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Q&A: Spirit Airlines shut down: What happens next?

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(June 05, 2026) - The sudden shuttering of Spirit Airlines Inc. left travelers without air transportation, thousands of employees without a job and airports without a major tenant. The budget airline — with its signature bright yellow airplanes — grounded operations May 2. It had twice filed for bankruptcy and had a proposed merger with JetBlue Airways blocked in March 2024 by a Boston federal judge.

Juan C. Martinez, a partner at Saul Ewing LLP, discussed with Westlaw Today the legal issues stemming from Spirit's shutdown.

Westlaw Today: What do you think the biggest legal issue will be out of this situation?
Martinez: The biggest legal issue is the priority conflict among thousands of creditors competing for limited assets in a complete liquidation scenario.

Unlike a typical Chapter 11 reorganization, where the airline continues operating and creditors may recover through a restructuring plan, Spirit's complete shutdown transforms this into a liquidation where lenders, aircraft lessors, airport landlords, employees, suppliers and ticket-holding passengers all have competing claims against a limited and shrinking asset pool.

The bankruptcy court must navigate statutory priority rules under the Bankruptcy Code while addressing the practical reality that most unsecured creditors will likely recover pennies on the dollar.

WT: What legal issues arose in past airline shutdowns and what legal patterns will likely repeat?
Martinez: Past airline shutdowns reveal recurring patterns that will likely repeat with Spirit. TWA's three bankruptcies between 1992 and 2001 demonstrated that airlines often file multiple times when underlying cost structures remain uncompetitive — a pattern Spirit followed with two recent Chapter 11 filings prior to the recent liquidation filing.

Common legal issues include:
(1) Mass rejection of aircraft leases, which grants lessors the right to repossess aircraft unless the debtor assumes the lease

(2) Rejection of airport use agreements, leaving airports with capped damages claims under 11 U.S.C.A. § 502(b)(6), limited to the greater of one year's rent or 15% of the remaining lease term (not exceeding three years)
(3) Employment law issues arising from inadequate notice to employees for mass layoffs
The historical pattern shows that when airlines shift from reorganization to liquidation, asset sales under 11 U.S.C.A. § 363 become the primary mechanism for distributing value to creditors, often through court-supervised auctions.

WT: What role will the bankruptcy court play in determining Spirit's obligations and how its assets will be handled?
Martinez: The bankruptcy court serves as the central authority overseeing all aspects of Spirit's liquidation. The court's role includes:
(1) Enforcing the automatic stay under 11 U.S.C.A. § 362, which immediately halts all creditor collection actions upon filing, providing the debtor breathing room to organize the liquidation
(2) Approving asset sales, particularly 11 U.S.C.A. § 363 sales that allow Spirit to sell assets "free and clear" of liens and encumbrances, with proceeds distributed according to statutory priority
(3) Adjudicating contract rejections, including decisions to reject or assume aircraft leases, airport agreements, and other executory contracts
(4) Establishing claims procedures, setting bar dates for creditors to file proofs of claim and resolving disputed claims;
(5) Supervising the debtor-in-possession or trustee, who manages daily operations and liquidation activities under court oversight; and
(6) Confirming the liquidation plan, which establishes the distribution waterfall for available assets to creditors

The court balances competing creditor interests while ensuring compliance with the Bankruptcy Code's statutory framework.

WT: What typically happens to aircraft in a shutdown or liquidation?
Martinez: Aircraft are governed by Section 1110 of the Bankruptcy Code, which provides special protections to aircraft lessors and secured lenders.
Under Section 1110(a), lessors can repossess aircraft unless the debtor, within 60 days of the bankruptcy filing, agrees to perform all lease obligations and cure all defaults.

In Spirit's case, the airline rejected 87 aircraft leases during its second bankruptcy and settled with AerCap to terminate 27 additional leases, reducing its fleet from 214 aircraft to approximately 94-106 aircraft planned for emergence.1

When an airline shuts down completely rather than reorganizing, aircraft are typically returned to lessors who then re-lease or sell them in the secondary market.

For owned aircraft, the bankruptcy estate can sell them through court-approved auctions under Section 363, with proceeds distributed to creditors according to priority.

Aircraft secured by liens are sold with the secured creditor receiving proceeds up to the amount of their secured claim, and any surplus flowing to unsecured creditors.

WT: Will employees who lost their job be able to recover anything under the Worker Adjustment and Retraining Notification Act, and how effective is the WARN Act in this type of situation?
Martinez: The WARN Act requires employers to provide 60 days' advance written notice before mass layoffs or plant closings affecting 50 or more employees at a single site. Spirit Airlines is already facing class-action lawsuits alleging WARN Act violations for the abrupt May 2 shutdown that terminated thousands of employees.

If a court finds Spirit violated the WARN Act, affected employees are entitled to back pay and benefits for up to 60 days — the period they should have received as notice.

However, the WARN Act's effectiveness in bankruptcy is limited because these claims become unsecured priority claims under 11 U.S.C.A. § 507(a)(4), which grants priority only to wages earned within 180 days before filing, capped at approximately $15,150 per employee (the cap adjusts periodically).

WARN Act damages exceeding the priority cap become general unsecured claims, competing with other unsecured creditors for whatever remains after secured creditors and higher-priority claims are paid.

In complete liquidations with insufficient assets, unsecured creditors — including WARN Act claimants — often recover little to nothing, making the WARN Act's remedies largely theoretical in practice.

WT: To what extent will Spirit be required to honor any labor union agreements?
Martinez: Spirit's obligation to honor collective bargaining agreements is governed by Section 1113 of the Bankruptcy Code, which establishes rigorous requirements before a debtor can reject a CBA.

