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## **New Report: Strong State Safeguards Important to Protecting Americans from Small Plane Crashes and Defective Aircraft Parts**

When companies make and sell defective products, people often get hurt, and when this happens in industries like aircraft manufacturing, the results can be harrowing – and deadly. Many Americans assume that they can use tools such as private lawsuits to hold corporations accountable for such harms, but as [a new report](#) from the Center for Progressive Reform shows, some victims find the courthouse doors shuttered – a situation that leaves everyone less protected against harmful products and manufacturing defects.

The CPR report, [\*The Truth About Torts: Regulatory Preemption at the Federal Aviation Administration\*](#), examines a recent federal appeals court ruling related to a plane crash that may help ensure that victims and their families can actively seek justice.

"Earlier this year, the U.S. Court of Appeals for the Third Circuit made a decision in a case involving a husband who died in a small plane crash caused by a defective part," said Sidney Shapiro, a Board Member at the Center for Progressive Reform and a co-author of the report. "The court found that federal law and rules from the Federal Aviation Administration (FAA) do not block – or 'preempt' – Americans from pursuing product liability cases in state courts. If the decision stands, the families of people hurt or killed in small plane crashes will be able to seek justice and hold companies accountable for manufacturing defective products."

At issue in the case is the complex legal doctrine of preemption, which arises from our system of government. American government exists in multiple layers, with federal, state, and local components, and the U.S. Constitution defines the scope and limitations of this system, often referred to as federalism. When the policies of lower levels of government directly conflict with federal policies, the Constitution generally gives precedence to the federal policies, deeming them "supreme."

"In the case of aircraft manufacturing safety, the American public is much better off when the FAA's role is complemented by product liability claims," said Thomas McGarity, a CPR Board Member and co-author of the report. "In fact, the state civil justice system reinforces the FAA's work promoting aircraft manufacturing safety in several important ways."

Among other things, the state civil justice system can:

- Deter manufacturers from selling unsafe products.
- Generate new information on how existing aircraft and aircraft parts can be made safer.
- Counter the problem of "regulatory capture" by relying on authority spread over numerous state courts, which are collectively less susceptible to direct industry interference.

"The public places immense trust in airlines, aircraft manufacturers, and pilots when we board an airplane," said noted aviation attorney Michael L. Slack. "When an airline tragedy occurs as a result of the negligence of those very airlines, aircraft manufacturers, and pilots, passengers and their families must have access to the courthouse to hold those responsible accountable. The FAA relies on information from manufacturers when it certifies aircraft and on the bare minimum standards in oversight of pilots and airlines. It is imperative that the agency not be allowed to prevent passengers or their families from seeking justice in state courts for any wrongdoing."

While the Third Circuit provided much needed clarity on the issue of preemption and aircraft manufacturing, some confusion persists over when state product liability cases are preempted if they directly "conflict" with FAA rules. According to the CPR report, both Congress and the FAA can take action to address this issue in a way that best promotes citizen access to the courts. However, such action is unlikely in the near future.

"The bottom line is that state product liability laws and cases contribute to the FAA's goal of preventing harm before it occurs by deterring manufacturers from selling and installing defective parts in the first place," said Nina Mendelson, a CPR Member Scholar and report co-author. "In addition, when people are hurt, the civil justice system stands ready to provide compensation. Because of this, it's unsurprising that Congress has consistently preserved citizen access to the courts when it has enacted and revised laws directing the FAA to regulate aircraft manufacturing safety."

The report is available online at [http://www.progressivereform.org/faa\\_preemption.cfm](http://www.progressivereform.org/faa_preemption.cfm).

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