

The 2011 Alabama Verdict

2966 - Products Liability - A small plane crashed and injured its pilot and a passenger – the crash was blamed on a faulty magneto (it controls the plane’s electrical current) which fell off because of a fatigue crack
Hudson et al v. Teledyne Continental Motors, 1:10-72

Plaintiff: William R. Garmer and

Jerome P. Prather, *Garmer & Prather*, Lexington, KY and Matthew C. Minner, James J. Thompson, Bruce J. McKee, *Hare Wynn Newell & Newton*, Birmingham and Tristan R. Armer, *Heidelberg Steinberger Colmer & Burrow*, Pascagoula, MS

Defense: Norman E. Waldrop, Jr.,

Sherri R. Ginger and Mark B. Roberts, *Armbrecht Jackson*, Mobile

Verdict: Defense verdict

Federal: **Mobile**, 8-5-11

Judge: Kristi K. DuBose

Larry Crouch is a construction contractor in Western Kentucky. He flew a Piper Cherokee (PA-32) private plane from his Mayfield, KY home to Frankfort, KY to meet with investors on 11-21-06. Joining Crouch on the flight was his banker, Teddy Hudson. The plane was 28 years old and featured a Lycoming engine.

As Crouch piloted the plane near Bardstown, KY, at some 5,000 feet, it lost power. He made a decision to make an emergency landing at a nearby small airport. The plane came up short of the runway and crashed into trees. Crouch and Hudson were both paralyzed from the waist down in the crash and are confined to a wheelchair.

In this lawsuit (originally filed in Kentucky and transferred to Mobile), the men blamed the crash on a faulty dual magneto in the single-engine aircraft. The magneto, which provides electrical current to the ignition, was manufactured by Teledyne Continental Motors. It was the plaintiff’s theory that the magneto fell off mid-flight because of a fatigue crack in its flange.

The plaintiffs presented three counts, (1) strict liability, (2) negligence in the post-sale period in failing to warn of the “falling off the plane risk”, and (3) breach of warranty. Experts for the plaintiffs included Bernard Coogan, Airplane Accident Investigation, Rick Wartman, Aerospace Engineer, Pensacola, FL, Mark Seader, Aircraft Mechanic, Loveland, CO and Robert Pearce, Air Accident Reconstruction.

The damages were extensive, both men being vocationally disabled. Their wage claims (and life care plans) were developed by Jack Sink, Atlanta, GA. An economist for the plaintiffs was Harvey Rosen. Each plaintiff claimed nearly \$2,000,000 in future medicals, among other damages.

Teledyne defended the case and denied its magneto had separated mid-flight. Its version of the crash was that an unrelated fire developed in the engine. In response to that fire, Crouch turned off the engine. Thus the power loss was because the pilot had turned off the power.

Teledyne conceded that the magneto fell off the plane, but in a different way than suggested by the plaintiffs. That is, the magneto fell off the plane during the crash itself. The company also implicated Crouch’s own comparative fault in piloting the plane in two ways, (1) turning off the engine, and (2) not setting it down safely in any of several nearby fields rather than trying to reach the airport. Experts for Teledyne included Douglas Marwill, Aircraft Design Engineer, John Barton, Aerospace Engineer and Kenneth Orloff, Mechanical Aerospace Engineer.

It is noteworthy that this case was governed substantively by Kentucky law. Thus the plaintiffs were not subjected to Alabama’s contributory negligence scheme. Pure comparative fault (as utilized in Kentucky) would govern the case.

This case was tried in federal court for three weeks. A defense verdict was returned for Teledyne on strict liability, negligence and breach of warranty. A defense judgment was entered and the plaintiffs have appealed. Claims against Lycoming and other defendants remaining pending in the Kentucky litigation.