

Court: US COURT OF APPEALS FOR THE NINTH CIRCUIT

Case Title: FRANK, ET AL v. UNITED AIRLINES, INC

Appeal From: NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

Date Filed: 04/15/1998

CASE INFORMATION

Case Number: [98-15638](#)

Fee Status: PAID

Case Type: APPEALS

Case Subtype: CIVIL

PRIVATE

Nature of Suit: 3442 JOBS (FED)

Key Nature of Suit: CIVIL RIGHTS; EMPLOYMENT (110.25)

LOWER COURT INFORMATION

District: 0971-3

Lower Court Docket Number: 92-CV-692

Trial Judge(s): [CHARLES A. LEGGE](#), DISTRICT JUDGE

Court Reporter(s): JAMES YEOMANS
KATHERINE POPE WYATT
JAN BREWER

Date Filed: 02/07/1992

Date Order/Judgment: 03/11/1998

Date NOA Filed: 04/09/1998

OTHER CASES

Current Case(s):

Relationship:	Lead Docket:	Member Docket:	Start Date:	End Date:
COMPANION	98-15638	--	09/14/1998	--

NAMES

Name: LESLIE FRANK
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)
Attorney Phone: 415-241-7286
Attorney Fax: 415-252-8048
Firm Address: 345 FRANKLIN STREET
SAN FRANCISCO, CA 94102

Name: PAT PARNELL
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: SUSAN BRODERICK
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: CAROLE KIRK

Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: NICKOL MELANSON
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: SANDRA HUFF
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: DIANE DAVIS
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: SHARON BENJAMIN
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: SHARRON K. TAYLOR
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: BLAND LANE
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: JOAN BALLA WEAVER
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: DONNA DURKIN
Type: PLAINTIFF - APPELLANT
Attorney: [EDITH J. BENAY, ESQ.](#)

Name: ELLEN MCCORMICK
Type: PLAINTIFF - APPELLANT

Attorney: [EDITH J. BENAY, ESQ.](#)
Name: UNITED AIRLINES, INC
Type: DEFENDANT - APPELLEE
Attorney: [F. CURT KIRSCHNER, JR.,](#) ESQ.
Attorney Address: 25TH FLOOR
Attorney Phone: 415-984-8700
Firm Name: O'MELVENY AND MYERS LLP
Firm Address: 25TH FLOOR
275 BATTERY STREET
SAN FRANCISCO, CA 94111-3305

Name: EMPLOYERS GROUP AMICUS CALIFORNIA EMPLOYMENT
LAW COUNCIL AMICUS AIR TRANSPORT ASSOCIATION OF
AMERICA AMICUS

Attorney: [TOM A. JERMAN, ESQ.](#) FAX
Attorney Phone: 213-669-6000
Firm Name: O'MELVENY & MYERS, LLP
Firm Address: 400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

Attorney: [TOM A. JERMAN, ESQ.](#) FAX
Attorney Phone: 213-669-6000
Firm Name: O'MELVENY & MYERS, LLP
Firm Address: 400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

Attorney: JEFFREY A. BERMAN, ESQ.
Attorney Address: SUITE 4000
Attorney Phone: 213-896-6000
Firm Address: SUITE 4000

Attorney: SIDLEY AUSTIN BROWN & WOOD 555 WEST FIFTH STREET
LOS ANGELES, CA 90013 JEFFREY A. BERMAN, ESQ.

Attorney: [NEAL D. MOLLEN](#)
Attorney Phone: 202-508-9500
Firm Name: PAUL, HASTINGS, JANOFSKY & WALKER
Firm Address: 1299 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2400

DOCKET PROCEEDINGS

ENTRY #:	DATE:	DESCRIPTION:
--	06/12/2001	RECORD RETURNED. (SEE CONTROL CARD FOR DETAILS.) (STEV) [98-15638]
--	03/09/2001	FILED SUPREME COURT ORDER, CERTIORARI DENIED ON 3/5/01. SUPREME COURT NO. 00-948 [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	12/14/2000	RECEIVED NOTICE FROM SUPREME COURT: PETITION FOR CERTIORARI FILED SUPREME COURT NO. 00-948 FILED ON 12/8/00. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	10/23/2000	RECEIVED LETTER FROM THE SUPREME COURT DATED 10/20/00 RE: APPLICATION FOR AN EXT OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI...EXTENDED THE TIME TO AND INCLUDING 12/9/00. (CASEFILES) [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	08/21/2000	MANDATE ISSUED [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	08/11/2000	FILED ORDER (STEPHEN R. REINHARDT, DIARMUID F. O'SCANNLAIN, WILLIAM A. FLETCHER,): ...THE PETITION FOR REHEARING AND THE PETITION FOR REHEARING EN BANC ARE DENIED. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	08/10/2000	FILED ORDER (STEPHEN R. REINHARDT, DIARMUID F. O'SCANNLAIN, WILLIAM A. FLETCHER,): APLTS' PETITION FOR REHEARING/CLARIFICATION, FILED 7/12/00, IS DENIED. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/24/2000	FILED ORIGINAL AND 50 COPIES AIR TRANSPORT ASSOC.'S AMICUS CURIAE BRIEF OF 12 PAGES (IN SUPORT OF PETITION); SERVED ON 7/21/00 (PANEL AND ALL ACTIVE JUDGES) [98-15638, 98-16687] (HH) [98-15638 98-

