Alaska Airlines Wins Preemption Victory in the Ninth Circuit

Skadden

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If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed below or call your regular Skadden contact.

On September 23, 2026, the U.S. Court of Appeals for the Ninth Circuit issued its decision in *Codoni v. Port of Seattle*, No. 25-2830, addressing the scope of federal preemption under Section 233 of the Clean Air Act.

The plaintiffs, residents near Seattle-Tacoma International Airport, brought state common law claims against Alaska Airlines and others concerning alleged environmental impacts associated with aircraft emissions. The plaintiffs sought remediation-related damages under Washington law. Alaska Airlines moved to dismiss, arguing that the claims were preempted by federal law. After the district court denied the motion but permitted an interlocutory appeal, the Ninth Circuit reversed.

The court's opinion, which tracks Skadden's briefing and partner Shay Dvoretzky's oral argument before the court, held that Section 233 preempts the plaintiffs' state-law claims because they sought to impose liability based on aircraft emissions without alleging a violation of applicable federal emissions standards. The court concluded that characterizing the requested relief as remediation damages did not place the claims outside Section 233's preemptive scope. Because it resolved the appeal under Section 233, the court did not reach alternative preemption arguments under the Airline Deregulation Act or principles of implied preemption.

The decision provides additional guidance concerning the relationship between federal aircraft emissions regulation and state common law claims. It may be relevant to airlines, airports, and other aviation stakeholders evaluating claims involving aircraft emissions and the respective roles of federal and state law.

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