

ROBINSON v. SOPWITH AIRCRAFT COMPANY, INC.

This case file contains:

1.	Case Summary	pp. 2
2.	Stipulation of Substantive Matters	pp. 3
3.	Evidentiary Stipulations	pp. 4
4.	Witness List	pp. 5
5.	Complaint	pp. 6-7
6.	Answer	pp. 8-9
7.	Jury Instructions	pp. 10-14
8.	Deposition of Gab. Robinson	pp. 15-19
9.	Deposition of Pennington	pp. 20-26
10.	Deposition of Rhoades	pp. 27-32
11.	Deposition of LeDuc	pp. 33-36

Please see Exhibits File for case exhibits and reports:

1. Bank Examiner's Report
2. Note from LeDuc to Gary Robinson
3. NTSB Accident Report
4. Service Bulletin – draft – dated Dec. 2, 2017
5. Service Bulletin – final – dated Jan. 22, 2018
6. June 2017 *Flyboy*
7. Pennington Résumé
8. Rhoades Résumé

CASE SUMMARY

Gabriella Robinson is the Plaintiff in this matter, both individually and as Administrator of the Estate of Gary Robinson. She has filed a Complaint against Sopwith Aircraft Company, Inc. In the Complaint, she alleges that Gary Robinson was flying an aircraft manufactured by Sopwith, a Twin Series model, on January 15, 2018. On that day, he took off from a runway at Johnsonville Airport on his way home to Wingert Grove in the state of Widener. Almost immediately after takeoff, the airplane that Gary Robinson was piloting crashed near the runway.

The Plaintiff alleges the Sopwith designed, manufactured and marketed the airplane in a manner that was the proximate cause of Gary Robinson's death. Specifically, the Plaintiff claims that an automatic auxiliary fuel pump switch malfunctioned and flooded the right engine of the twin engine plane, thereby causing the right engine to fail. The Plaintiff alleges that the resulting torque from the left engine, which was unbalanced by the failed right engine, forced the airplane over onto its back and then nose down into the ground. Gary Robinson died in the accident. The Plaintiff claims to have suffered damages as a result of Sopwith's conduct, including medical and funeral expenses, lost support and services, and mental anguish.

Sopwith filed an Answer denying the allegations of the Complaint and raising the affirmative defenses of Gary Robinson's superseding negligence in failing to control the airplane in the event of an engine failure and his intentional act of suicide.

STIPULATION OF SUBSTANTIVE MATTERS

1. Sopwith does not contest that the court has subject matter jurisdiction of the dispute, and stipulates that Plaintiff has standing in all capacities.
2. Motions to dismiss the complaint and motions for summary judgment have been denied by the trial court, and no further dispositive motions shall be argued by counsel or heard by the trial judge.
3. The State of Widener is a comparative negligence state. The jury shall apportion the percentage of negligence, if any, to the plaintiff and the defendant.
4. The only precedential case is *E. Dando v. Lemonheads*, 229 Wid. 3d 472 (Wid. Sup. Ct. 2012) in which the court held that a decedent's suicide breaks the causal chain in a products liability case, and that it therefore serves as a complete defense to a case based on a design, manufacturing or marketing defect.
5. The following provisions of Widener Civil Laws (Wid. C.L.) apply to this matter:
 - a. Wid. C.L. 100. No plaintiff shall recover damages under any theory of tort liability if he is found to be more than 50 percent at fault.
 - b. Wid. C.L. 101. In any case based on a claim in which the plaintiff alleges a design, manufacturing and/or marketing defect, the burden is on the plaintiff to prove by a preponderance of the evidence that such defect(s) was a proximate cause of the personal injury, property damage, or death for which the plaintiff seeks recovery.
 - c. Wid. C.L. 102. A person is liable for damages arising from an injury that causes an individual's death if the injury was caused by the person's or his agent's or servant's wrongful act, neglect, or carelessness.
 - d. Wid. C.L. 103. All personal injury actions, whether based on intentional or negligent conduct of the defendant, survive to and in favor of the heirs, legal representatives, and estate of the injured person.
6. The reference in Rufus Pennington's deposition to an article in *Flyboy* magazine is to Exhibit 1.

EVIDENTIARY STIPULATIONS

1. The Federal Rules of Civil Procedure and the Federal Rules of Evidence apply.
2. This case has been bifurcated and shall be tried on liability only. Should the plaintiff prevail on liability, the question of damages shall be heard by the jury with additional evidence and additional jury instructions at a later date.
3. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence can, if asked, identify the same at trial.
4. Each witness who gave a deposition did agree under oath at the outset of his or her deposition to give a full and complete description of the material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.
5. All depositions were signed under oath.
6. You are not permitted to attempt to impeach a witness by questioning the witness or arguing to the jury that a signature appearing on the deposition does not comport with signatures or initials located on an exhibit.
7. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
8. "Beyond the record" shall not be entertained as an objection. If you believe that a witness is inventing facts, you may impeach through cross-examination using facts found in the record.
9. Each party must call the two witnesses listed as that party's witnesses on the witness list.
10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.
11. Presentation and argument of pretrial motions shall be at the discretion of the trial judge. There shall be no written pretrial motions.

WITNESS LIST

Witnesses for the Plaintiff:

1. Gabriella Robinson
2. Rufus Pennington

Witnesses for the Defendant:

1. Tracy LeDuc
2. Dusty Rhoades

IN THE COURT OF GENERAL CIVIL LAW
JURISDICTION OF WIDENER

GABRIELLA ROBINSON, Individually	:	No. 18-005277-CV
and as Administrator of the Estate	:	
of GARY ROBINSON,	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	
SOPWITH AIRCRAFT	:	
COMPANY, INC.	:	JURY TRIAL DEMANDED
	:	
Defendant	:	

COMPLAINT

1. Plaintiff is Gabriella Robinson, and adult individual with an address of 1313 Mockingbird Lane, Wingert Grove, Widener.
2. Defendant is Sopwith Aircraft Company, Inc., an incorporated business enterprise with an address of 2727 Jetway Blvd., Johnsville, Widener.
3. Plaintiff brings this action in her own name as surviving wife of Gary Robinson and also in her capacity as Administrator of the Estate of Gary Robinson.
4. At all times relevant hereto, Defendant Sopwith Aircraft Company was registered to do business in the jurisdiction of Widener.
5. On or about January 17, 2013, the decedent, Gary Robinson, purchased a new Sopwith model P-38 airplane (the "airplane") from the defendant for the purchase price of \$478,000.
6. At all relevant times, the airplane was properly maintained by Gary Robinson or his agents.
7. No modifications were made to the airplane.
8. At the time of purchase, the airplane was equipped with an auxiliary fuel pump that was installed by the defendant.
9. The purpose of the auxiliary fuel pump was to supply fuel to the airplane's engines in the event of a failure of the main mechanical fuel pump.

