



**In the Matter of:**

**MARK J. HOFFMAN,**

**ARB CASE NO. 09-021**

**COMPLAINANT,**

**ALJ CASE NO. 2007-AIR-007**

**v.**

**DATE: April 13, 2011**

**NETJETS AVIATION, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

**Richard R. Renner, Esq., *Tate & Renner*, Washington, District of Columbia**

*For the Respondent:*

**Jennifer Beale, Esq., NetJets, Inc., Columbus, Ohio**

**Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Luis A. Corchado, *Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge***

### **ORDER DENYING RECONSIDERATION**

On March 24, 2011, the Administrative Review Board (ARB) issued a final decision in this case arising under the whistleblower protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21 or the Act).<sup>1</sup>

---

<sup>1</sup> 49 U.S.C.A. § 42121 (Thomson/West 2010). Regulations implementing AIR 21 appear at 29 C.F.R. Part 1979 (2010).

The ARB affirmed an Administrative Law Judge's (ALJ) dismissal of Mark J. Hoffman's complaint against his employer, NetJets Aviation, Inc.<sup>2</sup>

On April 4, Hoffman's attorney filed a Motion to Reconsider and Motion to Reconsider En Banc. He argued that reconsideration was appropriate because the ALJ's handwritten notations on documents in the record indicated that the ARB's decision "did not reflect the ALJ's true findings." Motion at 2.

In considering a motion for reconsideration, the ARB has applied a four-part test to determine whether the movant has demonstrated: (i) material differences in fact or law from that presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, and (iv) failure to consider material facts presented to the court before its decision.<sup>3</sup>

After reviewing Hoffman's motion, we conclude that none of his attorney's contentions meets the ARB's four-part test. Even if the notations are the ALJ's, they would have no effect on the ALJ's signed decision. Further, the panel finds that this case does not warrant en banc reconsideration. Accordingly, we deny Hoffman's motion.<sup>4</sup>

**SO ORDERED.**

**PAUL M. IGASAKI**  
**Chief Administrative Appeals Judge**

**LUIS A. CORCHADO**  
**Administrative Appeals Judge**

**JOANNE ROYCE**  
**Administrative Appeals Judge**

---

<sup>2</sup> *Hoffman v. NetJets Aviation, Inc.*, ARB No. 09-021, ALJ No. 2005-AIR-007 (ARB Mar. 24, 2011).

<sup>3</sup> *Williams v. United Airlines, Inc.*, ARB No. 08-063, ALJ No. 2008-AIR-003, slip op. at 3 (ARB June 23, 2010).

<sup>4</sup> *See Prince v. Westinghouse Savanna River Co.*, ARB No. 10-079, ALJ No. 2006-ERA-001, slip op. at 3 (ARB Feb. 2, 2011).