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## New York's "Bill of Rights" Air Travel Law Overturned in Federal Appeals Court

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WilmerHale recently secured an important and high-profile victory for the Air Transport Association of America, the principal trade group for US airlines. On March 25, a panel of the Second Circuit unanimously held that federal law preempts a New York statute, the "Bill of Rights", that required airlines experiencing extended pre-departure ground delays to provide passengers with specified amenities, such as "adequate" refreshments. The law was enacted in response to well-reported incidents in which planes with passengers on board remained on the ground for extended periods during bad weather.

Reversing the district court's grant of summary judgment for the state of New York, the panel agreed with WilmerHale's argument that the Airline Deregulation Act (ADA) of 1978, which proscribes state laws "relating to the . . . service of any air carrier," barred the New York statute. The language of the ADA's preemption provision plainly encompassed the New York law, the panel concluded, adding that any contrary rule would create a patchwork of divergent state-by-state schemes and undermine the deregulatory purposes of the ADA. The panel went on to note that, as we had further argued, to the extent the New York statute concerned the health and safety of passengers onboard airplanes, it would likely also be field-preempted because the federal government, through the Federal Aviation Act of 1958 and regulations enacted thereunder, has occupied the field of aviation health and safety, leaving no room for supplementation or variation by individual states.

[Seth Waxman](#) argued the appeal. Also on the legal team from WilmerHale were [Bruce Rabinovitz](#), [Jon Nuechterlein](#), [Heather Zachary](#), [Daniel Volchok](#), and Chad Golder.