

HOW A JURY IN ILLINOIS CAN AFFECT INSURANCE PRACTICES IN TATARSTAN



The Practical Ramifications of U.S. Jury Awards
on Aviation Insurance Risks Worldwide

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Brokaw v. National Air Cargo (2017)

- B747 cargo accident in Afghanistan
- Three pilots killed
- Each pilot was a male, in his 30s, with a spouse and 1-3 minor children
- Illinois jury trial

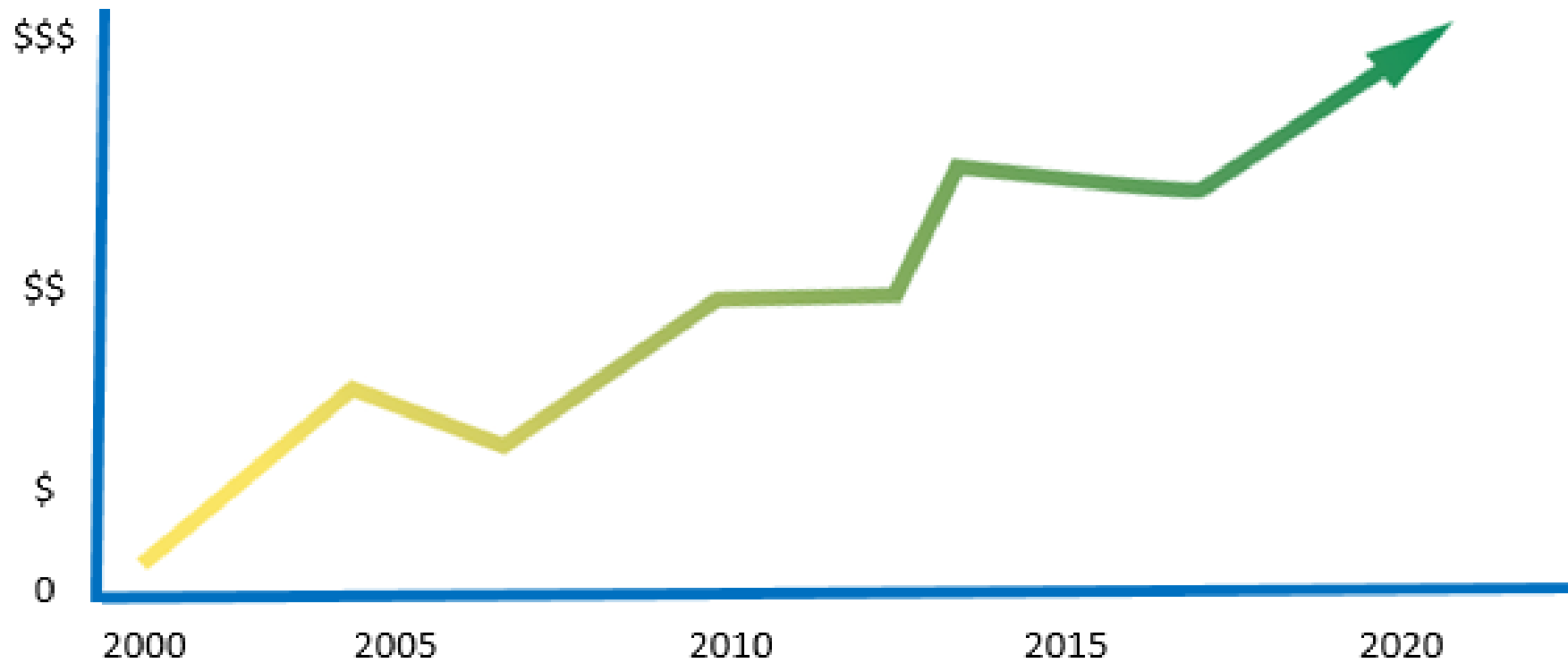


Brokaw v. National Air Cargo

Illinois jury awarded \$115 million in total damages:

- \$47.25 million to Estate of 34 year-old male with wife and 3 minor children
- \$43 million to Estate of 33 year-old male with wife and 1 minor child
- \$25.5 million to Estate of 37 year-old male with wife and 1 minor child

Is *Brokaw* reflective of damages trends in the U.S.?



