

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**ANN L. BALLENGER, individually and)  
as Administratrix of the Estate of )  
THOMAS BALLENGER, deceased, )**

**Plaintiff**

**v.**

**SIKORSKY AIRCRAFT )  
CORPORATION, a foreign corporation )**

**Defendant**

**Case No.:**

**DEMAND FOR JURY TRAIL**

**COMPLAINT**

1. Plaintiff, Ann L. Ballenger, is over the age of 19 years and is a resident citizen of the State of Alabama.

2. The decedent, Thomas Ballenger, was a resident citizen of the State of Alabama.

3. Defendant, Sikorsky Aircraft Corporation, (hereinafter referred to as "Sikorsky") is a foreign corporation incorporated under the laws of the State of Delaware and with a principal place of business in the State of Connecticut.

Sikorsky does business by agent or otherwise in the State of Alabama. Sikorsky may be served with service of process at The Corporation Company, 2000 Interstate Park Drive, Suite 204, Montgomery, Alabama 36109.

4. Jurisdiction is founded under the provisions of 28 U.S.C. § 1332 (a), et seq. which grants this Court jurisdiction in civil actions on the basis of diversity of citizenship where the matter in controversy, exclusive of interest and costs, exceeds seventy-five thousand dollars (\$75,000).

## **STATEMENT OF FACTS**

5. On or about 2:09 p.m., January 4, 2009, a Sikorsky S-76C++ helicopter bearing tail number N789P and operated by PHI, Inc., crashed into the swampy terrain just north of the Gulf of Mexico coastline near Morgan City, Louisiana due to defects existing in said helicopter. The crash occurred approximately 7 minutes following take off from Amelie, Louisiana. The weather on the day was reported as visual flight rule conditions, with scattered clouds at 1,000 feet and 10 miles visibility. The aircraft crash caused the death of Thomas Ballenger.

6. The legal doctrine of *lex loci delicti* provides that the substantive law of the State of Louisiana controls, which is where the event occurred.

7. The Sikorsky S-76C++ helicopter was designed, engineered, manufactured, tested, and marketed by Defendant Sikorsky. The aircraft was in substantially the same condition as when it was sold by Defendant Sikorsky.

8. As a direct and proximate result of the defective condition(s) existing in the S-76C++ helicopter, Thomas Ballenger suffered injuries that resulted in his death.

## **COUNT I PRODUCT LIABILITY**

9. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 8 above as if set out here in full.

10. At the aforesaid time and place, and for sometime prior thereto, Defendant Sikorsky was engaged in the business of designing, manufacturing, distributing, marketing, testing and/or selling the Sikorsky S-76C++ made the basis of this suit throughout the United States, including the State of Alabama. During

that time period, Sikorsky, designed, manufactured, distributed, marketed and/or sold the subject Sikorsky S-76C++ aircraft. At the time Thomas Ballenger was killed, the aircraft made the basis of this suit was being used in a manner that was foreseeable, but the aircraft was defective and unreasonably dangerous in its design, manufacturing, and/or marketing, to the human body in that it was not flight worthy. Sikorsky designed, manufactured, distributed, marketed, tested and/or sold the aircraft and its component parts with a defective and/or unreasonably dangerous condition.

11. The defective condition of the aircraft was a proximate cause of the injuries that caused Thomas Ballenger's death and renders said Defendant liable pursuant to the substantive civil laws governing products liability in the State of Louisiana.

12. The aircraft was defective and unreasonably dangerous in design, manufacture and/or marketing as it relates to the aircraft's characteristics for safe flight. The defective condition(s) of the aircraft have been known by Sikorsky.

WHEREFORE, Plaintiff, individually and as Administratrix of the Estate of Thomas Ballenger, demands judgment against Defendant Sikorsky for damages allowable as a result of this incident as follows:

- a. loss of love affection and companionship;
- b. loss of nurture and guidance;
- c. loss of services;
- d. loss of society and consortium;
- e. loss of past, present, and future support;

- f. funeral expenses;
- g. physical and mental pain and suffering; and
- h. loss of inheritance.

