenks, B.S., J.D., LL.M., LL.M. (with distinction), *Director of the Criminal Justice Clinic and Assistant Professor of Law*

Larry Jones, B.B.A., J.D., LL.M., *Director of Federal Tax Clinic and Small Business Clinic*

Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., *Associate Professor of Law*

Ndiva Kofele-Kale, B.A., M.A., Ph.D., J.D., *University Distinguished Professor and Professor of Law*

Henry J. Lischer Jr., B.B.A., J.D., LL.M. (in Taxation), *Professor Emeritus of Law*

John S. Lowe, B.A., LL.B., *Senior Associate Dean for Academic Affairs and George W. Hutchison Professor of Energy Law*

George A. Martinez, B.A., M.A., J.D., *Professor of Law*

Thomas Wm. Mayo, B.A., J.D., *Altshuler University Distinguished Teaching Professor and Associate Professor of Law*

Orly Sulami Mazur, B.B.A., M.P.A. (summa cum laude), J.D. (Order of the Coif), LL.M., *Assistant Professor of Law*

Joseph W. McKnight, B.A., B.A., B.C.L., M.A., LL.M., *Larry and Jane Harlan Faculty Fellow and Professor of Law*

Charles J. Morris, B.A., LL.B., *Professor Emeritus of Law*

Frederick C. Moss, A.B., J.D., LL.M., *Professor Emeritus of Law*

John J. Mylan, B.S., J.D., LL.M. (in Taxation), *Professor Emeritus of Law*

Xuan-Thao Nguyen, B.A., J.D., *Professor of Law*

Joseph Jude Norton, A.B., LL.B., LL.M., S.J.D., D.Phil., *Distinguished Faculty Fellow in Financial Institutions, Professor of Law, and James L. Walsh Distinguished Faculty Fellow*

Victoria Palacios, J.D., *Associate Professor of Law*

Kenneth L. Penegar, A.B., J.D., LL.M., *Professor Emeritus of Law*

Roark M. Reed, B.S., B.A., J.D., *Professor Emeritus of Law*

W. Keith Robinson, B.S., J.D., *Assistant Professor of Law*

C. Paul Rogers III, B.A., J.D., LL.M., *Professor of Law and former Dean*

Meghan Ryan, A.B., J.D., *Assistant Professor of Law*

Eliot Shavin, B.A., J.D., *Supervising Attorney, Civil Clinic*

Ellen K. Solender, A.B., J.D., *Professor Emerita of Law*

Mary B. Spector, B.A., J.D., *Co-Director of Civil Clinic, Director of Consumer Law Project, and Associate Professor of Law*

Walter W. Steele Jr., LL.B., *Professor Emeritus of Law*

Marc I. Steinberg, A.B., J.D., LL.M., *Rupert and Lillian Radford Chair in Law*

Heather Stobaugh, B.A., M.A., J.D., *Lecturer in Law*

Joshua C. Tate, B.A., M.A., M.Phil. J.D., Ph.D., *Associate Professor of Law*

David O. Taylor, B.S., J.D., *Assistant Professor of Law*

Elizabeth G. Thornburg, B.A., J.D., *Professor of Law*

Sarah Tran, B.S., J.D., *Assistant Professor of Law*

Jenia Iontcheva Turner, B.A., J.D., *Professor of Law*

Jonni Walls, B.A., J.D., *Lecturer in Law*

Jessica Dixon Weaver, B.A., J.D., *Assistant Professor of Law*

Harvey Wingo, B.A., M.A., J.D., *Vinson & Elkins Distinguished Teaching Fellow Emeritus and Professor Emeritus of Law*

Peter Winship, B.A., LL.B., LL.M., *James Cleo Thompson Sr. Professor of Law*



Articles

