

GROUNDING IN AVIATION LAW

Former pilot Ronald L. M. Goldman represents air crash victims, but one of his first clients was one of the most famous lawyers of the 20th century

INTERVIEW BY ERIK LUNDEGAARD



Q: You're both pilot and aviation accident attorney. Which came first: aviation or aviation law?

A: I got into aviation in a serendipitous way a long time ago—probably the late '60s. My wife at the time said there was this home show she'd been wanting to go to, and who was I to say no? But she got it wrong; it was an aviation show. And I didn't know that the little fishbowl that said, "Put your business card in, win a drawing for free flying lessons," that everybody in there would get a free lesson. That's how they get new students. And that's how I got started.

Q: What were your initial feelings once you got flying?

A: I thought it was a hell of a lot of fun. So it sparked an interest in not only the exhilaration of being a pilot but also in the whole notion of, "How does this work? Why should heavy machines move through the air with the greatest of ease?"

Q: When did you get your pilot's license?

A: Around 1980. A long time. Juggling family and practice I found it difficult to get a sustained run at it. But I finally just said the heck with this and I took a week off and I went down to Panama City and said, "OK, guys, let's finish this up."

Q: And how did you get into aviation law?

A: I think my first aviation case was the Pacific Southwest Airlines crash [in 1968]; it was a referral by other lawyers. Then

I went to USC and I took the course in aviation accident law so I could get a firmer background in the distinctions. That was the early grounding I got.

Q: What percent of your practice is aviation law?

A: Today, probably 50 to 60 percent.

Q: Always plaintiffs or do you represent airlines?

A: Always plaintiffs. Always.

There was a time when I had a general practice and I would defend cases here and there. One time I was asked by a lawyer's mutual insurance company to defend some lawyers and I did that. But in the field of aviation I can say without contradiction that it's exclusively plaintiff.

Q: Take us through a case of yours.

A: OK. Let's take a case that has oddity, interest and drama.

Q: All good things.

A: That would be *Benjamins v. British European Airways*. The crash was in 1972, as I recall. A lawyer I knew referred to me the cases of some of the passengers.

Q: Another referral.

A: In those days, it was much more common that your practice depended on lawyer referrals, instead of advertising and what's going on today.

Anyway this was a flight on an airline that is now defunct called British European Airways. The jet airplane, the Trident jet,

was manufactured in England. It was a second-generation passenger airplane, and Hawker Siddeley was the manufacturer. The airplane flew exclusively in Europe and Africa and never in the United States. My passengers were Dutch citizens. So of course we filed suit in Brooklyn.

Q: [Laughs] Why Brooklyn?

A: To understand that, we back up. At the time, this was the world's worst air crash: about 123 deaths. And the British investigating agency, called the "Air Accidents Branch," convened a court of inquiry in London. I applied to participate in that, and I retained the services of a fellow by the name of P.T. Tweedy who had been past head of the Air Accidents Branch. I said, "Captain Tweedy"—he had been in bomber command during the Second World War—"Captain Tweedy, your job is to help me be an actual participant in this major aviation accident, a set of hearings that's coming up in London." So on the first day of the hearings, I met P.T. Tweedy, who informed me of his regrets that he was unable to get me in. "But after all, chap, you know, you can sit through and you can hear everything." I was not a happy guy.

But the hearings started and the Crown, the prosecutor, put on this rather magnificent opening statement, whitewashing the whole case beautifully from the standpoint of the manufacturer. One of the best I've ever heard. At the conclusion of it, the Lord Chancellor banged his gavel and said, "The next order of business is the application of Ronald Goldman to participate in these proceedings." And I leaped to my feet.

This, by the way, was in a ballroom at the Piccadilly Hotel, where all the major Queen's Counsel—Silks if you will—were participating. They had these long tables with small armies of solicitors and giant piles of documents and filing cabinets. None of which I had. So I'm in the back of the ballroom, probably 50 yards from the front, and he says, "State your application," and I don't have a microphone or anything. And I've never been asked to *state* an application. You fill them in. Who states one?

I did my best and at the conclusion he bangs his gavel and says, "Very well, take your leave." I said, "Tweedy, what happened?" He said, "You're in! You're in!" So they stopped the proceedings, brought out a long table, covered it in blue velvet like everybody else, put up two microphones, brought out a ton of exhibits and bundles, piled them on my table, and there was Tweedy and I sitting there by ourselves. We were given third in the cross-examination batting order. That's how I got into the heart of the case.