10. On or about January 15, 2018, the decedent, Gary Robinson, piloted the airplane at the airport in Johnsonville, Widener.
11. During takeoff, the airplane's right engine stalled, causing the airplane to roll and dive.
12. As a result of the aforementioned roll and dive, the airplane crashed, killing Gary Robinson.
13. At the time of his death, Gary Robinson was married to the plaintiff, Gabriella Robinson.
14. The airplane's right engine stalled because the auxiliary fuel pump for that engine began operating while the main mechanical fuel pump was operating. The auxiliary fuel pump fed additional fuel to the right engine, causing it to flood and stall.
15. The auxiliary fuel pump was turned on by a switch that was improperly designed or manufactured. The dangers of the improperly designed or manufactured switch exceeded that which would be contemplated by an ordinary person with knowledge common to pilots.
16. The defendant failed to give adequate warnings of the potential dangers caused by the defectively designed and/or manufactured auxiliary fuel pump switch and known to defendant or that should have been known to defendant.
17. As a direct and proximate result of the aforementioned defects, plaintiff has suffered injuries in both her individual capacity and in her capacity as Administrator of the Estate of Gary Robinson.

WHEREFORE, Plaintiff prays that this Honorable Court

1. Enter judgment against the defendant, Sopwith Aircraft Company, Inc.
2. Award her damages in her individual capacity as surviving spouse of Gary Robinson,
3. Award her damages in her capacity as Administrator of the Estate of Gary Robinson,
4. Award such other relief as the Court deems appropriate.

DATE: _____

Bogart T. Jones

Bogart T. Jones
Dewey, Robinson & Jones
1273 Court St.
Wingert Grove, WD 17110
(717) 555-1313

IN THE COURT OF GENERAL CIVIL LAW
JURISDICTION OF WIDENER

GABRIELLA ROBINSON, Individually	:	No. 18-005277-CV
and as Administrator of the Estate	:	
of GARY ROBINSON,	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	
SOPWITH AIRCRAFT	:	
COMPANY, INC.	:	JURY TRIAL DEMANDED
	:	
Defendant	:	

ANSWER

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.
7. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.
8. Admitted.
9. Admitted.
10. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.
11. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.

12. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.
13. Admitted.
14. After reasonable investigation, the defendant is unable to ascertain the truth of the allegation and the same is therefore denied.
15. Denied that the auxiliary fuel pump was improperly designed or manufactured. The auxiliary fuel pump was properly designed for its purpose and was manufactured to meet design specifications. Rather, on information and belief, the auxiliary fuel pump was intentionally or negligently turned on by the decedent.
16. Denied. The fuel pump was properly designed and manufactured and defendant supplied appropriate instructions and warnings for the operation of the fuel pump to all purchasers of its airplanes.
17. Denied that any defects existed in the fuel pump or that, if such defects existed they were the proximate cause of the defendant's injuries.

WHEREFORE, defendant prays that this Honorable Court:

- a) Dismiss the Complaint, and
- b) Award such other relief as the Court deems appropriate.

DATE: _____

Cagney M. Lacey

Cagney M. Lacey
Lacey, Kettlewell & Boatright
126 S. Seventh St.
Johnsonville, WD 17110
(717) 555-2727

JURY INSTRUCTIONS

1. The evidence presented to you may be either *direct* or *circumstantial evidence*.

Direct evidence is testimony about what a witness personally saw, heard, or did.

Circumstantial evidence is testimony about one or more facts that logically lead you to believe the truth of another fact.

You should consider both direct and circumstantial evidence in reaching your verdict.

You may decide the facts in this case based upon circumstantial evidence alone.

2. As judges of the facts, you decide the believability of the witnesses' testimony. This means that you decide the truthfulness and accuracy of each witness's testimony and whether to believe all, or part, or none of each witness's testimony.

The following are some of the factors that you may and should consider when determining the believability of the witnesses and their testimony:

- a. How well could each witness see, hear, or know the things about which he or she testified?
- b. How well could each witness remember and describe those things?
- c. Was the ability of the witness to see, hear, know, remember, or describe those things affected by age or any physical, mental, or intellectual disability?
- d. Did the witness testify in a convincing manner? How did the witness look, act, and speak while testifying?
- e. Was the witness's testimony uncertain, confused, self-contradictory, or presented in an evasive manner?
- f. Did the witness have any interest in the outcome of this case, or any bias, or any prejudice, or any other motive that might have affected his or her testimony?
- g. Was a witness's testimony contradicted or supported by other witnesses' testimony or other evidence?
- h. Does the testimony make sense?
- i. If you believe some part of the testimony of a witness to be inaccurate, consider whether that inaccuracy cast doubt upon the rest of that same witness's

testimony. You should consider whether the inaccuracy is in an important matter or a minor detail.

You should also consider any possible explanation for the inaccuracy. Did the witness make an honest mistake or simply forget, or was there a deliberate attempt to present false testimony?

- j. If you decide that a witness intentionally lied about a significant fact that may affect the outcome of the case, you may, for that reason alone, choose to disbelieve the rest of that witness's testimony. But, you are not required to do so.
 - k. As you decide the believability of each witness's testimony, you will at the same time decide the believability of other witnesses and other evidence in the case.
 - l. If there is a conflict in the testimony, you must decide which, if any, testimony you believe is true.
3. As the only judges of believability and facts in this case, you, the jurors, are responsible to give the testimony of every witness, and all the other evidence, whatever weight you think it is entitled to receive.

During the trial you have heard testimony from both *fact* witnesses and *expert* witnesses.

To assist juries in deciding cases such as this one, involving scientific, technical, or other specialized knowledge beyond that possessed by a layperson, the law allows an expert witness with special education and experience to present *opinion* testimony.

An expert witness gives his or her *opinion*, to a reasonable degree of professional certainty, based upon the assumption of certain facts. You do not have to accept an expert's opinion just because he or she is considered an expert in his or her field.

In evaluating an expert witness's testimony, [and] [or] in resolving any conflicting expert witness's testimony, you should consider the following:

the witness's knowledge, skill, experience, training, and education, and

whether you find that the facts the witness relied upon in reaching [his] [her] opinion are accurate, and all the believability factors I have given to you.

4. The plaintiff claims she was harmed by the negligent conduct of the defendant. The plaintiff has the burden of proving her claims.

The defendant denies the plaintiff's claims.

The issues for you to decide, in accordance with the law as I give it to you are:

1. Was the defendant negligent?
2. Was the defendant's conduct a factual cause in bringing about harm to the plaintiff?

In order for the plaintiff to recover in this case, the defendant's negligent conduct must have been a factual cause in bringing about harm. Conduct is a factual cause of harm when the harm would not have occurred absent the conduct. To be a factual cause, the conduct must have been an actual, real factor in causing the harm, even if the result is unusual or unexpected. A factual cause cannot be an imaginary or fanciful factor having no connection or only an insignificant connection with the harm.

To be a factual cause, the defendant's conduct need not be the only factual cause. The fact that some other causes concur with the negligence of the defendant in producing an injury does not relieve the defendant from liability as long as its own negligence is a factual cause of the injury.

