AMERICAN AIRLINES FACES BOEING FINES OVER DELAYED DREAMLINER SEATS

News / Airlines

One of the reasons **American Airlines** filed a lawsuit against its aircraft-seat vendor Zodiac Seats is that the airline is getting squeezed by **Boeing** and could face substantial penalties for **delayed** aircraft deliveries caused by Zodiac's ongoing and tardy seat-structure shipments.

As detailed in American's complaint, obtained by Skift and embedded below, these potential fines of $5,000 per day and up to 25 percent of the cost of a shipset, or the items sent for installation in the cabin, drove American to cancel orders and deliveries and take legal action against its long-time seat supplier, based in Gainesville, Texas. American is seeking to recoup "all contractual damages" from Zodiac Seats, the lawsuit states.

"Zodiac's untimely deliveries may also prove to be the sole cause of late fees that may be imposed by an airframe manufacturer upon American. American will use reasonable commercial efforts to mitigate those charges, but if such fees are imposed, American will seek reimbursement from Zodiac," the complaint states.

American has stated that its move to cancel orders from Zodiac Seats relate to business class

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seats slotted to be delivered for its Boeing 787-9 Dreamliners in 2016, and some of the seats that were to be installed as part of its retrofit program on Boeing 777 aircraft.

The dispute does not just come down to financial penalties and delayed deliveries but also relates to the intense competition among legacy carriers and even relatively newer entrants such as JetBlue to woo business travelers with lie-flat seats and other amenities to improve the passenger experience.

Per the terms of contract between American and Zodiac, Zodiac is obligated to pay penalties for the late deliveries that American has claimed and Zodiac has failed to pay, according to the lawsuit.

American references in the lawsuit Paragraph 5(c) of the Purchase Agreement, which states:

“Supplier agrees to pay American a sum equal to five thousand U.S. dollars ($5,000) for each day any shipset or partial shipset is delayed beyond the scheduled delivery date, subject to a maximum of twenty-five percent (25%) of the shipset price.”

American’s complaint also states: “Supplier shall reimburse American for all late charges imposed upon American by airframe manufacturers provided that Supplier is the sole reason for delay and provided that American uses reasonable commercial efforts to mitigate such airframe manufacturer charges.”

American has demanded payment from Zodiac Seats for the “liquidated damages for those late deliveries, but Zodiac failed and refuses to pay the liquidated damages it owes,” American’s lawsuit alleges.

American formally notified Zodiac of default under the contract on June 11, 2015 and gave the manufacturer 30 days to “cure..delays” that are “material breaches,” which American alleges Zodiac has failed to do.

“Zodiac also made numerous material representations about its ability to perform its contractual obligations. Based on the evidence accumulated over the term of the Agreement, several of those material representations have proven to be untrue as of the date they were made,” states the claim.

American states that these breaches justify these cancellations of orders and future deliveries with Zodiac.

In addition to order cancellations and penalties for failure to meet contractual commitments, American expects Zodiac to reimburse it for the costs of replacements.

“Because the Purchase Agreement was partially terminated for cause, American is entitled to procure products similar to those that remain to be delivered or produced under the Purchase Agreement, and Zodiac is obligated to reimburse American for the costs incurred in doing so,” the claim states.

Specifically, American’s petitions the court to declare that it properly terminated the Purchasing Agreement with Zodiac Seats and that:

“Zodiac must reimburse American for the costs in excess of what American would have paid Zodiac incurred by American to procure products similar to those that remain to be delivered under the Purchase Agreement.”

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American also seeks damages that “exceed $1 million,” — and likely could be much more — attorneys fees and “all other relief to which it may be entitled.” The airline seeks to bring its claim before a jury.

These types of penalties are fairly common, though suppliers often can negotiate a recovery plan to avoid such legal action by an airline. Zodiac’s stated yesterday that such a recovery action was under way, but a look at the complaint filed by American would indicate that line has already been crossed.

Industry sources have said that Boeing has exerted strong pressure on American to take delivery of the 787-9 aircraft as previously scheduled. As seats are the full responsibility of the airline, sources say, Boeing could ask American to take the 787-9 aircraft whether or not seats have been installed. American therefore finds itself forced to immediately identify a substitute seat vendor.

There is speculation several seat suppliers who could fill the gap with seats that could substitute for Zodiac’s model. American has said it has not yet identified a replacement vendor.

But industry sources indicate that B/E Aerospace in Winston-Salem North Carolina is the likely candidate to step in at this point. The manufacturer is large enough to meet demands, located within the U.S., and has a long-standing relationship within the new American Airlines Group as a supplier to US Airways.

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