



# Shanghai Kai-Rong Law Firm

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## ***Is an airline company entitled to off-load a passenger when his or her passport validity is less than six month?***

### **Background**

It is often reported in recent years that airline companies refuse to carry certain passengers in certain cases. These cases always provoked heat discussion among the public, because from the public's point of view, it seems to be a little indifferent and cold-hearted for airline companies to refuse certain passengers to get on board. However, in view of flight operations or safety, it is legal and reasonable for airline companies to do so.

Anyhow, as for airline companies, they are always discreetly cautious about off-loading passengers because the rejection itself is virtually not a good case and will more or less damage the image of the airlines. On the other hand, in regard to the claims arising from such kind of rejection, Chinese courts tend to make decisions in favor of the public as well. Therefore, due to the lack of clear and explicit laws and regulations in dealing with such kind of cases in China now, both courts and airlines are feeling their way. The following case is likely to enrich the relevant judicial precedent.

### **Brief of the Case**

Passenger A, B and C (hereinafter referred to as "the family") scheduled for having a holiday trip to Phuket, Thailand. Passenger A booked three tickets through C-trip on line of Dragonair flight from Shanghai to Phuket via Hong Kong.

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#### *Contents:*

Background	1
Brief of the Case	1
Procedure	2
Implications	3



However, when the family intended to get their boarding cards at the airport counter, after the careful check of their passports, passenger A and B were informed that their passports validity was less than six months. According to relevant provisions of Thailand Exit-entry Administration, a foreigner whose passport validity is less than six months will be considered as inadmissible person and the airline which carries the passenger to Thailand will be fined heavily and recorded in the blacklist. In this case, Dragonair made the same explanations to the family and refused passenger A and B to get on board, and further proposed that the family should extend the passport validity of passenger A and B before their trip to Phuket, Thailand.

However, the family could not accept Dragonair's decision and suggestion. Passenger C, held an opposite opinion. He insisted that Dragonair should carry them to Hong Kong and then reaffirmed with Thai Exit-entry Administration in regard to their entry. In order not to delay the flight, Dragonair consented to the request of family C and carried the family to Hong Kong. However, after the arrival at Hong Kong, the airlines contacted Thai Exit-entry Administration immediately but still got the negative response for the permission of Passenger A and B to enter Thailand, therefore the airlines refused to carry the family to Phuket, Thailand and again proposed that the family should extend the passport validity of passenger A and B before their trip to Phuket, Thailand.

Finally, the family had to cancel their trip to Phuket and felt quite annoyed for the airlines's rejection. Consequently, they took legal action against Dragonair on the ground of off-loading.

## Procedure

Our attorneys were entrusted by Dragonair to attend the trial. Because passenger C himself is also a senior lawyer, the two sides debated heatedly on some key arguments. The bone of contention was whether Dragonair had been entitled to off-load the passenger or not.

Our lawyers argued that, civil aviation was a public transport service and hence, airlines could not turn a blind eye to certain rules and principles. Furthermore, based on corresponding civil aviation regulations of our country, passengers should show certificates of entry-exit, health, etc. prior to boarding the flight. Airlines are entitled to off-load in the absence of the above-mentioned passenger's valid documents.





Finally, the court adopted the view of our lawyers and held that Dragonair had no inappropriate behavior in this case.

## Implications

1. As for passengers who intend to have an oversea self-traveling by themselves, before the trip, they should have a thorough understanding of the entry country's documentation requirements and precautions.
2. As for airline companies, negotiating with passengers who may be concerned and trying to work out a mutually acceptable solution to the up-coming conduct of offloading should be the first step to take. Providing that no agreement is reached, airlines are entitled to off-load passengers after fulfilling the duty of disclosure.

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*Shanghai Kai-Rong Law Firm, a leading law firm specializes in international trade, shipping and aviation, insurance, finance and commerce, has been and will continue to be committed to serving clients both domestic and overseas with unmitigated zeal and great professionalism.*

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