Families of aviation disasters face great challenges in the days following the disaster. The sudden loss of loved ones is always difficult to address, but in aviation cases tremendous media attention adds to the trauma. In a very real way, the nature of aviation cases and the law designed to protect aviation victims provides the following important rights:

1) You have the right to discuss the fees and expenses that you will ultimately pay in a litigation. Most plaintiffs' lawyers work on contingency fee arrangements and set fees based on the risks that they see in a case and the potential recovery. It is not true that the best firm will necessarily charge the higher fee.
2) You have the right to know which attorneys will work on your case. Too often lawyers will sign up a case and then have nothing to do with its prosecution. In certain instances, lawyers will act as "chasers" for other law firms and merely seek referral fees from another lawyer or firm.
3) You have the right to discuss the fees and expenses that you will ultimately pay in a litigation. Most plaintiffs' lawyers work on contingency fee arrangements and set fees based on the risks that they see in a case and the potential recovery. It is not true that the best firm will necessarily charge the higher fee.
4) You have the right to discuss the fees and expenses that you will ultimately pay in a litigation. Most plaintiffs' lawyers work on contingency fee arrangements and set fees based on the risks that they see in a case and the potential recovery. It is not true that the best firm will necessarily charge the higher fee.
5) You have the right to discuss the fees and expenses that you will ultimately pay in a litigation. Most plaintiffs' lawyers work on contingency fee arrangements and set fees based on the risks that they see in a case and the potential recovery. It is not true that the best firm will necessarily charge the higher fee.
6) You have the right to discuss the fees and expenses that you will ultimately pay in a litigation. Most plaintiffs' lawyers work on contingency fee arrangements and set fees based on the risks that they see in a case and the potential recovery. It is not true that the best firm will necessarily charge the higher fee.

Advice to Victims

Lee penned an article, published on Feb. 3, 1986, in the New York Law Journal, at p. 3, that addressed solicitation in aviation cases. In the article, Lee answered a number of questions that the survivors of victims killed in an aviation disaster frequently have in the days and weeks after their loss:

Q. Do you need a lawyer? A. Yes. The matter that you are now dealing with may be one of the most important of your entire life in terms of the financial well-being of you and your family, and the questions presented are very complex. You need a good lawyer.

Q. Should you speak to the airline's insurance company directly? A. No. The airline's insurance company is a commercial institution whose job it is to make money, or, in this case, to save money. As a layperson dealing with professionals you may say or do things that will prejudice your position.

Q. How do you get the right lawyer for your case? A. If you have a family lawyer or business lawyer or otherwise know a lawyer in whom you have confidence, talk to the lawyer. Ask the lawyer to advise you regarding your legal rights. The lawyer will likely be able to help you find the right specialist and in many cases will be able to participate in the litigation. If you know others victimized by the same accident, or similar accidents, speak to them. Find out who they have retained and why they selected the law firm that they selected. Don't feel you have to sign up with the first lawyer you talk to simply because the lawyer is nice. You have a lot at stake in this claim.

Q. Do you need a specialist or will any lawyer do? A. This is a question your personal lawyer can answer best. Some claims are simple and straightforward and a specialist is not necessary. On the other hand, for some claims, such as airline crash situations, specialized skills will be helpful to you, and typically the total fee you pay won't be any more. Discuss it with the lawyer you visit.

Q. What should you do if an unknown lawyer solicits your case, or wants to talk to you? A. If you know others victimized by the same accident, or similar accidents, speak to them. Find out who they have retained and why they selected the law firm that they selected. Don't feel you have to sign up with the first lawyer you talk to simply because the lawyer is nice. You have a lot at stake in this claim.

Q. Is there a rush to do something? How much time do you have? A. In most cases, you have at least a year from the date of the accident to take appropriate action in court, if it becomes necessary, so do not permit any lawyer to rush you into signing a retainer. Lawyers who do this are suspect. Their real interest may be in getting you to sign a retainer contract, and even starting your case, with publicity, in the hope it will attract other clients to them. You should be suspicious of any lawyer who pressures you into signing a retainer.
On the other hand, there are often times advantages to retaining a qualified lawyer sooner rather than later. Doing so will allow the lawyer to start the investigations, such as preserving evidence and speaking with eyewitnesses before their recollection is affected.

**Fees**

**Q.** If you sign a contract with a lawyer what should the fee be?

**A.** Most accident cases in the United States are handled on a contingent fee of 33⅓ percent of the recovery. Sometimes the fee is based on the gross recovery and sometimes it is based on the net recovery (the gross recovery less expenses.) Obviously, the latter is better for you.

There are economies in the handling of mass disasters, however, and they, plus competition, may bring the fees down. Fees in mass disasters airline crash cases are often 25 percent, and sometimes they are even lower. The fee you agree to should include the fee of your personal lawyer, the fee of the expert specialist and the fee of any local counsel who becomes necessary. Your retainer contract should provide for that.

Don’t be bashful. Shop around for fees. When you decide on which lawyer you would like to handle your case ask whether the lawyer will match any better fee you’ve been quoted. Most of the time lawyers will.

Remember though that the fee is often less important to you than the quality of the lawyer and his or her ability to get you a sizable award. The best lawyer will usually get the best recovery for you, and it may be worth a few extra percentage points.

Q. **Can you change your mind, after you have signed a retainer contract, and change lawyers: what, if anything, will it cost you? How do you do it?**

A. You can always change your mind about who should represent you. Your new lawyer will address the discharged lawyer’s fee and in virtually all cases you will not pay additional attorney’s fees because you switched lawyers.

Thus, if you have been rushed into signing with the wrong lawyer you can simply discharge the lawyer by a letter or e-mail. Your new lawyer will help you do this.

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Endnotes:

2. 49 U.S.C. §1136(g)(2).
3. Id.
6. See 22 N.Y. ADC 1200.8(g).