



Precedent

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IN REMEMBRANCE: A YEAR LATER

The Attacks of September 11, 2001

Our firm represents more than 75 victims of this horrific tragedy. Our New York office is in midtown, which is a few miles away from the Trade Center, but all of us in the New York office had friends, relatives and neighbors who perished. Our firm has been involved with these families in assisting them in obtaining insurance, workers compensation and other benefits as well as making a decision whether to litigate or enter the Victims' Compensation Fund. In addition, we have recently filed a complaint against the 9/11 terrorists in Federal Court in Manhattan. As many of you may know, our firm has long been involved in the suit against Libya for the deaths of those on board Pan Am 103 which exploded over Scotland on December 21, 1988. We represent the families of 57 victims of that disaster.

Kenneth P. Nolan and Jeanne M. O'Grady have met with Special Master Kenneth Feinberg on numerous occasions to voice their concerns concerning the rules and regulations promulgated. In addition, we are exploring the possibility of litigation for those who may not recover much from the Victims' Compensation Fund.

In addition to the ground victims, we also represent those who were aboard the various aircraft or in the Pentagon. Gerard R. Lear, Mary C. Sweeney, Luke B. Marsh and Cory L. Loudenslager of the Washington office are handling many of those cases. Kenneth P. Nolan, Jeanne M. O'Grady and John F. Schutty are working on these matters in our New York office. Mr. Nolan and Ms. O'Grady also wrote an article "The World Trade Center Tragedy and the Victim Compensation Fund—An Analysis" which was published in the CCH Issues In Aviation Law and Policy. (Issue No.2, April 4, 2002)



Profile

JACK VETH



John J. "Jack" Veth, Managing Partner of the firm's California office, has enjoyed a career in aviation since 1963. Upon graduation from New

York University, Jack entered pilot training with the United States Air Force where his twenty-year career included a tour of duty in Vietnam as a combat fighter pilot. Over the years, he has accumulated over four thousand flying hours as a Command Pilot. His distinguished military career reached its zenith in 1975 when he was selected as an Aircraft Commander and Instructor Pilot for the record-setting, supersonic, SR-71 Blackbird Strategic Reconnaissance aircraft. During his final year of active military duty, then Lieutenant Colonel Veth began law school and a second career in Aviation Law.

While pursuing his Juris Doctor at California's Western State

University School of Law, Jack joined the Northrop Grumman Corporation Development and Production Team for the B-2, Advanced Technology "Stealth" Bomber. In 1987 Jack began practicing as an Aviation Attorney in Speiser Krause's California office.

As a result of his past experience in the field of aviation, Jack was a natural in the practice of aviation law. Possessing a distinct knowledge of the intricate facets of flight allowed him to represent his clients' interests with an intimate familiarity of the aircraft and equipment in question. His practice areas grew quickly to encompass aviation and complex tort law, wrongful death, and product liability litigation.

Jack has served as a member of the Plaintiffs' Steering Committee in the 1992 Perris Valley, California crash of a DNC-6 (Twin Otter) that was participating in sport parachute jumping; the 1997 crash of Korean Air Lines Flight 801 in Guam where Jack's work resulted in over \$80,000,000.00 in compensation for victim family members represented by Speiser Krause; and more

recently, the January 2000 Alaska Airlines MD-80 crash off the coast of Southern California; as well as Co-Lead Counsel in the actions against The Boeing Company arising out of the Indonesia Silkair crash.



Jack Veth flew SR-71 Blackbirds for the Air Force, seen in this 1979 Photo

Consistent with his commitment to education, Jack maintains contact with the academic community as an instructor for the University of Southern California, Aviation Safety Department. He is a frequent contributor to publications such as the Orange County

Lawyer and The Gavel, a publication of the Orange County Trial Lawyers Association of which he is a past Editor. Jack is also a frequent speaker at Conferences such as the Lawyer-Pilots Bar Association, the SMU Aviation Symposium, the National Business Institute, and The Consumer Attorneys of California.

