

PODHURST ORSECK, P.A.

MIAMI, FLORIDA

PODHURST ORSECK, P.A.

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AARON S. PODHURST

ROBERT ORSECK (1934-1978)

ROBERT C. JOSEFSBERG

JOEL D. EATON

STEVEN C. MARKS

PETER PRIETO

KATHERINE W. EZELL

STEPHEN F. ROSENTHAL

RICARDO M. MARTÍNEZ-CID

RAMON A. RASCO

JOHN GRAVANTE, III

LEA P. VALDIVIA

MATTHEW P. WEINSHALL

WALTER H. BECKHAM, JR. (1920 - 2011)

KAREN PODHURST DERN (OF COUNSEL)

FIRM PROFILE

GENERAL CIVIL AND CRIMINAL TRIAL AND
APPELLATE PRACTICE IN ALL COURTS

PRINCIPAL PRACTICE AREAS

Personal Injury and Wrongful Death Litigation

Aviation Litigation

Class Action

Commercial Litigation

General Tort Practice Concentrating in

Automobile Negligence, Product Liability and Medical Malpractice Litigation

Matrimonial Litigation

Criminal Litigation

Appellate Practice

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BOUT THE FIRM

Podhurst Orseck continues a legal practice, established in 1967, concentrating exclusively in trial and appellate litigation. The firm is dedicated to offering the highest caliber legal representation in both federal and state trial and appellate courts. The firm's general tort practice places a major emphasis upon aviation, automobile, products liability and medical malpractice litigation. In addition, the firm has a substantial practice in commercial, matrimonial and criminal litigation, as well as complex commercial tort litigation. From its inception, the firm has also cultivated an appellate practice, handling appeals of not only the firm's own trial lawyers, but also of other lawyers throughout the State of Florida, in the various state and federal appellate courts. The firm's practice serves clients and corporations throughout the United States, and in several foreign countries. Our firm has consistently received an AV-Rating from Martindale-Hubbell Law Directory, the highest possible rating, based on legal ability and general ethical standards.



AREAS OF PRACTICE

General Tort Practice Concentrating in Automobile Negligence, Product Liability and Medical Malpractice Litigation

Since its inception, the foundation of the firm's trial practice has been general tort law. Our experience runs the gamut of such cases, from automobile liability to complex products liability, to business-related torts. Literally thousands of general negligence and product liability cases of all sorts have been prepared, negotiated, and either settled or tried by the members of this firm. An abbreviated listing of the types of cases handled would include all types of general negligence cases (from automobile and slip and fall accidents to boating and diving accidents), product liability cases (involving cranes, automobiles, rollover and tire tread separation, trenchers, food-processing equipment, marine engines, hand-tools and ladders, to name a few) and complex medical, legal, accounting, architectural and engineering malpractice claims.

Aviation Litigation

A major emphasis within the firm's general tort practice is aviation litigation. The firm is recognized as one of the premier plaintiffs' aviation law firms in the world. We believe that the firm has handled more plaintiffs' aviation cases than any other firm in the southeastern United States. The firm has represented multiple victims of over 40 major air disasters over the past forty years. In addition, the firm has handled in excess of 100 small or light plane crashes involving private, non-commercial airplanes.

Members of this firm have chaired the Aviation and Space Committee of the Tort & Insurance Practice Section of the American Bar Association; the Aviation Committee of the Association of Trial Lawyers of America; the Aviation Committee of The Florida Bar; and the Aviation Advisory Committee of the Association of Trial Lawyers of America. We have been guest lecturers at more than 100 aviation law seminars, including the American Bar Association's National Institutes on Aviation and Lloyds of London's international meetings; at Florida Bar, The Florida Justice Association, and American Association for Justice seminars. Firm members have been court appointed as lead counsel in federal aviation multidistrict litigation proceedings; and have tried or settled numerous aviation accident cases. Two of our partners are licensed pilots. One served as a naval aviator in the United States Navy from 1965 to 1971, and flew 150 combat missions in Southeast Asia in carrier-based A-7 aircraft. He also worked as an aircraft systems safety engineer and accident investigator for the Vought Aeronautics Division of LTV Aerospace Corporation between his service in the Navy and attending law school.

This firm is proud to have played a prominent role in the development of aviation jurisprudence over the past forty years. It has acquired in this context specialized expertise on such complex questions as jurisdiction, venue, forum non conveniens, and choice of law. Members of this firm have appeared before every local federal and state

court, the Eleventh Circuit Court of Appeals, the Florida and U.S. Supreme Courts, the Panel on Multi-District Litigation and the U.S. Congress on behalf of aviation plaintiffs.

Commercial Litigation

Nearly fifty percent of this firm's trial and appellate litigation involves the resolution of corporate and commercial disputes. Our practice varies from the most complex commercial cases to straight forward contract disputes. The firm's commercial clientele includes Fortune 500 companies, small and middle-sized companies, and private individuals.

The firm handles commercial cases under both hourly and contingency arrangements. We employ experienced paralegal and support staff to assist the lawyers in order to ensure cost efficient handling of these cases. In addition, the firm has developed and implemented an advanced, computerized litigation support system to deal with the voluminous documentation usually associated with complex commercial litigation.

A sampling of major commercial matters handled during the past several years includes:

- Defense before the United States Supreme Court (and in intermediate trial and appellate courts) of a challenge to personal jurisdiction conferred under a franchise agreement utilized nationwide by a Fortune 500 company;
- Obtaining a multi-million dollar punitive and compensatory damage award for a local client against a corporate banking customer engaged in fraudulent wire transfers;
- The successful representation of a group of major investors in a proxy battle over control of a large locally-based banking institution;
- Securing a multi-million dollar verdict, including punitive and compensatory damages, for an independent insurance agent whose exclusive agency relationship was wrongfully terminated by a major insurance provider;
- Prosecution of securities and racketeering claims by a group of minority shareholders against entrenched management of a local savings and loan;
- Defense of employee wrongful discharge, Title VII, and ADEA claims for a major local developer;
- Defense of several "Big Six" accounting firms in accounting malpractice cases.
- Successful defense of a high media profile tortious interference claim by well known boxing promoters against a world champion boxer.
- Serving as Plaintiffs' Liaison Counsel in a nation-wide, federal class action on behalf of physician providers against all of the major medical insurance providers;
- Serving by court appointment as Lead Counsel in several federal multi-district litigation (MDL) proceedings;

- Serving as Lead Counsel for plaintiffs in a One Billion Dollar securities class action involving 34,000 world-wide investors.

In addition to the areas mentioned, our commercial practice includes securities litigation; business torts; trademark and patent infringement; employment law; lender liability; attorney and accountant malpractice; director and officer liability, products liability, class actions and anti-trust claims.

Appellate Practice

Two of our partners--Joel Eaton and Stephen F. Rosenthal--devote their practices exclusively to appellate litigation and complex trial-level motions, handling all in-house matters and referrals from attorneys and clients all over the United States. They practice primarily in the United States Court of Appeals for the Eleventh Circuit, the Florida Supreme Court, and the intermediate Florida District Courts of Appeal, but they also handle appellate litigation elsewhere in the United States. Mr. Eaton has also argued several cases in the United States Supreme Court. Their practice mirrors the substantive diversity of the firm as a whole, and includes plaintiffs' personal-injury, medical malpractice, and wrongful-death cases, including aviation-related matters and commercial matters of all types.

Matrimonial Litigation

For many years the firm has represented clients in the field of matrimonial litigation. In attaining substantial experience in this field of law, the firm has engaged in the preparation of pre-nuptial agreements, and in litigation involving marital dissolution, child custody and property settlement agreements. Further, the firm has had substantial experience in litigation involving post-dissolution of marriage proceedings pertaining to modifications. The firm's appellate attorneys have represented the firm's matrimonial clients and the matrimonial clients of other attorneys throughout the State of Florida in the various state appellate courts.

White Collar Criminal Investigations and Litigation

The firm has a special interest and concentration in the areas of white collar crime and commercial fraud. The focus of the practice is the representation of individuals, corporate executives and corporations, in both Florida and federal proceedings, ranging from grand jury investigations to criminal prosecutions and appeals. The firm has handled litigation involving environmental matters, bank fraud, political contributions, tax fraud, mail and wire fraud, RICO violations, securities fraud, anti-trust price fixing, bar grievances, official corruption, and various other economic crimes. The firm has also handled quasi-criminal forfeitures and seizures of assets.

Date of Profile: February 20, 2014

Contact for additional information: Aaron S. Podhurst, Esq. (305) 358-2800

FIRM MEMBERS

AARON PODHURST

Personal Injury and Wrongful Death Litigation

Aviation Litigation

Commercial Litigation

Product Liability

Matrimonial Litigation

Professional Malpractice

Aaron Podhurst has been a distinguished trial lawyer for more than forty years. He received his B.A. from the University of Michigan and his Juris Doctorate Degree from Columbia University, where he was a Harland Fiske Stone Scholar. Aaron is admitted to the Florida and New York Bars.

Aaron's distinguished career has brought him honors and offices from virtually every major legal organization, including the presidencies of the International Academy of Trial Lawyers and Academy of Florida Trial Lawyers, fellowship in the American College of Trial Lawyers, member of Board of Governors of Association of Trial Lawyers of America, membership in the International Society of Barristers and the Inner Circle of Advocates, member of the Cuban American Bar Association and chairmanship of various aviation committees of the American Bar Association, Association of Trial Lawyers of America and the Academy of Florida Trial Lawyers. Although Aaron made his reputation as one of the nation's premiere plaintiff's aviation lawyers, and continues to hold that status, he has guided the firm in recent years to its status as one of the major commercial litigation firms in South Florida. At the same time, he has managed to devote countless hours to community service, including the presidency of the Greater Miami Jewish Federation, recipient of the Medallion of Honor from the National Conference for Community and Justice and the 1999 Jurisprudence Award from the Anti-Defamation League, 2010 recipient of the Legal Legends Award presented by the Eleventh Judicial Circuit Historical Society and membership in many civic organizations. Aaron is also the recipient of the 2014 Honorable Theodore "Ted" Klein Special Recognition Award.

ROBERT ORSECK (1934-1978)

At the time of his death, Robert Orseck was the firm's appellate attorney. He inspired both friendship and respect, and his loss is felt personally and painfully by all who knew him.

In the fifteen years in which he practiced, Bobby established himself as the premier appellate practitioner in Florida. Although his services were sought by a large variety of clients, he chose to devote his career primarily to the representation of tort plaintiffs, and he often appeared on behalf of the Academy of Florida Trial Lawyers as *amicus curiae* in major appeals affecting the rights of accident victims. His deep sense of compassion for the rights and lives of others, combined with his legal genius and abounding energy, produced an impressive anthology of case law containing important decisions familiar to every trial and appellate attorney in Florida. They include *Holl v. Talcott*, *West v. Caterpillar Tractor Co., Inc.*, *Metropolitan Dade County v. Dillon*, *Compania Dominicana de Aviacion v. Knapp*, *Gates v. Foley*, *Auburn Machine Works Co. v. Jones*, *Lincenberg v. Issen*, *Mathews v. Ranger*, *Wood v. Camp*, and *Markert v. Johnson*. The Southern Reporter and Federal Reporter contain over 350 reported decisions in which Bobby appeared as counsel.

Many memorials have been and will be dedicated to Bobby Orseck. His presence will continue to be felt in the appellate process for many years to come, because of his intelligent and untiring efforts in shaping the law of Florida.

ROBERT C. JOSEFSBERG

Commercial Litigation
White-Collar Criminal Litigation

Bob received his B.A. Degree from Dartmouth College. He received his Juris Doctorate Degree from Yale Law School. He is admitted to the Florida Bar and to the U.S. Supreme Court.

Bob is one of Dade County's premiere trial lawyers. He has been listed annually since 1987 in the Best Lawyers in America in two categories—Business Litigation and Criminal Law since 2003 and from 2003 he has been listed in Chambers and Partners as one of the top four commercial litigators in Florida. In 2006 he was listed #1 trial lawyer in Florida by Super Lawyers. He has received the Dade County Bar David Dyer Professionalism Award, the Bnai Brith Professionalism Award, the Florida Defense Lawyers Rodney Thaxton "Against All Odds" award, the American Bar Association Senior Section Pro Bono Award and the Florida Bar Tobias Simon Pro Bono Service Award in 2009 and 2010.

In 2012, he was awarded the Florida Bar Criminal Law Section's Selig I. Goldin Memorial Award, the Greater Miami Jewish Federation Theodore "Ted" Klein Special Recognition Award, named as one of the Top 100 Trial Lawyers by the National Trial Lawyers organization, inducted to the Trial Lawyer Hall of Fame and named a Public Justice Trial Lawyer of the Year finalist for outstanding contributions to the public interest through his work in the Checking Account Overdraft Class Action litigation.

He is Past President and Dean of the International Academy of Trial Lawyers, a fellow of the American College of Trial Lawyers, Past-President of the Peter T. Fay American Inns of Court and a member of the American Board of Trial Advocates. He has served on the American Bar Association Standing Committee on the Judiciary, as Chairman of the Southern District of Florida Judicial Evaluation Committee, served as a member of the Florida Federal Judicial Nominating Commission and the Florida State University Law School Board of Visitors. In addition to extensive involvement in the firm's commercial practice, Bob handles the firm's white-collar criminal defense work—an outgrowth of his background as an assistant U.S. Attorney for the Southern District of Florida, as Special Counsel to the Dade County Grand Jury, and as a member of numerous commissions and task forces in the area of criminal law, including the U.S. Supreme Court Advisory Committee on Criminal Rules and Chairmanship of the Florida Bar's Criminal Law Certification Committee. He served as General Counsel to Governor Robert Graham in 1980. Bob has lectured extensively throughout the United States on substantive issues, ethics, professionalism and civility. His 1994 article on civility has been reprinted in more than 20 legal journals and periodicals. Bob is extensively involved in community activities, with particular emphasis upon the prevention of drug and alcohol abuse by young people.

JOEL D. EATON

Appellate Practice

Joel received his Bachelor of Arts Degree from Yale University and his Juris Doctorate Degree (cum laude) from Harvard University. He is admitted to the following bars: Florida; U.S. Court of Appeals, 5th Circuit; U.S. Supreme Court; U.S. Court of Appeals, 11th Circuit and the U.S. Court of Appeals, Federal Circuit.

Joel handles appellate litigation--a practice which has taken him to all of the appellate courts of Florida, including innumerable appearances in the Florida Supreme Court, to the United States Court of Appeals for the Fifth and Eleventh Circuits on many occasions, and several times to the United States Supreme Court. Joel authored "The American Law of Defamation Through *Gertz v. Robert Welch, Inc.* and Beyond: An Analytical Primer," *Virginia Law Review*, Vol. 61, Issue No. 7, in 1975; and Ch. 6, "Making a Proper Record," *Florida Civil Trial Practice*, Eighth Edition, in 2010. His article, "Jumping Through the Hoops to Meaningful Appellate Review: Protecting the Record at Trial," which was published in the May, 1988 *Florida Bar Journal*, won first prize for the best *Journal* article published in 1988. Joel is also heavily involved in organizations concerned with appellate practice, including a former chairmanship of the Appellate Court Rules Committee of the Florida Bar, Adviser to The Reporter of the American Law Institute's Restatement of the Law of Torts (Third), two terms as a member of the Florida Supreme Court Committee on Standard Jury Instructions in Civil Cases, membership in the prestigious American Law Institute, the American Academy of Appellate Lawyers and the American Association for Justice, and is a Diplomat of the Florida Justice Association. Joel served as a Lieutenant, Naval Aviator, in the U.S. Navy from 1965-1971 and flew 150 combat missions during two tours in Southeast Asia.

STEVEN C. MARKS

Personal Injury and Wrongful Death Litigation

Product Liability

Aviation Litigation

Commercial Litigation

Steven C. Marks holds a BA from the University of Florida (cum laude) and a JD from the University of Miami (cum laude), where he was editor-in-chief of the Law Review. He is currently an alumni editorial-board member of the University of Miami Law Review. Steve is admitted to the Florida Bar. He is a member of the Bar and Gavel Law Society and the Order of the Coif, and is on the Board of Directors of the University of Miami Law School Alumni Association (2003 to 2006). Steve is also an inaugural member of the University of Miami Law School Dean's Council.

He is a member of the Dade County Bar Association, American Bar Association (Aviation & Space Law Committee, Program Planning Committee for National Institute on Aviation Litigation, editorial board member, Torts and Insurance Practice Section and Tort and Insurance Law Journal Committee, and The Brief); The Florida Bar; Academy of Florida Trial Lawyers; The Association of Trial Lawyers of America (Aviation Law Section, Aviation Section); Dade County Trial Lawyers; Lawyer-Pilots Bar Association; American Board of Trial Advocates (Miami Chapter); Fellow, Litigation Counsel of America, Trial Lawyers Honorary Society, and the Inns of Court.

He is listed in Florida Trend's "Florida Legal Elite," (2009, 2013); Florida Super Lawyers, 2006-2013; Lawdragon 500 Leading Litigators "New Star" 2006 and 2007; South Florida Legal Guide, Top Lawyers, 2007-2013; The Guide to the World's Leading Aviation Lawyers, 2008-2013; Best Lawyers in America 2007-2014; Chamber's USA's Guide to Leading Lawyers for Business (2008, 2009, 2010) and named in the Daily Business Review's Most Effective Lawyers 2010.

Steve focuses on personal injury and wrongful death litigation, product liability, aviation litigation, commercial litigation, class actions, medical malpractice, premise liability, and admiralty.

He has acted as lead counsel, appointed court counsel and/or counsel representing victims in a number of commercial major airline crashes, including: acting as lead Plaintiff's counsel in the American Airlines Flight 331, crash in Jamaica, 2010; acting as co-lead trial counsel for the California State Court plaintiffs after a Silk Air crash between Jakarta and Singapore in 1997; acting as lead liaison counsel for the State Court and Federal multi-district litigation (MDL) plaintiffs' steering committees over the ValuJet Flt. 592 crash, Everglades, 1996, and acting as a member of the MDL plaintiff's steering committee for the Arrow Air military charter crash, Newfoundland, 1985.

General and major commercial airline crashes he has handled include, among others: Central American Airways Flight 731, Tegucigalpa, Honduras, 2011; Conviasa Airlines, Flight 2350, Bolivar, Venezuela, 2010; Aires Airlines Flt.. 8250, San Andres Island, Colombia, 2010; Ethiopian Airlines Flight 409, Mediterranean Sea, 2010; American Airlines Flt. 331, Kingston, Jamaica, 2009; Air France Flt.. 447, Atlantic Ocean, 2009; Colgan Air - Continental, Flt.. 3407, Buffalo, New York, 2009; Aeroflot-Nord, Flt.. 821, Perm Airport, Russia, 2008; SpanAir, Flt.. 5022, Barajas Airport, Spain, 2008; TACA Airlines, Flt. 390, Tegucigalpa, Honduras, 2008; Santa Barbara Airlines, S.A., Flt 518, near Merida, Venezuela (2008); TAM Airlines, Flt 3054, Congonhas Airport, Sao Paulo, Brazil, 2007; Comair Flt 5191 on take off from Lexington, Kentucky, 2006; Sibir Airlines Flt 778 from Moscow Russia, 2006; GOL Airlines, Flt 1907, mid-air collision in the Amazon, Brazil (2006); Chalk's Ocean Airways Flt 101 air disaster, Miami, FL, 2005; Helios Airways air disaster near Cyprus, 2005; Tropical Air, LET 410, Cap Haitian, Haiti, 2003; mid-air collision over German airspace involving Bashkirian Airlines Flt 2937 and DHL Flt 611, 2002; American Airlines, Flt 587, crash in Belle Harbor, Queens, N.Y., 2001; Papillon Airways, Inc. Eurocopter AS350-B2 helicopter in the Grand Canyon, AZ, 2001; Scandinavian Airlines at Linate Airport, Milan, Italy, 2001; Air France Concorde tragedy 2000; Bell Helicopter BH 407 in Brazil, 1999; Cubana Air, Flt 3010, YAK-42, Valencia, Venezuela, 1999; TAESA Airlines Flt 725 from Uruapan, Michoacan, Mexico, 1999; Hot Air Expeditions, near Cave Creek, AZ, 1999; Occidental Petroleum's chartered Boeing 737 in Peru's northern jungle, 1998; American Airlines, Flt. 1420, Little Rock, Arkansas, 1999; TAME Flight 422 near Bogota, Colombia, 1998; Swissair, Flt 111, Atlantic Ocean near Halifax, Nova Scotia, 1998; Silk Air, Flt MI185, Palembang, Indonesia, 1997; Fine Air, Flt 101, Miami, FL, 1997; Bell 407 helicopter in the Andros Islands, 1996; Millon Air Flt 406 en route to Miami, Florida from Manta, Ecuador, 1996; ValuJet, Flt 592, Florida Everglades, 1996; Aero-Peru Flt 603 en route to Santiago, Chile from Lima, Peru, 1996; Aviation Development Corp. Airlines, Nigeria, 1996; Tarom Airlines, Flt R0371, Bucharest, Romania, 1995; El Al cargo, Amsterdam, Holland, 1992; Surinam Airways Flt PY764 in Paramaribo, Surinam, 1989; Grand Canyon Airlines, Grand Canyon National Park Airport, AZ, 1989; and Independent Air Flt 1851, Bergamo, Italy, 1989.

He also acts as lead trial counsel for countless victims of general aviation and military accidents, many involving foreign claimants, ranging from air balloons, flight training, ground school, air ambulances, banner planes, aerobatics, helicopters, and propeller, turbo-prop and jet-powered aircraft, including, but not limited to, Cessnas, Cirrus, Beechcraft, Pipers, Bellancas, Lear Jets, Citation Jets, Bell Helicopters, Sikorsky Helicopters, Robinson Helicopters, Aerospatiale Helicopters and countless other aviation manufacturers, operators, maintenance facilities and private & public air traffic control centers.

Apart from aviation, and general personal injury and wrongful death practice, he also counsels foreign governments, including the Russian Federation, the Republic of Venezuela, Ecuador, Belize, Honduras and numerous Brazilian states.

Among his many speaking engagements have been:

- “An Introduction to the Foreign Sovereign Immunities Act,” invited guest lecturer, Embry-Riddle 2001. Also an invited lecturer on the Embry-Riddle Aviation Program 2006;
- “Recent Developments in Aviation Law,” ABA Litigation in Aviation Seminar 1991 (co-author);
- Masters of the Courtroom Seminar, Dade County Trial Lawyers, 2002 and the Dade County Trial Masters Program, 2002-2003;
- Forum Non-Conveniens panel member and co-chair, ABA Aviation & Space Law Convention Tort Trial and Insurance Practice Section Conference 2003;
- ABA Panel on Forum Non-Conveniens, “An Update of Recent Decisions and An Analysis of the Legal Criteria,” 2003;
- Discovery in Aviation cases, ABA Conference, Washington DC 2004, invited lecturer;
- ATLA Aviation Section Program, Chicago, Program Chair;
- Miami-Dade County Bar Association Young Lawyer Section’s First Annual “SuperLawyer Mock Trial Demonstration Seminar 2006”;
- “A Discussion on the Basics of Litigating the Foreign Crash”, ABA Aviation & Space Law Convention 2006;
- ABA Conference, Washington, D.C., October 2007 session on Aviation and Space Law Litigation, lectured on “Foreign Accidents--U.S. Defendants Frequently Argue Forum Non-Conveniens Motions; How are they Doing?”;
- National Association of Legal Investigators, Inc., Mid-Winter Conference, Ft. Lauderdale, FL, January 2008;
- Embry Riddle Aeronautical University’s 19th Annual Aviation Law and Insurance Symposium, lectured on “Handling Foreign Crash Litigation in the U.S. and Abroad”;
- American Association for Justice, Annual Convention in Philadelphia, lectured on “The Fundamentals of Obtaining a Just or Full Compensation Aviation Jury Verdict”, July 2008;
- Speaker at the Conference of the International Bar Association, Vancouver, Canada, October 2010;
- McGill Conference on International Aviation Liability and Insurance, Moot Court Panels, Legal Argument, Forum non-conveniens and Mediation, Montreal, Canada, May 2011.

- McGill Fifth Annual Conference on International Aviation Liability and Insurance, Moot Court Panels, Legal Argument, Forum non-conveniens and Mediation, Montreal, Canada, October 2013.

