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EDITOR'S PREFACE

The reach of *The Aviation Law Review* continues to expand and I welcome contributions from Felsberg in Brazil, Conyers Dill and Pearman in Bermuda, The Air Law Firm for Spain and the Chambers of Robert Lawson QC, who now takes up the cudgels for the UK. My thanks to you all for volunteering and to our seasoned contributors for their continued support in what I believe is becoming acknowledged as a ‘go-to’ publication in our field.

In litigation and regulatory terms the themes of previous years continue to predominate. The Court of Justice of the European Union (ECJ) (i.e., the alternative legislature for Europe) continues to bear down on operators, and indirectly passengers, with judicial activism in the sphere of Regulation (EC) No. 261/2004. All rational defences on the basis of exceptional measures have been dismissed by the court in favour of what seems to be the theory that if it happens it was not exceptional! Ultimately passengers will bear the cost of this through increasing fares but this will be a bullet easily dodged by the judges, who, of course, have no electorate and no accountability.

Unmanned aerial vehicles also continue to be a hot topic, with regulation barely keeping up with their proliferation. The need for regulation is highlighted by ever more frequent near-miss reports; though the latest may have been in respect of an unmanned aerial plastic bag rather than one that was under control. Privacy regulations are also coming into force but the difficulty of identifying the particular operator of any unlicensed drone still poses difficulties that are likely to lead to registers created at the point of sale or by transferors to new users.

We have introduced a couple of new topics in this year’s *Review* that I hope will be of interest and value to readers. The first of these concerns compensation levels for personal injury and fatal accidents in the various jurisdictions of the contributors. I first attempted an international review of comparative compensation more than 20 years ago, and looking back on it can be depressing from an inflationary prospective! The product then was greatly appreciated in various quarters of our industry and I am hopeful that we will provide a useful service with this edition.

‘Just culture’ remains a subject of warm debate in various quarters. The tension between confidential reporting and criminal prosecutions post-accident has in no way diminished and the International Civil Aviation Organisation and Flight Safety Foundation, among others,
are working hard in the interests of flight safety to develop the practice. As a guide to the issues I have invited contributions on issues of discoverability of reports from contributors to this edition and the responses will usefully inform the debate. The task of convincing prosecutors of the desirability of affording the greatest possible respect to the confidentiality of voluntary reporting is a considerable challenge to those of us interested in advancing safe flying and anything that assists the cause should be embraced.

This preface would not be complete without a brief mention of ‘Brexit’, which will continue to provide the substance of much speculation in the coming years. The precise terms of the ongoing relationship between the UK and the EU in this sphere will be the subject of prolonged negotiation. In the interests of safety and security it is clearly desirable for the UK to continue to play an important role in the oversight and regulation of aviation in the region. If Brexit means that the influence of the ECJ will be diminished for those operators in the UK, that will at least be a silver lining for them.

Finally, I would like to express my gratitude to Tom Thornton from Florida for his contribution on forum non conveniens in the United States. As many readers will know, after any accident, plaintiffs will seek out the jurisdiction for resolution of their claims that will afford them a combination of the highest level of compensation with the lowest upfront cost, and with a reasonably predictable outcome. These considerations lead many plaintiffs to the courts in the United States, notwithstanding the tenuous links some accidents have with that jurisdiction, where they are ably assisted by some of the most inventive plaintiff lawyers worldwide. Tom has spent a lifetime resisting those efforts on behalf of airlines and others and is an acknowledged expert as is clear from his contribution to this area in the current edition.

Again, many thanks to our contributors and I hope that our readers will derive great benefit from the fourth edition as they have from its predecessors.

Sean Gates
Gates Aviation Limited
London
July 2016
Chapter 1

FORUM NON CONVENIENS IN THE AGE OF THE MONTREAL CONVENTION

J Thompson Thornton

I INTRODUCTION

On 4 November 2003, the Convention for the Unification of Certain Rules for International Carriage by Air, 28 May 1999, commonly referred to as the Montreal Convention, came into force and effect in the United States. For the first time in almost a decade, the United States was again a party to an international treaty governing the rights and duties of air carriers engaged in international transportation as well as the remedies available to passengers and others who transported goods on international flights. The Montreal Convention is viewed as the successor to the Warsaw Convention that had been the law of the land since 1934. While numerous attempts were made to negotiate collateral treaties, such as the Hague Convention, which had the effect of modestly increasing the monetary values allowed in the event of an injury or death of a passenger, or the Guadalajara Convention, which was intended to expand and clarify the issues with regard to different types of carriers, neither were adopted by the United States. Amid growing dissatisfaction with the Warsaw Convention, the United States participated in the negotiations that culminated in the final draft of the Montreal Convention (1999).

