

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DALLAS AIRMOTIVE, INC., APPELLANT,**

**v.**

**FLIGHTSAFETY INTERNATIONAL, INC., RESPONDENT.**

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WD68784 and WD68785

DATE: November 25, 2008

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Appeal From:  
JACKSON COUNTY CIRCUIT COURT  
THE HONORABLE MARCO ANTONIO ROLDAN, JUDGE

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Appellate Judges:  
Division Two: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ.

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Attorneys:  
John M. Murray, Tampa, FL argues for appellant; Martin M. Montemore, Robert W. Cotter, and Patrick J. Kaine, Kansas City, MO join on the briefs **for appellant.**

William L. Yocum, Kansas City, MO, argues for respondent; William E. Quirk, Cary Miller, Kansas City, MO, join on the briefs **for respondent.**

# MISSOURI APPELLATE COURT OPINION SUMMARY

## MISSOURI COURT OF APPEALS, WESTERN DISTRICT

DALLAS AIRMOTIVE, INC.,  
APPELLANT

v.

FLIGHTSAFETY INTERNATIONAL, INC.,  
RESPONDENT

WD68784 and WD68785

JACKSON COUNTY CIRCUIT COURT

Before Division Two Judges: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ.

In June 2001, after taking off in Missouri, a Piper turboprop crashed in Tennessee, killing the pilot and his four passengers. The surviving family members of the decedents brought suit against Dallas Airmotive, Inc., an entity that provided maintenance for the aircraft, and FlightSafety International, Inc., an FAA-certified flight training school, that had provided training to the pilot in the operation of the turboprop by way of a simulator. Dallas Airmotive reached settlements with the claimants and pursued cross-claims for contribution against FlightSafety, alleging negligence and breach of warranty. FlightSafety moved for summary judgment on the cross-claims, arguing, *inter alia*, that the cross-claim of Dallas Airmotive was premised on the theory of educational malpractice, which is a theory of liability not recognized in Missouri. After the court granted judgment in favor of FlightSafety, Dallas Airmotive appeals.

### **AFFIRMED.**

The petition alleges that FlightSafety failed to alert and warn the pilot of the known dangers of shutting down an engine in flight without the ability to properly feather the propeller. It further alleges that FlightSafety knew its simulator did not accurately replicate the extreme drag experienced and that it nonetheless continued to use the simulator. Plaintiffs maintain that their claim is one of traditional negligence. The issue before the court is whether plaintiffs instead asserted a claim of educational malpractice. This court finds that the claims are not cognizable. There is no legal duty upon which to premise the claims. The policy rationales against claims of educational malpractice apply here. Thus, summary judgment in FlightSafety's favor was appropriate as the claims were not cognizable.

**Division Two holds:**

(1) Plaintiffs' petition alleged a noncognizable claim for educational malpractice where the claim is about the quality of the instruction in that Dallas Airmotive claims FlightSafety's method of instruction, the simulator, is unrealistic and inadequate and alleges that FlightSafety failed to teach the pilot that which he needed to know in the situation leading to the crash.

**Opinion by James M. Smart, Jr., Judge**

November 25, 2008

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