

Precedent

OFFICES

NEW YORK

Two Grand Central Tower
140 East 45th Street
34th Floor
New York, NY 10017-3144
(212) 661-0011
Fax: (212) 953-6483

METRO WASHINGTON DC

2300 Clarendon Boulevard
Suite 306
Arlington, VA 22201
(703) 522-7500
Fax: (703) 522-7905

CALIFORNIA

One Park Plaza
Suite 470
Irvine, CA 92614-8520
(949) 553-1421
Fax: (949) 553-1346

TEXAS

900 Jackson Street
Suite 750
Irvine, CA 92614-8520
(214) 752-4664
Fax: (214) 752-4774

FLORIDA


Miami Center – 10th Floor
201 South Biscayne Boulevard
Miami, FL 33131-4327
(305) 375-9400
Fax: (305) 375-0337

The Tragic Events of September 11, 2001

On behalf of the lawyers and staff of Speiser Krause, we offer our thoughts and prayers for both the victims of these barbaric acts as well as for the men and women of America who have worked so tirelessly and courageously to bring healing to our great nation. We have personally experienced the loss of many relatives, friends and neighbors. We join with our country and the world in support for the victims of these despicable acts, and in the call for swift and sure justice to be brought


down upon those responsible.

Given this firm's history, reputation, and expertise, we have received and will continue to receive inquiries about the rights of families who have suffered losses. We will respond to those inquiries, and will do all we can to protect their interests. This is our obligation. And like all of our professional relationships, this counseling will continue to be done in a private, confidential, and professional setting.

God bless America. 

The Air Transportation Safety and System Stabilization Act, Title IV: Victim Compensation

On September 22, 2001, President Bush signed into law The Air Transportation Safety and System Stabilization Act, H.R. 2926, which includes provisions cited as "The September 11th Victim Compensation Fund of 2001". Obviously, this legislation and its provisions will be the single-most significant factor in determining the course of any claim for compensation made on behalf of an individual affected by this horrible tragedy.

HR 2926 allows victims and their families the option of (a) filing suit in the United States District Court for the Southern District of New York to recover damages, or (b) applying for speedier relief from an Administrative Claim Compensation Fund backed by the full resources of the United States Government. 

Profile

JUANITA M. MADOLE



Juanita M. Madole, a partner in the firm's California office, has devoted her professional career since graduation from the University of Houston Law

School in 1974 to the practice of aviation litigation. Hired as a fresh-out-of-law-school attorney by the U.S. Department of Justice Aviation Defense Section, she soon realized that her heart was with the plaintiffs. She joined Speiser Krause in 1975 and began practice in the firm's District of Columbia office. During

that time, Juanita's writing skills became apparent and she emerged as the firm's primary brief writer and appellate lawyer. Juanita relocated to the firm's California offices in 1988 where she continued her string of outstanding successes.

Juanita has been appointed to numerous Plaintiffs' Steering Committees, including the longest aviation case ever to be litigated -- the 1983 Korean Air Lines 007 shoot-down over the Soviet Union which was not resolved until 2000. That litigation resulted in a liability trial, an appeal in which the verdict was affirmed, a reopening of the liability issues after President Yeltzen of Russia turned over the CVR and DFDR from the downed plane (at which event Ms. Madole was present as the only lawyer representative of the official Presidential delegation),

nine damages trials and appeals, and argument before the United States Supreme Court in 1997 in which Ms. Madole represented the remaining plaintiffs.

Ms. Madole's writing ability has kept pace with her litigation skills and she continues to write many articles for professional periodicals, seminars, and journals. She is one of five members of the Board of Advisors for the prestigious Southern Methodist University Journal of Air Law Symposium.

Ms. Madole is currently a member of the Plaintiffs' Steering Committee in the litigation arising from the Alaska Air MD-80 crash off Point Magu, California in 2000, as well as the crash of the Singapore Airlines jet on takeoff from the airport in Taipei, Taiwan, also in 2000. ✈



Speiser Krause is pleased to announce that Luke B. Marsh, concentrating in aviation, personal injury and wrongful death litigation, has become associated with our firm.