Q: And Brooklyn?

A: The reason we sued in Brooklyn was because that was the only place in the United States where Hawker Siddeley had an office. Even though they didn't build anything in the United States, even though [my clients] were Dutch passengers, we got jurisdiction under the Warsaw Convention. As it turns out, the judge, Judge Weinstein in New York, dismissed the case for want of jurisdiction. I took the case up to the 2nd Circuit Court of Appeals in New York and they reversed him, overturning 20 years' worth of law and reinstated my case.

The case has every element that an academic, a practitioner and a novelist would want to see in a case. The immediate cause of the crash was the premature retraction of the leading edge—we call them flaps, they call them droops. They were at about 1,700 feet altitude, and the minute those flaps started to retract the airplane went into a deep stall. What the pilots experienced was an immediate 300-pound pressure of ram on the control column—the stick if you will—pushing the nose down. At 1,700 feet that's a scary prospect. The pilots thought the system was misbehaving because the stick-shake stall warning, not the stick push, had a notorious reputation of false alarm. But they didn't know that it was scientifically impossible for it to have a false stick push. So when they overrode the first one, they looked at the panel and everything looked normal. Then they got the second stick push, so they pulled out the circuit breakers to make the whole thing inoperative, and that's the point at which they were doomed.

There were other problems. The captain was notorious for being a mean, nasty, hard-to-work-with, bitter old bomber captain himself. This was a rainy Sunday night flight where they roused him out of bed. He was paired with two rookies, one of whom was absolutely terrified of this captain. The captain was so notoriously disliked that we found in the wreckage ... In those days the third pilot sat behind the captain and the first officer, and those seats had, like in school, this wooden desk that's attached to the seat; and carved into it was graffiti about this captain.

Q: And the desk survived the crash?

A: The desk survived and became one of the centerpieces of our litigation.

Q: How did you find this information about the captain?

A: Partly it was revealed during the interviews that the Air Accident Branch made in London. And we got very solid information that led to further discovery on those issues when we got into litigation.

Hawker Siddeley had failed with its first generation jet called the Comet, which also crashed in its initial service, and they knew that this could be the end of the line for them. And indeed it was. They were the early pioneers, but because they made two jets that crashed early, they lost the derby. And they knew that was the problem. They made huge efforts, and the [British] government was very interested in helping to clean them up. So we knew we were fighting that as well. As is so often in cases like this, when you have passengers on a Warsaw ticket. If you're on the Warsaw ticket—now Montreal—your rights are not as expansive as if you're not.

Q: Warsaw ticket?

A: When you're traveling internationally, your rights as a passenger are governed by international treaty, which used to be the Warsaw Convention. It's now known as the Montreal Convention. The convention, interestingly, is constructed by people who think in terms of contract law, not in terms of tort law. So what became



ABOVE: After Ron developed asthma growing up in New York City, the doctor recommended a move to California. "I have never drawn an asthmatic breath since," he says.

RIGHT: Graduating from USC School of Law in 1962. In his first significant trial, he would be second chair to Melvin Belli.

most important under both treaties is the contract of carriage. And that means the ticket. Where you bought the ticket becomes a place where you can sue. Where the final destination is, because that's part of the contract, is a place where you can sue. Where the home office of the airline becomes a place where you can sue.

Q: And which do you prefer to be governed under?

A: Almost always, you prefer *not* to be governed by [Montreal]. Purely emotional distress claims are not compensable under Montreal. If you're in a crash and it scares the hell out of you but you didn't have a physical injury, too bad. Even if you have post-traumatic stress disorder and suffer for the rest of your life.

Q: How did the BEA case turn out?

A: Judge Weinstein is a very smart man and he's an excellent judge. In fact, he wrote the federal treatise, the primary one, on the rules of evidence. He told me at the time he dismissed the case, "You know, I think I agree with your arguments, [but] I'm going to follow the law. And you'll probably reverse and get them back." I did and he came back and says, "See? I told you." The case settled on the first day of trial.

Q: With the manufacturer?

A: And British European Airways.

Q: Do you pilot a lot yourself?

A: Not anymore. I used to fly up and down California if I was going to take depositions and make court appearances and so on. So I did a lot of that for about 20 years. Then I tapered down and I haven't really flown in the last few years. The problem is if you don't fly a lot, you shouldn't fly at all.

Q: Because ... ?

A: Because you lose your skills. It's like anything. Your sharpness may be off a bit. And I read a lot about air crashes; I don't want to be a statistic.

