

DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Podhurst Orseck Partner Secures \$5 Million Verdict Against Plane Engine Maker in Negligence Lawsuit

by Zach Schlein

A Miami-Dade jury has sided with the estate of Timothy Johnson Jr. in its lawsuit alleging an aircraft engine manufacturer’s negligence caused the South Florida pilot’s death.

On March 13, the jury found Alabama-based Continental Motors Inc. was 100% responsible for the December 2012 plane crash at North Palm Beach County Airport that claimed Johnson’s life. The verdict form shows it awarded \$2.35 million



Ricardo Martinez-Cid served as legal counsel to the family members and wife of Timothy Johnson Jr. in Miami-Dade Circuit Court.

Case: Carly Johnson, as the Personal Representative of the Estate of Timothy E. Johnson Jr., deceased, v. Continental Motors

Case No.: 2014-10782 CA 10

Description: Wrongful Death/ Products Liability

Filing date: April 23, 2014

Verdict date: March 13, 2019

Judge: Miami-Dade Circuit Judge Peter R. Lopez

Plaintiffs attorneys: Ricardo M. Martinez-Cid and Lea P. Bucciero, Podhurst Orseck, Miami

Defense attorneys: Christopher J. Jahr, Wicker Smith O’Hara McCoy & Ford, Fort Lauderdale; Will S. Skinner and Erik Slechta, Skinner Law Group, Woodland Hills, California; Gary A. Gardner, Skinner Law Group, Huntington, New York

Verdict amount: \$5 million

to Johnson’s estate and \$2.65 million to his surviving wife, Carly, for a total of \$5 million in damages.

Podhurst Orseck attorneys Ricardo Martinez-Cid and Lea Bucciero represented Johnson’s family in its suit against Continental in Miami-Dade Circuit Court. Johnson and his father, both registered pilots, traveled to the airport to pick up

a Cessna 421 twin-engine plane following an annual inspection of the airplane. Martinez-Cid said Johnson’s troubles began shortly after takeoff.

“[Johnson] lost his left engine on takeoff ... all while his father was watching,” the Podhurst Orseck partner said. At the time of his death, Johnson and his wife had been married for nine months. Martinez-Cid said the

crash “totally wrecked” the surviving spouse’s life.

The family filed a complaint against Continental, Cessna Aircraft Co., RAM Aircraft and other parties on April 23, 2014. As the case proceeded, Johnson’s estate entered voluntarily dismissals of complaints against defendants until only Continental remained. According to Martinez-Cid, that company manufactured the engine that failed.

“[Continental] had also sold a product that had recently been changed on the engine, a viscous torsional vibration damper,” the attorney said. Martinez-Cid said the part was built to curb vibrations when engine parts spin in opposite directions. “We believe it was negligently manufactured by allowing metal-to-metal contact within the damper that would degrade its functionality,” he said, adding the part was not “dampening enough.”

He added, “As the metal to metal wears on each other, the silicon shavings wear down the molecular chains and the [vibration damper] doesn’t do its job.” The plaintiffs contended it was a faulty vibration damper which caused Johnson’s engine to fail.

Martinez-Cid said the trial faced obstacles before courtroom proceedings had even began.

“We were supposed to try this case a long time ago. Before we got to trial we found there were thousands of documents that were not turned over in discovery,” he said. Martinez-Cid added Miami-Dade Circuit Judge Peter Lopez would later approve the plaintiff’s motion for \$25,000 in sanctions against Continental for

the “wrongful withholding of documents.”

The trial began in February. In Continental’s answer to the complaint, the company contended responsibility for the crash laid with Johnson and Windward Aviation, the company that performed maintenance on the aircraft and certified it for flight. Continental stated its own parts “complied with the state of the art of scientific and technical knowledge ... at the time of manufacture,” and alleged Johnson “and/or others failed to adequately maintain and repair the product, which is the subject of the complaint in safe condition.”

Martinez-Cid said the testimony of Windward Aviation’s mechanic marked a turning point in the case. Continental charged Windward Aviation ran Johnson’s engine without oil, damaging it and causing its failure on takeoff.

“They accused him of having lied or been coached by us. ... I think the jury was likely put off by that, because he was a very credible guy and explained very effectively to the jury what he had done,” Martinez-Cid said. The attorney added testimony from Continental’s own experts wound up working in the plaintiff’s favor.

“On cross-examination the defendant’s own experts had to admit — based on their measurements and data — that the vibration dampener did not meet the specifications that they had promised the Federal Aviation Administration,” Martinez-Cid said. “While they argued that it still functioned properly, I think that was pretty powerful.”

Continental, who changed their business name to Continental Aerospace Technologies in March, did not return a request for comment by deadline. An attorney on its legal team, Skinner Law Group senior counsel Gary Gardner, declined to comment without speaking to his client.

Although the jury ultimately ruled in favor of his client, Martinez-Cid said the case proved to be a difficult one.

“I take all of my cases seriously, but I was a fairly young lawyer when Carly retained us, and she had met with a number of very good, very experienced aviation lawyers,” he said, noting the case “was one that we knew was challenging from the beginning.”

“Continental Motors is very, very aggressive in the defense of their parts. You saw that not only in how long they drew this out ... but also in the withholding of the documents,” Martinez-Cid said, adding the company has already filed a motion for new trial.

“We know what we’re getting into in these cases, and we have the ability and the resources to get to the finishing line,” he said, citing the trust put in him by Johnson’s wife as a major motivation to prevail. “When she decided to hire me I took that very seriously. ... I knew I was going to do everything I could to get the result she deserved.”

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschlein@alm.com