



Liability Rules to International Air Transportation as Developed by the Courts in the United States: From Warsaw 1929 to Montreal 1999 (Aviation Law and Policy Series)

George , jr. Tompkins

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The impact of United States jurisprudence on air carrier liability involving international air transportation has been so great over many decades that it is not unreasonable to conceive of that body of jurisprudence as the principal source for the interpretation and application of the uniform rules relating to air carrier liability in the international transportation by air of passengers, baggage and cargo, as envisioned by the original drafters of the Warsaw Convention of 1929. Hence, an in-depth analysis of this body of jurisprudence, such as is presented in this indispensable book, constitutes, for all practical purposes, the preeminent treatise on international air transportation liability - all the more so, in that the drafters of the 1999 Montreal Convention (MC99) were determined not to erode in any way this established body of Warsaw Convention jurisprudence when interpreting and applying the 1999 successor instrument, MC99. George Tompkins, a leading authority with world wide recognition on the interpretation and application of international private air law agreements, - and himself among the drafters of MC99 - here lays out the rich fruit of his vast personal experience in handling cases and controversies in the Courts of the United States involving the application of the liability rules of the Warsaw Convention and now MC99. The resulting publication is an essential legal guide for determining and resolving claims governed by one or more of the international law instruments that comprise the Warsaw Liability System, which consists of the 1929 Warsaw Convention, the 1955 Hague Protocol, the 1961 Guadalajara Convention, the 1975 Montreal Protocol No. 4 and various intercarrier agreements (applicable only to claims involving passenger death or bodily injury governed by the Warsaw Convention) all now superseded and governed by MC99. Among the multitude of topics covered in depth, users of this book will find the following: When the liability rules of MC99 or one of the predecessor Warsaw Liability System instruments is applicable to a claim; What triggers liability under the applicable instrument; Who can make a claim against the air carrier; Who can file a legal action for damages; Where the action must be brought--Jurisdiction; When the action must be brought-Limitations period; What law applies in determining the recoverable damages; Limitations on recoverable damages; The accepted definitions of key terms in the Convention Rules, such as carrierA", accidentA", bodily injuryA", operations of embarking disembarkingA", destinationA"; The treatment of mental injury claims; Liability for delay; Defenses available to the carrier; Willful misconduct of the carrier. The author explains the required particulars for establishing the liability of the air carrier in detail under a wide variety of circumstances, and clearly defines all terms - especially such contentious terms as 'willful misconduct,' 'accident', 'bodily injury', 'embarking', 'disembarking' 'destination' - as their applicability varies under successive conventions and protocols as interpreted and applied in years of court decisions. As a thorough summary and critique of the interpretation and application of the 70-year body of Warsaw Convention jurisprudence, this unmatched publication provides a convenient one-volume basis for the development of a body of MC99 jurisprudence. It also is an incomparable practical guide for the use and benefit of everyone involved in the practice or study of international private air law, including lawyers, airline in-house counsel, international aviation organizations, aviation liability insurers and re-insurers, aviation insurance brokers, aviation-related departments of national governments, judges, law clerks, students and teachers.

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