



The Cathay Pilots Union

House of Lords Ruling

Dear Cathay Pilot

As you have probably read, Captain George Crofts received a 5-0 judgment in his favour in the UK's highest appeal court, the House of Lords, on 26th January 2006. The [full](#) and [abridged](#) rulings are on our web site at www.cathaypilotsunion.org and there is a description of the Judgment at the end of this newsletter. The SCMP devoted [front page coverage](#) to news of the decision on 28th January.

In summary, Captain Crofts has had jurisdictional rulings in his favour at the Employment Tribunal, the Employment Appeal Tribunal, the Court of Appeal and now, finally, in the House of Lords. Throughout, Veta has been ordered to pay costs. Captain Crofts will now put the facts of his case - for breach of contract and unfair dismissal - before the Employment Tribunal. This will be the first time that the unjust events of July 2001 will be aired publicly in court and we anticipate substantial world-wide coverage. Notwithstanding the circumstances of the dismissal, the ruling has greatly enhanced UK job protection, not only for UK Veta pilots, but also for other "peripatetic employees" - people who are based in one country but whose work constantly takes them to different places. They are now all covered by the UK Employment Rights Act.



The Fundamental Issues

The events of 2001 may seem a little distant so it is worth recalling Captain Croft's summary when he wrote to HKAOA members a year ago:

"Most crucially it {the offer} does not remove 35.3. There is nothing to stop the company from pulling a similar stunt again. Removing 35.3 and expunging the unjust, unlawful termination of the 49ers is paramount to us all. It is, in fact, the future of the AOA and your careers that rest on this action".

Those words have proved to be correct. The "offer" did not achieve either of the agreed objectives:

1. To ensure that Cathay Pacific pilots can never again be put in the position in which *The 49ers* have found themselves.



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2. To ensure full reinstatement and proper compensation for *49ers* who are qualified and wish to return to work for CX and to ensure proper compensation for those who are not now qualified or do not wish to return to work for CX.

Cathay Pacific management must never again be permitted to repeat their abuses. It is essential we pursue these court actions to protect our career security.

What Next?

In the recent past, Cathay Pacific has gained a reputation for breaching contractual provisions:

- Rostering Practices (Pilots, May 2003)
- Pay Increments (Cabin Crew, May 2004)
- Flight Time Limitations (Cabin Crew, August 2005)
- Staff Travel (Cabin Crew, December 2005)

A career is not just about the rostering or the pay increments or the staff travel - it is about fair treatment from your employer i.e. job security. How would you like to be made Cat D or, worse still, sacked without a contractual D&G procedure being followed?



How Can You Help?



The 49ers are continuing with their cases as individual plaintiffs and they need *your* help in sharing the legal costs burden. All our careers benefit from the stand they are taking. Please [join](#) our proud and growing team of supporters who are committed to having justice done. [Application](#) forms or anonymous [donations](#) are gratefully accepted:

Name : *The Cathay Pilots Union*
Bank : *HSBC*
Branch : *1 Queen's Road, Central*
Account : *808-083075-001*

Contract Security = Fair Treatment for The 49ers

Please pledge YOUR Support!



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Report from The 49ers Legal Liaison Team

On 26th January, the House of Lords handed down its judgment on George Crofts' case as well as the other 2 related cases, *Serco vs. Lawson* and *Botham vs. Ministry of Defence*. The Law Lords ruled 5-0 in favour of George and, slightly unexpectedly, they also ruled in favour of the employees in the other 2 cases with the same majority. The panel was chaired by Lord Hoffmann.

There is no further route of appeal. This judgment sets precedent and forms case law for the use and guidance of courts and tribunals in other cases of a similar nature that may arise in the future.

The Judgment means that all employees finding themselves in similar circumstances to Messrs. Botham, Crofts & Lawson now enjoy the protection of section 94(1) of the Employment Rights Act 1996 which gives employees the right not to be unfairly dismissed.

In simple terms, this protection now covers employees based in the UK who are employed by overseas based companies and, with certain conditions, employees based overseas who are employed by UK based companies.

This is a landmark ruling that will now prevent some of the abuses that employers have been using to attempt to circumvent the UK legislation, such as the setting up of overseas "brass plate" companies via which to employ their workers.

In the ruling, the sheer fatuity of Veta's argument is remarked upon, when Lord Hoffmann observes that their position is untenable unless

“...one regards airline pilots as the flying Dutchmen of labour law, condemned to fly without any jurisdiction in which they can seek redress.”

Lord Hoffmann also addresses the issue of Double Claiming. He notes that “*in the case of expatriate employees, it is quite possible that they may be entitled to make claims under both the local law and section 94(1).*” This is very significant because, as a general rule, courts take a dim view of plaintiffs undertaking litigation in more than one venue for the same cause of action. He does go on to say however that, “*Obviously there cannot be double recovery and any compensation paid under the foreign system would have to be taken into account by an Employment Tribunal.*”

The next step is for George to return to the Employment Tribunal to have his case heard on its merits. We have applied for a date to be set and our legal advisers tell us that we can expect to have a directions hearing within the next 3 months where the Tribunal will set a timetable for submission of witness statements and other documentation. This is when we





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will find out for the first time what defence, if any, Veta intends to mount. The Tribunal will want to know of the causal chain of events leading up to July 2001 and this will be provided in detail.

The case also is now attracting a great deal of media interest in the UK and a number of journalists have contacted us asking to be kept informed of progress. There is now nothing to prevent the circumstances surrounding the purported dismissal of *The 49ers* and their subsequent treatment becoming widely known in the public domain.



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Please pledge YOUR Support!

Enclosed with this newsletter are Application and Standing Instruction forms.

If you wish to join The Cathay Pilots Union, please complete both sides - omit the proposer and seconder. If you wish to donate to The 49ers legal costs, complete the Standing Instruction form and send it directly to your bank.

Remember, 100% of your contributions to The CPU goes to funding The 49ers' legal cases - you won't be paying for administration salaries.