"Robert Clifford was more successful than lawyers in other recent Chicago cases."

-American Bar Association Journal

**Record Verdict and Settlement in Sioux City, Iowa Crash**

Such an admission "is unprecedented," Robert Clifford said. "In 20 years I've never seen anything like it, and in commercial aviation litigation, it is unheard of."

-Chicago Tribune
Case Proves Senior Verdicts Can Be Large

Attorneys focused on pain and suffering of 70-year-old air crash victim

By Gunther Kochik

A multimillion-dollar verdict stemming from a 1989 United Airlines DC-10 crash near Sioux City, Iowa, proves wrong the conventional wisdom that it's difficult to obtain high injury awards for the elderly.

In Chicago, a jury in Levensen v. McDonnell Douglas Corp., No. 93-L-04325, awarded 70-year-old Doris Levensen $24.2 million for her injuries in what may be one of the largest personal injury verdicts in an aviation case. It also awarded $4 million to the estate of her 71-year-old husband of less than one year, Allan, for his wrongful death and 44 minutes of suffering before the plane hit the ground.

A Message to Insurers

If the verdicts are upheld on appeal, settlements for elderly plaintiffs probably will be higher in the future, said attorney Marc S. Moller of Knredd & New in New York, an airline and personal injury firm. The case "makes defendants aware that juries are prepared to award huge damages in such cases where senior citizens are involved," said Moller, a member of the ABA Tort and Insurance Practice Section’s council.

"Seniors are living longer and living better," added E. Michael Kelly, a partner at Hinchaw, Cullerton in Chicago who works for the defense in aviation cases. "The argument made 20 years ago for a diminished verdict for someone 70 to 75 cannot be made today."

Attorney and torts expert Victor E. Schwartz of Crowell & Moring in Washington, D.C., points out that economic damages often are lower for seniors. That is because someone who is retired and who has a shorter life expectancy won't be able to recover as much as a younger person for the cost of future medical care and lost wages.

As a result, attorneys representing elderly plaintiffs are likely to focus on the pain-and-suffering component of damages or, if appropriate, on punitive damages.

Forty years ago, pain-and-suffering damages were a small part of a verdict. But today they are much larger, Schwartz said. Attorneys are able to dramatize the pain "using 1990s techniques" like diagrams and day-in-the-life videos of the injured person.

Indeed, past and future pain-and-suffering damages for Levensen were $16 million—two thirds of the verdict. She has only partial use of her legs after suffering a broken neck, multiple arm and leg fractures, and head injuries.

"I deliberately avoided focusing on ages," said her attorney, Robert A. Clifford, of Chicago's Clifford Law Offices. Instead, he used visual exhibits to make clear just what the trauma was like and to establish that the injuries were a direct result of the accident.

Clifford was more successful than lawyers in other recent Chicago cases. The Jury Verdict Reporter shows that in the last two years, the highest award in the city for pain and suffering by an elderly person was $3.2 million for a 72-year-old man severely injured in an auto accident.

"Defense lawyers usually believe that senior cases are worth garbage, and they are very crass about it saying, ‘Hey, this person is 65 and is going to die anyway,'" Clifford reports.

Clifford was assisted at trial by his associate, Patricia J. Carlson. He also worked with Kenneth J. Allen of Allen & Associates in Merriville, Ind., who represented the estate of Allan Levensen. They organized displays of photos and called friends to testify that Doris Levensen was quite active before the crash.

A Visual Approach

Clifford structured his presentation to demonstrate Doris Levensen's ordeal, her recovery and her future medical needs. He used full-sized medical illustrations, the "black box" flight recorder and news footage. Clifford also showed the jurors a 30-minute day-in-the-life video of how she had to cope with her injuries over a three-year rehabilitation period.

The lawyers also had two detailed models of the DC-10 made. The smaller one, costing $500, showed what led the plane to crash into a confined at 100 miles an hour. A five-foot high, $20,000 mock-up let the jury see how Levensen was trapped when the plane went out of control.

But for Clifford, a civil attorney for 20 years, the most important aids were two mock guillotine juries, used to test various approaches and to gauge the value of his case. He learned the jurors would side with his expert's version of Levensen's future medical needs, input that helped him decide to turn down any $8 million settlement. The cost was a well spent $18,500.

On the stand, Levensen was encouraged to talk positively about her recovery and even added a few touches of natural humor. The jurors, who ranged in age from 22 to 76, realized that this woman was a fighter who wanted as much out of life as possible despite her injuries, said the foreman, Carmel Gabriel.

Other components of Levensen's award were $2.5 million for disability, $1.5 million for disfigurement, $911,412 for medical treatment, and $3.5 million for future medical care.

In addition, the award granted the estate of her husband $3 million for wrongful death and $1 million for the conscious pain and mental suffering he endured before his death.

"Money is good," said Doris Levensen, "but I would rather have my health again. So much has been taken away from me in these last five years, but I still have a lot more years ahead."

Clifford was assisted at trial by his associate, Patricia J. Carlson. He also worked with Kenneth J. Allen of Allen & Associates in Merriville, Ind., who represented the estate of Allan Levensen. They organized displays of photos and called friends to testify that Doris Levensen was quite active before the crash.

A Visual Approach

Clifford structured his presentation to demonstrate Doris Levensen's ordeal, her recovery and her future medical needs. He used full-sized medical illustrations, the "black box" flight recorder and news footage. Clifford also showed the jurors a 30-minute day-in-the-life video of how she had to cope with her injuries over a three-year rehabilitation period.

