

## **Victims' families could split \$51 million in lawsuits over Chalk's crash**

By Vanessa Blum  
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Family members of passengers and crew killed in the December 2005 crash of Chalk's Ocean Airways Flight 101 off Miami Beach will split \$51 million under a tentative agreement to settle all pending wrongful death suits against the Fort Lauderdale-based airline.

Lawyers for relatives of the 20 people who were on board the Bimini-bound seaplane endorsed a quick settlement, saying it would spare grieving family members drawn-out litigation. But Mark Marks of Boynton Beach, whose wife, Michele, was flying the Grumman Mallard seaplane, said accountability is more important to him than money.

"Money does not buy Michele's life or [1st Officer Paul DeSanctis'] life or any of the other passengers on that aircraft," Marks said.

The flight crashed shortly after takeoff when the right wing broke off. The National Transportation Safety Board is investigating whether the aging seaplane received adequate inspections and proper procedures were followed. The agency already has determined that both wings on the 58-year-old plane had metal fatigue cracks where they were attached.

Chalk's general manager, Roger Nair, and the company's lawyer, Dennis O'Hara, could not be reached for comment despite attempts by phone on Thursday.

The agreement, which is still being finalized, appears in a status report filed this week in Miami federal court. It provides for a neutral mediator to allocate the Chalk's insurance money among the victims' families. If parties are not satisfied with the result, they must enter binding arbitration.

Proceeds from the insurance policy with AIG, which lawyers said was capped at \$51 million, are in an interest-bearing account at United Mellon National Bank, according to the status report.

The mediator would distribute the money among families by weighing factors such as the age and earning potential of crash victims, the number of close relatives, their

relationships to the victims, and the ages of any dependents, said attorneys familiar with the settlement.

"In the Chalk's crash, you had people from all walks of life -- elderly survived by elderly spouses, unmarried people survived by siblings, parents, hardworking men and women who leave behind a spouse, and children. The mediator will consider all those demographics," said Chicago lawyer Robert Clifford, who represents the estate of Sergio Danguillecourt, a former Bacardi Limited executive who died in the crash.

Several aviation lawyers said the \$51 million insurance policy was low compared to policies of other commercial airlines.

David Fiol, a San Francisco lawyer who specializes in aviation cases, said the insurance policies in many of his cases top \$1 billion. The huge amount of money in those cases raises the stakes for insurers and airlines, leading to protracted court battles, he said.

"In most cases, you have more insurance than you have potential claims. That makes it harder to settle," Fiol said.

In the Chalk's case, the limited pool of insurance money may have made it easier to reach an agreement because AIG could not expect to avoid paying the full amount, he said.

James Chaplin, president of Fort Lauderdale's Mediation Inc., has been selected to serve as both mediator and arbitrator, said several lawyers familiar with the agreement. Chaplin has experience in aviation matters and served as a mediator of claims from the 1986 crash of ValuJet Flight 592 in the Everglades.

"He's somebody both sides completely trusted," said attorney Steven Marks, whose firm represents the estates of three crash victims.

Marks said each family would present Chaplin with information about their lost relatives, and Chaplin would attempt to devise an equitable distribution.

Chaplin's fees would be deducted from the settlements, as would lawyers' fees and expenses. Under Florida rules, lawyers can charge contingency fees up to 40 percent on the first \$1 million, 33.3 percent on the second million, and 20 percent on the remainder of any settlement.

Geraldine Pyfrom, 46, said she had heard few details of the settlement. Pyfrom's mother, Genevieve Ellis, 64, and aunt, Salome Rolle, 58, both died in the crash.

Pyfrom said the money means little to her. "If that was the way my mother had to go, no money in the world could fix that situation," she said.

Staff writer Brian Haas contributed to this report.

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