

2021

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Recommended Citation

Paul S. Dempsey, *Book Review: Introduction to Aviation Law by Timothy M. Ravich*, 86 J. AIR L. & COM. 167 (2021)

<https://scholar.smu.edu/jalc/vol86/iss1/4>

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BOOK REVIEW: INTRODUCTION TO AVIATION LAW
By Timothy M. Ravich

*Paul Stephen Dempsey**

Legal historian Stuart Banner has declared air law dead, observing the declining number of U.S. educational programs in aviation law and law professors teaching it.¹ As he explains, “Air law ceased to be a useful category when the airplane was no longer a novelty.”²

Professor Robert Jarvis disagrees: “Aviation law, after years of languishing on the sidelines, currently is enjoying unprecedented popularity in American law schools. . . . [S]ome of the attention is due to the fact that, for the first time in history, instructors can choose from three competing aviation law casebooks.”³ Now there is a fourth—*Introduction to Aviation Law* by Professor Timothy M. Ravich of the University of Central Florida⁴—as well as a plethora of texts and treatises published in the last two decades alone.⁵ Aviation law is alive and well.

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¹ See STUART BANNER, WHO OWNS THE SKY?: THE STRUGGLE TO CONTROL AIRSPACE FROM THE WRIGHT BROTHERS ON 203–25 (2008).

² *Id.* at 224.

³ Robert M. Jarvis, *Carl Zollmann: Aviation Law Casebook Pioneer*, 73 J. AIR L. & COM. 319, 320 (2008) (footnotes omitted). These include WENDY B. DAVIS, AVIATION LAW: CASES AND PROBLEMS (2004); ROBERT M. JARVIS, JAMES T. CROUSE, JAMES R. FOX & GREGORY S. WALDEN, AVIATION LAW: CASES AND MATERIALS (2006); PAUL B. LARSEN, JOSEPH C. SWEENEY & JOHN E. GILLICK, AVIATION LAW: CASES, LAWS AND RELATED SOURCES (2d ed. 2012). See also Paul Stephen Dempsey, *Aviation Law: Cases, Laws and Related Sources*, 38 ANNALS AIR & SPACE L. 587 (2013) (book review). Another important aviation law is casebook Professor Lowenfeld’s casebook. ANDREAS F. LOWENFELD, AVIATION LAW (2d ed. 1981).

⁴ TIMOTHY M. RAVICH, INTRODUCTION TO AVIATION LAW (2020).

⁵ See, e.g., BRIAN F. HAVEL & GABRIEL S. SANCHEZ, THE PRINCIPLES AND PRACTICE OF INTERNATIONAL AVIATION LAW (2014); MICHAEL MILDE, INTERNATIONAL AIR LAW AND ICAO (2d ed. 2012); RONALD I. C. BARTSCH, AVIATION LAW IN AUSTRALIA (4th ed. 2012); PABLO MENDES DE LEON, INTRODUCTION TO AIR LAW (10th ed. 2017); “PROJECT 2001 PLUS”—GLOBAL AND EUROPEAN CHALLENGES FOR AIR AND SPACE LAW AT THE EDGE OF THE 21ST CENTURY 129 (Stephan Hobe, Bernhard

Professor Ravich's casebook is well organized. Cases have been harvested from a multitude of sources—federal courts, state courts, and regulatory agencies. It is rare to find a law school casebook that includes a decision written by an administrative law judge,⁶ and so much the better for the student to understand the broad lawmaking powers Congress has delegated to regulatory agencies. The margins of the cases succinctly summarize the points addressed in the corresponding paragraphs, enhancing the ability of the student to find the principle the casebook author has labeled. Cases are preceded by concise summaries and explanatory paragraphs and material, followed by lists of Socratic questions (titled “exercises”) to incentivize the student to focus on what is salient.⁷ Woven throughout this casebook are international conventions, treaties, statutes, and regulations. The book is not only useful in the classroom, it is also a valuable and comprehensive compilation of materials that can be a reference source for lawyers, researchers, industry executives, and government regulators. So as to facilitate its use in the classroom, the casebook is accompanied by a Teacher's Manual, PowerPoint slides, and is available in softcover and eBook formats. Further,