1 J Thompson Thornton is a partner with Clyde & Co.
2 Although the United States rejected the Hague Convention, it did implement the Agreement Relating to Liability Limitation of the Warsaw Convention and Hague Protocol, Agreement CAB 18900, approved by Executive Order E-23680, 13 May 1966 (Docket 17325) (1966) referred to as the Montreal Accord. The Montreal Accord had the effect of raising the amounts recoverable under the Warsaw Convention for passengers involved in international flights with either a departure, destination or intermediate stopping point in the United States to $75,000. This limit, however, was subject to a waiver pursuant to Article 25 of the Montreal Accord if the claimant could prove that the carrier had engaged in willful misconduct.
Although the Warsaw Convention was in effect for almost 70 years, and the United States Supreme Court first extended the doctrine of *forum non conveniens* to an aviation case in 1981, there was scant legal authority that addressed the specific question of whether the United States’ use of the doctrine would apply to a Warsaw Convention case. Under the old regime, several cases, assumed, implied or *in dicta* suggested, that *forum non conveniens* was available. In 2002, however, the United States Court of Appeals for the Ninth Circuit, in the decision of *Hosaka v. United Airlines, Inc*[^4] directly confronted the issue.

The case before the court arose as a consequence of the dismissal of claims by passengers who were allegedly injured when their aircraft encountered turbulence on an international flight. The United States District Court for the Northern District of California dismissed the actions on the grounds of *forum non conveniens*. The trial court focused on Article 28, which, on the one hand, granted to the plaintiff the right to bring their action in one of four designated fora. The same Article, however, concluded that questions of procedure shall be governed by the law of the court to which the case is submitted.

In reversing the trial court, the Ninth Circuit undertook a rather extensive review of the history of the Warsaw Convention, and ultimately determined that the drafting history, and the need for uniformity in its application, justified its decision that claims properly brought under Article 28 could not be wrested from the court by a defendant’s election to invoke the procedural doctrine of *forum non conveniens*. In reaching this decision, however, the court was mindful that it was likely addressing a Warsaw case for the final time. In limiting its decision, the court expressly observed: ‘[W]e offer no opinion as to whether the text and drafting history of the Montreal Convention demonstrated whether *forum non conveniens* would be available in an action brought under that as-yet-unratified treaty’.[^5]

Three years later, in 2005, events would tragically coincide and present a United States court with a renewed opportunity to consider this precise issue. On the evening of 16 August 2005, an MD-82 aircraft operated by a Colombian carrier, West Caribbean Airways (WCA), suffered a high-altitude stall while on a flight from Panama City, Panama to Fort-de-France, Martinique (a department of France). The aircraft crashed in a remote area in Venezuela killing all aboard. All of the passengers were either citizens or residents of Martinique. In addition, all of the tickets were purchased in Martinique, which was also the destination of the flight. The airline was incorporated in Colombia and had its principal place of business in Bogotá. Because both France and Panama were signatories, known as ‘state parties’, to the Montreal Convention, it was evident that Article 33 would govern the choice of jurisdictions that could entertain the claims.[^6]

[^3]: *In re Air Crash Disaster Near New Orleans*, Louisiana on 9 July 1982, 821 F. 2d 1147 (5th Cir. 1987) (holding that the Warsaw Convention permits application of *forum non conveniens* because the plaintiff’s choice under Article 28(1) is ‘subject to the procedural requirements and devices that are part of the forum’s internal law’). See also, *in re Air Crash Off Long Island New York* on 17 July 1996, 65 F. Supp. 2d 207 (SDNY 1999).
[^4]: 305 F. 3d 989 (9th Cir. 2002).
[^5]: Id. fn 17.
[^6]: Article 33 – Jurisdiction: 1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination. 2. In respect of damage resulting from
The accident, however, did not occur during a regulatory scheduled flight by WCA. Rather, it was a return leg from a round-trip tour package that originated in Martinique. A series of charter flights had been negotiated by Newvac Corp, a small travel agency located in South Florida. Newvac Corp was a rather modest business that operated out of a small non-descript office that was staffed by two employees with computers connected to the internet. The principal of Newvac Corp, Jacques Cimetier, was a Canadian citizen and an experienced tour operator who had organised numerous excursions throughout the Caribbean and Central and South America, chartering aircraft owned by various airlines.

