

AIR21 Whistleblower Wins Claim Against Southwest Airlines

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The Department of Labor (DOL) recently [ruled](#) on a retaliation complaint in the airline industry that resulted in stronger protections for whistleblowers in the aviation industry.

The matter involves Jeffrey Bondurant, who worked as a Cargo Customer Service Manager at Southwest Airlines. On three occasions between 2010 and 2012, Bondurant noticed that Southwest Airlines had transported hazardous materials in violation of federal safety standards. Each time, Bondurant allegedly alerted his management to these violations. He was later terminated for unrelated disciplinary issues.

Bondurant brought a whistleblower claim under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), arguing that his termination was in retaliation for his reporting violations of aviation laws and regulations. A DOL administrative law judge (ALJ) dismissed the claim, stating that Bondurant had failed to establish that he had engaged in protected activity under AIR 21. On Feb. 29, the Administrative Review Board (ARB) vacated the ALJ's decision and remanded the matter for further consideration. The ARB's decision represents a favorable development for whistleblowers under AIR

In this post, we will detail the timeline of the claim brought by Bondurant and provide some important insights into the ARB's decision.

Leading Up to the Termination

Bondurant worked for Southwest for 23 years, the last six of which he spent as a Cargo Customer Service Manager. As previously mentioned, between August 2010 and 2012, Bondurant reported three separate instances in which Southwest transported hazardous materials in violation of aviation laws and regulations. First, in August 2010, Southwest transported a cylinder containing pressurized flammable gas. Second, Southwest transported an improperly packaged shipment of human urine, which leaked in transit. Lastly, in February 2012, Southwest carried improperly labeled lithium

Meanwhile, in 2010, Bondurant was disciplined for his behavior at a company golf outing. In 2011, he was again disciplined for his behavior at the same event. After the second event, Bondurant received a "Last Chance Agreement" and agreed to seek alcohol counseling. In early 2012, Southwest conducted an investigation into Bondurant's work habits and terminated his employment, citing violations of the Last Chance Agreement.

Filing the AIR21 Whistleblower

In 2013, Bondurant filed a whistleblower claim under AIR 21, claiming that he was terminated in retaliation for reporting violations to management. To prevail under AIR 21, a whistleblower must establish three elements:

1. He engaged in activity protected under AIR 21

2. that an unfavorable personnel action was taken against him, and
3. that the protected activity was a contributing factor in the unfavorable personnel action taken against him.

Bondurant alleged that he reported three incidents to management, and that in doing so, he engaged in protected activity.

The airline filed a Motion for Summary Decision, requesting that the ALJ dismiss Bondurant's claim. The ALJ found that, though Bondurant had reported incidents to management, Bondurant did not follow-up with his concerns to make sure the concerns were reported to the FAA. For this reason, the ALJ dismissed Bondurant's claim, concluding that Bondurant had not engaged in protected activity.

The ARB's Decision

The ARB held that the ALJ had incorrectly dismissed Bondurant's claim. The ARB found that the fact that Bondurant had reported the unsafely transported lithium batteries was "sufficient to raise a genuine issue of material fact with respect to protected activity." Bondurant was not required to raise concerns about whether or not Southwest reported the safety issues to the FAA in order to establish that he'd engaged in protected activity. Accordingly, the ARB determined that Summary Decision had been improperly granted, and Bondurant's case was remanded for further consideration.

AIR 21's protections further the goal of making air-travel safer by incentivizing aviation industry employees to report air-safety issues. The ARB's ruling further solidifies the important protections granted to whistleblowers under AIR 21 and furthers AIR 21's purpose of making air travel safer for all of us.