

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 08-3878

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JOSEPH ELASSAAD,

Appellant

v.

INDEPENDENCE AIR, INC.;  
DELTA AIR LINES, INC.,

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Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Civil No. 05-cv-02328)  
District Judge: Honorable Edmund V. Ludwig

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Present: MCKEE, Chief Judge, SLOVITER, SCIRICA,  
RENDELL, AMBRO, FUENTES, SMITH, FISHER,  
CHAGARES, JORDAN, VANASKIE, *Circuit Judges*,  
and AMBROSE, *District Judge*.\*

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SUR PETITION FOR REHEARING  
WITH SUGGESTION FOR REHEARING IN BANC

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\*The Honorable Donetta W. Ambrose, Judge of the United States District Court  
for the Western District of Pennsylvania, sitting by designation.

Upon consideration of the Petition of Appellee, Independence Air, Inc., for Rehearing En Banc or Panel Rehearing, it is hereby ORDERED that the said petition is GRANTED to the extent it seeks panel rehearing, and the precedential opinion of this Court filed on May 12, 2010 is hereby VACATED.

Petitioner has urged that our opinion in this case failed to acknowledge its argument regarding conflict preemption. The panel's Amended Opinion, filed contemporaneously herewith, includes a discussion of this issue and vacates the order of the District Court.

BY THE COURT:

*/s/ Marjorie O. Rendell*

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Circuit Judge

Dated: July 6, 2010  
crg/cc: All counsel of record