The lawyers also had two detailed models of the DC-10 made. The smaller one, costing $500, showed what led the plane to crash into a confined at 100 miles an hour. A five-foot high, $20,000 mock-up let the jury see how Levensen was trapped when the plane went out of control.

But for Clifford, a civil attorney for 20 years, the most important aids were two mock guillotine juries, used to test various approaches and to gauge the value of his case. He learned the jurors would side with his expert's version of Levensen's future medical needs, input that helped him decide to turn down any $8 million settlement. The cost was a well spent $18,500.

On the stand, Levensen was encouraged to talk positively about her recovery and even added a few touches of natural humor. The jurors, who ranged in age from 22 to 76, realized that this woman was a fighter who wanted as much out of life as possible despite her injuries, said the foreman, Carmel Gabriel.

Other components of Levensen's award were $2.5 million for disability, $1.5 million for disfigurement, $911,412 for medical treatment, and $3.5 million for future medical care.

In addition, the award granted the estate of her husband $3 million for wrongful death and $1 million for the conscious pain and mental suffering he endured before his death.

"Money is good," said Doris Levensen, "but I would rather have my health again. So much has been taken away from me in these last five years, but I still have a lot more years ahead."

Lability was not an issue for jurors who awarded $24.25 million to a survivor of the Sioux City airplane crash, but punitive damage claims in the 20 remaining cases could make it a matter of contention in the future, a lawyer representing most of the plaintiffs said Tuesday.

Doris Levensen, 70, agreed to waive her punitive damage claims against United Airlines, McDonnell Douglas and General Electric in exchange for them agreeing not to contest liability in her case, Robert A. Clifford said.

The first trial in Cook County Circuit Court involving a survivor of that crash, therefore, focused only on compensatory damages to Levensen and the estate of her husband, who died when the jet cart-wheeled on the runway at Sioux-Gateway Airport.

The remaining cases all include claims for punitive and compensatory damages, said Clifford, partner of Clifford Law Offices.

Juries late Monday afternoon awarded Levensen $24.25 million and the estate of Allan Levensen $4 million following a two-week trial before Law Division Judge Donald J. O'Brien Jr. They deliberated 2 1/2 hours before reaching the verdict, which is clearly the largest verdict in Illinois — and probably the notion — for a commercial aviation crash, Clifford said.

The Levensens had been seated near the back of the DC-10 when United Flight 232 left Denver bound for Chicago in July 1989. Slightly more than an hour into the flight, a rotating disc in the tail engine above the Levensens broke apart, causing an explosion that cut hydraulic lines and rendered the airplane's controls inoperable.

The DC-10's crew kept the crippled jet aloft for 44 minutes with the help of an off-duty United pilot. They guided the airliner to Sioux City, using alternating thrusts on the two remaining engines to turn it in wide circles.

At trial, that off-duty pilot testified to the roller-coaster-like ride toward Sioux City in graphic testimony that on several occasions the jet came close to flipping over, Clifford said. A wheel chair-bound Levensen also testified for about 30 minutes to her life before the crash, memories of the crash and her life afterward, Clifford said. Levensen suffered brain damage, incomplete quadriplegia and a massive fracture to her left leg in the crash, he added.

The jurors awarded Levensen $8 million for past pain and suffering and $5 million for future pain and suffering. They also awarded her $3.24 million for future medical expenses, $2.5 million for disfigurement, $1.5 million for disfigurement and $911,412 for medical expenses to date.

Allan Levensen, awarded $20 million by a jury last month after a second trial, had testified of a discovery flight currently before the Illinois Supreme Court under petitions for leave to appeal filed by several defendants. In re Air Crash Disaster at Sioux City, etc., No. 77888 and 77914.

The remaining cases are before chief judge-elect Donald P. O'Connell, presiding judge of the Law Division, Clifford said. None are close to the trial stage, he added.

John W. Adler and James D. Selon of Adler, Kaplan & Begy represented all three defendants. They had been specifically retained by United, but General Electric and McDonnell Douglas agreed to their representation. They could not be reached for comment Tuesday.

Doris Levensen v. United Airlines, et al., No. 93-L-4325.

"Deprived and Injured with Punition of [Sioux City air crash lawsuits]

By David Peter, Law Bulletin staff writer

CHICAGO DAILY LAW BULLETIN

October 4, 1994
$28.2 Million Awarded in Jet Crash

A jury Monday put a price on the pain that Doris Levenberg felt physically and emotionally as a result of the 1989 United Air Lines crash in Sioux City that killed her husband and left her critically injured: $28.2 million.

After deliberating for about three hours, a jury ended the week-long trial by ordering United and two other defendants in the case to compensate the 70-year-old Indiana woman.

The award is believed to be the largest arising out of the July 19, 1989 crash. Virtually all of the cases brought against the airline have settled, with the largest award being the $25 million paid to the family of a Michigan man who died in the crash.

The case in Cook County Circuit Court was the first Sioux City crash suit in Illinois and only the second in the country to go to trial. The trial became necessary after a final settlement offer of nearly $9 million was rejected, according to attorney Kenneth Allen. Allen and Robert Clifford represented Levenberg in the case.

Attorneys for United, McDonnell-Douglas Corp. and General Electric declined to comment. They also wouldn't say whether they would appeal the award, which could trigger final resolution of the case for several more years.

