

# MISSOURI LAWYERS WEEKLY

## Airport Employee Killed In Accident

*Co-Worker Struck Him With Vehicle*



Morry S. Cole

### **\$150,000 Settlement \$50,000 Judgment**

The family of an airport worker who was killed in a job-related accident sued for wrongful death.

On Sept. 27, 2000, George McCarrison, a TWA mechanic, was struck and killed by a vehicle driven by a TWA baggage handler at Lambert St. Louis International Airport. McCarrison's surviving spouse, mother and children sued the co-worker for failure to keep a careful lookout and the City of St. Louis for maintaining dangerous property conditions.

The co-worker, a judgment-proof baggage handler, confessed judgment for \$50,000 pursuant to Sect. 537.060 RSMo,

and limited the McCarrisons' recovery to his personal State Farm Insurance automobile policy. The City of St. Louis confessed judgment for \$300,000 pursuant to Sect. 537.060 RSMo and limited the McCarrisons' recovery to its potentially applicable insurance policies issued by a group of insurance companies collectively known as United States Aviation Underwriters.

After the valid confessions of judgment, State Farm sought declaratory judgment as to whether its insured's personal automobile policy applied to the \$50,000 confession. The McCarrisons sued USAU in a garnishment action for \$300,000.

In the State Farm case, the insurance carrier argued that the

airport vehicle its insured was driving was not an "automobile" within the terms of its policy and that the vehicle was not designed for use "mainly on public roads." The McCarrisons argued that the vehicle was exclusively used on public roads on the publicly owned airport property and that it was an automobile under the terms of the policy.

The court found that no credible evidence showed the purpose for which the airport vehicle was designed. Further, the court found that the airport ramp was a public road and granted summary judgment in favor of the McCarrisons for \$50,000.

In the USAU case, the carrier argued that the coverage of its group of subscribing companies

did not apply. The McCarrisons argued that, under a 1972 contract between TWA and the City of St. Louis, TWA's liability insurance applied to indemnify the City for claims arising out of TWA's use of the airport property - even for the City's own negligence. The McCarrisons argued that the contract was incorporated by reference into the certificates of insurance issued by USAU.

The court found that the contract was incorporated into the certificates of insurance and granted summary judgment in favor of the McCarrisons for \$300,000. However, on appeal, the case was settled for \$150,000 and is being remanded for vacation of the judgment against USAU.

### Facts of The Case

**Type of Action:** Negligence

**Type of Injuries:** Death

**Court/Case No./Date:** St. Louis City Circuit Court/014-1224/034-01749/Jan. 16, 2004/ April 23, 2004

**Caption:** State Farm v. McCarrison, et al./ McCarrison v. United States Aviation Underwriters

**Judge, Jury or ADR:** Judge

**Name of Judge:** Stephen Ohmer; David L. Dowd

**Special Damages:** \$350,000

**Verdict or Settlement:** \$50,000 judgment; \$150,000 settlement

**Allocation of Fault:** N/A

**Last Offer:** N/A

**Last Demand:** N/A

**Attorney for Plaintiff:** Morry S. Cole, Gray, Ritter & Graham PC, St. Louis

**Insurance Carrier:** State Farm/United States Aviation Underwriters

**Plaintiff's Experts:** None

**Defendant's Experts:** None