Schmidt-Tedd, Kai-Uwe Schrogl & Julia Neumann eds., 2006); PAUL STEPHEN DEMPSEY, PUBLIC INTERNATIONAL AIR LAW (2d ed. 2017); ROUTLEDGE HANDBOOK OF PUBLIC AVIATION LAW (Paul Stephen Dempsey & Ram S. Jakhu eds., 2017); PAUL STEPHEN DEMPSEY, DERECHO INTERNACIONAL PÚBLICO DEL AIRE (2016); PAUL STEPHEN DEMPSEY, AVIATION LIABILITY LAW (2d ed. 2013); PAUL STEPHEN DEMPSEY & LAURENCE E. GESELL, PUBLIC POLICY AND THE REGULATION OF COMMERCIAL AVIATION (2013); LAURENCE E. GESELL & PAUL STEPHEN DEMPSEY, AVIATION AND THE LAW (5th ed. 2011); ANDREW HARAKAS, LITIGATING THE AVIATION CASE (4th ed. 2019); MCGILL UNIV. INST. AIR & SPACE L. & INT'L CIV. AVIATION ORG., ESSAYS ON AIR NAVIGATION: FLYING THROUGH CONGESTED SKIES: THE FINANCE, TECHNOLOGY, REGULATION AND POLICY OF AIR NAVIGATION (2007); PAUL STEPHEN DEMPSEY & MICHAEL MILDE, INTERNATIONAL AIR CARRIER LIABILITY: THE MONTREAL CONVENTION OF 1999 (2005); THE MCGILL/CONCORDIA REPORT ON INTERNATIONAL AVIATION POLICY FOR CANADA (2005); PAUL STEPHEN DEMPSEY, EUROPEAN AVIATION LAW (2004); PAUL STEPHEN DEMPSEY & LAURENCE E. GESELL, AIR COMMERCE AND THE LAW (2004); KATHERINE B. POSNER, TIM MARLAND & PHILIP CHRYSAL, MARGO ON AVIATION INSURANCE (4th ed. 2014); GEORGE LELOUDAS, RISK AND LIABILITY IN AIR LAW (2009); MALCOLM CLARKE, CONTRACTS OF CARRIAGE BY AIR (2d ed. 2013); HARRY LAWRENCE, AVIATION AND THE ROLE OF GOVERNMENT (2004); ROBERT M. KANE, AIR TRANSPORTATION (14th ed. 2003); RUWANTISSA ABEYRATNE, RULEMAKING IN AIR TRANSPORT: A DECONSTRUCTIVE ANALYSIS (2016); DAVID MACKENZIE, ICAO: A HISTORY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION (2010); LUDWIG WEBER, INTERNATIONAL CIVIL AVIATION ORGANIZATION (3d ed. 2017).

⁶ See RAVICH, *supra* note 4, at 163–68.

⁷ See, e.g., *id.* at 1–9.

the book includes a number of appendices containing international treaties, model air transport agreements, and state and European Union regulatory materials.⁸

The introductory chapter addresses the right to travel, both domestically and internationally. In the United States, the origins of this right are found in its Constitution—the right to peaceably assemble in the First Amendment and the right to enjoy liberty unencumbered except with due process of law in the Fourteenth Amendment, for example.⁹ Professor Ravich explains how the right to travel has been circumscribed by the enhanced oversight and regulation created by the U.S. Department of Homeland Security and its Transportation Security Administration in the post-9/11 world.¹⁰ Focusing on the rights of the passenger at the outset is an excellent way to introduce the student to the world of aviation law, for most students have been passengers and can relate to the experience of commercial flight.

Chapter 2 addresses airspace, an important issue both domestically (where the federal government has preempted navigable airspace¹¹) and internationally (where, under Article 6 of the Chicago Convention,¹² states negotiate traffic rights, typically on a bilateral basis). It is important to address the Chicago Convention early in the book, as it created the International Civil Aviation Organization (ICAO).¹³ The ICAO promulgates Standards and Recommended Practices (SARPs) that are binding on the roughly 200 member states in areas of safety, security, and environmental protection.¹⁴ Where a member state fails to comply with SARPs, other states are not obliged to recognize its airlines' certificates of airworthiness.¹⁵ Both the United States and the European Union have imposed restrictions on air service from states that do not comply with

⁸ *Id.* at 867–1056.

⁹ *Id.* at 2, 10–13 (citing *Kent v. Dulles*, 357 U.S. 116, 125 (1958)).

¹⁰ *Id.* at 3.

¹¹ 49 U.S.C. § 40103.

¹² Convention on International Civil Aviation art. 6, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295 [hereinafter *Chicago Convention*].

¹³ *Id.* arts. 43–44.

