

Chicago Daily Law Bulletin®

Volume 168, No. 227

Serving Chicago's legal community for 163 years



A U.S. District Court judge ended Richard Vartanian's quest to reclaim this P-51D Mustang WWII-era fighter plane, "Geraldine," pictured landing at the 2008 EAA AirVenture in Oshkosh, Wis. U.S. District Judge John Robert Blakey ruled last week that the statute of limitations had run out on a man's claims that the plane was taken from its hanger at some point between 1974 and 1985 and sold for parts to its current owner. Flickr/ D. Miller, "NAA P-51D Mustang 'Geraldine,'" licensed under CC BY 2.0

After 32 years, suit over plane stalls

BY SARAH MANSUR

Law Bulletin staff writer

A decadeslong conflict over ownership of a World War II fighter plane has been settled, at least for now.

Richard Vartanian's quest to reclaim a vintage plane from Charles Greenhill ended last week with U.S. District Judge John Robert Blakey ruling in Chicago federal court that the statute of limitations bars Vartanian's claims.

Blakey granted Greenhill's motion for summary judgment in his defamation claim against Vartanian. Greenhill's suit argued that, in his efforts to reclaim the plane he once owned, Vartanian defamed Greenhill and slandered his aircraft title. The suit also sought a

Warbird taken from N.Y. hangar decades ago; judge rules case filed years too late

declaration that Greenhill is the plane's legal owner.

In 1974, Vartanian moved his P-51D Mustang — a World War II-era fighter plane — to a hangar in New York, while he stayed at his home in California.

Vartanian discovered the plane missing in early 1985 when he tried to move it from the New York hangar to California. He learned from a friend that his plane had been taken by Wilbur Martin at some point since the 1974 move to New York. Martin, a plane enthusiast and dealer based

in Illinois, intended to restore it.

Vartanian demanded Martin return the plane and hired a lawyer when it was not returned.

In 1985, he also contacted the Federal Aviation Authority, the FBI and law enforcement agencies in Los Angeles, New York and Chicago about the theft of his plane.

The FBI contacted Martin but apparently ended its investigation.

Vartanian renewed his pursuit of his lost plane in 2003 when he read an article in *Air Classics*

magazine about the plane, named "Geraldine." The article identified the plane's serial number and stated Greenhill purchased it from Martin through his company, Amphib.

Greenhill bought the disassembled plane parts from Martin, according to his complaint, and restored it.

In 2004, Vartanian hired a new lawyer. The lawyer died in December of that year, and no lawsuit over the plane was filed.

In 2009, Vartanian sent a letter to then-U.S. Attorney Patrick J. Fitzgerald about the theft of his plane.

Fitzgerald replied, writing that the letter "does not form the basis for any action by the United States Attorney's Office at this

time,” but encouraged him to contact the Federal Aviation Authority, a private attorney or a private investigator.

Vartanian did not pursue legal action at that time.

Earlier, he learned the serial number of the plane Greenhill purchased from Martin matched that of a plane that crashed in Nicaragua in 1965.

Vartanian alleges Martin used the serial number of the crashed plane to disguise his theft.

Greenhill alleges the plane parts he purchased were from the one in the New York hangar and the one that crashed in Nicaragua.

Martin has said that using the serial number of the crashed plane “was simply a convenient way to get the reassembled, hybrid plane a new FAA registration number,” according to Blakey’s opinion.

In February 2014, Vartanian sent a letter with his allegations to FAA administrators, California lawmakers and law enforcement

officials, among others. He also contacted an employee of Amphib about these claims and posted the allegations on a public website.

Greenhill filed his defamation suit in October 2015. Vartanian filed counterclaims for conversion and declaratory judgment in favor of his title to the plane.

His conversion counterclaim alleges that Martin stole his plane and that Greenhill was complicit in Martin’s efforts to launder the plane’s title through the 1998 sale.

Applying the Illinois discovery rule, Blakey stated a five-year statute of limitations on Vartanian’s conversion claim began to run when he knew or reasonably should have known of the initial theft and knew or reasonably should have known that it was wrongfully caused.

“In other words, if [Vartanian] knew or should have known that he was wrongfully injured before Dec. 22, 2011 — five years before he filed his counterclaim — his claim for conversion remains

time-barred under the Illinois discovery rule,” Blakey wrote in his opinion, issued Nov. 13.

“Based upon the undisputed portions of the record here, [Vartanian] clearly knew he was injured when he discovered that his plane had disappeared in early 1985. The question, then, is when [Vartanian] knew or reasonably should have known that his injury was wrongfully caused.”

Blakey wrote that Vartanian had sufficient information to pursue his claim well before December 2011.

“By 2009, [Vartanian] knew the basis for his potential causes of action ... [Vartanian’s] knowledge triggered the five-year statute of limitations,” he wrote.

Since Vartanian’s declaratory judgment claim rests upon the same allegations underlying his conversion counterclaim, his declaratory judgment claim is similarly time barred, Blakey wrote.

Blakey also rejected Vartanian’s argument that the statute of limi-

tations does not apply because of the continuing violation doctrine, which delays the date of the claim’s accrual until the date of the final injury or the date the tortious acts end, the opinion states.

“But this rule only applies to injuries that result from ‘cumulative or aggregate’ conduct — in other words, it applies to ‘continuing unlawful acts and conduct,’ rather than the ‘continual ill effects from an initial violation.’ It does not apply to discrete acts that support causes of action independently,” he wrote. “Here, [Vartanian’s] claim for conversion presents just such a discrete action.”

Karnig S. Kerkonian, a partner with Kerkonian Dajani LLC in Evanston, represents Vartanian. He declined to comment.

John J. Scharkey, a partner with Sweeney & Scharkey LLC, represents Greenhill. He also declined to comment.

This case is *Greenhill. et al. v. Vartanian. et al.* No. 15 CV 09585. smansur@lawbulletinmedia.com