Clifford Law Offices

The $110 Million Settlement
September 22, 1997

In re Air Crash Disaster near Roselawn, Indiana
on October 31, 1994
Making a $110-million crash settlement fly

by Abdon M. Pallasch

On Halloween in 1994, 30-mile-an-hour winds whipped rain horizontally into people’s faces. Umbrellas blew inside out. The Chicago Bears and Green Bay Packers struggled to play football at Soldier Field. Nine-thousand feet above northwest Indiana, American Eagle Flight 4184 from Indianapolis circled, waiting to land at O’Hare International Airport. The winds were lighter up there, but twice the co-pilot warned the pilot that freezing drizzle was coating the wings with ice.

"Aw, [expletive]," the co-pilot said, the last sound on the cockpit voice recorder before a "loud crunching sound." All 68 passengers and crew died when the plane slammed into a Roselawn, Ind., cornfield at 450 miles an hour. The impact was so forceful the concrete found no more than a pound of remains for any one victim.

Three years later a jury had been chosen and opening arguments were set to begin in U.S. District Court Judge Ruben Castillo’s courtroom in Chicago. The case was In re Air Crash Disaster Near Roselawn, Ind., on Oct. 31, 1994, 95-C-4593.

But at the last minute, Chief Judge Marvin E. Aspin shuttled between rooms at the North Shore Doubletree Hotel in Skokie to broker a $110-million settlement, averting a trial.

What a fascinating trial it would have been.

The attorneys were tops in their fields. For three years they had researched and prepared, assembling the latest technology and running their strategies past focus groups.

Robert A. Clifford of the Clifford Law Offices was lead plaintiff’s counsel, representing 15 of the 28 families whose suits remained at the time of trial.


Michael P. Connelly of Connelly & Schneider represented Avions de Transport Regional (ATR), the plane’s European manufacturer. The manufacturer’s European ownership triggered the Foreign Sovereign Immunity Act, which brought the case to federal court.

In their opening arguments, Clifford and Connelly would have blamed American for the crash. The 29-year-old pilot was out of the cockpit on a five-minute bathroom break, socializing with the flight attendants while the 30-year-old co-pilot tried to warn him about the ice build-up, they would argue.

"Gettin’ busy with the ladies back here... so if I don’t make it up there within the next, say, 15-20 minutes, you know why,” the voice recorder captured the pilot telling the co-pilot over the intercom. American Eagle paid the pilot $53,000 a year, the co-pilot $25,000 — some as a flight attendant, Clifford would have pointed out.

Then Clifford would join Valukas in arguing that the manufacturer was at fault. The “box” on the wing that’s supposed to prevent ice build-up was inadequate, the National Transportation Safety Board ruled. The Federal Aviation Administration failed to raise red flags before certifying the plane was safe, Valukas would stress.

"Clifford had the best situation in the world," Connelly said. "He had Valukas on his side to find out anything about the plane. He had me on his side to find out anything about American."

All the belts and whistles were ready to go. "We wanted to make this a [technology] showcase—the plaintiffs were entitled to that," Clifford said.

Depositions were videotaped. When Clifford would argue that American put profits over safety, he would click on a video of American CEO Robert Crandall. Asked what he did to test ATR planes for icing problems, Crandall would tell jurors via video, "Well, I suspect nothing. We rely on the agency of oversight—the Federal Aviation Administration."

The plaintiffs’ attorneys had videotaped biographies of the victims. All three sides created animated videos of the crash, synchronized with the tape of the voice recorder.

"When I saw Bob Clifford’s video, I laughed because it was exactly the same as ours," Valukas said. "With the meteorologists, there was not a scintilla of information different. They were all identical. I could have examined my experts off their charts."

Judges Aspen and Castillo credited the attorneys with running a textbook case in terms of civility and trial preparation. The attorneys, in turn, praised Aspen, Castillo and opposing counsel for their professionalism. Clifford’s and Valukas’ behind-the-scenes workhorse partners—Kevin P. Durkin and Sidney J. Schenker, respectively—earned kudos.

All three sides admired Castillo’s holding to his early admission that the case be tried or settled before the third anniversary of the crash. The settlement brought in $1 million in fees for Connelly’s firm. $10 million to $16 million for Clifford’s firm; and an unknown sum for Valukas’ firm. He wouldn’t say.