¹⁴ *The History of ICAO and the Chicago Convention*, INT'L CIV. AVIATION ORG., <https://www.icao.int/about-icao/History/Pages/default.aspx> [https://perma.cc/9L2K-DVGE]; *Strategic Objectives*, INT'L CIV. AVIATION ORG., <https://www.icao.int/about-icao/Council/Pages/Strategic-Objectives.aspx> [https://perma.cc/PH5C-CL3C].

¹⁵ *Chicago Convention*, *supra* note 12, art. 33.

SARPs.¹⁶ The book would benefit from an elaboration early on of ICAO's role in international aviation, as ICAO established the foundation of uniform international state obligations in aviation.¹⁷ The chapter would also benefit from a deeper explanation of the negotiation of international traffic rights via bilateral and multilateral air transport agreements.¹⁸

The Chicago Convention is both the organic constitution of an important agency in the United Nations family, and the source of major principles of air law.¹⁹ The Chicago Convention explicitly lists eleven issues to which ICAO is instructed to devote itself.²⁰ The Convention gave ICAO responsibility for regulating the many technical aspects of international civil aviation, including aircraft licensing, airworthiness certification, registration of aircraft, international operating standards, and airways and communications controls.²¹ ICAO has promulgated nineteen annexes of over 12,000 individual SARPs,²² which its nearly 200 member states must implement uniformly, unless they find compliance impracticable.²³ ICAO has also convened diplomatic conferences for the promulgation of major international conventions addressing aviation security and airline liability rules.²⁴ Hence, early on, the student should be appraised of ICAO's prominent role in creating global uniformity of aviation law.²⁵

¹⁶ Paul Stephen Dempsey, *Blacklisting: Banning the Unfit from the Heavens*, 32 ANNALS AIR & SPACE L. 29 (2007).

¹⁷ *The History of ICAO and the Chicago Convention*, *supra* note 14.

¹⁸ For examples of bilateral and multilateral air transport agreements included in the casebook, see RAVICH, *supra* note 4, at 975–95, 1029–43.

¹⁹ See sources cited *supra* note 14; see also ICAO and the United Nations, INT'L CIV. AVIATION ORG., <https://www.icao.int/about-icao/History/Pages/icao-and-the-united-nations.aspx#:~:text=President%20Warner%20signed%20the%20protocol,became%20a%20UN%20specialized%20agency.&text=as%20a%20Specialized%20Agency%20of,the%20Economic%20and%20Social%20Council> [<https://perma.cc/D68G-H3B4>].

²⁰ Chicago Convention, *supra* note 12, art. 37.

²¹ *Id.* arts. 21, 28, 30–32, 37.

²² *How ICAO Develops Standards*, INT'L CIV. AVIATION ORG., <https://www.icao.int/about-icao/AirNavigationCommission/Pages/how-icao-develops-standards.aspx> [<https://perma.cc/3YCA-39QW>].

²³ Chicago Convention, *supra* note 12, art. 38.

²⁴ See *Meetings*, INT'L CIV. AVIATION ORG., <https://www.icao.int/secretariat/legal/Pages/Meetings.aspx> [<https://perma.cc/C8LE-Q3TT>].

²⁵ See Paul Stephen Dempsey, *Compliance & Enforcement in International Law: Achieving Global Uniformity in Aviation Safety*, 30 N.C. J. INT'L L. & COM. REGUL. 1, 1–74 (2004).

The third chapter addresses aircraft. In both Chapters 2 and 3, Professor Ravich introduces students to the growing field of unmanned aircraft,²⁶ about which he has also written another fine book.²⁷ Unmanned aerial systems (UAS),²⁸ sometimes known as Remotely Piloted Aerial Systems (RPAS), or drones,²⁹ likely will become an integral part of the transportation network in the twenty-first century. Professor Ravich addresses the statutory and regulatory definition of an aircraft and introduces the student to elements of liability.³⁰ Chapter 9 addresses aircraft transactions, including legal issues surrounding their purchase, sale, lease, ownership, and registration.³¹ One wonders whether Chapters 3 and 9 should be merged should there be a future edition of *Introduction to Aviation Law*, so that all issues surrounding aircraft are addressed in a single chapter.

Chapter 4 addresses airmen.³² It begins with an introduction to the Boeing 737 MAX crashes which have spawned legal, regulatory, procedural, and financial issues of contemporary importance.³³ Recall that in October 2018, Lion Air flight 610 crashed off the coast of Indonesia shortly after takeoff, killing 189 aboard.³⁴ Then, in March 2019, Ethiopian Airlines flight 302 crashed near Addis Ababa, Ethiopia shortly after takeoff, killing 157 aboard.³⁵ Shortly thereafter, the Federal Aviation Administration (FAA) grounded all 737 MAX aircraft and began an investigation as to the cause of the two crashes.³⁶

Chapter 4 begins by quoting a legislator at a congressional hearing saying, “The most important safety feature in any

²⁶ See RAVICH, *supra* note 4, at 63, 114, 121–27.