Steve is the co-author, "Recent Developments in Aviation Law," ABA Litigation in Aviation Seminar, 1991. Author, "The Admissibility and Use of Demonstrative Aids," ABA, The Brief Tort Trial & Insurance Practice Section, Vol. 32, No. 4, Summer 2003; "Handling Foreign Aviation Cases in the United States"; ABA Publication entitled "Litigating the Aviation Case from Pre-trial to Closing Argument," Third Edition, 2008. Author, "The Admissibility and Use of Demonstrative Aids," ABA, The Brief (2003); and "Handling Foreign Aviation Cases in the United States", ABA Publication entitled "Litigating the Aviation Case from Pre-trial to Closing Argument", Third Edition, 2008.

PETER PRIETO

Commercial Litigation
Class Actions
White-Collar Criminal Litigation

Peter Prieto received a Bachelor's Degree, summa cum laude, from St. Thomas University, and his Juris Doctorate, cum laude, from the University of Miami School of Law. While in law school, he served as a member of the Moot Court Board and as an articles and comments editor for the Law Review.

For almost twenty-five years, Peter has focused his practice on complex commercial litigation, including class actions, and white collar criminal defense. He has represented clients—both individual and corporate—in a wide array of civil litigation, including business and employment disputes, healthcare, antitrust, products liability, RICO and class action litigation. Peter has also represented clients in criminal investigations and prosecutions involving public corruption, business, banking and healthcare fraud, aviation, environmental violations, antitrust and money laundering.

Some of Peter's most significant engagements in his civil litigation practice have involved 1) a class action alleging that healthcare company who operated dozens of hospitals had unlawfully inflated its practices to obtain additional Medicare funds, and consequently had caused damages of over \$1 billion dollars to thousands of hospitals within the class; 2) claims against international athletic and footwear company by a marketing company that alleged that the company had stolen the "idea" of using a famous singer as a spokesperson; 3) claims by over 100 patients who asserted that hospital's negligence caused them to contract post-operative surgical site infections; 4) claims for breach of contract and fraud by a group of physicians against health care provider seeking over \$100 million; and 5) RICO claims against a telecommunications company. Some of Peter's significant white collar criminal engagements have included 1) conducting internal investigation for, and subsequently representing, a public company in connection with possible violations of the Foreign Corrupt Practices Act ("FCPA"); 2) representing a cargo airline and its principals in a criminal investigation involving allegations that airline had falsified maintenance records; and 3) conducting internal investigation for Fortune 100 company in connection with allegations of price-fixing.

During his career, including his several years as a federal prosecutor, Peter has obtained substantial trial and appellate experience. He has tried over 25 criminal and civil cases and has argued over a dozen appeals before the Eleventh Circuit Court of Appeals. For his litigation skills, he has been recognized as one of the "Top Lawyers in South Florida," according to the South Florida Legal Guide, and is listed in The Best Lawyers in America, Florida's Legal Elite, and Chambers USA, which has praised Peter for being "thorough in his advice" to clients, and for his "trial experience and plain speaking good judgment."

Peter was admitted to the Florida Bar in 1985, and is also a member of various other Bars, including the Supreme Court of the United States, Eleventh Circuit Court of Appeals, United States District Court for the Southern District of Florida Trial Bar, the Dade County Bar, the American Bar Association and the Cuban-American Bar Association.

Peter currently serves as a member of the Judicial Nominating Commission for the Third District Court of Appeal, and previously served, pursuant to appointments by Governors Lawton Chiles and Jeb Bush, as a Commissioner on Florida's Commission on Ethics. He serves on the Advisory Board of the University of Miami School of Law's Center for Ethics & Public Service and on the Alumni Advisory Board of the University of Miami Law Review. Peter is also a member of the Board of Trustees of St. Thomas University.

Prior to joining the firm, Peter was a federal prosecutor, first with the United States Attorney's Office for the Southern District of Florida, and later with the Office of Independent Counsel in Washington, D.C. where he worked on the criminal investigation of the late Secretary of Commerce, Ronald H. Brown. For over a decade, he was also a partner and trial lawyer with the firm of Holland & Knight LLP.

KATHERINE W. EZELL

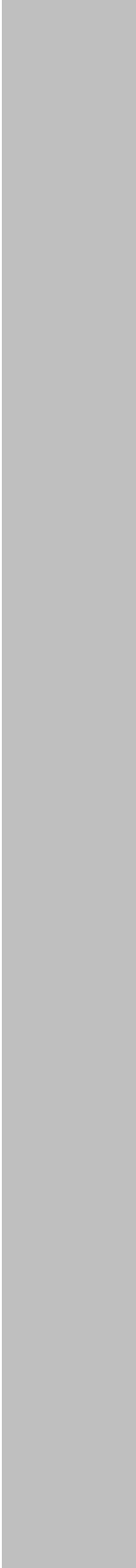
Commercial Litigation
Personal Injury and Wrongful Death Litigation
Professional Malpractice

Kathy was born July 16, 1946, in Vidalia, Georgia. Educated at Stetson University, she obtained a B.A. degree in 1966 and her J.D. degree in 1969, after which she gained admission to the Florida Bar.

Despite the demands of an active practice in commercial litigation, business torts, securities arbitrations, professional liability and personal injury cases as a partner of Podhurst Orseck, P.A., in Miami, Kathy has been involved in a variety of community activities. These include: four years' service on the Judicial Nominating Commission for the Eleventh Judicial Circuit, which she chaired in 1999-2000. In 2008 Kathy was appointed by the Governor to the Judicial Nominating Commission for the Florida Supreme Court.

In her work with the Dade County Bar Association, Kathy chaired its Committee on Legal Aid and Public Service from 1998-2005 and '06-'07, and served multiple terms as director and a member of its executive committee. Formerly a Commissioner of the Florida Governor's Commission on the Status of Women, Kathy has served as a board member of the Florida Association of Women Lawyers (Miami-Dade Chapter). She was a founding member of the board of the Eleventh Judicial Circuit Historical Society. She is the immediate past-president of Foster Care Review of Miami, Inc. and continues to serve on its board and executive committee and is president-elect of the Two Hundred Club of Greater Miami, Inc., an organization which raises money for the benefit of dependents of firefighters and local, state and federal law enforcement officers killed in the line of duty.

For many years Kathy was a volunteer attorney for children, parents and guardians in dependency cases through the Miami Guardian ad Litem Program. During the last 11 years she has served as volunteer counsel to children in foster care and youth aging out of Florida's foster care system through Lawyers for Children America. She has received numerous awards for her efforts as a child advocate, including the "Children First" pro bono award presented by the Put Something Back Project, the Dade County Bar Association's Richard C. Milstein Award for Excellence in the area of Public Interest Law and was co-recipient of the Miami-Dade Lawyers for Children America's John Edward Smith Award. In 2006, Kathy received the Tobias Simon Award, the highest honor bestowed annually by the Florida Supreme Court on a member of the Florida Bar for outstanding contributions in pro bono service. Her community work in the field of legal advocacy for children was recognized by the Junior League of Miami, Inc. when she was named one of its "Women Who Make a Difference".



Kathy is a member of the Miami Dade Justice Association, the Florida Justice Association, the Florida Association of Women Lawyers, the Cuban American Bar Association, the American Justice Association and the American Bar Association of which she is also a Fellow. She is AV rated by Martindale Hubbell.

STEPHEN F. ROSENTHAL

Appellate Practice
Personal Injury and Wrongful Death Litigation
Aviation Litigation
Product Liability
Commercial Litigation
Constitutional and Election Law

Stephen focuses on appeals and complex litigation. He has a background as a trial lawyer, having devoted many years to that craft first at the Department of Justice, in Washington, and then with Podhurst Orseck, before shifting his primary focus to the appellate courts. He has argued over two dozen appeals, primarily in Florida's courts of appeal and the Florida Supreme Court, and the U.S. Court of Appeals for the Eleventh Circuit. He was appointed in 2009 by the Eleventh Circuit judges as one of only six lawyers in Florida on its Lawyers Advisory Committee. His practice spans complex tort and commercial cases. He is also well versed in election law, having served as lead counsel in Florida to a 2008 presidential campaign and having advised a gubernatorial campaign and numerous candidates for public office on Florida election law issues.

He was born April 5, 1970, in New York City. He is an honors graduate of Harvard Law School (J.D. cum laude 1996) and of Harvard College (A.B. magna cum laude 1992), and spent the year after college in England as a Rotary Foundation Ambassadorial Scholar. After law school, Stephen served for two years as a law clerk to Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit and to Judge Mark Wolf of the U.S. District Court for the District of Massachusetts. He was admitted to the Florida Bar in 1997 and the Bar of the District of Columbia in 1999. He speaks Spanish and has previously worked in Spain and Central America. Stephen is a member of the bars of the Supreme Court of the United States, the United States Court of Appeals for the Second, Fifth and Eleventh Circuits and the United States District Court for the Southern District of Florida.

Stephen has an "AV" rating from Martindale Hubbell and has been recognized in numerous publications for his abilities, including Chambers U.S.A. (Appellate), Best Lawyers In America (personal injury), and Benchmark (litigation). He has lectured for the Florida Justice Association on a wide range of topics, including class action law, Florida's Unfair and Deceptive Trial Practices Act, attorneys fees in wrongful death cases, and the treatment of worker's compensation liens in wrongful death cases, and has published work on the law of religious freedom under the First Amendment.

Stephen is an active member of the community. He serves on the Steering Committee of the fund-raising arm of Legal Services of Greater Miami, Inc., and has previously served as Chairman of the Board of the American Constitution Society, South Florida Chapter, and was on the Board of Directors of the Florida Justice Association. He is a member of the Leadership Florida Class of 2007.

RICARDO M. MARTINEZ-CID

Personal Injury and Wrongful Death Litigation

Product Liability

Aviation Litigation

Commercial Litigation

Ricardo M. Martinez-Cid is a partner at Podhurst Orseck, P.A., in Miami. He earned his undergraduate degree in only three years at the University of Miami (B.A. cum laude 1997) and his Juris Doctorate at Yale Law School (J.D. 2000) where he was the William S. Beinecke Scholar. While a law student, Ricardo was a director at Yale's renowned clinical program. He served on the Board of Directors of the Latino Law Students Association, and was an editor of the Yale Journal of International Law. Before joining the firm, Ricardo served as a law clerk to the Honorable James Lawrence King on the United States District Court for the Southern District of Florida. He joined the firm in 2002 and was named a partner in 2006.

Ricardo is Chair of the Aviation Law Section of the American Association for Justice; Co-Chair of the Aviation and Space Law Committee of the American Bar Association; Co-Chair of the Aviation Subcommittee of the Mass Torts Litigation Committee of the American Bar Association; Vice-President of the Cuban American Bar Association; and formerly a board member and Secretary of the Belen Jesuit Preparatory School Alumni Association.

On many occasions, Ricardo has obtained multi-million dollar verdicts on behalf of his clients. According to the National Law Journal, his verdict of over 195 million dollars in the Fondo Vision matter was one of the ten largest jury verdicts of 2010. The Daily Business Review has named him one of the most effective lawyers of 2011.

Although Ricardo handles select commercial matters, much of his practice involves personal injury, wrongful death, and product liability cases with a focus on aviation litigation. Ricardo is Board Certified in Aviation Law, thereby accrediting him as an expert within the field of practice. According to the Florida Bar, certification is its highest level of evaluation of competency and experience within an area of law, as well as professionalism and ethics in practice.

In addition to handling general aviation cases involving fixed-wing and rotary aircraft, Ricardo regularly represents victims of commercial aviation disasters. He has been appointed lead counsel or otherwise taken a leadership role in many of these cases, including American Airlines Flight 331, Jamaica (2009); SpanAir Flight 5022, Spain (2008); TACA Airlines, Flight 390, Honduras (2008); Santa Barbara Airlines, S.A., Flight 518, Venezuela (2008); TAM Airlines, Flight 3054, Brazil (2007); GOL Flight 1906, Brazil (2006); Comair Flight 5191, Lexington, Kentucky (2006); Chalk's Ocean Airways Flight 101, Miami Beach, Florida (2005); Helios Airways Flight 2U522, Cyprus (2005); Tropical Air Flight 1301, Haiti (2003); Scandinavian Airlines Flight 686, Milan, Italy (2001);

TAESA Airlines Flight 725, Mexico (1999); and Silk Air Flight MI 185, between Jakarta and Singapore (1997).

Ricardo has authored and published work for the American Bar Association and the American Association for Justice. He is a frequent lecturer on aviation law and general trial tactics. The many venues he has been invited to speak at include the Southern Methodist University Air Law Symposium in Dallas; the PEOPIL/McGill University Conference on Aviation Law and Insurance in Amsterdam; American Bar Association programs in New York and Washington, D.C.; the Embry-Riddle University Aviation Law and Insurance Symposium in Orlando, and AviCon Conferences in London and New York City. He has also served on the faculty of the Al J. Cone Trial Advocacy Institute.

He is fluent in English, Spanish and Portuguese.

RAMON A. RASCO

Commercial Litigation
Personal Injury and Wrongful Death Litigation
Product Liability
Aviation Litigation
White-Collar Criminal Litigation

Ray was born on August 18, 1976 in Miami, Florida. He earned his undergraduate degree with a concentration in Government from Harvard College (A.B. *magna cum laude* 1999) and his Juris Doctorate degree from Columbia University School of Law (J.D. 2002). Following law school, Ray worked in the corporate department of Greenberg Traurig, P.A., where he gained extensive experience in the areas of corporate, securities and financial institutions law, including numerous representations relating to the formation, regulation and disposition of state and federally-chartered financial institutions. Ray joined the firm in November, 2005 and has primarily focused his practice on commercial litigation, including plaintiffs'-side business and securities litigation disputes and litigation arising from Ponzi schemes, personal injury/wrongful death litigation, including aviation litigation, complex class actions and white collar criminal defense. Ray's notable representations include the following:

- Representing a key employee of the largest private equity investor in the \$1.2 billion Ponzi scheme orchestrated by Scott Rothstein in several related commercial litigation matters and federal government investigations;
- Handling a federal and state securities action against a large pharmaceutical company on behalf of its former Vice Chairman;
- Representing the estate of a minor in a wrongful death action arising from an ATV accident;
- Representing the former CFO of a telecommunications company in an action by the Department of Justice with respect to violations of the Foreign Corrupt Practices Act (FCPA);
- Representing American victims of the Colombian terrorist organization FARC in a large MDL (Multi-District Litigation) brought under the Anti-Terrorism Act against Chiquita Brands International, Inc. for its admitted support of the FARC;

- Representing the estate of a pilot and CEO of a New York-based utility company in a wrongful death action against the FAA culminating in a two-week bench trial, currently awaiting ruling;
- Various representations of judgment creditors in federal actions seeking the domestication, recognition and enforcement of foreign judgments under the Uniform Foreign Money-Judgment Recognition Act;
- representation of the victims of the TAM Airlines crash, Flight 3054, Congonhas Airport, Sao Paulo, Brazil, 2007;
- Representation of victims in numerous wrongful death and personal injury actions arising from general aviation accidents, including fixed wing and rotary aircraft;
- Representation of the Russian Federation in a multi-billion dollar RICO action against the Bank of New York arising from the admitted money laundering of former employees;
- Representation of Gustavo A. Cisneros in a large business and litigation dispute concerning ownership interests in various entities;
- Representation of 34,000 investors in a class action arising from the Ponzi scheme orchestrated by Mutual Benefits Corporation and its executives as part of the firm's role as co-lead counsel to the class; and
- Representation of Flagler Development Group, Codina Construction and related entities in various commercial litigation matters.

Ray is actively involved in various community and civic activities. Ray serves on the Chapman Partnership (f/k/a Community Partnership for Homeless, Inc.), the private sector partner of the Miami Dade County Homeless Trust, where he was a founder and chair of their junior board, the NextGen Council, and where he chaired the organization's second-largest fundraiser from 2008 – 2010. Ray was elected to the Orange Bowl Committee in 2009 and is the organization's youngest member. Since 2006, Ray has also served on the board of DFYIT, an organization focused on the prevention of drug and alcohol abuse by adolescents. He was profiled in *Miami Today*, September 11, 2008 for his professional and civic accomplishments. Ray was selected in *Florida Trend's Legal Elite* in 2011 in the area of business litigation. Ray was profiled in *Super Lawyers* 2009, 2011 as a Rising Star and in a 2009 article on his work for the homeless. He was also selected in 2010 as one of the Top 40 Under 40 Outstanding Lawyers of Miami-Dade County by the Cystic Fibrosis Foundation.

Ray's professional memberships include: the American Bar Association, The Florida Bar, the Cuban American Bar Association, the Dade County Bar Association, the American Association for Justice and the Florida Justice Association.

He is fluent in Spanish and proficient in Portuguese.

JOHN GRAVANTE, III

Commercial Litigation
Class Actions
White-Collar Criminal Litigation

John Gravante was born in New Haven, Connecticut. He received his B.A. in English from Florida Atlantic University in 1999, and his J.D. from the University of Miami School of Law, graduating summa cum laude and finishing second in his class in 2002. While in law school, he served on the University's Law Review and was champion of the 1L Moot Court competition.

After law school, John served as a judicial clerk for the Honorable Adalberto Jordan in the United States District Court for the Southern District of Florida. He also served as an adjunct professor of Legal Research and Writing at the University of Miami.

As a plaintiff's attorney, John has extensive experience litigating complex commercial cases, class actions, and personal injury matters. Among the representative engagements in which he has been actively involved includes a RICO action on behalf of a nationwide class of doctors against major HMOs for systematic reduction and denial of payments, which resulted in settlements valued at hundreds of millions of dollars. Additionally, he has handled numerous securities fraud class actions on behalf of bilked investors, complex commercial disputes involving fraud, as well as a suit against a health insurance company for denial of benefits resulting in the death of the insured. Currently, he is involved in a multi-district class action against major banks for deceptive practices related to imposition of improper overdraft fees against their customers.

John was admitted to the Florida Bar in 2002, and is a member of the American Bar Association, Dade County Bar, American Association For Justice, and Florida Justice Association. He served on the Board of Directors for the Miami-Dade Justice Association during 2008 and 2009.

LEA VALDIVIA

Personal Injury and Wrongful Death Litigation

Product Liability

Aviation Litigation

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ea P. Valdivia is a Miami native. She is an honors *summa cum laude* graduate from the University of Miami School of Law. During law school, Lea was a member of the Moot Court Board, was an Articles and Comments Editor for the University of Miami Law Review, interned for a federal magistrate judge and interned at the Federal Public Defender's Office.

Lea is also a *magna cum laude* graduate of Florida International University in International Business and Management. Prior to attending law school, Lea worked as a sales engineer for a satellite and fibre media-broadcast company.

Lea's practice includes personal injury, wrongful death, and product liability cases with a focus on aviation litigation. Lea is a member of the Florida bar.



MATTHEW P. WEINSHALL

Matthew is an honors graduate of Harvard College (A.B. cum laude 2002) and of the University of Miami School of Law (J.D. summa cum laude 2010), where he was an editor of the University of Miami Law Review. Prior to law school, Matt worked as an equities trader for three years and as a foreign exchange trader for two years. After law school, Matt served as a law clerk to Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit.

Matt is admitted to the Florida Bar and focuses his practice on complex commercial litigation and class actions.

WALTER H. BECKHAM, JR. (1920 - 2011)

At the time of his death, Walter Beckham was Of Counsel to the firm. Along with Aaron Podhurst, Walter Beckham was a founder of our firm, and it is fair to say that few other lawyers in America have as distinguished a record or reputation. He maintained his close association and long relationship with the firm until his death.

In 1941, Walter received his B.A. degree with honors in American History from Emory University. Immediately after graduation, he enlisted in the U.S. Naval Reserve. Walter was on active duty from 1941-1946 in the Pacific Theater of World War II. By the end of the war, he had earned the rank of Lieutenant Commander. Walter continued his service in the U.S. Naval Reserve after the war and retired with the rank of Captain after 28 years.

After leaving active duty in 1946, Walter entered Harvard Law School where he graduated cum laude in 1948 with a L.L.B. degree. While at Harvard, Walter was awarded the James A. Rumrill Scholarship and served as an editor of the *Harvard Law Review* (Vol. 61). After graduating from Harvard, Walter returned to Miami and joined the University of Miami faculty as an Associate Professor of Law. In 1949 he was admitted to the Florida Bar as one of its 151 charter members and joined the law firm of Dixon, DeJarnette and Bradford of Miami; he continued on the faculty of the Law School for 2 years, teaching classes at night. In October, 1950, he joined the Law Firm of Nichols, Gaither & Green, making partner in 1952. When the firm dissolved in 1967, Walter became Of Counsel to his then-associate Aaron Podhurst's new firm.

In 1967, Walter also returned to teaching at the University of Miami as a professor of Law. He taught torts, medical-legal trial tactics, and with the assistance of Dean Fred Lewis, he started the school's civil trial advocacy course. While there, he also founded the Medical Institute for Attorneys and served as its Director for 15 years. He retired in 1982 as a Professor Emeritus. Walter and his wife, Ethel, established a scholarship at the University of Miami School of Law – the Walter and Ethel Beckham Scholarship – for students enrolled in the J.D. Program.

During his extraordinary career as a trial attorney, Walter was widely recognized as one of the best trial lawyers in the nation. He was accepted to membership in the American Law Institute, the American College of Trial Lawyers, the Inner Circle of Advocates, and the International Academy of Trial Lawyers, where he served as President. He was a founding member and trustee of the National Board of Trial Advocacy, and served as Chairman respectively of the Aviation Law Section of the American Trial Lawyers Association, the Trial, Tort and Insurance Practice Section of the American Bar Association, the National Institute for Trial Advocacy and the National Judicial College in Reno, Nevada. Walter is the only non-judge to have served as Chair of the National

Judicial College. Walter was also a member and frequent speaker in the House of Delegates of the American Bar Association from 1979 - 1995, during which time he served a four-year term as Secretary of the Association.

Walter received several awards for his contributions to the legal profession: in 1984, he received the Perry Nichols Award from the Academy of Florida Trial Lawyers; in 2004, he was the recipient of the William M. Hoever Award from the Center for Ethics & Public Service at the University of Miami School of Law; and in 2009, he received the Legal Legends Award from the Eleventh Judicial Circuit Historical Society. Walter was listed in both *Who's Who in America* and *Who's Who in the World*.

KAREN PODHURST DERN
Of Counsel

Personal Injury and Wrongful Death Litigation
Commercial Litigation
Product Liability
Employment Discrimination

Karen was born January 28, 1962, in Hollywood, Florida. She received her education at the University of Michigan, where she obtained a B.A. Degree in 1983. She received her Juris Doctorate Degree in 1987 from the University of Denver. She was admitted to the Colorado Bar in 1987 and the Florida Bar in 1990. From 1987-1990, she was an associate of the law firm of Ireland, Stapleton, Pryor & Pascoe in Denver, Colorado. From 1990-1991, Karen worked as a law clerk to the Honorable Federico A. Moreno, United States District Court for the Southern District of Florida. She is admitted to the following bars: Colorado, 1987; United States Court of Appeals, 10th Circuit, 1987; Florida, 1990; United States Court of Appeals, 11th Circuit, 1991; United States Supreme Court, 1992. Karen is also a Member of the Dade County and American Bar Associations and the American Trial Lawyers Association. She also participates in a number of civic activities, currently serving on the Executive Committee of the Young Leadership Council of the Greater Miami Jewish Federation and the Women's Cabinet of the United Jewish Appeal.