In early 2005, unable to secure an arrangement with a more established airline, Mr Cimetier entered into an agreement with WCA, a Colombian airline that was operating on a shoestring budget. It owned several aircraft including two vintage MD-82’s that it had acquired after being operated for several years by United States airlines. In fact, the accident aircraft had previously been flown by Continental Airlines and was in service until after the terror attacks of September 11 when it was removed from service and parked in the Mojave Desert. In 2004, it was purchased by a Panamanian company and leased to WCA. Because of financial constraints, WCA was only able to fly one of its MD-82 planes and apparently used the other to cannibalise for parts to maintain operation of the aircraft that was used in the tour operations.

On the authority of the recent Hosaka decision, several hundred claimants brought suit in the United States District Court for the Southern District of Florida (the District Court).

II THE PLAINTIFFS’ GAMBIT

Clearly, Florida did not appear to qualify as one of the designated fora under Article 33 where suit could be brought against WCA. The claimants, however, made the unique

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7 Because the passengers were all citizens or residents of France, and France is a civil code jurisdiction, the class of individuals who are entitled to maintain actions independent of a Personal Representative, is quite vast. In most civil code jurisdictions, the number of persons who have a separate and independent cause of action for the death of a loved one is established by the civil code and is often quite broad, embracing in many instances remote relatives and even in some occasions former spouses. Thus, despite the fact there were only 152 passengers, the total number of claims eclipsed 1,000.
argument that Newvac Corp, which was a Florida company that had arranged the tours by chartering the aircraft from WCA and then leasing the entire aircraft to a local tour operator in Martinique, qualified as a ‘contracting carrier’ under the Montreal Convention. While the concept of a contracting carrier was alien to the former Warsaw Convention, it was the subject of the Guadalajara Convention, which the United States never ratified. When the Montreal Convention was negotiated, one of the intentions was to incorporate the core of the Guadalajara Convention and particularly the implications of a contracting carrier into the Convention. Thus, the plaintiffs argued that the court could exercise jurisdiction over Newvac as a contracting carrier, since under Article 46 of the Montreal Convention, the plaintiff’s, at their discretion, may file suit in any jurisdiction in which either the contracting carrier or the actual carrier may be found.

Thus, the plaintiffs were suing an uninsured tour operator based in South Florida who had no financial wherewithal to respond to claims for damages as a contracting carrier, and WCA on the basis that Article 46 permits an action for damages to be brought at the option of the plaintiff, before a court in which an action may be brought against the contracting carrier, as provided in Article 33, and that Article 45 contemplated that in such situations the contracting carrier had the right to require the ‘other carrier’ to be joined in the proceedings.

Despite the language of the treaty, however, the likelihood that the court in Florida would be able to exercise personal jurisdiction over WCA was doubtful at best. It thus appeared the plaintiffs had filed a suit where they could obtain jurisdiction based upon Article 33 against an uninsured contracting carrier but would be unsuccessful in maintaining the claim against the actual carrier who otherwise had sufficient insurance to pay for the losses suffered as a result of this disaster.8

The District Court took an unusual approach towards resolving the dilemma. Recognising that Hosaka was decided under the no longer extant Warsaw Convention, and that it expressly declined to expand its opinion with regard to the Montreal Convention, the court ordered the parties to brief the court on the ability of a United States Court to utilise the procedural tool of forum non conveniens to dismiss a claim governed by the Montreal Convention. Although the language of Article 33 of the Montreal Convention was essentially the same as Article 28 of the Warsaw Convention, the drafting history was remarkably different.

In an exhaustive opinion, 9 the District Court determined that the penultimate clause of Article 33, which reserved to the court seised of the case the right to apply its own procedural rules, was determinative and that the doctrine of forum non conveniens was indeed available.10 The court reviewed the extensive negotiations of the state parties to the convention who addressed this issue. Specifically, the United States had proposed that language in the final draft of Article 33 include a provision that explicitly acknowledged that the application of the procedural law of the court seised of the case would include

8 Like any document negotiated by countries with disparate judicial legal systems, the civil code jurisdictions obviously did not appreciate the concept of ‘personal jurisdiction’. Indeed, WCA filed a motion to dismiss on the basis that the Florida court lacked personal jurisdiction over it.