Within two weeks of the crash—Nov. 13— the first case was filed in Cook County Circuit Court by Donald J. Nolan of The Law Offices of Donald J. Nolan, who ultimately filed three cases. More cases starting coming in, most of them in Cook County. In all, 16 law firms from seven states and Washington D.C., would file suits in numerous jurisdictions.

"Within a couple of weeks we got calls," Durkin said. At the time, Clifford and Durkin were part of Corboy Demetriou Clifford, a merger of powerhouse personal injury firms that started nine months before the crash but split three months later.

The crash preceded Congress’ 1996 thirty-day “cooking off” period enacted to shield
families of disaster victims from attorney Clifford.

"I believe some firms in Chicago mailed to people: but we; we, never, ever called anyone to represent them," said Robert A. Clifford, one of at least four clients hired because "you didn't send stuff to us.

Scavenging for experts
The attorneys twice traveled to France to deposit ATR officials, they went to England and Sweden to interview victim's families. They tipped over two more countries trying to remain the country's top experts before the other sides could.

Each wanted to share leading voices in meteorology, ice on planes, and "super-cool drizzle drops"—the weather phenomenon at the heart of this case.

One drip-drop expert courted by two sides was dropped by both when they found him too running, they said. Each side predictable claims, Each side sometimes volunteered to speak for best experts.

"We had to sue experts signed up within four days," Connelly said. "Clifford's experts all took courses from our experts."

That drew a hearty laugh from Durkin, who explained how the opposite experts might have been "learned" from one of Connolly's. Durkin hired Perkin Perkins, 70, a former NAS, who explained how aircraft could be flown
planes for ice effects since World War II.

"And part of their argument was going to be that our aircraft was not an entirely new phenomenon," Durkin said.

Perkins agreed to testify for the plaintiff after declining an offer from ATR.

"The people who have caused the harm know very much and the families know very little and find out later," Clifford says.

"Within a few days, shortly after the accident, they came to me and said, 'We want to meet them right away.'" Perkins said. "I told them I wasn't interested.

ATR sent Perkins a FedEx letter the next day, which he returned unsigned, he said. Even if they never intended to use Perkins as a witness, all sides try to keep the top experts unavailable to the other sides.

"It's very common to try to tie up experts like that," Durkin said.

Perkins is known among his peers as "one of the fathers of aircraft ice science," Durkin added.

Perkins told Durkin that Connolly's expert meteorologist, Wayne Sand, was scheduled to give a talk on ice conditions—including the Roselaw crash—in Reno, Nev., at the same conference where Perkins would be speaking. Durkin joined the American Institute of Aeronautics and Astronautics and sat in all three days of the conference, joining Perkins in listen to Sand.

"(Sand) is probably the foremost aviation expert in the country," Connelly said.

"Their expertise, not qualitative, not one of which those, the two aviation icing experts could teach him the thing. They didn't know that didn't already know, but Durkin concluded by saying, "I was leaving the areas to cross-examine him and, he, was going to say the pilots were at fault, so..."

So... Durkin decided he'd be happy to let Sand testify unchallenged.

"It would have been a battle of experts," Valakas said, adding, "At least one of the experts the plaintiff's very much wanted to use was one we were using.

Early settlers
On Dec. 5, Robert L. Alpert, a New York
based attorney for American's insurance, wrote to family members of the victims to express "surrender condolences," offer reimbursement for any funeral or travel expenses, and even to advance funds for other expenses.

Alpert wrote, "The notation for such a percentage fee is that the lawyer charges for getting no fee if there is no recovery. There is no such risk in this case. There is nothing to be paid by the plaintiff."

Clifford and Durkin beg to differ.

"The ultimate result was triple the final offer that was made, which, 15% of the settlement is conditional, but Clifford's 15% cases settled on the eve of trial brought in $64 million on average of $3.4 million each. The total of Nolan's three cases brought in "a little over $12 million," he said.

"We wereego to supply on point the three years before the $110 million settlement in September 1997.

Waiting for the NTSB
As with any crash case, proceedings are put on hold while the National Transportation Safety Board investigates the cause.

"We were stalled for a long period of time with the NTSB— from Dec. 1, 1994 to July 1995," Durkin said.

The airline and the manufacturer participate in NCSTB investigations. The plaintiff's attorneys claim that gives those sides an advantage.

"The people who have caused the harm know very much, and the families know very little and find out later," Durkin said.

