

IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT, FLORIDA

DAVID C. NOLTE, as Property
Appraiser for Indian River
County, Florida, etc.,

CASE NO. 4D07-546

Appellant,

L.T. Case Nos.: 02-794-CA17
03-832-CA17
04-765-CA17
05-824-CA17

v.

SUN AVIATION, INC., ETC., ET AL.,
a Florida corporation,

Appellee.

**UNOPPOSED MOTION OF THE FLORIDA AVIATION TRADES
ASSOCIATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Pursuant to Florida Rule of Appellate Procedure 9.370 and 9.300, the FLORIDA AVIATION TRADES ASSOCIATION ("FATA") moves this Court for leave to file a brief as *amicus curiae* in support of Appellee, SUN AVIATION, INC., ETC., ET AL..¹ In support of this Motion, the proposed *Amicus* states as follows:

The Florida Aviation Trades Association was founded in 1946 to promote and protect the interests of General Aviation businesses in Florida. The term "General Aviation" commonly refers to "all flights other than military and scheduled airline

¹ The FATA is concurrently filing its Unopposed Motion For Leave To File Amicus Curiae Brief in support of Appellee, Paris Air, Inc., in Case No. 4D07-603, DAVID C. NOLTE v. PARIS AIR, INC., now pending before this Court.

flights, both private and commercial."² Nationally, General Aviation is a \$15 billion industry that generates more than \$45 billion annually in economic activity.³ Because scheduled airlines serve only about 600 airports nationwide, more than 5,000 U.S. communities rely on General Aviation exclusively for their air transportation needs.⁴

In Florida, scheduled commercial air service is available at only 19 airports, meaning that the vast majority of Florida communities would not have any air service at all but for the services provided by the General Aviation industry. Florida is second only to California in annual General Aviation operations, and accounts for over 6% of the national General Aviation aircraft fleet. Annually, the Florida General Aviation industry conservatively generates over \$1.4 billion in economic activity, \$415 million in earnings, and provides 14,000 jobs.⁵

The 150 members of FATA are General Aviation businesses that provide flight training, air charter, aircraft maintenance, aircraft fuel, aircraft parking, hangar facilities, parts, supplies, insurance, equipment, and a vast array of other General Aviation services. Many FATA members are Fixed Base Operators (FBOs) that will

² Wikipedia, The Free Encyclopedia, <http://en.wikipedia.org/wiki/General_aviation> (accessed August 8, 2007).

³ General Aviation Manufacturers Association Report to the President and Congress, *The Results of the General Aviation Revitalization Act* <<http://www.gama.aero/pubs/getFile.php?catalogID=12>> (accessed August 8, 2007).

⁴ Id.

⁵ Wilbur Smith Associates, Inc., *Technical Summary For The Florida Airports Economic Impact Study FASP 2000* (August 2000).

be directly impacted by the decision of this Court.⁶ Moreover, FATA members who provide services to FBOs, such as wholesale fuel suppliers, parts suppliers, and equipment vendors, will be directly impacted by the decision of this Court. As such the FATA and its members have a substantial stake in the outcome of this appeal.

One of the principle issues on appeal is whether the Florida Legislature may constitutionally exempt government-owned real property from taxation when that property is leased by a non-governmental lessee for the purpose of operating a Fixed Base Operation (FBO).⁷ The FATA supports the position of Appellee, Sun Aviation, Inc., and offers a unique practical perspective with respect to the governmental and/or public purpose served by FBOs such as Appellee. The FATA can also offer the Court additional information concerning the historical backdrop against which the Florida Legislature enacted the 1993 amendment to Fla. Stat. § 196.012(6). As such, the FATA can assist the Court in addressing the constitutionality of the tax exemption afforded by Fla. Stat. § 196.012(6) to FBOs generally.

In conclusion, General Aviation is essential to Florida communities such as Vero Beach, and FBOs are essential to General Aviation. Because this appeal has the potential to significantly impact FBOs throughout the State, and the Florida General Aviation industry as a whole, the FATA prays the Court GRANT this Motion and enter an order permitting the FATA to file its brief as *amicus curiae* in this matter. The undersigned certifies that he has contacted counsel for Appellant and Appellee

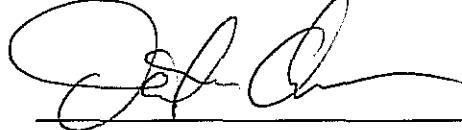
⁶ The FATA is proud to include Sun Aviation, Inc. as a distinguished FATA member.

⁷ Initial Brief of Appellant David C. Nolte at p. 19.

respectively, and the parties consent to the filing of a brief by the Florida Aviation Trades Association as *amicus curiae*.

Respectfully submitted this 10th day of August, 2007.

FORIZS & DOGALI, P.L.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail on the 10th day of August, 2007, to: JOHN C. DENT, JR., ESQ., Dent & Johnson, Chartered, 3415 Magic Oak Lane, Sarasota, Florida 34236; CANDA B. BROWN, ESQ., Jackson, Barkett & Brown, 2165 15th Avenue, Vero Beach, Florida 32960; LISA N. THOMPSON, ESQ., Collins, Brown, Caldwell, Barkett & Garavaglia, P.O. Box 64-3686, Vero Beach, Florida 32964; BENJAMIN K. PHIPPS, ESQ., The Phipps Firm, Post Office Box 1351, Tallahassee, Florida 32302; MARK T. ALIFF, ESQ., Department of Legal Affairs, The Capitol, Tallahassee, Florida 32399-1050; ROBERT C. NALL, ESQ., Post Office Box 5325, Vero Beach, Florida 32961-5325; CHARLES P. VITUNAC, ESQ., P.O. Box 1389, Vero Beach, Florida 32961, and GREGORY T. STEWART, ESQ., Nabors, Giblin & Nickerson, P.A., 1500 Mahan Drive, Suite 200, Tallahassee, Florida 32308.



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