16687]

--	07/24/2000	RECEIVED AMICUS AIR TRANSPORT ASSOC.'S SATISFACTION OF (MAJOR) BRIEF DEFICIENCY (ORIG AND 50 CORRECTED AMICUS BRIEF), SERVED ON 7/21/00 [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/24/2000	FILED ORIGINAL AND 50 COPIES EMPLOYERS GROUP AND CELC'S AMICUS CURIAE BRIEF OF 8 PAGES (IN SUPPORT OF PETITION); SERVED ON 7/7/00 (PANEL AND ALL ACTIVE JUDGES) [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/24/2000	FILED ORDER (STEPHEN R. REINHARDT, DIARMUID F. O'SCANNLAIN, WILLIAM A. FLETCHER,): THE MOTIONS BY EMPLOYERS GROUP AND CALIFORNIA EMPLOYMENT LAW COUNCIL AND AIR TRANSPORT ASSOCIATION OF AMERICA FOR LEAVE TO FILE AMICUS CURIAE BRIEFS IN SUPPORT OF THE APLE'S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC ARE GRANTED. THE AMICUS BRIEFS, RECVD 7/12/00 AND 7/19/00, ARE ORDERED FILED, AND SHALL BE CIRCULATED TO THE FULL COURT. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/19/2000	FILED AIR TRANSPORT ASSOC.'S MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF DEFT-APLE'S PETITION FOR REHEARING OR REHEARING EN BANC; SERVED ON 7/18/00 [3953375] (TO PANEL) (HH) [98-15638 98-16687]
--	07/19/2000	RECEIVED ORIGINAL AND 50 COPIES AMICUS CURIAE AIR TRANSPORT ASSOC.'S AMICUS BRIEF (IN SUPPORT OF APLE'S PETITION), 8 PAGES; SERVED ON 7/18/00 (DEFICIENT: PRINT TOO SMALL) NOTIFIED COUNSEL. (TO PANEL) [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/13/2000	RECEIVED CERTIFICATE OF COMPLIANCE AND ADD'L 23 COPIES OF AMICUS BRIEF FROM EMPLOYERS GROUP AND CELC. [98-15638, 98-16687] (HH) [98-15638 98-16687]

--	07/12/2000	[3948882] FILED ORIGINAL AND 50 COPIES APPELLEE UNITED AIRLINES, INC.'S PETITION FOR REHEARING WITH SUGGESTION FOR REHEARING EN BANC; 15 P.PAGES, SERVED ON 7/12/00 (PANEL AND ALL ACTIVE JUDGES) [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/12/2000	FILED EMPLOYERS GROUP AND CELC'S MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE; SERVED ON 7/7/00 [3948389] (TO PANEL ONLY ALONG WITH BRIEF) (HH) [98-15638 98-16687]
--	07/12/2000	RECEIVED ORIGINAL AND 27 COPIES EMPLOYERS GROUP AND CALIFORNIA EMPLOYMENT LAW COUNSEL'S AMICUS CURIAE BRIEF (IN SUPPORT OF PETITION), 8 PAGES; SERVED ON 7/7/00 (DEFICIENT: MOTION TO FILE PENDING/PANEL; NO CERT. OF COMPLIANCE, NEED 23 ADD'L COPIES) NOTIFIED COUNSEL. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	06/21/2000	FILED OPINION: REVERSED IN PART, AFFIRMED IN PART, AND REMANDED. EACH PARTY SHALL BEAR ITS OWN COSTS ON APPEAL. (TERMINATED ON THE MERITS AFTER ORAL HEARING; AFFIRMED (IN PART) AND REVERSED (IN PART); WRITTEN, SIGNED, PUBLISHED. STEPHEN R. REINHARDT; DIARMUID F. O'SCANNLAIN, CONCURRING IN PART AND DISSENTING IN PART; WILLIAM A. FLETCHER, AUTHOR.) FILED AND ENTERED JUDGMENT. [98-15638, 98-16687] (HH) [98-15638 98-16687]
--	07/15/1999	FILED APLE UNITED AIRLINES, INC IN 98-15638 ADDITIONAL CITATIONS, SERVED ON 7/15/99 (TO PANEL) [98-15638] (HH) [98-15638]
--	07/12/1999	ARGUED AND SUBMITTED TO STEPHEN R. REINHARDT, WILLIAM A. FLETCHER [98-15638, 98-16687] (AH) [98-15638 98-16687]

