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The General Aviation Revitalization Act of 1994 - An Update

Orla M. Brady

THE GENERAL AVIATION REVITALIZATION ACT OF 1994—AN UPDATE*

ORLA M. BRADY, ESQ.**

I. INTRODUCTION

THE GENERAL AVIATION Revitalization Act ("GARA") statute, and its judicial interpretation, generates many fans and foes. One can find ample arguments on either side of the fence for support or criticism on the issue of GARA. Like any good political argument, there are statistics, figures, and public policy debates that support both sides.[1] Tort reform is a hot issue but, GARA is unique. GARA has been called "the envy of every manufacturing industry with ongoing product liability exposure" because there are no other manufacturing statutes like it.[2] GARA is a young statute and its continued development through emergent interpretation will be an interesting ride. In this review, I will focus on some provisions and exceptions to the GARA stat-

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* This article was written before the decision in *Sheesley v. Cessna Aircraft Co.*, which is a pivotal GARA case. Please see *Sheesley v. Cessna Aircraft Co.*, No. Civ. 02-4185-KES, 2006 WL 1084103 (D.S.D. Apr. 20, 2006).

** Ms. Brady, J.D., LL.M., is a Massachusetts and Illinois licensed attorney working with the plaintiff's aviation law firm, Nolan Law Group, Chicago, IL. The views contained herein are solely those of the author.

[1] See www.gama.aero or www.generalaviation.org for statistics and argument on the successes and advancements made since the passage of GARA. Specifically, see Gen. Aviation Mfrs. Ass'n [GAMA], A Report to the President and Congress on the General Aviation Revitalization Act: Five Year Results (2000), http://www.gama.aero/pubs/getfile.php?catalogID=11. Also, see James F. Rodriguez, *Tort Reform & GARA: Is Repose Incompatible with Safety?*, 47 ARIZ. L. REV. 577 (2005), for an interesting debate looking at both sides of the argument for and against GARA. *See also* Nathan J. Rice, *The General Aviation Revitalization Act of 1994: A Ten-Year Retrospective*, 2004 WIS. L. REV. 945, 970 (2004) ("Despite the best intentions of many who supported it, GARA has proven itself to be grossly unfair to airplane crash victims.").

[2] *See* Phillip J. Kolczynski, *GARA: A Status Report*, AVWEB, Jan. 14, 2001, http://www.avweb.com/news/avlaw/181905-1 ("Automobile, boat and recreational vehicle manufacturers have no immunity for their products. No matter how old their products get or how long the product exceeds its intended useful life, its manufacturer can still be sued.").

ute and how those issues are currently playing out in courts today.

II. BRIEF HISTORY

Between 1978 and 1988, employment in the aviation industry fell sixty-five percent.[3] Between 1984 and 1994, the year GARA was signed, aircraft shipments declined ninety-five percent.[4] Cessna Aircraft Company stopped making single engine aircraft.[5] Some believed the general aviation industry was headed for sure failure and attributed the decline directly to large awards granted in personal injury and wrongful death general aviation cases.[6]

Proponents of GARA looked to a federal statute of repose as a potential solution to the declining aviation industry.[7] Those proponents cried out for legislation revitalizing the industry, and GARA was born.

The General Aviation Revitalization Act of 1994 mandates an eighteen-year statute of repose,[8] precluding lawsuits against general aviation aircraft and new aircraft component part manufacturers for those parts that replace older parts.[9] The statute provides a "rolling provision" that restarts the period of repose at the addition of a new component part added to the aircraft, but only as to that particular part and not the entire plane.[10] GARA also provides four clearly defined exceptions, one of

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[3] GEN. AVIATION MFRS. ASS'N, THE GENERAL AVIATION STATISTICAL DATABOOK (2006), http://www.gama.aero/dloads/2005GAMAStatisticalDatabook.pdf.

[4] *Id.*

[5] *Id.*

[6] *See The Competitiveness of the U.S. Aircraft Manufacturing Industry: Hearing Before the Subcomm. on Aviation of the H. Comm. On Transp. & Infrastructure*, 106th Cong. (2001). This hearing outlines the examination of the vitality of the U.S. general aviation aircraft manufacturing industry and its competitiveness, with an eye to improving competitiveness in the industry. The review provides a thorough outline of the aviation workforce, current industrial concerns, financial aspects, and international trade.