But attorney John Adler, who represented the firms, had asked the jury during his closing arguments Monday to award no more than $4.7 million.

McDonnell-Douglas was the manufacturer of the DC-10 and General Electric produced the engine. It was the explosion of the engine which cut the hydraulic lines needed to control the plane that was ultimately blamed for the crash.

The company never disputed its liability in the case. In a common practice in airline litigation, leaving the compensation to Levenberg as the only issue for the jury to decide.

Allen and Clifford said Monday the award would compensate Levenberg for more than $900,000 in medical bills she has incurred and would insure that she could receive 24-hour care.

Doctors say the woman has greatly improved as a result of years of physical therapy and care. However, she still relies on a wheelchair and a walker to get around and she complains that the pain in her body has never left.

Levenberg was seated in Row 36 in the back of the plane, with her husband Allen beside her, when the airplane crashed onto the runway in Sioux City as it attempted to make an emergency landing.

Five Years Later, Suit Tackles Iowa Crash

By Andrew Flegler, Associated Press

It is five years in the past, Doris Levenberg and Dennis Fitch will confirm that the trauma of being aboard United Flight 232 never goes away.

At age 70, Levenberg says she feels it every day through the constant physical pain.

"I've been through hell and back of them," she said in an interview Thursday. "I'm real good at crying, that's something the accident did to me, hurt my head so I cry too much.

"Fitch has been through his own since the United DC-10 crashed while attempting an emergency landing at the airport in Sioux City, Iowa, killing 112 passengers and crew members.

Levenberg, Fitch and some 180 others survived. She sustained injuries that still cause pain; Fitch broke an arm and ribs and dislocated a shoulder. That grounded him as a United pilot for 16 months.

But the survivors are now linked, as only those who have shared a particular horror can be. They are the first witness in the lawsuit Levenberg and the estate of her husband, Allen, who was among those killed, filed after the crash. He recounted the disturbing minutes between the time an engine explosion sheared the plane's hydraulics and the craft careened down a Sioux City airport runway.

The trial of Doris Levenberg's suit, which opened Thursday in Cook County Circuit Court, is the first in Illinois and possibly the second anywhere arising out of the Sioux City crash.

In the Levenberg suit before Circuit Judge Donald O'Brien, attorneys Robert Clifford and Kenneth Allen are asking the jury to compensate Levenberg for the loss of her husband, for the injuries she sustained and to provide enough money for the round-the-clock care they say she needs.

"Aside from the pain of The Chicago Sun-Times"

A 70-year-old woman who survived a United Airlines crash in Sioux City, Iowa, has been awarded $28.2 million.

Doris Levenberg, whose husband was killed in the July 19, 1989, crash with 111 other passengers, was awarded that amount by a 12-member jury after a two-week trial before Cook County Circuit Judge Donald O'Brien.

Levenberg's attorneys had sought up to $44 million in compensation for her injuries, future care and for the loss of her husband, Allan.

Levenberg suffered brain damage, nerve damage that impaired the use of her limbs, and a broken neck, left arm, right ankle and left leg, according to her attorney, Robert Clifford.

In addition to 24-hour home care, she needs prescription medication, constant physical rehabilitation and psychological counseling, Clifford said.

The jury's award includes $8 million for past pain and suffering resulting from her injuries, $8 million for pain and suffering to be experienced in the future as a result of the injuries, $3.36 million for future medical care and $2.5 million for disability resulting from her injuries.

"For the last five years, Mrs. Levenberg has gone through five years of incredible pain, disability and disfigurement," said Clifford. "I am thankful to the jury for fully analyzing Mrs. Levenberg's needs."

Levenberg also was awarded $1.5 million for disfigurement resulting from the injuries, $911,125 for post medical bills and $1 million in pain and suffering for her husband's loss. She received $3 million on behalf of her husband's estate.

"Thank heavens, it's all over. I can go ahead with my life now I hope," Levenberg said at a Monday night news conference at the offices of Clifford.

Levenberg is one of 45 plaintiffs in a consolidated civil suit against United Airlines; the airplanes manufacturer, McDonnell Douglas Corp., and the aircraft engine's manufacturer, General Electric. She is the only plaintiff who has agreed to waive the issue of liability, said Clifford.

The National Transportation Safety Board determined that a rotating disc in the engine had developed a crack and broke apart during the flight. The plane's tail engine subsequently exploded, and debris crippled the plane's hydraulic systems.

"Aside from the pain of the crash, I have lost my husband, I have lost my home, I have lost my life," Levenberg said in court.

Doris Levenberg, a survivor of a 1989 crash of a United Airlines jet in Sioux City, Iowa, gets support from attorney Robert Clifford as events are recounted for a jury Monday. Levenberg, whose husband was among 112 killed in the crash, was awarded 28.2 million.

Air-Crash Survivor Suit

CHICAGO - A Cook County Circuit Court jury deliberated less than three hours on Oct. 3 before awarding a total of $28.2 million in compensatory damages to Doris Levenberg, 70, of Munster, Ind., who was critically injured, and to the estate of her husband, Allan, who was killed along with 111 other passengers in the July 19, 1989 crash of United Airlines Flight 232 in Sioux City, Iowa.

After a two-week trial, the panel awarded Ms. Levenberg $8 million for past pain and suffering and $8 million for future pain and suffering. The verdict also includes $3.3 million for future health care, $2.5 million for disability, $1.5 million for disfigurement and more than $400,000 for incurred medical expenses. Ms. Levenberg's estate was awarded $4 million.

