

AVIATION LAW 151 – ADJUNCT PROFESSOR GREGORY S. WALDEN

Law 151 is a survey of domestic and international aviation law. Students receive an introduction into all major aspects of aviation law, with emphasis placed on government regulation of airlines, airports, and airline personnel. Students gain a basic understanding of the structure and forms of Federal and international aviation law and regulation, and will examine current aviation industry controversies such as –

What options are available to address the problems of airport congestion and delay?

Should international aviation be further deregulated beyond the provisions of the 2008 US-EU air transport agreement?

Should the antitrust laws prevent further consolidation in the airline industry?

How does and should the U.S. government fund the air traffic control system?

Is the FAA's regulatory and enforcement system in need of improvement?

What is aviation's impact on the environment and how should aviation be treated under climate change initiatives?

What should be the U.S. government response to the widely perceived reduction in the quality of commercial air service? Do States have any role?

What areas of State regulation and litigation based on State-law claims fall outside the broad scope of Federal preemption?

How far a local government may go to mitigate environmental impacts of aircraft noise or to address other local interests?

Should criminal charges flow from airline accidents caused by negligence of airline personnel or government regulators?

The course will expose students to administrative law, constitutional law, international law, Federal jurisdiction, antitrust law, and environmental law.

The casebook is *Aviation Law -- Cases and Materials* (Carolina Academic Press 2006), co-authored by Mr. Walden. Other materials will be available over the West Education Network. Grades will be based on a written exam at the end of the term. Class participation may earn a student a half-grade improvement.

Mr. Walden is of counsel with Patton Boggs LLP. He served as Chief Counsel of the Federal Aviation Administration, 1988-90, and from 1983-1993 held senior positions in the U.S. Justice Department, the White House, and Interstate Commerce Commission.

AVIATION LAW 151 – FALL 2009 SYLLABUS

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Sources of Aviation Law (Chapter One)

- Overview of United States government structure (FAA, DOT, NTSB, TSA)
- DOT statutory authorities; certification of air carriers
- International regulation (Chicago Convention; the Freedoms; bilaterals; ICAO; what “Open Skies” is and what it is not; cabotage, foreign ownership, right of establishment)

Aircraft (Chapter Two)

- Scope of FAA’s authority over aviation safety; Federal Aviation Act preemption
- FAA aircraft registration, certification, and regulation

Airmen (Chapters Two and Three)

- Federal Aviation Act preemption
- FAA regulation & enforcement
- NTSB appellate jurisdiction & appellate review in U.S. court of appeals
- Labor law (Railway Labor Act)
- Civil rights laws applicable to airline personnel

Passengers (Chapter Four) & Airlines (Chapters Four and Six)

- Antitrust laws; DOJ and DOT authority of mergers and acquisitions
- Anticompetitive conduct and consumer protection
- Airline Deregulation Act preemption
- Civil rights laws applicable to airline passengers (Air Carrier Access Act)
- Domestic accident investigation and litigation
- International accident litigation (Warsaw and Montreal Conventions)

Cargo (Chapter Five)

- Domestic and international disputes
- Hazardous materials regulation and enforcement

Airports (Chapter Six)

- Relationship between Federal and local governments; the proprietor’s exception
- Airport expansion; funding of construction & improvements; noise abatement authority
- FAA safety regulation of airports and regulation of hazards to air navigation
- Statutory and contractual grant assurances (exclusive rights, nondiscrimination, etc.)
- Federal environmental review (NEPA) and judicial review of final orders
- Airport rates and charges (private rights of action; dormant Commerce Clause; Anti-Head Tax Act; DOT policy; Passenger Facility Charges) and judicial review of final orders
- FAA and DOT administrative processes to challenge airport rates and access restrictions
- TSA regulation of air carriers and airports (and international conventions against terrorism)