Defective Rudder Rolls SK into Mediation in SilkAir Litigation

In an action against The Boeing Company for defects in the 737-300 aircraft, the court has set February 28, 2003 as the deadline for discovery in liability and damages of all fact witnesses. Speiser Krause represents the families of over 30 victims of the December 19, 1997 crash of the Boeing 737 in Palembang, Indonesia.

In the past few months numerous depositions of Boeing employees have been taken in Seattle, Washington, while NTSB investigator depositions were conducted in Washington, DC and employees of SilkAir were deposed in Singapore.

Plaintiffs believe that the SilkAir flight crashed as a result of a defective condition in the Boeing 737-300 aircraft. That defective condition includes rudder and electrical system faults. These rudder anomalies, which may have been initiated by problems in the electrical system on the SilkAir flight, contributed to the crash. Similar instances have been documented on numerous 737 flights both prior to and subsequent to the SilkAir crash.

Plaintiffs specifically contend that the SilkAir flight aircraft was stabilized in cruise flight at an altitude of 35,000 feet at approximately

250 knots indicated airspeed. The rudder then induced an uncommanded roll which led to a near 90 degree roll attitude followed by substantial nosedown pitch. These events produced an increase in speed and a descent resulting in loss of control and complete breakup of the aircraft.

Jack Veth, the managing partner of our California office is one of the lead attorneys in this litigation and participates in all discovery activity.

TWA Flight 800 Memorial Dedication at Smith Point Park

On July 14, 2002, nearly six years after the crash of TWA Flight 800 off Long Island, New York, The TWA Flight 800 International Memorial was dedicated at Smith Point Park, the point of land closest to the crash site. Consecrated by sorrow and anointed by tears, Smith Point Beach had become sacred ground. The TWA 800 Family Association created this permanent

memorial as a positive expression of their grief, and as a place of comfort, reconciliation and healing for the families and all those scarred by the catastrophe of Flight 800. The Memorial includes the flags of the four-

teen nations which lost their citizens; a

Memorial wall inscribed with the names of all 230 victims and a depiction of ocean waves cresting into 230 doves; as well as a story wall written by John Seaman, a portion of which reads:

“...Now, softly sculpted in the beach’s embrace, the Memorial creates a peaceful space, apart, yet reaching out to that solemn place in the



Front view of the TWA memorial.

world’s great sea. Here, draped in a rich garden mantle, offering a shelter of sweet fragrance and gentle grasses, there is quiet to soothe the heart and whisper of the promise of life’s hope. This Memorial, a labor of love, is dedicated to the memory of 230 unique and beautiful souls on Flight 800, and, as a lasting tribute to the brave, strong, and compassionate who came to the aid of strangers at a time of great need.

Let all who suffer life’s travails, rest and find comfort here.”



Cory L. Loudenslayer, an attorney in the Washington DC office, stands with NY mayor, Rudolph Giuliani. Cory’s sister, Jody, age 17, was killed in the TWA crash.

Discovery Continues 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, has been engaged in recent months with the examination, sorting and compilation of thousands of pages of documents produced by the various defendants in response to our Requests for Production of Documents. We have also been coordinating with the defendants in the identification and examination of various pieces of wreckage recovered from the crash site which were, until recently, being held in the custody of the Federal Bureau of Investigation. There are also several jurisdictional issues presently on appeal which will hopefully be resolved shortly so that depositions may commence this fall.

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.

BEYOND AIR CRASHES: Overcoming Obstacles to Win Justice for Injured Clients

Two recent cases successfully prosecuted by the firm's California office illustrate our dedication to injured clients in areas beyond the realm of aviation disasters. In one, Douglas W. Schroeder of our California office won a medical malpractice jury verdict in a case where the defendants refused to settle because they wrongly



Doug Schroeder portraying to the jury our client's pre-surgery athletic ability.

thought no lawyer would invest the time and resources to secure justice for a young man of modest means. In the other case, Mr. Schroeder secured a six-figure settlement for our client despite the insolvency of the defendant's insurance company and the threat of garnishment by the victim's employer.

