



“As Is” Clause Held to Preclude Claim Arising From Seller’s Oral Representations That Damaged Parts on an Aircraft Were Repairable

MAY 30, 2018 | PUBLICATIONS

The significance of “as is” language in an aircraft sales agreement is demonstrated again in a recent decision of the Federal District Court for the Northern District of Texas. In *Red River Aircraft Leasing, LLC v. JetBrokers, Inc.*, the aircraft buyer had learned of hail damage to an aircraft during the course of negotiations, but was assured by the seller that the damaged parts were repairable. Of course, after taking possession of the aircraft, the buyer learned that the parts in question were not repairable, and proceeded to sue the seller on a theory of negligent misrepresentation. The Federal Court, however, ruled that because the buyer had accepted the aircraft “as is” and “with all faults” in its purchase agreement, it would be unable to establish that it relied on the seller’s statement in buying the aircraft. The court therefore entered a summary judgment for the seller, leaving the buyer without a remedy.

PROSPECTIVE BUYER’S REQUEST TO SEARCH FOR SUITABLE AIRCRAFT IS INSUFFICIENT TO ESTABLISH ITS RETAINER OF AN AIRCRAFT SALES REPRESENTATIVE AS BUYER’S BROKER

The value of written documents to establish legal relationships is reinforced in a decision of the Federal District Court for the Northern District of Alabama. In *Bowman v. Hodge Management Group, LLC*, a prospective buyer had purchased an aircraft through a broker who was representing the aircraft seller. Following this transaction, the buyer maintained contact with the broker and requested him to forward information regarding aircraft available for sale that met the buyer’s stated criteria. After the broker forwarded one such listing, the buyer’s representative proceeded to contact the seller directly and negotiate a purchase of the aircraft. When the broker claimed a sales commission, the court noted that there was no express agreement to pay such a commission, and that while such an agreement might have been implied, there was evidence that the broker had at one point told the buyer that he planned to be compensated by “flipping” the aircraft – that is, by buying it at wholesale, then selling at retail. On these facts, the court found that the broker lacked undisputed evidence of an agreement to pay him a sales commission and declined to award a summary judgment on the broker’s claim, leaving it for a jury to determine whether the broker had a reasonable expectation of being paid a commission by the aircraft purchaser.

This blog post was drafted by [Gardiner Davis](#), an attorney in the Spencer Fane LLP Kansas City, MO office. For more information, visit spencerfane.com.

AUTHORS

- [Gardiner B. Davis](#)

RELATED PRACTICES

- [Commercial Sales Litigation](#)

BLOG TOPICS

- [Aircraft Sales Solutions](#)