5. The manufacturer of a product is liable for the injuries caused to the plaintiff by a defect in the product, which existed when the product left the possession of the manufacturer. Such liability is imposed even if the manufacturer has taken all possible care in the preparation and sale of the product.
6. The manufacturer of a product is a guarantor of its safety. The product must be provided with every element necessary to make it safe for its intended use, and without any condition that makes it unsafe for its intended use. If you find that the product, at the time it left the defendant's control, lacked any element necessary to make it safe for its intended use, or contained any condition that made it unsafe for its intended use, and there was an alternative, safer practicable design, then the product was defective and the defendant is liable for all harm caused by the defect.
7. You now have all the rules of law to properly reach a verdict in this case. In a few minutes, you will begin your deliberations. Before you do so, I would like to give you a few final guidelines on conducting your deliberations and properly arriving at a verdict.
8. My responsibility, as judge, is to decide all questions of law; therefore, you must accept and follow my rulings and these instructions as to matters of law. But I am not the judge of the facts. You, the jurors, are the only judges of the facts. So your responsibility is to consider the evidence and decide what are the true facts. By applying the rules of law as

given to you, to the facts as you find them, you must decide whether the plaintiff has proven [his] [her] [its] claims.

9. The decision in this case, as I am sure you understand, is a matter of considerable importance. Your responsibility, as jurors, is to reach a verdict based on the evidence presented during the trial, and upon your evaluation of that evidence. You must consider all the testimony you have heard, and all the other evidence presented during this trial, in order to decide the facts.
10. In deciding the facts, you may properly apply common sense and draw upon your own everyday practical knowledge of life. You should keep your deliberations free of any bias or prejudice. All parties have the right to expect you to consider the evidence conscientiously, and to apply the law as I have outlined it to you.
11. Before you begin to deliberate, you should select one of your group to be the foreperson. The foreperson will announce the verdict in this courtroom after you have finished deliberating. If, during deliberations, you have a serious doubt about some portion of these instructions, write your question in a note, signed by the foreperson. Give the note to the bailiff. The bailiff will give it to me for response. You should not, however, reveal to anyone how the jury stands numerically.
12. The verdict should be rendered only after careful and thoughtful deliberations. In the course of your deliberations, you should consult with each other and discuss the evidence freely and fairly, in a sincere effort to arrive at a just verdict. It is your obligation to consider the evidence and the issues presented with a view toward reaching agreement, if you can do so without violating your own individual judgment. Each juror must decide this case for himself or herself, after examining the issues and the evidence with proper regard to the opinions of other jurors. Proper consideration of the issues before you means that you should be willing to reexamine your views and change your opinion, if convinced that it is erroneous; but you are not required to surrender an honest conviction as to the weight or effect of the evidence only because of another juror's opinion, or solely for the purpose of returning a verdict.
13. Your verdict must represent the jury's considered, final judgment. While the view of every juror must be considered, your verdict need not be unanimous. A verdict rendered by five-sixths of the jury shall constitute the verdict of the entire jury. Five-sixths of twelve is ten. So when ten of you have agreed that you have reached a verdict, indeed, you have. You should tell the bailiff, and we will reconvene court to accept your verdict.

14. Please keep in mind that this dispute between the parties is, for them, a most serious matter. They and the court rely upon you to give full and conscientious consideration to the issues and the evidence before you. Neither sympathy nor prejudice may influence your deliberations. You should not be influenced by anything other than the law and the evidence in this case, together with your own judgment and evaluation of that evidence. All parties stand equally before the court, and each is entitled to the same fair and impartial treatment in your hands.
15. In closing, I suggest that you will be able to deliberate more easily, and in a way that will be better for all concerned, if each of you treats your fellow jurors and their views with the same courtesy and respect as you want your views to be treated, and with the same courtesy and respect as you would treat any other person in your everyday life.

You may begin your deliberations.

1 **DEPOSITION OF GABRIELLA ROBINSON**

2 Gabriella Robinson, having been first sworn, deposes and says as follows:

3 Q: Please state your name for the record.

4 A: Gabriella Robinson, but my friends call me "Gabby."

5 Q: Where do you live, Ms. Robinson?

6 A: 1313 Mockingbird Lane, Wingert Grove, Widener.

7 Q: Were you married to Gary Robinson?

8 A: Yes. We got married in 1998. Twenty years we had together. Twenty wonderful years.

9 Q: How did you meet Mr. Robinson?

10 A: I had been hired as a bank teller in his bank in 1997. I'd been working there for a few
11 months when he began asking me into his office to talk. We would have tea and cookies
12 and talk about banking matters. This usually took place in the afternoons, although he
13 would sometimes invite me into his office in the morning.

14 Q: So your initial relationship was that of employer and employee?

15 A: Yes, although it developed pretty quickly into something more. After I'd been there for a
16 few months Gary asked me to dinner and a movie. And, as they say, the rest is history. We
17 dated for a few months and then he proposed. We had a wonderful wedding on June 13,
18 1998. It was a June wedding, but the weather was horrible. It rained almost all day. Then
19 we were supposed to go on a honeymoon to Las ...

20 Q: Ms. Robinson, I'm sorry to interrupt, but we need to move on. Can you tell me when
21 Mr. Robinson passed away?

22 A: Yes. That was January 15, 2018. It was a horrible day. He had been a wonderful husband.
23 Losing him was a terrible tragedy and the people who made that airplane must be made
24 to pay.

25 Q: How did Mr. Robinson die?

26 A: How can you ask that question? Everyone knows that he died when the airplane crashed
27 on take-off and he was leaving Johnsonville. It was a terrible, terrible way to die. And to
28 take him from me at this time of life is almost unbearable.

29 Q: What did Mr. Robinson do for a living?

30 A: He was a banker. A very successful banker. He owned his own bank, the First National
31 Bank of Wingert Grove. It's the largest bank in Wingert Grove, with a main office and
32 three branches. He was the owner, president, CEO, and CFO of the bank. He was an
33 extremely busy man. We worked together to build that bank. He was the brains, of

34 course, but I did everything that I could to support the bank. I kept many of the financial
35 records myself.

36 Q: I see. Was your husband active in any professional associations?

37 A: Of course he was. He held several state wide offices in the Widener Banker's Association
38 and he was serving as President of the Wingert Grove Banker's Association at the time of
39 his death.

40 Q: What about civic associations?

41 A: Oh my. He and I were always on the go, attending civic functions. He was a deacon in our
42 church. He was involved with the Chamber of Commerce, of course. We were both avid
43 Opera fans, and he was the secretary of the Wingert Grove Opera Society. I am the
44 president of that society.

45 Q: Did you ever get involved in any of the bank's business matters?

46 A: Well, as I said, I kept a lot of the financial records. Gary was a very smart man, but he
47 wasn't detailed oriented, so I spent a lot of time making sure the financial records were
48 accurate. I usually worked on payroll matters, so I didn't get involved with the other
49 accounts.

50 Q: Did Mr. Robinson ever talk to you about what was going on down at the bank just before
51 his death?

52 A: He said that the bank regulators had been in the bank for a couple of weeks. That wasn't
53 really unusual. Plus, bank regulators don't often pay much attention to payroll, so I wasn't
54 too worried about it.

55 Q: Did he tell you what they were doing in the bank during the last couple of weeks of his
56 life?

57 A: He said they were looking at the loans he had made during the past five years, particularly
58 in the technology startup sector. He said that he was not concerned about them being in
59 the bank and was not concerned about what they would find because he was so squeaky
60 clean. I didn't listen to all the details. As I said, I took care of payroll, not other accounts.

