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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case.

Omitting clients' names and/or defendants' names are the result of requests for anonymity.

Plane Crash Kills Three

Tragedy struck the family of Joel Mintz on January 21, 1998, when the plane in which he was a passenger crashed following takeoff in Boca Raton. Joel Mintz, a retired businessman, was flying to Georgia with his brother and his brother's wife. His brother, Michael Mintz, owned a Gulfstream Twin Commander, which he was piloting on the fateful day.

Following takeoff from the Boca Raton Airport, the plane encountered severe weather conditions, which caused Michael to lose control of the aircraft. The plane spiraled straight down into the ground from an altitude of approximately 5,000 feet, instantly killing all three occupants.

Chris Searcy and Chris Speed were asked by attorney Gil Haddad from Dade County to assist him in the prosecution of this case. Mr. Speed is a licensed pilot, has previously owned his own aircraft, and has significant experience in aviation litigation. He therefore took the lead in handling claims brought on behalf of Joel's two surviving daughters, Janine and Laura, who were 17 and 15 years of age respectively at the time of the crash.

A year after the tragedy, the National Transportation Safety Board (NTSB) released a report stating that pilot error was the cause of the crash. Nevertheless, the lawyers representing Michael Mintz's estate expended significant time and effort attempting to determine whether any mechanical problems may have played a role in the crash. Their extensive investigation, however, revealed none.

Additional attention was given to whether the air traffic controllers were negligent in their failure to instruct Michael Mintz to divert the course of the plane, thereby avoiding the heavier areas of convective activity. Air traffic controllers have the primary responsibility of keeping aircraft separated using the

weather radar equipment in the plane. Pilots, however, have the ultimate responsibility for the safe operation of their aircraft, and Michael Mintz had the best opportunity to navigate around the threatening storms.

Mr. Speed and Mr. Searcy, who believed that the primary responsibility for this crash fell upon the pilot, negotiated an early settlement with the government for the role played by the air traffic controllers. As the remaining case approached its trial date of January 2003, interesting alliances developed among the various parties. Mr. Speed and Mr. Searcy were aligned with the government's air traffic controllers, contending that the crash was caused by the pilot. The pilot's lawyers, however, contended that the crash was the responsibility of the controllers. The estate of the pilot's deceased wife also reached a small settlement with the government for his death in the crash. Following that small settlement, her lawyers were then left in the unenviable position of having only her husband's estate left to pursue

for a recovery. Her estate therefore had to blame the crash on her own deceased husband.

On the day prior to the start of trial, a final settlement was reached on behalf of Joel Mintz's estate for the sum of \$2.25 million. No agreement could be reached between the pilot's estate and the government, and therefore that case was tried in the Federal District Court in West Palm Beach. Judge Ryskamp, who heard all of the evidence in that claim, ruled that there was no fault on the part of the controllers. The pilot's estate therefore made no recovery at all.

Funds from the settlement have enabled Janine to attend graduate school and have assisted her sister, Laura, in pursuing her undergraduate degree. Through the use of annuities, they have a much more financially secure future.

