

CONTRACTORS AGREE TO RECORD-BREAKING SETTLEMENT IN COPTER CRASH

LOS ANGELES LAWYER ARGUES PARTS DIDN'T MEET GOVERNMENT SPECS

Two Iraq war veterans seriously injured after a helicopter crash in Tikrit received a record \$13.55 million settlement earlier this year against Boeing Company and four other corporations that built the helicopter's gearbox and associated parts.

Kevin R. Boyle of Panish, Shea & Boyle in Los Angeles, lead attorney for the plaintiffs, says it's a very important case for combat soldiers because it demonstrates that private government contractors are not necessarily immune from liability.

The settlement is the largest ever for Iraq War soldiers, Boyle says. Equally noteworthy is that the plaintiffs were able to land a settlement even though the law makes it very difficult to sue government contractors. (The Constitution gives the military virtually complete immunity from lawsuit for injuries during the war, Boyle notes.)

The defendants did not admit fault in the settlement. But Boyle hopes that it brings some sense of resolution for the soldiers. "I hope the result here will allow these men and their families to be able to live the rest of their lives in relative normalcy and peace," says Boyle, who concentrates in representing plaintiffs with catastrophic injuries. He has landed numerous large verdicts including a recent \$27 million verdict against the city of San Francisco for the wrongful death of a four-year-old girl who was killed by a municipal truck while walking home from preschool with her mother and other friends.



OVER 100 APACHE LONGBOW HELICOPTERS ARE CURRENTLY DEPLOYED FOR USE IN THE WARS IN IRAQ AND AFGHANISTAN.

In 2003, Chief Warrant Officers Juan Beltran and Ron Carns, both 31 years old at the time, were flying a routine maintenance flight in their Apache Longbow helicopter when the gearbox—which drives the tail rotor—failed, according to the plaintiffs. Another critical aircraft part called the accelerometer, supposed to warn of any problems in the gearbox, also malfunctioned, they alleged. The copter plummeted 800 feet, and both soldiers sustained serious spinal cord injuries. Beltran, who lives in Los Angeles, is a quadriplegic, and Carns, a resident of Fort Hood, Texas, underwent surgery to implant a permanent metal device in his back and neck.

A 1988 U.S. Supreme Court case, *Boyle v. United Technologies Corporation*, sets a high bar for lawsuits against government contractors, when the court ruled that the manufacturer could not be held liable because it built a military helicopter to

specifications provided by the government. "Private government contractors have some limited immunity because the thinking goes that they should not be liable for defectively designed products if they designed them the way the military asked that they be designed," says Boyle.

But in this case, the plaintiffs alleged the gearbox wasn't manufactured properly and the accelerometer failed to meet the government's specifications. The plaintiffs alleged that the gearbox failed after just 218 hours of flight, although it was designed to work for 4,000. They also claimed that the gearbox and its bearings were not adequately lubricated, which led to the crash.

"In our case, we didn't believe the evidence showed that the parts at issue were designed by the military, so we didn't believe the private government contractors were immune," says Boyle. "We were very

careful in all our pleadings to make this distinction."

The case settled before the court made a final decision on the immunity issue. "We believe we would have prevailed on the immunity decision, but it was in the best interest of the injured soldiers that the matter be resolved with some certainty and finality so they and their families could try to move on," Boyle says.

The case was filed in Superior Court in Los Angeles but was removed to U.S. District Court by Boeing. It was settled in February, shortly before trial was to begin.

Over 100 Apache Longbow helicopters are currently deployed for use in the wars in Iraq and Afghanistan. The twin-engined helicopter was manufactured by McDonnell Douglas, which is now Boeing, and first employed by the U.S. Army in 1984. It was first used in combat by the U.S. military in 1989 during action in Panama. The copter was also used in Operation Desert Storm and has been employed during peacekeeping operations throughout the world including in Kosovo, Bosnia, and Turkey. It is also used by other nations including Israel, Egypt, the Netherlands, and Greece.

Besides Boeing, the other defendants in the case were Aircraft Gear Corp., which manufactured the gearbox; Chadwick-Helmuth Electronics, Inc., which manufactured the accelerometer; Honeywell International Inc., which also manufactured the accelerometer; and MPB Corp., manufacturer of the bearings in the gearbox.