

Early Motion Practice in State Court Resolves Private Aircraft Crash Lawsuit

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Where we started: The case involved a single-engine aircraft crash that killed both the pilot and his passenger. The resulting multi-defendant litigation comprised two separate cases and included wrongful death and survival claims brought by the surviving family members who sought actual and punitive damages in excess of \$100 million.

Our strategy – plus more: McGlinchey filed several motions to dismiss the separately filed lawsuits. In the first set of cases, we filed a motion to dismiss based on (1) lack of personal jurisdiction over the airplane manufacturer and, alternatively, (2) insufficient process because the plaintiffs did not serve the manufacturer within the required 120 days (even after they requested four separate extensions for service). In the second set of cases, we likewise filed two motions to dismiss – one based on lack of personal jurisdiction and one based on improper claim splitting, multiple wrongful death actions, and the statute of limitations. The first cases were dismissed without prejudice to refile and the second set was dismissed with prejudice. The cases were not refiled and no appeal was taken.

Upshot: A close examination of state court rules gave the client procedural and substantive defenses that were argued early in the case. The entire litigation surrounding the crash was dismissed even before discovery could begin. This early dismissal resulted in huge cost savings to the client in lawyer and expert fees.