

## "Accords In '94 USAir Crash Top \$48 Million"

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Four settlements totaling more than \$48 million, including one for a record \$25.2 million, have been reached in lawsuits arising from the 1994 crash of a USAir flight near Pittsburgh, plaintiff attorneys said Wednesday.

The settlements were reached Tuesday evening following two days of marathon negotiations before Chief Cook County Judge Donald P. O'Connell, said lead plaintiff counsel Thomas A. Demetrio of Corboy & Demetrio P.C. The cases were set to be assigned for trial in the Law Division on Wednesday.

"As large as the numbers are, I believe that all the parties agreed that it was fair and reasonable compensation, as did Judge O'Connell," Demetrio said in a telephone interview.

Demetrio and his firm represented the estates of Marshall Berkman, 58, a Pittsburgh businessman, and Joan Lahart-Van Bortel, 30, a marketing manager for Akzo Nobel Chemicals in Willowbrook who earned about \$40,000 annually. They were among the 132 people killed on USAir Flight 427, en route from Chicago to Pittsburgh when the Boeing 737 aircraft crashed on Sept. 8, 1994.

Berkman's case settled for \$25.2 million, while Van Bortel's was resolved for \$6 million, according to Demetrio. Berkman was earning about \$340,000 annually as CEO of Ampco-Pittsburgh Corp., he added.

Berkman's case represents the highest negotiated settlement in Cook County for the death of an individual in an airline crash over the past decade, said John Kirkton, manager of the Cook County Jury Verdict Reporter. Demetrio edged out his partner, Philip H. Corboy, who settled a wrongful-death case for \$25 million several years ago stemming from another airline crash, Demetrio said.

### Attorneys

- Thomas A. Demetrio

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The settlements will be paid by insurers for The Boeing Co., the aircraft's manufacturer, and USAir Inc., Demetrio said. It was not divulged to us, nor do we care, who paid what," he added.

Two other cases also settled Tuesday, including one involving the estate of Denise Jenkins, 28, of West Virginia, for \$11.5 million. Todd A. Smith of Power, Rogers & Smith in Chicago represented Jenkins' husband and two sons. Another settlement was reached on behalf of the estate of Patricia Harris Offley, represented by Cleveland attorney Jaime Lebovitz.

Lebovitz didn't want the amount of his clients' settlement disclosed, Demetrio said. Lebovitz couldn't be reached for comment early Wednesday afternoon.

The National Transportation Safety Board earlier this year determined that rudder reversal "led to the crash when a malfunctioning rudder valve deflected the rudder in a direction opposite to the pilot's command, according to the plaintiffs' attorneys. The deflection caused the pilots to lose control of the plane, which spiraled to the ground, crashing into a ravine and bursting into flames.

The plaintiffs' lawyers were prepared to present evidence at trial that officials with Boeing and Parker-Hannifin Corp., the valve's manufacturer, were aware of rudder valve problems in October 1992 and failed to correct the problem, Smith said.

My thought is that this is a crash that should have never happened," Smith added.

Local attorneys for Boeing and USAir could not be reached for comment early Wednesday afternoon. Thomas M. Crisham of Quinlan & Crisham Ltd. in Chicago is local counsel for Boeing. Ann P. Goodman of McCullough, Campbell & Lane in Chicago serves as local counsel for USAir.

Settlement discussions are continuing in the only wrongful-death suit still pending in Circuit Court, said Chicago attorney Donald J. Nolan, who represents the estate of Ramona Kinsey. That matter is set to be assigned for trial Monday, he added.

Other remaining litigation includes a third-party claim for contribution and indemnity brought by USAir against Parker-Hannifin, Smith said. Boeing assigned its indemnification and contribution rights to USAir, he added.

The cases that settled were Brett Van Bortel, etc. v. The Boeing Co., et al., No. 94 L 12916; Deborah Berkman, etc. v. The Boeing Co., et al., No. 95 L 6816; Alan B. Shidler, Administrator of the Estate of Denise Jenkins, deceased v. The Boeing Co., No. 95 L 2685; and Angelina Hall, Administrator of the Estate of Patricia Harris Offley, deceased v. The Boeing Co., No. 96 L 9288.