²⁷ TIMOTHY M. RAVICH, *COMMERCIAL DRONE LAW: DIGEST OF U.S. AND GLOBAL UAS RULES, POLICIES, AND PROCEDURES* (2017).

²⁸ ICAO has deemed unmanned aerial vehicles an “obsolete” term and has replaced it with UAS. See Int’l Civ. Aviation Org. [ICAO], *Unmanned Aircraft Systems (UAS)*, at vii, 1, ICAO Cir 328-AN/190 (2011), www.icao.int/Meetings/UAS/Documents/Circular%20328_en.pdf [<https://perma.cc/3UVB-QJJU>].

²⁹ *Drones: What Are They and How Do They Work?*, BBC (Jan. 31, 2012), <https://www.bbc.com/news/world-south-asia-10713898> [<https://perma.cc/L397-YVK5>].

³⁰ RAVICH, *supra* note 4, apps. 5, 7 at 975–95, 1029–43.

³¹ See *id.* at 576–607. The book also includes a copy of the Cape Town Convention. See *id.* app. 6 at 997–1028. For a discussion of how the Cape Town Convention relates to aircraft transactions, see *id.* at 600–01.

³² *Id.* at 145.

³³ *Id.*

³⁴ MAJ. STAFF OF H. COMM. ON TRANSP. & INFRASTRUCTURE, 116TH CONG., *THE DESIGN, DEVELOPMENT, & CERTIFICATION OF THE BOEING 737 MAX 5* (Comm. Print 2020) [hereinafter MAX REP.].

³⁵ *Id.* at 6.

³⁶ *Id.* at 12.

cockpit is a well-trained pilot. . . . [A]irlines must ensure their pilots are sufficiently trained and experienced to handle the aircraft.”³⁷ True enough, but it appears the Boeing MAX crashes were due to design defects rather than pilot error.³⁸ The 737 MAX was intended to piggyback on the certifications of earlier generation 737 aircraft.³⁹ But it is a very different aircraft. It has larger and more powerful engines than its predecessors, which were installed higher and further forward than prior generations of the 737.⁴⁰ These changes altered the weight, balance, center of gravity, stability, and flight characteristics of the aircraft.⁴¹ To compensate for the possibility that these changes might cause the aircraft to stall, Boeing added a Maneuvering Characteristics Augmentation System (MCAS), which would automatically create a nose-down trim of the horizontal stabilizer if it detected a stall.⁴² Apparently, MCAS relied on a single Angle of Attack (AOA) sensor which failed in both the Indonesian and Ethiopian crashes.⁴³ MCAS was activated more than twenty times in the Lion Air crash and, although the pilots tried mightily, they could not pull her up.⁴⁴ Further, neither the airlines which purchased the 737 MAX nor their pilots were informed of the MCAS system, which was self-certified by Boeing.⁴⁵ No mention of MCAS was included in the Flight Crew Operations Manual, nor were pilots given simulator training on the 737 MAX.⁴⁶ So, it would be erroneous to conclude that those crashes were due to pilot error.

This chapter also addresses the regulatory requirements of aircraft pilots, rotorcraft pilots, flight navigators, flight engineers, mechanics, repairmen, and flight attendants in

³⁷ RAVICH, *supra* note 4, at 145 (citing *Status of the Boeing 737 MAX: Hearing Before the Subcomm. on Aviation of the H. Comm. on Transp. & Infrastructure*, 116th Cong. 5–6 (2019) (statement of Rep. Sam Graves)).

³⁸ MAX REP., *supra* note 34, at 9.

³⁹ *Id.* at 39.

⁴⁰ *Id.* at 42–43.

⁴¹ *Id.*

⁴² *Id.* at 43.

⁴³ *Id.* at 90.

⁴⁴ *Id.* at 9; David Slotnick, *The First Boeing 737 Max Crash Was 2 Years Ago Today. Here's the Complete History of the Plane That's Been Grounded Since 2 Crashes Killed 346 People 5 Months Apart*, BUS. INSIDER (Oct. 29, 2020, 12:55 PM), <https://www.businessinsider.com/boeing-737-max-timeline-history-full-details-2019-9> [<https://perma.cc/G6JZ-D4QG>].

⁴⁵ MAX REP., *supra* note 34, at 117–18.

