

## Texas Aviation Co. Wins Transfer Of Fatal Crash Suit

By Michelle Casady

Law360 (January 11, 2019, 4:59 PM EST) -- Aviation company Flare Air LLC can move a lawsuit brought by the family of a man who died in a plane crash to the county where the crash occurred, a Texas appellate court held Friday, reversing a trial court's ruling that the case stay put.

A panel of the Sixth Court of Appeals held that the family of Trevor Morris — who died alongside pilot William Walls III in July 2017 when the plane they were in suffered engine failure and crashed in Smith County, Texas — hadn't shown Flare Air had a principal office in Rusk County, where they filed the wrongful death suit.

The Morris family had argued that because Flare had a mailing address listed in Rusk County, that was its principal office location and it was proper for them to file the lawsuit there. The family pointed to a line from Flare Air's motion to move the lawsuit in which it mistakenly stated that its sole tie to Rusk County was its location. Flare Air later corrected that to say the sole tie was the mailbox location.

In that amended filing, Flare Air explained its principal office was in Gregg County, where it employed five pilots and maintained an office in the Gregg County Airport. The company included an affidavit from Flare Air's sole owner and operator, Imad M. Moussa, who told the court that while he does receive company mail at his lake house in Rusk County, he does not conduct any company business there.

The panel wrote that the family's reliance on Flare Air's alleged “admission” about its location in its original motion to transfer venue was “insufficient” proof that venue in Rusk County was appropriate.

“Here, while the evidence submitted showed that Moussa’s lake house was Flare Air’s mailing address and that Moussa was a decision-maker for Flare Air, nothing demonstrated that Moussa conducted the daily affairs of Flare Air at the lake house,” the panel held. “Instead, Moussa testified that he never worked from the lake house, made no management decisions there, and did not open company mail there. No evidence refuted that testimony.”

The Morris family's lawsuit included allegations of negligence and wrongful death, according to the opinion. The family named additional defendants, including the Walls' family, but they are not party to this appeal. After the trial court denied Flare Air's motion to transfer, the company filed this appeal with the court in October, according to court records.

Judges Josh R. Morriss III, Ralph K. Burgess and Bailey Moseley sat on the panel for the Sixth Court of Appeals.

The parties did not immediately return messages seeking comment Friday.

Flare Air is represented by Geffrey W. Anderson, Jonathan W. Harrison and Kristin Newman of Anderson & Riddle LLP.

Morris' family is represented by John R. Mercy of Mercy Carter LLP, John Eddie Williams, Jim Hart and Cesar Tavares of Williams Kherkher Hart Bounds LLP, and J. Mark Mann of Mann Tindel Thompson.

The case is Flare Air LLC v. Preston Burton et al., case number 06-18-00097-cv, in the Sixth Court of Appeals of Texas.

--Editing by Aaron Pelc.