Introduction

Whether you are an aviation buff, a legal expert, a little of both, or neither, we, the authors, sincerely hope that you enjoy reading this aviation legal handbook and, when appropriate, use it as an educational or vocational resource. This writing covers a broad spectrum of fascinating, real-life, aviation liability cases, including relevant legal principles, from the perspectives of the authors, one who is a seasoned aviation lawyer, practitioner, and named partner at his own New York-based law firm, and the other who is a litigation manager and claims director (also a lawyer) recently employed by a leading U.S. aviation underwriter.

These cases involve almost everything concerning the aviation arena, including (but not limited to) hot coffee spills onboard the aircraft; “slip/trip and falls” on airport premises or in/near the plane itself, aircraft turbulence, and major commercial airline crashes. This handbook addresses the legal outcomes and rationales of these cases, in the context of both international and domestic flights. We believe that you, as the astute reader, will conclude that the case outcome is sometimes a function of happenstance, including the place(s) of a flight’s departure and destination, as well as the court in which the claim is brought. Yet, in our experience, there is typically sound reasoning for the courts’ conclusions, especially in the interest of promoting efficiency, predictability, and practicality in the area of aviation law.

Initially, this handbook examines the two prominent, international treaties that govern compensation for passenger injury, delay, lost or damaged luggage or cargo, etc., specifically, the Warsaw and Montreal Conventions (collectively, “Conventions”) in the context of international travel. Indeed, these Conventions have been agreed to by most of the world’s nations, including the United States of America, thus binding their resident airlines (and airline passengers) to the terms and conditions of the Conventions. In sum, the Conventions and related
case law provide the standards, principles, and overall legal framework for compensation to passengers who sustain injuries in the course of international travel.

Thus, the handbook focuses upon the operative “bodily injury” standard set out in “Article” 17 of the Conventions, particularly the fundamental requirements of an “accident” and related physical injury. It also contains an in-depth review of the concepts of “embarkation” and “disembarkation,” which are often implicated by the Conventions.

The handbook next details the scheme of passenger recovery for personal injuries sustained during purely domestic (U.S.) travel, and/or aviation cases commenced within the United States, including U.S. litigation procedure, the Federal Aviation Act of 1958, the Airline Deregulation Act of 1978, federal preemption, the respective responsibilities of the FAA and NTSB, product liability and related legislation (e.g., GARA), and the presence in the aircraft of emotional support animals.

Whether discussing international or domestic air travel, this handbook is replete with interesting and provocative accident accounts and liability outcomes, many of which are the subject of significant court cases. This includes (but again, is not limited to) acts of terrorism, “deep vein thrombosis,” baggage and cargo loss, cancellation and delay, refusal to transport, passengers of “size,” wheelchair events, communicable diseases, and more.

Again, it is the authors’ sincere hope that this legal handbook will serve as a material source of enjoyment, reference, and education in the unique area of aviation law.