⁴⁶ *Id.* at 98, 139–41.

licensing, certification, and enforcement.⁴⁷ It explains the consequences of failure to comply with regulatory requirements.⁴⁸ Chapter 4 also addresses issues of gender, age, race, and nationality.⁴⁹ Professor Ravich notes, “At the conclusion of this chapter, readers should be able to both identify and critique the central laws that govern airmen.”⁵⁰

Chapter 5 addresses the complex issues of federalism and preemption. Federal preemption of state law may be express or implied.⁵¹ Chapter 5 includes the important federal cases that address the extent to which FAA regulations might implicitly preempt common law tort claims in the area of safety and products liability.⁵²

Chapter 6 also addresses federal preemption, but in the context of the Airline Deregulation Act of 1978 (ADA).⁵³ Stimulated by the consumer movement of the 1970s, the ADA deregulated airline rates, routes, and services, and sunset the U.S. Civil Aeronautics Board.⁵⁴ Ticket prices fell post-deregulation, but at a lower rate than before deregulation.⁵⁵ Deregulation also created enormous financial distress for the industry and its employees, resulting in widespread bankruptcies.⁵⁶ The U.S. aviation industry consolidated into

⁴⁷ RAVICH, *supra* note 4, at 150–71.

⁴⁸ *Id.* at 173–76.

⁴⁹ *Id.* at 176–208.

⁵⁰ *Id.* at 148.

⁵¹ *Id.* at 212–13.

⁵² In *Abdullah v. American Airlines, Inc.*, 181 F.3d 363, 367 (3d Cir. 1999), the court broadly stated, “We hold that federal law establishes the applicable standards of care in the field of air safety, generally, thus preempting the entire field from state and territorial regulation.” However, in *Sikkelee v. Precision Airmotive Corp.*, 822 F.3d 680, 692 (3d Cir. 2016), the court found that there was no “clear and manifest intent to preempt aviation products liability claims.”

⁵³ Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1705.

⁵⁴ See Andrew R. Goetz & Paul Stephen Dempsey, *Airline Deregulation Ten Years After: Something Foul in the Air*, 54 J. AIR L. & COM. 927, 927–28 (1989).

⁵⁵ RAVICH, *supra* note 4, at 293.

⁵⁶ Every interstate airline existing in 1978 has collapsed into bankruptcy at least once, and more than 100 airlines have been liquidated. See U.S. GOV'T ACCOUNTABILITY OFF., GAO-05-945, BANKRUPTCY AND PENSION PROBLEMS ARE SYMPTOMS OF UNDERLYING STRUCTURAL ISSUES 36 (2005), <https://www.gao.gov/new.items/d05945.pdf> [<https://perma.cc/L8DU-C8JJ>]; see also Paul Stephen Dempsey, *Airline Bankruptcy: The Post-Deregulation Epidemic*, MCGILL UNIV. (2013), https://www.mcgill.ca/iasl/files/iasl/aspl614-airline_bankruptcies-2012.pdf [<https://perma.cc/4R3X-PKME>].

three major U.S. network carriers aligned internationally with the three global alliances—Oneworld, SkyTeam, and Star.⁵⁷

The ADA included an explicit preemption provision to preclude states from re-imposing economic regulation on the airline industry.⁵⁸ However, that legislation left untouched a general remedies savings clause in the Federal Aviation Act of 1958, which preserved common law remedies.⁵⁹ Conflicts between states and passengers, on the one hand, and airlines, on the other, have been fought in federal courts.⁶⁰ The chapter includes all of the cases which made their way up to the U.S. Supreme Court.

In *Morales v. Trans World Airlines, Inc.*⁶¹ the U.S. Supreme Court held that the airline fare advertising guidelines⁶² established by the National Association of Attorneys General were preempted by the ADA, holding that the phrase “relating to rates, routes, or services” is to be given broad construction, as if it read “if it has a connection with or reference to.”⁶³ *American Airlines, Inc. v. Wolens* was a class action suit brought under both an Illinois consumer fraud statute and a common law breach of contract claim alleging the airline unilaterally and retroactively imposed restrictions on redemption of frequent flyer mileage award travel.⁶⁴ The Court found the statutory claim to be preempted by the ADA but did not read the preemption clause “to shelter airlines from suits alleging no violation of state-imposed obligations, but seeking recovery solely for the airline’s alleged breach of its own, self-imposed undertakings.”⁶⁵ Contractual claims “are privately ordered obligations” and therefore do not consist of a state’s “enactment or enforcement of any law . . . regulation, [or] standard . . . having the force and effect of law” within the scope of the ADA’s preemption provision.⁶⁶ In *Northwest, Inc. v. Ginsberg*, a passenger objected to

⁵⁷ See, e.g., James Reitzes & Diana Moss, *Airline Alliances and Systems Competition*, 45 HOUS. L. REV. 293, 304 (2008).