Valakas says the NTSB investigation is an above-board, professional process in which the airline can solve the puzzle of the crash's cause naturally are called on to participate.

"The NTSB appeared to be dedicated to actually seeking the truth," Valakas said.

"All parties were compelled to disclose everything. It was a refreshing experience, and we were not interested in tailoring evidence. It was a very truth-oriented process."

The process was closed. The board held a public hearing in Indianapolis the week of Feb. 27, 1995.

Meanwhile, the plaintiff's attorneys on their own researched past airplane-icing incidents.

The NTSB would find 13 incidents in which icing was a primary cause for the ATR 42, predecessor to the ATR 72 model that crashed in Roaslaw.

One that most interested the plaintiff's attorneys was a 1987 crash near Como, Italy, that killed all 37 passengers and crew.

"That crash was substantially different from the 42, saying the 72s report no icing incidents since their delivery in 1994," Durkin said.

But Castillo ultimately would rule that seven icing incidents involving the 42 were acknowledged.

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Clifford asked rhetorically. The professional-qualifying question, "How could you get the kids, without spouses, children, parents and friends of the loved one. High school teachers talked about the crash, then talked about their budding careers. All videos climaxed in tearful accounts of hearing about the crash, hearing the loved one wasn't on the plane.

Video was a test-jerk.

"It helped us organize our thoughts about what to present at the damages phase of the trial," Clifford said.

Clifford went to Washington to focus groups, which gave the attorneys feedback about what might interest jurors.

"I want to show this guy was going to be the chairman of GM, and sometimes they want to hear more about the quality of the (plastic) material, which is not a category for what we try to do," Durkin said.

"Clifford sends copies of tapes to opposing counsel, showing them what will be presented at trial and invites them to send copies to the insurers.

"We certainly watch them all," said Sheila A. Sclafani, a trial consultant who coordinated defense damage issues. "We have people from offices review them. It certainly
cuts a human element into the process. But that's why we put them together."

The plaintiffs did a very effective job in letting us know as much as they could about the victims in this case and their families," said Durkin.

Valakas grunts.

"Defense counsel scheduled depositions to coincide with a memorial service in Indiana for the victims; American flew relatives to the service, Sandwell said.

The lack of identifiable remains meant families could not have a standard burial near their homes.

Venue wars
One of the first big fights was over where to hold the trial. Most of the suits were filed in Cook County Circuit Court Law Division. Others were filed in state courts in Texas, New York and Florida.

In addition to American and ATR, many of the suits named as a defendant Honeywell Inc., which designed the automatic pilot system that disengaged shortly before the crash.

This year Richard C. Palmer of Wildman, Harrold, Allen & Dixon successfully removed Honeywell from the case after it became clear the autopilot manufacturer, ATR is a joint venture between France's Thomson-CSF and Italy's Agusta. The suit was more than 51 percent owned by two respective governments. ATR invoked the Foreign Sovereign Immunities Act to get for removal to the federal courts governing each of the jurisdictions in which it had been used.

That would ensure a federal bench trial instead of a state jury trial in which jurors are not predominately Spanish-speaking.

The cases were forwarded to the Multi-District Litigation panel based in Washington, D.C., which has the power to assign cases to a federal judge in Chicago, as most of the plaintiff's attorneys sought, or to a federal judge in Hammond, Ind., as the defense sought logical place because that's where the plane crashed, Connelly said.

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Venue wars
Bua said, “I told him from the beginning, ‘You don’t tell Bob anything. You can say this much and I won’t budge more than 5 or 10 percent.’ He will beat your brains out. And he did.”

Hardball

In late 1995 Castillo appointed former federal judge Nicholas J. Bua, now at Burke, Weaver & Partners, to a special master in an effort to settle cases. “He has got to be known as the best person in the city at doing work of this kind,” Bua said. “The cases were buried around 20 settlements, including one big one for $15 million, he says.”

“I think that’s not very hard line,” Bua said. “Usually we’re able to do better than that.”

Bua blames Alpert, who represented American’s insurer and wrote the letter to victims’ families, for the lack of settlements. Alpert is a founding member of the Allegiance Claims and Litigation Management Group, Inc., Garden City, N.Y., and Chapel Hill, N.C.

“Bob Alpert is not a card-carrying 100% uninterested in the case,” Bua said. “But for the reason that we have made an offer and the company has made an offer, we have begun to reach an agreement.”

