



SEHAM, SEHAM, MELTZ & PETERSEN, LLP

ATTORNEYS AT LAW
199 MAIN STREET – SEVENTH FLOOR
WHITE PLAINS, NEW YORK 10601
TEL: (914) 997-1346
FAX: (914) 997-7125
Sender's E-mail: ssmpls@aol.com

PETITT v. DELTA AIR LINES - CASE SUMMARY

Our law firm took on the case of Petitt v. Delta Air Lines not just because of our deep sympathy for Karlene Petitt's determination to report non-compliance with federal aviation standards, but also due to our concern that Delta's response to her efforts degrade airline safety.

In a [decision](#) dated December 21, 2020, federal Administrative Law Judge Scott R. Morris found Delta Air Lines, Inc. guilty of having used a compulsory psychiatric examination as a "weapon" against Dr. Karlene Petitt after she raised safety issues related to the airline's flight operations.

Ms. Petitt has been a pilot for over forty years, has a doctorate in Aviation Safety from Embry-Riddle, and currently flies the Airbus A350. On January 28, 2016, she submitted a 43-page safety report Delta Senior Vice President of Flight Steven Dickson (currently serving as the Trump administration's FAA Administrator) and Vice President of Flying Operations Jim Graham (currently serving as the CEO of Delta subsidiary Endeavor Air). The report raised issues concerning: pilot fatigue, pilot training, pilot training records, and Delta's failure to properly maintain its FAA-mandated Safety Management Systems (SMS) program. While Judge Morris characterized Ms. Petitt's stated safety concerns as "prudent and reasonable," he found that Captain Graham viewed her "tenacity in seeking clarification about her stated safety concerns as somehow problematic." [Decision at 86].

Graham subsequently ordered Ms. Petitt to submit to psychiatric examination, a decision approved by Stephen Dickson. Prompted by its legal counsel Chris Puckett, Delta selected Dr. David B. Altman as the examiner, whom the judge characterized as "merely a tool used by Captain Graham to effectuate a management objective." [Decision at 97]. In a consent order dated August 24, 2020, Dr. Altman agreed to be placed on permanent inactive status as a part of a settlement of an action brought by the Illinois Department of Financial and Professional Regulation to revoke or suspend his license, or otherwise subject him to discipline. Altman received over \$73,000 for his psychiatric report and relied on Ms. Petitt's safety-related communications, provided to him by Delta, to diagnose her with "mania" and "grandiosity." [Decision at 54-55, 57]. Altman testified that his adverse diagnosis was also driven in part by Ms. Petitt's ability to raise children, assist her husband with his business, and attend night school, which he described as "well beyond what any woman I've ever met could do." [Decision at 56].

Altman's diagnosis was subsequently rejected by both the Mayo Clinic and a third "tie-breaker" psychiatrist; however, the process dragged out over 21 months during which "her very career

hanged in balance.” [Decision at 80]. Judge Morris awarded Ms. Petitt compensatory damages of \$500,000 – five times the highest previously recorded award under the whistleblower statute – in recognition of the “severe emotional toll this placed on [Ms. Petitt’s] wellbeing.” [Decision at 80].

As Judge Morris held: “it is improper for [Delta] to weaponize this process for the purposes of obtaining blind compliance by its pilots due to fear that [Delta] can ruin their career by such cavalier use of this tool of last resort.” [Decision at 98]. Judge Morris quoted findings of Dr. Steinkraus of the Mayo Clinic with respect to the diagnosis of Ms. Petitt:

“This has been a puzzle for our group – the evidence does not support presence of a psychiatric diagnosis but does support an organizational/corporate effort to remove this pilot from the rolls. ... years ago in the military, it was not unusual for female pilots and air crew to be the target for such an effort.”

[Decision at 100]. The judge concluded: “The evidence of record substantiates Dr. Steinkraus’ take on the situation.” [*Id.*].

Delta’s treatment of Ms. Petitt became an issue in the context of FAA Administrator Stephen Dickson’s appointment process due to his failure to disclose to the Senate Commerce Committee his approval of Graham’s psychiatric directive or the fact that he had been subject to a deposition of several hours. The judge made the following observations concerning Captain Dickson’s conduct:

“The Tribunal finds less than credible Captain Dickson’s deposition testimony as it found many of his responses evasive ... His testimony was of value in understanding the leadership culture at [Delta] and its understanding (or lack thereof) of [Delta’s] management’s role in its safety management program. His emails make it clear that Respondent’s much touted ‘open door policy’ was not as opened as portrayed.”

Asked to comment on the case, Ms. Petitt’s legal counsel, Lee Seham, stated:

“What I find both stupefying and worrisome is that, in all this time, Delta has never apologized to Ms. Petitt – even after Dr. Altman’s diagnosis was discredited. Worrisome because those responsible for this injustice remain in positions of authority. In my view, in the absence of some intense introspection and accountability, Delta’s flight operations will continue to be compromised. Safety reporting has to be cultivated, not suppressed.”