⁵⁸ 49 U.S.C. § 41713.

⁵⁹ Federal Aviation Act of 1958, Pub. L. No. 85-726, § 1106, 72 Stat. 731, 798.

⁶⁰ See RAVICH, *supra* note 4, at 325-49.

⁶¹ 504 U.S. 374 (1992).

⁶² See RAVICH, *supra* note 4, app. 1 at 867-85.

⁶³ *Morales*, 504 U.S. at 383-85.

⁶⁴ *Am. Airlines, Inc. v. Wolens*, 513 U.S. 219, 222 (1995).

⁶⁵ *Id.* at 228; see also Jonathan Blacker, Comment, “Fly to London for \$298”: *The Battle Between Federal and State Regulation of Airfare Advertising Heats Up*, 61 J. AIR L. & COM. 205, 237-39 (1995).

⁶⁶ *Wolens*, 513 U.S. at 228-29.

the airline's removal of him from their frequent flyer program.⁶⁷ The U.S. Supreme Court held that "state common-law rules fall comfortably within the language of the ADA pre-emption provision," for they have "the force and effect of law."⁶⁸ Although a common law rule is a judicially-created standard, the Court held, "What is important . . . is the effect of a state law, regulation, or provision, not its form, and the ADA's deregulatory aim can be undermined just as surely by a state common-law rule as it can by a state statute or regulation."⁶⁹ On grounds that the implied covenant of good faith and fair dealing upon which the claim was predicated was "a state-imposed obligation," and because the claim for frequent flyer eligibility related to airline pricing and service, the Court dismissed the breach of covenant claim.⁷⁰

Chapter 6 flows nicely into Chapter 7 on airline passenger rights. As deregulation caused financial stress, airlines have attempted to cut costs and reduce service levels, eliminating "frills."⁷¹ Financial stress also has impacted employee morale negatively.⁷² The result is that service levels have declined.⁷³ This, in turn, has led to a call for various forms of consumer protection regulation.⁷⁴ The chapter also includes a couple of cases addressing federal prohibitions against discrimination.⁷⁵ It concludes with several European court cases addressing EU Regulation 261.⁷⁶ This section would benefit from a discussion of whether EU Regulation 261 conflicts with the delay and exclusivity provisions of the Montreal Convention of 1999.⁷⁷

Chapter 8 addresses air piracy and crime. It includes a variety of cases on terrorism, sabotage, hijacking, interference with

⁶⁷ *Northwest, Inc. v. Ginsberg*, 572 U.S. 273, 277–78 (2014).

⁶⁸ *Id.* at 281–82.

⁶⁹ *Id.* at 283.

⁷⁰ *Id.* at 286–88.

⁷¹ RAVICH, *supra* note 4, at 294.

⁷² See Laurie Schoder, Note, *Flying the Unfriendly Skies: The Effect of Airline Deregulation on Labor Relations*, 22 *TRANSP. L.J.* 105, 110–11, 132 (1994).

⁷³ RAVICH, *supra* note 4, at 294.

⁷⁴ *Id.* at 375–79.

⁷⁵ *Id.* at 418–44 (citing *Al-Watan v. Am. Airlines, Inc.*, 658 F. Supp. 2d 816 (E.D. Mich. 2009); then citing *Deterra v. Am. W. Airlines, Inc.*, 226 F. Supp. 2d 298 (D. Mass. 2002)).

⁷⁶ *Id.* at 448–71.

⁷⁷ See, e.g., Paul Stephen Dempsey & Svante O. Johansson, *Montreal v. Brussels: The Conflict of Laws on the Issue of Delay in International Air Carriage*, 35 *AIR & SPACE L.* 207, 208–09, 218–20 (2010). For a copy of the Montreal Convention of 1999, see RAVICH, *supra* note 4, app. 4 at 951–74.

crew, and passenger-on-passenger assaults.⁷⁸ It would be useful to introduce the students to the important work ICAO has performed in convening diplomatic conferences that resulted in the following Conventions:

(1) Tokyo Convention of 1963 on Offences and Certain Other Acts Committed on Board Aircraft;⁷⁹

(2) The Hague Convention of 1970 for the Unlawful Seizure of Aircraft;⁸⁰

(3) The Montreal Convention of 1971 for the Suppression of Unlawful Acts Against the Safety of Aviation;⁸¹

(4) The Montreal Protocol of 1988 for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;⁸²

(5) The MEX Convention of 1991 on the Marking of Explosives;⁸³

(6) The Beijing Convention of 2010 on the Suppression of Unlawful Acts Related to International Civil Aviation;⁸⁴

(7) The Beijing Protocol of 2010 Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft;⁸⁵ and

⁷⁸ RAVICH, *supra* note 4, at 475–559.