Mr. Marsh was formerly with the US Department of Justice Torts Branch, Aviation/Admiralty Section

Discovery Begins in Learjet 35

On October 25, 1999, the crash of a Learjet 35 near Mina, South Dakota claimed the lives of Ivan N. M. Ardan, Bruce E. Borland, Robert E. Fraley, W. Payne Stewart and the two crew members. Speiser Krause represents the families of Payne Stewart, the world famous golfer, Robert Fraley and Van Ardan, CEO and President, respectively, of Leader Enterprises, a sports management company which represented many major sports figures.

Speiser Krause, on behalf of these families, recently filed amended complaints in the Circuit Court of the Ninth Judicial Circuit for Orange County, Florida, which added several defendants to the action previously filed on October 25, 2000, against the operator of the aircraft, Sunjet Aviation, Inc., and the owner, Jet Shares One, Inc. The additional defendants include Bombardier, Inc. and Learjet, Inc. in their inspection and maintenance capacities, as well as their negligence in revising, publishing and distributing aircraft emergency operating procedures which caused the crash and resultant deaths.

Gerard R. Lear, Daniel D. Barks and Mary C. Sweeney of the Speiser Krause Metropolitan Washington, DC office and Frank H. Granito, Jr. of the New York office represent the Ardan, Fraley and Stewart families along with our Florida counsel, Terry C. Young and H. Gregory McNeill of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., Orlando, FL. ✈

Firm Stuns Helicopter Giant with California Verdict for Widowed Client

Speiser Krause has obtained a landmark wrongful death verdict exceeding \$8.6 million on behalf of the widow of veteran pilot Floyd Hiser, against Bell Helicopter Textron Inc., the world's largest supplier of helicopters. Mr. Hiser was killed July 6, 1997 when the fuel system of a Bell "Long Ranger" helicopter malfunctioned during a fire suppression mission over mountainous terrain in Southern California. Attorney Douglas Schroeder of the firm's California office successfully prosecuted the two-month product liability trial, ultimately obtaining this verdict of national importance. Mr. Schroeder persuaded the jury to render its unanimous verdict against Bell Helicopter, declaring the helicopter's fuel system fatally defective both in its design and for its lack of appropriate warning features.

The task of establishing liability for the crash was made all the more difficult by the defendant's obstruction of pre-trial discovery concerning the design of the fuel system. When information was not forthcoming from the defendant in discovery, Mr. Schroeder launched a probe into earlier product lawsuits against Bell Helicopter, and unearthed several "smoking gun" internal company documents. The defendant's own private memoranda—generated more than 10 years before Mr. Hiser was killed—told a story far different from the one the manufacturer published to customers. These internal documents revealed that the company knew for many years there was a better alternate design. Bell had even directed the creation of a "retrofit kit" to fix the flaws in previously delivered Long Ranger helicopters,

but tragically, Bell never made that retrofit available. Instead, it quietly changed the design on the assembly line for new helicopters and issued a deceptive publication advising existing customers that the fuel system was safe and reliable. When presented with the contrary statements made by Bell behind closed doors, the jury found the manufacturer's public pronouncements to be a breach of express warranty.

With the assistance of firm partner Juanita Madole, a recognized authority on the subject of damages in aviation death and injury cases, Mr. Schroeder presented compelling evidence detailing the profound losses caused by Floyd Hiser's untimely death. Mr. and Mrs. Hiser had been married nearly 32 years when his life was taken just short of his 51st birthday. Over two decades, the couple had built, then sold, a successful aviation business, the proceeds from which had allowed them to semi-retire just a few short years before the tragedy. At the time of his death, Mr. Hiser was seasonally employed, which permitted the couple to travel together extensively and spend treasured time with family as well as friends across the country.

The defendant was only willing to acknowledge financial losses based upon Mr. Hiser's recent seasonal wages as a subcontracted



Douglas W. Schroeder with photo of Bell Long Ranger.

employee. Speiser Krause, however, demonstrated that Mr. Hiser's earning capacity was several times greater, in light of his prior business endeavors and his intention to return to more lucrative work as a contractor to the Forest Service. Consequently, the jury was persuaded to award more than \$2 million for these economic losses. Mr. Schroeder also persuaded the jurors to award an additional \$6.6 million to compensate for non-economic losses, for a total award exceeding \$8.6 million.

Because the defendant refused our statutory pre-trial settlement offer, our client qualifies for an added award of prejudgment interest, as well as additional litigation expenses, which increase the present value of the judgment to nearly \$10 million. The victory also means Mr. Hiser's good name remains intact against defense accusations he was at fault for the crash, and that the defendant must seriously consider fixing the helicopters it previously sold or else risk exposure to punitive damages in the event of future deaths or injuries.