61 Q: After Mr. Robinson's death, did you learn anything else about the bank?

62 A: Yes. I learned that Gary had made some mistakes. Some of the loans that he had made
63 hadn't been adequately secured. When the debtors didn't pay, the collateral wasn't
64 adequate to make the bank whole. Needless to say, that caused some problems. It wasn't
65 unusual, though. Remember, we were in a recession and a lot of collateral lost value. That
66 collateral may have been just fine at the time the loans were made, but the loss in value
67 put the bank in a bad position. It definitely wasn't Gary's fault. Even so, the Bank
68 Regulators were decided to close the bank down and declare it insolvent. I'm not going to

69 get into politics, but the whole thing wouldn't have happened if the regulations on
70 banking were different.

71 Q: Were you surprised that the bank was shut down?

72 A: Well, yes and no. Gary always did a wonderful job of managing the bank, so it was
73 surprising that there were any problems. On the other hand, in this economic and political
74 climate, no business is safe. In our situation, I actually blame Tracy LeDuc, the head Bank
75 Regulator. She was over zealous and anxious to eliminate any risk. Well, you just can't
76 eliminate all risk from any business, certainly not banking. Banks make loans. Some go
77 bad. You need to let the banks ride out the bad times. It may be true that the bank was
78 insolvent on paper, but that didn't mean that it wouldn't be able to meet its obligations in
79 the future. If she were so concerned, why didn't she get some sort of bail out from
80 Washington? Sure, there's help for the banks with national political clout, but where's the
81 help for the local banks? It's just a plot to concentrate all the financial power ...

82 Q: Mrs. Robinson, let's just stick to your husband's situation, please. Are there any specific
83 facts that make you blame Ms. LeDuc for the bank's failure?

84 A: Specific facts? Other than that she was trying to steal Gary from me? A few months before
85 Gary's death I learned that he was having an affair with that tramp. It had apparently
86 been going on for several months, but Gary had told her that he realized what a mistake
87 he was making and that the whole thing was over. She was very upset when she learned
88 this, and I'm sure she decided to get her revenge anyway that she could.

89 Q: Is there any particular fact that makes you think she decided to get revenge?

90 A: There's the note that I found in Gary's things after he died. I'm sure you've read it, too.

91 Q: Let me show you what has been labeled Exhibit A. Is this the note you're talking about?

92 A: Yes, that's it. You can see that she told him that if he broke up with her she would get her
93 revenge.

94 Q: Let's move on from that topic. Was your husband a pilot?

95 A: Yes. He got his license about five years ago.

96 Q: Did you ever fly with him?

97 A: Not very often. I don't really enjoy flying, especially in a small plane.

98 Q: Do you know if Mr. Robinson was instrument rated?

99 A: I don't know for sure, but I don't think so. He used to joke that for him, IFR meant "I
100 follow roads".

101 Q: How did you learn about your husband's accident?

102 A: The sheriff, Andy Little, came to the house and told me there had been an accident.

103 Q: Were you alone when the sheriff arrived?

104 A: No, Rufus Pennington was visiting.

105 Q: Who is Rufus Pennington?

106 A: He is an airplane mechanic and a friend. We first met Rufus when he worked on Gary's
107 plane.

108 Q: So you and Mr. Pennington were social acquaintances?

109 A: Yes, we were all good friends.

110 Q: Have you seen Mr. Pennington since Mr. Robinson's death?

111 A: I've been to dinner with him on several occasions and we've met at some social functions.
112 Why do you ask?

113 Q: Ms. Robinson, I just want to make sure I understand everything that happened. Did you
114 know that Mr. Robinson was going to be flying on January 15th?

115 A: Yes. I knew that he had gone to Johnsonville, and planned to fly home on the 15th. He
116 called me as he was driving to the airport.

117 Q: He called while he was driving?

118 A: Yes. At least he didn't text me while driving.

119 Q: Did you speak to him when he called?

120 A: No. I had left my cell in the kitchen after breakfast. I didn't realize that he had called until
121 after I spoke with Sheriff Little.

122 Q: Is the message still on your voicemail?

123 A: I assume it is. Would you like to listen to it?

124 Q: Not right now. Perhaps later. How would you describe your husband's level of interest in
125 flying.

126 A: Oh, he was very interested. It didn't absorb him day and night, but he flew frequently and
127 certainly enjoyed flying. You asked earlier if he was instrument rated and I told you I
128 didn't know. But I do know that Gary was very careful about keeping his logbooks and
129 maintaining the airplane in great condition.

130 Q: Did he subscribe to any aviation magazines?

131 A: Yes. He was a member of AOPA, so he got their magazine and spent a lot of time on their
132 website. There were at least a couple other print magazines that he subscribed to, like
133 *Aviation Week*, and he also logged on to several other private pilot discussion sites on the

134 net. I distinctly remember the print magazine *Flyboy*. I found it childish that grownups
135 would use such a silly name for a serious magazine.

136 Q: You say it was a “serious” magazine?

137 A: Yes, although you have to realize that I didn’t actually understand the articles. However, I
138 would look at the magazine from time to time, and the articles were very technical in
139 nature. It was written for an audience of pilots, perhaps aeronautical engineers, not
140 laypeople.

141 Q: Did your husband ever talk about those articles with you?

142 A: Why would he do that? No, we talked about much more interesting matters. We shared
143 many common interests, such as wine and good fiction. We were more likely to discuss
144 the latest Grisham novel than articles in a flying magazine.

145 Q: I’m showing you what has been marked as Defendant’s Exhibit 1. Do you recognize it?

146 A: Yes. It’s a copy of the June 2017 issue of *Flyboy*. I found it in Gary’s desk after his accident.

147 Q: Were there copies of any other issues of *Flyboy* in that desk?

148 A: Yes. There were copies of all the 2016 and 2017 issues of the magazine.

149

150 Date: 4/28/2018

Gabriella Robinson

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DEPOSITION OF RUFUS PENNINGTON

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Rufus Pennington, first being duly sworn, deposes and says,

Q: Can you tell us your name?

A: My name is Rufus Pennington.

Q: Where do you live, Mr. Pennington?

A: I live in Wingert Grove, at 15 Airport Way.

Q: Do you live near the airport?

A: I actually live in the back of my business out at the airport.

Q: What do you do for a living?

A: My primary job is as an airplane mechanic. I also do some consulting from time to time.

Q: What sort of consulting?

A: Folks sometimes call me when there's an airplane problem that they can't figure out. Usually after an accident, but sometimes during the testing stage of a new airplane. If there's a problem with the handling of the craft, I'll take it for a spin and see if I can come up with any ideas that might help. Designers these days don't use people very much – they rely on computers to tell them what's wrong with a design. But computers aren't very good during the final tweaking of a design. They can't measure the effect of really small inputs into the controls, so that's when they call me in.

Q: How did you become a mechanic and consultant?

