

## Aviation

### Straight Talk Soars in Aviation and Aerospace

Andrews Kurth has been an influential presence in the legal airspace for decades.

As counselors to Howard Hughes, Jr., our lawyers fended off a 1947 Congressional investigation of the Hercules airplane (commonly known as the "Spruce Goose") and guided the 1966 public offering of Hughes's ownership in Trans World Airlines. Today, Andrews Kurth provides a full range of legal advice to the aviation and aerospace industries in areas such as:

- Aviation Finance Structuring
- Corporate Finance, Transactions, Governance and Regulatory Compliance
- Aviation Litigation
- Bankruptcy Counsel
- Airport Bond Financing

Competition, capital demands and change, including economic downturns and international terrorism, are among pressures and risks our clients face. Our experience includes managing these challenges with practical solutions for a range of clients including:

- Airlines, aviation and aerospace companies
- Aircraft manufacturers and component manufacturers
- Aviation industry lenders and investors
- Airport authorities
- Facility operators

Andrews Kurth's extensive industry background ranges from negotiating technology agreements and strategic transactions to complex international and public financings to defending manufacturers in product liability and toxic tort litigation.

### Aviation Finance Structuring

We represent air carriers, lenders and investors in numerous complex financial transactions, including leveraged leases, debt offerings, restructurings, financings and securitizations. The range of our transactional work reflects the airline industry's competitive evolution since deregulation and includes:

- **Leveraged Lease Transactions**—We have represented institutional debt participants and owners in numerous leveraged lease transactions for passenger and cargo jets. Carriers we counsel have included Aloha, Delta, Eastern, Empire, Federal Express, KLM, Southwest and Western. Practice highlights include:
  - In the KLM deal, we participated in the first and several follow-on dual currency leases for the Dutch airline, denominated in guilder debt and dollar equity.
  - Our work with Eastern involved helping bank and institutional lenders restructure the airline's fleet mortgage.
  - In a Southwest Airlines transaction, we represented Texas Commerce Bank, now JPMorgan Chase Bank, as the debt participant in a \$150 million aircraft leveraged lease deal.
  - For America West, we assisted the airlines in a \$100 million revolving bank credit facility fully secured by aircraft, engines and parts as collateral. We also counseled the airline on a securitization transaction backed by aircraft lease pass-through certificates and another securitization transaction valued at more than \$218.5 million.
- **International Aircraft and Airport Finance**—Participated in such deals as aircraft finances and leasing for an Indian airline, airport privatization bid for an Indian communications company, and financing for a U.S. defense company's air traffic control systems for Indian airports.

## Aviation

- **Cross-Border Securitizations**—Represented the rating agency in the first cross-border securitizations of airline ticket receivables from three airlines in Mexico and Chile.
- **Publicly Issued Debt**—Represented ExpressJet (NYSE: XJT) in offerings of convertible debt as well as in a restructuring of debt that added collateral of spare parts and aircraft engines.

### Corporate Finance, Transactions, Governance and Regulatory Counsel

Andrews Kurth's strategic and comprehensive corporate counsel to airline carriers and industry participants includes a full range of regulatory issues. It focuses on issues such as:

- Securities disclosure
- Corporate governance
- NYSE-regulatory compliance
- Transactions
- Rule 144a offerings
- Employment policies
- Document retention

Representative matters and counsel include:

- **Public Company Representation**—Represent ExpressJet in all aspects of Securities Exchange Commission and NYSE compliance.
- **Environmental Regulatory Guidance**—Handle complex environmental issues involving airport fuel and maintenance operations, including propylene glycol discharges, and above and underground fuel storage tank contamination. We conduct due diligence and issues evaluation on these environmental liabilities. Our clients have included a foreign investor considering the purchase of a U.S. carrier, a U.S. carrier regarding its operations, and fixed-base operators and airports.
- **Executive Jet Timeshares**—Conduct negotiations for timeshares on executive jet aircraft timeshares for individual clients.
- **Antitrust**—Complete representation on antitrust compliance involving mergers, acquisitions and other business combinations.
- **FAA Regulations**—Counsel on Federal Aviation Administration (FAA) permits and regulations covering air charters and contract carriers.
- **Commercial Litigation**—Represent regional airline carrier in an arbitration against a major airline carrier over the interpretation of various aspects of the contracts governing the parties' relationship.
- **Transactional Counsel**—Counsel American Airlines, Inc. (NYSE: AMR) in technology-related transactions with numerous hardware and software companies.
- **Acquisition Counsel**—Represent ExpressJet in acquisition of interests in several airline services companies.
- **Technology Licensing and Agreements**—Represent American Airlines in transactions to acquire and support the hardware, software, technical services and online operations that form American's business infrastructure. These include Web hosting agreements, software license agreements and technology consulting agreements for the AA.com site and for American's worldwide operations.
- **Telecommunications Transactions**—Counselors to American Airlines in multimillion-dollar, multi-year telecommunications transactions with major international software vendor.
- **Technology Ventures**—Guide American Airlines in major technology initiatives with two technology companies involving a master agreement establishing a hardware and software alliance between the companies.
- **IP Counsel**—Representation of ExpressJet in intellectual property matters.

