

## Why you will not see us at NBAA Orlando again this year

As you may already know, we are the only aviation law firm to consistently exhibit at NBAA conventions. So why won't we be there this year?



We have a bone to pick with the NBAA.

Each year, the NBAA selects experts to speak at seminars and educational events during the annual convention. Topics include aviation ownership structures and transactions, aviation taxation, new and changing regulations, human resources, risk management, insurance, and much more.

Since 2006, Robbins Equitas, has asked the NBAA for permission to participate in these seminars. Oliver J. Janney, Esq. and J. Christopher Robbins each volunteered.

The firm did not expect to have this opportunity as a matter of right. Indeed, it expected the NBAA to make decisions on the basis of merit. Yet as the only law firm in the country that consistently showed loyalty and dedication by exhibiting at the convention, it

expected the NBAA brass to consider our requests to participate in good faith. They did no do so.

After three years of letters, phone calls, and conversations with NBAA staff at the conventions, we concluded that this is not a merit-based process. It appears to be political. And we therefore want no part in it. You can read more specifics about how we reached this decision on our website: [www.aviation-law.org](http://www.aviation-law.org). ■



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## Florida Aviation Law Update



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# LAW UPDATE

# Florida Aviation



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[www.aviation-law.org](http://www.aviation-law.org)

## Aircraft owner owe you money? Don't forget to file a lien

Compared with other industries, the aviation sector enjoys slightly less bad debt. The reason is the extraordinary remedy available to creditors: the aircraft lien.



While not all subsectors of the industry can lien aircraft, many can. Companies who furnish supplies, equipment, labor, hangars, fuel, or maintenance to aircraft and their owners can file liens. So, too, can companies or individuals whose services touch or concern the aircraft or its safe operation.

Our firm is seeing a significant up-tick in the filing of liens. But do not try to file a lien yourself. It is a complicated process. The lien must be perfected with both the federal

government and with your county or state government. They are also subject to strict deadlines.

Before filing a lien, it is important to ensure that the aircraft has equity. If there is a large bank note that exceeds the value of the aircraft, it might not be worth filing. However, even where there is no equity, the lien holder can file foreclosure proceedings. That is a good way to get the aircraft owner's attention. ■

## The Long, Cold Winter; The Long, Slow Thaw

There is finally some good news in the aircraft brokerage market. Business jet inventories declined 2% in August. It was the second modest decline following 18 months of consecutive increases. But do not break out the champagne:

The market is hardly in good shape. It is still so overwhelmed by excess supply that prices actually fell in August once again. They are down over 30% from their peak in 2007.

We can attest to the fact that the winter is far from over. Our transactions department, led by Oliver Janney, has had nearly no volume in FY 2008. Jet closings, once a common occurrence, are scarce. ■

## Biodiesel as One Solution to Overcoming the Fuel Price Issue

In a recent issue of Aviation News we noted the burning issue of fuel prices, which have softened a bit, but still are much higher than a few short years ago. Alternative fuels offer one solution to fuel prices and trade imbalances exacerbated by importing fuels. The production of alternative fuels to petroleum-based fuels is currently a national priority. The Energy Independence and Security Act of 2007 mandates that petrodiesel fuel derived from petroleum be mixed with biodiesel fuel.

The dramatic increase in the cost of petroleum-based fuels has resulted in efforts to increase production of petroleum through increases in offshore production and to find alternative fuels. Alternatives to petrodiesel fuel are nearly as old as the diesel

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## FAA considers approving on-line and internet-based flight schools

By J. Christopher Robbins, Esq.

You remember yours. I remember mine. Everyone remembers ground school. Mine was in a dingy, dark corner of the low-rent district of our airport. The three-classroom facility smelled like stale coffee and mildew. The air conditioning worked fine, at least when the owner turned it on. There is nothing like sweating over a whiz wheel.

In any event, the FAA is considering the requests of several "on-line" universities who want to offer Internet-based flight training. Students would satisfy the ground school requirement by logging into their computers, grabbing a coke, and then "attending" on-line classes.

Despite the fact that I am a professor at a college, I do not buy the hype surrounding internet education. I never have. It lacks supervision. It lacks the give-and-take that makes a classroom dynamic.

