

**Received(Date):** 9 OCT 2001 18:44:09

**From:** Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )

**To:** Rebecca A. Beynon ( CN=Rebecca A. Beynon/OU=OMB/O=EOP@EOP [ OMB ] )

**Cc:** m.edward.whelan@usdoj.gov ( m.edward.whelan@usdoj.gov @ inet [ UNKNOWN ] ), john.yoo@usdoj.gov ( john.yoo@usdoj.gov @ inet [ UNKNOWN ] ), jonathan.cedarbaum@usdoj.gov ( jonathan.cedarbaum@usdoj.gov @ inet [ UNKNOWN ] ), Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OMB/O=EOP@EOP [ OMB ] ), [REDACTED] (b)(6) @ inet [ UNKNOWN ] )

**Subject:** : Re: Victim's Compensation Fund

##### Begin Original ARMS Header #####

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 9-OCT-2001 18:44:09.00

SUBJECT: : Re: Victim's Compensation Fund

TO: Rebecca A. Beynon ( CN=Rebecca A. Beynon/OU=OMB/O=EOP@EOP [ OMB ] )

READ: UNKNOWN

CC: m.edward.whelan@usdoj.gov ( m.edward.whelan@usdoj.gov @ inet [ UNKNOWN ] )

READ: UNKNOWN

CC: john.yoo@usdoj.gov ( john.yoo@usdoj.gov @ inet [ UNKNOWN ] )

READ: UNKNOWN

CC: jonathan.cedarbaum@usdoj.gov ( jonathan.cedarbaum@usdoj.gov @ inet [ UNKNOWN ] )

READ: UNKNOWN

CC: Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OMB/O=EOP@EOP [ OMB ] )

READ: UNKNOWN

CC: [REDACTED] (b)(6) [ UNKNOWN ] )

READ: UNKNOWN

##### End Original ARMS Header #####

That theory is dead 100% wrong. It was part of an earlier draft but not in the final version of the bill.

From: Rebecca A. Beynon on 10/09/2001 06:41:07 PM

Record Type: Record

To: M.Edward.Whelan@usdoj.gov @ inet, john.yoo@usdoj.gov @ inet, jonathan.cedarbaum@usdoj.gov @ inet

cc: Jay Lefkowitz, Brett M. Kavanaugh/WHO/EOP@EOP, [REDACTED] (b)(6) @ inet

Subject: Victim's Compensation Fund

Ed - I'm trying to track you down right now. I left a message with Jonathan, and he said you would call when you got my message. As the voice message I left you said, CBO has indicated that it believes that, should plaintiffs sue the airlines, obtain a judgment in excess of the airlines' liability coverage, the federal government is legally required to compensate victims for the difference between the judgment and the liability coverage. I've extracted the relevant statutory provision below. We need to explain why CBO's theory doesn't make sense. I'll talk to you soon. Thanks very much.

RB: [REDACTED] (b)(6) (home)

#### SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.

(a) In General.--Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages, arising from the terrorist-related aircraft crashes of September 11, 2001, against any air carrier shall not be in an amount greater than the limits of the liability coverage maintained by the air carrier.

(b) Federal Cause of Action.--

(1) Availability of action.-- There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

(2) Substantive law.-- The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

(3) Jurisdiction.-- The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

(c) Exclusion.--Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.