[7] "GARA sought to ease the manufacturers' liability burden and help reverse an ongoing decline in domestic general aviation aircraft production." Nathan J. Rice, *The General Aviation Revitalization Act of 1994: A Ten-Year Retrospective*, 2004 WIS. L. REV. 945, 946 (2004). This article provides a critical comment on GARA's harsh results. It mentions that GARA is effective in barring lawsuits while not restoring the annual production of aircraft to its peak. *Id.* at 969.

[8] General Aviation Revitalization Act of 1994, Pub. L. No. 103-298, §§ 2 – 3, 108 Stat. 1552 (codified at 49 U.S.C. § 40101 note (2000)) [hereinafter General Aviation Revitalization Act].

[9] *See id.* § 2.

[10] *Id.* §§ 2(a), 3(3).

which has resulted in interesting case law and intellectual debate.

III. WHEN DOES THE CLOCK START TICKING?

The statute of repose period begins "ticking" upon the delivery of an aircraft or component part to a purchaser, lessee, or someone engaged in the business.[11] The Ninth Circuit confirmed that whether or not the plane was flying its entire life as a private general aviation aircraft is irrelevant: if the plane started in military service, the repose period starts ticking from the first date of delivery.[12] "GARA . . . refers only to delivery of the aircraft, not delivery of the general aviation aircraft."[13]

A "general aviation aircraft" is defined as the following:

> [A]ny aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations.[14]

It is important to note that although GARA is a federally based statute of repose, it does not create federal jurisdiction. In *Wright v. Bond-Air, Ltd.*,[15] the defendant's claim that GARA was a federally based statute confirming federal subject matter jurisdiction failed.[16] The Michigan court held that GARA is not a federal claim and thus neither confers federal jurisdiction upon state court claims nor creates a federal cause of action.[17]

A. "Rolling Provision"

One of GARA's most significant provisions is its rolling provision. The provision mandates tolling of the repose period:

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[11] *Id.* § 2(a)(1)(A)-(B).

[12] Kennedy v. Bell Helicopter Textron, Inc., 283 F.3d 1107, 1112 (9th Cir. 2002) ("Therefore, Appellee argues, the period of repose only begins to run on military surplus aircraft at the time at which those aircraft receive type and airworthiness certificates and thereby become general aviation aircraft. The plain language of GARA, however, supports Bell Helicopter's position that the limitations period is triggered by the initial delivery of the aircraft, even if the aircraft cannot be considered a general aviation aircraft at that time.").

[13] *Id.* (citing General Aviation Revitalization Act § 2(a)(1)(A).).

[14] General Aviation Revitalization Act § 2(c).

[15] Wright v. Bond-Air, Ltd., 930 F. Supp. 300 (E.D. Mich. 1996).

[16] *Id.* at 304-05.

[17] *Id.*

> (2) with respect to any new component, system, subassembly, or other part which replaced another component, systems, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.[18]

In summary, when a new part or component is added, the repose period begins to run from the date of installation, but runs only to that part added.[19]

Interpretation of this provision has resulted in interesting case law and debate over many different arguments: Does an overhaul restart the GARA clock? What if the part is only a component of that part which caused the accident? What is a "product" sufficient to begin retolling the statute with respect to that product?

One of the earlier analyses with respect to defining "product" sufficient to toll the repose period was *Alter v. Bell Helicopter.*[20] *Alter* involved a helicopter crash in Israel in 1993, allegedly caused by an engine failure.[21] All parties agreed that the date of delivery of the helicopter and accident date were more than eighteen years apart.[22] The plaintiff tried to circumvent GARA by claiming that maintenance manuals for the problem engine had been issued within the eighteen-year limitation and that the manuals provided misleading statements that were the proximate cause of the crash.[23] Specifically, the plaintiff alleged that the manual's instruction was faulty because, had it been followed, the manual would not enable a mechanic to discover serious wear and tear of the engine.[24] The court held, *inter alia,* that the maintenance instructions were not a "product: and that their issuance, did not renew the tolling of the statute of repose.[25]

In *Lahaye v. Galvin Flying Service,*[26] the court affirmed a lower court ruling that the overhaul of a trim actuator did not trigger

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[18] General Aviation Revitalization Act § 2(a)(2).

[19] *See id.* § 2.

[20] Alter v. Bell Helicopter, 944 F. Supp. 531 (S.D. Tex. 1996).

[21] *Id.* at 533.

[22] *See id.* at 537.

[23] *Id.* at 537.

[24] *Id.*

[25] *Id.* at 538. This decision is also notable because the court held that GARA applied to crashes in foreign countries. *Id.* at 541.