A: Well, I was always interested in airplanes. My family wasn't real rich, though, so the only way that I was going to be able to fly was to join the military. After graduating from high school in 1976, that's what I did. Six years in the Air Force. Of course, I wasn't a pilot, I was a mechanic. At the time, I was very upset that I didn't get to fly. Looking back, maybe I was lucky. I could have been sent to Vietnam and who knows what could have happened. Anyway, after I got out of the Air Force in 1982, I went to college. I got my B.S. in Engineering from Widener University in 1986 and started working for Culpepper Aircraft that year. I stayed with Culpepper for about five years. During that time, I designed the C292 twin engine plane. Let me correct that statement. Nobody designs a whole plane in this day and age. The day of folks like Howard Hughes is long over. I was the chief engineer for the C292, but a lot of other people contributed to that design. Anyway, because I was associated with the design, I got some name recognition, and some of the big aviation companies called me to try to get me to work for them. So I went to work for Boeing Aircraft for a while, up in Washington. It was a really nice job, and they paid for my tuition to get my PhD. in Aeronautical and Aerospace Engineering. Had to fly down to

36 Stanford for that, but the company paid for everything. I stayed with Boeing for a long
37 time.

38 Q: Why aren't you still there?

39 A: Well, you know aeronautical engineering is a stressful profession. If you mess up, people
40 die. Plus, Boeing is the largest manufacturer of passenger jets in the world, and they want
41 to keep it that way. There's a lot of pressure to design great, cutting edge airplanes. After
42 I'd been there for twenty years, I started thinking about slowing down a little. I told myself
43 I wasn't getting any younger, and if I wanted to enjoy some things in life other than
44 designing airplanes, I'd better get started. So, in 2012, after working for Boeing for 20
45 years, I told them I was moving on. I came back here and now I just do some wrenching on
46 the local planes and, if the mood strikes me, I take a consulting job now and then. It's a
47 nice way to make a living if you don't have to worry too much about money.

48 Q: So you're an expert in airplane engine design and repair?

49 A: I don't think it's quite that simple. While at Boeing, I never looked at propeller-driven
50 aircraft. We only built jets. So I guess I'm an expert on jet engines. The C292 was
51 propeller-driven, but Culpepper didn't design or build the engines. We bought them from
52 Beechnut Aviation. I knew a lot about propeller-driven design back then because we had
53 to pick the best engine for the airplane, and I can still work on them, but I don't know that
54 I would claim to be an expert in the design of engines used in propeller-driven aircraft.

55 Q: What about the maintenance of propeller-driven aircraft?

56 A: Oh I do quite a bit of wrenching on prop-driven planes. Most private pilots fly prop-driven
57 planes, not jets. If you're going to work as a mechanic at a private airport, you've got to be
58 able to work on propeller-driven airplanes. So even though I wouldn't call myself an
59 expert in the design of propeller-driven aircraft, I know quite a bit about maintaining
60 them.

61 Q: Did you know Gary Robinson?

62 A: Yes. I worked on Gary's airplane on several occasions, including about one week before
63 the crash.

64 Q: What was it that you did to Mr. Robinson's plane a week before the crash?

65 A: I changed out some fuel hoses on the left engine. They were showing some signs of
66 cracking and wear.

67 Q: Just the left engine?

68 A: Yeah. The right side still looked OK on visual examination. I told Gary I had changed out
69 the left engine and asked him if he wanted me to do the same on the right side. He said
70 that if it still looked OK I should wait and save him some money. Funny how guys will

71 spend thousands of dollars to buy an airplane but then skimp on the maintenance just to
72 save a couple of bucks.

73 Q: Did you do anything to the engine driven fuel pump, the auxiliary fuel pump, or the
74 automatic fuel pump switch the week before the crash?

75 A: No, I didn't tinker with any of that, although I was tempted to because of that article in
76 *Flyboy* magazine.

77 Q: What article was that?

78 A: There was an article in the June issue of *Flyboy* reporting on two or three crashes of
79 models similar to Mr. Robinson's that were apparently caused by flooding of the right
80 engine on takeoff.

81 Q: According to the article, what caused the flooding?

82 A: At its most basic, all engine flooding is caused by too much gas in the carburetor. I assume
83 that you want to know how all that gas was getting into the carburetor. Flightworthy puts
84 an automatic fuel pump switch in their planes. A lot of manufacturers do that, in fact we
85 used to do it at Culpepper. The switch is controlled by the vacuum. When an engine is
86 running, it pulls the air/fuel mixture into the cylinder. This creates a vacuum in the intake
87 manifold. Manufacturers run a hose off the manifold, and that hose will also have a
88 vacuum. The automatic switch is attached to the hose. If the engine is running well, it will
89 maintain the vacuum, and the switch stays open. If the engine begins to stall, the vacuum
90 will fail, and the switch will close, turning on the auxiliary pump. According to the article,
91 the vacuum line could become clogged. If that happened, the vacuum would be lost, and
92 the switch would close even though the engine driven pump was working fine. This
93 created the possibility that both the engine driven pump and the auxiliary pump would be
94 working at the same time, and the engine would flood. Too much fuel in the carburetor.

95 Q: Was the vacuum line one of the lines that you changed on the left engine of
96 Mr. Robinson's plane?

97 A: No, it was not.

98 Q: You say the vacuum line could become clogged. Would you be able to tell if a vacuum line
99 was clogged through a visual inspection?

100 A: Probably not. The material clogging the line would be on the inside.

101 Q: Is there a recommended replacement interval for the vacuum hoses?

102 A: Yes, there is. It's an annual replacement. I think that Gary's plane was due to have the
103 vacuum lines replaced in March.

104 Q: Would the cracking of the fuel lines have any effect on the replacement interval for the
105 vacuum line?

106 A: Not if the owner was a cheapskate. Look, we're talking about rubber hoses here. They're
107 high quality rubber hoses – nitrile - but they're still rubber hoses. If the fuel lines are
108 showing signs of age, it's probably a sign that all of the fuel system lines, including the
109 vacuum hoses, should be replaced. But it's the owner's decision. I told Gary about the fuel
110 lines and asked him if I should replace all of the rubber hoses. He said that I shouldn't
111 unless they looked bad. They didn't look bad, so I didn't replace them.

112 Q: Is *Flyboy* magazine a source of information that people like you rely on in terms of the
113 technical information contained in it?

114 A: Yes, it is actually a journal of aviation engineering.

115 Q: Based on your own experience and education, what would happen if one of the engines
116 on a twin engine plane flooded on takeoff?

117 A: The remaining engine, if left running, would be exerting a lot of torque and would tend to
118 flip the plane over on its back if the pilot did not immediately throttle back on that engine.

119 Q: Did the crashes reported in *Flyboy* involve the same model of airplane that Gary Robinson
120 was flying when he was killed?

121 A: No. However, the design of the automatic switch was the same.

122 Q: Did you ever talk to Mr. Robinson about the article you read in *Flyboy*?

123 A: Oh yes. Gary was a subscriber to that magazine and I frequently saw him looking at it.

124 Q: Did you discuss the article in which the crashes were reported?

125 A: Yes. I remember he said to me: "It's interesting that the automatic switch causes that sort
126 of problem." Then he asked: "Is there anything in the design that would prevent the
127 engine from flooding if the manual override switch was turned on?"

128 Q: What was your response?

129 A: I told him not to mess with that manual switch because it would turn on the auxiliary
130 pump and flood the engine.