What is the Reason for Excessive U.S. Damages Awards?

Civil Juries



Impact of Juries

- Most U.S. civil cases are decided by juries
- Juries are made up of ordinary citizens—not judges
- Juries are influenced by irrelevant factors in determining appropriate levels of damages

Impact of Juries

Juries are given minimal guidance to reach their decisions:

- Juries are not told about comparative awards in similar cases
- Juries are not given guidelines about the appropriate range of damages

Typical Jury Instructions

“The jury may give such damages as they shall deem a fair and just compensation”

(Illinois Wrongful Death Act)

Recent U.S. Jury Awards

Hein v. Utility Trailer Manufacturing Co. (2019)

- 16 year-old boy killed in car accident
- Lawsuit against commercial truck driver and truck manufacturer
- Decedent's vehicle became lodged in the side of trailer and dragged for 450 meters before catching fire

Hein v. Utility Trailer Manufacturing Co.

- New Mexico law allowed jury to award damages for “loss of the value” of decedent’s life
- Jury awarded decedent’s family \$42 million for the death of the boy

Darden v. City of Chicago (2017)

- Collapse of parking structure at O'Hare Airport
- Plaintiff became paraplegic, sustained permanent internal injuries, chronic pain and depression
- Illinois jury awarded **\$41 million** in economic damages and **\$107 million** in non-economic damages

Juries Are Given Wide Discretion

High standard to overturn a jury's damages award:

- Jury award must be "grossly excessive, inordinate, shocking to the conscience of the court, or so high that it would be a denial of justice to permit it to stand"
- Judges are reluctant to reduce a jury's damages award

Jury Awards Upheld on Appeal

Morga v. FedEx (2018)

- Lawsuit arising out of car accident that killed 22 year-old mother and 4 year-old daughter
- New Mexico law allowed jury to award damages for loss of the value of decedents' lives

Morga v. FedEx

- Jury awarded **\$32 million** to the estate of the 22 year-old mother
- Jury awarded **\$61 million** to the estate of the 4 year-old daughter
- State court of appeals upheld the verdict – not excessive

Jury Awards Upheld on Appeal

Guzman v. The Boeing Company (2018)

- Rapid decompression on B757
- Crew declared emergency and made a safe landing
- Passenger allegedly suffered PTSD
- No physical injury

Guzman v. Boeing

- The jury awarded \$2.2 million in damages
- The judge refused to reduce the award

Why Do U.S. Damages Awards Matter?



Why Do U.S. Damages Awards Matter?

- The nature of aviation and the global supply chain increase the likelihood that an accident occurring outside of the U.S. will have a U.S. connection
- U.S. plaintiffs' lawyers are increasingly soliciting victims/survivors of aviation accidents world-wide
- Modern technology enables U.S. plaintiffs' lawyers to contact victims/survivors immediately

U.S. Connections Could Confer U.S. Jurisdiction

Any tie to the U.S. increases the risk that a U.S. court might exercise jurisdiction over an accident case:

- Passengers who are U.S. citizens or residents?
- Purchase of spare parts from U.S. sellers?
- Any pilot training provided in U.S.?
- Airframe and component manufacturers based in the U.S.?
- U.S.-based leasing companies?
- U.S.-based maintenance providers?

U.S. Attorneys Solicit Cases World-wide

- Every aviation accident is evaluated by U.S. plaintiffs' lawyers as a potential "U.S. case"
- Ability to connect immediately with victims/survivors of foreign accident

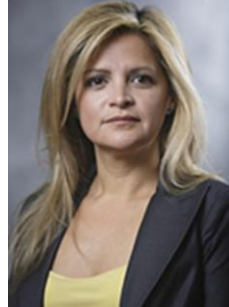
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Potential Impact on Insurance Practices?

The threat of U.S. litigation can:

- Greatly increase your insured's potential damages exposure
- Greatly increase the cost of defense

Questions?

