

# Insurance woes

When repairs are covered by insurance, it's the owner's job to keep things under control

BY MIKE BUSCH

**BY THE TIME HE CONTACTED ME**, the aircraft owner—let's call him Fred—was boiling mad. Fred had bought an airplane last year, and the prebuy and subsequent annual inspection gave his new-to-him bird a clean bill of health. Yet even before Fred ferried the airplane to his home base, mechanical gremlins started to appear.

The alternator failed. Some serious exhaust issues required repair. These and various other discrepancies started Fred thinking that perhaps the clean pre-buy and annual were overly optimistic.

Then ATC reported the transponder wasn't working. Fred sent it to an avionics shop, which told him that it was an old tube-type unit that was not economical to repair, and that he'd be money ahead installing a new transponder.

Just before ferrying the airplane to the avionics shop, Fred discovered the autopilot was malfunctioning. He had to pull a circuit breaker to stop it from alarming. Then, as he entered the pattern to land, the whole avionics stack went dark and Fred wound up landing no radio.

Fred taxied the airplane to his home-field shop, but his A&P was unable to duplicate the failures or find any electrical glitch that might have caused them. Fred discussed these issues with the avionics shop, and they agreed to look at them once Fred delivered the airplane.

## INCIDENT FLIGHT

A few days later, Fred took off to ferry the airplane to the avionics shop. Shortly after takeoff, he engaged the autopilot, and it



failed in the same way as before. He pulled the circuit breaker. Soon afterward, the avionics stack went dark. As Yogi Berra famously said, "It was déjà vu all over again."

Fred tried to contact ATC on his handheld transceiver, to no avail. Then, he noticed that most of the engine instruments were reading zero, and the oil pressure indication was only 20 psi. He wasn't sure whether the oil pressure indication was accurate, but since "the engine didn't sound right" he decided to make a precautionary landing at a small airstrip nearby.

Approaching the airstrip, Fred attempted to lower the gear electrically without success (no surprise there), and then pulled the gear breaker and performed the emergency gear extension procedure. That didn't feel right to him either, but at this point he was on short final. He touched down as slowly and gently as possible, but as the aircraft settled onto the mains, one gear leg collapsed, and then the other, and the airplane skidded on its belly for about 100 yards before coming to a stop.

# Accurate Aircraft Values

## Just A Click Away

**vref**  
AIRCRAFT VALUE REFERENCE

**1-800-773-8733**  
**vrefpub.com**

The Official Aircraft Price Guide of AOPA

Fred was a bit shaken but otherwise OK. Some local fellows who witnessed the arrival helped move the aircraft off the runway. Fred notified his insurance company. Then the real fun began.

**REPAIRS AND INSURANCE**

To quote Fred's email: *My plane was in the shop for a year. I was on them every few weeks asking how it was coming along. Their standard answer was: next week, next month, et cetera. Then, last week, the shop informed me that my insurance would cover less than \$60,000 of the repair cost, and that I would need to make up the remaining \$23,000 that the insurance company wouldn't pay for. The shop said that they'd found numerous mechanical discrepancies that should have been fixed before the gear-collapse incident occurred.*

*Then the insurance adjuster called me. He wanted to know if I had the plane back yet, and why I had not responded to his letter stating that the insurance company had paid for \$58,000 and I needed to pay for about \$3,000. I told the adjuster that the shop was claiming that I owed \$23,000, but that I didn't think I should be paying for anything. The adjuster said that he'd check with the shop again. Later, the adjuster told me that after conferring with the shop, he was certain that the balance of the repairs were my responsibility. End of discussion.*

*I bought the plane just a few months before the wreck. I paid an A&P/IA more than \$1,500 for a prebuy and fresh annual inspection, and he gave the airplane a clean bill of health. Then, within the first few flights, all sorts of problems began to show up. At this point, I have not signed the insurance company's release, and the airplane is still sitting in the shop. Any thoughts for me?*

**NO PRACTICAL RECOURSE**

In my opinion, Fred had no practical recourse but to pay the \$23,000. The insurance company is only obligated to pay to repair damage that occurred during the gear-collapse incident. It isn't obligated to pay to repair any preexisting discrepancies, including the electrical problems that caused Fred to make the precautionary landing where and when he did. (Had Fred landed without incident, the

**2 DAY FAA TEST PREP and FLIGHT INSTRUCTOR REFRESHER CLINICS**

### AVIATION SEMINARS

- PRIVATE, COMMERCIAL, INSTRUMENT AND CFII
- PASS YOUR FAA EXAM THE FIRST TIME
- 95% FIRST TIME PASS RATE
- \$429 - VISIT OUR WEBSITE FOR MORE DETAILS, DATES AND LOCATIONS
- FREQUENT CLASSES HELD IN 100 MAJOR CITIES

- FAA APPROVED FLIGHT INSTRUCTOR REFRESHER CLINICS - \$189
- ATTEND UP TO 3 MONTHS PRIOR TO YOUR CURRENT CFI EXPIRATION MONTH
- FREQUENT CLASSES HELD IN 100 MAJOR CITIES

*Offering Airline Quality Ground Schools for Over 35 Years*

• 800-257-9444 • <http://www.aviationseminars.com/pilot> •

**Keeping Safeguarding**

**DONATE TODAY!**

Call Toll Free: 800-955-9115 or Donate Online: [www.aopafoundation.org](http://www.aopafoundation.org)

insurance company would not have been liable for anything.)