Online education also lacks confrontation. A classroom environment should put students

on the spot. They must be required to defend their positions, the facts, and their beliefs. Instructors should be able to engage them, to question them, and to confront them when appropriate. The flight deck is not a passive, docile, and forgiving place. The classroom shouldn't be either.

Of all the types of education, flight training needs personal interaction. A CFI's purpose is not just to impart facts and figures. CFIs teach by example. Lessons relating to flight planning, critical thinking, aviation weather, and go-no-go decisions need narrative, context, and a personal approach.

Ask yourself: was your flight training experience anything like mine, where I learned almost as much from my CFI's war stories and bull sessions as I did in the classroom? Internet-based ground school students will miss a lot of that.

How serious, realistic, or informative do you expect a discussion on emergency procedures to be when the instructor was recorded days ago in a studio and the student is staring at a LCD panel and drinking a beer?

### Biodiesel, from page 1

engine. In 1900 Rudolf Diesel, the inventor of the diesel engine, demonstrated that vegetable oil could be used in place of petrodiesel fuel and on numerous occasions that alternative was used at times when petrodiesel fuel was severely limited.

Biodiesel fuels represent an attractive alternative to petrodiesel fuels. Biodiesel fuels are made from fats and oils. In the U.S. most biodiesel fuels are made from soybeans, peanuts, canola, rapeseed, waste animal fat, used cooking oil or some combination of the three. Biodiesels are generally blended with petrodiesel, most commonly in aircraft engines at the rate of 20%-30% biodiesel to 70%-80% petrodiesel. These blends can be used without modification of the engine with little or no degradation in efficiency. Biodiesels can be produced at less cost than petrodiesel fuels and can help to reduce dependence on imported oils. In recent years other countries, including India, China Malaysia, The Philippines and Brazil have undertaken massive biofuel

production programs, in order to reduce their dependence on imported petroleum products.

The federal government and aircraft and engine manufacturers have been exploring alternate biodiesel fuels, including algae, alm leaves, coconut oil and castor oil in an effort to find biodiesel fuels that do not compete with food production. One of the alternative biofuels that is attracting increasing attention is Jatropha curcas, an inedible oil crop that originated in Mexico. It offers many benefits, including the following: Unlike many other plants used to produce biofuels, such as peanuts, soybeans and corn, Jatropha does not compete with the production of food. Jatropha is much more efficient than many other biodiesels. It produces 5 times the amount of oil per acre as soybeans and 3 times the amount as peanuts. The cost of growing Jatropha is 20-25% of that of soybeans or peanuts. Jatropha also requires little rainfall or irrigation and can survive mild frosts. Jatropha is the only alternative fuel that has successfully completed the

As a college professor myself (I teach contracts law and business transactions at a university), I am sour on on-line curricula. Online education has not lived up to its billing. Such programs attract the lowest quality of instructors. And no surprise, they attract the least qualified students – ones who are often not willing to dedicate the necessary amount of time or money to a proper education.

Now 15 years into the internet education fad, I know what it means to "graduate" from an on-line "university." I know what an internet-only degree is worth. And when I get résumés from job seekers who chose such programs, I weigh them accordingly.

Do we really want to entrust these same "online universities" with the task of training the next generation of student pilots?

The FAA is accepting comments on this proposal until November 30, 2009. You can send the FAA your comments by logging into [www.regulations.gov](http://www.regulations.gov). You will need to enter the docket number for the proposal: FAA-2008-0938. ■■

EPA's rigorous emissions and health effects study under the Clean Air Act.



One of the more promising potential fuel sources is algae, which can possibly produce twice as much oil as the other alternate sources. However, with a 10-15 year time frame before it will be commercially available, Pratt & Whitney calls algae-based fuel "third generation."

Biofuels in aviation are not a recent development. In 1998 the Baylor Institute for

Air Science reported on the conclusion of a program sponsored by the Texas Alternative Fuels Council to test blends of renewable fuels such as biodiesel, ETBE and ethanol with the turbine engine fuel Jet A.

The tests were made using 80-20 blends in Jet A in a King Air 65-A90 air sampling aircraft. The study concluded that "Biodiesel blends in turbine fuels may be particularly effective as a mean[s] of reducing the CO2 burden resulting from jet aircraft operating as well as reducing NOx emissions." Another benefit that the researchers found was the biodiesel may offset the drying of

aircraft fuel bladders experienced with low sulfur petrodiesel fuel. The pilots found no discernible difference between Jet A and the 80-20 mix in terms of both performance and fuel economy.

