

*Air Crash Near Pittsburgh on September 8, 1994* (Misc. No. 94-1014)  
Judge William Standish

On the evening of September 8, 1994, USAir Flight 427 crashed near Pittsburgh, Pennsylvania. All 134 passengers and crew members aboard the Boeing 737-300 aircraft died. As a result of the accident, forty-seven cases against USAir, The Boeing Company and Parker-Hannifin Corporation were filed in the Western District of Pennsylvania and consolidated for pretrial proceedings. In addition, nineteen cases were transferred to the Western District of Pennsylvania for pretrial proceedings pursuant to an order of the Judicial Panel on Multidistrict Litigation (“MDL litigation”). The majority of the cases arising out of the crash of USAir Flight 427 not included in the MDL litigation were filed in the Circuit Court of Cook County, Illinois (“Cook County litigation”).

The first case management order established a Plaintiffs’ Steering Committee (“PSC”) consisting of nine members and appointed an attorney to serve as a liaison between the plaintiffs and the PSC. Difficult issues arose in the early stages of the MDL litigation concerning the coordination of procedures in the MDL litigation and the Cook County litigation, the avoidance of duplicate expenses by the PSC in the MDL litigation and the PSC established in the Cook County litigation, and the manner in which fees were to be assessed among the plaintiffs in the MDL litigation and the Cook County litigation. The Court worked closely with the judge in charge of the Cook County litigation to resolve these and other issues.

With respect to claims and defenses, the plaintiffs alleged that a component of the rudder control system on the Boeing 737-300 aircraft, which had been manufactured by Parker-Hannifin Corporation, had failed during the flight, causing the plane to crash. On the other hand, USAir maintained that the crash had been caused by an airplane-related failure, and The Boeing Company maintained that the crash had been caused by a crew-related mishap. The completion of liability discovery was hampered by the ongoing investigation into the cause of the accident by the National Transportation Safety Board (“NTSB”), which conducted “wake vortex” tests to determine whether the wake created by another plane that was landing in front of USAir Flight 427 at the Greater Pittsburgh International Airport on the evening of September 8, 1994, could have caused the Boeing 737-300 to suddenly veer to the left and nosedive to the ground. Ultimately, all of the cases filed in the Western District of Pennsylvania settled and, upon the completion of pretrial proceedings, the four remaining cases were remanded to the district courts from which they had been transferred by order of the Judicial Panel on Multidistrict Litigation.

Issues requiring resolution by the Court included (1) whether the attorney who had been appointed as liaison counsel in the first case management order needed to be replaced due to a serious dispute with the PSC regarding his role as liaison counsel; (2) whether the plaintiffs were entitled to a copy of the cockpit voice recorder tape which had recorded the radio communications, pilots’ voices and ambient sounds in the cockpit during the final thirty minutes and fifty-six seconds of flight, including the entire accident sequence up to impact, for analysis by their experts; (3) whether six plaintiffs could recover punitive damages from The Boeing Company and Parker-Hannifin Corporation, requiring application of the choice of law rules of Pennsylvania, New York and Florida; (4) whether the parents of a decedent could challenge the reasonableness of the settlement reached by the widow of the decedent, who had been appointed

as the administratrix of his estate, with the defendants; and (5) whether the same parents were entitled to share in the settlement proceeds under Pennsylvania law.