Q: When you were flying, did you think about your cases? About becoming a statistic?

A: Only in this sense: I think it made me a safer pilot. I really believed in stuff like the checklists, thorough preflights, strict adherence to the rules and the maintenance of your machines. I didn't take any of that for granted.

Q: As an attorney, do you visit crash sites often?

A: [Not often.] It's on a need-to-know basis.

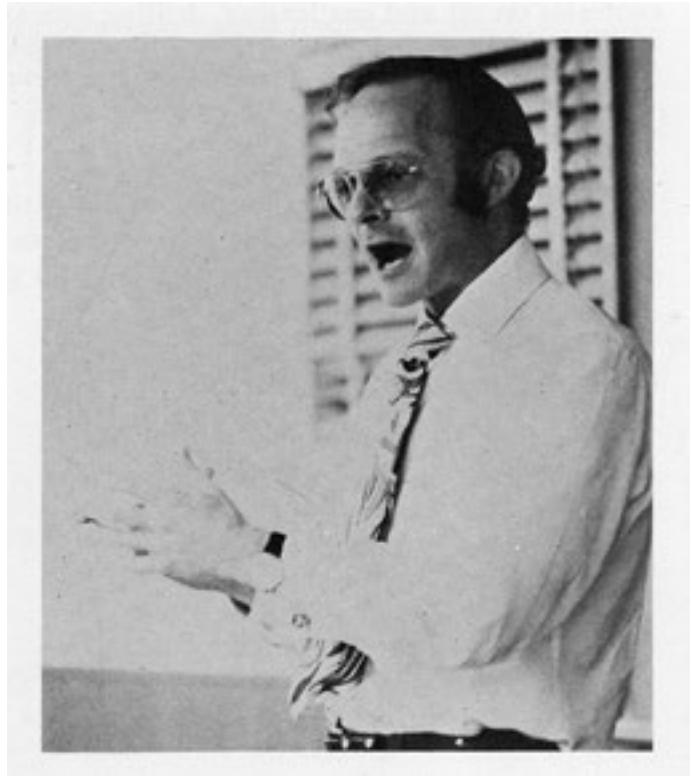
But I attend the inspections that we do. I work with our accident reconstruction specialists, I work with our metallurgists; I work with our pilot experts. We are very meticulous in putting together the facts in how the aircraft crashed and to uncover the causes.

Q: Is that the key question in every case? What's the cause of this crash?

A: There are two key questions. One is: What caused the machine to crash? It could be anything from pilot error to equipment malfunction. The second question is: Why was the person injured or killed? One should not assume that simply because there is a crash somebody ought to be catastrophically injured or killed. So you have to ask, how did this person receive the injury the person received? And why was it catastrophic?

Q: You were born in New York. How did you wind up in California?

A: As a young boy I had asthma. This was in the early 1940s and the effects of the Depression and the advent of the Second World War were very much pressing on my family. They had no money to speak of. The doctors said to them, "If you want to cure this boy's asthma, move to California." So when I was 6, we took the chair-car train, traveling third class, out



As an adjunct law professor at Pepperdine in the 1970s, back when, he says, "a lawyer's word was his bond."

to California. My memory is of soldiers and lots of [cigarette] smoke.

Q: Probably not good for your asthma.

A: It was not good for my asthma at all. I remember at every stop I would be taken outside so I could breathe. But it was 1943 so everything was about the war. My uncles [and my father] were all drafted. I have distinct memories of paper drives, can drives. Mother worked. She was a secretary at RKO [Pictures].

Q: Did you get to go on set?

A: I have the distinction of being one of the few people who can say that I met Tarzan's chimpanzee Cheetah and was bitten. You're a 6-year-old kid, you reach out to pet a giant chimpanzee, he'll give you a nip.

Q: Did California help with your asthma?

A: I have never drawn an asthmatic breath since the day I got to California. My parents found a place in the San Fernando Valley, which at that time was rural. It was the country and I loved it. At that time L.A. River was really a river. It actually had fish in it.

Q: What led you to the law?

A: Ever since I can remember, if I had a passion, it was how I could devote

my life to helping those who can't help themselves. Probably about the time I was getting ready to graduate high school I thought, "You know, a way to do that would be as a lawyer."

While in law school, I was hooked up to clerk for a firm [Jones & Weldon] that was very closely tied to some of the leading civil tort lawyers of the day, including Melvin Belli. So I got to know Melvin Belli. The first significant trial I was in, I was second chair to Melvin Belli.