⁷⁹ Convention on Offences and Certain Other Acts Committed on Board Aircraft, Sept. 14, 1963, 20 U.S.T. 2941, 704 U.N.T.S. 219. There are now 187 parties to the Tokyo Convention: San Marino acceded in December of 2014 (its accession becoming effective on March 16, 2015). Int'l Civ. Aviation Org. [ICAO], *Convention on Offences and Certain Other Acts Committed on Board Aircraft Signed at Tokyo on 14 September 1963*, https://www.icao.int/secretariat/legal/List%20of%20Parties/Tokyo_EN.pdf#search=Tokyo%20en%2E [<https://perma.cc/B8DL-ZKD3>].

⁸⁰ Convention for the Suppression of Unlawful Seizure of Aircraft, Dec. 16, 1970, 22 U.S.T. 1641, 860 U.N.T.S. 105.

⁸¹ Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Sept. 23, 1971, 24 U.S.T. 565, 974 U.N.T.S. 177.

⁸² Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Feb. 24, 1988, 1589 U.N.T.S. 474.

⁸³ Convention on the Marking of Plastic Explosives for the Purpose of Detection, Mar. 1, 1991, 2122 U.N.T.S. 359.

⁸⁴ Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, ICAO Doc. 9960 (Sept. 10, 2010).

⁸⁵ Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, ICAO Doc. 9959 (Sept. 10, 2010).

(8) The Montreal Protocol of 2014 to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft.⁸⁶

Chapter 10 addresses labor and employment. As noted, with the financial distress unleashed by deregulation, airlines have asked employees to accept lower wages and benefits, furloughs and layoffs, and reduced seniority as deregulation has resulted in financial distress for airlines, sometimes resulting in mergers and liquidations.⁸⁷ Labor relations at U.S. airlines are subject to the archaic Railway Labor Act, which governs how labor unions are formed, how they negotiate and achieve collective bargaining agreements and resolve disputes, and the conditions under which they are allowed to strike.⁸⁸

Airports are addressed in Chapter 11. The chapter begins with a case addressing the exercise of First Amendment free speech rights on airport property.⁸⁹ It proceeds to cases and commentary addressing environmental noise and emission issues.⁹⁰ Here again, beyond safety and navigation, ICAO also has taken the lead on environmental and security issues⁹¹—jurisdictional areas not originally contemplated when the Chicago Convention was drafted in 1944. Moreover, the Kyoto Protocol of 1997 further affirmed ICAO's jurisdiction over aircraft emissions.⁹²

⁸⁶ Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, ICAO Doc. 10034 (Apr. 4, 2014).

⁸⁷ See Schoder, *supra* note 72, at 107, 123.

⁸⁸ See *id.* at 113–14.

⁸⁹ RAVICH, *supra* note 4, at 656–61 (citing *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992)).

⁹⁰ *Id.* at 668–96.

⁹¹ See Int'l Civ. Aviation Org. [ICAO], *Annex 16 to the Convention on International Civil Aviation: Environmental Protection* (8th ed. 2017), <https://www.icao.int/environmental-protection/Pages/environment-publications.aspx> [<https://perma.cc/QV62-WRGM>]; Int'l Civ. Aviation Org. [ICAO], *Annex 18 to the Convention on International Civil Aviation The Safe Transport of Dangerous Goods by Air* (4th ed. 2011), https://caa.rks-gov.net/wp-content/uploads/2016/09/icao_annex_18_thesafetransportofdangerousgoodsbyair-1.pdf [<https://perma.cc/F9KA-U4PJ>].

⁹² Article 2(2) of the Kyoto Protocol provides: “The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.” Kyoto Protocol to the United Nations Framework Convention on Climate Change art. 2, § 2, Dec. 11, 1997, 2303 U.N.T.S. 162.

