

Profile
Joseph C Wheeler MRAeS

Flydubai Flight FZ981
Boeing 737-800, Reg A6-FDN
19 March 2016, Rostov-On-Don



Joseph Wheeler is the Principal of aviation and aerospace law firm, *International Aerospace Law and Policy Group (IALPG)* and consults to Australia's largest and most successful plaintiff law firm, Maurice Blackburn Lawyers, leading its Aviation practice area.

Education and professional summary

Joseph is one of the few post graduate alumni of the McGill University Institute of Air and Space Law in Canada who acts predominantly for claimants and pilots.

He is an elected Member of the Royal Aeronautical Society, recognising his expertise in international air law, and is appointed to the Legal Advisory Group of the International Federation of Airline Pilots' Associations (IFALPA) in Montreal. Joseph is the national Aviation Spokesperson of the Australian Lawyers Alliance, the leading social justice legal professional association in Australia.

Joseph has also been an aviation regulator for the Australian Government and was responsible for airport economic regulation policy oversight and planning and development as an Assistant Director in the Airports Branch, Canberra from 2011 – 2013. In this role he took liaison and enforcement responsibility for a number of legal policy matters including planning and development for all federally leased airports in the states of Victoria and Tasmania.

His passion for aviation law developed since university, when he learned to fly light aircraft. At that time he was selected to intern at two major US plaintiff and airline/defendant firms to develop skills in aviation litigation from both the claimant and airline perspectives. While interning Joseph assisted in a number of high profile matters pertaining to the 9/11 litigation in New York (2001), the Gol Airlines mid air crash in Brazil (2006), American Airlines 587 (2001), and a number of US general aviation product liability accidents (various years). Joseph has since specialised in international air crash litigation.

Aviation case experience

Joseph has acted for victims of the worst air tragedies affecting Australians and citizens of other nations for nearly 10 years, which has contributed to his practical judgment.

Notable cases include:

- the Lockhart River Metroliner crash (2005):
 - this case resulted in the maximum damages available by settlement for domestic air crash cases
- Qantas flight QF72 (2008):
 - this Airbus flight from Singapore to Perth suffered severe turbulence caused by an aircraft avionic error
 - passengers suffered a variety of major injuries and at a previous firm Joseph acted for a passenger with major neck and spinal injuries under the Warsaw/Hague Conventions
- Air Bagan flight 11(2012):
 - a domestic Myanmar crash (previously known as Burma) involved numerous nationality passengers, and I acted for two Australian passengers who survived the crash
 - the claims were negotiated without the need for litigation in Myanmar as doing so would have been detrimental to the families
- Lao Airlines flight 301 (2013):
 - this domestic Laotian air crash by an ATR aircraft involved a number of passengers of different nationalities and I advised on settlements for one family who lost two family members, and initially advised the family of the Captain
 - the insurer's lawyers offered compensation well above that which would have been obtained in a local Laotian court
- Malaysia Airlines flight MH370 (2014):
 - negotiations are ongoing in this case, the most puzzling in aviation accident history
 - Joseph represents a group of Malaysian passengers who lost their spouses on the flight, and cases have been commenced in Malaysian courts
- Malaysia Airlines flight MH17 (2014):
 - the shooting down of this passenger jet over Ukraine has resulted in claimants with rights under a variety of international and domestic laws
 - Joseph represents a group of Australian and Dutch claimants who are presently negotiating finalisation of their compensation claims
 - Joseph is on the international plaintiffs steering committee together with Dutch and British lawyers, which is working together to negotiate a global settlement for the entire group of passengers' families

- Many commercial charter air crash cases including skydiving, helicopter, and general aviation operators, under a legal scheme mirroring that of the Warsaw/Montreal regimes:
 - Examples include:
 - (2014) a Cessna skydiving aircraft crash in Queensland which killed all occupants and is considered to have been caused by a faulty seat component manufactured in USA
 - (2013) a Bell helicopter crash in northern Queensland which left the passenger with severe spinal injuries – successfully settled out of court
 - (2013 – 2015) a variety of Montreal Convention claims against airlines such as *Thai*, *Virgin Australia*, *Vietnam Airlines*, *Air China*, and *Qantas* for minor and serious injuries caused to passengers onboard on domestic and international flights
 - (2013) commercial charter plane crash causing severe spine and neurological and psychological injuries in Northern Territory due to engine failure of aircraft
 - (2011) crash of an amphibious light aircraft in New South Wales which resulted in a significant claim against the pilot and Brazilian manufacturer of the aircraft (millions of dollars)

Media engagement

Joseph's comments on aviation accident liability law are recognised to be of expert status in the region, and are widely sought by global media.

He has been regularly interviewed and quoted by television and print media including the *Wall Street Journal*, *Reuters*, *BBC*, *the Times of London*, *Bloomberg TV*, *ABC*, *AAP*, *Channel News Asia*.

He also writes a fortnightly column on aviation regulatory and policy developments in *The Australian*, the largest national newspaper, and provides media policy and interviewing training for organisations.

Conference presentations

Joseph has broad engagement with international aviation claims and is often invited to speak at legal conferences in Asia Pacific, Europe and North America to discuss the most recent developments. He has spoken at the ICAO Legal Seminar in Seoul, Korea, American Bar Association Forum on Air and Space Law in Montreal, Canada, Aviation Law Association of Australia and New Zealand annual conferences in Australia and New Zealand, McGill University aviation law and space law conferences/workshops in India and Australia, Trans-Pacific Aviation Law and Policy conference in Vancouver, Canada, and will next present this year at the Pan European Organisation of Personal Injury Lawyers' Aviation and Liability conference in Edinburgh, Scotland in May 2016.