[26] Lahaye v. Galvin Flying Serv., 144 Fed. Appx. 631 (9th Cir. 2005).

the GARA rolling provision.[27] Focusing on *Caldwell*,[28] discussed below, the court reemphasized that to trigger GARA's rolling provision, there must have been a "substantive alteration to the part that was alleged to have proximately caused the accident."[29] As with other cases, the plaintiff attempted a two-lane approach.

In several cases, including *Lahaye*, plaintiffs have attempted to circumvent GARA, alleging both knowing misrepresentation and the replacement-part tolling provision. This will be discussed further below. In *Lahaye*, the court held that the plaintiff failed to provide facts that would have invoked the "knowing misrepresentation" exception because the plaintiff did not provide "evidence showing that the appellee knowingly or intentionally misrepresented information to the FAA [Federal Aviation Administration] in gaining certification for the subject aircraft."[30] Courts commonly hold that evidence is clearly required to utilize the knowing misrepresentation exception. In *Lahaye*, the court found that it was just as likely that a mechanic disassembled the trim actuator and reassembled it inappropriately without the use of the instructions or manuals, thwarting the plaintiff's efforts to fall within the first exception to GARA.[31]

Caldwell v. Enstrom Helicopter Corp.[32] is a significant case because it is one of the first to hold that a supplemental or revised flight manual could be considered a "new part" of the helicopter within the meaning of GARA, thereby tolling the repose period.[33] *Caldwell* involved the crash of a sightseeing helicopter that resulted in fatal injuries to a pilot and passenger and serious injuries to the second passenger.[34] The helicopter engine ran out of fuel earlier than the pilot would have expected and approximately ten minutes short of the destination.[35] The fuel system design on the aircraft was such that the last two gallons of fuel were always unusable.[36] Naturally, in calculating the

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[27] *Id.* at 633.

[28] Caldwell v. Enstrom Helicopter Corp., 230 F.3d 1155 (9th Cir. 2000).

[29] *Lahaye*, 144 Fed. Appx. at 633 (citing *Caldwell*, 230 F.3d at 1158). The court further explains that "[t]he replacement of certain components of the trim actuator as a result of [a service bulletin] did not change the allegedly defective aspect of the trim actuator's design." *Id.* at 633.

[30] *Id.* at 634.

[31] *Id.*

[32] *Caldwell*, 230 F.3d at 1155.

[33] *Id* at 1157.

[34] *Id.* at 1156.

[35] *Id.*

[36] *Id.*

amount of fuel required for the flight, pilots, if unaware of this nuance, would improperly prepare for fuel. The aircraft was twenty-three years old.[37]

The plaintiff alleged that the helicopter's flight manual was defective because it lacked the proper warning regarding the two gallons of unusable fuel.[38] The flight manual had been revised several times within the eighteen-year period.[39] *Caldwell* was distinguished from other failure to warn cases by the Ninth Circuit because the plaintiff's claim alleged negligence and strict liability.[40]

In a unique step, the court considered the regulations that govern the flight manuals. The court looked to the CFR requirement to include a flight manual with each helicopter and the content of those requirements, such as the manual must contain "information that is necessary for the safe operation because of design, operating or handling characteristics."[41] The court found that the manual was a "new part" of "an integral part of the general aviation aircraft product that a manufacturer sells . . .[and] not a separate, general instructional guide."[42]

The plaintiff eventually lost on remand to the district court. The district court found that the defendant's "knowing omission" of a warning from the flight manual was not an active alteration or deletion and that the plaintiff failed to meet the requirements imposed by the Ninth Circuit.[43]

Hiser v. Bell Helicopter Textron, Inc.[44] is another "rolling provision case." In this case, the aircraft was delivered one week after the statute-of-repose period's eighteen-year limitation expired.[45] Here, however, the plaintiff was successful in showing that the repose period had tolled as to the replacement part because the replacement part was the likely cause of the accident giving rise to the litigation, and the part was installed within the eighteen-year period.[46] The court provided, simply, that "replacement of

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37 *Id.*

38 *Id.*

39 *Id.*

40 *Id.*

41 *Id.* at 1157.

42 *Id.*

43 *Id.* at 1158.

44 Hiser v. Bell Helicopter Textron, Inc., 4 Cal. Rptr. 3d 249 (Cal. Ct. App. 2003).

45 *Id.* at 254.