“Alpert’s hardball approach alienated Clifford and Dunik.”

Bob Alpert came to our clients and did his best to have them retain counsel and did everything he could to keep this from reaching the negotiating table. “We want to settle the case,” he said. “Here’s our offer, and we will not pay you a penny more. Maybe, if you can come to our offer and meet it.”

Alpert’s hardball approach alienated Clifford and Dunik.

Clifford and Dunik also alleged their clients had been forced to take on the role of “settling” their cases. “We were told by our clients that they were forced to settle with the insurance company,” said Clifford. “We were told by our clients that they were forced to settle with the insurance company.”

Bua’s offer of $15 million was later increased to $20 million. “I was told by the company that they were willing to settle for $15 million,” Bua said. “We asked them if they were willing to settle for $20 million, and they said no.”

After months of negotiations, the case was finally settled in January 1996. Bua settled in August after Alpert “substan- tiated” his offer, the Bua said. “That’s not very hard line,” Bua said. “We have made an offer and the company has made an offer, we have begun to reach an agreement.”

“The case is worth much more than $15 million and I won’t budge more than 5 or 10 percent,” he said. “We will beat your brains out.”

The alleron

The focus of the Roswell crash was a part of the Roswell crash, which moves the plane up and down. When the wing circled up and the autopilot disengaged, the allotron made a “certain and predictable” response to the pilot’s request. The allotron was part of the plane’s overall control system, which was designed to prevent the plane from flying into a tailspin that had never recovered, the NTSB concluded.

Clifford and Dunik “could tell early on that the NTSB investigation was not going their way.”

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We met in my chambers," Aspen said. "We worked most of the afternoon on Thursday. I had to go to the hospital to see my mother at 6 p.m., and I couldn't get back into the loop. They rented three suites in [The New York Times] Hotel Skokie, where we worked fairly late that evening.

"We settled out of six out of the 30-old cases. It became clear at that time at the pace we were going, it would not be settled by [the next morning]," I talked to Judge Castillo and asked him to hold off till noon.

Negotiations resumed Friday morning in the Dixon Federal Building. Aspen said:

"We had as many as 10 plaintiffs' lawyers," Aspen said. "We had to make sure we had some negotiations going between the two defendants because the manufacturer was going to blame the carrier, and the carrier was going to blame the manufacturer.

"At the same time, we had still a third satellite settlement track going on with the insurance. The American Airlines had a British insurer, the manufacturer has a French insurer. We had to get the insurers on board. Where the insurers were interested solely in the bottom-line dollar figure, the manufacturer and the carrier were concerned about their public image.

Asgen saw enough progress in the talks that he called Castillo and asked him to move quickly towards a settlement.

"We worked all day Saturday in chambers. We accomplished a lot, but we weren’t quite there yet," Aspen said. Aspen was meeting and talking with individual plaintiffs. Some were less concerned with money than with getting an apology from American and others, who knew this accident would not be repeated. Vukas asked to issue an apology. Aspen asked Castillo to get an hour before time for opening statements.

"It's very humbling for me to be receiving telephone calls from the chief judge at home on a Sunday at 8:30 a.m., asking me if it would be OK for him to call me after 9 o'clock at night," Castillo said. "As far as I was concerned, he was working for me on dents in a posture of making sure this type of negligence didn’t occur again.

"Finally, the three of us agreed on a number that would be acceptable to her. I talked to Vukas, and he made some calls to Europe. Hopefully, it will be done before time for opening statements."

Three cases involving six estates were not part of the final settlement in Chicago and likely will proceed to trial or settlement in New York and Florida, Schneider said. The defendants stipulated to liability.

Clifford made a mini-opening argument for the families, showing many of the videos he had made about their loved ones.

"By Sunday night, all but one case was settled. Opening argument was still set for 2 p.m. the next day. When lawyer Harry Wilson of Wilson, Kebbe, and Wintleman in Indianapolis got to town Monday morning, Aspen met with him and his client. "I talked to her alone and to her attorney alone as her attorney asked me," Aspen said. "She’s a wonderful woman, I spent a lot of time talking to her about the situation. I would say there were concerns that the negligence was acknowledged and that any settlements would really have the effect of putting defenses in a posture of making sure this type of negligence didn’t occur again.

"Finally, the three of us agreed on a number that would be acceptable to her. I talked to Vukas, and he made some calls to Europe. Hopefully, it will be done before time for opening statements."