131 Q: Did you look at the airplane after it crashed?

132 A: Yes, I went up there to look at the airplane and see what I could determine might have
133 been the cause of the crash.

134 Q: What did you observe about the airplane at the crash site?

135 A: The airplane was about fifty feet to the side of the runway and was completely nose down
136 in the ground.

137 Q: Did you come to any conclusion about the cause of the crash?

138 A: Yes. In my opinion the auxiliary fuel pump switch failed and the right engine flooded and
139 quit. When that happened, the torque from the left engine, which was still running
140 twisted the airplane over onto its back and then it went nose down and hit the ground.

141 Q: Did you see any evidence to tell you whether the right engine was running at the time
142 that it hit the ground?

143 A: Did I see any such evidence? No. But I was told by the NTSB investigator that the propeller
144 on the right engine was pushed back against the engine housing in a very straight sort of
145 way. The propeller of the left engine was twisted into s corkscrew, which indicates that it
146 was running when it hit the ground. The right engine obviously wasn't running or its
147 propeller would be twisted up in the same way.

148 Q: Did you examine the switches and controls in the cockpit?

149 A: Yes, I did. I noticed that the manual switch for the right engine auxiliary pump was in the
150 on position. I didn't put very much weight on that, however, as I didn't know how that
151 switch got turned on. Gary would probably have panicked when the plane started to flip –
152 most pilots would. In his panic, he may have hit the switch in an attempt to get the engine
153 back on.

154 Q: Did you ever receive any kind of information from Flightworthy about this auxiliary fuel
155 pump switch problem?

156 A: Yes, the day after the crash I received a service bulletin about that.

157 Q: What is a service bulletin?

158 A: A service bulletin in what aircraft companies use to alert mechanics like me that there is
159 some kind of problem that needs to be fixed in an airplane.

160 Q: In your business as an aviation mechanic, do you rely on service bulletins for accurate
161 information regarding airplane engines and systems?

162 A: Yes, although not as much as other mechanics might. Most of the service bulletins are
163 written by people who know less about aircraft design than me. I read them, but I also
164 formulate my own opinion about the dangers of various designs.

165 Q: Is Exhibit 5 an accurate copy of the service bulletin you received from Flightworthy
166 relating to the automatic fuel pump switch?

167 A: Yes.

168 Q: Did you rely on Exhibit 5 in formulating your opinions about this case?

169 A: Yes, although the problems with that design are pretty obvious, and I'm not really sure
170 that they are problems.

171 Q: What does the service bulletin say about the design?

172 A: Is says that the auxiliary fuel pump switch has been known to fail by turning on the
173 auxiliary fuel pump when the engine driven pump was running, and if it happened, it
174 could flood the engine. That's hardly surprising.

175 Q: Why isn't it surprising?

176 A: All switches can fail. Some are subject to stricter manufacturing controls, and they may
177 fail less, but all switches can fail. If the auxiliary pump switch fails, you end up with two
178 pumps pushing fuel into the engine. That will flood the engine: it's just a matter of
179 mechanics.

180 Q: Were you able to look at the automatic switch on Mr. Robinson's plane to see what
181 position it was in?

182 A: No, the airplane burned up too much to see that.

183 Q: Were you familiar with Mr. Robinson's abilities as a pilot?

184 A: Yes, I trained him myself.

185 Q: Was he instrument rated?

186 A: No, he was never interested in anything more than just flying. A lot of pilots are like that.
187 They love to fly, but flying by instrument isn't very much fun, so they don't bother with
188 the instrument rating.

189 Q: Was he a good pilot?

190 A: He could certainly take off and land.

191 Q: Do you know Mrs. Robinson?

192 A: Yes.

193 Q: Did you ever see her flying with Mr. Robinson?

194 A: No. The only woman I ever saw fly with Gary was that bank examiner, Tracy LeDuc. She
195 flew with him a lot.

196 Q: Were you at the Robinson residence the evening of the crash?

197 A: Yes, I happened to be over at her house that evening. I was helping Ms. Robinson through
198 a bad time. She had learned about Tracy LeDuc and her husband, and she was working her
199 way through that.

200 Q: What do you mean working her way through it?

201 A: She said that she had figured out that they were fooling around and had confronted Gary
202 with it. He had promised to break off the relationship. She was telling me that things were
203 better and that she thought Gary would be faithful in the future.

204 Q: Were you at the Robinson residence when Mr. Robinson called in while on his way to the
205 airport at Johnsonville at around 9:00 p.m.?

206 A: I suppose that I was. I don't believe that the Robinsons have a land-line phone, so any call
207 would have gone to Ms. Robinson's cell. I have no way of knowing whether there was any
208 such call.

209 Q: Were you present when the sheriff told Ms. Robinson about the crash?

210 A: Yes. She was pretty shocked. She said something like "I was afraid he'd do something
211 crazy."

212 Q: Since the time of the crash, have you had any contact with Ms. Robinson?

213 A: I still bump into her at social events, but that's about all.

214 Date: 4/5/2018

Rufus Pennington

215

1 **DEPOSITION OF DUSTIN RHOADES**

2 Being duly sworn, Dustin Rhoades deposes and says,

3 Q: Please state and spell your name.

4 A: My name is Dustin Rhoades. That's D - U - S - T - I - N - R - H - O - A - D - E - S.
5 Everyone just calls me "Dusty."

6 Q: I see. Where do you live, Mr. Rhoades?

7 A: I live at 1111 Lonely St. in Wingert Grove.

8 Q: What do you do for a living?

9 A: I'm an engineer with Sopwith Aircraft Corp.

10 Q: How long have you held that position?

11 A: I've been with Sopwith for about 15 years.

12 Q: What did you do before you started working for Sopwith?

13 A: I started with Sopwith directly out of college. I got my degree in mechanical engineering
14 from Widener University.

15 Q: Were you hired as an engineer?

16 A: Yes. During my time at Sopwith, I've stayed in the engineering department. I work mostly
17 with engine design.

18 Q: What are your duties in the engineering department?

19 A: I design stuff. I design engine parts and electronic components.

20 Q: Are you familiar with the Sopwith aircraft that Gary Robinson was piloting on the day of
21 his death?

22 A: Not that particular aircraft, but I'm certainly familiar with the design of that airplane. I
23 personally designed many of the controls on that plane. In fact, I'm the one who designed
24 the auxiliary fuel pump switch on that plane.

25 Q: Do you think that's a well-designed component?

26 A: Within its operating parameters, yes. It's like any other component. If you don't use it
27 properly, you'll have problems.

28 Q: What was the purpose of the auxiliary fuel pump switch?

29 A: Its purpose is to provide fuel to the engine in the unlikely event of failure of the
30 mechanical fuel pump.

31 Q: What's the difference between the mechanical fuel pump and the auxiliary fuel pump?

32 A: The mechanical pump runs off a lobe on the engine cam. It's a very reliable system, and
33 has been used in gasoline engines for a long, long time. However, we have a backup
34 system just in case that pump fails. The backup pump, which is sometimes called the
35 auxiliary pump, is controlled by a switch that works off the engine vacuum. As long as the
36 engine is running, there should be a vacuum in the intake. If the engine stops running,
37 that vacuum is lost. When the vacuum is lost, the switch to the auxiliary fuel pump is
38 activated, and that pump comes on. The auxiliary pump is electrical, so it doesn't depend
39 on the engine rotation. In combination, the mechanical pump coupled with the auxiliary
40 pump will always provide fuel to the engine, even if the engine stops running.

