

Delta Airlines Silenced Pilot for 6 Years Using Psycho Terror

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When an airline is putting safety second and a pilot speaks out, this US airline is not stopping to silence such a pilot by any means over many years.

Delta Airlines is now facing a US Federal Court order to post and deliver a court decision to its 13,500 pilots.

On May 2, 2022, attorneys representing Delta pilot Karlene Petitt filed a motion demanding Delta's "immediate" compliance with a judge's order that it post and deliver to 13,500 Delta pilots a whistleblower case that it has now lost twice.

Here is the background:

In its Decision and Order Granting Relief dated December 21, 2020 (D&O), the Tribunal ordered the Respondent, *inter alia*, to deliver the Tribunal's decision to its pilots electronically and to post the decision in the workplace both in the interest of the public safety and to mitigate the damage inflicted on Ms. Petitt's professional reputation, which Respondent had "soiled – perhaps permanently." With respect to the adverse public safety

impact arising from the carrier's treatment of Ms. Petitt, a letter dated April 15, 2022, from the Air Line Pilots Association (ALPA) Chairman of the Delta Master Executive Council "insists Delta take immediate remedial steps so that we may hopefully return to the industry-leading safety culture that once existed." (Seham Decl. Ex. A). Nonetheless, to date, Delta has declined to implement the delivery/posting obligation mandated by the Tribunal.

As the Administrative Review Board noted in its decision of March 29, 2022, affirming the Respondent's liability in this matter, Delta **did not appeal** the publication/posting component of the Tribunal's order and, therefore, the Respondent has forfeited any further right of appeal. In the meantime, Ms. Petitt has suffered continuing damage to her reputation and Delta has ratified the unlawful retaliation of its management employees by declining to take any remedial action and even promoting Jim Graham, one of the primary perpetrators, to the position of Chief Executive Order of Endeavor Airlines.

Over six years ago, in retaliation for her air safety compliance efforts, Respondent grounded Ms. Petitt and forced her into a compulsory psychiatric examination process. She looked to the AIR 21 process for protection and prevailed before the Tribunal and prevailed again before the ARB. However, having suffered great financial and emotional costs in vindicating her right to engage in protected activity, she has received no remedy from this process to date. Immediate compliance with the Tribunal's publication/posting order is necessary for the AIR 21 process itself to be vindicated.

FACTUAL BACKGROUND AND PRIOR CONFERRAL

The parties in this case stipulated, and the Tribunal found, that on January 28, 2016, the Complainant presented to Delta Senior Vice President of Flight Steven Dickson and Delta Vice President of Flight Jim Graham a 46-page safety report that set forth in substantial detail her concerns relating a number of safety-related issues, including

- (1) inadequate flight simulator training,
- (2) deviation from line check evaluation procedures,
- (3) pilot fatigue and associated violations of FAA-mandated flight and duty limitations,
- (4) the inability of senior pilots to hand-fly Delta aircraft,
- (5) errors in pilot training manuals,
- (6) falsification of training records, and (7) flaws in Delta's upset recovery training

Ms. Petitt's protected activity contributed to Delta's decision to subject her to a compulsory psychiatric examination process. The Tribunal determined that it was:

improper for Respondent to weaponize this process for purposes of obtaining blind compliance by its pilots due to fear that the Respondent can run their career by such cavalier use of this tool of last resort.

The Tribunal concurred with the conclusion of Dr. Steinkraus of the Mayo Clinic who, commenting on the weaponization of the Delta-initiated psychiatric weaponization process, concluded:

This has been a puzzle for our group – the evidence does not support the presence of a psychiatric diagnosis but does support an organizational/corporate effort to remove this pilot from the rolls.

An integral component of the remedy mandated by the Tribunal was that the Respondent:

deliver an electronic copy of the decision directly to all of its pilots and managers in its flight operations department. The respondent will also prominently post copies of the decision at every location where it posts other notices to employees related to employment law (e.g., wage and hour, civil rights in employment, age discrimination) for a period of 60 days.

