



The Voice

And The Defense Wins

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DRI members [Gary Zipkin](#) and [Kristin E. Bryant](#) of **Guess & Rudd P.C.** obtained a unanimous defense verdict on behalf of an FAA-certified repair station in a complex product liability case involving the overhaul of an aircraft engine that suffered a catastrophic crankshaft failure during flight some 440 hours following the sale of the engine to a Part 135 air taxi operator. The primary issue for the jury to determine was whether the aircraft engine was airworthy or defective at the time of its sale to the air taxi and/or whether improper maintenance by the air taxi led to the loss of clamping pressure on the crankcase halves, which in turn caused the rotation of a bearing and oil starvation to the crankshaft. Suit was brought against the repair station by the air taxi and pilot, who alleged that the presence of the accident on his piloting record effectively prevented him from obtaining highly lucrative employment flying Gulfstream jets.

The pilot/plaintiff was operating a Cessna 206G aircraft on a sightseeing flight with several passengers when the aircraft engine lost all power. The pilot then made a successful forced landing. During disassembly of the engine, it was discovered that the crankshaft fractured due to oil starvation. Plaintiffs were allowed to seek recovery under alternative product liability theories, including the consumer expectation test—based simply on the fact that the propeller stopped turning following the engine failure (thereby shifting the burden of proof to the defendant to establish that the engine was not defective when it was sold)—and the separate theory that the defendant had misassembled the engine during overhaul by leaving inadequate clearance between two engine components, causing metal contamination and the ultimate engine failure. The pilot sought almost one million in past and future lost wages, while the air taxi service sought compensatory damages, including lost profits, totaling approximately \$450,000. Plaintiffs further alleged that the defendant violated Alaska's Unfair Trade Practices and Consumer Protection Act by misrepresenting the quality of the engine. If the jury had agreed, the court would then have trebled plaintiffs' damages.

A central issue in the case involved the credibility of a non-party witness, who had purchased the very same engine but who had returned it to defendant, claiming it was defective. The jury rejected this testimony and concluded that the engine was free of any defects when it was originally sold and when it was later sold to the air taxi. The defense was greatly assisted by the expert testimony of metallurgical and failure analysis expert Dr. Gary Fowler, engine and overhaul expert Loren Lemen, and aircraft mechanical expert David Botich.

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