The total settlement was $110 million, but terms of individual settlements remain confidential. As for how big a share ATR and American will each contribute, Connelly says, "If it wasn’t 50-50, it was close."

"When a judge can settle a case, and both sides feel they can still work with each other, I think that is really much more satisfying than sitting through and trying to perfect trial," Aspen said. "And it really could not have been accomplished without the very fine leadership of Mr. Vukas and Mr. Clifford."

Many of the plaintiffs’ families gathered in St. Petersburg. Vukas issued an apology on behalf of American. Clifford made a mini-opening argument, the families showing many of the videos he had made about their loved ones.

And a permanent memorial has been erected at the site of the crash.

Chicagoland, Sept. 22 (AP) — Families of some of the 68 people killed three years ago when an American Eagle flight slammed into an Indiana farm field settled their lawsuits today with the airline and manufacturers of the ATR-72 turboprop.

"We are terribly sorry that this happened," a lawyer for American Airlines, Azion Vukas, said as the settlement was announced. "We can only compensate you for the loss that you have sustained.

The settlement covers the deaths of 27 people. An additional two lawsuits over the deaths of six people are still in negotiations over the amount of monetary awards. Settlements in the death of 35 other passengers were already made.

"It was very fair," said Kim Collins, 36, of Pittsburgh. Her sister, Sandi Modaff, was a flight attendant on the plane. "This is a sad day.

American Eagle Flight 4814, bound from Indianapolis to O'Hare International Airport, was in a holding pattern in a freezing rain the evening of Oct. 31, 1994, when it suddenly rolled and plunged to the ground near Roselawn, Indiana. All aboard the French-built ATR-72 turboprop, most of whom were Hindus.

The crash led the National Transportation Safety Board in 1996 to urge tighter regulations on flights by commuter aircraft in icing conditions.

The board concluded that ATR had failed to adequately report previous problems encountered by its planes in icy conditions.

It also faulted the French Directorate General for Civil Aviation for failing to oversee the manufacturer and to inform the FAA about the airworthiness of the ATR planes in icy conditions.

Some families relieved, others insist ATR planes still unsafe

By Robert C. Herbst

**The New York Times**

**Tues., Sept. 23, 1997**

**Flight 4814 crash case settled for $10 million**

Some families relieved, others insist ATR planes still unsafe

By Robert C. Herbst

**Daily Herald Staff Writer**

Families were torn apart when an American Eagle ATR-72 turboprop bound for O'Hare International Airport crashed into an Indiana cornfield three years ago, killing all 68 people aboard.

One by one the relatives of those victims came together in a Chicago courtroom, a few with arms around each other, as an "unprecedented" $110 million settlement was announced before the families and those they claimed were liable for the accident—the airline and the aircraft manufacturer.

Though some family members welcomed the settlement—and an emotional apology from the attorneys representing American and the plane manufacturer—others were still bitter and continued to question the safety of ATRs.

"Right now I don't feel there is justice in this," said Terri Severns, whose sister Patricia Henny and 4-year-old daughter, and Glenniewere killed in the Oct. 31, 1994 crash of Flight 4814.

"A hunter, life cannot be replaced," the Glenniewell resident said. "But it's time for us to turn and go on with our lives."

Jennifer Stansbury agreed. Her 27-year-old brother, Brad Stansbury, of Indiana, was also killed in the crash.

"I'm happy for the families, that they can go home and continue their lives," Jennifer Stansbury, also of Indiana, said. "I'm sad for the planes because they will never know the whole truth.

The truth, according to plaintiffs attorney Robert Clifford of Inverness, was that American Airlines and the French plane manufacturer had "unaddressed roll problems in icing conditions" but chose to do little about it.

"The National Transportation Safety Board has said on ice wind caused by freezing rain, contributed to the crash."

American Airlines and the French plane manufacturer had "unaddressed roll problems in icing conditions," but chose to do little about it.

The settlement, worked on over the past few weeks with the help of U.S. District Court Chief Judge Marvin E. Aspen, avoided what likely would have been an emotional and lengthy trial, which was set to begin Monday after several delays.

Details of exactly how much each family would receive or how much the airline and aircraft manufacturer each would have to pay were not disclosed.

"This is a good day for all concerned,"机组 leader said.

"This is a good day for all concerned," the Boeing said.