Millions are Riding on ‘Appropriate Future’
Experts, therapists and lawyers battling over damages for survivor of United Flight 232.

By Randall Sanders, Richmond Law Journal Staff Reporter

CHICAGO—Immediately after selecting a jury, plaintiffs’ attorney Robert A. Clifford presented his client’s horrific experience in the 1989 crash of United Airlines Flight 232 to the second of two focus groups that he used to pick the jury for trial. This time, the mock panel’s demographic makeup was nearly identical to the actual Cook County Circuit Court jury that is about to deliberate.

The second mock panel’s verdict was slightly lower than the amount agreed upon by the first group, but for Mr. Clifford of Chicago’s Clifford Law Offices, it set a floor on the value of the case.

Even though he has won verdicts totaling more than $100 million since just 1990, Mr. Clifford says he is never comfortable rejecting multimillion settlement offers. But, in this case, the focus groups told him it was “more likely than not” that he would do better than the $8 million offer that was rejected before trial.

Damages are the only issue in the suit brought by Doris Levensberg, who was seriously injured, and the estate of her husband, Allan, who was killed on July 19, 1989, when the tail engine of the United DC-10 exploded 37,000 feet above ground, severing the aircraft’s fuselage and setting it on fire. The exploded aircraft, capable of making only right turns, lurched for 44 minutes before cartwheeling in a fiery crash at the airport in Sioux City, Iowa.

Of the 296 passengers and crew aboard the flight from Denver to Chicago, 184 were killed and 112 survived.

The three defendants, United Airlines Inc., DC-10 manufacturer McDonnell Douglas Corp. and engine maker General Electric Co., are not contesting liability in exchange for Ms. Levensberg’s waiver of punitive damages. Still, if the jury awards anywhere near the roughly $40 million in actual damages that Mr. Clifford was planning to ask, or if it exceeds the $24.1 million he won here in 1991 for a boy who was struck by a mass transit bus, he stands to break his own record for the largest personal injury verdict in Chicago. His last demand before trial was about $10 million.


The five years since the crash left only 20 pending claims from among those filed in some 45 state and federal courts by nearly all of the 296 survivors or estates. The total of settlements so far is estimated at more than $100 million.

Discovery Continuing
In the only other trial, a Philadelphia jury awarded flight attendant Virginia Murray $1.4 million. Meanwhile, discovery is continuing in the remaining cases, all consolidated before Cook County Judge Donald J. O’Brien Jr., who is presiding in the Levensberg trial.

Sustaining head and neurological injuries, a broken bone and multiple arm and leg fractures, Ms. Levensberg, now 70, of Monroe, Ind., has undergone more than 2,900 rehabilitation sessions to regain part of that limit, incurring medical expenses of about $920,000. The defendants, who have an undisclosed sharing agreement to apportion damages, have pre-paid part of that amount, which will be off the verdict.

“The dispute is what kind of care and who’s to determine what kind of care she receives,” Mr. Clifford said in his opening statement on Sept. 12. “Assuming him to be his associate, Patricia J. Carlson, Kenneth J. Allen of Allen & Sarkinuss in Merrillville, Ind., represents the estate of Ms. Levensberg, a retired metalworking plant worker.

John W. Adler of Chicago’s Adler, Kaplan & Hegy, counsel for United Airlines Inc. who is representing all three defendants at trial, countered. “The greedy and feisty Ms. Levensberg, we would like to come up with a plan,” he said, that would provide “the appropriate future for Ms. Levensberg.” His partner, James D. Solon, is co-counsel.

Mr. Clifford and Mr. Adler each built their case around the testimony of physicians, therapists and economists. A defense expert pegged the cost of Ms. Levensberg’s future healthcare at $1.4 million, while a plaintiff’s expert said she should be awarded $3.4 million on that score. Mr. Adler was in the position of conceding an award of at least $2.3 million and probably much higher, but nowhere near the amount the plaintiffs are seeking.

‘Islands of Memory’
A defense motion that sought to exclude evidence of pre-impact fear was the crux of the plaintiff’s opening summation. Defense lawyers claimed that neither Ms. Levensberg nor her husband’s estate could recover damages for mental anguish before impact, absent any evidence that they suffered severe emotional distress caused by a conscious injury or injury. Since none occurred until the plane hit the ground, they argued, the court should bar any testimony about what occurred before the plane impact before impact.

Suffering retrograde amnesia, Ms. Levensberg, at best, “has islands of memory about what transpired that day,” Mr. Clifford told the jury, so he urged the judge to allow other witnesses to describe the conditions that would certainly have caused all around to experience pre-impact fear. Since both plaintiffs were direct victims of negligence, he said, they are entitled to damages for distress.

The doctrine of pre-impact fear, which began to take hold in the mid-1960s, is still hotly contested, experts say, but courts are more accepting of it.

Judge O’Brien ruled orally on Sept. 21 that he would allow evidence of pre-impact emotional distress. As a component of past pain and suffering under Illinois law, Mr. Clifford said the plaintiff was awarded $3.4 million each on separate claims for past and future pain and suffering. He also planned to ask the jury for $5 million each on separate counts of disability and disfigurement, in addition to the $4.3 million in alleged economic damages, for a total award of $34 million to $44 million.

Judge O’Brien’s ruling paved the way for a celebration.

