



**In the Missouri Court of Appeals
Eastern District
EN BANC**

SUSAN DELACROIX, et al.,	)	No. ED97375
)	
Respondents/Cross-Appellants,	)	Appeal from the Circuit Court
	)	of Franklin County
vs.	)	06AB-CC00233
	)	06AB-CC00273
DONCASTERS, INC.,	)	06AB-CC00251
	)	06AB-CC00261
Appellant/Cross-Respondent.	)	06AB-CC00243
)	
	)	Honorable Gael D. Wood
)	
	)	Filed: May 7, 2013

OPINION SUMMARY

Doncasters, Inc. ("Doncasters") appeals the judgment entered upon jury verdicts awarding Plaintiff Susan Delacroix \$4 million for the wrongful death of Victoria Delacroix, Plaintiff Barbara Berridge \$4 million for the wrongful death of Melissa Berridge, Plaintiffs Mark Cook and Annette Bachand \$4 million for the wrongful death of Robert Cook, Plaintiff Joan Walsh \$4 million for the wrongful death of Robert Walsh, and Plaintiff James Cowan \$4 million for the wrongful death of Scott Cowan.¹ Plaintiffs cross-appeal the trial court's grant of judgment notwithstanding the verdict in favor of Doncasters after the jury returned a verdict awarding Plaintiffs a collective \$28 million in punitive damages, resulting in \$5.6 million in

¹ Susan Delacroix, Barbara Berridge, Mark Cook, Annette Bachand, Joan Walsh, and James Cowan will be referred to collectively as "Plaintiffs." The decedents will be referred to collectively as "Decedents."

punitive damages for each wrongful death claim.²

AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.

The Court En Banc holds:

- (1) Pre-impact terror experienced by a decedent prior to an impending aircraft crash is compensable in a wrongful death action under section 537.090 RSMo 2000. Accordingly, the trial court did not err in instructing the jury that Plaintiffs could recover damages for the pain and suffering sustained by Decedents.
- (2) Any prejudice that may have resulted from Plaintiffs' alleged improper reference to other incidents was cured by the trial court's curative instruction to the jury. Accordingly, the trial court did not abuse its discretion in denying Doncasters' motion for mistrial.
- (3) Plaintiffs adduced substantial evidence that a defect in Doncasters' compressor turbine blades ("CT-blades") caused Decedents' deaths. Accordingly, the trial court did not err in denying Doncasters' motions for directed verdict and judgment notwithstanding the verdict as to the issues of compensatory liability and damages.
- (4) The trial court did not err in excluding evidence that the actions of other parties combined to be the sole cause of the accident.
- (5) The trial court did not err in excluding evidence that the CT-blades were safety-certified by the Federal Aviation Administration.
- (6) The trial court did not abuse its discretion in entering a discovery sanction against Doncasters, bifurcating the issues of compensatory liability and damages from the issues of punitive liability and damages.
- (7) The trial court did not abuse its discretion in denying Doncasters' motion for remittitur.
- (8) The trial court did not err in denying Doncasters' motion for reduction of the judgment by settlement amounts.
- (9) There was no cumulative error committed by the trial court. Accordingly, the trial court did not err in denying Doncasters' motion for new trial on compensatory liability and damages.
- (10) Plaintiffs presented sufficient evidence from which a reasonable juror could find, with convincing clarity, that Doncasters had actual knowledge of the defective conditions of the CT-blades at the time they were sold and that Doncasters acted

² The jury returned a single punitive damages verdict awarding Plaintiffs a collective \$28 million. The trial court then allocated \$5.6 million in punitive damages to each wrongful death claim.

with a complete indifference to or conscious disregard for the safety of others. Accordingly, the trial court was correct in submitting the case to the jury and erred in taking the drastic action of granting Doncasters' motion for judgment notwithstanding the verdict as to the verdict awarding Plaintiffs punitive damages.

- (11) The trial court committed no prejudicial error during the second phase of the trial. Accordingly, Doncasters' request for a new trial is denied.
- (12) The portion of the trial court's judgment entered upon the jury's verdicts awarding Plaintiffs a collective \$20 million in compensatory damages, \$4 million for each wrongful death claim, is affirmed. The judgment notwithstanding the verdict on the issues of punitive liability and punitive damages is reversed and the cause is remanded with instructions to enter judgment in accordance with the jury's verdict awarding Plaintiffs a collective \$28 million in punitive damages, resulting in \$5.6 million in punitive damages for each wrongful death claim.

Opinion by: Glenn A. Norton, J.

Gary M. Gaertner, Jr., C.J., Mary K. Hoff, J., Lawrence E. Mooney, J., Patricia L. Cohen, J., Roy L. Richter, J., Robert M. Clayton III, J., Angela T. Quigless, J., and Lisa Van Amburg, J., concur.

Opinion concurring in part and dissenting in part by: Clifford H. Ahrens, J.
Sherri B. Sullivan, J. and Kurt S. Odenwald, J., concur.

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**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**