Q: Any stories?

A: Melvin Belli was an arrogant, brilliant, bombastic bore who was one of the finest trial lawyers who ever lived. His ego was boundless, his egocentricism was fixed. If it didn't revolve around him and his objectives, forget about it.

One vignette. Danny Jones [of Jones & Weldon] was a real tight buddy with Belli, and I'm in the office one day and he gets a call from Melvin Belli, who says, "Danny, I'm in London buying a Rolls-Royce, but I can't make payroll up in my San Francisco office. Would you cover it for me?" Danny said OK. And he covered his payroll.

I remember that when his dog Caesar died he called me and said, "I want to file a lawsuit against the veterinarian for malpractice."

So I represented Melvin Belli in his wrongful death dog case. They paid us a few bucks. At the time, the law viewed dogs as property, and it was the value of the property.

It was malpractice, by the way. He was right.

Q: How was he as a client?

A: Awful. Demanding. I represented him in another case over a publishing issue, which was a bit more serious. We resolved that case as well. He was not irrational, he was just demanding. But brilliant. He knew the law. And the tactics. I learned a lot from him.

I actually started my practice in Compton. I think every lawyer who wants to represent victims should start in a place like that because that's where you learn how to be a street fighter. The academics are interesting but you've really got to learn how to put up your dukes and go into the courtroom.

Q: When did you come to Baum, Hedlund, Aristei & Goldman?

A: I had clients on the [2001] Southwest Airlines crash in Burbank and we were having depositions right and left. The lawyer who deposed the captain, he was four or five hours examining this pilot, and at the break I said, "You know, I'm a



Goldman's aviation practice, where he read a lot about air crashes, made him a safer pilot, he feels. "I really believed in stuff like the checklists, thorough preflights, strict adherence to the rules and the maintenance of your machines," he says. "I didn't take any of that for granted."

sole practitioner. I can't spend days doing this. Give me an hour and let me ask my questions and I'll leave the rest to you." He and the other lawyers agreed. And in that hour I did what had to be done to get everything you needed to get. One of the lawyers there was Clark Aristei, and as we proceeded with the case we became friends. I pretty much took the spearhead in settlement negotiations, and a few months after that Clark called me and said, "Why don't you come over and meet my partners?" We had a chat and they said, "Well, why don't you join our jolly band? And I said, "Sounds like it might be fun."

Q: Had you been a solo practitioner this entire time?

A: I had gone through iterations with other lawyers practicing with me but it was always my firm. But I was totally alone at that time. They said, "When do you want to start?" I said, "When do you need me?" They said, "How about Monday?" and I said, "OK." We had the handshake deal, which is good enough for me and for them.

This is a place that shares my kinds of values of putting the clients first, of making

sure that we practice with integrity and with the knowledge that we're here to advocate for safety, for health and for those who cannot always fend for themselves. We put lives back together. We help people so that the rest of their lives can be managed, notwithstanding the catastrophe that's occurred. We're not the richest lawyers in the world, but we sure have a lot of satisfaction.

Q: Congratulations, by the way, on 50 years of practice.

A: Thank you. It's a milestone you achieve by living.

Q: Beyond technology, what's the big change you've seen in the practice of law during this time?

A: Nastiness. Win at all costs. Willingness to misdirect if not actually mislead. Even misleading judges. In the '60s, '70s and even the '80s, a lawyer's word was his bond. If word got out that you'd reneged on an oral deal, your name was mud. Today? It's a much nastier environment. Litigation is far more complex and there's this scorched earth philosophy. It doesn't matter what's going on, you make the litigation as miserable as

you can. I think the law suffers for it. I think the profession suffers for it.

Q: Earlier you talked about how back in the day you'd get cases through recommendations from other lawyers and now it's through advertising. Is that why the change? Back then, you needed the respect of your fellow attorneys to get work.

A: That's absolutely right. Take the Asiana crash. Suddenly there's a bunch of lawyers crawling out of all kinds of nooks and crannies that the aviation industry's never heard of before. They run ads and make claims. They poach sites. At the time of the Buffalo air crash, we had our site poached.

Ethics are something I care about deeply. I used to tell my students, I'm not so much worried about graduating or passing someone who's a stupid lawyer. We'll get that culled out in the ordinary course of events. What I worry about are the people who might be ethically challenged or lazy. I'm not so sure we know how to identify you. [\[E\]](#)

This interview has been condensed.