

Update



Round Three Scheduled for January 2021

Round One - Completed

Round Two - Waiting for
Appeal Verdict



OUR PROGRESS OVER THE LAST 3 MONTHS?

~ Very little ~

October 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

The pandemic affected the court system's ability to hear jury trials that had been put on hold in the early covid days; jury trials resumed, and they've been put on hold again. While our small claims cases do not involve juries,

the court's backlog affects us. In addition to defense requests, our assigned judges' need to postpone our scheduled hearings due to other trials extending beyond the allotted calendar time have slowed our progress as well. See page 2.

In Round One's appellate court decision, the judge agreed that the airport's noise constitutes an ongoing nuisance.

Summary of Small Claims Rounds One and Two

Round One

June 2018 - January 2020

The novel large-group court scheduling and re-schedulings took months. The appellate court agreed the airport noise is an “ongoing nuisance”. Compensation was awarded to those few who “qualified” under the rules of a defense-introduced Federal statute that said homes had to be owned before 1980 in order to file airport noise claims. **We did not know at the time that Federal statutes cannot be used in small claims court.**

Round Two

September 2019 - ?

The same judge we had in Round One again awarded compensation to those few who bought their homes before 1980 as the aforementioned Federal statute specifies; we did not introduce sufficient acceptable sources regarding the law vs. the statute; we are awaiting the appellate court verdict.

Round Three

September 2020- ?

We await the start of the small claims hearing that had been scheduled for October, then November, now moved to January 2021.

Please see p. 3 for more info.

Defense Requests

The defense (the City and County of San Francisco, the entity responsible for investigating and remediating airport ground noise as per Federal law) has:

~ postponed hearings, sometimes by months (granted)

~ requested a change of county for an appeal hearing (denied)

~ requested an out-of-county judge to hear its case (granted)

~ requested by letter that people not be allowed to file another small court claim (although the 1972 Nestle v. Santa Monica court case ruled that a plaintiff may bring successive actions for damages in an “ongoing private nuisance”)

Round Three Will Be Different

Upcoming Round Three ~ January 2021 - This will be our first opportunity to present acceptable legal rulings to the judge that show the aforementioned Federal statute cannot be used in small claims court. With the exception of a few trials that directly involved the Federal Aviation Administration in other states, we could find no record of the Federal statute in a superior court case in our country.

Legal resources state that:

- a) the Federal statute does not apply to local airport ground noise issues,
- b) the Federal statute “would not apply or be binding on the small claims court, even if the party presents the federal statute in its arguments to the court”,
- c) the Federal Aviation Administration (FAA) has stated that “the task of protecting the local population from airport noise has fallen to the agency, usually the local government that owns and operates the airport.”

The FAA is has preemptive power over airport “rates, routes, and services”, not local runway noise issues.



True or False?

“We don’t want the airport to shut down because of this issue.” **Neither do we.**



“Safety is paramount over runway noise.” **We agree.**



“Home sellers are required to complete a ‘full disclosure’ section on sales contracts that inform buyers with a truthful and accurate description of the airport’s ground noise.” **It is possible that sellers who withhold pertinent information may face legal action from buyers.**



“Nothing can be done to reduce the ground noise.” **The FAA suggests ways to reduce the jets’ “backblast”.**



“This isn’t about the money.” **It IS about the money ~ as a means to communicate with the City and County of San Francisco to achieve our goal.**



“I don’t have the time to appear in small claims court.” **This is true for many people such as the elderly, Monday - Friday workers, parents with young children at home, people with medical issues, et al. It may be possible to “authorize” someone else to represent you in small claims court.**



“I rent my apartment (or home), therefore I can’t participate.” **Owners, lessees, occupants, controllers of property may participate.**



“Yo no hablo inglés por lo tanto no puedo participar.” **The court supplies translators.**



https://www.sanmateocourt.org/court_divisions/interpreter_services/interpreter_request.php

“If you don’t like the runway noise, wear ear plugs.” **And not hear the smoke detector, the crying baby, the barking dog, your alarm system, the phone, an Amber alert, your spouse who’s locked out....**



Please visit sforunwaynoise.com for more information.