SK Awarded \$70 M in KAL #801

The California office is closing the litigation arising from the crash of Korean Air 801 which hit the side of Nimitz Hill while enroute from Seoul, South Korea to Agana, Guam on August 6, 1997. Suit was brought on behalf of 64 passengers who were killed or injured. The litigation against Korean Air, the United States of America (for FAA negligence), and Serco Management Services, Inc., the independent contractor control tower operator, was consolidated before Judge Harry L. Hupp in the Central District of California.

The claims against Korean Air could only be maintained in the United States by a handful of passengers because of the restrictions of Article 28 of the Warsaw Convention, which limits jurisdiction either to the headquarters/principle place of business of the carrier, or the place where the contract of carriage was made (generally, where the ticket was purchased), or before a court at the ultimate destination shown on the ticket. The vast majority of passengers were

Korean nationals who bought their tickets in Korea for a round trip Seoul-Guam-Seoul journey. Those who could sue KAL had a clear claim of negligence because the aircraft was flown below the minimum safe altitude for the approach. However, the other passengers who could not sue KAL for negligence in the United States had at least one other culpable defendant to pursue: the United States of America for FAA employee negligence.


The claims against the FAA were twofold. First, several years before the crash, the FAA had mandated that each enroute facility install Minimum Safe Altitude Warning devices which emitted both audio and visual warnings when an aircraft was detected below the minimum safe altitude for that segment. Although the warnings were supposed to trigger at any point within 54 miles of the facility, because of a computer software installation error, the warning in this instance was limited to a one-mile ring located 54-55

miles out from the facility. This error was not caught notwithstanding several inspections of the facility in the years preceding the crash. The second claim was that the controller at the radar enroute facility had acquired an altitude display for the aircraft; knew that it was below the minimum safe altitude and yet failed to warn the crew.


After three years of litigation, the Government and KAL agreed to accept liability and the Government agreed to indemnify Serco. All but six of Speiser Krause's clients have settled their cases. The remainder have been transferred to the District of Guam for damages trials. The District of Guam was the required venue because of the constraints on venue under the Federal Tort Claims Act.

Juanita M. Madole and John J. Veth, of the firm's California office, negotiated settlements for Speiser Krause clients in excess of \$70 million dollars. 

Atlantic City Casino Trip Proves Fatal

On May 21, 2000, a British Aerospace Jetstream-3101 aircraft crashed on approach to the Wilkes-Barre/Scranton airport in Pennsylvania, killing all 17 passengers and the 2 pilots. The twin engine turboprop aircraft, which was owned and operated by Executive Airlines, a Long Island based airline, was returning from Atlantic City where the passengers had been guests of Caesars Casino. The accident occurred while the crew was attempting to execute an instrument approach to runway 040 in low visibility weather conditions. For reasons yet undetermined, the crew declared a missed approach on final, and, in the course of repositioning the aircraft for another approach to runway 040, reported an engine failure to the tower. Shortly thereafter, the crew reported the loss of both engines, and the aircraft ultimately impacted terrain in Bear Creek Township, approximately 11 miles south of the airport. Frank H. Granito, III of the firm's New York office, along with Dan Barks and Mary Sweeney of the Metro DC office, represent the families of 10 of the passenger-decedents. The cases are presently pending in the United States District Court for the Eastern District of New York (Brooklyn). The theories of liability will focus on pilot fuel management and emergency engine-out procedures, as well as issues related to the design and manufacturer of the aircraft's fuel system and its component parts. 

TWA Flight #800

Frank H. Granito, Jr. and Frank H. Granito, III of the firm's New York office are members of the court appointed Plaintiffs' Committee in the multidistrict litigation arising from the crash of TWA Flight 800 of the Coast of Long Island on July 17, 1996. The firm represented the families of 55 decedents and, after extensive pre-trial discovery related to the design of the Boeing 747 center wing fuel tank, the individual actions proceeded to damages mediation before the Honorable Judge Sweet of the USDC for the Southern District of New York (Manhattan). To date, the mediation process has resulted in the favorable resolution of 50 of the 55 claims. 

