

[Products Liability Law Daily Wrap Up, TOP STORY—AIRCRAFT AND WATERCRAFT—E.D. Pa.: Aircraft engine maker denied new trial in plane crash case, \(Sept. 7, 2017\)](#)

Products Liability Law Daily Wrap Up

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By Susan Engstrom

A jury's \$2.8-million damages award in favor of the widow and minor child of a U.S. Forest Service employee who died in an airplane crash has survived another challenge by the manufacturer of the aircraft's engine, a federal court in Pennsylvania determined, denying the company's motion for a new trial after having previously rejected its request for judgment as a matter of law. The evidence presented at trial was more than sufficient to support the jury's conclusion that the accident was caused by the inadequate hardness of an exhaust valve guide that had been installed in one of the engine's cylinders. In addition, the manufacturer's objections to the court's evidentiary rulings and jury instructions failed, as did its assertion that the evidence at trial showed that the aircraft owner's maintenance deficiencies were the cause of the accident ([Snider v. Sterling Airways, Inc.](#), August 29, 2017, Joyner, J.).

A single-engine Cessna aircraft crashed following a total engine failure as the plane was preparing to land, killing the pilot and his two passengers, both of whom were U.S. Forest Service employees who had been conducting an aerial deforestation survey. The flight was conducted pursuant to a charter contract between the Forest Service and the plane's owner, Sterling Airways, Inc. The ill-fated aircraft had been manufactured in 1973 and was equipped with a Continental Motors, Inc. engine that had been last overhauled in 2004.

The estates of the three decedents filed suits against Sterling and Continental, alleging claims for negligence, gross negligence, recklessness, and/or strict liability on the part of the defendants in, among other things, the manufacturing, maintenance, and operation of the aircraft, its engine, and its component parts. Two of the suits settled prior to trial but the third—on behalf of one of the deceased Forest Service employees—went to trial. The jury returned a nearly \$2.8-million verdict for the deceased man's representatives and against the engine manufacturer only [see *Products Liability Law Daily's* February 24, 2017 [analysis](#)]. Although the aircraft owner was found to have breached its contract with the Forest Service and to have been negligent, the jury determined that the owner's negligence and breach were not actual causes of the accident. Thereafter, the court denied Continental's motion for judgment as a matter of law [see *Products Liability Law Daily's* June 30, 2017 [analysis](#)]. In the current case, the court addressed the manufacturer's motion for a new trial.

Exhaust valve defect. Contrary to Continental's assertion, the expert testimony adduced at trial was more than sufficient to warrant a finding by the jury that the exhaust valve guide that was installed in the plane engine's No. 2 cylinder failed to satisfy the requisite hardness minimums set by Continental itself. Adequate evidence also was produced to sustain the jury's conclusion that the accident was caused by the inadequate hardness. Therefore, Continental's motion for a new trial based on the insufficiency of the evidence regarding causation and hardness was denied.

Aircraft owner negligence. In addition, a new trial was not warranted on the basis of the plane owner's negligence in disregarding certain of Continental's maintenance recommendations. Testimony from the plaintiffs' and Sterling's witnesses provided sufficient evidence that Continental's negligence was greater than Sterling's and was, in fact, the proximate cause of the crash.

Applicability of General Aviation Revitalization Act. The court also rejected, for a second time, Continental's previously raised argument that the plaintiffs' claims were time-barred under the General Aviation Revitalization Act. Continental asserted that it had made the at-issue engine more than 18 years before the accident, but the

decendent's representatives produced clear evidence at trial that the cylinders that were installed in the aircraft's engine during the 2004 overhaul were manufactured and sold by Continental.

"Cylinder assembly." Continental argued that the court's use of the term "cylinder assembly" in its charge and on the verdict form was erroneous because the plaintiffs produced no evidence to support reference to this broader system rather than the exhaust valve guide contained within it. Although the No. 2 exhaust valve guide was manufactured by another company, it was made specifically for and sold only to Continental based on a Continental design and to Continental's specifications, and bore a Continental part number. The exhaust valve guide was incorporated into and made part of the cylinder by a "reaming in place" method. In light of this and similar evidence, the court determined that it was appropriate to ask whether the No. 2 cylinder assembly was manufactured by Continental and whether it was added to the aircraft after the 18-year limitations period or after June 21, 1992 on the verdict slip. Thus, the court declined to overturn the verdict on this ground.

Duty to warn about after-market parts. Also rejected was Continental's claim that a new trial was warranted based on the court's refusal to give an instruction or preclude evidence regarding Continental's lack of any obligation to warn about the use of after-market components. The general failure-to-warn instruction that was given was an accurate statement of the applicable law and wholly appropriate given the evidence that was produced throughout the trial.

Evidentiary rulings. Continental also asserted that the court made a series of unfair and erroneous evidentiary rulings that had the cumulative effect of causing the company such prejudice that a miscarriage of justice would result if the jury's verdict was allowed to stand. The court disagreed, standing by its decisions to: (1) exclude the National Transportation Safety Board Factual Report as well as portions of the NTSB docket that contained opinions and/or conclusions of the board's investigators and/or otherwise inadmissible hearsay; (2) exclude the U.S. Forestry Service Report; (3) instruct the jury to disregard all NTSB factual findings and conclusions; (4) preclude Continental's expert witness from explaining to the jury what oil analysis is and offering expert opinion as to what such testing would have shown had it been performed by Sterling; (5) admit testimony on metallurgical processes by the plaintiffs' expert; and (6) admit evidence concerning Continental's certificates of compliance, service difficulty reports, third-party shop orders and warranty claims, as well as testimony about a magazine survey of cylinders by various manufacturers.

Motion to amend judgment. Finally, Continental urged the court to amend the judgment to dispose of the cross-claims filed on Continental's and Sterling's behalf against one another. Given the jury's verdict in favor of the decendent's representatives and against Continental only, the court agreed that the competing cross-claims of the defendants for liability over indemnity and contribution were effectively moot. Amendment of the verdict will be accomplished by a separate order.

The case is [No. 13-CV-2949](#).

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Companies: Sterling Airways, Inc.; Continental Motors, Inc.

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