46 *Id.* at 258–60.

a few parts of a larger system starts the rolling limitation period anew for all parts in a larger system."[47]

B. EXCEPTIONS

The crafters of GARA carved out four distinct exceptions:

> (1) if *the claimant pleads with specificity* the facts necessary to prove, and proves, *that the manufacturer* with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft *knowingly misrepresented* to the Federal Aviation Administration, *or concealed or withheld* from the Federal Aviation Administration required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;
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> (2) if the person for whose injury or death the claim is being made is a passenger for *purposes of receiving treatment for a medical or other emergency*;
>
> (3) if the person for whose injury or death the claim is being made was *not aboard the aircraft* at the time of the accident; or
>
> (4) to an action brought under a *written warranty* enforceable under law but for the operation of this Act.[48]

Each exception is important in its own right, but only the first listed exception has truly generated a good deal of case law. I will review the exceptions out of order, saving the knowing misrepresentation/concealment exception for last.

1. *Purposes of Receiving Treatment for a Medical or Other Emergency*

This exception to the GARA statute of repose is fairly clear cut. If a passenger is aboard a flight for emergency or medical purposes, the GARA statute does not bar the claim.

2. *Not Aboard the Aircraft*

The third exception to the GARA statute of repose allows a claim for those individuals that were not aboard the aircraft at the time of the incident. Claims by individuals injured, or representatives of individuals killed, will not be barred by the repose

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[47] *Id.* at 257.

[48] *See* General Aviation Revitalization Act of § 2(b)(1)-(4) (emphasis added).

period if they are in an aircraft (arguably not affected by GARA itself) that is involved in a mid-air collision with an older aircraft. Claims by individuals on the ground that have suffered due to an aircraft older than eighteen years that crashes into their home or property and causes damages will not be barred by the statute of repose provided by GARA.

3. Written Warranty

The written warranty exception allows for claims where there is an express warranty extending or eliminating the statute of repose period provided by GARA. Although there has been case law discussing whether a written warranty actually existed between the parties on this issue,[49] the author knows of none debating whether those written warranties exists. The exception provided here is also fairly clear cut.

4. Knowing Misrepresentation/Concealment

Only the knowing misrepresentation/concealment exception to GARA has generated significant case law. If a victim pleads "with specificity" and proves that the manufacturer knowingly misrepresented to the FAA or concealed or withheld from the FAA information material and relevant, including, for example, the type or airworthiness certificate, any obligations pertaining to continued airworthiness, or information pertaining to the performance or maintenance of the aircraft, its components, etc., and if such omission is causally related to the victim's claim, the claimant successfully survives a GARA challenge. The "knowing misrepresentation or concealment or withholding" exception has been examined several times over the past year.[50] Courts consistently stress the requirement in GARA that victims must plead facts "with specificity" to attempt success with the knowing misrepresentation/concealment exception.[51]

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[49] Schwarz v. Hawkins & Powers Aviation, Inc., No. 04-CV-195-D, 2005 WL 3776351 (D. Wyo. Apr. 8, 2005); Hinkle v. Cessna Aircraft Co., No 247099, 2004 WL 2413768 (Mich. Ct. App. Oct. 8, 2004); Hiser v. Bell Helicopter Textron, Inc., 4 Cal. Rptr. 3d 249 (Cal. Dist. Ct. App. 2003).

[50] Christopher R. Barth, *2005 SMU Air Law Symposium Recent Developments in Aviation Law*, 70 J. AIR L. & COM. 171, 215 (2005).

[51] Rickert v. Mitsubishi Heavy Indus., Ltd., 923 F. Supp. 1453, 1456 (D. Wyo. 1996), *rev'd*, 929 F. Supp. 380 (D. Wyo. 1996) (quoting General Aviation Revitalization Act § 2(b)(1)) [hereinafter *Rickert I*].