Flight 232 pilot Al Haynes, now retired, was portrayed by Charlton Heston in a television movie about the crash, and is widely regarded as a hero for commanding the disabled plane. But United Airlines Capt. Dennis E. Fitch is one of the unsung heroes. Off-duty Captain Fitch was a first-class passenger returning home on Flight 232.

“There was a very loud, muffled explosion. The consequences of it were very defined,” Captain Fitch testified as the first witness in the case. “Everybody certainly was aware of it. It had startled us all. Frightened many people.”

Captain Fitch went to the cockpit to lend assistance and eventually operated the throttles in alternating thrusts, which gave Captain Haynes what little control he was able to maintain.

“It’s kind of like a roller coaster,” he said. “It would go up and then, when it reached, achieved that stability, it would start back down.”

“The engines were still being jockeyed back and forth in this effort, and the airplane was making small rock and roll runs,” he said. “At a speed roughly 100 miles an hour faster than normal landings, he said.

A United pilot for 28 years, Captain Fitch, 51, missed 16 months of work as a result of his injuries, but now is flying Boeing 757 and 767 aircraft. Also represented by Clifford, his suit is among the 20 still pending here, but United, as his employer, is not a defendant.

Mr. Adler declined cross-examination.

Trip Started Out Well
“That’s not a nice question to ask a lady,” Ms. Levensberg, 70, quipped when Mr. Clifford asked her to state her age as she testified seated in a wheelchair. “I’d think the plane is too.”

At one point, Judge O’Brien excused the jury while Ms. Levensberg stood up. She said she felt she was going to break down, she should ask him for time to compose herself to avoid a possible prejudicial scene before the jury.

Both Ms. and Mr. Levensberg had lost their first spouses after each was married about 40 years. But they had known each other through their church for decades and were married just 10 months before the crash. “He was alone and I was alone,” she said, “next thing you know, he’s dead.”

They went to Colorado to honeymoon so Mr. Levensberg could show her a lot she owned in Evergreen, where they contemplated building a home. “It started out as a beautiful trip,” she said of the return flight, “until there was a big boom over my head.” The couple were seated in the 36th row of the 38-row wide-body plane.

“I grabbed Allen, gave him a kiss, and told him I'd see him later,” she recalled, covering one hand with the other to hide an occasionally twitching thumb. She has “a few” other memories, she said, but would rather not talk about them “because it hurts too much.”

Her body “is a mess because it’s so full of scars,” she said, adding her left leg is now two inches shorter than it was, “so I limp like an old goat.”

But as a “day-in-the-life” video demonstrated for the jury, she perseveres through her difficult daily routine, including exercising therapy sessions, with indomitable spirit and determination. “In five years,” she said, “I'd like to be traveling and seeing parts of the country I haven't seen.”

Again, Mr. Adler declined to cross-examination.


The WALL STREET JOURNAL

Air-Crash SurvivorSuit

Doris Levensberg, a survivor of a United Airlines DC-10 crash in Sioux City, Iowa, in 1989, was awarded $28.2 million in compensatory damages by a jury in Cook County Circuit Court in Chicago.

Her attorney, Robert A. Clifford, said the Munster, Indiana, woman was awarded $24.25 million for personal injuries and $4 million for the estate of her husband, Allan who died in the crash. The accident killed 112 of the 296 people aboard.

Defendants in the lawsuit are United, a unit of UAL Corp., along with plane builder McDonnell Douglas Corp., and engine maker General Electric Co. United yesterday said it had no comment on the trial; the other two companies couldn’t immediately be reached.

It’s expected the defendants will appeal the verdict.

Timothy L. O’Brien contributed to this column.

THE NATIONAL LAW JOURNAL October 10, 1994

THE WALL STREET JOURNAL October 4, 1994

Air-Crash Survivor Suit

Doris Levensberg, a survivor of a United Airlines DC-10 crash in Sioux City, Iowa, in 1989, was awarded $28.2 million in compensatory damages by a jury in Cook County Circuit Court in Chicago.

Her attorney, Robert A. Clifford, said the Munster, Indiana, woman was awarded $24.25 million for personal injuries and $4 million for the estate of her husband, Allan who died in the crash. The accident killed 112 of the 296 people aboard.

Defendants in the lawsuit are United, a unit of UAL Corp., along with plane builder McDonnell Douglas Corp., and engine maker General Electric Co. United yesterday said it had no comment on the trial; the other two companies couldn’t immediately be reached.

It’s expected the defendants will appeal the verdict.

Timothy L. O’Brien contributed to this column.
Air crash victim’s husband gets settlement

CHICAGO (AP) — A man whose wife and daughter were killed in the 1989 plane crash in Sioux City, Iowa, will receive a $15 million settlement. Clifford said the suit was a record for solely economic damages. Lost wages were not sought.

United Airlines Flight 232, bound from Denver to Chicago, was flying over Iowa on July 19, 1989, when the right engine exploded and the plane went out of control. The engine shrapnel hit skies in the plane’s steering system. The plane veered wildly through the sky for 44 minutes before it crashed on a Sioux City runway, killing 112 people. Another 184 survived.

Clifford said Brown was one of the last to settle because he wanted some kind of admission of responsibility from at least one of the defendants.

GE accepted “corporate responsibility” for its role in the crash, said Pat Kramer, a lawyer representing GE’s aircraft engines division.