\* In a statement directed toward family members of victims, ATR attorney Michael Connolly apologized for the crash, but blamed it on a "weather phenomenon" that was "very rarely encountered, very rarely known."

And, he told the crowded federal courtroom, "This good has come out of the accident.

It sparked a massive "international" research effort aimed at better predicting such weather phenomena. In dealing with such disasters in the future, he said.

There were challenges in the wake of the crash. New procedures were put in place and larger boots were installed on ATRs.

But some believe the changes are too little or too late. ATRs and public corporate family members were taken aback by Connolly's remarks.

Former U.S. Attorney Anton Vukas, who is representing American in the case, also apologized, saying, "We are terribly sorry this happened. Terribly sorry. We can never undo the loss you had suffered. I am sorry this has taken so long to get to this resolution.

Naperville resident Pat Hansen, whose brother Frank Sheridan Jr. died in the crash, said that "It's what I wanted to hear. That's what I wanted to hear."

Some family members, however, remained angry over the way they were treated by American in the aftermath of the crash. Some unidentified body parts, for instance, were initially buried without family input, and there were questions about the charges of insufficient preparation.

American has agreed to work on such issues. The settlement effectively ends 26 lawsuits covering 27 victims. There are three remaining, covering six victims, but the liability issue will not be involved. They might be wrapped up in coming weeks, officials said.

A number of other suits filed on behalf of the families of the four crew members killed have been settled. Among those killed was Mount Prospect resident Gina De Strooper, whose wife was distraught by spirit in public hearing. Also killed was Barrington resident Ken Spencer, whose wife has since moved to New England and, through her attorney, expressed "disgust" at the closure of the case.

Several family members from pilots that there are still serious concerns about the safety of ATRs. But, when asked whether they thought they were safe, Clifford responded: "I would fly it in 30 days again to get ready for trial."
AN AVIONS DE TRANSPORT REGIOAL turboprop aircraft was flying from Indianapolis International Airport to Chicago on Oct. 31, 1994, when ice on the aircraft's wings caused the plane's autopilot to disengage and the plane, banked, rolled over and plunged to the ground near Roselawn, Ind., said plaintiffs' counsel Kevin P. Durkin. All 64 passengers and four crew members were killed.

The families and estates of the victims sued the makers of the aircraft, Avions de Transport Regional, Societé Générale d'Aviation et de Construction Aéronautique National, Societé Nationale d'Aviation, and Arrows, the foreign companies that designed and manufactured the aircraft. Each family and estate has a separate lawsuit.

The plaintiffs' lawyers were Kevin P. Durkin of Durkin Law Offices of South Bend, Ind., and Michael Connelly, of Chicago's Connelly & Schroeder.

Settlement: $110 million

$110M Settlement for Air Crash Victims

TWENTY-SEVEN families of victims who died in an American Eagle plane crash three years ago have settled with the defendants shortly before trial. In an Air Crash Disaster near Roselawn, Ind., on Oct. 31, 1994, MDK No. 1070 (N.D. Ill. Sept. 22). The defendants had agreed to maintain a safe system and to ensure that design and manufacturing defects are resolved and that pilot manuals were adequate to avoid the crash.

In the crash, 27 people died and 3 were injured. The aircraft was a turboprop plane, a model that is known as a de-icing boot. The settlement is the largest in the history of American Eagle.

The settlement was negotiated by three lawyers: Thomas Demetrio of Chicago's Corboy & Demetrio, P.C., James T. Crouse and Gerald R. Lauter of the Roselawn, Ind., office, and Kenneth P. Nolan of the New York law firm of Fried, Frank, Harris, Shriver & Stein. The lawyers for the families of the victims were Kevin P. Durkin of Durkin Law Offices of South Bend, Ind., and Michael Connelly, of Chicago's Connelly & Schroeder.

Settlement: $110 million

In an unusual move, the plaintiffs in this case pledged to stay together as a bloc until all remaining liability and damage claims were settled. Robert A. Clifford of the Clifford Law Offices and Thomas A. Demetrio of Corboy & Demetrio headed the team of plaintiffs' lawyers. Clifford said he was "very pleased" with the terms of the settlement. "This is a home run for the people."

The settlement covers the deaths of 27 people of the 68 on board. An additional two lawsuits over the deaths of six people are still in negotiations over the amount of monetary awards.

The families of the remaining 35 victims agreed to damages-only trials; court-ordered settlement discussions are to begin within 30 days. Clifford said.