His experience and network of contacts developed through conference speaking and teaching is useful in bringing all claims to resolution, efficiently and for the best possible client outcome.

Published papers

- ICAO Guidance on Volcanic Ash: From Risk Aversion to Risk Management, Vol XXXVI *Annals of Air and Space Law* 2011. A review of the components of the ICAO International Airways Volcano Watch system and actions by ICAO generally and regionally in Europe following the Eyjafjallajökull volcanic explosivity of April, 2010.
- Air Carrier Liability for Delay: A Plea to Return to International Uniformity, *Journal of Air Law and Commerce* July 27, 2012 (co-authored with June Lee), Winter 2012, Vol 77 (No 1). The paper presents legal and pragmatic reasons for either substantial review, or repeal of, European Community Regulation 261 of 2004 in the context of the existing Montreal Convention (1999) regime. Includes discussion of passenger compensation for air carrier delays, in the context of recent cases, commentary, regulatory reviews, events (eg, volcanic ash), and trends in the reasoning of the European Court of Justice (including the 21 December, 2011 “ETS” decision).
- ICAO Guidance on Volcanic Ash - the 2012 Position *Pacific Skies Aviation Magazine* (published by the Secretariat of the Pacific Community and the Association of South Pacific Airlines), December 2012 (co-authored with Andrew Tupper). To ensure the continued uniform safety of international air operations near or around volcanic ash airlines, together with the State civil aviation authorities which oversee them, should now come to terms with the 2012 ICAO Flight Safety and Volcanic Ash Manual (Doc 9974) and the requirements of volcanic ash safety risk assessments.
- *Pacific Skies Aviation Magazine* (published by the Secretariat of the Pacific Community and the Association of South Pacific Airlines) December 4, 2013, (co-authored with Florence Williams-Reur, Vanuatu Government). A brief overview of air passenger liability provisions and limits in the legislation of Papua New Guinea, Fiji, Vanuatu and Australia.
- Enforcement of Australian Aviation Law, *Precedent*, Australian Lawyers Alliance February 1, 2014. An examination of the Civil Aviation Safety Authority's regulatory oversight and enforcement functions in the context of Australia's international obligations.
- A Study on the Australian Law Regarding RPAS (Remotely Piloted Aircraft System): Need for an International Approach, *Korean Journal of Air and Space Law* December 30, 2015, (co-authored with June Lee). This article surveys the current international law with respect to RPAS from both the public air law and private air law perspectives. It then reviews current and proposed Australian domestic RPAS regulation while emphasizing the peculiar risks in operation of RPAS; and how they affect concepts of liability, safety and privacy. While RPAS operations still constitute only a small portion of total operations within commercial aviation, international pilotless flight for commercial air transport remains a future reality. As the industry is developing so quickly the earlier the pursuit of the right policy solutions begins, the better the law will be able to cope with the technological realities when the inevitable risks manifest in accidents. The paper acknowledges that a domestic or regional approach to RPAS, typified by the legislative success of the Australian experience, is and continues to be the principal measure to deal with RPAS issues globally. Creating safety-related rules is imperative and must precede the creation or adoption of liability rules because the former mitigates the risk of accidents which trigger the application of the latter. The flipside of a lack of binding airworthiness standards for RPAS operators is potentially a strong argument that the liability regime (and particularly strict liability of operators) is unfair and unsuited to pilotless flight. The potential solutions the authors raise include the need for revised ICAO

guidance and, in particular, SARPs with respect to RPAS air safety, airworthiness, and potentially liability issues for participants/passengers, and those on the ground.

Certifications

- Solicitor of the Supreme Court of Queensland (Principal practising certificate permitting law firm operation and management)
- Solicitor of the High Court of Australia
- Barrister and Solicitor of the High Court of New Zealand

Law firm profiles and background

Joseph's aviation compensation practice is through **Maurice Blackburn Lawyers**, where he leads the aviation practice. The firm was founded in 1919 by Maurice Blackburn and is now Australia's largest plaintiff practice. The firm only acts for those injured or aggrieved, rather than insurers. It now has over 50 Partners and over 1,000 staff across 50 offices in Australia.

In 2012, Maurice Blackburn won the largest class action settlement in Australian history, achieving \$200 million in compensation for Centro shareholders. This is part of the more than \$1billion the Maurice Blackburn class action team has won in the past 15 years for consumers, shareholders and businesses.

Our current cases include fighting on behalf of around 160,000 people who were charged unfair fees by major banks, and other class actions on behalf of consumers of faulty products and aggrieved shareholders. The firm is the only one in Australia to have settled shareholder class actions at over \$100 million including Aristocrat \$144.5m, Multiplex \$110m, Centro \$150m, and NAB \$115m.

Prior to Maurice Blackburn Joseph led the aviation practice at **Shine Lawyers** for two years (2013-2015). This firm, the once second largest plaintiff national firm and which commenced in 1976, is a publicly listed company and Joseph built the aviation practice, leaving in 2015 when he decided to start his own aviation specialty practice (IALPG) and work with Maurice Blackburn.

Contact information

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See also: www.ialpg.com