United Airlines and McDonnell Douglas refused to agree to accept responsibility. In fact, McDonnell Douglas has sued GE and United Airlines, saying they are to blame for the crash. McDonnell Douglas wants a refund of money it chipped in to help a pool to settle lawsuits from the crash.

United Airlines spokesman Don Hanson said Thursday that he could not comment on pending litigation.

Other victims settled their cases a long time ago, but Brown rejected those monetary agreements. He also wanted the truth.

Last week he won what he wanted, reaching a $15 million settlement with General Electric Co., United Airlines and McDonnell Douglas Corp.

More important, Brown said, the settlement includes a partial admission of responsibility from General Electric for the architect of the failed engine in the crash.

Terrance Brown of North Barrington hopes his lawsuit, in which he won $15 million and the admission in the plane crash deaths of his wife and daughter, will make airline producers more careful.

Terrance Brown wanted someone to take responsibility.

Gone was his wife, Janice. Gone was his only daughter, 11-year-old Kimberly.

They and 110 others died seven years ago when United Airlines Flight 232 crashed in Sioux City, Iowa.

Since then the North Barrington resident devoted himself to a lawsuit demanding someone be held accountable.

Other victims families settled their cases a long time ago, but Brown rejected those monetary agreements. He also wanted the truth.

Last week he won what he wanted, reaching a $15 million settlement with General Electric Co., United Airlines and McDonnell Douglas Corp.

More important, Brown said, the settlement includes a partial admission of responsibility from General Electric for the architect of the failed engine in the crash.

Terrance Brown was absolutely committed to the idea that it was proper professionally and morally that anyone who is accountable for wrongdoing should accept that responsibility,” said Robert Clifford of Chicago. Brown's attorney.

Terrance Brown talked with the Daily Herald in his Schaumburg office about his life since the crash, what the settlement means and what the future holds for him. Here is an edited transcript of that conversation.

Q. What drove you to keep going on this case and get an admission of responsibility?

A. I felt an obligation to my son and daughter to find out the truth and why the plane crashed. I was not willing to be paid some sum of money to walk away and not know what the cause of the crash was.

I’ll never forgive and I’ll never forget what’s taken place.

No one deserved to live more than my wife. She had suffered through two bouts of cancer and survived both.

My daughter was 11 years old and will never be given the opportunity to taste life. And for that I can never forgive.

Q. What do you think the settlement means and what kind of long-term effects do you think it might have for the future?

A. I think ideally we’d like to think what this means is, there has to be accountability for these plane crashes.

You have to determine what exactly the reasons were and what the problems were with that particular crash.

The National Transportation Safety Board determined General Electric failed to identify a crack in the engine’s blade. The engine exploded, causing the plane’s hydraulic steering system to fail and forcing the pilot to crash-land the aircraft, in a fire.

What I think this does, or I hope it does, is offer a closure not only to myself but to many of the people on Flight 232 and also families of the people who were on the flight. It gives them some awareness of what caused the crash. It gives them some sense of closure and that it wasn’t just an accident. The accident could have been avoided.

Q. What was it like for you taking on such large corporations?

A. I wasn’t concerned about taking on a large corporation or three large corporations. I was focused on finding out why this plane crashed and if there was responsibility to be taken that those parties responsible be held accountable to take action. And I wasn’t going to settle for anything less.

Q. Do you have advice for people who might have to go through a similar experience as you?

A. The best advice is to try to remain calm and take each day at a time. If counseling is appropriate for them, they should seek counseling.

They need to try to stay active and stay focused on something and try to receive as much support as they can from friends and family.

Terrance Brown created a playground at Marion Jordon Elementary School in Palatine in memory of his daughter, Kimberly, who died in a 1989 plane crash.
Man gets $15 million in crash settlement

September 13, 1996

A Barrington man whose wife and 11-year-old daughter died in the 1989 United Airlines crash in Sioux City, Iowa, will receive a $15 million settlement, his lawyer said Thursday.

Jerry Brown of Barrington, Ill., will receive the combined settlement from General Electric, McDonnell Douglas and United, attorney Robert Clifford said.

Brown, a passenger on the plane, which was manufactured by McDonnell Douglas, crashed because a metal fan disk made by GE broke up in the engine, and shards severed hydraulic lines that controlled the plane’s steering.

The plane veered wildly through the sky before it crashed, killing 112 people. Another 184 survived.

Brown, who was not aboard the plane, lost his wife, Janice, 38, and daughter, Kimberly, 11. He was one of the last to leave the plane because he was worried about his children, spoke a woman for GE’s aircraft engines division.

United Airlines and McDonnell Douglas refused to agree to accept responsibility.

There was never going to be enough money to make me go away without someone accepting responsibility for this plane crash,” Brown said.

Brown, owner of a Schaumburg loan company, said, “Nothing is going to ever change the outcome of what happened, but with this admission of responsibility, we can now have some closure to this case.”

The award to Terry Brown is the largest ever given solely for non-economic damages in a commercial aviation case, attorney Robert Clifford said. It is the third-largest settlement of lawsuits resolved in the crash.

The crash of United Flight 232 on July 19, 1989, was triggered by an explosion in the tail engine. The pilot of the Denver-to-Chicago flight was forced to land-crash.

The award to Terry Brown is the largest ever given solely for non-economic damages in a commercial aviation case, attorney Robert Clifford said. It is the third-largest settlement of lawsuits resolved in the crash.

The crash of United Flight 232 on July 19, 1989, was triggered by an explosion in the tail engine. The pilot of the Denver-to-Chicago flight was forced to land-crash.

