

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS

**FILED**

No. 00-11223

NOV 21 2001

CHARLES R. FULBRUGE III  
CLERK

RICHARD KAUFMAN, Etc; ET AL

Plaintiffs

RICHARD KAUFMAN, DR, On behalf of himself and all others similarly situated; JACK MARUT, On behalf of himself and all others similarly situated; C ANTHONY WAINSRIGHT, On behalf of himself and all others similarly situated; JEFFREY KRASNOFF, DR, On behalf of himself and all others similarly situated

Plaintiffs-Appellees

versus

ALLIED PILOTS ASSOCIATION; ET AL

Defendants

ALLIED PILOTS ASSOCIATION; RICHART T LAVOY; BRIAN A MAYHEW; DAVID ALDRICH; STANLEY BISSELL; J S DITTY; ERNEST DRYER; DAVID DUQUEMIN; MARK HUNNIBEL; JEFF MARCHAND; STEVE ROACH; RANDY TROMMER

Defendants-Appellants

STEVEN CARLI, On behalf of himself and all others similarly situated; SHON PREJEAN, On behalf of himself and all others similarly situated

Plaintiffs-Appellees

versus

ALLIED PILOTS ASSOCIATION; RICHART T LAVOY; BRIAN A MAYHEW

Defendants-Appellants

CENTER FOR REHABILITATIVE MEDICINE

Plaintiff-Appellee

versus

ALLIED PILOTS ASSOCIATION

Defendant-Appellant

---

JIM CASHION, Individually and on behalf of the Plaintiff Class;  
JOELLEN CASHION, Individually and on behalf of the Plaintiff Class  
Plaintiffs-Appellees

versus

ALLIED PILOTS ASSOCIATION; ET AL

Defendants

ALLIED PILOTS ASSOCIATION; RICHARD T LAVOY; BRIAN A MAYHEW; L G  
FOSTER; ROBERT AMES; NORMAN A PATTERSON, JR; DENNIS M BRESLIN  
Defendants-Appellants

---

MARK LEWIS, on behalf of himself and all others similarly situated  
Plaintiff-Appellee

versus

ALLIED PILOTS ASSOCIATION; RICHARD T LAVOY; BRIAN A MAYHEW  
Defendants-Appellants

---

NANCY GEIDEL; ET AL

Plaintiffs

NANCY GEIDEL; RALPH A MACDONALD; MARY C CASCINO; DAVE ROGERS;  
CAROLYN ROGERS

Plaintiffs-Appellees

versus

ALLIED PILOTS ASSOCIATION

Defendant-Appellant

---

Appeal from the United States District Court  
for the Northern District of Texas

---

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PATRICK E. HIGGINBOTHAM, Circuit Judge:

A union of airline pilots violated the order of a federal court by continuing its work slowdown. The union has since paid substantial fines for violating the order and now faces suits seeking money damages under state law for the stoppage damages caused by the slowdown activity that violated the court order. These claimants attempt to run their state claims around *Garmon* preemption under an argument that state law would not here interfere with the federal labor machinery and its distinct remedial schemes for labor peace because the conflict complained of violates a federal court order. At the same time the state law claimants argue that they are not seeking to supplement the federal order by their suits. The district court accepted these arguments. We do not and reverse. We are persuaded that the claims are preempted under the *Garmon* doctrine and do not reach the question of preemption under the Airline Deregulation Act.

I

The Allied Pilots Association is the exclusive bargaining agent for the pilots of American Airlines, Inc. From February 6 through February 9, 1999 the APA staged a "sick-out"—an organized false reporting of illness to effect a work stoppage. On February

10, American sought and received a temporary restraining order from the United States District Court for the Northern District of Texas against the APA. The TRO, among other things, required the APA to make "all reasonable efforts" to end the sick-out. The APA manifestly did not do so, and on February 12, the trial judge heard American's motion to hold the APA in contempt. Ultimately, the district court awarded American \$45 million in compensatory damages,<sup>1</sup> a ruling which was upheld by this Court.<sup>2</sup>

This is a class action brought against the APA to recover economic damages claimed by over 300,000 displaced passengers as a result of the sick-out. The plaintiffs originally asserted both federal and state claims,<sup>3</sup> and the district court dismissed all claims with prejudice except a state claim of tortious interference with contract arising from post-TRO conduct of the APA.<sup>4</sup> Finding that this claim was not preempted by federal law, the district

---

<sup>1</sup> *Am. Airlines, Inc. v. Allied Pilots Ass'n*, 53 F. Supp.2d 909, 913 (N.D. Tex. 1999).

<sup>2</sup> *Am. Airlines, Inc. v. Allied Pilots Ass'n*, 228 F.3d 574, 586-87 (5th Cir. 2000).

<sup>3</sup> The plaintiffs originally asserted claims under (1) the Railway Labor Act; (2) the Racketeer Influenced and Corrupt Organizations Act; (3) state common law claims of civil conspiracy, negligence per se, and tortious interference with contract.

<sup>4</sup> The district court dismissed all of the plaintiffs' claims that were predicated on pre-TRO conduct, including tortious interference with contract, which was dismissed on *Garmon* preemption grounds. The plaintiffs do not appeal the dismissal of their pre-TRO-based claims and apparently concede that those claims are properly *Garmon* preempted. Therefore, our only task is to decide whether the entering of the TRO changes this result for their post-TRO tortious interference claims.

