

# NORTH CAROLINA LAWYERS WEEKLY

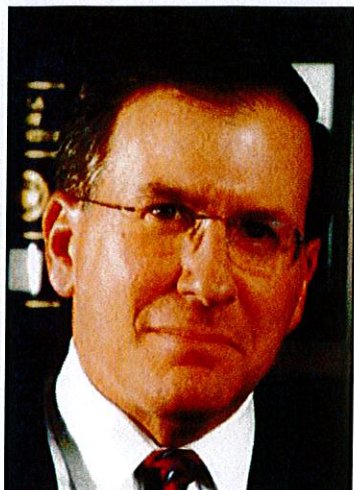
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## VERDICTS & SETTLEMENTS

# Largest Wrongful Death Recovery Ever In North Carolina

## *\$26 Million Settlement For Plane Crash*



Gary Robb

### **Largest Wrongful Death Recovery Real Estate Company Founder, Wife Killed**

The largest wrongful death settlement ever reported to Lawyers Weekly is the \$26.05 million recovery in *Estates of David and Ann Drye v. Teledyne Technologies, Inc. et al.*

The case arose on June 14, 1999 when a Cessna 421 crashed near the Concord Mills Mall shortly after takeoff. Among the dead were the founder of a prominent real estate company in Concord and his wife.

"As far as we know, this is one of the largest settlements in any aviation case in the country for the death of a husband and wife, and may be the largest ever," said

Kansas City, Mo. attorney Gary C. Robb, a lawyer for the plaintiffs.

In an e-mail to Lawyers Weekly, local counsel Joe Dozier of Charlotte said the case "had the rare combination of massive economic and non-economic damages, aggravated liability and the potential for punitive damages."

According to Dozier, Mr. Drye "was a multi-millionaire real estate executive and president of his own firm, the David Drye Company, the largest privately held real estate company in the southeast United States."

The Dryes survived the initial impact but were burned "beyond recognition" by the ensuing fire, Dozier said.

"They died a terrible death. The medical examiner determined that both died from carbon monoxide poisoning and thermal burning. A Concord police officer who was one of the first on the scene looked into the burning airplane. He saw two bodies holding on to each other. These were Mr. and Mrs. Drye. The medical examiner noted that Mrs. Drye's wedding ring was on her hand, which was intertwined with her husband's hand."

The plaintiffs' theory of the case was that the crash was caused when the plane's right engine failed.

A major obstacle stood in the

way of establishing liability on that basis: after investigating the crash for 18 months, the National Transportation Safety Board concluded pilot error was to blame.

"That's a difficult hurdle to overcome," said Robb, whose practice primarily focuses on aviation cases. "So we went back to the drawing board and spent a lot of time with the physical evidence, the engine parts. We did a number of metallurgical studies, including a scanning electron microscope study, at our consulting engineer's lab in Pensacola, Fla. He started looking at a part called a viscous vibration damper.

"In any engine, vibration is the enemy because it increases metal fatigue and essentially makes parts old before their time," said Robb.

To minimize vibration, a damper shaped like a thick doughnut fits on the engine gear.

"When it's weighted down, the gear is less likely to wobble," Robb said. "It's pretty simple from an engineering standpoint."

According to Robb, the plaintiff's expert focused on a part of the engine gear that hadn't been looked at by the NTSB. He concluded the vibration damper was off-center.

"The damper failed, the gear wobbles, metal flakes get into the engine oil and things jam up," said Robb.

The defendants denied any liability, arguing among other things that no air crash had ever been caused by a faulty vibration damper.

But Robb said he uncovered a similar crash in England "that occurred exactly the same way.

"Still, liability was a big obstacle to overcome when the government says it happened a different way," said Robb.

Recovering hefty damages from a jury could also present problems, according to Robb. The reason: the Dryes' eight children already stood

to inherit \$47 million from their parents.

"The risk was that the jury would penalize the beneficiaries because they had already collected about \$6 million each," said Robb.

In addition, the parties sharply disagreed over the income lost from Mr. Drye's real estate business - the plaintiff's expert projected \$100 million, while the defendant's expert said the loss was only \$4.9 million.

Three days into trial, the defendants offered a total of \$26 million to settle and the plaintiffs accepted.

"Once we got to \$26 million, that was a threshold that our clients felt was appropriate and justice was served," said Robb.

According to Robb, the largest part of the settlement, \$20 million, was paid by the company that manufactured the engine in the Dryes' airplane, while another \$2.8 million was paid by the company that supplied the vibration damper. The remainder of the settlement came from the company that overhauled the engine and a maintenance service facility.



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