

02-1348 OLYMPIC AIRWAYS v. HUSAIN

Ruling below: CA 9, 316 F.3d 829.

QUESTION PRESENTED

Whether the "accident" condition precedent to air carrier liability for a passenger's death under Article 17 of the Warsaw Convention is satisfied when a passenger's pre-existing medical condition is aggravated by exposure to a normal condition in the aircraft cabin, even if the carrier's negligence were a link in the chain of causation? The Ninth Circuit's answer to this question in the affirmative directly conflicts with the Third and Eleventh Circuit decisions in *Abramson v. Japan Airlines, Co., Ltd.*, 739 F.2d 130 (3d Cir. 1984), cert. denied, 470 U.S. 1059 (1985) and *Krys v. Lufthansa German Airlines*, 119 F.3d 1515 (11th Cir. 1997), cert. denied, 522 U.S. 1111 (1998), and is contrary to the Court's decision in *Air France v. Saks*, 470 U.S. 392 (1985).

CERT. GRANTED: 5/27/03

J. Breyer took no part