Rickert v. Mitsubishi Heavy Industries, Ltd.[52] was one of the first cases to analyze the knowing misrepresentation exception to GARA. A Mitsubishi MU-2 crashed in 1993, approximately twenty-one years after Mitsubishi sold the aircraft.[53] The plaintiff claimed the defendant had knowingly misrepresented and concealed information from the FAA about the plane's de-icing system and controllability issues.[54] The lower court granted the defendant's motion for summary judgment based on the plaintiff's failure to produce evidence to support the knowing misrepresentation and concealment claim.[55] Plaintiff filed a motion to reconsider based on the defendant having "stonewalled her discovery efforts," and the court allowed additional discovery.[56]

The court referred to the earlier summary judgment dismissal as a "wake up call" for the plaintiff and stressed that a plaintiff facing a GARA summary judgment motion cannot simply "create a genuine issue of material fact" for negligence or strict liability but, instead, must produce some evidence of a defendant's actual knowing misrepresentation or concealment from the FAA.[57] As evidence of misrepresentation and knowing concealment, the plaintiff provided two detailed affidavits from former Mitsubishi employees outlining occasions of misrepresentation and concealment.[58] The defendant's vehement assault on the affidavits proffered by the plaintiff confirmed, for the court, that a genuine issue of material fact did, in fact, exist.[59] The court established that the affidavits only succeeded in helping the plaintiff survive summary judgment and emphasized that

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[52] Rickert v. Mitsubishi Heavy Indus., Ltd., 929 F. Supp. 380 (D. Wyo. 1996), *rev'g*, 923 F. Supp. 1453 (D. Wyo. 1996) [hereinafter *Rickert II*].

[53] *Rickert I*, 923 F. Supp. at 1456.

[54] *Id.* at 1457.

[55] *Id.* at 1462.

[56] *Rickert II*, 929 F. Supp. at 381.

[57] *Id.*

[58] *Id.* at 382. One affidavit provided that the affiant and other employees "were aware of many MU-2 accidents, and that they attributed most of these accidents to ice accretion" and that the "problem was virtually kept within the company and neither seriously investigated nor disclosed to the public or the [FAA]." *Id.* The affiant further provided that he believed the defendant "continues to maintain an office in Texas . . . primarily to defend liability and conceal the icing problem." *Id.* Another affiant claimed, *inter alia*, "[t]he problem of horizontal (tail) plane icing on . . . [the] . . . aircraft was secretly maintained within Mitsubishi, and never properly investigated or disclosed to the public or the [FAA]." *Id.* Further "Mitsubishi actively covered-up the problem of horizontal tail plane icing . . . during and after the Special Certification Review." *Id.*

[59] *Id.* at 382.

"GARA erects a formidable first hurdle . . . not only at the summary judgment stage but also at trial . . . [The plaintiff] must satisfy GARA's knowing misrepresentation exception, and then prove her product liability claims."[60]

Not all plaintiffs lose in GARA battles. One, somewhat recent, successful use of the knowing misrepresentation exception can be found in *Butler v. Bell Helicopter Textron, Inc.*[61] *Butler* involved a helicopter crash, allegedly due to the failure of a tail rotor yoke that was older than eighteen years.[62] The court found that the knowing misrepresentation and concealment exception applied because the defendant was aware of failures of the same yoke but failed to report it to the FAA.[63]

Another notable case is *Robinson v. Hartzell Propeller, Inc.*,[64] where an action was brought against a propeller manufacturer for damages stemming from injuries in a 1999 plane crash.[65] The plane was older than eighteen years.[66] The alleged failure of the manual to adequately warn aircraft owners of defects in the propeller blade did not proximately cause the crash, and the court held that the date of the manual's issuance was irrelevant as to GARA.[67] Also, the court held that the overhaul of the airplane propeller did not render it a "new part" for purposes of GARA.[68] The court did, however, outline the elements required for a successful knowing misrepresentation or concealment exception: "(1) knowing misrepresentation, or concealment, or withholding, (2) of required information that is material and relevant, (3) that is causally related to the harm they suffered."[69]

Another notable case is *Hinkle v. Cessna Aircraft Co.*[70] This case involved the 1995 crash of a Cessna 421B aircraft that caused

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[60] *Id.* at 383-84.

[61] Butler v. Bell Helicopter Textron, Inc., 135 Cal. Rptr. 2d 762 (Cal. Ct. App. 2003).

[62] *Id.* at 764.

[63] *Id.*

[64] Robinson v. Hartzell Propeller, Inc., 326 F. Supp. 2d 631 (E.D. Pa. 2004).

[65] *Id.* at 636 ("Plaintiff's claim. . . that the propeller failure was caused by Hartzell's negligent design. . . [and] Hartzell was aware of the propeller's defective design and misrepresented the design problems to the [FAA].").

[66] *Id.* at 635.

[67] *Id.* at 662.

[68] *Id.*

[69] *Id.* at 647 (citing Rickert v. Mitsubishi Heavy Indus., Ltd., 923 F. Supp. 1453, 1456 (D. Wyo. 1996)).