## Aviation

- **Travel Industry Vendor Programs**—Helped Hilton Hotels Corporation and Hilton International negotiate a reservations software development. We also counseled on an outsourcing agreement for their worldwide reservations system, and represent the Hilton Honors fulfillment program, its frequent flyers equivalent program.

### Aviation Litigation

Andrews Kurth has historically had well-known, long-standing litigation relationships with significant players in the aviation industry.

For over four decades, our lawyers have been trying and winning aviation accident cases on behalf of leading manufacturers of aircraft, component parts and affiliated products. In addition, we have handled significant commercial litigation (in district court and in arbitration) on behalf of top aviation industry companies. Aviation manufacturers have also looked to us to defend toxic tort cases arising from work performed on aircraft and aircraft components.

We are both familiar with and experienced in handling the legal, regulatory and investigative considerations that are unique to the aviation industry. In addition to our trial counsel, we bring a preventive perspective to our litigation services, often helping clients to identify practices and procedures to help mitigate future liability risks.

Beyond our successful trial record, our lawyers are responsible for several landmark appellate decisions in aviation law. Among them:

- ***Bearry v. Beech Aircraft Corp.***, 818 F.2d 370 (5th Cir. 1987)—In perhaps the most-cited Fifth Circuit case on general jurisdiction principles, our lawyers achieved the dismissal of all claims against our client, a general aviation manufacturer.
- ***Kerstetter v. Pacific Scientific***, 210 F.3d 431 (5th Cir. 2000)—In a very significant Fifth Circuit case on the government contractor defense, our lawyers won dismissal of all claims against our client, the manufacturer of a military trainer airplane.
- ***Miller v. Raytheon Aircraft Co.***, 229 S.W.3d 358 (Tex. App.—Houston [1st Dist.] 2007, no pet.)—In a case of first impression in Texas, our attorneys won dismissal of all claims asserted in this employment case against our client, a corporate aircraft fractional ownership company, based on federal preemption under the Airline Deregulation Act.

### Airline and Aviation Bankruptcy Protection

We represent clients on both sides of the table in national air carrier bankruptcy cases. As debtor's counsel to America West in its Chapter 11 bankruptcy, we advised on debtor-in-possession financing and on the subsequent reorganization plan.

Andrews Kurth's creditor work in airline bankruptcies is extensive and includes:

- **Continental**—Represented Air Canada as an investor in Continental Airlines on its emergence from Chapter 11 bankruptcy.
- **SwiftAire**—Counseled ABN in the Chapter 11 bankruptcy and Chapter 7 liquidation of SwiftAire, a California commuter carrier.
- **International Express One**—Advised the official committee of creditors, which includes funds affiliated with Apollo, TCW and Blackhawk, in the bankruptcy of International Express One, an air cargo company.
- **Kitty Hawk**—Represented Wells Fargo, as the agent of the senior secured bank lender to Kitty Hawk, a commercial air carrier, in the company's Chapter 11 bankruptcy.

### Airport Bond Financing

Andrews Kurth's experience in bond financing for airport improvements includes serving as disclosure counsel for the City of Houston:

- Issue of \$65 million in Airport System Subordinate Lien Revenue Refunding Bonds during 2001.

## Aviation

- Assisted in issuing \$675 million in Airport System Revenue bonds during 2002 for ongoing capital improvements at George Bush Intercontinental and Hobby airports.
- Prepared the offering documents for both bond issues, and crafted their disclosure language to address the difficult issues of 9/11's effect on the Airport System's operations and financial performance.