AVIATION EXPERIENCE

Cases Handled Since 1972



AVIATION EXPERIENCE
Accident Cases Handled Since 1972

1. **Eastern Air Lines**, Flight 401, crash in the Florida Everglades, Court-Appointed Plaintiff's Lead Counsel (1972)
2. **Eastern Air Lines**, Flight 213, crash in Charlotte, North Carolina (1974)
3. **Eastern Air Lines**, Flight 66, crash at Kennedy Airport, New York, N.Y. (1975)
4. **Air Florida**, Flight 90, crash in Washington, D.C. (1982)
5. **Pan American**, Flight 759, crash in Kenner, Louisiana (1982)
6. **Global International**, crash in Brasilia, Brazil (1982)
7. **Korean Airlines**, Flight 007, crash in the Sea of Japan (1983)
8. **Provincetown-Boston Airlines**, Flight 1039, crash in Jacksonville, Florida (1984)
9. **Eastern Air Lines**, Flight 980, crash southeast of La Paz, Bolivia (1985)
10. **Delta Air Lines**, Flight 191, crash in Dallas, Texas (1985)
11. **Arrow Air**, chartered military flight, crash in Gander, Newfoundland (1985)
12. Boeing 757, ground accident in Dubai, United Arab Emirates (1986)
13. **Northwest Airlines**, Flight 255, crash in Detroit, Michigan (1987)
14. **Belize Air International**, crash in Mexico City, Mexico (1987)
15. Boeing 747, ground accident at Miami International Airport (1987)
16. **Pan American**, Flight 103, crash in Lockerbie, Scotland (1988)
17. **Independent Air**, Flight 1851, crash in Santa Maria Island, Azores, Portugal (1989)
18. **Surinam Airways**, Flight PY764, crash in Paramaribo, Surinam (1989)
19. **TAN/SAHSA Airlines**, Flight 414, crash in Las Mesitas, Honduras (1989)
20. **United Airlines**, Flight 232, crash in Sioux City, Iowa (1989)
21. **U.S. Air**, Flight 400, crash at La Guardia Airport, New York (1989)
22. **Grand Canyon Airlines**, crash at Grand Canyon National Park Airport, Arizona (1989)
23. **Avianca Airlines**, Flight 52, crash in Cove Neck, New York (1990)
24. **Aerial Transit Company**, crash in Guatemala City, Guatemala (1990)
25. **Faucett Air**, Boeing 727, Aircraft crash in Atlantic Ocean en route to Miami, Florida (1990)
26. **U.S. Air**, Flight 1493, crash at Los Angeles International Airport, California (1991)
27. **LAN Chile**, S.A. Flight 85Y, crash at Puerto Williams Airport, Chile (1991)
28. **American Airlines**, Flight 1473, severe air turbulence while en route from New York to San Juan, P.R. (1991)
29. **Canadian NationAir**, crash at Jeddah International Airport, Saudi Arabia (1991)
30. **COPA Airlines**, Flight 201, crash near Tucuti, Panama (1992)
31. **Cessna** 172N Skyhawk, crash near West Thurrock, Essex, England (1992)
32. **El Al**, Air Flight 1862, crash in Amsterdam, Holland (1992)
33. **S.A.M. Airlines**, Flight 501, crash in Medellin, Colombia (1993)
34. Bell 206 L-4 helicopter, crash in Whiting, New Jersey (1994)
35. Hughes 25MP, helicopter crash in the Appalachian National Forest near Tallahassee, Florida (1994)
36. **Intercontinental Aviation Airlines**, Flight 256, crash south of Cartagena, Colombia (1995)
37. **Aviateca Airlines**, Flight 901, crash in San Salvador, El Salvador (1995)
38. **American Airlines**, Flight 965, crash in Buga, Colombia (1995)
39. **Tarom Airlines**, Flight R0371, crash in Bucharest, Romania (1995)

40. **ValuJet**, Flight 592, crash in the Florida Everglades (1996)
41. Incident over international waters involving Civilian Aircraft Nos. N2456S, N5485S and Cuban military aircraft from Havana, Cuba (1996)
42. **AeroPeru**, Flight 603, crash in Pasamayo, Peru (1996)
43. **Millon Air**, Flight 406, crash in Manta, Ecuador (1996)
44. **Aviation Development Corporation**, Flight 86, crash in Imota, Nigeria (1996)
45. Bell 407 helicopter, crash in the Andros Islands (1996)
46. Beechcraft A-90 King Air, crash near Churagua, Bolivia (1996)
47. **Fine Air**, Flight 101, crash in Miami, Florida (1997)
48. **Silk Air**, Flight MI185, crash in Palembang, Indonesia (1997)
49. Bell 206 Helicopter, crash near Brownsville, Texas (1998)
50. **Nova Limited Air Charter Services**, Cessna U206, crash in Guyana (1998)
51. **TAME** Flight 422, crash in Bogota, Colombia (1998)
52. **Occidental Petroleum**, chartered flight, crash in Peru's northern jungle (1998)
53. **Swissair**, Flight 111, crash in Atlantic Ocean near Halifax, Nova Scotia (1998)
54. **Hot Air Expeditions**, balloon crash near Cave Creek, Arizona (1999)
55. Twin Cessna, crash in Key West, Florida (1999)
56. Bell Helicopter BH407, crash in Brazil (1999)
57. **Cubana Air**, Flight 3010, YAK-42, crash in Valencia, Venezuela (1999)
58. **TAESA Airlines**, Flight 725, crash in La Tzararacua, Mexico (1999)
59. Lear Jet, crash near Mina, South Dakota (1999)
60. **Air Fiji**, Flight 121, crash in Nasevou, Fiji (1999)
61. Piper Seminole, crash in Deland, Florida (1999)
62. Cessna 152, crash in Orlando, Florida (1999)
63. **Air France**, Concorde Flight 4590, crash in Paris, France (2000)
64. Lear Jet 55 and Extra, mid-air collision, in Boca Raton, Florida, (2000)
65. **Scandinavian Airlines**, Flight 686, crash at Linate Airport in Milan, Italy (2001)
66. **American Airlines**, Flight 587, crash in Belle Harbor, Queens, New York (2001)
67. Bell 407 Helicopter, crash en route from Fonseca, Brazil to Vila Iparenga, Brazil (2001)
68. **Papillon Airways Inc.**, Eurocopter AS350-B2 helicopter, crash in Meadview, Arizona (2001)
69. **Bashkirian Airlines**, Flight 2937 and DHL, Flight 611, mid-air collision in Ueberlingen, Germany (2002)
70. Lear Jet 60, crash in Santa Cruz do Sul, Brazil (2002)
71. Robinson Helicopter, crash in Catarama, Guayaquil, Ecuador (2002)
72. Piper Malibu, crash in Raleigh, North Carolina (2002)
73. McDonnell Douglas MD-600N helicopter, crash in Deland, Florida (2002)
74. Cessna 172 and Cessna 182, mid-air collision in Deerfield Beach, Florida (2003)
75. Piper PA-24-250 crash near Florence, South Carolina (2003)
76. Cessna 414, crash near Greenville, Tennessee (2003)
77. **Tropical Air**, Let 410, crash in Cap Haitian, Haiti (2003)
78. Robinson 44 helicopter, crash en route from Alingas to Karna, Sweden (2004)
79. Helicopter powered by Allison 250-C20C engine, crash in Jalisco, Mexico (2004)
80. Cessna T210J, crash in Rosario de la Frontera, Argentina (2004)
81. Eurocopter Deutschland BO-105 CBS5 helicopter, crash in Choctawhatchee Bay, Florida (2004)
82. Westwind Jet, crash in Panama City, Panama (2004)
83. **West Caribbean Airlines**, Flight 708, crash in Machiques, Venezuela (2005)
84. **Flying Boats Inc.**, d.b.a. Chalk's Ocean Airways Flight 101, crash in Miami Beach, Florida (2005)
85. **Helios Airways**, Flight 522, crash in Grammatikos, Greece
86. **Comair**, Flight 5191, crash at Blue Grass airport in Lexington, Kentucky (2006)
87. **Sibir Airlines**, Flight 778, crash in Irkutsk, Russia (2006)
88. **GOL Airlines**, Flight 1907, mid-air collision in the Amazon, Brazil (2006)
89. **TAM Airlines**, Flight 3054, runway crash, Congonhas airport, São Paulo, Brazil (2007)
90. **TACA Airlines**, Flight 390, crash in Honduras, 2008
91. **Santa Barbara Airlines, S.A.**, Flight 518, crash near Merida, Venezuela, (2008)

92. **SpanAir**, Flight 5022, Barajas Airport, Spain, (2008)
93. **Aeroflot-Nord**, Flight 821, Perm Airport, Russia, (2008)
94. **Colgan Air - Continental**, Flight 3407, Buffalo, New York, (2009)
95. **Air France**, Flight 447, Atlantic Ocean, (2009)
96. **American Airlines**, Flight 331, Kingston, Jamaica, (2009)
97. **Ethiopian Airlines**, Flight 409, Mediterranean Sea, (2010)
98. **Aires Airlines**, Flight 8250, San Andres Island, Colombia, (2010)
99. **Central American Airways**, Flight 731, Tegucigalpa, Honduras, (2010)
100. **Conviasa**, Flight 2350, Bolivar, Venezuela, (2010)
101. **Monarch Air**, charter flight, Fort Lauderdale, Florida to Nassau, Bahamas (2010)
102. Mooney M20R, crash in Hollister, California, (2010)
103. Bell Helicopter 206B, crash in Rio Negro, Colombia, (2011)
104. Private vs. Military helicopter, air show crash in Colombia, (2011)
105. Interplane SRO Skyboy crash in Homestead, Florida (2011)
106. **Dana Air**, Flight 992, crash in Abuja, Nigeria, (2012)
107. Cirrus SR22 crash, Melbourne, Florida (2012)
108. **Tatarstan Airlines**, Kazan, Russia (2013)
109. **IBC Airways**, Flight 405, La Alianza, Puerto Rico (2013)
110. **Alitalia** Flight AZ631, turbulence accident, Miami, Florida to Fiumicino/Rome Airport (2013)
111. Robinson R-44 crash in West Kendall, Florida (2013)
112. **American Airlines**, Flight 908, turbulence accident Buenos Aires, Argentina to Miami, Florida (2008)

Miami Herald

Posted on Sun, Feb. 09, 2014

With high-profile successes, Podhurst Orseck law firm fights above its weight class

BY SIOBHAN MORRISSEY
Special to the Miami Herald



CHARLES TRAINOR JR / MIAMI HERALD STAFF

DEFENDING JIM MORRISON, SUING THE NFL, REPRESENTING PLANE-CRASH VICTIMS: From left, Podhurst Orseck lawyers Robert Josefsberg, Aaron Podhurst, Steve Marks and Peter Prieto brandish memorabilia from some of their best-known cases.

When Capital One asks, “What’s in Your Wallet?” the Podhurst Orseck firm can confidently answer: Your banker’s hand.

Capital One is one of nearly two dozen banks sued by the Miami firm for allegedly overcharging millions of customers in overdraft fees. To date, 19 of those banks have settled, agreeing to pay a staggering \$1.071 billion, says Peter Prieto, a partner who oversees the firm’s commercial class action cases. Prieto expects the cases involving the remaining three banks — Capital One, Wachovia/Wells Fargo and Bancorp South — to be resolved either this year or next. Firm president Aaron Podhurst is co-lead counsel, along with Nova Southeastern University law professor Bruce Rogow, on those bank overdraft cases.

Once known primarily for its work on behalf of the victims of airplane crashes — including the 1996 ValuJet crash in the

Everglades and the 1998 terror bombing of PanAm 103 over Lockerbie — Podhurst Orseck has branched out into complex commercial litigation and massive class actions, an area of law that now makes up half of the firm’s business. While it continues to handle aviation cases — representing victims in more than 125 crashes since Aaron Podhurst was lead counsel for the victims of Eastern Airlines Flight 401 that crashed in the Everglades in 1972 — the portfolio also includes a variety of multidistrict litigation cases.

Of note is the mass class action against the NFL for injuries relating to concussions occurring in practice and on the playing field, some of which have resulted in early dementia, Parkinson’s disease, or amyotrophic lateral sclerosis, the wasting disease often referred to as Lou Gehrig’s disease. Steve Marks, who oversees the firm’s personal injury and mass class action caseload, served on the settlement committee with three other firms seeking compensation on behalf of more than 4,000 former professional football players and their wives. Among the former NFL players Podhurst Orseck represents: Joe Theismann, Kevin Turner, Clinton Portis and Shawn Wooden.

Last August, the league agreed to pay \$765 million, plus legal fees. A court-appointed master is currently reviewing the settlement, after a federal judge rejected the settlement last January because she feared it was not enough to cover the medical expenses of the injured players. Marks tried to allay those fears.

“We worked with some of the brightest and most capable economists in the U.S. who have modeled these type of funds on a routine basis and have a great reputation in doing so,” Marks said in defense of the \$765 million figure. “We worked with these experts for many months to ensure that there would be

sufficient funds to satisfy the obligation contemplated by the settlement. We are more than confident with the results.”

Marks also said that the case had far-reaching ramifications and literally changed how the game is played, from Pop Warner to pro ball: “It has had a most dramatic effect on the conduct for coaches and players. We were successful in educating the public.”

The firm currently is involved in four class action cases with an expected payout of at least \$1 billion.

The overdraft case is not the only example of bad banking that is likely to result in a \$1 billion-plus settlement. Another lawsuit involves “force-placed insurance,” where the firm is defending homeowners who get stuck having to buy flood, hazard and wind insurance from companies affiliated with the banks that hold their mortgage — sometimes at six times the going rate. Last October, JP Morgan Chase agreed to settle for \$300 million, concluding the first of several similar cases nationwide pending in Miami’s federal court.

Other cases in the billion-dollar arena include an antitrust lawsuit against Blue Cross/Blue Shield for allegedly restricting competition in certain states and a consumer protection lawsuit against the manufacturers of defective drywall from China that corroded electrical wiring and copper piping in homes nationwide, especially in hurricane-prone Florida and Louisiana. Cases like these take a lot of patience and man hours. The firm has spent more than four years on the drywall case and has yet to see a dime. Partner Robert “Bob” Josefsberg serves on the Plaintiff’s Steering Committee, and fellow partners Prieto and John Gravante worked with him on the case.

For a firm with only 10 living partners and two associates, Podhurst Orseck has an impressive amount of firepower. Combined, the firm represents 300 years of legal experience. Karen Podhurst Dern, the firm president’s daughter, is of counsel, adding another 27 years of legal experience to the mix. Given the type of cases the firm pursues, the lawyers often take on the role of David versus Goliath-size firms, frequently appearing in court with one partner, an associate and a paralegal against a phalanx of opposing counsel.

“We’re able to fight above our weight class against bigger firms because of technology and the many co-counsel relationships that we have,” Prieto said, explaining that the boutique law firm often teams up with attorneys from other firms, both when they are called into a case and when they seek help with their caseload. “We can compete with the national firms because technology is the great equalizer, and we can search through millions of documents without the need of many attorneys searching through documents and billing their clients.”

For nearly 50 years, Podhurst has treated his firm like family, deliberately keeping it small and tight-knit. He continues to pay homage to those who helped mold him as an attorney and remain a guiding force. Robert Orseck has a hallowed place both in the firm’s name and on its roster of partners, even though he died more than a quarter of a century ago, drowning while swimming in Israel. Walter Beckham, another founder of the firm who was of counsel when he died in 2011, is similarly recognized.

Podhurst, who is known as much for his pro bono work — such as trying to negotiate a resolution to the Elián González custody battle and helping pave the way for building the Pérez Art Museum Miami — takes a pragmatic approach when it comes to case selection.

“You can only handle a certain number of cases well — not withstanding Perry Mason and Law & Order on TV,” he said. “It’s 90 percent perspiration and 10 percent inspiration. You’ve got to know the case. You’ve got to go through the documents. You’ve got to speak to the witnesses. You’ve got to research the law. And you’ve got to prepare all the witnesses. And that takes time.”

Prieto boils that down to: “We look for two things: cases that make a difference and cases that we can prosecute successfully.”

The overdraft case is one such case.

“We very much enjoy representing the little guy,” said Josefsberg, a former federal prosecutor who has represented clients of all stripes, including Jim Morrison after he was arrested for lewd and lascivious behavior when The Doors played at the Dinner Key Auditorium in 1969. “Shame on a corporation for overcharging and being a big bully by taking advantage of the little guy,” Josefsberg said of the way in which big banks have treated their least-affluent customers.

Court documents in the case against Union Bank show exactly what the banks planned for their customers. The scheme worked like this: The banks installed special computer software that would flag when a customer spent more than he had in his account. Rather than simply prohibit the purchase, the banks covered the shortfall — for a price. The banks typically charged \$25 to \$35 each time the customer went over his or her limit. Once the overdraft protection went into effect, the bank’s computers would automatically rearrange the purchase order so that the most expensive purchases were listed first and all the other purchases that month would each incur the fee for nonsufficient funds. Often what should have been a one-time fee ended up costing the customer hundreds of dollars.

They called this process “resequencing,” a term that sounds more apt for DNA testing than bank matters. They also tried to hide what they were doing.

“By design, the details of what happens inside the bank when an overdraft occurs were never intended to be communicated to the public,” Union Bank is quoted in the civil complaint filed in Miami’s federal court. One bank executive went so far as to state in an email, “stick with ‘under the radar’ type communications (inserts)’ when disclosing fee increases.” Yet another bank communication stated, “We should also burn all our documentation that is just posting sequence = more fees.”

The potential for problems with this overdraft policy so unnerved Union Bank’s executive vice president for item processing that he advised against implementing it.

“Well, as a UBOC shareholder (and a consumer) I would STRONGLY disagree with the high to low approach,” said VP William Christianson. “I don’t believe that UBOC has ever done this before and we have seen Wells and BOA (Security) sued for this. I don’t think the bank ought to do anything that encourages a lawsuit right now!”

If only they had listened.

Union Bank, which had projected additional earnings of \$17 million a year based on the overdraft scheme, ultimately ended up agreeing to a \$35 million settlement, not to mention the fees they paid their attorneys and the consultant who advised them on how to implement the scheme.

Podhurst Orseck also ended up with millions of dollars as the settlements from various banks came pouring in. They gambled that taking the case on a contingency basis would succeed. Their money spent up front on experts and man hours paid off.

The biggest haul came from Bank of America, which settled for \$410 million, \$123 million of which was divvied among some 30 law firms — including the Miami-based Alters Law Firm — with the three lead firms — Podhurst Orseck, Grossman Roth of Coral Gables and Leiff Cabraser Heimann & Bernstein of San Francisco — getting the lion’s share, reportedly more than \$20 million each.

Professor Stuart R. Cohn, who teaches business law at the Levin College of Law at the University of

Florida, maintains the legal fees may seem high, but they are standard for the industry. On cases like these the law firms usually work on a contingency basis, meaning they don't get paid unless they win or the cases settle.

"It's a large figure, yes," Cohn said, "but relative to the size of the award and the amount of the work, it is not unusual at all."

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Best Lawyers, The World's Premier Guide

PodhurstOrseck

TRIAL & APPELLATE LAWYERS

Miami – 2014:

Aaron S. Podhurst (1983) (25)

Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation – Plaintiffs

Robert C. Josefsberg (1983) (25)

Bet-the-Company Litigation
Commercial Litigation
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

Joel D. Eaton (1989) (25)

Appellate Practice
Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation –
Plaintiffs

Steven C. Marks (2007)

Personal Injury Litigation - Plaintiffs

Peter Prieto (2005)

Commercial Litigation
Corporate Compliance Law
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

Stephen Rosenthal (2010)

Personal Injury Litigation – Plaintiffs
Appellate Practice

Ricardo M. Martinez-Cid (2013)

Personal Injury Litigation – Plaintiffs

Listed Lawyers**Best Lawyers, The World's Premier Guide**

PodhurstOrseck

TRIAL & APPELLATE LAWYERS

Miami – 2013:**Aaron S. Podhurst** (1983) (25)

Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation – Plaintiffs

Robert C. Josefsberg (1983) (25)

Bet-the-Company Litigation
Commercial Litigation
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

Joel D. Eaton (1989) (20)

Appellate Practice
Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation – Plaintiffs

Steven C. Marks (2007)

Personal Injury Litigation - Plaintiffs

Peter Prieto (2005)

Commercial Litigation
Corporate Compliance Law
Corporate Governance Law
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

Stephen Rosenthal (2010)

Personal Injury Litigation – Plaintiffs
Appellate Practice

Ricardo M. Martinez-Cid (2013)

Personal Injury Litigation – Plaintiffs

(Year) First year the lawyer was listed.

(*) Lawyers who are listed for the first time in *Best Lawyers*.



Best Lawyers, *The World's Premier Guide*

PodhurstOrseck

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Miami – 2012:

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Bet-the-Company Litigation

Commercial Litigation

Personal Injury Litigation – Plaintiffs

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Bet-the-Company Litigation

Commercial Litigation

Criminal Defense: Non-White-Collar

Criminal Defense: White-Collar

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Appellate Practice

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Commercial Litigation

Personal Injury Litigation – Plaintiffs

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Personal Injury Litigation - Plaintiffs

Peter Prieto (2005)

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Corporate Compliance Law

Corporate Governance Law

Criminal Defense: Non-White-Collar

Criminal Defense: White-Collar

Stephen Rosenthal (2010)

Personal Injury Litigation – Plaintiffs

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TRIAL & APPELLATE LAWYERS

Miami

[Aaron S. Podhurst \(1983\) \(25\)](#)

Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation

[Robert C. Josefsberg \(1983\) \(25\)](#)

Bet-the-Company Litigation
Commercial Litigation
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

[Joel D. Eaton \(1989\) \(20\)](#)

Appellate Law
Bet-the-Company Litigation
Commercial Litigation
Personal Injury Litigation

[Steven C. Marks \(2007\)](#)

Personal Injury Litigation

[Victor M. Diaz, Jr. \(2006\)](#)

Commercial Litigation
Personal Injury Litigation

[Peter Prieto \(2005\)](#)

Commercial Litigation
Corporate Governance and Compliance Law
Criminal Defense: Non-White-Collar
Criminal Defense: White-Collar

[Stephen Rosenthal \(2010\)](#)

Personal Injury Litigation

(Year) First year the lawyer was listed.

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*Litigation
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Podhurst Orseck, P.A.

GENERAL LITIGATION Winner

Air crashes to NFL concussions, Podhurst seeks big-impact cases

SMALL FIRMS Winner

by Susan Postlewaite
Special to the Review

The team of litigators at Podhurst Orseck trace its success to a tragic airline crash four decades ago.

The group made a name for itself representing victims of the 1972 Everglades crash of Eastern Airlines Flight 401.

"Since then we have probably been involved in every major crash litigation in the last 40 years," said Steve Marks, who heads the firm's injury litigation track and has pursued damages in courts across the United States and Europe.

But the trial attorneys handle much more than personal injury cases. Their biggest case of the past year was on behalf of thousands of bank customers who claim 35 banks deliberately overcharged them on debit card overdrafts.

Partner Aaron Podhurst is one of the co-lead counsel in the bank overdraft multi-district litigation consolidated before Senior U.S. District Judge James Lawrence King in Miami.

"Of the 35, we have settled about 17. Not all are approved yet, but it will be approximately \$1 billion in settlements," Podhurst predicted. He said the remaining cases are in arbitration or not yet settled.

The Miami firm was founded in 1967 by Podhurst and the late Bobby Orseck. It grew over the years to 12 or 13 lawyers—but never more than that.

"This office is unique, like a family. We're blessed to be able to choose our cases and

pick them carefully, and we try to pick those with the biggest impact and those that are challenging," partner Peter Prieto said. "We are able to choose because we have strong relationships with other small firms and co-counsel."

Prieto, who joined the firm three years ago, runs the commercial and complex civil litigation division.

The firm's appellate work is run by Joel Eaton and Stephen Rosenthal.

Marks heads mass torts, aviation litigation and other types of personal injury litigation and wrongful death suits.

He is one of the lead attorneys involved in concussion litigation against the National Football League over helmet safety. Podhurst Orseck filed actions on behalf of 365 former NFL players, alleging the league for several decades misled players and their families about its knowledge of the short- and long-term risks posed by concussions and other head trauma suffered by players.

A variety of other law firms around the country also filed suits, and they were consolidated last year before U.S.



AM HOLT

Selective case choices: Podhurst partners Steve Marks, Aaron Podhurst and Peter Prieto

District Judge Anita B. Brody in Philadelphia. A decision is pending on class certification. Marks said as many as 20,000 retired football players could be included if the class is approved.

"It is very much like the tobacco industry where there were repeated published articles saying there is no link between head trauma and brain trauma in later years, yet players are experiencing dementia and Alzheimer's," he said. "This will affect college sports, high school sports and children's problems. All of these programs are being re-

vamped for player safety."

Prieto, a former federal prosecutor whose background includes white-collar fraud, is lead co-counsel against Stiefel Laboratories Inc. The suits allege the Coral Gables-based pharmaceutical company committed securities fraud by misrepresenting the value of its stock to employee-shareholders when it knew it would be selling the company at a much higher price.

A jury returned a \$1.5 million award for former employee Tim Finnerty last May. More cases are set for trial this year.