Our client in the first case --an 18-year old in the hiatus between high school and his first semester at college--was injured during a supposedly "routine" lymph node biopsy. The surgeon never disclosed to the patient the potential risks, including nerve damage. During the surgery, the patient's spinal accessory nerve was damaged. Upon awaking from anesthesia, he was sent home without being told of the injury. As his arm began to wither in the weeks afterward, his calls for help to the surgeon's clinic went unanswered. Unable to raise or support weight with his left arm for several months, he lost his summer job as a grocery store stock clerk, and was unable to play competitive tennis

at which he previously excelled. Our client was fortunate to eventually recover 90 percent of his pre-injury physical abilities. However, he could never regain the freshman semester of college he lost, and would always recall the anxiety he suffered during those several months when it appeared he would permanently lose the use of his arm. Although its negligence was clear, the surgeon's medical group refused even to discuss settlement, believing the victim's rights would not be pursued because his wage loss was modest and he was "just a kid." Because justice demands better behavior, we refused to throw in the towel. After the defendants rejected our statutory settlement demand, Doug Schroeder proved to the jury that the surgery was unnecessary, the clinic was negligent, their records had been altered to conceal their mistakes, and our client deserved vindication for the pain and suffering he endured. We won for our client a judgment nearly double the amount of the settlement offer the defendants had rejected.

In the second case, our client was a delivery courier whose ankle was badly broken when he stepped into a submerged pothole next to a gas station filling pump. He had to undergo painful surgery and was left with a permanent limp.

Compounding his distress was the fact the defendant's insurance carrier was taken over by state regulators and declared insolvent. Adding insult to injury, our client's own employer was threatening to take for itself any funds he might receive as compensation, claiming any money recovered should first be paid in reimbursement of worker's compensation benefits. Despite these obstacles, Doug Schroeder was able to gain the agreement of the California Insurance Guarantee Association to pay full compensation to our client for his debilitating injury. By skillfully integrating California's laws governing insurance and worker's compensation, Mr. Schroeder was able to achieve a six-figure settlement for our client free from his employer's reimbursement claim.

While our attorneys litigate complex aviation and product liability death and injury claims on a daily basis, we devote the same skill and tenacity on behalf of victims of more commonplace injuries, such as automobile and industrial accidents, medical malpractice, and unfair insurance practices. We are honored each time a satisfied client, or an attorney we have opposed, refers a new client to us for representation in these equally important matters. ✍️



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

John F. Schutty previously specialized in the defense of airlines and aviation-related insurance companies. He will assist the firm in representing individuals and families affected by the terrorist attacks of September 11, 2001.

Structural Problem or Pilot Error on AA Flight 587

Just four weeks after the September 11th attacks on the World Trade Center, and just miles from downtown Manhattan, on November 12, 2001, American Airlines Flight 587 crashed in the residential neighborhood of Belle Harbor, New York, less than two minutes after takeoff from JFK International Airport en route to Santo Domingo, Dominican Republic. Further devastating an already shaken city, the crash killed all 260 passengers and crew aboard, as well as five victims on the ground, and aroused suspicions that the crash of the Airbus A300-600 might be the work of terrorists. These early suspicions soon gave way to evidence that the crash was indeed an accident.

Without evidence of criminal activity, the NTSB is focusing its investigation on the composite vertical stabilizer and rudder which separated from the aircraft prior to the crash. The aircraft's flight data recorder revealed several rudder

deflections of substantial force in the flight's final seconds, and it is the cause of these rudder deflections and their relationship to the separation of the stabilizer that will be the crux of the investigation. Whether the extreme rudder deflections were caused by an overreaction of the crew to turbulence caused by the wake of another aircraft, or by a mechanical or structural defect remains to be determined. The NTSB will hold a public investigative hearing in October, 2002.