As the Tribunal explained, two distinct objectives underlay the delivery/posting component of its remedy, the rehabilitation of Ms. Petitt's professional reputation and the promotion of air safety.

With respect to the former objective, the Tribunal observed: "Respondent has soiled – perhaps permanently – the Complainant's reputation within the aviation community by questioning her mental fitness." Unfortunately, the reputational damage has proven to be permanent and increasing over time. Ms. Petitt continues to be the subject of defamatory gossip in the workplace and on social media, where a well know Aero Medical Examiner (AME) asserted that, subsequent to her bipolar diagnosis by Dr. Altman, Ms. Petitt had only been reinstated to flight duty because she was "in bed with the chief pilot."

The AME later informed that the "chief pilot" he was referring to was FAA Administrator Steve Dickson and that this "in bed" relationship was a topic of discussion at a recent airline industry HIMS conference.

Irrespective of whether the "in bed" reference is suggestive of a sexual or political relationship, the core message spreading through the airline industry is that Ms. Petitt's mental health is impaired and that she should be grounded.

The Tribunal's second objective in mandating delivery/posting of its decision was to promote "air safety." As the Tribunal observed:

One way to mitigate the consequences of [the retaliatory] action is to inform [the aviation] community of the results of Respondent's discriminatory actions towards one of its own. An underlying purpose of the statute is to deter those that commit discrimination and to inform those that *could* be subject to such actions, that the Act does not tolerate such conduct.

With respect to the communication to the broader aviation community, the Tribunal correctly noted that:

The Act can only promote air safety by deterring discriminatory acts if the air community is aware that AIR 21 whistleblower claims can **provide effective relief**.

Unfortunately, over six years from Delta's initiation of its retaliatory actions, Ms. Petitt has yet to receive any remedial benefit from the AIR 21 process. Delta has fulfilled its prognosis, communicated at the outset of the litigation, that it has the ability to stretch out this litigation for years to come.

Similarly, the objective of deterring those who perpetrated the discriminatory acts stands in dire need of fulfillment. Those guilty of conspiring to weaponize psychiatric examination in order to suppress safety-related communications have either retained their positions or been promoted. Indeed, the perpetrators have not even been subject to carrier investigation, let alone discipline. As ALPA stated in its letter of April 15, 2022:

In light of the ARB's decision, we renew our prior request that Delta commissions an independent investigation into this matter conducted by a neutral, third party. It is important for Delta to understand the extent to which certain individuals in its Flight Operations, Human Resources, and other departments operated outside the safety culture that is essential to running an airline like Delta and contrary to the Company's own Code of Ethics.

Six years have passed, and Delta's only response has been to condone and ratify the unlawful conduct of its management representatives.

Delta appealed the Tribunal's decision of December 21, 2020; however, as noted in the ARB decision, the Respondent did not appeal that part of the Tribunal's decision addressing the delivery/posting obligation.

By email dated March 30, 2022, Ms. Petitt's counsel wrote to Respondent's counsel stating, in pertinent part:

As noted by the ARB, Delta chose not to appeal that portion of Judge Morris' decision mandating that, in order to mitigate Delta's suppression of safety-related protected activity, the carrier must deliver an electronic copy of the decision directly to all pilots and managers in Delta's flight operations and prominently post copies of the decision at every location where it posts notices to the employees for a period of 60 days. Since any further challenge to this obligation is foreclosed, and since its objective is to promote the safety of the traveling public, Delta should implement compliance this week. If the carrier does not intend to implement compliance this week, we request that you advise us immediately.

Respondent's counsel responded: "We respectfully disagree with the legal analysis contained in your e-mail"

ARGUMENT

This Tribunal has determined that Delta engaged in unlawful retaliation against Ms. Petitt and that delivery and posting of its decision was an important element of its remedy for the reasons discussed above. Delta appealed the Tribunal's determination to the ARB and lost. In making this appeal, it failed to raise any issue or objection relating to the delivery and posting of the Tribunal's decision.

