



FLIGHT-WATCH



VOLUME 175

By: Alan Armstrong, Esq.

DECEMBER 2006

VOLUME 175
DECEMBER 2006 FLIGHTWATCH

FEDERAL AVIATION ACT PREEMPTS
NEGLIGENCE CLAIM AGAINST AIRPORT
AUTHORITY

The case involved a helicopter which crashed after striking a light pole while landing in an airport. The owner filed a suit against the Airport Authority and others claiming that by allowing an unmarked light pole to remain near a helicopter landing zone, the Airport Authority was negligent. The Airport Authority moved to dismiss arguing that the Federal Aviation Administration (FAA) had preempted the common law negligence claim because the Federal Aviation Regulations (FAR) established standards for obstructions on airports and navigable airspace. The Airport Authority argued that because the height and placement of the light pole complied with the FAR, the helicopter operator could not make a claim for common law negligence, since it was preempted.

The helicopter owner claimed that the FAR merely established *minimum* standards for safety, and that the state government could enact and enforce higher standards to ensure safety. For example, the helicopter owner argued that the public building exception to governmental immunity authorized that the case go forward. However, the Federal District Court granted the Airport Authorities motion to dismiss finding that the existence of the FAR and the compliance with those regulations by the Airport Authority preempted the claims of the plaintiff for common law negligence. Furthermore, because the light pole was located several hundred feet from a building, the court found unpersuasive the argument that the public building exception to the governmental immunity doctrine could be employed to avoid preemption.

McMahon Helicopter Services, Inc. v. United States, 2006 WL 2130625 (E.D. Mich. July 28, 2006).



Alan Armstrong is engaged in the general practice of law with an emphasis in the following areas:

**Aviation Matters, Personal Injury,
Professional Negligence (Malpractice),
Products Liability**

Phone: (770) 451-0313 Fax: (770) 451-0317

Email: alan@alanarmstronglaw.com

**Website Addresses: www.alanarmstronglaw.com
www.flyingtigersfilm.com, www.aviationlawcenter.com**

**Please contact us at
flightwatch@alanarmstronglaw.com
with any questions, comments, or if you no longer wish to receive Flight-
watch via email.**

Copyright 2006. Alan Armstrong.
All rights reserved.



Alan piloting the Kate
during the Greater
Georgia Air Show—
10/15/06

Photo Courtesy of
Neil Estes