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PODHURST ORSECK

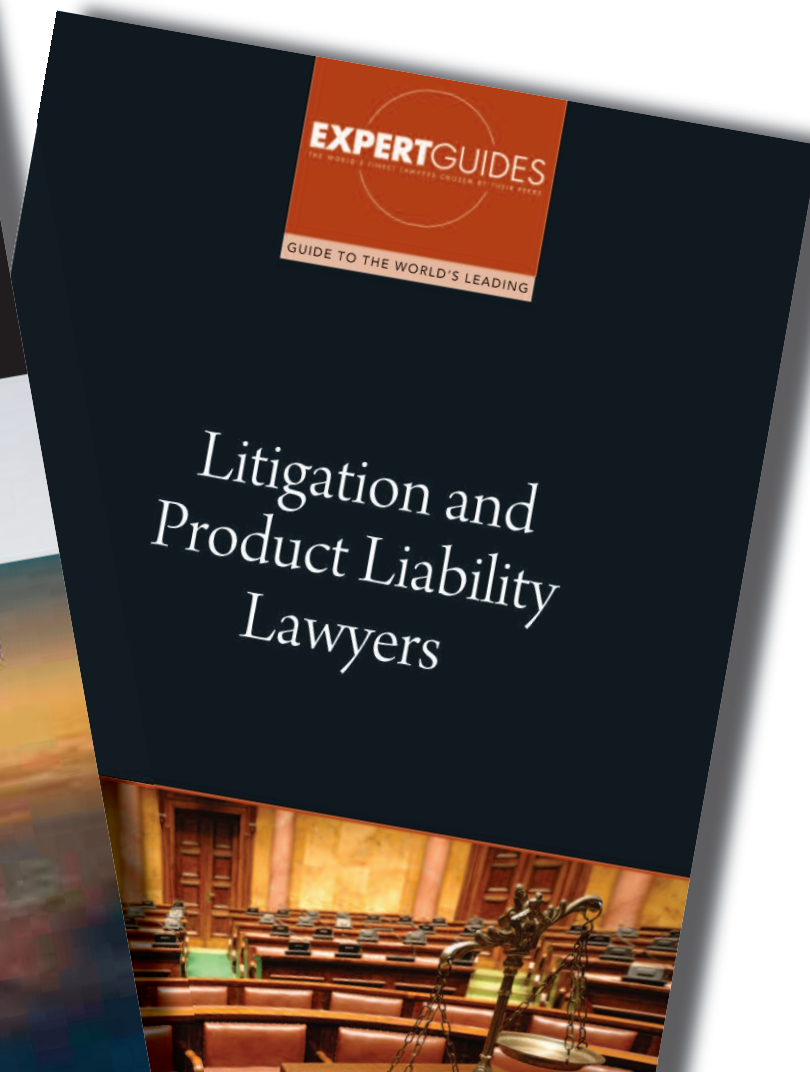
TOP LAWYERS

AVIATION:

AARON S PODHURST
STEVEN C MARKS

LITIGATION AND PRODUCT LIABILITY:

AARON S PODHURST
ROBERT C JOSEFSBERG
RICARDO M MARTINEZ-CID



SFLG

SOUTH FLORIDA LEGAL GUIDE



TOP LAWYERS:

AARON S. PODHURST

Personal Injury and
Wrongful Death (Plaintiff),
Aviation Litigation

ROBERT C. JOSEFSBERG

Corporate and Business Litigation,
Criminal Defense/Criminal Law

JOEL D. EATON

Appellate

STEVEN C. MARKS

Personal Injury and
Wrongful Death (Plaintiff)

PETER PRIETO

Civil Litigation,
Criminal Defense/Criminal Law

KATHERINE W. EZELL

Corporate and Business Litigation

STEPHEN F. ROSENTHAL

Appellate, Personal Injury and
Wrongful Death (Plaintiff)

TOP UP & COMER:

RICARDO M. MARTINEZ-CID

Personal Injury and
Wrongful Death (Plaintiff)

TOP LAW FIRM:

PODHURST ORSECK, P.A.

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Miami, FL 33130
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www.Podhurst.com

SFLG

SOUTH FLORIDA LEGAL GUIDE

www.sflegalguide.com

TOP LAWYERS:

AARON S. PODHURST
Personal Injury and
Wrongful Death (Plaintiff),
Aviation Litigation

ROBERT C. JOSEFSBERG
Commercial Litigation,
Criminal Litigation

JOEL D. EATON
Appellate

STEVEN C. MARKS
Personal Injury and
Wrongful Death (Plaintiff)

PETER PRIETO
Complex Civil Litigation,
White Collar Defense

KATHERINE W. EZELL
Commercial Litigation

TOP UP & COMERS:

STEPHEN F. ROSENTHAL
Appellate,
Personal Injury (Plaintiff)

RICARDO M. MARTINEZ-CID
Personal Injury (Plaintiff)

ALEXANDER T. RUNDLET
Civil Practice

TOP LAW FIRM:

PODHURST ORSECK, P.A.
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MIAMI, FL 33130
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WWW.PODHURST.COM

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AARON S. PODHURST
PERSONAL INJURY
WRONGFUL DEATH (PLAINTIFF)
AVIATION LITIGATION

ROBERT C. JOSEFSBERG
COMMERCIAL LITIGATION
CRIMINAL LITIGATION

JOEL D. EATON,
APPELLATE

STEVEN C. MARKS
PERSONAL INJURY
WRONGFUL DEATH (PLAINTIFF)

PETER PRIETO
COMMERCIAL LITIGATION
WHITE COLLAR DEFENSE

TOP UP & COMER

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Aviation & Admiralty
- Robert C. Josefsberg
Commercial Litigation
- Stephen F. Rosenthal
Appellate Practice
- Ricardo M. Martinez-Cid
Aviation & Admiralty



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Trend's

Florida Legal Elite™

2011

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Legal Leaders

Named by Their Peers

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- Ramon Rasco
Commercial Litigation
- Stephen F. Rosenthal
Appellate Practice
- John Gravante
Civil Trial
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FLORIDA

LITIGATION APPELLATE

Litigation: Appellate	
Leading Individuals	
Band 1	
Eaton Joel D	Podhurst Orseck P.A.
Band 2	
Rosenthal Stephen F	Podhurst Orseck P.A.

Notable Practitioners

Seasoned litigator **Joel Eaton** of Podhurst Orseck P.A. maintains an excellent reputation for appellate matters, having recently appeared in the Florida Supreme Court in a matter concerning the interpretation of the Federal Aviation Act's immunity provision. He is particularly praised for his "tremendous instinct about how to run a case" and his "superb" written skills. Fellow Podhurst

Orseck practitioner **Stephen Rosenthal** impresses clients with his "extremely creative legal analysis skills," and is described as being "very smart and passionate about his work." He also focuses on complex torts and commercial litigation, and recently argued a product liability appeal against Traxxas, concerning the allegedly negligent design of a can of car fuel.

LITIGATION

Litigation: General Commercial	
Leading Firms	
Band 1	
Podhurst Orseck P.A.	
Leading Individuals	
Band 1	
Podhurst Aaron S	Podhurst Orseck P.A.
Josefsberg Robert C	Podhurst Orseck P.A.
Band 4	
Prieto Peter	Podhurst Orseck P.A.

Litigation: White-Collar Crime & Government Investigations	
Leading Firms	
Band 1	
Podhurst Orseck P.A.	
Leading Individuals	
Star individuals	
Josefsberg Robert C	Podhurst Orseck P.A.
Band 2	
Prieto Peter	Podhurst Orseck P.A.

panies and individuals. Clients agree that the firm is of the highest caliber, praising its hard-working and driven staff lawyers who turn out a strong product.

Sources say: "An exceptional firm in South Florida. From top to bottom, the people are fantastic."

KEY INDIVIDUALS **Robert Josefsberg** remains a popular choice among his fellow practitioners, who call him "the dean of the profession" and say that "he is the best."

Aaron Podhurst "has a great courtroom persona and does very well," according to clients. He also wins plaudits for his persuasive abilities and communication skills. **Peter Prieto** splits his practice between white-collar criminal and complex commercial litigation. Interviewees regard him as "an outstanding lawyer – smart, responsive and thorough."

Podhurst Orseck P.A.

THE FIRM This litigation boutique has established a formidable reputation as one of the best in the Florida market. It is exclusively dedicated to trial and appellate

litigation, and as such has extensive experience in this area. It has a notable specialty in aviation disputes but is equally renowned for its product liability and securities work. The team's expertise extends to white-collar crime litigation, in which it defends a mixture of com-

Leaders

JOSEFSBERG, Robert C
Podhurst Orseck P.A., Miami
305 358 2800
RJosefsberg@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil and criminal litigation in all federal and state courts.

Career: One of Miami-Dade County's premiere trial lawyers, listed annually since 1987 in the Best Lawyers in America in two categories-Business Litigation and Criminal Law. Past President and Dean of the International Academy of Trial Lawyers, a Fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. He has served on the American Bar Association Standing Committee on the Judiciary, as Chairman of the Southern District of Florida Judicial Evaluation Committee, and the Florida State University Law School Board of Visitors. In addition to commercial practice, he also handles the firm's white-collar criminal defense work - an outgrowth of his background as an assistant

US attorney for the Southern District of Florida, as Special Counsel to the Dade County Grand Jury, and member of numerous commissions and task forces in the area of criminal law, including the US Supreme Court Advisory Committee on Criminal Rules and Chairmanship of the Florida Bar's Criminal Law Certification Committee.

Personal: BA Dartmouth College, 1959; JD Yale Law School, 1962.

PODHURST, Aaron S
Podhurst Orseck P.A., Miami
305 358 2800
APodhurst@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil litigation, including complex commercial litigation, aviation and mass tort litigation in all federal and state courts.

Career: His distinguished career has brought him honors and offices from virtually every major legal organization, including the presidencies of the International Academy of Trial

Lawyers and The Florida Justice Association, fellowship in the American College of Trial Lawyers, Member of Board of Governors of Association of Trial Lawyers of America, membership in the International Society of Barristers and the Inner Circle of Advocates, and chairmanship of important aviation committees of the American Bar Association, American Association For Justice and The Florida Justice Association. Although he made his reputation as one of the nation's premiere plaintiff's aviation lawyers, and continues to hold that status, he has guided the firm in recent years to its status as one of the major commercial litigation firms in South Florida.

Personal: BA from the University of Michigan in 1957, and Harland Fiske Stone Scholar and Juris Doctorate Degree from Columbia University.

PRIETO, Peter
Podhurst Orseck P.A., Miami
PPrieto@podhurst.com

Featured in Litigation (Florida)

Practice Areas: A former federal prosecutor with significant trial experience. Prieto practices in the areas of complex civil litigation and white-collar criminal defense, representing individual and corporate clients in civil litigation, including commercial, business torts, securities fraud and class action litigation. He defends individual and corporate clients in criminal investigations and prosecutions involving public corruption, banking and healthcare fraud, and aviation and environmental violations. Prieto has represented clients in litigation in a variety of industries, including the healthcare, telecommunications, petroleum, aviation, entertainment and banking industries. Prieto has extensive experience prosecuting and defending RICO claims. He has also been involved at leadership level in several multi-district litigation ("MDL"), proceedings.

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Eaton Joel D	Podhurst Orseck P.A.
Band 3	
Rosenthal Stephen F	Podhurst Orseck P.A.

Notable Practitioners

Experienced appellate lawyer **Joel Eaton** of Podhurst Orseck P.A. offers long-standing expertise and is “*always committed to his plaintiff clients*,” commentators report. Impressed sources report that **Stephen Rosenthal** also of Podhurst Orseck P.A. “*is comfortable in both state and federal court*,” and is praised as “*a sharp young guy*.”

LITIGATION

Litigation: General Commercial	
Leading Firms	
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Josefsberg Robert C	Podhurst Orseck P.A.
Podhurst Aaron S	Podhurst Orseck P.A.

Podhurst Orseck P.A.

THE FIRM This litigation boutique may be smaller than some of its main competitors, but holds its own in the market and remains at the pinnacle of Florida litigation firms. The team regularly appears in state and federal courts in Florida and across the USA, acting for Codina Group, Tenet Healthcare and Miami-Dade Community College, among other clients and a num-

Litigation: White-Collar Crime & Government Investigations	
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Josefsberg Robert C	Podhurst Orseck P.A.
Band 2	
Prieto Peter	Podhurst Orseck P.A.

ber of foreign governments. Next to its strong expertise in complex civil and criminal litigation, the group is particularly strong in representing clients in aviation, automobile and product liability litigation.

Sources say: “*Podhurst has always been respected as a good plaintiff firm, especially in aviation.*” “*The entire*

firm is top-notch. It's probably the top firm in the world for handling the plaintiff side of air crash litigation.”

KEY INDIVIDUALS **Robert Josefsberg** continues to be regarded as “*the god of white-collar crime*,” with impressed market sources highlighting that he “*consistently exhibits all of the attributes one considers essential to being a good lawyer.*” He is representing a client who was an investor and victim in the \$1.2 billion Scott Rothstein Ponzi scheme. **Aaron Podhurst** is recognized as “*one of the premier aviation trial lawyers in the world.*” He represents plaintiff clients, and is sought after for his long-standing expertise. **Peter Prieto** handles complex commercial litigation and white-collar criminal defense matters with ease. He is currently involved in representing the former vice chairman of Stiefel Laboratories in his holding company's lawsuit against Stiefel and several former Stiefel executives, arising out of material misrepresentations and omissions and breaches of fiduciary duties.

Leaders

EATON, Joel D

Podhurst Orseck P.A., Miami
305 358 2800
JEaton@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: Appellate.

Career: Has handled civil appeals in state and federal courts for 35 years, and is a former Chairman of the Florida Supreme Court's Appellate Rules Committee. He also served two terms as a Member of the Supreme Court's Committee on Standard Jury Instructions in Civil Cases. He is a co-founder of the American Academy of Appellate Lawyers, is listed in Best Lawyers of America, and currently serves as an Adviser to the American Law Institute's Restatement of the Law (Third) Torts: Liability for Physical Harm.

Personal: Harvard University (JD cum laude, 1975); Yale University (BA 1965).

JOSEFSBERG, Robert C

Podhurst Orseck P.A., Miami
305 358 2800
RJosefsberg@Podhurst.com

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Practice Areas: A broad range of civil and criminal litigation in all federal and state courts.

Career: One of Miami-Dade County's premier trial lawyers, listed annually since 1987 in the Best Lawyers in America in two categories-Business Litigation and Criminal Law. Past President and Dean of the International Academy of Trial Lawyers, a Fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. He has served on the American Bar Association Standing Committee on the Judiciary, as Chairman of the Southern District of Florida Judicial Evaluation Committee, and the Florida State University Law School Board of Visitors. In addition to commercial practice, he also handles the firm's white-collar criminal defense work – an outgrowth of his background as an assistant US attorney for the Southern District of Florida, as Special Counsel to the Dade County Grand Jury, and member of numerous commissions and task forces in the area of criminal law, including the US Supreme Court Advisory Committee on Criminal Rules and Chairmanship of the Florida Bar's Criminal Law Certification Committee.

Personal: BA Dartmouth College, 1959; JD Yale Law School, 1962.

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investigations and prosecutions involving public corruption, banking and healthcare fraud, and aviation and environmental violations. Prieto has represented clients in litigation in a variety of industries, including the healthcare, telecommunications, petroleum, aviation, entertainment and banking industries. Prieto has extensive experience prosecuting and defending RICO claims.

ROSENTHAL, Stephen F

Podhurst Orseck P.A., Miami
305 358 2800
srosenthal@PODHURST.com

Featured in Litigation (Florida)

Practice Areas: Partner focusing on appeals and complex civil litigation, including mass tort, class actions, commercial disputes and constitutional law.

Professional Memberships: US Supreme Court; US Courts of Appeals for the Second, Fifth, Seventh, Ninth and Eleventh Circuits; US District Court, SD Florida; Florida Bar; District of Columbia Bar; American Association for Justice; Florida Justice Association.

Career: US Department of Justice Civil Division, Federal Programs Branch; Law clerk to US Circuit Judge Rosemary Barkett (11th Cir.) and to US District Judge Mark Wolf (D Mass).

Personal: Harvard Law School (JD, cum laude, 1996), Harvard College (BA, magna cum laude, 1992).



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Rosenthal Stephen F	Podhurst Orseck P.A.

Notable Practitioners

Experienced appellate lawyer **Joel Eaton** of Podhurst Orseck P.A. offers long-standing expertise and is “*always committed to his plaintiff clients*,” commentators report. Impressed sources report that **Stephen Rosenthal** also of Podhurst Orseck P.A. “*is comfortable in both state and federal court*,” and is praised as “*a sharp young guy*.”

LITIGATION

Litigation: General Commercial	
Leading Firms	
Band 1	
Podhurst Orseck P.A.	
Leading Individuals	
Band 1	
Josefsberg Robert C	Podhurst Orseck P.A.
Podhurst Aaron S	Podhurst Orseck P.A.

Podhurst Orseck P.A.

THE FIRM This litigation boutique may be smaller than some of its main competitors, but holds its own in the market and remains at the pinnacle of Florida litigation firms. The team regularly appears in state and federal courts in Florida and across the USA, acting for Codina Group, Tenet Healthcare and Miami-Dade Community College, among other clients and a num-

Litigation: White-Collar Crime & Government Investigations	
Leading Firms	
Band 1	
Podhurst Orseck P.A.	
Leading Individuals	
Star individuals	
Josefsberg Robert C	Podhurst Orseck P.A.
Band 2	
Prieto Peter	Podhurst Orseck P.A.

ber of foreign governments. Next to its strong expertise in complex civil and criminal litigation, the group is particularly strong in representing clients in aviation, automobile and product liability litigation.

Sources say: “*Podhurst has always been respected as a good plaintiff firm, especially in aviation.*” “*The entire*

firm is top-notch. It's probably the top firm in the world for handling the plaintiff side of air crash litigation.”

KEY INDIVIDUALS **Robert Josefsberg** continues to be regarded as “*the god of white-collar crime*,” with impressed market sources highlighting that he “*consistently exhibits all of the attributes one considers essential to being a good lawyer.*” He is representing a client who was an investor and victim in the \$1.2 billion Scott Rothstein Ponzi scheme. **Aaron Podhurst** is recognized as “*one of the premier aviation trial lawyers in the world.*” He represents plaintiff clients, and is sought after for his long-standing expertise. **Peter Prieto** handles complex commercial litigation and white-collar criminal defense matters with ease. He is currently involved in representing the former vice chairman of Stiefel Laboratories in his holding company's lawsuit against Stiefel and several former Stiefel executives, arising out of material misrepresentations and omissions and breaches of fiduciary duties.

Leaders

EATON, Joel D

Podhurst Orseck P.A., Miami
305 358 2800
JEaton@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: Appellate.

Career: Has handled civil appeals in state and federal courts for 35 years, and is a former Chairman of the Florida Supreme Court's Appellate Rules Committee. He also served two terms as a Member of the Supreme Court's Committee on Standard Jury Instructions in Civil Cases. He is a co-founder of the American Academy of Appellate Lawyers, is listed in Best Lawyers of America, and currently serves as an Adviser to the American Law Institute's Restatement of the Law (Third) Torts: Liability for Physical Harm.

Personal: Harvard University (JD cum laude, 1975); Yale University (BA 1965).

JOSEFSBERG, Robert C

Podhurst Orseck P.A., Miami
305 358 2800
RJosefsberg@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil and criminal litigation in all federal and state courts.

Career: One of Miami-Dade County's premier trial lawyers, listed annually since 1987 in the Best Lawyers in America in two categories-Business Litigation and Criminal Law. Past President and Dean of the International Academy of Trial Lawyers, a Fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. He has served on the American Bar Association Standing Committee on the Judiciary, as Chairman of the Southern District of Florida Judicial Evaluation Committee, and the Florida State University Law School Board of Visitors. In addition to commercial practice, he also handles the firm's white-collar criminal defense work – an outgrowth of his background as an assistant US attorney for the Southern District of Florida, as Special Counsel to the Dade County Grand Jury, and member of numerous commissions and task forces in the area of criminal law, including the US Supreme Court Advisory Committee on Criminal Rules and Chairmanship of the Florida Bar's Criminal Law Certification Committee.

Personal: BA Dartmouth College, 1959; JD Yale Law School, 1962.

PODHURST, Aaron S

Podhurst Orseck P.A., Miami
305 358 2800
APodhurst@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil litigation, including complex commercial litigation, aviation and mass tort litigation in all federal and state courts.

Career: His distinguished career has brought him honors and offices from virtually every

major legal organization, including the presidencies of the International Academy of Trial Lawyers and The Florida Justice Association, fellowship in the American College of Trial Lawyers, Member of Board of Governors of Association of Trial Lawyers of America, membership in the International Society of Barristers and the Inner Circle of Advocates, and chairmanship of important aviation committees of the American Bar Association, American Association For Justice and The Florida Justice Association. Although he made his reputation as one of the nation's premiere plaintiff's aviation lawyers, and continues to hold that status, he has guided the firm in recent years to its status as one of the major commercial litigation firms in South Florida.

Personal: BA from the University of Michigan in 1957, and Harland Fiske Stone Scholar and Juris Doctorate Degree from Columbia University.

PRIETO, Peter

Podhurst Orseck P.A., Miami
PPrieto@podhurst.com

Featured in Litigation (Florida)

Practice Areas: A former federal prosecutor with significant trial experience. Prieto practices in the areas of complex civil litigation and white-collar criminal defense, representing individual and corporate clients in civil litigation, including commercial, business torts, product liability and class action litigation. He represents individual and corporate clients in criminal

investigations and prosecutions involving public corruption, banking and healthcare fraud, and aviation and environmental violations. Prieto has represented clients in litigation in a variety of industries, including the healthcare, telecommunications, petroleum, aviation, entertainment and banking industries. Prieto has extensive experience prosecuting and defending RICO claims.

ROSENTHAL, Stephen F

Podhurst Orseck P.A., Miami
305 358 2800
srosenthal@PODHURST.com

Featured in Litigation (Florida)

Practice Areas: Partner focusing on appeals and complex civil litigation, including mass tort, class actions, commercial disputes and constitutional law.

Professional Memberships: US Supreme Court; US Courts of Appeals for the Second, Fifth, Seventh, Ninth and Eleventh Circuits; US District Court, SD Florida; Florida Bar; District of Columbia Bar; American Association for Justice; Florida Justice Association.

Career: US Department of Justice Civil Division, Federal Programs Branch; Law clerk to US Circuit Judge Rosemary Barkett (11th Cir.) and to US District Judge Mark Wolf (D Mass).

Personal: Harvard Law School (JD, cum laude, 1996), Harvard College (BA, magna cum laude, 1992).

CHAMBERS & PARTNERS

LEGAL PUBLISHERS

CHAMBERS USA

America's Leading
Lawyers for Business

PodhurstOrseck
TRIAL & APPELLATE LAWYERS

2011
The Client's Guide

www.chambersandpartners.com

is ranked in Chambers USA 2011 as follows: FLORIDA

LITIGATION

Litigation: General Commercial
Leading Firms
Band 1
Podhurst Orseck P.A.
Leading Individuals
Band 1
Josefsberg Robert C Podhurst Orseck P.A.
Podhurst Aaron S Podhurst Orseck P.A.
Litigation: White-Collar Crime & Government Investigations
Leading Firms
Band 2
Podhurst Orseck P.A.
Leading Individuals
Star individuals
Josefsberg Robert C Podhurst Orseck P.A.
Band 2
Prieto Peter Podhurst Orseck P.A.

Podhurst Orseck P.A.

THE FIRM This small but feisty Miami-based firm has a first-class team of litigators and trial lawyers. The group focuses exclusively on trial and appellate litigation, and continues to impress peers and clients alike with the quality of its work. It offers legal representation in both federal and state courts, with particular expertise in aviation, automobile and product liability litigation.

Sources say: "Podhurst is still the nirvana for lawyers."

KEY INDIVIDUALS Eminently experienced civil and criminal trial lawyer **Robert Josefsberg** continues to be praised as "a true litigation hero." According to impressed peers, "the judges love him and his trial experience is second to none." Founding partner **Aaron Podhurst** is "among the strongest litigators. He is excellent and a pleasure to work with." He is widely respected for his expertise in aviation litigation and complex class actions. **Peter Prieto** impresses sources as "a straight shooter and someone you feel good about having on your side." The former federal prosecutor offers in-depth experience in healthcare fraud and FCPA matters.

LITIGATION APPELLATE

Litigation: Appellate
Leading Individuals
Band 1
Eaton Joel Podhurst Orseck P.A.
Band 3
Rosenthal Stephen F Podhurst Orseck P.A.

Notable Practitioners

Joel Eaton of Podhurst Orseck P.A. "probably has more knowledge in his little pinkie than most people have in their whole bodies," one client marveled. Moving up in the rankings is **Stephen Rosenthal** at the same firm. He impresses peers with his "sharp intellect."