--	07/07/1999	FILED APLE UNITED AIRLINES, INC.'S ADDITIONAL CITATIONS, SERVED ON 7/7/99 (FAXED TO PANEL) [98-15638] (HH) [98-15638]
--	06/30/1999	FILED UNITED AIRLINES, INC.'S ADDITIONAL CITATIONS, SERVED ON 6/30/99 (FEDEX TO PANEL) [98-15638] (HH) [98-15638]
--	06/23/1999	REC'D ERRATA TO REPLY BRIEF FROM APPELLANTS LESLIE FRANK, ET AL., SERVED 6/23/99 (TO PANEL) [98-15638] (HH) [98-15638]
--	06/23/1999	REC'D ERRATA TO OPENING BRIEF FROM APPELLANTS LESLIE FRANK, ET AL., SERVED 6/23/99 (TO PANEL) [98-15638] (HH) [98-15638]
--	05/25/1999	CALENDARED: SAN FRAN JUL 12 1999 9:00 AM COURTROOM 1 [98-15638, 98-16687] (AW) [98-15638 98-16687]
--	05/22/1999	CALENDAR MATERIALS BEING PREPARED. [98-15638, 98-16687] [98-15638, 98-16687] (AW) [98-15638 98-16687]
--	05/08/1999	CALENDAR CHECK PERFORMED [98-15638, 98-16687] (AW) [98-15638 98-16687]
--	04/05/1999	FILED CERTIFIED RECORD ON APPEAL: 12 CLERK'S RECORDS, 10 REPORTER'S TRANSCRIPTS, 8 BULKY DOCUMENTS, (ORIGINAL). [98-15638, 98-16687] (STEV) [98-15638 98-16687]
--	12/31/1998	FILED UNDER SEAL ORIGINAL AND 15 COPIES APLTS LESLIE FRANK, ET AL., REPLY BRIEF, (INFORMAL: N) 46 PAGES, AND 5 SUPPL. EXCERPTS IN 1 VOL.; SERVED ON 12/30/98 [98-15638] (HH) [98-15638]

--	12/31/1998	FILED APLTS' NOTIFICATION OF DOCUMENTS FILED UNDER SEAL (REPLY BRIEF), DATED 12/30/98 (CASE-FILES) [98-15638] (HH) [98-15638]
--	12/10/1998	FILED ORDER PROMO (APPELLATE COMMISSIONER) THE COURT IS IN RECEIPT OF APLTS' LATE-FILED MOTION TO FILE AN OVERSIZE OPTIONAL REPLY BRIEF OF 10,231 WORDS. THE MOTION IS GRANTED IN PART. WITHIN 21 DAYS FROM THE ENTRY OF THIS ORDER, APLTS SHALL SUBMIT TO THIS COURT AN ORIGINAL AND 15 COPIES OF AN OPTIONAL REPLY BRIEF NOT TO EXCEED 8,400 WORDS. [98-15638] (HH) [98-15638]
--	11/12/1998	FILED APPELLANTS LESLIE FRANK, ET AL., MOTION FOR RELEIF FROM PAGE LIMITATIONS OF CIR.R. 32; DECLARATION OF EDITH J. BENAY; SERVED ON 11/9/98 (WORK IN PROGRESS/PROMO) [3579253] [98-15638] (HH) [98-15638]
--	11/12/1998	RECEIVED UNDER SEAL ORIGINAL AND 15 COPIES APLTS LESLIE FRANK, ET AL., REPLY BRIEF, (INFORMAL: N) OF 58 PAGES, AND 5 SUPPL. EXCERPTS IN 1 VOL.; SERVED ON 11/9/98 (DEFICIENT: MOTION TO FILE OVERSIZED BRIEF PENDING/PROMO) [98-15638] (** DO NOT USE THIS BRIEF **) (HH) [98-15638]
--	11/12/1998	FILED APPELLANTS' NOTIFICATION OF DOCUMENTS FILED UNDER SEAL (REPLY BRIEF AND SUPPL. EXCERPTS); SERVED ON 11/9/98 (CASEFILES) [98-15638] (HH) [98-15638]
--	10/20/1998	14 DAY ORAL EXTENSION BY PHONE OF TIME TO FILE APPELLANTS' REPLY BRIEF. [98-15638] APPELLANTS' REPLY BRIEF DUE 11/9/98,, ; (JLC) [98-15638]
--	10/13/1998	FILED ORIGINAL AND 15 COPIES APPELLEE UNITED AIRLINES, INC 82 PAGES BRIEF, AND 5 SUPPL. EXCERPTS IN 5 VOL.; SERVED ON 10/9/98 [98-15638] (HH) [98-15638]

