

The Legal Side of VLJ Ownership, Part III: The Fleet Owner

There are important legal considerations for the individual VLJ owner, fractional share owner, VLJ fleet owner, and the corporate owner. We are not in the business of law at Very Light Jet Magazine, so we enlisted the services of J. Christopher Robbins, Esq. and Oliver J. Janney, Esq. of The Robbins Law Firm, P.A., to guide us through the maze. Part I dealt with some of the legal considerations of purchases for the individual VLJ owner or prospective owner. Part II covered the fractional owner. Now, let's discuss legal considerations for the fleet owner, both Part 135 Charter and Air-Taxi.

Chris is a lawyer, a private pilot, an NBAA member, and an aircraft owner. He serves as counsel to many companies in the aviation sector, including air charter companies, aircraft brokers, FBOs, corporate flight departments, and aircraft manufacturers. In addition to handling transactions and legal compliance, Chris' firm has defended air-crash litigation. Chris is also a published author and he frequently lectures on aviation law and entrepreneurship.

In this installment, he is teaming up with Oliver Janney. Oliver received his law degree from Harvard Law School in 1970 and his B.A. from Yale University in 1967. He is the former Executive Vice President, General Counsel and Corporate Secretary of Uniroyal Technology Corporation, a NASDAQ company, and was previously General Counsel of RKO General, Inc., a major broadcaster and soft drink bottling company. Oliver handles most of the aviation transactions that come through the office at Robbins.

VLJM: Chris and Oliver, we usually think of charter as a relationship where the customer pays for the round trip and air-taxi as on-demand and one-way. What is your interpretation of the differences between these types of operator?

OLIVER JANNEY: Actually, while the terms are often used interchangeably, on-demand air-taxi service can be viewed as a subset of air charter services. Both are subject to part 135 and both involve renting the aircraft for operation by the operator's pilot(s) and with the operator maintaining operational control. What distinguishes air-taxi service is that the aircraft may be chartered to more than one party, the carriage is from one city to another, frequently using smaller regional airports, and may involve a stop en route to discharge one or more passengers. Air-taxi operations have been growing dramatically and are expected to continue to do so with the advent of VLJs.

The charter operator could own the aircraft or lease them. What are your legal concerns for the VLJ charter fleet operator of both categories?

CHRIS ROBBINS: While VLJs can often be acquired for costs well below those of other turbine aircraft, ownership will involve a larger financial commitment up front. While leasing may involve a lower capital investment, frequently the lessor will reserve a block of time to use the aircraft. The lessee should ensure that the notice and operation rights are clearly spelled out in the lease and that operational control is made particularly clear. If the lessor reserves the right to approve repairs, the operator might find the aircraft unavailable while the lessor decides whether or not to make repairs that the operator considers necessary.

The air-taxi market is fundamental to the concept of VLJs and several companies are positioning themselves for their part in this promising arena. What legal aspects of air-taxi should the operator consider?

OLIVER: Some of the factors that come immediately to mind are ensuring sufficient insurance, determining what the training requirements will be for pilots of the VLJs and adopting procedures to ensure that the operator does not run afoul of the scheduling restrictions of part 135 operation. Uncertainty also attaches to the regulation of air-taxi operations focused on VLJs. We anticipate that the FAA will be considering various rule changes specific to air-taxi operations. Operators should monitor these changes and have their attorneys advise them on the impact of the changes on their operations.

What services does your firm offer to the fleet operators?

CHRIS: We can provide assistance to fleet operators at every level. Initially, we can help them structure their organizations to meet their ownership and operating requirements, as well as the various legal requirements that are unique to aviation operations. We can also work with them to draft agreements to clarify responsibilities and protect them in the event of disputes. We can also draft agreements for leasing aircraft and for air charter exchanges. When they run into difficulties with regulatory authorities or disputes become intractable, we can provide the legal support to resolve these and other legal issues. As you know, the Department of Transportation has recently voiced concern over transparency of the business organizations providing air charter services. We can help fleet owners understand and meet the agency's requirements.

Chris and Oliver - thank you for that valuable information.

The Legal Side of VLJ Ownership, Part IV will offer information for the Corporate owners of Very Light Jets.

Read more about The Robbins Law Firm, P.A. at www.aviation-law.org. Send questions and comments on this series to: legalside@verylightjetmagazine.com.