Leaders

EATON, Joel

Podhurst Orseck P.A., Miami
305 358 2800
JEaton@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: Appellate.

Career: Has handled civil appeals in state and federal courts for 35 years, and is a former Chairman of the Florida Supreme Court's Appellate Rules Committee. He also served two terms as a Member of the Supreme Court's Committee on Standard Jury Instructions in Civil Cases. He is a co-founder of the American Academy of Appellate Lawyers, is listed in Best Lawyers of America, and currently serves as an Adviser to the American Law Institute's Restatement of the Law (Third) Torts: Liability for Physical Harm.

Personal: Harvard University (JD cum laude, 1975); Yale University (BA 1965).

JOSEFSBERG, Robert C

Podhurst Orseck P.A., Miami
305 358 2800
RJosefsberg@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil and criminal litigation in all federal and state courts.

Career: One of Miami-Dade County's premiere trial lawyers, listed annually since 1987 in the Best Lawyers in America in two categories: Business Litigation and Criminal Law. Past President and Dean of the International Academy of Trial Lawyers, a Fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. He has served on the American Bar Association Standing Committee on the Judiciary, as Chairman of the Southern District of Florida Judicial Evaluation Committee, and the Florida State University Law School Board of Visitors. In addition to commercial practice, he also handles the firm's white-collar criminal defense work - an outgrowth of his background as an assistant US attorney for the Southern District of Florida, as Special Counsel to the Dade County Grand Jury, and member of numerous commissions and task forces in the area of criminal law, including the U.S. Supreme Court Advisory Committee on Criminal Rules and Chairmanship of the Florida Bar's Criminal Law Certification Committee.

Personal: BA Dartmouth College, 1959; JD Yale Law School, 1962.

PODHURST, Aaron S

Podhurst Orseck P.A., Miami
305 358 2800
APodhurst@Podhurst.com

Featured in Litigation (Florida)

Practice Areas: A broad range of civil litigation, including complex commercial litigation, aviation and mass tort litigation in all federal and state courts.

Career: His distinguished career has brought him honors and offices from virtually every major legal organization, including the presidencies of the International Academy of Trial Lawyers and The Florida Justice Association, fellowship in the American College of Trial Lawyers, Member of Board of Governors of Association of Trial Lawyers of America, membership in the International Society of Barristers and the Inner Circle of Advocates, and chairmanship of important aviation committees of the American Bar Association, American Association For Justice and The Florida Justice Association. Although he made his reputation as one of the nation's premiere plaintiff's aviation lawyers, and continues to hold that status, he has guided the firm in recent years to its sta-

tus as one of the major commercial litigation firms in South Florida.

Personal: BA from the University of Michigan in 1957, and Harland Fiske Stone Scholar and Juris Doctorate Degree from Columbia University.

ROSENTHAL, Stephen F

Podhurst Orseck P.A., Miami
305 358 2800

Featured in Litigation (Florida)

Practice Areas: Partner focusing on appeals and complex civil litigation, including mass tort, commercial disputes and constitutional law.

Professional Memberships: US Supreme Court; US Courts of Appeals for the Second, Fifth, Seventh and Eleventh Circuit; US District Court, SD Florida; Florida Bar; District of Columbia Bar; American Association for Justice; Florida Justice Association.

Career: US Department of Justice Civil Division, Federal Programs Branch, Law clerk to US Circuit Judge Rosemary Barkett (11th Cir.) and to US District Judge Mark Wolf (D. Mass.).

Personal: Harvard Law School (JD, cum laude, 1996), Harvard College (BA, magna cum laude, 1992).

PODHURST ORSECK, P.A.

THE FIRM

Founding & Managing Partner: Aaron S Podhurst

Number of partners: 8

Number of other lawyers: 2

Number of other lawyers (of Counsel): 2

FIRM OVERVIEW: Podhurst Orseck continues a legal practice, established over four decades ago, concentrating exclusively in trial and appellate litigation. The firm is dedicated to offering the highest calibre legal representation in both federal and state trial and appellate courts throughout the United States. The firm's commercial practice focuses on complex civil litigation of all types. The firm serves as general litigation counsel to several major corporations, as well as represents companies and individuals in substantial matters of commercial litigation. The firm's General Tort Practice places a major emphasis upon representing claimants in aviation, automobile, products liability and medical malpractice litigation. From its inception, the firm also has cultivated an appellate practice, handling appeals of not only the firm's trial lawyers, but of other lawyers throughout the nation, in the various state and federal appellate courts, including the United States Supreme Court. The firm's practice serves clients residing or based throughout the United States, and in several foreign countries.

MAIN AREAS OF PRACTICE:

General Tort Practice Concentrating in Automobile Negligence, Product Liability & Medical Malpractice Litigation: Since its inception, a significant portion of the firm's trial practice has been general tort law. The firm's experience runs the gamut of such cases, from automobile liability to complex products liability, to business-related torts. Literally thousands of general negligence and product liability cases of all sorts have been prepared, negotiated or tried by the members of the firm. An abbreviated listing of the types of cases handled would include all types of general negligence cases (from automobile and slip and fall accidents to boating and diving accidents), product liability cases (involving cranes, automobiles, rollover and tire tread separation, trenchers, food processing equipment, marine engines, pharmaceuticals, hand tools and ladders, to name a few) and complex medical, legal, accounting, architectural and engineering malpractice claims.

Aviation Litigation: A major emphasis within the firm's General Tort Practice is aviation litigation. The firm is recognized worldwide for its work as a plaintiffs' aviation law firm. Podhurst Orseck believes that it has handled more plaintiffs' aviation cases than any other firm in the southeastern United States and more foreign air crashes than almost any other firm in the country. The firm has represented multiple victims of over 40 major air disasters in the past 36 years, most of them as lead counsel or in a major role. In addition, the firm has handled in excess of 100 small or light plane and helicopter crashes involving private, non-commercial aircraft.

Commercial Litigation: Nearly fifty percent of the firm's trial and appellate litigation involves the resolution of corporate and commercial disputes. Its practice varies from the most complex commercial cases to simple contract litigation. The firm's commercial clientele includes *Fortune* 500 companies, small and middle-sized companies, and private individuals. Regular litigation clients include: Alienware Corp., Codina Construction Corp., and Florida East Coast Properties, Inc.

Class Actions: The firm has a very active class action and multi-district litigation practice. Members of the firm have been court-appointed lead or liaison counsel in numerous major class actions, ranging from securities litigation, investor fraud cases, pharmaceutical, health-care and insurance litigation. In addition, firm lawyers have chaired and served on the steer-

OFFICES

FLORIDA

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Website: www.podhurst.com

ing committee of many national multi-district litigation proceedings in federal courts involving products defects, major commercial aviation crashes and other mass torts. Significant firm resources have been invested, and a sizeable support staff trained and developed to service this practice area.

Probate & Matrimonial Litigation: For many years, the firm has represented clients in the field of probate and matrimonial litigation. It has engaged in the preparation of prenuptial agreements, and in litigation involving marital dissolution, child custody and property settlement agreements. The firm has also represented clients in claims challenging prenuptial agreements. Further, the firm has had substantial experience in litigation involving post-dissolution of marriage proceedings pertaining to modifications, as well as will contests and complex probate litigation.

Criminal Litigation: The firm has a special interest and concentration in the areas of white-collar crime and commercial fraud. The focus of these practices is the representation of individuals, corporate executives and corporations, in both state and federal proceedings, ranging from grand jury investigations to criminal prosecutions and appeals. The firm has handled litigation involving environmental matters, bank fraud, tax fraud, mail and wire fraud, RICO violations, securities fraud, antitrust price fixing, bar grievances, official corruption, and various other economic crimes. The firm has also handled quasi-criminal forfeitures and seizures of assets.

Appellate Practice: Two of the firm's attorneys devote their practice exclusively to appellate litigation and complex trial level motions, handling all in-house matters as well as referrals from attorneys and clients all over the United States. They practice primarily in the United States Court of Appeals for the Eleventh Circuit, the Florida Supreme Court, and the intermediate Florida District Courts of Appeal. The head of the firm's Appellate Litigation Division, Joel Eaton, also has handled appeals throughout the United States and has argued several cases before the United States Supreme Court. The firm's appellate practice mirrors the substantive diversity of the firm as a whole, and includes plaintiffs' personal-injury, malpractice, and wrongful-death cases, including aviation related matters and commercial matters of all types.

Recognition: Many of the firm members are recognized annually by their peers for their work as trial and appellate lawyers, regionally, nationally and internationally. The firm has also been recognized by numerous publications. In 2011, six of the firm's eight partners were selected by their peers for inclusion in the 'Best Lawyers in America guide'; five of the firm's partners were found to be among the 'Top Lawyers in South Florida' by the 'South Florida Legal Guide' and five of the firm's partners were named as being among 'Florida's Legal Elite' by 'Florida Trend Magazine'. See www.podhurst.com for more information.

PodhurstOrseck
TRIAL & APPELLATE LAWYERS

LITIGATION BOUTIQUES

HOT LIST

A Special Report

With this issue, *The National Law Journal* inaugurates our Litigation Boutiques Hot List, featuring 10 small firms that take second place to no one in courtroom skill. These are the firms important clients turn to for state-of-the-art advocacy in bet-the-company cases. They are carving out specializations in products liability, international trade, intellectual property and other areas of the law. They also represent an avenue to practice high-end law on a more human scale than perhaps is offered by larger firms.

Podhurst found success by bucking the trend

U.S. courts' reluctance to hear overseas airline crash cases forced the firm to extend its reach globally.

by Zoe Tillman
ztillman@alm.com

Podhurst Orseck co-founder Aaron Podhurst can trace his firm's expertise in aviation litigation to a single event — the 1972 crash of Eastern Airlines Flight 401 in the Florida Everglades, which killed 101 people and injured dozens.

Podhurst served as lead class counsel for the victims. Since then, the Miami firm has represented victims in more than 125 crashes around the world. Half of his firm's eight partners and five associates are dedicated to aviation work, and the firm recognized this week by the National Law Journal, an ALM affiliate of the Daily Business Review, as one of 10 firms on its Litigation Boutiques Hot List has built a global network of partner firms, Podhurst said.

"There's been a trend in the last 15 to 20 years to have a much tougher road for plaintiffs" to convince U.S. courts to hear cases involving crashes abroad, he said. "We try to keep it in the United States, but if it's sent to Brazil, we'll partner up with a Brazilian firm that doesn't have the aviation experience."

At present, Podhurst Orseck represents survivors of passengers of Air France Flight



Aaron Podhurst

CANDACE WEST

Aaron Podhurst's firm Podhurst Orseck has been recognized by the National Law Journal as one of 10 firms on its Litigation Boutiques Hot List.

If it's in Brazil, we'll partner up with a Brazilian firm that doesn't have the aviation experience.

—AARON PODHURST

447, which plunged into the Atlantic Ocean in June 2009 killing everyone on board. That case is being heard in federal court in San Francisco.

Aviation litigation is "less paper-intensive and more people-intensive," said partner Steven Marks, who helps lead the aviation practice. "You're dealing with damages issues, individuals who are witnesses on the



Aviation litigation is “less paper-intensive and more people-intensive. You’re dealing with damages issues, individuals who are witnesses on the causation of crashes. It’s a lot of products liability, a lot of investigatory work.”

STEVEN MARKS
PARTNER
PODHURST ORSECK

causation of crashes. It’s a lot of products liability, a lot of investigatory work.”

Established in 1967, Podhurst Orseck’s speciality may be aviation, but the expertise extends to general commercial litigation, which makes up about half of its practice. During 2011, the firm claimed \$1.63 billion in settlements and judgments.

In November, Podhurst helped secure a \$410 million settlement with Bank of America in multidistrict litigation over bank overdraft fees in Miami federal court. As a co-lead counsel, Podhurst handled settlement negotiations and continues to be involved in the case as it proceeds against more than 30 additional banks.

Podhurst “had a really excellent grasp of what was realistic,” said Arnold & Porter partner Laurence Hutt, lead counsel for Bank of America. “I thought, more so than many, that he was able to cut to the chase. That really is a skill and a talent, and it shows a great deal, obviously, of experience.”

‘PEOPLE KNOW HIM’

Podhurst, 72, “is sort of a dean of the southern Florida plaintiffs’ bar,” Hutt said. “When he walks into court, he’s getting a certain recognition. People know him.”

His firm’s other large-scale plaintiff clients include more than 100 former players in pending multidistrict litigation against the National Football League over concussions and other injuries suffered during play. As the case proceeds in Philadelphia federal court, “hopefully we’ll play a lead role in that litigation,” Podhurst said.

The firm’s size and structure hasn’t dramatically changed since the late 1960s. In 2010, though, the firm scored a major coup when it snagged former Holland & Knight litigation chairman Peter Prieto as a partner. Prieto, Podhurst’s first lateral hire in decades, was a former law school classmate of Marks. He said he was sold by the “quality of [the firm’s] work and quality of its lawyers.”

Podhurst Orseck staffs cases leanly, usually with just one partner, one associate and a paralegal, Prieto said. It can support large-scale class actions by maintaining “a steady diet” of contingency work and billable hours in its other practice areas, he said.

“The key for us is always to balance the resources that we put into these significant, large cases with the work that we do for our other clients — whether it’s personal injury or commercial litigation cases,” Prieto said.

Marks, who joined the firm in 1985, noted a few risks paid off in recent years. One was continuing to handle aviation cases even as U.S. courts expressed a growing reluctance to hear them. “Most firms were unwilling to represent crashes in [foreign] courts,” he said. “I decided it would be a challenge and perhaps a little risky but worth it.”

The decision has positioned Podhurst Orseck as a go-to firm in the event of a crash anywhere in the world, Podhurst said. “We have the expertise, we have the experts, we have the knowledge of the products. Now, people are calling us when there’s an international accident, asking, ‘Would you be willing to get involved?’”

CONTRACT ATTORNEYS

A reliance on contract attorneys has been another successful gamble, Marks said. The ratio of partners and associates to contract attorneys might be higher than most firms are comfortable with, Marks said, but he attributed the firm’s success to its small, close-knit group of core attorneys.

“It’s a very expensive proposition, but there’s no way around it if we’re going to do this kind of work,” he said. “We have such a perfect fit with the personalities and tal-



“The key for us is always to balance the resources that we put into these significant, large cases with the work that we do for our other clients — whether it’s personal injury or commercial litigation cases.”

PETER PRIETO
PARTNER
PODHURST ORSECK

ents of everybody, you don’t want to mess with that.”

After more than 40 years in practice, Podhurst admitted to no plans to retire anytime soon but said he is keeping an eye on the future. Given the low rate of attorney turnover, Podhurst said he’s increasingly involving Marks in management and sees Prieto’s hiring as an example of his focus on “the next generation.”

“I’m still practicing very hard and enjoying it very much, but you have to recognize that it’s not going to be forever,” he said. “I’m trying to be able to make it so that we’ll be able to transition in a very efficient way.”

NOTABLE ACHIEVEMENTS

For these standout lawyers, it was all about the client

Every year, the Daily Business Review selects the Most Effective Lawyers of South Florida.

This year, in its seventh annual special report, the Review is recognizing the work of 85 attorneys in 14 categories: class action, complex/business litigation, corporate securities, real estate, bankruptcy, international, criminal, appellate, public interest, pro bono, medical malpractice, personal injury, product liability and probate.

Lawyers recognized in this project include those who reached a \$410 million settlement with the Bank of America on overdraft charges, retried a notorious child-murder case 21 years after the crime, dealt with a complex international real estate insolvency and challenged the denial of housing vouchers to elderly and disabled people.

The attorneys were measured on one critical benchmark: results for the client. Other criteria included obstacles overcome, impact on public policy and business interests, and the professional track record of the nominees.

The Most Effective Lawyer recognition program is designed to identify highlights from the vast body of work delivered each year by South Florida attorneys who serve clients in the private and public sectors.

The program is not a popularity contest, nor is it based on anonymous surveys. Selections are made by the editors after a rigorous evaluation process.

MOST EFFECTIVE LAWYERS 2011

The Review's editors conducted a three-month selection process that focused on client outcomes and the complexity of cases.

The process of selecting the Most Effective Lawyers began with hundreds of nominations in more than a dozen practice areas. Only South Florida lawyers qualify for results achieved from October 2010 through September 2011.

An initial cut was made to eliminate nominations that were incomplete, did not meet the criteria or clearly did not belong in this recognition program. The Review's research director reached out to many of the nominees for information to buttress their nominations.

The editors then scored the nominees before meeting to select the semifinalists.

Once the semifinalists were identified, reporters and freelance writers furthered the research process to gather more details about the cases. With the assistance of this additional reporting, editors selected the finalists.

Some of the categories that proved to be the most competitive this year were civil/complex business litigation, criminal justice, real estate, appellate and public interest.

The editors reconvened in November to finalize the selection of this year's Most Effective Lawyers — one case in each category.

Still, all of the lawyers featured in today's special report — whether they are finalists or ranked at the top of their categories — deserve recognition. All of the selections published here represent significant victories on behalf of clients, the ultimate measure for any lawyer.

— The Editors

FINALIST

Investors in looted fund given chance to collect \$200 million

Ricardo M. Martinez-Cid
Podhurst Orseck

Ricardo Martinez-Cid, a law firm partner, won some long-delayed justice for investors in Ecuador who say they lost almost \$200 million in a fund that a financier was accused of gutting.

The target was and continues to be Nicolas Landes, former president of defunct Banco Popular del Ecuador, which started the Vision investment fund.

Banco Popular del Ecuador marketed the fund as a safe way to make U.S. dollar-denominated investments in the United States before the bank itself collapsed amid a national financial crisis in the South American country in 1999. Shareholder access to the Vision fund was suspended in 1999.

"When this house of cards starts to unravel and goes really from bad to worse for the shareholders, the Canadian Imperial Bank of Commerce gets brought in to manage the fund. This was in late '99," Martinez-Cid said. But the change in control of the Vision fund left investors frozen out. The Canadian bank, known



Ricardo M. Martinez-Cid

as CIBC, refused to allow fund redemptions after law enforcement authorities in Ecuador launched a criminal investigation of Landes.

"CIBC decides to freeze all the fund assets and not allow any redemptions, even at the now-reduced value of the fund," Martinez-Cid said. "So here you have these shareholders, many of whom were depending on this money for day-to-day living expenses, not only finding out that most of their wealth has been wiped out but that they can't even get the little remaining in the fund. ... Many of my clients came in with sob stories."

The investors' case against Nicolas Landes "was very much a precursor to the Bernie Madoff type of Ponzi scheme," Martinez-Cid said. The fund "was really offered, unfortunately, to unsophisticated people in Ecuador who were just bank clients. It was a very risky investment

that should have been targeted at sophisticated investors, and they should have been notified of what they were getting into.”

In November 2010, Martinez-Cid won a \$195 million judgment in Broward Circuit Court against Landes on behalf of fund investors. He said Broward was the venue because the fund’s registered agent was located in Plantation.

“We don’t think it’s just a paper verdict,” Martinez-Cid said of the judgment. “He was one of the wealthiest bankers in Latin America and actually recently was able to get himself out of prison in Ecuador, which we don’t think happened only by the strain of his arguments.”

Martinez-Cid originally filed his complaint in 2002, but the case dragged on for years, largely because of difficulty in serving Landes with notice of the complaint. The case finally turned in favor of the investors after Landes’ arrest and extradition. He was apprehended in his native Panama and successfully fought extradition there before the government of Costa Rica agreed to extradite him in 2007 to Ecuador, where he was convicted and imprisoned on bank fraud charges.

Landes’ imprisonment breathed new life into the investors’ case against him. “While he is sitting in prison in Ecuador, we’re able to serve him with the complaint that we had fought all these years to bring to him. That’s the complaint

from Broward County,” Martinez-Cid said.

Landes never responded to the complaint.

Martinez-Cid said he had struggled to serve Landes with a notice of the \$195 million claim because “he was represented by Greenberg Traurig down here, so any motion we would file with the [Broward] court to have him served in another country would say exactly where we were going to serve it — and he wasn’t going to be there by the time the papers got there. It’s a long process.”

Martinez-Cid said the investors he represented benefitted from persistent efforts by the government of Ecuador and by his Miami firm to get Landes arrested. “We worked very hard with the Ecuadorean government, with anyone who would listen, trying to push to get Landes criminally apprehended and prosecuted.”

Though Landes got out of prison this year, “he is not a very public figure nowadays, as you can imagine,” Martinez-Cid said. “Thanks to this verdict and thanks, hopefully soon, to the collection efforts, he’s not going to be profiting from any of the money. He certainly can’t overtly profit from it now. For all intents and purposes, he lives like a pauper while this is out there.”

INTERNATIONAL LAW

Attorney recovers in three cases for crash victims

Steven Marks
Podhurst Orseck

Eight years. Three cases. Four countries. Dozens of plaintiffs, one so grief stricken he stabbed to death the air traffic controller he held responsible. But finally aviation attorney Steven Marks' work for families of dozens of Russian schoolchildren who died in a mid-air collision 35,000 feet over Germany in 2002 is nearing an end.

A Spanish court in October entered the order for a \$14.5 million verdict reached earlier this year to be collected from the U.S. aviation equipment makers blamed for the accident, said Marks, an attorney with Podhurst Orseck in Miami.

The Russian airline and Swiss air traffic control were also found liable in separate court actions, and the award in the Swiss case was scheduled to be distributed a month ago.

"I certainly didn't expect it to cost so much, or take this long to resolve," Marks said. "It was a very bad decision on the part of the insurer. It could have settled this years ago."

Marks represented 30 people, mostly schoolchildren from the Russian republic of Bashkortostan who were flying to a summer festival in Spain on July 1, 2002, when their Bashkirian Airlines flight collided in mid-air with a DHL plane. All 69 people on the Russian Tupelov-154 and the two crew members aboard the DHL Boeing 757 died.

Investigators said the collision was caused by Swiss air traffic control company Skyguide, and by the American-made traffic collision warning system used on the planes, which gave orders that contradicted the instructions from the Swiss controller. An investigation showed the air traffic controller told the Russian airliner to descend, contradicting a warning given by the plane's onboard anti-collision system to climb. Meanwhile, the DHL plane was also descending, and the two planes collided.

Marks filed three claims. In the largest case he found a judge in Barcelona, Spain, receptive to testing The Hague Treaty on Product Liability, which ultimately enabled him to obtain twice as much in damages for the victims as they would otherwise have won, he said.

"It had never been used. It's easy to establish product defect in Europe, and I knew I was going to have a good liability case.



J. ALBERT DIAZ

Aviation attorney Steven Marks, who worked for the families of Russian schoolchildren who died in a plane collision, said this was the first case of a U.S. aviation manufacturer being held liable in Europe.

But I had to convince the court we had to apply this treaty," he said.

The treaty requires liability to be determined according to the law of the country where the defendants exist. This was New Jersey and Arizona, home to the aviation equipment manufacturers, Honeywell and Aviation Communications and Surveillance System (ACSS). Marks insisted his cases each be in separate courts, so there would be no consolidation of defendants and he wanted no case in Russia, which would mean low damages.

The claim against Swiss air traffic control Skyguide was made in Zurich. The one against the Russian airline went to Madrid. For the product liability case Marks filed at the same time in Barcelona and New Jersey, banking on getting a jurisdiction transfer to Spain.

"This was exactly what I wanted. We had three cases proceeding in two countries with three different judges."

The Zurich case resulted in a payment of about \$130,000 per person. The Madrid verdict against the airline resulted in a verdict of about \$20,000 per person and is being appealed by

both sides. And the \$14.5 million product liability verdict, about \$450,000 per person, should be paid out very soon, even though the case is still under appeal.

That case is significant because by being tried in the European Union using U.S. product liability law, the victims obtained a larger verdict. It was also the first instance of a U.S. aviation manufacturer being held liable in Europe. That can open the door to future suits.

In addition to the other hurdles, the sole air traffic controller on duty during the collision, Peter Nielsen, was stabbed to death at his home by a grieving Russian father whose wife and two children died in the crash. He was dropped as a plaintiff.



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Plucked From the Sky

Podhurst Orseck earned a reputation — and millions of dollars — representing the victims of airline disasters. But its plucky founder Aaron S. Podhurst says the firm has just begun to define its niche. By Jaime Hernandez

Anxiety creeps over attorney Steven C. Marks whenever he steps aboard an airliner. Marks represented the families of victims of the 1997 Silk Air jet crash in Indonesia, and images of the charred wreckage, left in the wake of the crash, often mingle with worries for his own two young daughters.

