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Gibson Dunn Secures Ninth Circuit Victory Barring Class Action Challenging Delta Air Lines' Flight Emissions

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On September 23, 2026, the U.S. Court of Appeals for the Ninth Circuit reversed a Western District of Washington ruling and held that the Clean Air Act expressly preempts state-law claims seeking to impose liability for aircraft emissions at Seattle-Tacoma International Airport.

The putative class action, brought on behalf of approximately 300,000 nearby residents and property owners, asserted negligence, battery, trespass, public nuisance, and inverse-condemnation claims against Gibson Dunn client Delta Air Lines, Alaska Airlines, and the Port of Seattle based on alleged particulate emissions from arriving and departing aircraft.

Gibson Dunn drove the successful appellate strategy after the district court denied the defendants' motions to dismiss. The firm persuaded the district court to certify the ruling for interlocutory review under 28 U.S.C. § 1292(b), convinced the Ninth Circuit to hear the appeal, and argued that the claims were barred by federal aviation and emissions law. The United States also supported the defendants through an amicus brief and oral argument. The Ninth Circuit adopted Gibson Dunn's Clean Air Act preemption argument, concluding that the plaintiffs could not use Washington tort law to regulate aircraft emissions or seek recovery for emissions consistent with federal standards.

The ruling is a significant victory for Gibson Dunn's client and the aviation industry because it confirms that Section 233 of the Clean Air Act blocks state-law claims premised on in-flight aircraft emissions.

The Gibson Dunn team includes partners Amir Tayrani (who argued the appeal), Dan Nelson, Stacie Fletcher, Jessica Wagner, and Joe Edmonds and associates Lavi Ben Dor, Aaron Gyde, and David Tye.

Related Capabilities

Environmental

Mass Torts and Product Liability

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