

ADMINISTRATION OF JUSTICE

YOU MAKE THE DECISION CASE!

The Crop Duster and the Power Company

Name: _____ Period: _____ Row: _____ Score: _____

After you have taken your place on the bench, the attorney for the power company rises.

"Your honor," he says, "yesterday we heard several witnesses testify that Mr. Jerry Harris is a flyer in the business of crop - dusting. He owns a custom built airplane with specially designed tanks installed for carrying insecticides or fertilizers. With this aircraft he can spray these materials as he flies over a particular field to crop dust. We also heard witnesses testify that Mr. Harris is an honest businessman and that he has a reputation for being one of the best flyers in this type of industry. My client, the power company, does not agree entirely with this position.

"On this particular day, Mr. Harris finished crop dusting on a job in Orange County and headed into his home airport John Wayne International. As he began his approach he contacted the control tower by radio for clearance to land. The air controller there couldn't clear him to land because there was another airplane needing to land at that time due to an unexpected emergency. The air controller asked Mr. Harris to wait about 20 minutes to allow the emergency to clear.

Mr. Harris radioed back, that his plane was "low on fuel", but he would be okay. He had enough fuel to make the San Miguel airport across the river and would gas up there. He would then return to John Wayne International when they were ready for him.

"While Mr. Harris was at the other airport, 10 miles away the sky began clouding up, and he could see a storm was in the making. After refueling his airplane he taxied to the runway, and took off for John Wayne International.

"There are some Power Company electrical lines located just beyond the far end of the runway at San Miguel Airport on some private land not owned by the airport. We have heard testimony from both the pilot Mr. Harris and other witnesses that as his plane took off it looked as if the plane would clear the lines by a good fifty feet.

Mr. Harris was on the radio to the tower confirming his takeoff information, advising ground control of his air speed, and instrument readings. "However, just as the plane approached the lines, the plane was caught by a powerful down draft that forced the plane down, into the wires. With the planes landing gear tangled in the lines several power poles were pulled down as the aircraft hit the ground. I understand, your honor, that when the firemen and paramedics arrived to clear the wreckage, Mr. Harris was sitting on the remains of his plane, eating a sandwich and sipping on a Pepsi. He turned out to have two broken ribs and a number of bruises as a result of the accident. The cost of repairs to his plane was covered under his aircraft owner's insurance policy.

The plane sustained about \$20,000 in damages to the landing gear, nose and left wing. "Unfortunately, there also had to be repairs to our power poles and electrical lines in the amount of \$7,500. After the repairs we billed Mr. Harris for the amount and he refused to pay it. This is the reason why we were forced to file this law suit."

You say, "That seems to be an accurate summary of what happened counselors." You turn to the attorney for the flyer and ask, "Do you want to add anything to that statement, or change anything?" Mr. Harris's attorney says no; he agrees that the facts in record indicate what had happened.

The power company's attorney gives his closing argument and states he believes Harris should pay for repairing the power lines because he was negligent in choosing to fly in bad weather by his own admission. In addition, he should have climbed higher than 50' to clear the wires.

"Crop dusting, your honor, is quite different from ordinary flying. It is done at very low altitudes, with sharp turns and banks. This is said to be an extra - dangerous job. Not only dangerous to the pilot, but to people and property on the ground. So if someone is going to work at this kind of job, he must accept responsibility for any accidents. I'm sure Mr. Harris did everything possible in the few seconds he had before hitting our lines. But the court should find he accepted the risk - and having done so, must be ordered to pay the damages that resulted." The FAA inspected Mr. Harris's plane and found no mechanical defects that would have caused this accident. In addition the power company could have located the power lines farther away from the end of the runway because it is very close to the path of incoming and out going flights. The power company has presented no compelling reason as to why the lines needed to be so close to the airport property line. Further more the power lines were placed several years after the airport had been constructed.

"Thank you, counsel," you say. "Now if the attorney for Mr. Harris would like to be heard, please let us hear your closing statement."

"Your honor," says Mr. Harris's attorney, "the power company is asking that a person be made to pay damages even if he - or his equipment - is in no way at fault. That may be true in certain special situations. But not in a case where the party involved was using ordinary care such as in this collision. Here an unusual event came about that was unforeseen. There was this violent downdraft, evidently a result of the gathering storm. It threw the plane downward, despite everything an excellent pilot could do. My client should not be made to pay for something he could not reasonably avoid nor have reasonably foreseen."

You say, "Thank you, gentlemen. I will take this case into submission, and let you know my decision shortly. Court is adjourned."

* * *

Now you are alone in your judge's chambers. You must find the answers to several questions so that you can decide the case, and be sure your decision is within the law. You must consider all the facts, and then complete your official Opinion and Order.

Judge's "Case Analysis Sheet"

To make an informed decision in a court dispute you must first examine the facts in issue.

1. What do you think will be the main issue or issues in this case?

2. What was Jerry Harris engaged in at the time of the crash?

3. How does the weather and what Jerry Harris was doing at the time of the crash effect this case?

4. Why did Harris need to delay his landing at John Wayne International Airport and divert his landing to San Miguel Airport?

5. What caused Harris's plane to hit the power company lines? Was this foreseeable?

6. What where the damages to the airplane and power pole?

7. In what way would the fact that Harris was eating a sandwich after the crash have an impact on the case?

8. In what way could the mechanical condition of the aircraft impact this case?

9. In what way could the weather conditions impact this case?

10. How do you think Harris's experience and ability as a pilot to handle the sudden down – draft impact this case?

Vermont Light & Power Company,)	
)	
Plaintiff)	
)	Civil Case No. 697893-25
vs.)	
)	
Jerry Harris,)	
)	
Defendant)	

Should we hold Harris responsible under this "strict liability" rule? This court thinks there is a distinction between a manufacturer who sells his product and gets money for it, and someone who does not.

In the current case, Harris _____ receive money for being where he was at that particular moment.
did / did not

If we hold there is a distinction, then the legal rule is that the flyer can only be made to pay if he did not use reasonable care. In other words, that the accident came about because of his negligence, or because of some defect in his airplane. The facts here show that Harris _____ negligent and that there _____ a defect in the airplane, according to the evidence.
was / was not was / was not

Order for Judgment

Since this _____ appear to be a "strict liability" case, and since the pilot Mr. Harris _____ negligent, and his airplane _____ defective, judgment is ordered _____ the defendant, Jerry Harris, who was piloting the aircraft at the time of this unfortunate incident.
does / does not was / was not was / was not for / against

JUDGE OF THE SUPERIOR COURT