What spurs the feelings, says the Podhurst Orseck PA partner, is a visit he made two years ago to discuss a lawsuit against an airplane parts maker with the family of one of the victims. That evening, in the Singaporean family's dining room, a surviving daughter of one of the victims momentarily brought the conversation to a halt. "When's daddy coming home?" the young girl asked between sobs.

"It's very rare that I don't think of that event," Marks says from his office at the firm's headquarters in Miami. "There are certain cases that will haunt me."

His sentiments are only a small measure of the institutional memory at Podhurst Orseck — a firm with a global reputation for successfully litigating cases against airlines and other companies involved in airline disasters. Since opening its doors in 1967, it has handled more than 70 such cases and applied that expertise to broaden the firm's reach into product liability and other resource-intensive casework.

The Silk Air case, for example, was a long, drawn-out legal saga that cost the firm and its co-counsel \$4 million in out-of-pocket expenses. Last year, Marks convinced a California jury to give his clients approximately \$20 million in damages. He won an additional \$23 million for two other families who lost relatives in that crash.

Podhurst Orseck's roots in wrongful death and personal injury law are deep, stretching back to the firm's founders Aaron S. Podhurst and Robert Orseck — childhood friends who became hotshot tort attorneys working for the Miami-based personal injury firm of Nichols, Gaither, Beckham, Colson, Spence & Hicks. When that firm broke apart in 1967, Podhurst and Orseck hung their own shingle outside. Indeed, the dissolution of Nichols, Gaither spawned several leading South Florida law firms, including Colson Hicks Eidson in Coral Gables.

The law partners continued to take on personal injury cases during the late 1960s and the 1970s, developing a reputation as formidable litigators among other lawyers and judges. The turning point for the firm came in 1972, when Eastern Airlines Flight 401 crashed into the Everglades, killing 101 of the 172 passengers aboard.

The 1972 Eastern crash was the first in a string of airline disasters whose victims' families the firm has represented. In a very real way, that crash put the firm on the map in a global sense.

Since then, Podhurst Orseck has helped fight for financial awards numbering in the millions of dollars, including more than \$250 million for the families of passengers who died in the May 1996 ValuJet crash in the Everglades and \$187.5 million for the families of three Brothers to the Rescue pilots killed when their civilian airplanes were shot down by Cuban fighter jets over international waters in 1996. In 1999, the firm won the appeal of a \$37 million case against Juno Beach-based FPL Group on behalf of the family of a 12-year-old Pinecrest girl who died in a car crash because FPL workers had disconnected a traffic light.

Despite the preponderance of wrongful death and personal injury casework, Aaron Podhurst, the firm's president, chafes at the label "ambulance chaser."

"The public is concerned over whether lawyers are doing the right thing," Podhurst says. "It's important for us to be honest and hardworking. Believe it or not, the other lawyers and judges not involved in a matter will pass along our name."

And industry experts agree with him.

"This type of firm is a very high-quality litigation practice," says Andrew J. McClurg, a law professor at Florida International University who specializes in tort law and product liability cases. "It's incredibly expensive to try a case against a major corporation. These people give a voice and a day in court to people who would not otherwise have that day in court."

London-based legal research firm Chambers and Partners ranks Podhurst Orseck as one of the three top tier general litigation firms in the state, the other two being Miami-based firms Greenberg Traurig LLP and Kenny Nachwalter PA. Chambers also ranks Podhurst and longtime law partners Robert C. Josefsberg and Victor M. Diaz as three of the top general commercial litigators in Florida. Joel D. Eaton, a former Navy fighter pilot who heads up the firm's appellate division, is considered by Chambers to be one of the best in the region at his practice.

Podhurst says the concentration of top talent at his firm makes it "very competitive with the large firms" in terms of revenue, but he would not disclose how much it actually rakes in.

Unlike many other law firms, Podhurst Orseck largely draws its revenue from contingency fees, meaning all of the money needed for a case is spent up front and profitability rests on winning. Podhurst says such a system drives attorneys to work much harder, and 38 years of operating that way — and repeated victories in the courtroom — have paved the way to larger, more lucrative jury awards and settlements.

Jury or court awards, for cases that Podhurst Orseck typically accepts, range from a few million dollars up to nearly \$200 million. Podhurst says the firm usually charges clients a 30 percent to 40 percent contingency fee to represent them.

"Our revenue per lawyer and profitability is as good or better than any law firm in South Florida," he boasts.

Podhurst law partner Diaz describes it this way: "I think it is safe to say that this firm has been more profitable each year for the past [several] years. There may be one or two years that are aberrations where ... it goes up and then it goes down a bit, but the general trend has been it goes up, up, up."

LOOKS CAN BE DECEIVING

At first glance, Podhurst Orseck hardly looks like a firm that rakes in millions of dollars each year in jury awards and settlements. The firm boasts fewer than 50 employees overall — 13 of them attorneys. The practice's eighth floor office in downtown Miami does not have a bird's eye view of Biscayne Bay, but rather of a torn-up section of Miami's West Flagler Street bustling with noisy traffic and tourists. It is safe to say the office looks about like it did when it was renovated 20 years ago, right down to the lobby's 1970s-era leather couches.

Law partner Diaz says unless the state and federal courthouses move from their current locations a few blocks away, he doubts the firm will ever relocate. Expansive offices with breathtaking waterfront, he says, are meant to wow clients but can often turn off potential clients who feel like they would be paying for elegant offices instead of legal expertise. Expensive offices also cut into profits, the partners are quick to point out.

Décor notwithstanding, area legal experts, and those familiar with the organization, say Podhurst Orseck is a formidable firm whose disciplined management has allowed it to stay relevant over the years while retaining its top talent.

“From where I sit, they’re one of the top two or three firms in terms of attorney compensation,” says Stuart Z. Grossman, whose Miami-based firm Grossman and Roth PA specializes in medical malpractice litigation and is similar in size to Podhurst Orseck. “The trial firms, such as ours, tend to have the highest revenue streams of all law firms. It’s the nature of the cases, and they work them [hard].”

Last August, attorney Joel Perwin left Podhurst Orseck’s appellate division after 23 years to start his own firm in downtown Miami. He says Podhurst Orseck’s inventory of cases has always been “incomparable,” allowing money from settlements and jury awards to keep flowing in while other cases remain pending. The fact that his former employer typically takes the most difficult — and most lucrative — cases and wins them also is a boon, Perwin says.

“When you have such a substantial inventory of cases, and similar cases are always coming in, you know at some point a substantial percentage of them will favorably turn over, and the fees of those cases will come in,” Perwin says. “It’s not ever a question of a given 12-month period. It’s about working hard on cases and knowing they will turn over, if not this year then next year.”

Working in the shadow of larger area law firms such as Greenberg Traurig and Holland & Knight LLP, which have pursued aggressive growth strategies in recent years, has not nudged Podhurst Orseck to expand more quickly, say the firm’s principals.

Indeed, Podhurst law partner Diaz says one of the advantages to remaining a boutique firm is the steady flow of referrals from larger competitors eager to avoid conflicts of interest when handling appeals, for example. Other times, cases are referred because they may be too complex or in a field where the larger firm has little expertise. Diaz says his firm relies on attorney referrals and word of mouth to attract new business instead of media advertising, which law firms are restricted in using to promote themselves.

“Big law firms don’t want to refer [cases] to another big firm that can take the client away from them,” Diaz says. “They know that by referring the litigation to us, that client is coming right back to them because we can’t service all their other needs and have no intent of growing to service all their needs.”

“Highly specialized, highly concentrated, highly expert areas of the law – that’s our strength,” he adds. “That’s what attracts people to associate with us and enables us to stay small but be extremely profitable.”

STAYING SMALL PAYS BIG

Not that the pressure to grow has not been abundant.

Podhurst says he and the late Mel Greenberg, co-founder of Greenberg Traurig, were great friends. As Podhurst Orseck grew during the late 1970s and early 1980s, Podhurst says he spurned several overtures by Greenberg and other larger firms to merge.

“We always wanted to stay small and do our own thing,” Podhurst says. “We wanted to have a small boutique firm.”

Diaz compares the consolidation the legal services industry has undergone during the past several years to Darwinism: as specialty firms are gobbled up by larger ones, the field of competition for Podhurst Orseck lessens, resulting in more client referrals.

But it was evolution of another sort that has spurred Podhurst Orseck to diversify its casework in a bid to stay current and profitable.

When the Florida Legislature, in 2003, set a \$500,000 per physician cap on pain and suffering damages in medical malpractice liability cases, it sent a chill through the industry. Fearing that it would be pigeonholed as a firm whose most lucrative specialty was personal injury and wrongful death cases, Podhurst Orseck accelerated its ongoing efforts to build off of its experience in those cases and apply it to product liability and other areas.

Diaz, for example, recently served as co-lead counsel with Coral Gables-based Colson Hicks Eidson in a bevy of lawsuits against Ford Motor Co. and Bridgestone/ Firestone North American Tire LLC. The suits

stemmed from tire blowouts on Ford sport-utility vehicles that resulted in numerous injuries and deaths in the United States and overseas.

In 2003, Diaz told the *Daily Business Review* that he estimated total potential damages at about \$750 million. Many of the cases were settled, however, and the actual settlement amounts were never disclosed. Nonetheless, working on those cases allowed Podhurst Orseck to build off of its core competencies while making a name for itself in new areas of the law.

“We can respond very quickly to changes in market forces,” says Diaz. “If one area of law is starting to become less profitable, like medical malpractice because of all the reforms, we have the ability to move very quickly.”

Ervin A. Gonzalez, a civil litigation attorney with Colson Hicks, has worked alongside Podhurst Orseck’s attorneys numerous times on both sides of the aisle. “They do their fair share of the work [as co-counsel],” Gonzalez says. “It’s not like other relationships where you have co-counsel but they wait for their fee and you do all the work.”

He locked horns with the firm when his client sued Miami-based Lennar Homes Inc. Gonzalez describes opposing Podhurst Orseck as hardly a mouth-watering experience.

“They don’t have a lot of lawyers,” he says. “If they need help, the help they’re going to get is another star on the bar. They’re not afraid of the courtroom. If you need a real trial lawyer to try a case in front of a judge, these lawyers can do that, and do it well.”

Podhurst Orseck’s appellate practice is not too shabby, either. Grossman, of Grossman and Roth, says his firm has entrusted Podhurst Orseck with its appeals for 30 years.

“We have had the wonderful good fortune of getting some enormous verdicts and they’ve never lost any of our verdicts on appeal,” Grossman says. “That kind of proven performance is why I keep going back to them.”

Podhurst, Perwin and legal observers say the firm’s legal talent is the primary driving force behind Podhurst Orseck’s success. Most of its attorneys have tenures of at least 20 years and have never worked at another firm. Several have graduated at the top of their respective classes from law schools such as Yale, Harvard, Columbia and Dartmouth. Three of them – Barry L. Meadow, Michael S. Olin and of-counsel Walter H. Beckham – are certified to try cases in front of the US Supreme Court.

Perwin says when a position does open, Podhurst likes to target young attorneys who are willing to assume a lot of responsibility early in their careers. He describes Podhurst as “frank” with job candidates about the intense workload, pressure and competition, but also reassures newcomers that they can rely on senior partners for help and mentoring. Podhurst himself is readily accessible to the attorneys, going so far as to have a direct extension from the office to the phone in his Aspen, Colo., vacation home.

“They are very selective in who they bring in as a new young associate,” says US District Judge James Lawrence King, whose former law clerk, Ricardo Martinez-Cid, now is an associate attorney at Podhurst Orseck.

Diaz says turnover at the firm occurs every 10 years or so, when the older attorneys decide they need to bring in a younger associate to help them do the legwork on cases. He and Podhurst say they want to perpetuate the firm by having lawyers in their 60s mentoring 40- and 20-year-old attorneys, something Diaz dubs a “generational passing of the torch.”

“Like any good CEO, he’s very good at cultivating young people and bringing them along and thinking of the day when he’s not around, and how will there be continuity,” Diaz says of Podhurst.

The firm sometimes runs into problems filling positions because turnover is low and the workload is taxing — a reason why Podhurst targets a particular type of attorney, Diaz says. Many bigger firms are mentoring first- and second-year law students with the expectation that they will be ready to jump into the legal fray when they get their law degrees. Podhurst Orseck relies instead on its reputation and the opportunity for young lawyers to earn lucrative salaries, assume more responsibility and try high-profile cases.

“It does make it more difficult when you want to identify legal talent because you’re not a regular repeat player in the legal recruiting market,” says Diaz, who has been looking for more than a year to fill an

associate lawyer position. "You're competing with [firms] who have been wooing these people and going to their law schools for years."

A DIFFERENT KIND OF STRUCTURE

The management structure is also fairly unorthodox. Podhurst, 69, is the president of the firm, but unlike most major law firms, Podhurst Orseck has no managing partner who oversees the business operations. He and the partners share all other administrative duties. For example, Olin is a good administrator and helps the office manager with everyday issues, people familiar with the firm say. Diaz is the de facto marketer and spokesman for the firm, usually handling media inquiries and helping design the firm's brochures and Web site.

Podhurst Orseck lawyers also keep close tabs on their colleagues' work.

Unlike large law firms with hundreds of employees, attorneys at Podhurst Orseck do not have their performance tracked by the number of hours billed, Diaz says. Instead, the firm remains small enough for Podhurst to take a personal interest in each of the lawyers' casework.

"We don't have to rely on artificial objective means of ... judging your performance," Diaz says. "We all go to lunch together every day. You know how hard other lawyers are working. You know when they're making money and you know when they're not making money. It's a much more humane kind of business model."

The formula seems to be working for Podhurst. He, Diaz, Perwin and others say turnover is so low at the firm and job opportunities are so rare that even staff positions are hard to come by. Carole Hrebik, for instance, has served as Podhurst's office manager since 1971.

That is not to say that working at Podhurst Orseck is a cakewalk. It is not unusual for the firm's lawyers to hop on a 6 a.m. flight to another state in order to take a 10 a.m. deposition, only to fly back to Miami by midnight because the deposition is needed the following day. In many bigger firms, experts say, a junior associate will look at a deposition and call or email the details into the office and up the chain of command to the litigator handling the case.

That hands-on work pays off in the end, Diaz says.

"It's not fun when you're doing it," he says. "But when you're doing everything in the case, [you remember] what the witness said in the deposition and then know that this document that you just looked at contradicts what he said two weeks ago when you were in that deposition."

A FIRM TAKES FLIGHT

That acumen has built up over years, starting in earnest after the first fatal 1972 Eastern Airlines crash Podhurst Orseck was involved in litigation over.

Lawyers all over the country, including Podhurst, who was representing the families of those on board, filed dozens of lawsuits against Eastern in state and federal court in Miami.

District judge King recalls, during one of the hearings, Podhurst suggesting to state and federal judges on the case that the lawsuits be combined into one class-action suit and that the judges jointly listen to all of the discovery presented during the hearings. The judges agreed. Podhurst was appointed lead counsel for the plaintiffs, and the case was eventually settled.

His law partner Diaz says, "Through that case, he got to know all of the prominent aviation lawyers in the United States. Like everything else in the legal profession, the best way to get business is to do a good job for your clients. They will refer you to other clients."

The case started a chain reaction that saw the firm become associated with other plane crash litigation. King says Podhurst Orseck was a pioneer in suing American airline companies in Miami, state or federal court, regardless of whether a crash occurred in Florida, in other states or abroad. The firm successfully argued that companies could be held liable regardless of where an accident occurred.

Such was the case in the Silk Air matter. A Singapore attorney who represented some families who lost relatives in the crash contacted Podhurst Orseck because of its expertise in aviation disaster lawsuits. Marks

was assigned to case, and he represented 33 families against Ohio-based Parker Hannifin Corp. After discrediting defense witnesses at trial and presenting thousands of documents showing a device in the tail rudder made by the company had failed and caused the crash, Marks convinced a 12-member jury to vote unanimously in favor of three of his clients. The \$43.6 million jury award set the benchmark that led to confidential settlements for the rest of Marks' clients in the case.

"There was nothing but tears in the courtroom when the jury award was read," Marks recalls. "I even started to tear up. Our clients started to hug us. The jurors all took my name and said they were coming to Miami to see me. One gave me his juror badge as a reminder of what happened. It's still sitting on my desk."

Since the Eastern case, Podhurst Orseck has taken on various airplane-related cases, including the November 2001 crash of American Airlines Flight 587 in Queens, N.Y., and the Air France Concorde disaster just outside Paris in 2000. Between 1993 and 1998, the firm negotiated more than \$250 million in settlements, according to *The Miami Herald*.

"They have ... in last decade become the premier law firm in America specializing in representing people who have been killed or injured in airplane crashes," King says.

The success with airline crash litigation helped Podhurst Orseck earn a reputation for having hard-nosed attorneys not afraid to battle in a courtroom. King and Gonzalez, of Colson Hicks Eidson, say it is that attitude that prompts opposing counsel to settle.

"Generally speaking, those firms in Miami who are always willing and have a reputation to be willing to try the case seem to get a much higher number of settlements than do other firms whose reputations are such that they do not want to go to court," King says.

POLITICS AS USUAL

Podhurst encourages his attorneys to get involved in the community and civic organizations as a way to do good and also to drum up business by getting the firm's name better recognized. He is a past president of the Greater Miami Jewish Federation and is an active Democratic Party fund-raiser, for example.

His political participation began during the 1960s when he struck up a friendship with former neighbor and longtime Florida political icon Robert "Bob" Graham. Podhurst served as Graham's campaign manager in Graham's early political days, and Podhurst Orseck partner Robert Josefsberg was Graham's general counsel when the politician was Florida's governor in 1980.

More recently, Podhurst was involved in the divisive case of a Cuban rafter who came ashore after his mother and several others died at sea as their boat drifted closer to Florida's shores.

Podhurst served as a mediator between the federal government and the Miami relatives of Cuban émigré Elian Gonzalez, who was just a child when he attempted the deadly Florida Straits crossing. Podhurst was a longtime friend of then-Attorney General Janet Reno and had developed ties to the Cuban exile community through his non-profit work and his involvement in the Brothers to the Rescue case.

In April 2000, he was on the telephone with Reno trying to negotiate a peaceful handover of the boy, who was to be sent back to Cuba at his father's request. During the call, federal agents stormed the Little Havana home where Elian had been staying and seized him. An angry Podhurst, who was unaware of the raid until after it had occurred, said at the time that he was surprised and embarrassed by the action.

Podhurst says it is important for his firm's attorneys to be active in the community because they can learn how to better relate to potential jurors and they will know what issues are affecting people. The exposure to high-profile businessmen also does not hurt.

"The more you're out there, the more people will know you and like you and the more business you will attract," he says. "I think being a person who's connected gives you access to people who control business. If you're a very good and hard-working lawyer, people will want to send you business."

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Miami's Podhurst Orseck Flies High

Aviation boutique pilots plaintiffs to two key wins.

BY DAVID LYONS
SPECIAL TO THE NATIONAL LAW JOURNAL

LOCATION, LOCATION, LOCATION. Of course, geography doesn't fully explain the success of Podhurst, Orseck, Josefsberg, Eaton, Meadow, Olin & Perwin P.A., but there's no denying that being in Miami, an international air travel hub, has helped the firm make its mark on aviation law.

Many of the crash cases handled by Podhurst Orseck in the past two decades can be plotted on a map of Central and South America. The firm has represented people injured and the estates of people killed in crashes in Guatemala, Panama, Brazil, Ecuador, Bolivia and Chile.

Courts have ruled that such suits can be filed in state and federal courts in Miami if the affected airline does business in a Florida city or if victims bought tickets there. There are also monetary reasons for suing locally. American juries, particularly those in Florida, tend to award larger damages than do juries in Central and South America.

Though Podhurst Orseck has taken on a number of cases stemming from accidents in Europe, including cases arising from the 1988 destruction of Pan Am Flight 103 over Lockerbie, Scotland, other plaintiffs' lawyers say it's one of the first firms people consult when a plane goes down anywhere in the Western Hemisphere.

In fact, despite having just 12 lawyers, the boutique has established itself as one of the nation's pre-eminent plaintiffs' aviation law firms.

That reputation appears to have been reinforced after Podhurst Orseck and allies from other South Florida firms prevailed in high-profile cases that were closely watched in Washington, D.C., Miami and Latin America.

In the first, Podhurst Orseck name partner Aaron Podhurst headed the plaintiffs' steering committee that represented more than 150 victims' families in the 1995 crash of an American Airlines jet into the side of a mountain near Cali, Colombia.

'Highly Proficient'

In the estimation of many aviation lawyers, the plaintiffs' lawyers notched a major coup when they persuaded U.S. District Court

Judge Stanley Marcus in Miami to find American Airlines liable on a motion for summary judgment for "willful misconduct" in a crash—a question normally submitted to a jury. It was the first time in 70 years a judge had so ruled. The Sept. 11 ruling lifted the \$75,000 damage cap under the Warsaw Convention, which normally limits the amount plaintiffs may collect in international air disasters. *In Re Air Crash Near Cali, Colombia*, 96-MD-1125.

In another ruling last December, U.S. District Judge James Lawrence King, also in Miami, awarded \$187.5 million in a nonjury trial to the families of three Cuban-American fliers who had been shot down by the Cuban Air Force in 1996. The Cuban government chose not to defend itself. *In Marlene Alejandre v. the Republic of Cuba*, 10126.

Despite the hard-fought negotiations that frequently characterize aviation cases, defense lawyers say they hold the firm in high regard.

"I truly do appreciate it when they are on the other side," says J. Thompson Thornton, of Miami's Thornton, Davis & Murray. His firm is representing American Airlines in settlement talks stemming from the Colombia crash case.

"They are highly proficient guys," Mr. Thornton says. "They do have a reputation that's well-deserved—that their word means something."

Frank Angones, of Miami's Angones, Hunter, McClure, Lynch & Williams P.A., who represents the family of one of the downed fliers in *Marlene Alejandre*, says he brought Podhurst Orseck into the Cuba case because "Aaron Podhurst has the reputation of being the best aviation lawyer in the Southeast and one of the best in the nation."

Despite the firm's success, Mr. Podhurst, the firm's founder, says its partners are happy with things the way they are.

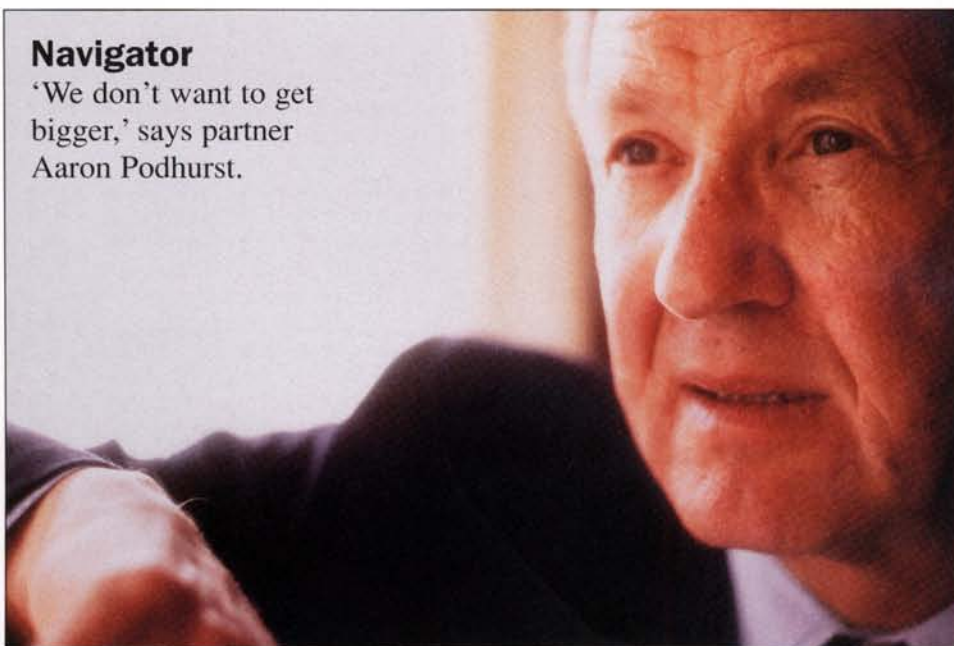
"We have been trying to stay a boutique law firm for many, many years," Mr. Podhurst says. "We don't want to get bigger. We don't want to change the character of the firm."

