



**It's a bird
It's a plane
Could it be a claim?**

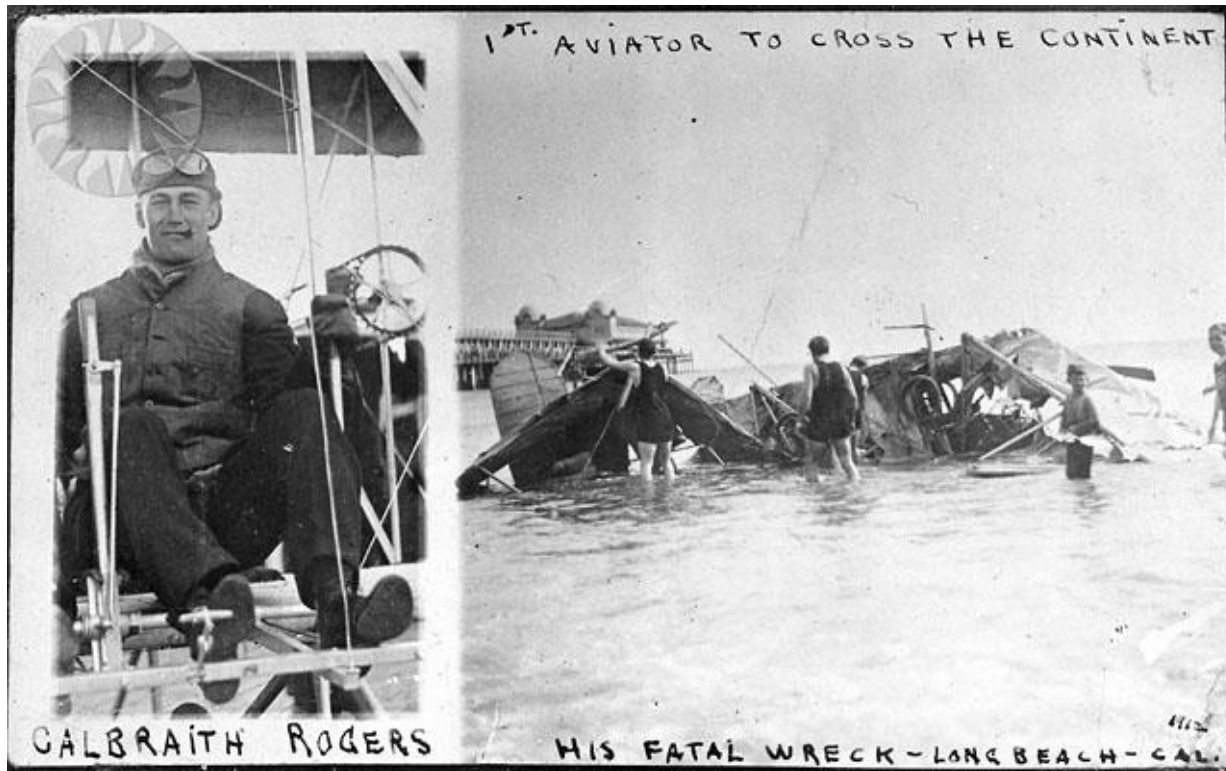
Presented by

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Today's Presentation

- Examples of serious international bird strike incidents.
- The cost of bird strikes to the aviation industry.
- The key legal liability issues arising from bird strikes for airport operators; and
- A brief discussion on the role airlines and their personnel can also play in mitigation bird strike exposures.