41 Q: Is there any set of circumstances that would cause the auxiliary pump to turn on while the
42 mechanical pump is still running?

43 A: Not if the aircraft is properly maintained. As long as the aircraft is within its operating
44 window, that auxiliary switch cannot be activated if the engine is running.

45 Q: What do you mean by the phrase "within its operating window"?

46 A: Two things. First, the aircraft needs to be properly maintained. If the vacuum line to the
47 switch for the auxiliary pump breaks, then you'll lose the vacuum and the auxiliary pump
48 will come on, even though the engine is still running. Second, the aircraft needs to be in
49 the environment for which it was designed. If you took that aircraft to an extremely high
50 altitude, say above 50,000 feet, I can't guarantee that the vacuum in the intake would
51 remain below atmospheric pressure, and the switch might activate. Of course, there
52 would be so many other problems with the plane that you wouldn't be able to maintain
53 that altitude anyway.

54 Q: You mentioned a vacuum line. Can you explain what that is?

55 A: Sure. The intake manifold connects the fuel system to the engine's cylinders. As the
56 cylinders rise and fall, they create a vacuum in the intake manifold. That vacuum sucks the
57 air/fuel mixture into the cylinders. The vacuum line is attached to the intake manifold and
58 also has low pressure. That line is attached to the auxiliary fuel pump. As long as the
59 pressure in the vacuum line is below the ambient atmospheric pressure, the auxiliary fuel

60 pump will stay off. If the vacuum is lost, the pressure will rise, allowing the switch to
61 activate the auxiliary fuel pump.

62 Q: Is there any other way to turn on the auxiliary pump?

63 A: Yes, there's a switch on the dashboard of the airplane that the pilot can use.

64 Q: Why is there a switch inside the plane?

65 A: It's just another level of protection. If the mechanical pump fails but the vacuum switch
66 doesn't activate the auxiliary pump, the pilot can turn on that pump manually.

67 Q: Let's talk for a moment about the vacuum line. How is that line constructed?

68 A: It's just a nitrile line.

69 Q: What is nitrile?

70 A: It looks like rubber, but it's longer lasting and impervious to fuel.

71 Q: Why do you use nitrile?

72 A: Two reasons. The first is cost. Nitrile lines are cheap. The second reason is that metal has a
73 tendency to fatigue under vibration. Aircraft engines vibrate. That vibration could
74 eventually fatigue a metal line, leading to fractures. Those fractures could lead to a loss of
75 vacuum, causing a failure of the switch.

76 Q: I'd like to talk about the crash that killed Gary Robinson.

77 A: OK.

78 Q: Did you have anything to do with the investigation of that crash?

79 A: Yes. I went to the scene the next day to do an investigation on behalf of Sopwith.

80 Q: Is that something that you routinely do in your job?

81 A: No. I only get involved if there's some question of engine failure.

82 Q: What did you do in terms of an investigation?

83 A: I walked around the crash site and looked at the airplane. It was nose-down about fifty
84 feet to the right of the runway.

85 Q: Based on your investigation, did you reach an opinion as to what caused the crash?

86 A: Yes. It was clearly an intentional crash.

87 Q: Why do you say that?

88 A: Well, in the first place, everyone knew that Robinson's bank was in deep trouble. In fact, it
89 failed soon after the crash and it turned out that his personal life was a mess, too.

90 Q: Was there any physical evidence at the site that caused you to believe this wasn't an
91 accident?

92 A: Yeah. The plane was pretty burned up, so my investigation couldn't be as complete as I
93 would have liked. However, I found the right manual auxiliary pump in the "on" position.
94 This indicates that the pilot had got off the runway under full power, then deliberately
95 switched on the auxiliary pump, intentionally causing the engine to flood and die, which
96 would result in the airplane flipping over on its back because of the torque of the left
97 engine.

98 Q: Is there any way the manual switch for the auxiliary fuel pump on the right engine could
99 have become switched to the "on" position as a result of the crash?

100 A: I suppose it's possible, but I don't think it's likely. The plane crashed pretty hard, so things
101 could have been flying around in the cabin. But really, what are the chances that
102 something hit the switch?

103 Q: Did you have an opportunity to examine the fuel line?

104 A: No. That was incinerated in the crash.

105 Q: Now, are you a pilot?

106 A: No.

107 Q: Did you look at the propellers?

108 A: Yes, I did.

109 Q: Could you tell whether the right engine was running at the time of the crash?

110 A: Well, the propellers were folded back cleanly against the engine cowling on the right side,
111 which made it look like it was not running. The left propeller was corkscrewed and
112 twisted, which is a clear indication that the engine was under full power. My best guess is
113 that the pilot cut the right engine deliberately and that's why it wasn't running when it hit
114 the ground.

115 Q: Are you familiar with Sopwith's service bulletins?

116 A: Yes. The company sends out service bulletins anytime there is some kind of issue with an
117 airplane that we think might cause safety concerns.

118 Q: Was there a service bulletin regarding the auxiliary fuel pump switch on the model
119 airplane that Mr. Robinson was flying on the day he died?

120 A: Not on this specific model, no.

121 Q: Can you identify Exhibit 4?

122 A: Yes. That's a draft of a service bulletin that ultimately went out regarding the automatic
123 switch.

124 Q: So a service bulletin was issued regarding the automatic switch that was used in the
125 airplane that was flown by Gary Robinson?

126 A: Yes. Some of the more risk-adverse members of management at Sopwith questioned that
127 switch, so we sent out that service bulletin. I think it was totally unnecessary.

128 Q: Why do you think it was unnecessary?

129 A: Because my switch wouldn't fail.

130 Q: If your switch were, for some reason, to fail, what would happen to the engine on a plane
131 like Mr. Robinson's?

132 A: Oh, if my switch were to fail, which is not possible, and it turned on the auxiliary pump at
133 the same time the engine driven pump was on, and it just happened to be at takeoff,
134 when under full power, full throttle, full rich on the mixture, then the engine might die.
135 But that shouldn't cause a crash.

136 Q: Why not?

137 A: Because any pilot who had any sense at all would figure out that his right engine had
138 failed and would know that the left engine torque would put him on his back really fast. In
139 that situation, he's supposed to grab the left throttle and kill that engine off and then
140 glide into a landing.

141 Q: Wouldn't that require the pilot to make a landing without any power?

142 A: Yes, but it's certainly doable. Glider pilots and space shuttle pilots do it all the time.

143 Q: Was there an investigative report on this crash?

144 A: Yes. Exhibit 3 is the official NTSB Report.

145 Q: Is it the responsibility of the NTSB to investigate accidents and issue reports like Exhibit 3?

146 A: Yes.

147 Q: Is Exhibit 3 a true and accurate copy of the official NTSB Report on this crash?

148 A: Yes.

149 Q: What does the NTSB Report conclude about the cause of the accident?

150 A: It concluded that the crash was pilot error and accidental.

151 Q: After you designed this switch, did Sopwith manufacture that at its plant in Johnsonville?

152 A: No. It was way too expensive for us to manufacture it ourselves here in the states, so we
153 outsourced it to North Korea.

