FLIGHT-WATCH

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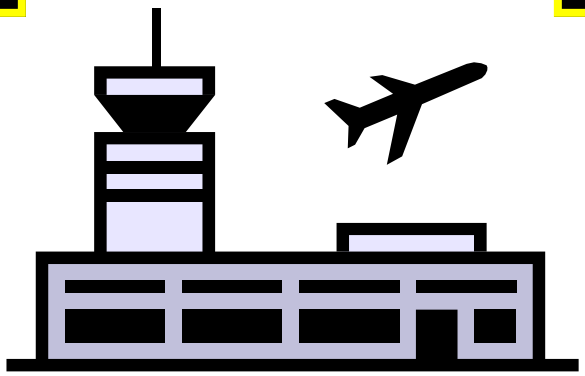
MIXING FIXED WING AND ROTORCRAFT TRAFFIC CAN CAUSE TROUBLE



Helicopters generate very powerful wingtip vortices. A videotape exists demonstrating the effects of helicopter vortices on light aircraft, the videotape being entitled, "Helicopter Vortex Workshop, 1988," with the date of April 18, 1988. A helicopter equipped with a smoke generator was flown, the smoke generating the flight path of the vortices generated by the helicopter. An aircraft was then intentionally flown in the wingtip vortices of the helicopter, and the aircraft was rendered uncontrollable.

The Aeronautical Information Manual forbids helicopters from operating in the flow of fixed-wing traffic. The Air Traffic Control Handbook (FAA Order 7110.65) did, at one time, include this prohibition. However, sometime back, the FAA amended the ATC Handbook, which now allows ATC to mix fixed-wing and rotorcraft traffic.

In light of these procedures and operating practices, we come to the case of Lahti v. United States, U.S. District Court, Southern District of IL., Case No. 00-557-DRH, March 3, 2003. Lahti was a flight instructor on an instructional flight with a student. The aircraft encountered turbulence generated by an Army helicopter, and Lahti's aircraft crashed. Lahti suffered a number of personal injuries, including fractures to his face, left arm, left knee, and right ankle. Lahti's medical bills were about $200,000 and he earned about $30,000 annually. Although Lahti returned to work following his injuries, the pain resulting from those injuries eventually resulted in his inability to perform his duties as a flight instructor.

Lahti sued the US Government, alleging ATC negligence in failing to issue a wake turbulence warning. The case was settled for approximately $1,380,000. The case involved a host of experts, whose names and areas of expertise will be outlined below:

Plaintiff's Experts:

1. Edmund M. Strong, of Ft. Meyers, Florida, ATC issues;
2. Patrick Clyne of Neptune Beach, Florida, piloting techniques;
3. Charles A. Lancaster, Jr., of Crestview, Florida, helicopter piloting;
4. Kenneth Orloff of Groveland, California, recon-

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struction and aerodynamics;
5. A.M. Gamboa, Jr. of Louisville, KY, an economist.

Defendant's Experts:

1. Sherry Coin-Marshall of Byhalia, Mississippi, Human Resources;
2. Ella Ray Hoxit, of Brevard, North Carolina, weather;
3. George C. Greene of Hampton, Virginia, aerodynamics;
4. Edward D. Henderson, of Billings, Montana, ATC; and
5. Dr. Warren V. DeHaan, of Boulder Colorado, visual perception.

Counsel for Mr. Lahti were David E. Rapoport and Paul D. Richter of Chicago, Illinois.

SUIT AGAINST BELL HELICOPER TEXTRON, INC., NOT BARRED BY 18-YEAR STATUTE OF REPOSE

The case arose out of the crash of a Bell helicopter. The tailrotor yoke failed. Occupants and survivors of those killed in the helicopter crash sued Bell Helicopter, claiming that the tailrotor yoke was defective, and that Bell knew the tailrotor yoke would fail under certain levels and conditions of stress. Bell Helicopter filed a motion for summary judgment alleging that the component in issue was more than 18 years of age and that the action of the plaintiffs was time-barred by the 18-year statute of repose found in the General Aviation Revitalization Act of 1994 (GARA), 49 U.S.C. § 40101. The trial court agreed with Bell Helicopter and dismissed the case, finding that the failed component was, indeed, more than 18 years of age with the result that the suit was barred by the 18-year statute of repose.

The plaintiffs appealed summary judgment in favor of Bell Helicopter, arguing that Bell had failed to reveal a number of previous incidents of tailrotor yoke failure and had failed to perform required fatigue testing on those yokes and thereby, the plaintiffs argued, had misrepresented its compliance with FAA testing regulations. Bell argued that it had no duty to report the prior tailrotor yoke failures because those were on military aircraft which did not require an FAA-type certificate confirming that the

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aircraft met airworthiness requirements.

The California Court of Appeals disagreed with Bell and found that the fraud exception in *GARA* applied for the reason that the FAA had the authority to require Bell to disclose to the FAA any matter that was clearly relevant to the safety of a type-certificated aircraft. Even though the failures of tailrotor yokes were on military aircraft, the California Court of Appeals reasoned that Bell had an obligation to reveal this information to the FAA, and it had not done so. Accordingly, summary judgment for Bell Helicopter was reversed, and the case was remanded to the trial court for further proceedings. Counsel for the Plaintiff in this case were Robert E. Guilford of Los Angeles, and Richard P. Louis of Woodland Hills, California.

Butler v. Bell Helicopter Textron, Inc., 135 Cal. Rptr. 2d 762 (Ct. App. 2003).

Alan Armstrong is engaged in the general practice of law with an emphasis in the following areas:

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