Chicago Sun-Times

September 13, 1996

Sunset Strip air crash suit settled for $15 million

A Barrington man whose wife and only child were killed in the 1989 Sioux City, Iowa, plane crash will settle his lawsuit Thursday morning for $15 million and obtained one defendant’s acknowledgment of fault.

Plaintiff lawyer Robert A. Clifford and his client, Terry Brown, refused to settle his wrongful-death suit until General Electric, the designer of the plane’s engine that exploded, acknowledged the fault for the crash of United Airlines flight 232 on July 19, 1989.

“The lawsuit was nearly the last — and the third-largest — settlement arising out of the crash that occurred while the plane was en route from Denver to Chicago,” Clifford said.

Clifford said Brown was “adjudgment” throughout the litigation that he wanted at least one defendant to acknowledge responsibility for the crash.

Robert Wood, manager of media relations for General Electric at its Cincinnati, Ohio, headquarters, said he would not go so far as to say G.E. acknowledged any responsibility.

“If you look at the wording of the settlement papers, it’s a victory for us,” Clifford said. “And, our read of the evidence is that G.E. had far greater culpability than the other defendants.”

General Electric’s attorneys, Charles W. Douglas and Stella A. Sandval of Sidney & Austin, were said to be out of town Thursday morning and could not be reached for comment.

The settlement means Brown will no longer be allowed to participate in the $2.5 million lawsuit brought by another passenger whose wife, Janice, 38, and daughter, Kimberly, 11, were among the 112 killed. Brown will also donate a sizable sum to the hospital in his daughter’s name.

The award to Terry Brown is the largest ever given solely for non-economic damages in a commercial aviation case, attorney Robert Clifford said. It is the third-largest settlement of lawsuits resolved in the crash.

The crash of United Flight 232 on July 19, 1989, was triggered by an explosion in the tail engine. The pilot of the Denver-to-Chicago flight was forced to land-crash.

Chicago Lawyer

October 1996

September was a multi-million dollar month for two clients of Clifford Law Offices.

A Barrington man whose family died in the 1989 Sioux City, Iowa plane crash settled his lawsuit against County lawyer for $15 million on Sept. 11.

A week later, a Cook County Circuit Court jury awarded $1.8 million to a Wheeling man whose neck was severed in a crash with a United Parcel Service truck in September 1992.

The plane crash settlement is the third largest stemming from the disaster, said name partner Robert A. Clifford, who represented the plaintiff. He said Terry Brown of Barrington refused to settle his wrongful death suit until General Electric Co., which designed the plane’s engine, acknowledged fault for the crash of United Airlines Flight 232 on July 19, 1989.

“Mr. Brown rightfully wanted to know who was responsible,” Clifford said. “He should be commended for his strength and courage throughout this process.”

Clifford associate Robert Walsh, who represented Steven Froh of Wheeling in his personal injury lawsuit against UPS, said the jury returned its verdict in less than three hours following a three-day trial.

KUP’s Column

September 19, 1996

In addition to the record $15 million settlement attorney Bob Brown won for a client in the 1989 United Airlines crash in Sioux City, Iowa, he also got General Electric, designer of the airliner’s engine, to contribute $250,000 to Children’s Memorial Hospital.

Clifford’s client was Terry Brown of Barrington, whose wife, Janice, and daughter, Kimberly, 11, were among the 112 killed.

Brown will donate a sizable sum to the hospital in his daughter’s name.

Clifford’s associate Robert Walsh, who represented Steven Froh of Wheeling in his personal injury lawsuit against UPS, said the jury returned its verdict in less than three hours following a three-day trial.

KUP’s Column

September 19, 1996

In addition to the record $15 million settlement attorney Bob Brown won for a client in the 1989 United Airlines crash in Sioux City, Iowa, he also got General Electric, designer of the airliner’s engine, to contribute $250,000 to Children’s Memorial Hospital.

Clifford’s client was Terry Brown of Barrington, whose wife, Janice, and daughter, Kimberly, 11, were among the 112 killed. Brown will donate a sizable sum to the hospital in his daughter’s name.

Brown’s wife, Janice, 35, and daughter, Kimberly, 11, were among the 112 persons killed in the crash that occurred while the pilot was attempting an emergency landing. There were 184 survivors.

G.E.’s Kennedy noted that the NTSB’s report concluded the crash occurred after one of the plane’s three engines exploded, causing a break in a fan disk that had not been detected in prior maintenance inspections.

The award to Terry Brown is the largest ever given solely for non-economic damages in a commercial aviation case, attorney Robert Clifford said. It is the third-largest settlement of lawsuits resolved in the crash.

The crash of United Flight 232 on July 19, 1989, was triggered by an explosion in the tail engine. The pilot of the Denver-to-Chicago flight was forced to land-crash.

The award to Terry Brown is the largest ever given solely for non-economic damages in a commercial aviation case, attorney Robert Clifford said. It is the third-largest settlement of lawsuits resolved in the crash.

The crash of United Flight 232 on July 19, 1989, was triggered by an explosion in the tail engine. The pilot of the Denver-to-Chicago flight was forced to land-crash.

Anthony C. Phillips was a principal at Clifford’s law office, which is located in the 20th century business building.

G.E.’s Kennedy noted that the NTSB’s report concluded the crash occurred after one of the plane’s three engines exploded, causing a break in a fan disk that had not been detected in prior maintenance inspections.

