The FAA backed Air Evac’s arguments, but went one step further, arguing that conflict preemption also precluded the Tennessee
12/6/2010 4:48 PM
1 of 2
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2. The FAA states that the main cases of the accidents between 1998 and 2004 “were controlled flight into terrain (CFIT), inadvertent operation into instrument flight conditions and pilot spatial disorientation/lack of situation awareness in night operations.” EMS Helicopter Safety Fact Sheet, June 30, 2008, www.faa.gov/news/fact_sheets/news_sheets/news_story.cfm?newsId=5763.

3. Currently, EMS flights may begin, without passengers, under Federal Aviation Regulations (FAR) Part 91 rules, which allow flight even if weather conditions are not good enough for passenger-carrying commercial operations (governed by FAR part 135 rules). Once a patient is collected, the mission becomes an FAR Part 135 flight, which has stricter standards. 14 C.F.R. pt. 91 (2005); 14 C.F.R. pt. 135 (2005).


8. Id. The FAA argued that its certification of Air Evac’s operation as an air ambulance operator without requiring the equipment and in fact disallowing flight in instrument conditions conflicted with the Tennessee rules.