Client Alert.

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Glorvigen v. Cirrus Design Corp.: Duty to Warn Does Not Require Duty to Train Users

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In a recent ruling, the Minnesota Supreme Court held that, under Minnesota negligence law, manufacturers and suppliers have a duty to warn foreseeable users of dangers inherent in the product, and that this duty includes a duty to give adequate instructions on the safe use of the product. However, the Minnesota Supreme Court specifically declined to extend this duty to require suppliers or manufacturers to *train* users in the safe use of their product.

Glorvigen v. Cirrus Design Corporation, -- N.W.2d -- (2012), 2012 WL 2913203, decided on July 18, 2012, arises out of the crash of a Cirrus SR22 airplane in January 2003, which killed both men on board and destroyed the hull. Combined lawsuits brought by the estates of both decedents against Cirrus, as the manufacturer and seller, alleged breach of the duty to warn and to provide adequate instructions for the safe use of its airplanes. The pilot and owner of the accident aircraft purchased the SR22 just one month before the crash. As part of the purchase of the airplane, Cirrus provided him a two-day training program, including both ground school and flight instruction, designed to help already-licensed pilots transition into the SR22. The pilot successfully completed the transitional training, but apparently did not receive a part of the in-flight instruction that practiced a maneuver for recovery from unexpected flight while under Visual Flight Rules (VFR) into Instrument Meteorological Conditions (IMC). The crash resulted from such an encounter and the improper recovery from VFR into IMC.

The Minnesota Supreme Court held that failing to provide the applicable in-flight training did not amount to a breach of the duty to warn. While there was no dispute that as the supplier and manufacturer of the airplane Cirrus had a duty to warn foreseeable users like the pilot/buyer, and that the duty to warn includes a duty to give adequate instructions on the safe use of Cirrus airplanes, the Court held that the duty to warn was satisfied through written instructions. Cirrus provided the pilot/buyer of the aircraft with multiple sources of written instructions on proper recovery from VFR into IMC, including the Pilot Operating Handbook and the Autopilot Operating Handbook. The Court noted that "[t]he duty to warn has never before required a supplier or manufacturer to provide training, only accurate and thorough instructions," and an imposition of a duty to train would require an "unprecedented expansion of the law."

The Court also rejected the idea that Cirrus's failure to provide the applicable flight instruction, as it had contracted to do, could support a negligence cause of action. The Court reasoned that fundamental differences between contract and tort law mean that a breach of a duty imposed by contract does not result in responsibility for tort damages. Because the duty to provide the applicable flight lesson could have arisen only from the contract, the Court held recovery in tort was not permitted. This ruling thus maintains the crucial difference in responsibilities voluntarily assumed in contract and those imposed by law in tort.

The Minnesota Supreme Court specifically did not reach the issue of educational malpractice that was fully analyzed by the lower court's opinion. (796 N.W.2d 541.) In that 2011 opinion, the Minnesota Court of Appeals explained that under Minnesota law, the educational malpractice bar is meant to avoid inquiry into the nuances of educational process and

theories. The Appeals Court held that a determination of whether the transition training was ineffective due to a failure to provide the inadvertent VFR into IMC recovery maneuver would involve precisely the type of inquiry into the nuances of the educational process that the educational malpractice bar is meant to avoid. Thus, the negligence claim was barred as a matter of law.

While *Glorvigen* applied only Minnesota law, and did not provide a final word on the educational malpractice issue, it is persuasive authority that may be applied to claims brought under similar negligence laws in other states. The case therefore provides another useful tool in the defense of claims arising out of allegedly inadequate pilot training.

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