

MONDAY, April 3 2006

FAMILY OF MAN KILLED ON PLANE AWARDED \$25 MILLION AT TRIAL

Case: Julie Ross, Ashley Ross, Jordan Ross, Benjamin Ross and McKenzie Ross v. Robinson Aviation Inc.

Case no.: CACE3013487, Broward Circuit Court

Description: Aviation negligence

Filing date: Aug. 6, 2003

Trial date: March 20, 2006

Judge: Victor Tobin

Plaintiff attorney: Steven C. Marks and Ricardo Martinez-Cid, Podhurst Orseck in Miami.

Defense attorneys: Edward Booth of Spohrer Wilner Maxwell & Matthews in Jacksonville, and Mitchell E. Kallet of Kern & Wooley in Hartford, Conn.

Details: In June 2003, Steve Ross, 44, was returning from a religious mission trip in the Bahamas in a Cessna 182 he was piloting. Ross lived in Boca Raton, where he worked as a chaplain at the Boca Raton Community Christian School and was traveling with a friend from church. Ross' plane was communicating with towers along the coast of South Florida operated by New Haven, Conn.-based Robinson Aviation, which was contracted by the Federal Aviation Administration to provide the air traffic controllers for the towers. The Boca Raton tower was supposed to have two air traffic controllers, but one had left early that night. The Pompano Beach tower was about to close when Ross' plane reached the area. Meanwhile, another plane, a Cessna 172 carrying a family of three, was headed south to Fort Lauderdale. The two planes crashed into each other in the air above the

Deerfield Beach International Fishing Pier, and all aboard were killed. Ross' widow and four children filed suit against the aviation company that operated the towers.

Plaintiff's case: Marks argued that Robinson's air traffic controllers were negligent, since one of the controllers in the Boca Raton tower had left early and the one in the Pompano Beach tower had been distracted with paperwork at the time of the crash.

Defense case: Attorneys for Robinson did not return calls for comment. According to Marks, the defense argued that Robinson's air traffic controllers were not obligated to warn of a danger, such as an oncoming plane, unless they had actual knowledge of that. Since the controllers were unaware of the danger, they should not have been held liable for failing to communicate that.

Key factor: Marks said that a major factor was that the Boca Raton air traffic controller could not find his notes days after the accident. "The supervisor told him to save the notes," Marks said. "Then later, he claimed the notes were destroyed because he 'didn't need them anymore.' It's simply not a coincidence that the notes were missing."

Outcome: Up until the end of the trial, Marks had offered to settle the case for just more than \$2 million, but attorneys for Robinson did not take the offer. After an eight-day trial, the



Steven C. Marks of Podhurst Orseck in Miami: 'Midair collisions ... only happen when there's a series of things that go wrong.'

jury deliberated for about 90 minutes before returning with a \$25 million award for the plaintiffs, including \$1.2 million in economic damages to Ross' widow, \$10 million in noneconomic damages to Ross' widow, and \$3.5 million in noneconomic damages to each of Ross' four children. Marks had asked the jury for \$30 million at trial.

The aviation company has a liability policy limit of \$7.5 million.

Comment: Marks said he was pleased with the verdict for what he believes was a very preventable accident. "Midair collisions are very rare," Marks said. "They only happen when there's a series of things that go wrong." ♦