[70] Hinkle v. Cessna Aircraft Co., No. 247099, 2004 WL 2413768 (Mich. Ct. App. Oct. 28, 2004). The court rejected the plaintiff's constitutional challenge to GARA. *Id.* at *3.

fatal injuries to the plaintiff's husband.[71] The allegations included that the plane's right engine fuel pump failed during the flight and that the plane had inadequate single-engine performance capabilities to prevent the crash.[72] Both the fuel pump and the aircraft were over twenty years old.[73] The lower court granted the defendants'[74] motions to dismiss under GARA.[75] The plaintiff appealed.[76]

The plaintiff argued that the Cessna Pilot Safety and Warning Supplement Manual in the accident craft was within the eighteen-year repose period since it was only 10 years old.[77] Plaintiff claimed that the manual was a "new part" sufficient to toll the statute because the manual was required to be in the plane and had a part number.[78] This argument failed because the court found the manual merely descriptive and not specific to the aircraft in question.[79] Additionally, the court could not find a link between the manual and the accident because the type of accident had no causal link to the warnings in the manual.[80]

The plaintiff's next argument was that the overhaul of the fuel pump only two years before the accident qualified the pump as a "new part."[81] This argument also failed because the fuel pump was not alleged to have caused the accident.[82] Plaintiff's claims against Lear Romec were barred due to GARA.[83] The plaintiff's next creative argument outlined that Teledyne must be responsible for the defects in the Teledyne engine *and* the engine-driven fuel pump, even if Teledyne did not manufacture the fuel pump.[84] Teledyne moved for summary judgment, which was granted because the plaintiff provided no evidence that the engine, without the fuel pump, caused the accident.[85]

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71 *Id.* at *1.

72 *Id.*

73 *Id.*

74 The defendants were the following: Cessna Aircraft Company, the aircraft manufacturer; Lear Romec, the fuel pump manufacturer; and Teledyne Continental Motors, the engine manufacturer. *Id.* at *1.

75 *Id.*

76 *Id.* at *2.

77 *Id.* at *13.

78 *Id.*

79 *Id.*

80 *Id.* at *14.

81 *Id.* at *6.

82 *Id.* at *7.

83 *Id.*

84 *Id.* at *8.

85 *Id.*

The plaintiff was successful, however, with the reversal of the summary judgment granted on behalf of Cessna as to her knowing misrepresentation or concealment claim.[86] She was successful here because she could show that Cessna knowingly increased the horsepower and decreased the aeronautical drab during its single engine testing phases to show that a pilot could control the aircraft with one engine inoperative, as required by aviation regulations.[87] The court found that a triable factual dispute existed as to whether Cessna misrepresented the plane's single-engine performance capabilities to the FAA.[88]

IV. CONCLUSION

GARA is the aviation industry's tort reform. Its youth is slowly eroding with each new case published interpreting GARA's parameters. Our obligation in the legal aviation industry is to shape this "teenage" statute into "good law." Only time will tell the extent to which a fair balance has been reached between the preclusion of plaintiffs' claims and the development of the general aviation industry. For now, all we can do is forge on: we are certainly in for an interesting ride.

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[86] *Id.* at *11.
[87] *Id.*
[88] *Id.* at *11-12.

GENERAL AVIATION REVITALIZATION ACT

49 U.S.C. § 40101, NOTE

PUB. L. 103-298, AUG. 17, 1994, 108 STAT. 1552, AS AMENDED PUB. L. 105-102, § 3(E), NOV. 20, 1997, 111 STAT. 2216

Section 1. Short title.

This Act may be cited as the "General Aviation Revitalization Act of 1994."

Section 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitations period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, systems, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply —

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United State Code [49 USCS §§ 40101 et seq.] at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to

be brought after the applicable limitation period for such civil action established by subsection (a).

Section 3. OTHER DEFINITIONS.

For purposes of this Act –

(1) the term 'aircraft' has the meaning given such term in section 40102(a)(6) of Title 49, United States Code [49 U.S.C.A. § 40102(a)(6)];

(2) the term 'airworthiness certificate' means an airworthiness certificate issuedunder section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) [see 49 U.S.C.A. § 44704(c)(1)] or under any predecessor Federal statute;

(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term 'type certificate' means a type certificate issued under section 44704(a) of Title 49, United States Code [49 U.S.C.A. § 44704(a)], or under any predecessor Federal statute.


SOUTHERN METHODIST UNIVERSITY
DALLAS, TEXAS