Chapter 12 addresses accident litigation in domestic tort and products liability actions. As in Chapter 4, the author again addresses the Boeing 737 MAX catastrophes.⁹³ Though the crashes were international, the aircraft's design and manufacture were domestic.⁹⁴ Here, the focus is on the difficulties presented by autonomous technologies. The cases discuss liability theories (negligence versus strict liability for abnormally dangerous activities), probable cause, accident investigations by the National Transportation Safety Board, and criminal investigations, jurisdiction, choice of laws, damages, sovereign immunity, and relevant legislation, such as the Death on the High Seas Act, the Federal Tort Claims Act, and the General Aviation Revitalization Act.⁹⁵ All in all, it is a comprehensive assessment of the landscape of aviation tort law.

Chapter 13 addresses international accident litigation and the Warsaw and Montreal Conventions. It begins with a commentary describing how ICAO attempted to modernize the Warsaw Convention of 1929, which imposed a monetary ceiling on carrier liability for accidents.⁹⁶ Under ICAO auspices, states attempted to amend the Warsaw Convention with the Hague Protocol of 1955, the Guatemala City Protocol of 1971, and the Montreal Protocols 1–4 of 1975.⁹⁷ Ultimately, ICAO succeeded in helping draft a new treaty to replace the Warsaw Convention and its many protocols—the Montreal Convention of 1999.⁹⁸ The casebook includes the U.S. Supreme Court decisions that have defined the provisions of those conventions, including issues of exclusivity of the remedies offered by the treaty, what constitutes an “accident” under Article 17 (which triggers carrier liability), and whether recovery is allowed for mental injuries unaccompanied by physical injury.⁹⁹ The chapter also includes several U.S. court of appeals and district court opinions that add flavor to the discussion.¹⁰⁰ Though the Chapter covers U.S. jurisprudence comprehensively, a second edition might consider including important United Kingdom (U.K.), Canadian, and Australian cases, such as *Sidhu v. British*

⁹³ RAVICH, *supra* note 4, at 699–700.

⁹⁴ MAX REP., *supra* note 34, at 58.

⁹⁵ RAVICH, *supra* note 4, at 701–77.

⁹⁶ *Id.* at 780–81.

⁹⁷ *Id.* at 781–83.

⁹⁸ *Id.* at 783.

⁹⁹ *Id.* at 784–826.

¹⁰⁰ *Id.* at 853–65.

Airways,¹⁰¹ *Thibodeau v. Air Canada*,¹⁰² and *Povey v. Qantas Airways*,¹⁰³ respectively.

The thirteen chapters are followed by appendices to which the student can refer. If there is one constructive suggestion this reviewer would make for the benefit of a future edition of the casebook, it would be to edit and trim some of the lengthier judicial opinions, and in particular, those identified in the footnote below.¹⁰⁴

The book is a good read and provides a comprehensive overview of the major legal and policy issues faced by aviation. It introduces students to legal and regulatory issues impacting safety, security, the environment, tort liability, and aircraft finance, as well as legal issues impacting passengers and employees. It will be very useful for students, teachers, policy makers, teachers, students, and others involved in—or seeking to understand—the field. The book is thoughtfully organized and full of cases, questions, and insightful commentary to help steer the student toward a better understanding of the field of aviation law.

¹⁰¹ *Abnett v. British Airways Plc* (consolidated with *Sidhu & Others v. British Airways Plc*), [1997] AC 430 (HL) 193 (appeal taken from Scot.). Another important U.K. decision to be considered for the next edition of this excellent casebook would be *Morris v. KLM Royal Dutch Airlines*, [2002] QB 100 (Eng.).

¹⁰² *Thibodeau v. Air Canada*, [2014] 3 S.C.R. 340 (Can.).

¹⁰³ *Povey v. Qantas Airways*, [2005] HCA 33 (Austl.).

¹⁰⁴ Ravich's casebook discusses the following cases, which could be trimmed: *Houston v. Fed. Aviation Admin.*, 679 F.2d 1184 (5th Cir. 1982); *Vreeland v. Ferrer*, 71 So. 3d 70 (Fla. 2011); *Baker v. Fed. Aviation Admin.*, 917 F.2d 318 (7th Cir. 1990); *Sikkelee v. Precision Airmotive Corp.*, 822 F.3d 680 (3d Cir. 2016); *Hodges v. Delta Airlines, Inc.*, 44 F.3d 334 (5th Cir. 1995); *Al-Watan v. Am. Airlines, Inc.*, 658 F. Supp. 2d 816 (E.D. Mich. 2009); *Air Line Pilots Ass'n, Int'l v. E. Air Lines*, 701 F. Supp. 865 (D.D.C. 1988); *Doe v. Etihad Airways*, 870 F.3d 406 (6th Cir. 2017).