154 Q: Are there manufacturers in North Korea who are capable of manufacturing this switch?

155 A: They are certainly capable of manufacturing it cheaply.

156 DATE: 5/3/2018

Dustin Rhoades

157

1 **DEPOSITION OF TRACY LEDUC**

2 FIRST BEING DULY SWORN, Tracy LeDuc deposes and says,

3 Q: Please state and spell your name for the record.

4 A: Tracy LeDuc, T – R – A – C – Y – L – E – D – U – C.

5 Q: Ms. LeDuc, please tell us your address.

6 A: I live at 57 Hindsight Street in Shenandoah.

7 Q: What do you do for a living, Ms. LeDuc?

8 A: I am a state banking examiner, and I work for the Banking Commission of the State of
9 Widener.

10 Q: How long have you done that?

11 A: About two years.

12 Q: What are your qualifications for the job?

13 A: I graduated from Widener University with a Bachelor's Degree in Art History. That was a
14 little over two years ago. There's not a lot of work in this area for an art history major, so I
15 went to work for the State Banking Commission. They taught me how to look at loan
16 records, kind of an on-the-job training situation.

17 Q: What are your job duties as a banking examiner?

18 A: Well, I go into state regulated banks and I audit for irregularities in the handling of loans.

19 Q: Were you familiar with the First National Bank of Wingert Grove?

20 A: Yes, I was very familiar with that bank. I was sent there on several occasions to look at
21 loan transactions.

22 Q: When did you begin your investigation of the loan transactions?

23 A: First let me clarify that I was not sent to Wingert Grove to investigate loan transactions.
24 I was sent there on a normal bank audit. The Banking Commission conducts examinations
25 of all banks in Widener on a regular basis. I was sent to Wingert Grove to conduct a
26 standard bank examination. I was given the Wingert Grove assignment in August 2017.

27 Q: How long does it take to complete a standard bank examination?

28 A: It depends on the circumstances. For a small bank with no issues, it can be done in a
29 week, although some follow-up is usually needed before the report is completed. For a
30 larger bank, or one with problems, it can take months.

31 Q: How long did it take you to complete the examination of the First National Bank of
32 Wingert Grove?

33 A: I issued my report on January 3, 2018.

34 Q: Why did it take so long?

35 A: There were some issues with some of the accounts. I had to return on several occasions to
36 get clarification of certain details.

37 Q: Who did you deal with at the bank?

38 A: There were a number of people; John Kettlewell, David Boatright, Mary Reed, and, of
39 course, the president of the bank, Gary Robinson.

40 Q: Let's talk a little more about your relationship with Mr. Robinson. Why did you need to
41 speak with him during the course of your examination?

42 A: There were a number of loans that seemed to lack proper documentation, so I would go
43 into Gary's office and ask him about them. He was often personally aware of the
44 circumstances surrounding the loan, so he would offer me tea and cookies and explain
45 away any concerns I had. We really got to be close friends after a while.

46 Q: Did your relationship with Mr. Robinson become something more than just banking
47 regulator and owner of a bank?

48 A: Yes. After I had gone to the bank several times, Gary suggested that we might want to go
49 flying in his airplane. After that, we went up several times.

50 Q: When was that?

51 A: The first time was probably in September or October of 2017. After that I would say we
52 flew three or four times each month until December.

53 Q: Where would you go?

54 A: Different places. I'm not sure that my personal relationship with Gary is relevant here, but
55 we would fly to Robinettown or Husston, usually just for a few hours, although we
56 sometimes would spend the night.

57 Q: What would you do on these trips?

58 A: We actually spent most of the time talking about banking. If you asking whether we had
59 sex, the answer is "Yes." We flew to other towns in an attempt to be discreet.

60 Q: How long did this kind of relationship with Mr. Robinson continue?

61 A: Until a few weeks before his death. The problems with the subprime loans were
62 mounting, and his explanations were becoming less convincing. I felt that our personal
63 relationship was keeping me from doing my job. I knew that any other examiner would
64 have closed down the bank and recommended the filing of criminal charges. Finally, we
65 sat down and had a long, serious talk. I told him that he needed to take steps to put the
66 bank on a more secure financial footing. I also told him that he and I would need to end
67 our relationship. Finally, I told him that he would need to step down as president of the
68 bank. I told him that if he did all that, I wouldn't recommend that criminal charges be filed
69 and that I would do what I could to protect him. He wouldn't listen. He insisted that he
70 was acting "the same as every other banker in the state", and that I was just threatening
71 him because he wouldn't leave his wife for me. After he left, I wrote that note to him.

72 Q: I'm showing you what has been marked as Exhibit A. Is this the note that you wrote?

73 A: Yes, that's it.

74 Q: In the note you suggest that Mr. Robinson should "take whatever steps you think are
75 necessary." What did you mean by that?

76 A: I meant that he should step down as president of the bank before the criminal
77 investigation began.

78 Q: Did you continue to do work at the bank after that?

79 A: Yes, I continued to look at loan transactions in the weeks before his death. During that
80 time I continued to find subprime loans that were not properly documented.

81 Q: Why didn't you immediately report your findings?

82 A: I wanted to give Gary a last chance to make things right. I knew that, deep down, he was a
83 good, decent man. I hoped that he would set things right at the bank and turn his life
84 around.

85 Q: Did you talk to Mr. Robinson about this?

86 A: Yes. He didn't seem as defiant or defensive during that talk; he was more desperate. He
87 said that he "couldn't" step down as president of the bank, but that he "couldn't" tell me
88 why. He said that if I forced the bank into insolvency he would be "ruined" and that his
89 "life wouldn't be worth living". I told him that I didn't think that I had any choice in the

90 matter and that things were so bad that he wouldn't be able to make his payroll pretty
91 soon. That's how low the operational accounts were getting.

92 Q: Operational accounts?

93 A: Yes, the bank had separate accounts set up to pay for its operations. That's what most
94 banks do. As money comes into the bank from its investments, some of that money goes
95 into operational accounts. If the cash flow from the investments gets low, not enough
96 money goes into the operational accounts to fund things like payroll. Gary's bank was
97 getting to the point that there was going to be a problem.

98 Q: But the bank was able to meet all of its obligations during Mr. Robinson's life?

99 A: Yes, but I'm not sure how much longer it could have gone on.

100 Q: Did you submit ever a report to the Banking Commission?

101 A: Yes, on January 3, 2018.

102 Q: Was that report accurate?

103 A: I'm afraid that I've been advised not to answer that question.

104 Q: What happened to the bank after Mr. Robinson's death?

105 A: We, and by "we" I mean the state banking commission, made the bank write off a lot of
106 the subprime loans. That resulted in the insolvency of the bank, and it closed its doors
107 about two months after Gary's death.

108 Q: What is your current status with the state banking commission?

109 A: I've been suspended pending an investigation into my relationship with Gary.

110 DATE: 5/2/2018

Tracy LeDuc