Debris from the broken disk severed the plane’s hydraulic lines so that the plane couldn’t be controlled adequately, he said the report concluded.

“If you look at the circumstances and look at the NTSB report, this [settlement] is recognition that each of the defendants had some role in this accident,” said Kennedy.

G.E. said the settlement more than covered the company’s corporate responsibility for the circumstances.

In prior local settlements of suits arising from the air crash, 13 plaintiffs shared a $29 million settlement in June 1995 while survivors of one passenger, Gary Bierlein, settled their wrongful-death suit in 1992 for $25 million.

Chief Cook County Judge Donald P. O’Connell approved the settlement in Brown’s case, which had been consolidated for discovery and trial into Troubelle, et al. v. McDonnell Douglas Corp. et al. No. 91 L 4262.
Man Finally Gets Answers, Accountability in Tragedy

CHRISTINE WINTER

When Terry Brown says he doesn’t care about the $15 million settlement he just won, he knows that most people don’t believe him for a minute. But the truth is, even a sum as grand as $15 million isn’t going to change Terry Brown’s life, or even begin to make up for the loss of his wife, Janice, and 11-year-old daughter Kimberly in the 1989 crash of United Flight 232 near Sioux City, Iowa.

The North Barrington resident was already a successful businessman and a millionaire, and he is almost embarrassed by the enormity of his recent windfall. Much of it, he said, will be donated to favorite causes, chief among them Children’s Memorial Hospital, where his late wife was a volunteer for many years.

What he does care about, and the reason for his tenacity in dragging out his suit years longer than any of the other victims’ families, was his burning desire to find out why.

Why did this plane, carrying the people he loved most in the world, fall out of the sky that awful July day? Was it an act of God, a cruel whim of fate or was there some much more human cause at the root of the tragedy? He had to know.

Such an admission “is unprecedented,” Clifford said. “In 20 years I’ve never seen anything like it, and in commercial aviation litigation, it is unheard of.”

“From the very beginning, it was important to me to find out what caused this crash. I felt my wife and daughter would have wanted me to know,” said Brown, 45, whose calm manner belies the steady resolve that drove him to persist in his quest long after the other families had settled.

“If somebody was to blame for this tragedy, I wanted them to step up and take the responsibility. I wanted some accountability, from somebody,” he said. “If we had learned that it was indeed just an accident, an act of God, then so be it.”

But once it became clear to Brown and his lawyers several years ago that this was one crash that should have been avoided, “there was not enough money in this world to make me go away without that accountability,” he said.

According to his Chicago lawyer, Robert Clifford, what Brown wanted, and ultimately got, was an admission of liability by General Electric acknowledging that it was at least partially responsible for the crash, and that the crash could have been avoided.

Such an admission “is unprecedented,” Clifford said. “In 20 years I’ve never seen anything like it, and in commercial aviation litigation, it is unheard of.”

The evidence Clifford gathered—proving there were cracks in the fan disks that GE knew about and that United Airlines did not find—“was very compelling,” he said.

Though the successful conclusion of his long legal battle may finally bring some sense of closure to Brown, it will never erase the memories of that awful period of his life.

Daily Herald

September 13, 1996

Man Finds Justice in Plane Crash Suit

For the past seven years, Barrington resident Terry Brown has been consumed by his need to know who was responsible for the crash of United Airlines Flight 232 and the death of his wife and only child.

He filed a lawsuit. He tracked National Transportation Safety Board hearings and he worked diligently with his attorney investigating every mechanical aspect of the plane that crashed in Sioux City, Iowa, killing 112 people on July 19, 1989.

He wanted answers.

On Thursday, he said he now has the answers he needs to get on with his life.

Under the terms of a court settlement announced Thursday, Brown, 45, will receive $15 million for the pain and suffering he has endured due to the loss of his 38-year-old wife, Janice, and his 11-year-old daughter, Kimberly. The cost be divided among the three defendants in the case: General Electric Co., United Airlines and McDonnell Douglas Corp.

But more important than the money, Brown says, was a partial admission of responsibility on the part of General Electric, the manufacturer of the engine that failed in the crash.

“It was critical to me that no one was going to give me a sum of money, and I was going to go away,” Brown said Thursday. “Someone was going to accept responsibility before this was going to come to an end.”

Brown would have refused to settle and insisted on a jury trial had General Electric not agreed to sign a release accepting responsibility for its role in the crash.

“My life has been completely consumed by this crash and was going to be consumed until someone took responsibility,” he said.

The NTSB determined that GE failed to identify a crack in the engine of United Flight 232. As a result of the crack, the tail engine exploded, triggering a total failure of the plane’s hydraulic steering system, said Robert Clifford, the Chicago attorney who represented Brown.

The $15 million settlement was the third largest of the more than 200 lawsuits that followed the crash.

Although General Electric maintains that United Airlines and McDonnell Douglas also were responsible, the company admits that failure to detect the crack during routine inspections contributed to the accident, said Pat Klaus, a spokeswoman for GE Aircraft Engines in Cincinnati.

The $15 million settlement was the third largest of the more than 200 lawsuits that followed the crash. It was the last outstanding case where liability was an issue, but two damage claims have yet to be resolved, Clifford said.

CLIFFORD LAW OFFICES, P.C.

120 North LaSalle Street
31st Floor
Chicago, Illinois 60602

Telephone (312) 899-9090
Fax (312) 251-1160
E-mail 102554.2453@compuserve.com