Under Section 1113, the debtor must:
(1) Make a proposal to the union that provides necessary modifications to permit reorganization and treats all stakeholders fairly and equitably
(2) Provide relevant information to the union to evaluate the proposal
(3) Meet and negotiate in good faith to reach a mutually satisfactory agreement
(4) Demonstrate that the union rejected the proposal without good cause

Only after satisfying these requirements and proving that rejection is necessary can the court authorize rejection of the CBA.

However, when an airline completely ceases operations, as Spirit has done, the practical question becomes moot — there are no ongoing employment relationships to govern. The CBAs terminate by operation of the shutdown itself, though employees retain claims for unpaid wages, benefits, and potential WARN Act damages as discussed above. Any CBA-related claims for damages from breach become unsecured claims in the bankruptcy.

WT: What can airports or other creditors do to collect unpaid rent and fees?
Martinez: Airports and creditors face statutory limitations on recovering unpaid amounts in bankruptcy. Once the automatic stay takes effect, creditors cannot pursue collection actions outside the bankruptcy process without court permission.

For airports with rejected lease agreements, damages are capped under 11 U.S.C.A. § 502(b)(6) at the rent reserved for the greater of one year, or 15% of the remaining lease term, not to exceed three years.

Airports can pursue several strategies:
(1) Assert administrative expense priority for any rent accruing after the bankruptcy filing but before lease rejection, which receives priority payment under 11 U.S.C.A. § 503(b)(1)
(2) Draw upon security deposits if properly structured and held before the bankruptcy filing
Airports might also have claims to funds held through the Passenger Facility Charge Program. A PFC is a fee that almost all airline travelers in the United States pay in their ticket price. The fee goes toward the upkeep and maintenance of airports and is set up and capped according to U.S. federal law.

General unsecured creditors, including suppliers and service providers, must file proofs of claim by the court-established bar date and will receive distributions according to the statutory priority waterfall after secured and priority claims are satisfied.

WT: How long will a liquidation of assets typically take and what factors will affect timing?
Martinez: Asset liquidation timing varies significantly depending on complexity, asset type and creditor cooperation, but airline liquidations generally take several months to several years to complete fully.

Although asset sales under Section 363 can occur relatively quickly when debtor-in-possession financing requires rapid monetization, complete debtor closure cases often take much longer due to:
(1) Claims resolution, including adjudicating disputed claims and objections

(2) Litigation, such as preference actions to recover pre-bankruptcy transfers or fraudulent conveyance claims
(3) Contract rejection disputes and damage claim calculations
(4) Final distributions, which cannot occur until all claims are resolved and assets liquidated
In cases with extensive litigation or complex international assets, full administration can extend two to five years or longer, though major asset sales providing bulk creditor recoveries typically occur within the first year.

WT: When and in what order will employees, creditors and others be paid?
Martinez: Payment priority is governed by the Bankruptcy Code. The distribution waterfall proceeds as follows:
(1) Secured creditors are paid first from the proceeds of their collateral (e.g., aircraft lenders are paid from aircraft sale proceeds). If collateral proceeds exceed the secured debt, the surplus flows to the estate; if insufficient, the shortfall becomes an unsecured claim.
(2) Administrative expenses under Section 503(b), including post-petition operating costs, professional fees (attorneys, accountants), and certain post-petition obligations, are paid before pre-petition unsecured claims.
(3) Priority unsecured claims under Section 507(a) are paid in the following order:

- Domestic support obligations
- Administrative expenses (if not already paid)
- Employee wages, salaries, and commissions earned within 180 days before filing, capped at approximately $15,150 per employee (Section 507(a)(4))
- Employee benefit plan contributions for services within 180 days before filing, capped at approximately $15,150 per employee (Section 507(a)(5))
- Certain tax claims

(1) General unsecured claims, including suppliers, airports with rejected lease damages, WARN Act claims exceeding priority caps, and passengers holding tickets for canceled flights, share pro rata in any remaining assets.
(2) Equity holders (shareholders) receive distributions only after all creditor claims are paid in full, which rarely occurs in liquidations.

In most airline liquidations, assets are insufficient to pay general unsecured claims in full, resulting in partial or zero recovery for this class.

WT: Is travel insurance coverage triggered by an airline shutdown, and what losses may be covered?
Martinez: Travel insurance coverage depends entirely on the specific policy terms purchased by the traveler. Standard travel insurance policies vary significantly in whether they cover airline bankruptcy or cessation of operations.

"Cancel For Any Reason" policies typically provide the broadest protection, allowing travelers to cancel and recover a percentage of nonrefundable costs (usually 50%-75%) even when the airline shuts down, provided the policy was purchased within a specified window (often 10-21 days) after the initial trip deposit.

Standard trip cancellation insurance may cover airline bankruptcy only if it is specifically listed as a covered peril in the policy. Many policies exclude "financial default" or bankruptcy of travel suppliers unless an optional "financial default" rider was purchased.

When coverage applies, typical covered losses include:
(1) Non-refundable ticket costs
(2) Prepaid hotel accommodations if the trip cannot proceed
(3) Replacement flight costs to reach the destination if the ticket is nonrefundable
(4) Other prepaid, nonrefundable trip expenses directly attributable to the airline's shutdown
Travelers without applicable insurance coverage become unsecured creditors in the bankruptcy, entitled to file a proof of claim for their unused ticket value, though recovery is typically minimal.

The U.S. Department of Transportation notes that airline bankruptcies leave travelers with significant uncertainty regarding refunds, making appropriate travel insurance an important risk management tool.

Notes:
1 *Airline Bankruptcy & Airport Revenue Protection*, DWU AI Product; March 2026, https://bit.ly/4x5hEGt
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