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# Law Review

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## NOTES

Grounding the Preemptive Effect of the Federal Aviation Act: A Look at the Third Circuit's Recently Modified Field Preemption Ruling in *Elassaad v. Independence Air, Inc.* and the Effect of *Wyeth v. Levine*

Edward J. Boula III .....57

*Whether claims of negligence or product liability are preempted by the Federal Aviation Act currently splits the federal circuits. Despite over sixty years of federal control and significant changes to the statutory scheme, there is no consensus among courts as to what extent the Federal Aviation Act preempts state-based standards of care. Through interpretation of the Federal Aviation Act, most circuits have attempted to delineate how, why, and to what extent claims are preempted, but have reached markedly different results. Instead of clarifying the issue, the Supreme Court further complicated the matter in a recent decision which could pose implications on current interpretations. The Third Circuit recently modified its decade old interpretation of the Act in *Elassaad v. Independence Air, Inc.* Given the new interpretation and its likely effect on the other circuits, the focus of the article is to address whether the modified ruling is reconcilable with the Supreme Court's recent preemption decision in *Wyeth v. Levine*. By discussing other Circuit's interpretation of the Federal Aviation Act, most notably, the Ninth Circuit, as well as other statutory and regulatory schemes, the author concludes that the ill-defined, contextual interpretation of the Federal Aviation Act by the Third Circuit is improper. Instead, the claim-by-claim approach employed by the Ninth Circuit, is proper because it is more in line with congressional intent and does not change depending on the state of the aircraft or where the plaintiff pleads.*

Illinois Supreme Court: Overturn *Thompson v. Gordon* and Protect Design Professionals from Unbargained-For, Extra-Contractual Obligations

Daniel Nunney .....95

*This Note addresses how Illinois courts conduct contract interpretation and define the scope of contractual duties for design professionals. It discusses how the appellate court in *Thompson v. Gordon* improperly interpreted the contract in question, and how the court incorrectly followed applicable Illinois precedent when defining the scope of contractual duties for an engineer. It addresses the short*

*and long-term practical impacts of the Thompson decision, and also addresses a number of policy considerations associated with the majority's ruling. In sum, this Note advocates that it was necessary for the Illinois Supreme Court to overturn the Thompson decision.*

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