

## **DELTA ORDERED TO PUBLISH ITS WHISTLEBLOWER LITIGATION LOSS TO PILOTS**

### **AIRLINES' LAWYERS FORGOT TO APPEAL THE ISSUE**

Today, June 6, 2022, Administrative Law Judge Scott R. Morris ordered Delta Air Lines to publish to its 13,500 pilots a legal decision finding that the airline had used compulsory psychiatric examination as a “weapon” against Karlene Petitt after she internally raised safety issues related to the airline’s flight operations. [June 6 order – Attachment A]

Delta conceded, and the judge 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 (Attachment B at 2, 10).

The unusual judge-ordered publication measure requires that Delta, within 30 days, send the damning decision to its entire pilot staff and post the decision in the workplace for 60 days. In his prior decision, 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’ earlier liability decision and noted that Delta’s lawyers failed to submit any objection to the unusual remedy of compulsory dissemination of the decision. [ARB Decision – Attachment C].

Judge Morris’ June 6 decision pointed out that Delta’s attorneys had neglected to address the publication requirement in its appeal and, therefore, had forfeited the right to object to this requirement in any further appeal of the case. “If I were one of Delta’s attorneys, I would staring at my shoes right now,” commented Petitt attorney Lee Seham.

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.<sup>1</sup>

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 commission 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 Letter – Attachment D]. 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. Pettitt, and comply with judge's order to post the Tribunal's decision.”

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<sup>1</sup> 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.