Catastrophic Failure of Engine Results in Crash of Edinburgh Air Charter

On September 3, 1999, a twin engine Cessna 404 Titan operated by Edinburgh Air Charter crashed during takeoff at the Glasgow Airport in Scotland. The fiery crash resulted in the deaths of 6 passengers, and serious injuries to 3 surviving passengers. The passengers were all pilots and flight attendants of the airline Airtours, on board the charter flight for the purpose of being ferried to Edinburgh for their assigned flights with Airtours. The Cessna 404 was equipped with twin GTSIO-520 engines manufactured by Teledyne Continental Motors (TCM) of Mobile,


Alabama. The GTSIO-520, which was introduced into service in the mid 1960's, has been plagued with problems associated with metal fatigue failure of critical component parts, including the crankshaft, gears and starter assembly. Many of the problems are related to the engine's excessive vibratory torque and the resulting metallurgic stress imposed upon the engine's component parts. The Edinburgh Air Charter crash was caused by a catastrophic failure of the left-hand engine due to a failure of the starter gears. Actions on behalf of all of the passengers have been

commenced in state court in Mobile, Alabama against TCM and Vibratex, a company that manufactured the viscous torsional damper that was supposed to reduce the vibrations caused by rotation of the engine's crankshaft, gears and starter shaft. Frank H. Granito, III of the firm's New York office, working in association with Solicitors Peter Watson and David Short of Scotland, represents the interests of all of the plaintiffs in this litigation. 

Faulty Wiring Plunges Swissair Flight #111 Into Settlement Negotiations

We have successfully settled the overwhelming majority of the 37 cases we handled as a result of this tragedy of September 2, 1998. This crash occurred due to faulty wiring which caused a fire above the cockpit, disabling the plane and the crew's ability to control it. Chief Judge James Giles, USDC for the Eastern District of Pennsylvania, instituted a mandatory mediation process where the clients traveled to Philadelphia in an effort to resolve these cases. Most have now been concluded. Those who have rejected Swissair's offers will have their files transferred to the court where the case was initiated and preparation for damage trials will commence. This litigation was handled by Kenneth P. Nolan and Frank H. Granito, III of our New York office. 

Terrorist Bombing of Pan Am Lockerbie Flight #103

The Speiser firm continues with its ongoing litigation against Libya on behalf of 60 families who lost loved ones in the terrorist bombing of Pan Am Flight 103 over Lockerbie, Scotland on December 21, 1988. The current action against Libya is based upon an amendment to the Foreign Sovereign Immunities Act which permits a claimant to sue a country for acts of state-sponsored terrorism which result in death or injury. Frank H. Granito, Jr. and Frank H. Granito, III of the firm's New York office have been appointed by Judge Platt of the United States District Court for the Eastern District of New York (Brooklyn) to serve on the Plaintiffs' Committee charged with establishing Libya's direct involvement in the downing of Flight 103. In 1992, the Granitos were members of the trial team that recovered a jury verdict of willful misconduct against Pan Am for security deficiencies which were found to have allowed the bomb to be placed aboard Flight 103. 

Did You Know?



...That John J. "Jack" Veth, a partner in the firm's California office, was recently selected as President-Elect of the Orange County Trial Lawyers Association for the year 2002. He will be elevated to President in 2003. Jack has been a member of the Board of Directors for nine years, during which time he served as an Officer and as Editor of the quarterly publication: *The Gavel*.

A Lawyer's Finest Reward

Rodney W. Gettig, LtCol, US Army sent Ken Nolan of our New York office the following letter as a thank you for his diligence in handling a personal problem for a Private First Class soldier.

"It is heartwarming to know that there are professionals, like

yourself, willing to help a United States Army soldier who cannot afford the caliber of expertise and representation you provide. Gestures such as yours go a long way in letting the soldiers of America's Army know that the citizens of our great nation support

them and understand the sacrifices they make to protect our liberties. Whatever the outcome, we sincerely appreciate your concern and caring for this soldier and the positive signal your actions send to all who serve our country".



Did You Know?



...That Kenneth P. Nolan was appointed to the prestigious position of Board of Editors of the ABA Journal for a term of 3 years. This is the official publication of the American Bar Association. He is also a member of the CCH Aviation Law Advisory Counsel.



...That Frank H. Granito, III, a partner in the firm's New York office, who recently completed his tenure as Chairman of the ABA's Aviation and Space Law Committee, has been appointed by the ABA to serve as a member of the newly-formed Task Force on Aviation Issues.

SPEISER KRAUSE

2300 Clarendon Boulevard

Suite 306

Arlington, VA 22201