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PF + C Represents Plaintiff in Dispute Over Aircraft Downed in Iraq

In November 2003, insurgents shot down an Airbus A300 over Iraq. In May 2007, Jack Sartore of Paul Frank + Collins was in U.S. District Court, representing Colorado-based Pacific Aeromotive Corp. in a trial that will decide the fate of the downed aircraft.

Pacific Aeromotive accused its former business partner, Chison Aerospace, of running into financial difficulties and trying to sell components of the damaged airplane. The agreement between the two companies had been to work together to restore and sell the plane. The lawsuit filed by Pacific Aeromotive seeks to expel Chison Aerospace from the relationship.

"Somebody should have been in control, but unfortunately nobody was, and that's what brings us here today," Jack Sartore said in court, referring to the 50-50 business venture to restore and sell the jet.

The case will be decided by Chief Judge William Sessions III.

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Trial to determine fate of plane

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Trial to determine fate of plane in restoration of jet in Iraq

By Adam Silverman

When insurgents in Baghdad shot down a commercial freight aircraft more than three years ago, they set in motion an unlikely chain of events that led to a Burlington courtroom, where a trial began Tuesday involving two companies that had joined forces to restore and sell the plane.

Middlebury-based Chrison Aerospace is the defendant in a lawsuit filed by its former business partner, Colorado firm Pacific Aeromotive Corp., that seeks to expel the Vermont company from the relationship. Pacific accuses Chrison of running into financial difficulties and trying to sell components of the airplane rather than continuing with the potentially lucrative restoration project.

Alternately, Pacific's attorney said during opening statements Tuesday morning in U.S. District Court, a judge could order the partnership dissolved, which could prompt the auctioning of planes, parts and equipment scattered throughout five countries.

"Somebody should have been in control, but unfortunately nobody was, and that's what brings us here today," Pacific attorney John Sartore said in court, referring to the 50-50 business venture involving an Airbus A300 jet. "It was well-maintained, well-equipped, and it was a valuable aircraft. ... There was the potential for a high reward, but the risks were obvious."

Chrison's attorney, however, counters the company and its owner, Jack Downey of Cornwall, would prefer to keep the relationship intact and continue working toward the original goal. That plan, lawyer James Foley Jr. said in his opening statement, was not simply to fix and resell the plane, but rather to turn a profit.

Pacific adopted its narrow view only after the company had "taken advantage" of Downey's unique skills in forging relationships with business partners and government agencies, Foley said.

"The purpose was to make money," Foley said. "From a pessimistic view, now would be a good time to get rid of him."

"They were in Baghdad, in a war zone, trying to pull an airplane out, taking a flier. The project was changing all the time."

If the court decides to end the partnership, Foley argued, the pieces should be sold in a way to prevent Pacific from snapping up the components for deep discounts at auction.

Pacific and Chrison -- both small firms -- began working together in 2005, shortly after Pacific's owner, Paul Page, purchased the extensively damaged Airbus for \$200,000, according to the

lawyers' opening arguments. The potential profit was tremendous; were the plane successfully restored, it would have commanded \$7 million to \$10 million on the open market, Sartore said.

Iraqi insurgents had shot the plane down nearly two years earlier, in November 2003. The 180-foot-long craft, flying for shipping company DHL, had taken off from Baghdad International Airport when a shoulder-fired missile tore through the left wing and fuel tank. The pilots managed to muscle the plane back to the airport "in what is hailed as a stunning feat," Sartore said. The Airbus landed hard, skidded off the runway, tore through open desert and smashed into a razor-wire fence, but no one was injured.

Insurers considered the plane a loss, and it was put up for sale. After Pacific and Chrison began working on the restoration, they purchased another Airbus in Saudi Arabia to cannibalize it for parts. Later, the companies also purchased an engine in Pakistan. The hope was to patch the crippled plane, fly it to a neutral site, make final repairs, and, ultimately, a sale.

The venture -- into which each firm has invested more than \$1 million -- began to crumble last summer, the sides agree. The trial aims to establish the reason. Testimony is scheduled to continue through Friday, and the case will be decided by Chief Judge William Sessions III rather than a jury.

Despite the acrimonious court fight, Downey, Page and their supporters appeared friendly Tuesday. During one midmorning break, Downey's partner, Rachel, was laughing and joking with Page when Foley approached.

"Paul and I are going to wrestle for the whole thing," she explained to the lawyer.

Page smiled and laughed.

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