10 The District Court reached the issue by initially deciding that Newvac was indeed a ‘contracting carrier’ thus triggering Article 33 jurisdiction.
forum non conveniens. Numerous civil code jurisdictions vigorously objected, contending that the inclusion of such into the language of the treaty, which would then become part of the organic law of that jurisdiction, could have the effect of importing a doctrine that was alien to their jurisprudence, as the doctrine of forum non conveniens is unique to common law jurisdictions and thus implicitly imposes a concept that civil code jurisdictions found repugnant. The District Court concluded that despite the objections by various state parties to this proposal, and in fact the final agreement to not include that provision, the United States nevertheless made clear throughout the negotiations and in the process of ratifying the treaty that it had and would continue to apply forum non conveniens in circumstances in which the court found that its discretion permitted same.

The next issue the court addressed was if dismissal based upon forum non conveniens was permitted, was it appropriate under the circumstances of the WCA accident. Given the facts of the case, the outcome was self-evident and the order virtually wrote itself. Since the case was governed by the Montreal Convention, the only issue to be decided was damages. Because all of the plaintiffs were French citizens, French law would clearly apply. Noting that France was a civil code jurisdiction and its judges were obviously more familiar with the method of evaluating damages and determining who are proper claimants, the ease with which claims could be adjudicated in France where all of the evidence was located, and the difficulty of presenting that evidence in the United States if the court were to deny the motion, the court dismissed the case in favour of the alternative and available venue of Martinique.

Remarkably, and a decision that would surely come back to haunt the claimants, at no time did they make the argument that France was not an ‘available’ jurisdiction. The concept of availability is one that historically had not been hotly contested since the standard for determining ‘availability’ is a very low threshold. In Montreal Convention claims, essentially all that is necessary is that the movant establish that it is subject to jurisdiction in the alternative venue and that the remedy afforded to the claimants in that venue be more than illusory. Indeed, France has many times in the past has been determined to be an available forum and thus the issue seemed irrefutable.

The plaintiffs appealed to the Eleventh Circuit Court of Appeals (the 11th Circuit). The Court was unpersuaded by their argument that the trial court had abused its discretion in dismissing the case and was equally unpersuaded by the argument that the trial court was not empowered to apply forum non conveniens to a Montreal Convention case. The Court noted that while Hosaka relied on the fact that the parties that negotiated the Warsaw Convention had not addressed the concept of forum non conveniens, it would have been quite impractical to expect such since the doctrine did not come into its modern iteration until many decades after the ratification of the Warsaw Convention. Indeed, in 1929 when the Warsaw Convention was negotiated, the doctrine of forum non conveniens had virtually no jurisprudence. It did not have any practical application until 1947, when the United States Supreme Court decided the case of Gulf Oil Corp v. Gilbert, and notably in aviation when the Supreme Court extended the doctrine in the seminal decision of Piper v. Reyno.11

The court recognised, on the other hand, that during negotiations of the Montreal Convention, the issue of forum non conveniens was addressed and specifically observed it was the shared intent of the states parties that each state could continue to apply its procedural

rules, including *forum non conveniens*. Accordingly, the 11th Circuit affirmed the District Court’s right to exercise its discretion to apply the procedural tool of *forum non conveniens* in a Montreal Convention case and further affirmed that its decision to do so in the WCA matter was appropriate.

III ‘OH WHAT TANGLED WEBS THEY WEAVE’

Unhappy with the result, and having failed in their request to obtain certiorari review by the United States Supreme Court, the plaintiffs made perfunctory attempts to refile their claims in Martinique. They did so, however, not for the purpose of prosecuting their claims and having the court award damages to which they were entitled pursuant to the Montreal Convention and under the laws of France, but for the express purpose of seeking a declaration from the French court that it lacked jurisdiction to hear the cases.

Although ordered by the French courts to commence presentation of their evidence on damages, the plaintiffs instead challenged the jurisdiction of the French tribunal to hear the plaintiffs’ own suits. In essence, the French plaintiffs argued before the French court that Article 33 vested in them the sole determination of where to file suit, provided it was one of the enumerated fora. The French trial court summarily dismissed this argument and renewed its instruction that the plaintiffs present their proof of damages. Rather than doing so, they appealed.

