

DAILY BUSINESS REVIEW

AVIATION LAW Unguided plane crashed in storm

JUDGE AWARDS FAMILY OF FORGOTTEN MIAMI PILOT

by **John Pacenti**

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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 spacial 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.

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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.

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