**COUNT II  
NEGLIGENCE/WANTONNESS**

13. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 12 above as if set out here in full.

14. At the aforesaid time and place, and fore some time prior thereto, Sikorsky undertook a duty to design, manufacture, market, test, inspect, distribute, and or sell the subject aircraft in a reasonably safe condition for its intended use by the decedent. Said Defendant negligently and/or wantonly designed, manufactured, marketed, tested, inspected, distributed, and/or sold the subject aircraft. Said conduct caused the aircraft to be unsafe and dangerous when used as intended.

15. Sikorsky had a duty to hold paramount the safety, health, and the welfare of the public when designing, manufacturing, marketing, testing, inspecting, distributing and selling the aircraft.

16. Sikorsky had a duty to determine if there were potential hazards to consumers that were associated with the foreseeable use of its products.

17. Sikorsky had a duty to complete an adequate hazard analysis and risk assessment of the aircraft for potential occupant harm in foreseeable flight use.

18. Sikorsky negligently and/or wantonly performed or failed to perform said duties.

19. The unsafe and dangerous condition of the aircraft as it relates to said issues has been known by Defendant Sikorsky.

20. As a proximate result, the aforesaid wrongful, negligent and/or wanton conduct of Sikorsky, Thomas Ballenger suffered injuries that resulted in his death.

WHEREFORE, Plaintiff, individually and as Administratrix of the Estate of Thomas Ballenger, demands judgment against Defendant Sikorsky for damages allowable as a result of this incident as follows:

- a. loss of love affection and companionship;
- b. loss of nurture and guidance;
- c. loss of services;
- d. loss of society and consortium;
- e. loss of past, present, and future support;
- f. funeral expenses;
- g. physical and mental pain and suffering; and
- h. loss of inheritance.

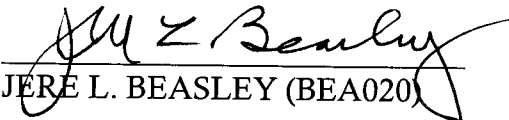
**COUNT III  
FAILURE TO WARN**

21. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 20 above as if set out here in full.

22. The Defendant, Sikorsky, is the designer, manufacturer, seller, and or distributor of the aircraft involved in the occurrence made the basis of Plaintiff's Complaint. Defendant Sikorsky negligently and/or wantonly failed to warn Plaintiff of the dangers associated with the use of said aircraft due to its defective, dangerous and unsafe condition as aforementioned and such negligent and/or wanton conduct was a proximate cause of the severe injuries to the Plaintiff as fully set out herein.

WHEREFORE, Plaintiff, individually and as Administratrix of the Estate of Thomas Ballenger, demands judgment against Defendant Sikorsky for damages allowable as a result of this incident as follows:

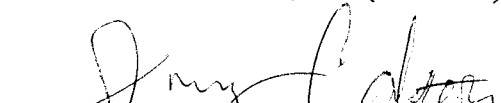
- a. loss of love affection and companionship;
- b. loss of nurture and guidance;
- c. loss of services;
- d. loss of society and consortium;
- e. loss of past, present, and future support;
- f. funeral expenses;
- g. physical and mental pain and suffering; and
- h. loss of inheritance.

  
JERE L. BEASLEY (BEA020)

  
J. GREG ALLEN (ALL021)

  
CHRIS D. GLOVER (GLO007)

  
JIMMY S. CALTON, SR. (CAL013)

  
JIMMY S. CALTON, JR. (CAL052)

**OF COUNSEL:**

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CALTON & CALTON  
226 EAST BROAD STREET  
Eufaula, Alabama 360027

**SERVE DEFENDANT AS FOLLOWS:**

**Sikorsky Aircraft Corporation**  
c/o The Corporation Company  
2000 Interstate Park Drive, Suite 204  
Montgomery, Alabama 36109.

**JURY DEMAND**

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL ISSUES  
OF THIS CAUSE.**

  
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**OF COUNSEL**