Speiser Krause represents the families of 45 passengers who perished aboard Flight 587, as well as two families who lost loved ones when the aircraft slammed into their homes. In light of facts implicating both pilot error and manufacturing defects, we have brought suit against American Airlines, Inc., the owner and operator of the aircraft, and Airbus, the French manufacturer of the A300. The Judicial Panel on Multidistrict Litigation has consolidated all cases

before Judge Robert Sweet in the U.S. District Court for the Southern District of New York. The litigation arising from the TWA Flight 800 disaster was consolidated before Judge Sweet, and he proved to be an intelligent, fair and reasonable judge. We are pleased to be back in his courtroom.

Kenneth P. Nolan has been selected as co-chair of the executive committee of the Plaintiff's Steering Committee. Frank H. Granito, Jr., will serve as chair of the subcommittee devoted to the ground victims and the special issues that confront them. Frank H. Granito, III is also a member of the Steering Committee. Jeanne M. O'Grady of the New York office is also working on this litigation, along with Francelina M. Perdomo, an attorney admitted in the Dominican Republic. The PSC is in liability discovery and anticipates the commencement of depositions later this year in preparation for trial tentatively set for early 2004. ✍

In Memoriam



George and Marilyn Farrell

George E. Farrell
1916-2002

George was a man born to be a Marine and he was in his heart until the day he died -

honor, integrity, honesty and a hard working ethic were essential parts of his being. He served as a Marine Corps pilot in the Pacific during World War II and the Korean War. A graduate of Stanford University with a law degree from De Paul University, he began his legal career at the Kreindler firm in New York but was soon asked to take over as Chief of the Aviation Defense Unit at the Department of Justice in Washington, D.C. Many of those he

helped train and mentor during his tenure at DOJ are still actively involved in Aviation Litigation: Gerry Lear, Bob Smiley, Tim Cook, Mark Dombroff, Juanita Madole, Mike Pangia, and Nick Gilman. His humor and understanding, as well as Marine-taught do the job right attitude permeated the atmosphere while he was Chief of the Unit. When George left the Department of Justice to begin private practice in the plaintiffs' bar, he joined up with his old colleague from DOJ, Gerry Lear. George's empathy for the human condition went far in helping widows and children recover compensation for their losses following the death of a loved one in an airplane accident. In 1983, George and Gerry joined forces with their friends at Speiser Krause in the firm's Washington, D.C. office. George remained Of Counsel to Speiser Krause for almost two decades until he retired

fully in the late 1990's.

During that time, he represented plaintiffs in litigation that included the case of the Korean Airlines jet shoot-down by Soviet fighter planes in 1983; the Air Florida 737 crash into the Potomac River in 1982; the Eastern Airlines crash in New York in 1975; the TWA 727 crash at Mt. Weather near Dulles International Airport in 1974; and the Eastern Airlines L1011 crash in the Everglades in 1972.

In retirement, George enjoyed golf and the company of his lovely wife, Marilyn and daughter, Katherine. He will be missed by many family and friends but we at Speiser Krause will always cherish the time he spent with us.

"Gear up, George...flaps up...you're cleared for an unrestricted climb." ✍

A Lawyer's Finest Reward



Ann-Marie Platz Flannery sent Kent Krause and Paula Walsh of our Dallas office the following letter as a thank you for their handling her case which arose from the AA #1420 Little Rock Crash in Arkansas of June 1, 1999 where the pilot landed in a severe thunderstorm and skidded off the runway.

Kent and Paula: I'd like to thank you for your guidance and advice through a very trying and difficult process. I could not imagine dealing with this without your assistance. ...I greatly appreciate the time you took to explain and clarify topics to me. ✈

Did You Know?



...that Kent Krause, managing partner in the firm's Dallas office, was recently elected Chairman of the Aviation Section of the State Bar of Texas for the 2002-2003 Bar year. Kent lectures on various litigation topics at CLE seminars in

addition to serving as an adjunct professor of aviation law at the Southern Methodist University Deadman School of Law.

SPEISER KRAUSE

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