The French appellate court affirmed the trial court finding that it would not and could not challenge the District Court’s decision to dismiss on the basis of *forum non conveniens*, and that although France did not apply the doctrine in its own organic law, it would not refuse to let the plaintiffs refile their suits. Incredibly, the plaintiffs’ position was not only that they should have the right to select a fora in which to bring their action, and that no foreign court could dislodge this selection, but they went so far as to argue that once they made their election to file in the United States, it had the effect of stripping France of its jurisdictional authority and that they had therefore abandoned all other fora available to them.

Having again lost this argument, the plaintiffs took the extraordinary remedy of appealing to the Court of Cassation, the French Supreme Court. There they argued that having been dismissed from the United States, they were now essentially the equivalent of the ‘man without a country’ and were deprived of any jurisdiction in which to hear their case. Although they never challenged the availability of France as an alternative venue in opposing the motion to dismiss based upon *forum non conveniens* in the United States, as soon as they touched French soil following dismissal, they immediately implored the courts to deny them the right to refile their claims.

The gambit they pursued was self-evident: the plaintiffs were seeking a declaration from the French Supreme Court that France lacked jurisdiction based upon the plaintiff’s prior selection of the United States, and having done so, would be unable to refile their lawsuits in France. This would have had the effect of leaving the United States as the only available forum since the statute of limitations had long lapsed and Colombia, the only other possible jurisdiction under Article 33, was now unavailable.

Remarkably, the French Supreme Court agreed. In its decision, the Court stated that the selection of a venue in which to bring their suit was the exclusive domain of the plaintiffs; and that having selected a jurisdiction other than France indeed stripped France of jurisdiction to later entertain the case. The Court’s ultimate reasoning was ‘nuanced’ to say
the least. In what appeared as a ‘savings’ provision, the Court determined that having selected the United States as a venue in which to litigate their lawsuits, France was thus ‘currently’ unavailable.

Armed with this decision, the French plaintiffs stormed back to the United States and filed a motion under Federal Rule 60(b)(6), claiming the trial court's prior dismissal of their action on the basis of forum non conveniens, coupled with the French Supreme Court's decision, deprived them of any venue in which to litigate their claims. The District Court was underwhelmed. In a blistering decision, Judge Ungaro untangled the Gordian knot they had created, peeling away every argument and demonstrating that the source of the dilemma was one of the plaintiffs' own making. Indeed, the Court's decision was so forceful that Judge Ungaro concluded with the observation that this was the plaintiffs' fourth attempt to overturn her forum non conveniens decision and that any further attempt would result in an award of sanctions.

The plaintiffs again sought relief from the 11th Circuit. In their second appeal to this Court, they argued that the trial court abused its discretion, not in granting the motion to dismiss in the first instance, but rather in denying their request for relief under Rule 60(b)(6), making the novel argument that the dismissal from the United States, coupled with the French Supreme Court's decision, left them with no remedy and therefore there was no ‘alternative venue’. During oral argument, the 11th Circuit noted that it was strikingly odd that in the earlier proceedings, when the issue of forum non conveniens was first raised, plaintiffs failed to address the issue of availability and, in fact in its initial opinion, the Court observed the plaintiffs had conceded France was an alternative available venue. In fact, it only became ‘unavailable’ as a consequence of the plaintiffs' own request that France declare itself unavailable, a tactic that required that they appeal all the way to the French Supreme Court.

Finding that the District Court was well within its rights in exercising its discretion to deny the motion, the 11th Circuit affirmed the denial of the Rule 60(b)(6) motion. All further efforts were denied and the cases were cast back to France for disposition.

IV THE LESSONS OF WEST CARIBBEAN

The various legal results that the WCA accident spawned may very well be unique owing to the presence of a contracting carrier who was located in Florida. The likelihood that similar situations will arise in the future is therefore quite remote. The prospects of related circumstances exist, however, especially in the era of code share arrangement between carriers.

Subsequent to the final decision in West Caribbean, a lawsuit was commenced in the United States related to the death of an American citizen who had died while disembarking an Air France plane in Paris. The passenger was travelling on a contract of carriage issued by Delta Airlines who was a code-share partner with Air France. As the ticket was issued in the United States, it qualified as an appropriate forum under Article 33(1). Thus, while similar to West Caribbean in the sense that Article 33 jurisdiction was based upon a party not acting as the ‘actual carrier’, it was clearly distinguishable. Furthermore, the plaintiff was a United States citizen and the discretion of a court to dismiss a United States citizen's claim
from a United States court is significantly limited.12 Furthermore, the parties had engaged in substantial discovery and the defendant had waited until shortly prior to the pretrial conference to file its motion to dismiss on the basis of forum non conveniens.