Wildlife Strike – First Recorded Fatality



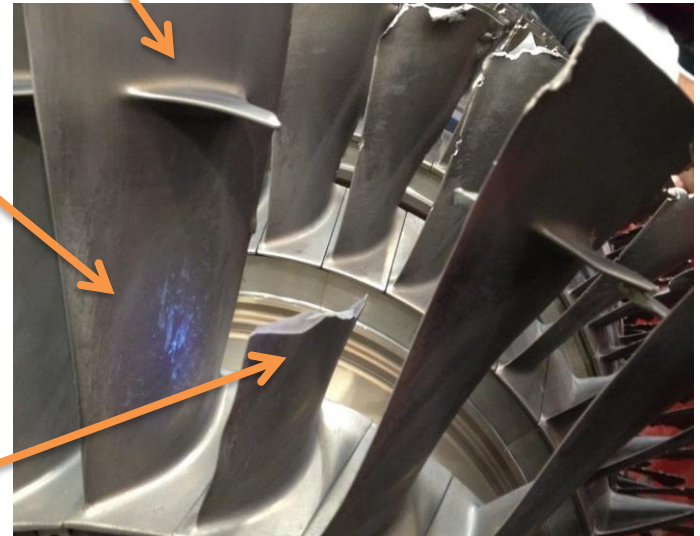
Air NZ, Wellington – Auckland, 2012

Blade Clapper



Bird Debris

Fractured
Blade



Eastern Airlines, Boston, 1960



KLM Flight 602



Aircraft parts found on Dockweiler State Beach: August 2000



Legal Liability for Bird Strike: Theoretical Views

Presently, there is no unified legal instrument that defines who is liable for damage caused by collisions between birds and aircraft

BUT...

One emerging area of legal thought is that:

1. Internationally: ICAO have indirectly regulated liability for damage through the development of its own standards and manuals; and
2. Domestically: airport / aerodrome certification by the relevant regulator itself sets the applicable standards and manuals.

Legal Liability for Bird Strike: Existing Sources of Law

Passengers	Persons on the ground	Airlines
Claims against the airline	Claims against the airline	Airport operators
International conventions (where applicable), or alternatively sources of domestic law	Rome convention (as adjusted by the Montreal Protocol (if applicable)), or alternatively domestic substantive law	Substantive law of the country in which the bird strike takes place

Legal Liability for Bird Strike: Basic Principals

The central legal concepts are:

1. Duty of Care; and
2. Duty to Warn.

The basic standards applicable to bird / wildlife strikes can be summarised as follows:

Aircraft Operators

‘Reasonable care must be applied to ensure that an aircraft is operated safely; those responsible must be diligent in availing themselves of up to date information and technology that provides adequate warning of hazards.’

Airport Operators

‘Exercising due diligence in the management of wildlife hazards.’

Criminal Negligence

**Leadair Unijet:
Dassault Falcon 20**



1995 Alaska Boeing E-3 Sentry accident



Additional Sources of Law for Bird Strike Liability

- Contract Law;
- Misleading and Deceptive Conduct (Australian Consumer Law);
- Breach of Statutory Duty.

Litigation by Airlines

→ On 12 November 1975, a DC 10 ingested several gulls into the #3 engine whilst on its take off run at JFK International Airport, New York.

→ In March 1998, an Air France A-320 encountered a flock of about 20 gulls during its take-off run from Marseille Provence Airport in France. Several birds were ingested into the #2 engine which was destroyed.

What Should Airport Operators Do to Resist Claims?

- ➔ Airport Operators Need to Demonstrate:
 - ❑ Adherence to all applicable regulations and standards;
 - ❑ Clear procedures for bird dispersal, and record evidence of prevention and harassment actions performed;
 - ❑ Collaborative relationships with stakeholders to manage landfill and features which may be attractive to wildlife, in particular birds; and
 - ❑ Current up to date dissemination of information on bird hazards.

Airlines have a role to play

- Aircrew should receive formal initial and refresher training for assessing wildlife strike risks to their flight operations;
- Airlines should not allow their crew to leave without NOTAMS of destination and alternate airports;
- Aircrew should always be informed of the wildlife situation at the airports they are flying to;
- Pilots should be encouraged to report actual or suspected strikes without delay;
- Ensure guidelines are in place for maintenance inspection after any flight during which an actual or suspected bird strike has occurred.

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