--	09/14/1998	FILED CERTIFICATE OF RECORD ON APPEAL RT FILED IN DC 5/26/98 [98-15638] (HH) [98-15638]
--	09/09/1998	FILED MOTION OF APPELLEE AND DEPUTY CLERK ORDER :(DEPUTY CLERK: LKK) CT RECORDS DO NOT CURRENTLY REFLECT THAT THE DC HAS ISSUED THE COR. APLT'S AHLL MONITOR THE ISSUANCE OF THE COR. APLES' MOT FOR AN EXT OF TIME TO FILE THE ANSWERING BRIEF IS GRANTED. THE ANSWERING BRIEF IS DUE 10/9/98. THE OPTIONAL REPLY BRIEF IS DUE 14 DAYS FROM SERVICE OF THE ANSWERING BRIEF. (MOTION RECVD 9/2/98) [98-15638] (TSP) [98-15638]
--	08/12/1998	FILED UNDER SEAL ORIGINAL AND 15 COPIES APPELLANTS LESLIE FRANK, ET AL., OPENING BRIEF (INFORMAL: N) 65 PAGES AND FIVE EXCERPTS OF RECORD IN 7 VOLUMES (VOLS. 1-3 NOT SEAL, VOLS. 4-7 UNDER SEAL); SERVED ON 8/10/98 [98-15638] (HH) [98-15638]
--	08/12/1998	RECEIVED APLTS' NOTIFICATION OF DOCUMENTS FILED UNDER SEAL IN ACCORDANCE WITH 9TH CIR.R. 27-13 (A). (CASEFILES) [98-15638] (HH) [98-15638]
--	07/22/1998	14 DAY ORAL EXTENSION BY PHONE OF TIME TO FILE APPELLANT BRIEF. [98-15638] APPELLANTS' BRIEF DUE 8/10/98,, ; APPELLEES' BRIEF DUE 9/9/98; THE OPTIONAL REPLY BRIEF IS DUE 14 DAYS FROM SERVICE OF THE ANSWERING BRIEF. (CG) [98-15638]
--	05/27/1998	CASE REJECTED FROM CIRCUIT MEDIATION PROGRAM. (MLM) [98-15416 98-15545 98-15638 98-15674 98-15685 98-15896 98-15900 98-15907 98-15918 98-35373 98-35473 98-35502 98-55534 98-55649 98-55755 98-55806 98-55846]
--	05/26/1998	RECEIVED COPY OF TRANSCRIPT DESIGNATION AND ORDERING FORM FILED IN DC (SENT TO CASE FILE) (SM) [98-15638]

--	05/05/1998	RECEIVED COPY OF SECOND AMENDED NOTICE OF APPEAL FROM DISTRICT COURT FILED ON 04/22/98 (CASEFILE) (SM) [98-15638]
--	05/05/1998	RECEIVED COPY OF AMENDED NOTICE OF APPEAL FROM DISTRICT COURT FILED ON 04/21/98 (CASEFILE) (SM) [98-15638]
--	04/22/1998	FILED EDITH J. BENAY FOR APPELLANTS LESLIE FRANK, ET AL., CIVIL APPEALS DOCKETING STATEMENT, SERVED ON 4/20/98 (TO CONFATT) [98-15638] [98-15638] (HH) [98-15638]
--	04/22/1998	FILED APLTS' REPRESENTATION STATEMENT; SERVED ON 4/22/98 (CASEFILES) [98-15638] (HH) [98-15638]
--	04/20/1998	RECEIVED APPELLANTS' NOTICE OF INTENT TO ORDER THE ENTIRE TRANSCRIPT FROM THE COURT REPORTER(S); SERVED ON 4/20/98 (CASEFILES) [98-15638] (HH) [98-15638]
--	04/17/1998	RECEIVED NOTIFICATION FROM DISTRICT COURT RE PAYMENT OF DOCKET FEE. (DATE: 04/14/98) (CASEFILE) [98-15638] (SM) [98-15638]
--	04/15/1998	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): YES. SETTING SCHEDULE AS FOLLOWS: FEE PAYMENT IS DUE 4/29/98; CADS IS PAST DUE; CADS MUST BE FILED NO LATER THAN 4/22/98; APPELLANT'S DESIGNATION OF RT IS DUE 4/20/98; APPELLEE'S DESIGNATION OF RT IS DUE 4/29/98; APPELLANT SHALL ORDER TRANSCRIPT BY 5/11/98; COURT REPORTER SHALL FILE TRANSCRIPT IN DC BY 6/9/98; CERTIFICATE OF RECORD SHALL BE FILED BY 6/16/98; APPELLANT'S OPENING BRIEF IS DUE 7/27/98; APPELLEES' BRIEF IS DUE 8/25/98; APPELLANTS' REPLY BRIEF IS DUE 9/8/98; [98-15638] (SM) [98-15638]