By Accident

Aviation was not always in the forefront of Mr. Podhurst's work. A New York native and Colombia University School of Law graduate, Mr. Podhurst, 61, started his firm in 1967, taking on products and personal liability

Navigator

'We don't want to get bigger,' says partner Aaron Podhurst.



Podhurst Orseck Is at Hub of Aviation Litigation

ity cases and commercial litigation, six years after arriving in Florida. Mr. Podhurst and Walter H. Beckham Jr., of counsel, had previously worked at a now-defunct Miami firm, Nichols, Gaithers, Beckham, Colson, Spence & Hicks.

But involvement in major aviation cases did not come until 1972, when an Eastern Airlines wide-bodied jet crashed into the Florida Everglades. The firm was retained by dozens of families. A Miami federal judge named Mr. Podhurst chairman of the Eastern plaintiffs' steering committee. His status as chairman or as a member of steering committees grew over the years, as the firm became more involved in air-crash casework.

Two of the firm's partners—Joel D. Eaton, 54, and Steven C. Marks, 37—are licensed pilots. Mr. Marks is working on cases stemming from the 1996 crash of the ValuJet DC-9 that crashed in the Everglades, killing all 110 aboard.

Partner Victor M. Diaz Jr., 37, handles much of the firm's Latin American work in the aviation field. Mr. Angones says he brought Podhurst Orseck into the Cuba case largely because Mr. Diaz had performed considerable work on a case brought by Cuban-American lawyers in Miami to improve the conditions of Cuban refugees incarcerated at Guantanamo Naval Base.

Mr. Angones says he believed he would need top-drawer legal talent to square off against an anticipated all-out effort by Cuba's lawyers. Cuba, however, took the position that the U.S. court did not have jurisdiction over the case. The case was heard by Judge King, who ruled that the



Litigators: Joel S. Perwin, left, worked on Cuba shoot-down case; Michael S. Olin, center, had role in suit against American Airlines; Steven C. Marks handles cases stemming from ValuJet crash.

United States had jurisdiction under the Anti-Terrorism and Effective Death Penalty Act of 1996.



Robert C. Josefsberg: The former federal and state prosecutor handles white-collar crime cases.

cases. He represented the university when it was sued by a highly recruited quarterback who became disgruntled with his playing time. The case was settled in 1996.

The firm now has two appellate lawyers—Mr. Eaton and Joel S. Perwin, 49—who

Other Tort Work

Not everyone is involved in aviation work. Other lawyers tend to the firm's general tort practice, which also includes automobile, products liability and medical malpractice litigation. The firm also takes on commercial, matrimonial and criminal cases. The firm counts Ryder System Inc., Florida East Coast Properties and the University of Miami as corporate clients.

Partner Robert C. Josefsberg, 59, a former federal prosecutor in South Florida and special assistant state attorney, focuses on white-collar criminal and commercial

often do appellate work for firms that don't have such expertise. Mr. Perwin is a former federal prosecutor in Washington, D.C., who served as an associate counsel to Vice President Walter Mondale and as staff counsel to the U.S. Senate Judiciary Committee before arriving in Miami.

So far, it has not been necessary for either man to step before an appellate panel to keep the American and Cuba decisions intact. In *Air Crash Near Cali*, the district court directed the parties to proceed with several exemplary damage

trials before taking their arguments to the 11th U.S. Circuit Court of Appeals in Atlanta. But before the first trial went off, in mid-January, American Airlines started making settlement offers to the plaintiffs' families.

Mr. Podhurst, while lauding the ongoing negotiations, thinks the offers were overdue. "We did not get along," he says of relations with American's counsel.

After the Verdict

American, however, was and still is reluctant to concede that its flight crew was entirely to blame. It is suing two manufacturers of computer and navigational aids in the cockpit for allegedly installing equipment and software that played a role in leading its pilots off course.

Mr. Podhurst does not expect Cuba to make similar offers. So he and his allies have written to the White House to ask the Clinton administration for authorization to tap into roughly \$140 million in Cuban assets frozen by the U.S. government.

But Mr. Podhurst says the plaintiffs have received overwhelming support from Florida's congressional delegation and its two U.S. senators.

"The thing we have going for us is that the president has signed the anti-terrorist bill," he says.

"If Congress is going to pass a statute that allows access to the assets," Mr. Podhurst reasons, "they have to enforce it." **NLJ**

AARON PODHURST:

A LEGENDARY PLAINTIFF'S ATTORNEY

On the night of December 29, 1972, Eastern Airlines Flight 401 crashed into the Everglades with 101 fatalities. The resulting investigation showed that the deadly crash was the result of the flight crew's failure to monitor cockpit instruments that showed the Lockheed L-1011 jet was gradually losing altitude.

Aaron Podhurst, then an up-and-coming Miami attorney, was appointed head of the plaintiffs' steering committee, as the judge handling the case felt there was no need to try the liability issues separately. "I became known as an aviation lawyer, and our firm has had that specialty ever since," says Podhurst, who is managing partner of Podhurst, Orseck, P.A. in Miami.

To represent clients effectively in aviation cases, Podhurst says it's important to understand how the industry works. "You need to know how air controllers operate, what procedures a pilot and maintenance crew follow and how airlines operate," he says. "When you cross examine an engineer, pilot or manufacturer, you have to recognize an opportunity to dig deeper into the issue."

Noting that the firm has been involved in more than 1,000 aviation-related cases since the 1970s, Podhurst adds, "Today,

we probably handle more aviation work than any other firm in the Southeastern U.S."

Through the decades, Podhurst has built a successful career as a plaintiff's attorney, handling complex aviation, automotive, healthcare, construction and other types of lawsuits. His recent cases involve representing physicians in litigation against health maintenance organizations (HMOs), and the firm serving on the plaintiffs' steering committee in litigation over Chinese drywall in Florida homes.

"In the 2000s, we have expanded our practice into complex commercial litigation," says Podhurst, noting that the 13-attorney firm represents clients and corporations throughout the United States, and in several foreign countries.

A NATURAL LOVE FOR THE LAW

Born in 1936 in New York City, Podhurst knew at an early age that he was headed for a career in law. "When I was in high school in upstate New York, I always liked debating and figuring out issues related to the law," he recalls. "I would hang



around the courthouse and talk to the district attorney and the other lawyers.” In the 1950s he headed off to the University of Michigan on a basketball scholarship, and played guard/forward while earning a bachelor’s degree in business in 1957. He then earned his J.D. degree at Columbia University, where he was a Harland Fiske Stone Scholar, and was admitted to the Florida and New York Bars in 1961.

Meanwhile, Podhurst began dating a girl from Miami Beach who was a freshman at Michigan when he was a senior. After law school, Aaron and Dorothy Podhurst were married and decided to move back to Florida. “We’ve been here ever since 1961,” says Podhurst. With three daughters and eight grandchildren, Podhurst spends much of his free time with family. He’s also a golfer and has a summer home in Colorado. “I love what I do, and I’ll keep on going as long as I’m healthy,” he says.

A SUCCESSFUL CAREER

After arriving in Miami and working for a year as clerk for an appellate judge, Podhurst joined the Perry Nichols firm to get his start as a litigator. In 1967 he left to form his own trial law firm with partner Bob Orseck, who passed away in 1978.

Podhurst recalls that when he was beginning his career, he enjoyed watching top national litigators like Edward Bennett Williams in action. “I had an opportunity to learn from the masters,” Podhurst says. “Now, I enjoy mentoring younger lawyers myself, helping to improve their skills. I tell them to work as hard as they can for their clients, giving them the best possible representation and making sure they get a fair trial.”

A long-time leader in the legal profession, Podhurst served as president of the Florida Justice Association (1977–1978). He’s also one of just 500 attorneys in the International Academy of Trial Lawyers and was president in 1990–91.

On a national level, Podhurst is a fellow of the American College of Trial Lawyers and a board member of the American Association for

Justice. He has chaired various aviation committees of the American Bar Association, American Association for Justice and The Florida Justice Association.

After more than four decades as a litigator, Podhurst says the U.S. system of justice is still working well. “I was taught to respect the courts, respect the judges and respect the other lawyers in a case,” he says. “To me, we’re the greatest country in the world because of our system of justice.”

Podhurst is also an active volunteer in the South Florida community. He serves on the University of Miami Board of Trustees, the board of the Community Partnership for the Homeless and is board chairman of the Miami Art Museum. He was president of the Greater Miami Jewish Federation, and received the Medallion of Honor from the National Conference for Community and Justice and the 1999 Jurisprudence Award from the Anti-Defamation League.

“Aaron is a role model and mentor, not just to me but to many lawyers in South Florida,” says Harley S. Tropin, a founding partner of Kozyak Tropin & Throckmorton, Miami. His enthusiasm and his genuine affection for people, along with his legal skills, make him a real leader in the legal profession and in the community.” ^{TT}



Aaron Podhurst with Pope John Paul II; Above with Israeli Prime Minister Yitzhak Rabin.



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2009 LAWYERS OF THE YEAR

Best Lawyers has named three individuals as Lawyers of the Year in South Florida, based on their particularly high level of peer recognition. Congratulations to Aaron Podhurst for being selected a 2009 Lawyer of the Year.

2009

South
Florida's
**LAWYER
OF THE
YEAR**

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Aaron Podhurst has been a distinguished trial lawyer for more than forty years. He was born April 29, 1936, in New York City, and received his B.A. from the University of Michigan in 1957, and his Juris Doctorate Degree from Columbia University, where he was a Harland Fiske Stone Scholar. Aaron was admitted to the Florida and New York Bars in 1961.

Aaron's distinguished career has brought him honors and offices from virtually every major legal organization, including the presidencies of the International Academy of Trial Lawyers and Academy of Florida Trial Lawyers, fellowship in the American College of Trial Lawyers, member of Board of Governors of Association of Trial Lawyers of America, membership in the International Society of Barristers and the Inner Circle of Advocates, member of the Cuban American Bar Association and chairmanship of various aviation committees of the American Bar Association, Association of Trial Lawyers of America and the Academy of Florida Trial Lawyers.

Although Aaron made his reputation as one of the nation's premiere plaintiff's aviation lawyers, and continues to hold that status, he has guided the firm in recent years to its status as one of the major commercial litigation firms in South Florida. At the same time, he has managed to devote countless hours to community service, including the presidency of the Greater Miami Jewish Federation, recipient of the Medallion of Honor from the National Conference for Community and Justice and the 1999 Jurisprudence Award from the Anti-Defamation League and membership in many civic organizations.



Aaron S. Podhurst
Podhurst Orseck

AVIATION LITIGATION
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September 13, 2012

Circulation: 9,796

VERDICTS & SETTLEMENTS

\$12M settlement reached in fatal helicopter crash

Case: Valeria de Almeida Ramalho v. Rolls-Royce

Case no: CACE10029273

Description: Negligence

Filing date: July 19, 2010

Settlement date: Aug. 23, 2012

Settlement amount: \$12 million

Judge: Broward Circuit Judge John Murphy III

Plaintiff attorney: Ricardo Martinez-Cid, Podhurst Orseck, Miami

Defense attorney: J. Thompson Thornton, Thornton, Davis & Fein, Miami

Details: On Jan. 5, 2009, Brazilian national Gilberto Ramalho was in his helicopter with his wife, Mariza Klinker Dos Santos Ramalho; daughter, Roberta de Almeida Ramalho; her friend Bruna Manzato Antibero; pilot Mauro Honoria da Silva; and co-pilot Chao Chien Feng Jr.

As it was hovering

to land at Ramalho's residence in Sao Paulo, Brazil, the engine failed at an altitude of 60 feet, and the Agusta A109C helicopter plummeted onto a concrete driveway and caught fire on impact.

Scan to read
other Verdicts &
Settlements.

Gilberto Ramalho, who owned a boat manufacturing company, died in the crash, and the other five aboard suffered various injuries. Most of the injuries were serious, involving numerous broken bones.

Rolls-Royce Corp. designed and built the engine and produced the maintenance manual. Before its move to Brazil, the aircraft was maintained by Cav-Air, a helicopter maintenance company based in Fort Lauderdale.

The plaintiffs filed a negligence law-



J. ALBERT DIAZ

Plaintiff attorney Ricardo Martinez-Cid of Podhurst Orseck says he thinks the case came to an early settlement because there was good evidence on the liability issue.

suit against Rolls-Royce and Cav-Air, but the maintenance company went out of business. Only Rolls-Royce went to trial.

The interests of Bruna Manzato Antibero were controlled by her parents, Wagner and Ana Lucia Antibero.

Plaintiffs case: Plaintiffs attorney Ricardo Martinez-Cid alleged the engine was improperly designed and a part that failed was misaligned. Referred to as the corncob, the part wore down over time until the teeth on its gear broke, causing engine failure.

However, discovery on liability never proceeded. Early in the lawsuit, there was a battle over jurisdiction. Rolls-Royce wanted to try the case in Brazil.

Judge Murphy ruled in favor of the plaintiffs to keep the case in Florida. The

case was on appeal to the Fourth District of Appeal when Rolls-Royce opted to settle.

Defense case: Rolls-Royce attorney J. Thompson Thornton said the case never reached the point of answering the complaint and no affirmative defenses were detailed. He declined to discuss the terms of settlement, citing confidentiality.

"It was litigation that was either going to be tried in the U.S. or Brazil. It was in the best interest to settle. It was a terrible accident," he said.

Thornton noted the judge would have dismissed the case were it not for the fact that Cav-Air was a party, citing Murphy's Feb. 10 order.

"Florida is not, and cannot be, the

courthouse for the world," Murphy said. "If this court had the discretion to sever the actions against the two defendants, allow the action as to the nominal Florida defendant to remain (in case the plaintiffs ever decide to pursue a trial on their claim for damages against the dissolved limited liability company) and dismiss the action against the real defendant, Rolls-Royce, it would definitely do so."

Outcome: Terms of the \$12 million settlement, which is the combined value of separate settlements, were not disclosed. The widow suffered third-degree burns and fractured vertebra and ribs. Her daughter suffered fractured vertebra and lung contusions.

Martinez-Cid noted Manzato Antibero suffered a fractured heel bone. The pilots suffered chest and rib injuries and fractured vertebra. Each case was dismissed over a period of weeks as each settlement was reached. That last plaintiff's claims were dismissed Aug. 23.

Martinez-Cid said he believes the case came to an early settlement because there was good evidence on the liability issue, and Rolls-Royce knew the plaintiffs were prepared to pursue the case in Brazil if necessary.

"It did make sense for the insurers to want to resolve it," he added.

Quote: "We were arguing it didn't make sense to try the case in Brazil because all of the information on the cause of the crash was here — the design of the engine, the work done at Cav-Air. The Brazilian-based maintenance was done by an affiliate of Rolls-Royce, and they were following the manual," Martinez-Cid said.

— Adolfo Pesquera

AVIATION LAW Unguided plane crashed in storm

JUDGE AWARDS FAMILY OF FORGOTTEN **MIAMI PILOT**

by John Pacenti

jpacenti@alm.com

Most pilots of small aircraft know to be especially wary of spatial disorientation when the horizon is invisible. It's the reason John F. Kennedy Jr. is no longer with us.

A trick of the inner ear makes the pilot believe the plane is flying level when it's in what is known as a "graveyard spiral."

Experienced pilots know how to get out of such a jam, especially if they are alerted by air traffic controllers that they are descending.

Veteran pilot Walter Daggett was left to his own devices June 25, 2006. He had just retrained for spatial disorientation, but the Federal Aviation Administration air traffic controller forgot about the plane carrying Daggett, his father and sister.

U.S. District Judge Adalberto Jordan decided Sept. 30 that the U.S. government was 55 percent liable for the Piper Malibu crash



Ricardo M. Martinez-Cid, a partner at Podhurst Orseck, said the air traffic controller directed the plane into a storm and then forgot about it.

in Tafton, Pennsylvania, that killed Daggett, his father, Milton Daggett of Eustis, and sister, Karla Daggett of Limerick, Maine.

Jordan awarded \$4.35 million to the Daggett family after finding the pilot was 45 percent at fault and deducting for it.

"The air traffic controller working the Daggett aircraft not only put it into bad weather but just forgot about it," said Ricardo M. Martinez-Cid, a partner at Podhurst Orseck in Miami who

represents the family. "I think we proved that on trial that he wasn't paying any attention to the aircraft at all."

The Daggetts took off from Greensboro, North Carolina, en route from a family wedding to Sanford, Maine. Milton Daggett was a former commercial airline pilot.

The FAA denied any wrongdoing, arguing in a two-week bench trial that Walter Daggett was solely responsible.

The government, represented by Henry B. Goddard, an attorney with Justice Department's civil division, also fought expert witness testimony. He did not return a call for comment by deadline.

"It was a tough case," Martinez-Cid said. "The government from the beginning refused to acknowledge any responsibility."

The government could not invoke qualified immunity because it was sued under the Federal Tort Claims Act for negligence.

Jordan, in his finding of facts and conclusions of law, found the



The Piper piloted by Miami pilot Walter Daggett dropped 1,700 feet in less than 20 seconds, circling in a downward spiral before crashing.

controller focused on another aircraft while the Piper descended and fell off the radar.

Jordan identified the air traffic controller only as Mr. Wilson, an employee in the airport tower at Wilkes-Barre, Pennsylvania. The court docket listed Jason Wilson as being deposed.

“Mr. Wilson did not notice this disappearance because he had forgotten about or lost track of the Piper,” Jordan wrote. “Had

Mr. Wilson made contact with Walter before 12:48:15, Walter, an experienced pilot, could have and would have realized his spatial disorientation and corrected the problem (the graveyard spiral) by focusing on his instruments.”

After entering a storm cell, the Piper dropped 1,700 feet in less than 20 seconds, circling in a downward loop.

With no horizon in sight inside the storm cell, Daggett was literally lost in the clouds. The more he pulled up on the yoke to stop his descent, the tighter the spiral became.

“Walter realized his spatial disorientation problem only when he broke through the clouds, and he then tried to correct what he perceived as the problem by pulling back on the controls, but this only caused the plane to go down faster and the wings to break,” Jordan wrote.

One of the most famous cases of spatial disorientation is the death of John F. Kennedy Jr., whose private plane crashed in 1999 on his way to Martha’s Vineyard, Massachusetts.

Jordan awarded \$2.55 million to Preston Daggett, the pilot’s widow; \$1 million to Barbara Daggett,

THE CASE

Case Name: Margaret Preston White Daggett et al v. The United States of America

Case Number: 08-cv-23108

Court: U.S. District Court, Miami

Judge: Adalberto Jordan

Judgment: \$4.35 million

Claims: A federal air traffic controller in Wilkes-Barre, Pennsylvania, forgot about Walter Daggett’s Piper Malibu aircraft on June 25, 2006, allowing him to fly into a storm, become disoriented and crash.

Findings: The judge found the U.S. government 55 percent at fault.

With no horizon in sight inside the storm cell, Walter Daggett was lost in the clouds. The more he pulled up on the yoke to stop his descent, the tighter the spiral became.

the widow of Milton Daggett; and \$796,000 to Marisa and Anna McPherson, daughters of Karla Daggett.

Martinez-Cid said it doesn’t make sense why Wilson forgot Daggett’s airplane. He only had two other aircraft to deal with and testified at the two-week trial that he transferred to Wilkes-Barre because of its slower pace.

“He was just not as vigilant as he should have been,” Martinez-Cid said.

The FAA did not say whether Wilson is still an air traffic controller.

John Pacenti can be reached at (305) 347-6638.

JURY VERDICTS

MONDAY, April 3 2006

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

Case: Julie Ross, Ashley Ross, Jorden 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

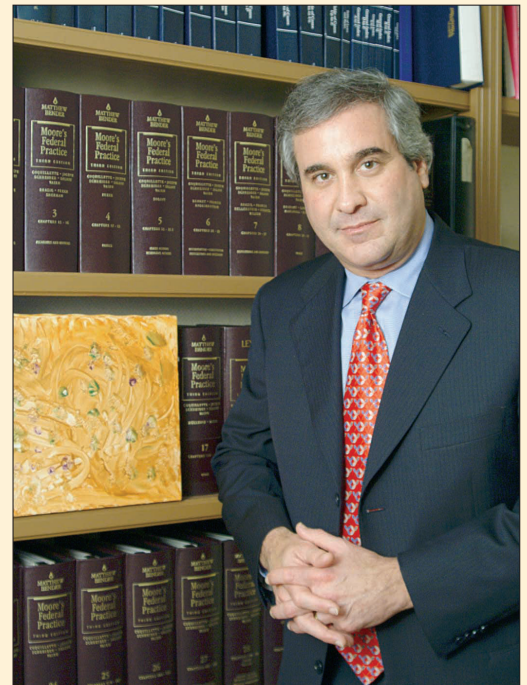
Deerfield Beach International Fishing Pier, and all aboard were killed. Ross' widow and four children filed suit against the aviation company that operated the towers.

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." ♦

dbbr DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Jury awards \$195 million against bank ex-president

Case: Vision Inc. vs. Nicolas Landes, Banco Popular del Ecuador and Banco Popular International

Case No: 02-0008659-03

Description: Civil theft

Filing date: May 6, 2002

Trial date: Nov. 15, 2010

Jury award: \$195 million

Judge: Broward Circuit Judge Mily Rodriguez Powell

Plaintiff attorney: Ricardo M. Martinez-Cid, Podhurst Orseck, Miami

Defense attorney: None

Details: Nicolas Landes was one of the most prolific bankers in Latin America, heading a \$2.1 billion financial group that included banks and mutual funds in Miami, the Caribbean and Ecuador. He lived in the seaside enclave of Golden Beach in Miami-Dade County and had a vast Ecuadorean estate.

The two banks Landes controlled got mired in the financial crisis that gripped the South American country in the late 1990s. Authorities said he used some Enron-like accounting and fleeced investors in the mutual funds he managed. He fled to South Florida for four years but headed to his native Panama when Colombia asked for his extradition. Ecuador caught up with Landes in 2005 and had him extradited from Costa Rica in 2007. He was sentenced to eight years in prison and was released this year.

Plaintiff case: Vision was a mutual fund created in 1995 for customers of Banco Popular del Ecuador. A 2004 amended complaint alleged Landes and other bank executives lent money to companies controlled by Landes and lied to investors about losses. The complaint alleged civil theft, conversion, breach of fiduciary duty and negligence.

The case was filed in Broward Circuit Court in 2002 because the fund ended up being managed by the Canadian Imperial Bank of Commerce, whose registered agent was located in Plantation. The investors' first action



A.M. HOULT

Ricardo Martinez-Cid convinced a jury that Nicolas Landes used Enron-like accounting to fleece investors.

was to distribute what remained in the fund. Martinez-Cid said a judge had to be convinced there was a case to be made — that investor losses weren't due to market fluctuations but fraud. Once that occurred, an amended complaint filed named Landes and the banks as defendants.

Landes' schemes were sophisticated, but his clients weren't wealthy, Martinez-Cid said. Instead, they were primarily working class people and charities that trusted a mutual fund. Landes put the money into his personal investments and foreign debt instruments.

"There was a nunnery who took care of

orphans who were relying on the fund for a steady flow of income to keep the orphanage running," Martinez-Cid said of his clients. One investor who had lost his money in the fund contracted cancer and committed suicide rather than be a burden to his family, he said.

A default judgment in favor of Vision was entered in July 2007, and a six-member jury was to decide the issue of damages against Landes only. The banks were defendants, but they were taken over by the government and went bankrupt, so there was no way to pursue them, Martinez-Cid said.

To determine damages, he collected accounting statements, reports from the fund's accountants, an internal study by outside auditors and reports by government investigators.

Defense case: Landes was served with the lawsuit while in prison in Ecuador in 2007 and never responded. There was no defense offered in his absence. Before he was sentenced in Ecuador, he said in an interview that he had lost all his assets while on the run. He claimed he was a scapegoat for the financial crisis gripping Ecuador.

Outcome: The jury deliberated 2½ hours before giving plaintiffs what they requested to end the one-day trial.

Quote: "What concerned me was the jurors would not see how important this case was," Martinez-Cid said. "Having no defendant there makes it harder to get such a big verdict from juries. They think it's not such a big deal, but this was a very complex financial case and a very complex fraud."

Post-verdict: The award was finalized by the judge Nov. 22. Martinez-Cid doesn't believe Landes is broke and said collection efforts are under way.

"We have a number of leads where his assets were ferried," the attorney said. "We don't think his self-dealing was limited to this fund."

— John Pacenti

Daily Business REVIEW

DELIVERING MONEY AND POWER EVERY BUSINESS DAY

by Tony Doris and Matthew Haggman

LIABILITY

December 10, 2003

\$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.

