Aviation Litigation in the United States: How it Works

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11TH Annual McGill Aviation Conference – 2017
Dublin, Ireland

Cheapo Airlines is an Illinois based company, incorporated in Delaware.

Flight 1234 was a Leprechaun L800, manufactured by Pot O’Gold Aircraft Co., a Dublin, Ireland based company.

Flight 1234 was being flown by Captain Americano and First Officer Newbie, both employees of Cheapo Airlines.
The aircraft slid off the end of the runway and hit the approach lights at the end of the runway, resulting in a fire that spread to the main cabin.

10 passengers died, 25 suffered severe injuries, 20 suffered minor scrapes, and 15 suffered no physical injury at all.

15 of the passengers were part of a Scottish group that was heading to the U.S. for a tour.

Captain Americano, a California resident, claims to have suffered a back injury as a result of the hard landing.

FO Newbie did not suffer any injuries, but claims that he can no longer fly due to PTSD as a result of the accident.
The NTSB investigated the incident.

Cheapo Airlines, Cheapo Airlines Pilot’s Union, the FAA, Pot O’Gold, Banshee Co. (engine manufacturer – Joint Venture with GE), and the Irish Air Accident Investigation Unit (IAAIU) were parties to the investigation.

The NTSB’s Probable Cause statement:

- The failure of the flight crew to arrest the rate of descent prior to touchdown, causing the tires to burst and damage to the aircraft’s braking system.
- Contributing Factor: The failure of its aircraft GPWS systems to warn the flight crew of their excessive sink rate.
IMMEDIATE POST-ACCIDENT ACTIVITIES – DEFENSE RELATED

- Cheapo Airlines (Part 121 Carrier)
- Pot O’Gold Co. (A/C Manufacturer)
- Banshee Co. (Engine Manufacturer)
- Insurance Carriers
- Defense Counsel
FAMILY ASSISTANCE

- Aviation Disaster Family Assistance Act
- Advance Payments
  - For all?
- Return of Personal Effects
FRAENKEL GET’S THE PLAINTIFFS’ CALLS

1-800-STU4YOU
CONFLICTS OF INTEREST
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Montreal Cases

U.S. Domestic Cases

Crew Cases
INITIAL INVESTIGATION
ELLIS GET’S THE CALL

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PREPARING FOR LITIGATION/EARLY STAGES OF LITIGATION

- **Plaintiffs Consideration**
  - Investigation and Experts
  - Jurisdiction – Personal and Subject Matter
  - Venue
    - Montreal Convention

- **Defendants Consideration**
  - All the above
  - Removal
  - *Forum non conveniens*
  - Multiple venues, Multi-District Litigation
  - Cross-claims, third-party claims

- **Insurers Consideration**
  - Selection of Counsel
  - Early settlement
  - Coordination with Insureds
JURISDICTION ISSUES – P & D

- SUBJECT MATTER JURISDICTION

- PERSONAL JURISDICTION
  - GENERAL
  - Damlier
  - RECENT U.S. SUPREME COURT CASES

- SPECIFIC

- VENUE
  - FORUM NON CONVENIENS
DISCOVERY PROCESS – US & ABROAD

- INTERROGATORIES
- REQUESTS FOR PRODUCTION
- REQUESTS FOR ADMISSIONS
- DEFENSE MEDICAL EXAMINATIONS
- DEPOSITIONS
  - 30(B)(6)
  - VIDEO
  - TRIAL
- SUBPOENAS
- THE HAGUE
Damages

- Wrongful Death
- Personal Injury
- Emotional Distress
  - PTSD
- Montreal Convention Implications
- Choice of Law Considerations
- Punitive Damages
ALTERNATIVE DISPUTE RESOLUTION

ALTERNATIVE DISPUTE RESOLUTION (ADR) METHODS
My Cousin Vinny Clip
QUESTIONS AND ANSWERS
Your Speakers

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