The motion was denied and the decision appears to have turned on the timeliness of the motion and the extent to which discovery had been pursued in the United States. Nevertheless, in a troubling observation that may be a harbinger of arguments to come, the trial court observed, ‘[I]n light of a recent decision from the Cour de Cassation, the French Supreme Court, this court expresses doubt as to the availability of an alternative forum in France after forum non conveniens dismissal’.13 While the trial court’s reference to West Caribbean and the dubious availability of France following the Supreme Court’s decision was clearly dicta, the case is nevertheless troubling. It can be assumed, given that France is part of the European Union, that other European courts would view the decision persuasively, if not authoritatively, and likely render similar decisions given their long-standing hostility to the sweeping scope of the United States courts’ use of the doctrine of forum non conveniens.

So far, United States courts appear to have been undeterred by the French Supreme Court’s ruling and have not been dissuaded from their use of forum non conveniens. Just as United States courts have declined to recognise ‘blocking statutes’ and other statutory schemes that were implemented in foreign jurisdictions to thwart a United States court’s application of forum non conveniens, the French Supreme Court decision could be argued as nothing other than a judicial version of a blocking statute. Without a doubt, however, the plaintiffs have certainly been educated by the 11th Circuit’s opinion, which, while affirming the denial of the Rule 60(b)(6) relief, noted that the time to challenge or question the availability of the alternative venue is when the motion to dismiss for forum non conveniens is presented and not to demur, effectively conceding same, and then challenge the jurisdiction in the foreign venue. Consequently, in future cases it can be assumed that the road map for arguing the unavailability of the alternative forum is to assert that a foreign court would, as the French Supreme Court determined, preclude its courts from entertaining the case having previously been filed a foreign jurisdiction.

The penultimate resolution in West Caribbean is that the plaintiffs in France are continuing their machinations. Because of the desperate measures taken to try and demonstrate to the United States that France was unavailable, going so far as to request that the French courts order the dismissal of their pending claims, they created the risk of effectively being unable to make any recovery at all. Should the French courts allow the refiling, it would demonstrate, as was argued by the defendant’s in West Caribbean, that the French Supreme Court’s decision intentionally left open the opportunity to refile in France when it concluded that the French courts were only ‘currently’ unavailable.

While the French Supreme Court appeared to have shut the doors to the French courthouses, it did not place a bar and lock them and the only impediment to the victims of this unfortunate accident is to reach out, turn the knob, open the door and present their claims. When that happens, as will undoubtedly occur, it will likely undo the authority that future claimants might otherwise assert by arguing that a United States court cannot dismiss because the alternative forum will not accept the cases.

12 See, SME Racks, Inc v. Sistemas Mecanicos Para Electronica SA, 382 F. 3d 1097 (11th Cir. 2004).
Appendix 1

ABOUT THE AUTHORS

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J Thompson (Tom) Thornton is a partner with Clyde & Co in its Miami, Florida office. He was formerly a senior partner with Thornton Davis Fein, PA where he practised from 1982. Mr. Thornton has acted as lead counsel in numerous complex civil litigation matters including aircraft accidents, aviation mass disasters, product liability suits, environmental claims, professional malpractice, fraud, insurance coverage and bad faith matters. Mr. Thornton has also served as national coordinating counsel in international toxic tort cases as well as local counsel to numerous national and international airlines, airframe and component manufacturers. Mr. Thornton is AV-rated by Martindale-Hubbell and is recognised by the Florida Bar Board of Legal Specialization as a Board Certified Aviation Attorney. He has been asked to speak at numerous venues around the world on a variety of aviation defence topics and has acted as lead counsel in numerous leading decisions involving the doctrine of *forum non conveniens*.

Mr. Thornton is a past president of the Aviation Insurance Association where he also served as vice president, treasurer and director of attorneys. He is a fellow of the Litigation Counsel of America and admitted to practise before all Florida state and federal courts as well as various federal district and circuit courts throughout the United States.

Mr. Thornton is a 1982 graduate of the Florida State University College of Law where he graduated *cum laude* after serving as editor-in-chief of the *Florida State University Law Review*.

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