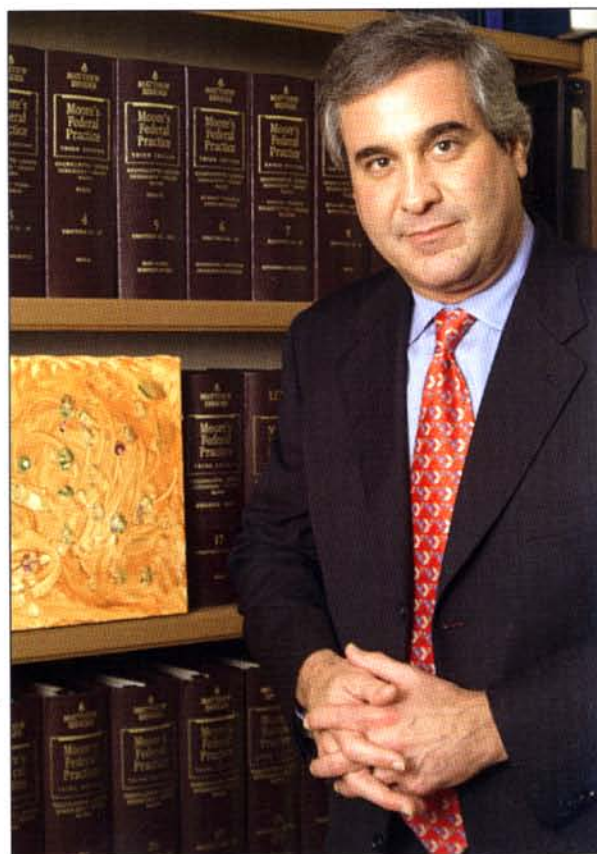
After a four-week trial in Broward Circuit Court, the six-person jury deliberated for 4 1/2 hours before dismissing contentions by Cav-Air that pilot error was to blame for the deadly crash on Oct. 30, 1999. Maintenance company Cav-Air has changed ownership since the accident.

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.

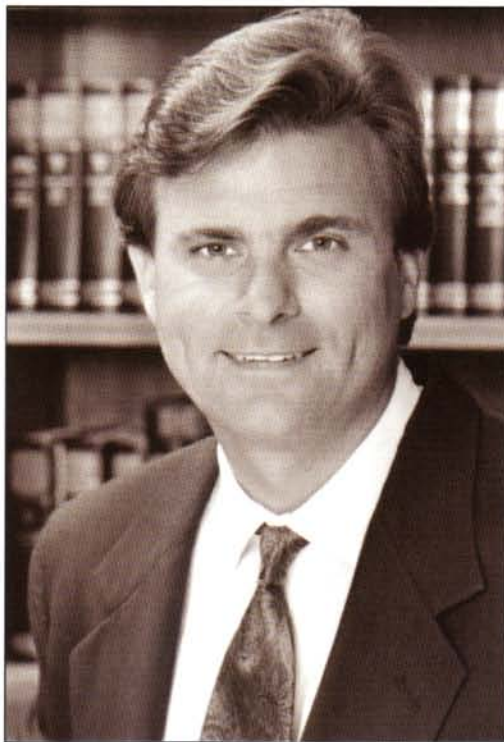
"The entire case was one of credibility," Marks said in an interview. "They were suggesting that this very careful pilot would take a chance with his family by having only part of the maintenance done."

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.

DAILY BUSINESS REVIEW

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LAW ■ REAL ESTATE ■ FINANCE

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AVIATION

Miami suit filed over Brazilian air crash

by Billy Shields
bshields@alm.com

The family of a Miami businessman who died in the fiery crash of a TAM Airlines jet in Brazil filed a negligence suit Monday in U.S. District Court in Miami against the airline, the plane's manufacturer and various maintenance companies.

The suit alleges the defendants were negligent in operating, maintaining and manufacturing the Airbus A320. The packed TAM Flight 3054 skidded off the runway July 17 at Sao Paulo's Congonhas Airport before slamming into a fueling station and bursting into flames.

It was one of the worst aviation accidents in Brazilian history, claiming the lives of more than



MARCOS ISSA / BLOOMBERG NEWS

TAM Airlines is accused in the suit of being negligent in hiring and training, using inoperable equipment and failing to follow safe procedures when landing.

200 people.

Steven Marks and Ricardo Martinez-Cid, partners at Podhurst Orseck in Miami, filed the suit on behalf of the family of

Ricardo Tazoe of Miami. The suit cites Article 28 of the Warsaw Convention and U.S. law to justify the Southern District of Florida as
See Suit, Page A10

a proper venue, since the victim lived in Miami and bought his plane ticket here.

Martinez-Cid said it's the first suit over the Sao Paulo crash filed in the U.S., and may be the first filed anywhere.

The suit also names as defendants Charlotte, N.C.-based Goodrich, which Marks said handled aircraft maintenance for TAM; Hartford, Conn.-based International Aero Engines, which built some of the plane's engines; and European plane manufacturer Airbus.

The crash is "clear liability from a factual standpoint, and legal liability from a treaty standpoint," Marks said in an interview. "Their conduct is inexcusable."

Contacted at the airline's headquarters in Sao Paulo, TAM officials declined to comment until after authorities complete their

investigations. In a prepared statement the airline issued the day after the crash, TAM said it "would like to express our deepest sympathy to the families and friends of the passengers, staff and crew that were on board."

When reached at IAE's corporate headquarters in Connecticut, Neil Williams, vice president of communications with IAE, said, "It's still under investigation, and we don't have a response until it's been concluded."

Goodrich spokeswoman Gail Warner declined to comment Monday, but said she would issue a news release later.

Tazoe, 35, was flying to Sao Paulo on business for Banco Santander. He worked at the bank's Miami office. Flight 3054 originated in Porto Alegre in southern Brazil.

Tazoe, a U.S. citizen, is survived by his wife and two children.

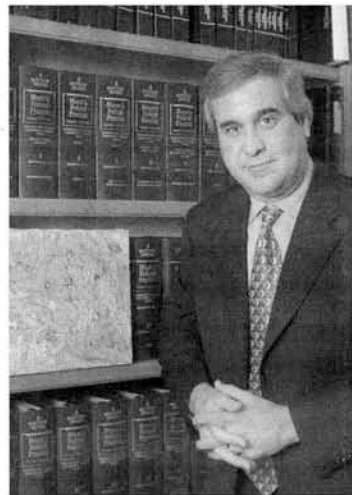
The suit alleges that TAM was negligent in its hiring, training, use of inoperable equipment and failure to follow safe procedures when landing.

The TAM crash has sparked a Brazilian government investigation, immediate calls for reforms of the country's air traffic control system and public pressure to improve accountability.

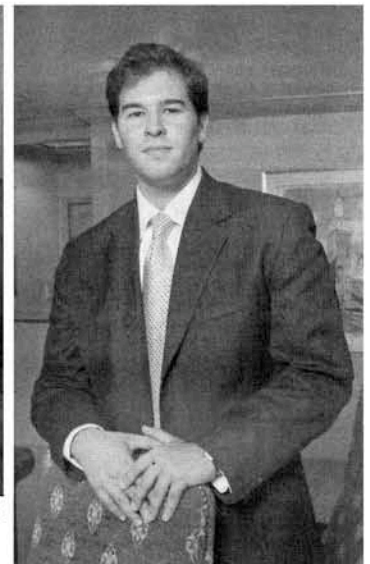
Earlier this month, it was revealed that the right thrust reverser of the plane, which is used to slow planes during landings, had been deactivated prior to landing. TAM officials issued a statement July 21 claiming that this did not pose any safety threat.

But Marks blamed the airline and its flight crew. He also rejected one of the complaints that has surfaced in the Brazilian media, that air traffic controllers were at fault.

"That's kind of a red herring in this case,"



Steven Marks, above, and Ricardo Martinez-Cid, partners at Podhurst Orseck, represent the family of a Banco Santander employee.



he said. "Whatever problems [the air traffic controllers] may have are totally irrelevant. This plane was cleared [to land]. The crew was going too fast with the controls at the improper positions. There's nothing the controller could have or should have done."

Brazil's National Center for the Investigation of Aeronautical Accidents has sent the plane's black boxes — the flight data recorder and pilot voice recorder — to the National Transportation Safety Board in Washington, D.C., for analysis.

Martinez-Cid said there are advantages to filing an aviation liability suit quickly after a

crash.

"Having an ongoing lawsuit will give us access to design documents, technical documents and other information we wouldn't otherwise have," he said.

Miami, he added, has often been the jurisdiction of choice for aviation liability cases, especially regarding Latin America. "The judges here are very experienced in having handled a lot of commercial air disasters," he said. ■

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FATAL HELICOPTER CRASH SETTLED FOR \$40M

CATHERINE WILSON, *Associated Press*

Bell Helicopter Textron agreed to a \$40 million crash settlement Monday after a judge accepted the victims' claim that the manufacturer improperly dragged its feet for a year before disclosing 17,000 pages of documents.

A bank executive and a horse trainer died in Brazil after running into the still-spinning main blades while trying to escape a crash landing blamed on a design flaw in the Bell 407 tail assembly in 1999. The pilot was trapped inside and survived with a fractured back.

"I'm not aware of any settlement anywhere near that amount," said Steven Marks, whose firm represented the Bell victims and other clients in 25 air crashes.

Bell's attorney had no comment leaving court, and calls to Bell headquarters in Fort Worth, Texas, were not immediately returned.

Bell was driven to settle in part by U.S. District Judge James Lawrence King, who opened the door to punitive damages and severely restricted Bell's witnesses as punishment for what Marks called "a pattern of stonewalling."

"Bell has hidden behind every possible shield they could find, no matter how illegitimate it was," Marks said in a motion last month asking for sanctions against the company.

The victims alleged Bell was covering up a bad design after selling 480 of the high-performance, single-engine helicopters introduced in 1996. Marks blamed four crashes on the tail rotor cutting off the tail boom and found nine tail strikes with no injuries involving helicopters on the ground.

The fleet was grounded worldwide, Bell adopted design changes, and U.S. and Canadian aviation regulators lifted flight speed restrictions on the helicopter model in April, court papers said.

"I just hope that they have fixed the problem," Marks said after court in Miami.

He charged Bell withheld information about the crash and the helicopter by labeling information sought by the victims confidential and proprietary. With less than two months left before a scheduled trial, Bell produced a 3-foot stack of documents and computerized data, not including the Brazilian government's crash report.

In other examples of discovery abuses cited by Marks, Bell's lead crash investigator did not bring his report on the crash to a deposition, and the Bell employee sent to a deposition intended for the person most knowledgeable about the tail boom said it wasn't his department.

Court papers also noted a \$583,579 fine against Bell for discovery violations in a Cochise County, Ariz., case.

In the settlement, the 15- and 20-year-old children of Rural Bank executive Junia Rabello will split \$30 million; the parents, 4-year-old daughter and common-law wife of horse trainer Joao Oscar Rooke Negro De Lima will split \$7 million; and pilot Luiz Belcufine, who is flying again, will receive \$3 million.

Aviation

AIR CRASH NEAR PALEMBANG, INDONESIA

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\$43.6 Million Awarded in Silk Air Crash Cases

Bee v. Parker Hannifin Corp. et al., No. BC 202587, verdict returned (Cal. Super. Ct., Los Angeles County July 6, 2004).

A state court jury in California has found Parker Hannifin Corp. liable for the 1997 crash of a Silk Air jet in Indonesia and awarded \$43.6 million in damages to the families of three victims. Parker Hannifin had argued that the pilot intentionally crashed the plane.

The Boeing 737-300, en route from Jakarta, Indonesia, to Singapore, was carrying passengers from 14 countries, including 46 from Singapore, 23 from Indonesia and five from the United States.

Cruising at 35,000 feet, the jet suddenly rolled right and descended, striking a river less than a minute later. Parts of the aircraft were embedded 15 feet beneath the river bottom. All 104 persons on board were killed; the remains of only six passengers could be identified (see *Aviation LR*, Vol. 20, Iss. 23).

An investigation by the Indonesian government, assisted by the National Transportation Safety Board, Boeing Co. and Parker Hannifin, revealed that the cockpit voice recorder stopped 10 minutes before the crash and the flight data recorder four minutes prior.

The plaintiffs argued in Los Angeles County Superior Court that an uncommanded rudder deflection at a high rate of speed caused the aircraft to go into a quick roll from which the flight crew could not recover.

Examination of the Parker Hannifin power control unit revealed metallurgical anomalies including evidence supporting the jammed-rudder theory, the plaintiffs maintained.

Expert witnesses for the plaintiffs were Don Sommer of Bloomfield, Colo., on accident reconstruction; Robert Cauble of Greenwood, Ind., on radar; Maximiliaan Vermij

of Ontario, Canada, on flight data recorders; Kenneth Center of Boulder, Colo., on computer animation and aerodynamics; Donald Kennedy of Kihei, Hawaii, on aerodynamics and flight-path reconstruction; Paul Dow of Lakewood, Ill., on piloting issues; Richard McSwain of Pensacola, Fla., on metallurgy; and John Swiger of San Antonio on economic issues.

Defense Contentions

Parker Hannifin argued that the crash resulted from the intentional actions of the flight crew or negligence in failing to recognize and timely respond to the alleged rudder deflection. The company said the two Silk Air pilots had been trained on an emergency procedure to handle such an event.

Parker Hannifin also maintained that the neutral position of the control unit servo-slides following the crash proved there had been no rudder deflection. It said the missing information from the cockpit voice recorder and flight data recorder were the result of intentional disabling by one or both of the pilots.

The defendant submitted evidence that the captain had experienced recent personal problems and had been demoted due to an incident involving the disabling of a cockpit voice recorder.

Expert witnesses for Parker Hannifin were Gary Fowler of Gardena, Calif., on metallurgy; Michael Marx of Springfield, Va., a former NTSB representative involved in post-crash examinations; John Plaskis of New York, a former Federal Aviation Administration representative, on certification and probabilities; Duncan Schofield of Redmond, Wash., on flight data recorder systems; John Nance of Tacoma, Wash., on piloting issues; Robert Kedlac of Los Angeles on aerodynamics and flight-path reconstruction; and George Miller of Los Angeles on economic issues.

Pursuant to federal law, the trial court excluded from evidence any opinions from investigative agencies that referenced suicide as a probable cause for the crash.

As Parker Hannifin requested, Silk Air and Boeing appeared on the verdict form for the purpose of the allocation of fault. The 12-person jury found Parker Hannifin 100 percent liable on strict liability and negligence.

Damages

Three cases were tried for damages.

The first involved the death of 43-year-old Kenneth Wilson, who left a wife of 19 years and two daughters, 17 and 14 years old at the time of the crash.

The jury awarded \$4.5 million in economic damages to the family, \$6 million in non-economic damages to Wilson's widow and \$3 million in non-economic damages to each daughter.

The second case involved the death of 41-year-old Soen Lay Heng, who was married with three children ages 12, 10 and 6 at the time of the crash. The jury awarded his widow economic damages of \$5.5 million and non-economic

damages of \$6 million, and \$3 million in non-economic damages to each child.

The final case involved the death of Merleen Tan Peck Jiang, a single 28-year-old woman earning \$55,000. Her parents were awarded \$600,000 in economic damages and \$3 million each in non-economic damages.

The remaining 29 cases will receive the benefit of the liability finding and will have separate damages trials. There are more than 50 other cases pending in Seattle federal court, in a multidistrict proceeding.

The MDL plaintiffs could seek the benefit of the state court verdict, but Parker Hannifin will likely argue that because those plaintiffs pursued a different theory of liability, they will not be able to successfully argue collateral estoppel.

The families were represented by Steven C. Marks of Podhurst Orseck PA in Miami and by Walter J. Lack and Kenneth L. Crowder of Engstrom, Lipscomb & Lack in Los Angeles.

Parker Hannifin was represented by William O'Connor and Mitchel Kallet of Kern & Wooley in Los Angeles.

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BUSINESS

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Law firm's status grows, from Eastern Airlines crash to Swissair disaster



CHARLES TRAINOR JR. / Herald Staff

THE FIRM: The law firm of Podhurst Orseck Josefsberg Eaton Meadow Olin & Perwin has handled cases from more than 40 major commercial airline accidents. From left, Victor Diaz, Michael Olin, Steven Marks, Barry Meadow, Aaron Podhurst, Joel Perwin and Joel Eaton.

By CINDY KRISCHER GOODMAN
Herald Business Writer

Aaron Podhurst was vacationing in Dallas in September when he heard a TV report that a Swissair jet had crashed off Nova Scotia.

Podhurst was horrified at the tragedy, which killed all 229 people aboard. But his mind raced. Why had the crew reported smoke in the cockpit before the plane went down in the Atlantic? More importantly, would his phone soon be ringing?

Since an Eastern Airlines wide-bodied jet plowed into the Florida Everglades in 1972, Podhurst has become known across the country for representing the families of crash victims.

Now, less than two months later, the Miami law firm of Podhurst Orseck Josefsberg Eaton Meadow Olin & Perwin represents a half-dozen families of people who died in the Swissair disaster. This week, Podhurst is in London, meeting with more possible clients.

"When I hear the news of a crash, I'm in shock just like any other citizen, but I have to wait and see what occurs," Podhurst said. "By now, I know that almost every time, I will get a call, and someone will want to interview me."

Podhurst and a group of six other lawyers at his firm have handled cases from more than 40 major commercial airline accidents, including the 1996

ValuJet crash in the Everglades and the 1995 American Airlines crash near Cali, Colombia. In the past five years alone, the firm has negotiated four large settlements that total more than \$250 million.

The Miami firm, which used to act mostly as local counsel to big firms outside the state, now is considered among the preeminent aviation specialists in the country. It regularly vies with New York and Washington lawyers for business. And, there's no doubt that its location in Miami, an international air travel hub, has helped the firm attract cases from crashes in Central and South America.

"More than ever, crash

cases from Latin America are filed in Miami," said Victor Diaz, a partner at the Podhurst firm. "A lot of the international carriers are buying aircraft in the U.S. and registering ownership in Florida, so we're able to bring suits here."

Courts have ruled that such suits can be filed in state and federal courts in Miami. There are two benefits to victims' families: Cases flow faster through Florida courts, and juries here tend to award larger damages than in Latin America.

Podhurst's involvement in major aviation cases began in 1972 with the Eastern crash in the Everglades. A Miami federal judge named Podhurst chairman of the Eastern plaintiffs' steering

Miami law firm on the case of Swissair disaster

committee. In most large air disasters, plaintiffs' lawyers form steering committees to chart the course of the litigation.

From there, Podhurst's status grew. He since has chaired the steering committee in the ValuJet crash, with his firm representing the families of about a third of the victims. He also headed the plaintiffs' steering committee that represented more than 150 victims' families in the American Airlines Cali crash.

Another coup for Podhurst came last December. He represented the families of three Cuban American pilots who were shot down by the Cuban Air Force. Judge James Lawrence King awarded the families \$187.5 million in a nonjury trial. Podhurst is now trying to collect on the award.

Though some lawyers will rush to crash locations and solicit victims' families, Podhurst refuses to call anyone. He says he only will speak with family members who approach him.

"We realize that we do lose business, but we know sooner or later our phone will ring," he said.

The law firm, which used to act mostly as local counsel to big firms outside the state, now is considered among the preeminent aviation specialists in the country. And, there's no doubt that its location in Miami, an international air travel hub, has helped.

Many of his cases are referred to him by other lawyers who know a family member but have no experience in aviation work.

"There are people out to sell themselves regardless of quality of product," said Mitch Baumeister, a New York lawyer who has become well known for aviation work. "Aaron and his firm are high quality, ethical lawyers. I say that even though we compete. Some firms I wouldn't say that about."

Diana Stromfield of Miami was bombarded with solicitations after her daughter, a Coca-Cola executive, was killed in the Cali crash. She wound up calling the Podhurst firm upon a friend's suggestion. She has settled with the airline for an undisclosed amount.

"The lawyers there were very professional and caring way to the point that I forgot it was business and felt more like it was a personal favor they were doing for me," she said. "I appreciated the tactful way they approached the process."

Maurice Ferre, a Miami-Dade commissioner, said he, too, was pleased with the firm's representation when his son, daughter-in-law and grandchild were killed in the Cali crash.

"This is a special breed of lawyer, and you have to be confident in their integrity," Ferre says. "You have to have confidence that they won't lump you into a group and settle you out. That definitely didn't happen to me."

Podhurst said experienced attorneys know how to come

up with a fair value and present their case to insurers. Much of it is based on a formula that includes future earnings and the pain and suffering of those left behind. He says he reaches a settlement in seven out of eight cases he handles.

The lawyers say they prefer it that way.

"Aaron is exceptional at organizing his presentation," said Tom Thornton, who represents airline insurers. "He will tell me what he thinks is fair and reasonable, and we are usually able to come to an agreement. He is the dean of that side of the practice."

Steve Marks, a Podhurst Orseck partner, says it's a misconception that when there's a disaster, insurance companies pay everyone. "As a general rule they hire the best lawyers to stonewall, slow things down and settle cases cheap," he said.

"If someone doesn't know what he's doing, an insurer could try to give you \$500,000 when the case is worth millions," Marks said. "You first try to settle, but if not, you have to have the wherewithal to take it to trial. Cases can get expensive to try."

Anti-Terrorism Act:

Alejandro v. Republic of Cuba

SD FL Judge Enters \$187M Judgment Against Cuba for Shootdown of Civilians

Finding that the government of Cuba acted "in outrageous contempt for international law and basic human rights," U.S. District Judge James Lawrence King of the Southern District of Florida entered a \$187 million judgment against the country for the 1996 shootdown of two American civilian "Brothers to the Rescue" aircraft. The four occupants of the planes were killed and their bodies were never recovered. *Alejandro v. Republic of Cuba et al.* No. 96-10126-CIV-KING (SD FL, Dec. 17, 1997).

Cuba did not defend the suit, expressing through diplomatic channels that U.S. courts had no jurisdiction over the country or its political subdivisions.

The organization "Brothers to the Rescue" routinely flew small planes on humanitarian missions in the international airspace over the Florida Straits, searching the waters between Cuba and the Florida Keys for rafters attempting to leave Cuba.

Three of the four decedents were American citizens. Their personal representatives filed suit against the Republic of Cuba and the Cuban Air Force, seeking monetary damages. Under the Foreign Sovereign Immunities Act (FSIA), a federal court lacks subject matter jurisdiction to hear a claim against a foreign state unless the claim falls within one of the FSIA's enumerated exceptions.

In 1996, the U.S. Congress crafted an additional exception to foreign sovereign immunity by passing the Anti-Terrorism and Effective Death Penalty Act (AEDPA), which amended the FSIA to allow suits in U.S. courts against a foreign state engaging in acts of terrorism under certain specified circumstances.

As a result, the FSIA now provides that a foreign state shall not be immune from U.S. jurisdiction in any case:

[I]n which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources...for such an act if such act or provision of material support is engaged in by an official,

employee, or agent of such foreign state while acting within the scope of his or her office, employment or agency.

Additionally, the United States must have designated the foreign state as a state sponsor of terrorism; the act must have occurred outside the foreign state; and the claimants and victims must have been U.S. nationals at the time the acts occurred.

Judge King said the circumstances of the attack clearly established that all such requirements had been met. "Indeed," the judge noted, "this is precisely the type of action for which Congress meant to provide redress by stripping terrorist states of immunity from the judgment of U.S. courts."

Having established an exception to foreign immunity, the plaintiffs based their substantive cause of action on another 1996 statute, Civil Liability for Acts of State-Sponsored Terrorism (CLA). The CLA creates a cause of action against agents of a foreign state acting under the conditions specified in the FSIA as amended by the AEDPA, and serves as an enforcement provision.

Judge King ruled that the Cuban Air Force was liable for compensatory and punitive damages, and that under the theory of *respondeat superior*, Cuba was liable for the same amount of damages as its agent, with the exception of punitive damages, which the FSIA prohibits against foreign states.

On the issue of punitives, Judge King held, "The Court would be shirking its duty were it to refrain from entering a substantial punitive damage award for the dual purpose of (1) expressing the strongest possible condemnation of the Cuban government for its responsibility for commission of this monstrous act, and (2) deterring Defendants from ever again committing other crimes of terrorism."

The total damages amount, \$187,627,911, was entered against Cuba, the Cuban Air Force and "against any of their assets wherever situated."

The plaintiffs were represented by the firm of Podhurst, Orseck, Josephsberg, Eaton, Meadow, Olin & Perwin in Miami.