

# Aviation Litigation in the United States: How it Works

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**11<sup>TH</sup> Annual McGill Aviation Conference – 2017  
Dublin, Ireland**

# FACT PATTERN



- **On January 1, 2017, a Cheapo Airlines, Flight 1234 experienced a runway overrun after a hard landing at Denver International Airport in Colorado.**
- **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.**

# FACT PATTERN



- **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.**

# FACT PATTERN



- **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**



**FEDERAL FAMILY ASSISTANCE PLAN  
FOR  
AVIATION DISASTERS**

Prepared by  
National Transportation Safety Board  
Office of Transportation Disaster Assistance

REVISED  
December 2008

**FRAENKEL GET'S THE PLAINTIFFS' CALLS**

1-800-STU4YOU



# CONFLICTS OF INTEREST





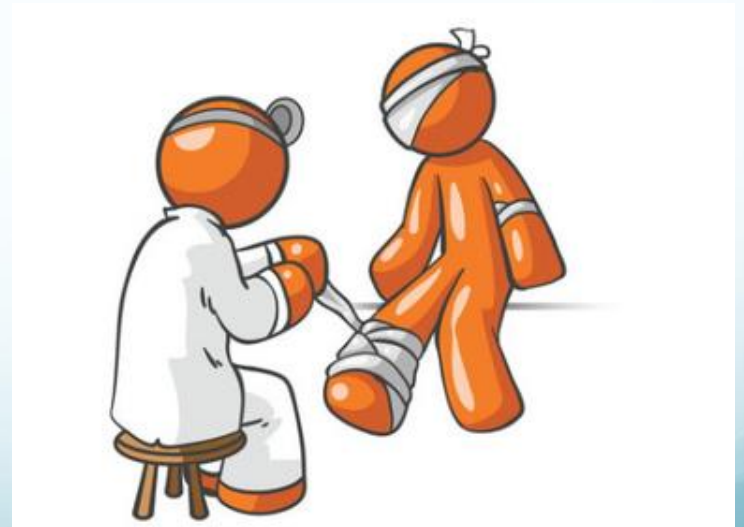
# CONFLICTS OF INTEREST

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**Montreal Cases**

**U.S. Domestic Cases**

**Crew Cases**



# INITIAL INVESTIGATION



**ELLIS GET'S THE CALL**

**WWW.CRUSH-EVEN-A-GOOD-CASE.COM**

**HIRED  
GUN**

The logo consists of the words "HIRED" and "GUN" stacked vertically in a bold, black, sans-serif font. The letter "R" in "HIRED" is stylized, with a white silhouette of a person holding a gun inside its counter.

# 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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