

Friday, October 10, 1997

JUDGE: Hon. John S. Einhorn, Dept. H.

ATTORNEYS: Plaintiff - Donald J. Beck, Lawrence R. Booth, Roger E. Booth (Booth & Koskoff, Torrance).

Plaintiff-in-Intervention - Robin E. Woolsey (Riverside) for University of California.

Defendant - Phillip J. Kolczynski, J.D. (Phillip J. Kolczynski Law Corp., Irvine) for LIGA International, Estate of Anthony Shanks.

TECHNICAL EXPERTS: Plaintiff - John R. Stowe, aviation expert, L.A.; Joyce Elaine Pickersgill, economist, Santa Ana.

DISBURSEMENT: \$100,000 (policy limits) paid by defendant pilot. The defendant LIGA paid no money. Defendants report a stipulated judgment was entered after the settlement was approved by the court.

FACTS: On March 3, 1995, decedent Mark Dugan, a 33-year-old plastic surgeon in training, was on a flight from Orange County Airport to Baja to provide voluntary medical services when the plane crashed. The defendants were the pilot and owner of the aircraft and defendant LIGA International. The defendant LIGA was a nonprofit organization which organized flights to various parts of Baja for the purpose of providing charitable services including medical services. The pilot/owner of the airplane carried a \$100,000 insurance policy. The defendant LIGA had a \$1 million policy issued by an airport liability carrier who disputed coverage and refused to provide a defense. The defendant LIGA neither owned an aircraft nor employed pilots. Instead, it utilized airplanes which were made available by its owners on a voluntary basis. The passengers/volunteers paid defendant LIGA a fixed amount of money in connection with each flight ostensibly for expenses of flight, and defendant LIGA in turn

paid that money to the pilots. The plaintiffs the decedent's wife and three children brought this action against the defendants based on a negligence theory of recovery.

CONTENTIONS: The plaintiffs contended that by setting minimum standards for pilot experience and aircraft equipment and monitoring the standards on occasion by limiting and even revoking permission for certain pilots and/or aircraft to fly on LIGA trips, defendant LIGA chose to exercise administrative supervision and control over pilots and aircraft involved in LIGA organized flights. The plaintiffs also contended that defendant LIGA failed to adequately carry out this office-based administrative supervision by failing to, among other things, conduct checkrides to evaluate the practical judgment and skills of the licensed pilots it allowed to participate in LIGA organized flights. The plaintiffs further contended that the pilot of this aircraft was unqualified and that the aircraft itself was not certified for bad weather flight in accordance with federal standards. The plaintiffs also argued that the sharing of expenses was improper and violated Federal Aviation Regulations and that pursuant to Part 135 of the Federal Aviation Regulations, it was operating as a charter service and was required to meet higher pilot experience and aircraft equipment level standards. The plaintiffs also claimed that had such standards been followed, the flight would not have taken place at all. The defendant LIGA contended it did not exercise control over either the pilots or the aircraft and that the crash was due solely to pilot error.

INJURIES: Death of a husband and father.

DAMAGES: The plaintiffs claimed loss of earnings and support in the amount of \$8,813,057.

SETTLEMENT DISCUSSIONS: The plaintiffs made a settlement demand for \$999,999.

SETTLEMENT CONFERENCE: A settlement conference was held on May 2, 1997, before Judge Einhorn resulting in the settlement with stipulated judgment. A stipulated judgment was entered after the settlement was approved by the court as being in good faith.

OTHER INFORMATION: The stipulated settlement was reached approximately one year and eight months after the case was filed. The defendants report plaintiffs offered evidence in support of the judgment in a non-contested prove-up hearing. The defendants also report the procedures employed in this settlement were in conformity with *Pruyn v Agriculture Insurance Co.*, 36 Cal.App.4th 500 (1995), which was the subject of the column "The Practitioner," *The Daily Journal* Oct. 1, 1997.

PERSONAL INJURY

Wrongful Death Aircraft Accident

SETTLEMENT: \$13,813,057 (subject to plaintiffs' covenant not to execute in exchange for defendants' assignment of rights against its insurer for bad faith claims).

CASE/NUMBER: Mark Dugan v. LIGA International, et al. / N70509.

COURT/DATE: San Diego Superior Vista / Sept. 16, 1997.