While Delta may determine to appeal the ARB decision to the Ninth Circuit Court of Appeals, the pendency of that appeal, would not operate as a stay of the Tribunal's order.

Ms. Petitt has pursued the AIR 21 process for six years. Neither she nor the traveling public have yet to see any remedial benefit from that process. No further controversy exists with respect to the delivery/posting obligation and Delta has no right to a stay of its implementation.

Ms. Petitt respectfully requests that the Tribunal order Delta to immediately implement the posting and delivery required by the Tribunal's order of December 21, 2020, so that the first step in remediating the damage it has done to Ms. Petitt's reputation and the public safety can be taken. In the words of the Tribunal, such action is required to demonstrate that the AIR 21 process "can provide effective relief."

Respectfully submitted on: By: /s/ Lee Seham Lee Seham, Esq. Seham,
Date: May 2, 2022 Seham, Meltz & Petersen, LLP 199 Main Street – Seventh Floor White
 Plains, NY 10601 Tel: (914) 997-1346 *Attorneys for Complainant*
 Karlene Petitt

What happened?

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 internally raised safety issues related to the airline's flight operations. [Morris Decision – Attachment B]. Judge Morris ordered that Delta compensate Petitt with back pay, compensatory damages, front pay, and attorney's fees. However, he took the further unusual measure of ordering Delta to send the damning decision to its entire pilot staff and post the decision in the workplace for 60 days. Judge Morris stated that the forced dissemination would hopefully "mitigate" the negative safety impact of Delta's retaliation on the larger aviation community.

On March 29, 2022, the United States Department of Labor's Administrative Review Board (ARB) affirmed Judge Morris' liability decision and noted that Delta's lawyers failed to submit any objection to the unusual remedy of compulsory dissemination of the decision.

“It looks like Delta’s attorneys dropped the ball on this one,” commented Petitt attorney Lee Seham. “Since Delta did not appeal the issue to the ARB, it has lost the right to raise the issue in any future appeal. In our view, Delta has an obligation to send that decision out now.”

The interest in publicizing this decision is heightened by the fact that the individuals identified by Judge Morris as responsible for the unlawful retaliation – including former Vice President of Flight Jim Graham and in-house lawyer Chris Puckett – have not been subject to any corrective action by Delta for their role in victimizing Ms. Petitt. Indeed, Delta promoted Graham to the Chief Executive Officer of Endeavor Air, Delta’s wholly-owned subsidiary. Delta Senior Vice President of Flight Steve Dickson – who approved Graham’s decision to order psychiatric examination – became FAA Administrator but resigned a few days before the ARB issued its decision.

Similarly, Human Resources representative Kelley Nabors, whose report facilitated the retaliatory psychiatric examination, was promoted to Delta’s Salt Lake City HR manager.

As the Chairman of the Delta Master Executive Council Air Line Pilots Association (ALPA) stated in its letter of April 15, 2022:

In light of the ARB’s decision, we renew our prior request that Delta commissions an independent investigation into this matter conducted by a neutral, third party. It is important for Delta to understand the extent to which certain individuals in its Flight Operations, Human Resources, and other departments operated outside the safety culture that is essential to running an airline like Delta and contrary to the Company’s own Code of Ethics.

ALPA further stated that it “insists Delta take immediate remedial steps so that we may hopefully return to the industry-leading safety culture that once existed.”

As Seham observed: “Obviously, you cannot run a safe airline when pilots are terrified that, if they raise FAA compliance issues, they may be subject to Soviet-style psychiatric examination. If safety is Delta’s number one priority, it needs to purge itself of the perpetrators, apologize to Ms. Petitt, and comply with the judge’s order to post the Tribunal’s decision.”

Even Delta’s CEO and Chairman of the Board, Ed Bastian, had knowledge of and condoned the retaliatory psychiatric referral. The Bastian deposition can be found on YouTube:

Delta CEO Ed Bastian Deposition and six videos of Jim Graham’s deposition can be viewed by searching Delta SVP Graham Deposition.