

## **Whistleblower Actions Filed Against Southwest**

Federal law – commonly referred to as “AIR 21” – prohibits an air carrier from taking adverse action against an employee in retaliation for his/her report, to either the carrier or a federal agency, of an alleged violation of federal laws relating to aviation safety. Because Federal Aviation Regulations (FARs) requires that maintenance be performed in accordance with the manufacturer’s maintenance manual, an AMT’s communication to an air carrier or the FAA regarding non-compliance with applicable manuals would constitute protected activity under AIR 21.

In recent weeks, AMTs have initiated three separate AIR 21 cases against Southwest. We provided below brief summaries of the relevant allegations.

### **Inspector Case**

In mid-February, Southwest removed Inspectors from the performance of the post doc walk around for work card 712-00-20, thereby stripping Inspectors of as much as half of their inspection work at HRON locations.

In rationalizing this action, Southwest Director Quality Control/Chief Inspector Steve Miller explained to a Southwest Inspector in an email dated February 15, 2017:

[T]he card has been abused as a last-minute excuse to inspect areas of the aircraft that were not touched during the visit. I don’t disagree with you that we (QC) has [sic] found valid findings during post dock, however we should be finding damage or other write ups during the visit using the program task cards.

Inspectors filing the AIR 21 considered the Miller email to be a smoking gun reflecting Southwest’s intent to retaliate against Inspectors who reported what Miller admitted to be “valid findings.”

The Inspectors are seeking, *inter alia*, the restoration of their work and compensatory damages.

### **Hackett Case**

On February 15, 2017, Southwest filed a lawsuit alleging that hundreds of AMTs had engaged in an overtime boycott. Nonetheless, Southwest terminated only one individual – Ken Hackett. As alleged in the complaint filed with the United States Department of Labor, Ken had previously been threatened with termination by a Southwest supervisor for his insistence on performing maintenance in accordance with the applicable maintenance manual.

AIR 21 precedent holds that, even where evidence of employee misconduct may exist, it is a violation of federal law to single out an employee for discipline based on his protected activity.

## Las Vegas Case

LAS-based AMTs began to discover that, on an increasing number of aircraft, the protective plastic tip of the cargo door's metallic alignment pin had broken off, which led to a pattern of scratches and gouges to the cargo door.

The LAS AMTs were subject to a visit by senior management representatives who referenced the termination of Ken Hackett, and then ominously advised that Southwest was keeping "a list" of AMTs who reported damage to the cargo doors. As alleged in the complaint, one AMT, stunned by the threat of retaliatory action, asked his supervisor what he was expected to do when he found scratches and gouges on the cargo door. The supervisor reportedly responded:

I can't answer that. I guess if you're worried about being written up by the Feds, then you write it up. If you're worried about your job, then I don't know.

FAA investigators, who interviewed witnesses to the reported threats, emphatically stated that the AMTs had a legal obligation to write up reportable scratches and gouges.

The Hobson's Choice presented by the supervisor – your license or your job – is prohibited by AIR 21. Performing maintenance work in accordance with the applicable manuals is both a legal obligation and a legal right.