The settlement was reached just one week after the trial in a federal court before U.S. District Judge Roselena. Chief U.S. District Judge Marvis E. Aspen assisted in the round-the-clock settlement discussions, which were initiated by the
defendants and began on Thursday, Clifford said.

Castillo announced the settlement agreement in court Monday at about noon, shortly before opening arguments were slated to begin. The jury was selected last week.

Defendants include American Airlines, Simmons Airlines, American Eagle and Avions de Transport Regional G.I.E. (ATR), the French manufacturer of the aircraft.

Lawyers for the defendants have denied liability in the accident.

“It was very fair,” Kim Collins, 36, of Pittsburgh said of the settlement. Her sister, Sandi Modaff, was a flight attendant on the plane. “This is a sad day. It brought all that back.”

American Eagle Flight 4184, bound from Indianapolis to O’Hare International Airport, was in a holding pattern in a freezing rain the evening of Oct. 31, 1994, when it suddenly rolled and plunged to the ground near Roselawn, Indiana. All 68 people aboard the French-built ATR-72 turboprop died.

The crash led the National Transportation Safety Board in 1996 to urge tighter regulations on flights by commuter aircraft in icing conditions.

The NTSB said the flights crew was not responsible.

It issued a report blaming French aviation authorities and the makers of the aircraft, and said the Federal Aviation Administration failed to exert proper authority over the aircraft’s maker.

The board concluded that ATR failed to adequately report previous problems encountered by its planes in icy conditions.

It also blamed the French Directorate General For Civil Aviation for failing to oversee the manufacturer and to inform the FAA about the airworthiness of the ATR planes in icy conditions as specified by international agreements.

The plaintiffs’ legal team also included Kevin Durkin, a partner at the Clifford Law Offices; James Crouse of Speiser, Krause, Madole & Lear, and Chicago sole practitioner Donald J. Nolan.

The case is In re Air Crash Disaster Near Roselawn, Ind., on Oct. 31, 1994, No. 95 C 4593.

— The Associated Press contributed.

Chicago Sun-Times

Airline settles crash suit

BY MICHAEL GILLIS
FEDERAL COURT REPORTER

A trial over the fatal 1994 crash of an American Eagle flight in Roselawn, Ind., was averted at the last minute Monday when the airline and aircraft maker agreed to pay $110 million to the families of 27 victims.

The settlement announcement—which came after a jury had been picked for the case—featured an unusual courtroom apology from lawyers for the defendants.

“We are terribly sorry this happened, terribly sorry,” Anton Valukas, the former U.S. attorney who was representing the airline in the case, said to relatives in the packed gallery. “We can never compensate you for the losses you suffered.”

Sixty-eight people were killed when the ATR-72 from Indianapolis to Chicago plunged into an Indiana cornfield. The National Transportation Safety Board concluded the French-made plane, which was in a holding pattern for 40 minutes, had developed ice on top of its wings, causing it to roll out of control.

The NTSB faulted the manufacturer and French aviation authorities for failing to adequately report the plane’s previous icing problems. French officials, however, strongly disagreed with the American report.

Lawyers for the defendants denied all liability in the accident.

Settlements were previously reached in 35 other deaths from the crash. Damages remain unsettled in two lawsuits arising from six crash deaths.

Some family members said they had mixed feelings about the settlement, which saves them from going through an emotional trial but eliminates their chance to highlight their ongoing doubts about the plane’s safety.

“Right now, I don’t feel there is justice in this. A human life cannot be replaced,” said Terri Severin of Glenview, who lost her sister and nephew in the crash. “It’s time for us to turn and go on with our lives.”

Valukas said he had no doubt the plane was safe.

“Without even a question,” Valukas said. “This plane has undergone more safety testing than any other aircraft now flying. There is not even an issue with this aircraft.”

Robert Clifford, the main attorney for the families, agreed the plane is safe. He said the manufacturer changed the design of the plane to block the buildup of ice on the wings. And pilots are being better trained about flying the plane in unusual conditions, he said.

Research prompted by the crash has shown how to cope with the problem of freezing drizzle that can lead to icing, said Michael Connelly, who represented the manufacturers and also apologized to the families.

The agreement was reached after a weekend of negotiations presided over by U.S. District Chief Judge Marvin Aspen, who at one point summoned lawyers to a Skokie hotel for a negotiating session, lawyers said.

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