The past couple of years have witnessed developments in biodiesel fuel in aviation. In October 2007 a Czech-built combat plane flew successfully on biodiesel. In February 2008, Virgin Air used a biodiesel blend in one of the four engines of a commercial jetliner on a flight from London to Amsterdam. Air New Zealand recently announced the results of its test flight using a commercial 747-400

with Rolls Royce engines. The test was conducted with a 50:50 blend of standard Jet A1 and kerosene derived from jatropha oil. Air New Zealand engineers report that the 747 engines and fuel systems performed well. Earlier this year Bayer AG, Archer Daniels Midland and Daimler Benz announced a joint research effort to develop biofuels for commercial use.

Several of the biofuels that are now being tested offer a means of offsetting fuel prices. For perspective, however, a study released by Boeing last year views alternative fuels as only a medium term (15-20 years) solution. ■■

## Frontier Reminiscences

By Oliver J. Janney, Esq.

The recent announcement that Republic Airlines is buying Frontier Airlines out of bankruptcy triggers memories of the sale of the first Frontier Airlines ("Frontier1") to PEOPLEExpress in 1986. I was general counsel of the company that owned Frontier1 back in 1984.

The causes of the sales are different, although both were the result of severe deterioration in economic conditions. The current Frontier had to resort to Chapter 11 after its credit card processor announced it would retain 100% of Frontier's credit card transactions. The first Frontier did not survive severe changes in its marketplace. The current Frontier was started by former executives of Frontier1, and at its inception 75% of its employees had been employed by Frontier1. Both Frontiers were based in Denver, and both focused on a core of the Rocky Mountain communities, for which Frontier was a major provider of transportation of people and mail. Both expanded to include cities outside the region, including destinations in Canada and Mexico. Both have been gobbled up by fast-growing regional air carriers. What was the original Frontier Airlines like, and why did it succumb 23 years ago?

The product of a merger in 1950 of three local carriers using surplus aircraft from World War II, Frontier 1 was for many years the dominant mover of people and mail in the Rocky Mountains Region. Like the new Frontier, Frontier1 expanded over the years through ac-

quisitions (notably Central Airlines in 1967) and expansion to Canada and Mexico. It had frequent changes in top management but a



& Rubber Company), Frontier1 led the industry in profits. It modernized its fleet and seemed to share the rosy future of its broadcasting, soft drink bottling and resort management sister companies.

Then in 1982 Frontier1's market crashed. United Airlines began a campaign to dominate the Denver hub. During the years immediately preceding 1982, the CAB had been trimming Frontier1's generous subsidies. Then Congress in the 1983 appropriations bills terminated the authority of the Civil Aeronautics Board to pay subsidies for servicing

of small cities after September 30, 1982. The subsidies provided in the Federal Aviation Act of 1958 had for many years supported the carriage of mail to cities too small for such services to be profitable. The subsidies had been a mainstay in Frontier1's profitability. Frontier1 suffered major operating losses in 1983 and 1984, despite significant concessions on wages and benefits by its unions. Its majority owner, which prized profitable businesses, was unsuccessful in finding a buyer and sought to sell the airline to an ESOP for its employees. When those negotiations fell through, RKO sold its interest in Frontier1 to PEOPLEExpress, which put Frontier1 into bankruptcy a year later and was eventually acquired by Continental Airlines. Frontier1 disappeared in 1986, to be reborn in the form of the current Frontier in 1993. ■■

dedicated workforce. The old Frontier was special. It hired the first female commercial pilot in the U.S. and employed the only Tuskegee Airman serving as a commercial pilot. In 1967 Time Magazine reported that Frontier had attained the greatest increase among all U.S. scheduled airlines in revenue passenger miles, largely by filling seats with "the wildest array of discount fares in the U.S." Frontier was 30 years ahead of its time in its variety of fares later made feasible and popular by the explosion of computers. In the mid-1980s Frontier1's stewardesses were reminiscent of those of the 1950s and 1960s, and it still served steak in coach. After its acquisition in 1968 by RKO General, Inc., a leisure activities conglomerate based in New York City, which was a subsidiary of GenCorp Inc. (formerly The General Tire