

Daily Business REVIEW

by Tony Doris and Matthew Haggman

LIABILITY

December 10, 2003

DELIVERING MONEY AND POWER EVERY BUSINESS DAY

\$9.3 million awarded against Lauderdale aircraft maintenance company in crash that killed four

The families of four Broward people killed in a 1999 air crash near Key West were awarded \$9.3 million after a jury found that a Fort Lauderdale maintenance company failed to trouble-shoot mechanical problems reported prior to the trip.

After a four-week trial in Broward Circuit Court, the six-person jury deliberated for 4 1/2 hours before dismissing contentions by Cav-Air that pilot error was to blame for the deadly crash on Oct. 30, 1999. Maintenance company Cav-Air has changed ownership since the accident.

Killed in the crash were Haim Israeli, 54, his wife, Tova, 49, Gavriel Shade, 55, and his wife, Elfriede, 54. They were returning from a day trip to Key West where they celebrated the Israelis'

30th wedding anniversary by attending Fantasy Fest.

Minutes after takeoff, pilot Haim Israeli radioed that the Cessna 310 was having engine problems and was heading back to Key West. The plane took a radical left turn at 7,400 feet and plummeted into the Gulf of Mexico, 10 miles north of Key West. It took two weeks to find their bodies. The mashed fuselage was found in 25 feet of water.

The maintenance company, which had a \$5 million policy



Plaintiff attorney Steven C. Marks says the defense was 'suggesting that this very careful pilot would [have] only part of the maintenance done.'

with insurer United States Aviation Insurance Group, turned down a \$4 million set-

LIABILITY

tlement offer prior to trial. A counteroffer of \$2 million was rejected by the plaintiffs.

According to Steven C. Marks, a partner at Podhurst Orseck in Miami who represented the Israelis, the plaintiffs are also entitled to seek attorney fees.

Joseph J. Slama, a partner at Krupnick Campbell Malone Buser Slama Hancock Liberman & McKee in Fort Lauderdale, represented the Shades.

The plaintiffs sued for negligence. The jury found the maintenance company 100 percent liable for \$5,050,000 in damages to the Israeli estate; and \$4,280,000 to the Shade estate.

Kenneth H. Laborde, a partner at Gieger Laborde & Laperouse in New Orleans, who represents USAIG of New York, served as lead trial attorney for the defense. He was in trial Tuesday and could not be reached for comment. Fort Lauderdale defense lawyer Dennis O'Hara, a partner at Wicker Smith O'Hara McCoy Graham & Ford in Fort Lauderdale who represented Cav-Air, also could not be reached.

The defense has 30 days in which it can decide whether to appeal.

According to Slama, Israeli had taken the plane to Cav-Air for repairs two days before the trip, reporting a

problem with manifold pressure. The company worked on the problem, lubricating parts of the turbo system, but did no further trouble-shooting.

At trial the company contended that the work it did was what Israeli requested. Since the plane made it to Key West without incident, a different problem must have arisen on the way back, one not related to the maintenance they were asked to perform, the company said, according to Slama. The company also said that if one engine failed, the plane was capable of flying on one engine. It asserted that pilot fatigue and spatial disorientation were to blame for the crash, not mechanical problems.

The plaintiffs, however, said that the company had an obligation to trouble-shoot and that its failure to do so caused the crash. Israeli was an instrument-rated pilot with more than 2,000 hours of flying experience, they said.

"The entire case was one of credibility," Marks said in an interview. "They were suggesting that this very careful pilot would take a chance with his family by having only part of the maintenance done."

The plaintiffs were

challenged to make their case in the absence of much evidence, because of the condition of the plane after the crash, Slama noted.

The two couples, originally from Israel, were lifelong friends. Haim Israeli, formerly a Motorola industrial engineer, worked as a consultant; his wife was a school teacher in Broward County. Gavriel Shade, who was semi-retired, ran restaurants and adult living communities; his wife had just completed studies to be a mental health counselor.

Each couple was survived by an adult son and a daughter. ♦



Joseph J. Slama was the attorney for the adult children of two of the people who died when a Cessna 310 crashed into the Gulf of Mexico.