## Table of Contents

### Articles

- **State Sovereignty and Aeronautical Public Correspondence by Satellite**
  - Tare C. Brisibe  649

- **Property in Outer Space: The Common Heritage of Mankind Principle vs. the “First in Time, First in Right” Rule of Property Law**
  - Carol R. Buxton  689

- **Hot Air: Undue Judicial Deference to Federal Aviation Administration Expertise in Assessing the Environmental Impacts of Aviation**
  - Wendy B. Davis  709

- **“Lucy in the Sky with Diamonds”: Airline Liability for Checked-In Jewelry**
  - Eloisa C. Rodriguez-Dod  743

- **Airline — Airport Facilities Agreements: An Overview**
  - John Sabel  769

### Comments

- **The Battle for the Armrest Reaches New Heights: The Air Carriers Access Act and the Issues Surrounding the Airlines’ Policy of Requiring Obese Passengers to Purchase Additional Tickets**
  - Brian Bolton  803

- **To Trap the White Tiger and Unicorn, the Government Needs Better Traps: An Examination of the Viability of Predatory Pricing Claims in the Airline Industry**
  - Dennis J. Keithly  837
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 $40.00 per year, domestic, and $47.00 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, TX, and at additional mailing offices. Prior issues (vols. 1-65) available from William S. Hein & Co., 1285 Main St., Buffalo, New York 14209. Volumes 65-68 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*, School of Law, Southern Methodist University, P.O. Box 750116, Dallas, Texas 75275. Printed by Joe Christensen, Inc., P.O. Box 81269, Lincoln, NE 68501.

Citations conform with *The Bluebook: A Uniform System of Citation* (17th ed. 2000) and *Texas Rules of Form* (9th ed. 1997). Please note that due to the justification of the articles, citations to internet sources may contain an additional space between double backslashes.

Please address all manuscripts to the Editor in Chief, *Journal of Air Law and Commerce*, Southern Methodist University School of Law, P.O. Box 750116, Dallas, Texas 75275. Submitted manuscripts should be triple-spaced on letter-size paper. Footnotes rather than endnotes should be used and should also be triple-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 nonreceipt or defective copies. Subscriptions are renewed automatically upon expiration unless the subscriber sends timely notice of termination. 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 2004 by the Southern Methodist University Dedman School of Law.
Gary W. Allen  
Director, Torts Branch  
Aviation/Admiralty Litigation  
Department of Justice  
Washington, DC

William C. Boston  
William C. Boston & Associates  
Oklahoma City, OK

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

Elizabeth Freidenberg  
Freidenberg, Freidenberg & Lifsic  
Buenos Aires, Argentina

Eileen M. Gleimer  
Crowell & Moring  
Washington, DC

Eugene Jericho  
Attorney at Law  
Dallas, TX

H. Norman Kinzy  
Settle & Pou, P.C.  
Dallas, TX

Robert N. Kohn  
Vice President, Law & Business Ethics  
Bell Helicopter Textron Inc.  
Fort Worth, TX

Paul B. Larsen  
Georgetown University  
Law Center  
Washington, DC

Robert Lawson  
2 Essex Court Limited  
London, England

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

Richard A. Malahowski  
Associate General Counsel  
American Airlines  
Fort Worth, TX

Allan I. Mendelsohn  
Washington, DC

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

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

Marc S. Moller  
Kreindler & Kreindler  
New York, NY

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

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

John F. Pritchard  
Haight, Gardner, Holland & Knight  
New York, NY

Tony Pyne  
Consultant in Aviation Law  
Minter Ellison  
Melbourne, Australia

Charles H. Smith  
Smith & Moore  
Dallas, TX

Charles A. Tarpley  
Attorney at Law  
Dallas, TX

William E. Thoms  
Professor Emeritus of Law  
University of North Dakota  
Grand Forks, ND

George N. Tompkins, Jr.  
Schnader Harrison Segal & Lewis L.L.P.  
New York, NY

Windle Turley  
Law Offices of Windle Turley, P.C.  
Dallas, TX

William R. Wyatt  
Sheppard, Mullin, Richter & Hampton, LLP  
San Francisco, CA