Fred's principal mistakes were authorizing the repair shop to make repairs to his airplane without obtaining a detailed written estimate for those repairs, and then ensuring that the insurance company pre-approved those repairs and estimates and agreed in advance to pay for them. Instead, he left it to the shop and insurance company to work things out. The result was clearly not what he had in mind. By failing to manage the transaction proactively, Fred lost control of the situation and relinquished control to the adjuster and mechanic, whose best interests are not coincident with his own.

The shop would be the first to testify that the additional \$23,000 on its invoice was for repairs to discrepancies that existed before the gear collapse. The insurance company would testify (correctly) that it is not responsible for paying for such preexisting discrepancies. Its responsibility is strictly to restore Fred's airplane to the same condition it was immediately prior to the incident. It isn't to make Fred's aircraft airworthy (since it was pretty clearly unairworthy prior to the precautionary landing), nor to put Fred in a better position than he was before the gear collapse (known as *betterment* and explicitly disclaimed in every aircraft insurance contract).

If Fred still was convinced the insurance company was wrong to deny paying the additional \$23,000, he could theoretically bring a bad-faith lawsuit against the company. Lots of lawyers specialize in such lawsuits, and they often take such cases on a contingency-fee basis. But I thought it highly unlikely that an attorney would be willing to take his case, because Fred undertook the incident flight with known mechanical deficiencies, and because the claimed damages were far too small to justify the cost of litigation.

Short of litigation, most insurance companies provide an informal review mechanism for appealing claim disputes. However, without a rock-solid paper trail to bolster your case, there's little chance of prevailing. Lacking written repair estimates and adjuster preapprovals, and with his mechanic agreeing with the insurance adjuster, Fred was out of luck.

# MICRO VORTEX GENERATORS

• Cessna • Beech • Piper  
...just to name a few

Over 500 Models  
FAA-STC Approved



*Micro VGs are installed on the leading edge of the wings and on tail surfaces to help keep air attached longer at slower speeds. This reduces the Stall Speed, improves controllability, improves characteristics, creates a more stable instrument platform and gives better aileron response and rudder authority.*



**MICRO**  
AERODYNAMICS INC.  
Vortex Generator Technology

**(800) 677-2370**

4000 Airport Road, Suite D  
Anacortes, Washington 98221

(360) 293-8082 FAX (360) 293-5499

www.microaero.com micro@microaero.com

Available for Twins & Singles  
Kit Price  
\$695 to \$3950

## “AERIAL DRAMA AT ITS BEST.”

—ERIK LARSON,

#1 bestselling author of *Dead Wake*

“EPIC.”

—ERIC BLEHM,

bestselling author of *Fearless*

“A GEM.”

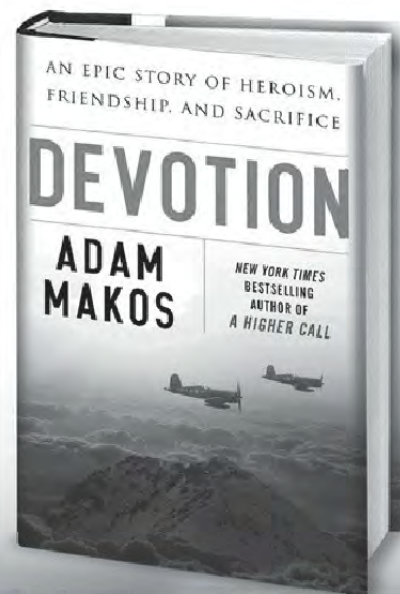
—CAPT. DALE DYE,

military advisor, *Band of Brothers*

“LOVINGLY RENDERED.”

—HAMPTON SIDES,

bestselling author of *Ghost Soldiers*



From the bestselling author of *A Higher Call* comes the epic true story of Tom Hudner, Jesse Brown, and the “Chosin Few” Marines.

A Ballantine Books Hardcover and eBook | AdamMakos.com

I also didn't think Fred had any practical recourse against the A&P/IA he hired to do the prebuy and annual inspection. No mechanic has a legal obligation to find and fix every problem with an airplane, only to use his best efforts. For the A&P/IA to be liable for civil damages, Fred would have to convince a jury that the mechanic failed to do something that "a reasonable and prudent mechanic" would have done—and that's not easy. The fact that the aircraft's problems eluded several independent mechanics—not just one—makes Fred's burden of proof nearly impossible.

Even if Fred could prove that the mechanics were negligent, it would be difficult to show their negligence caused him any monetary damages. Had the mechanics found all these problems prior to the incident flight, presumably Fred would have had to pay to have them repaired (arguably to the tune of \$23,000).

The legal system seldom offers any practical recourse in situations like the one Fred

**“My plane was in the shop for a year. I was on them every few weeks asking how it was coming along. Their standard answer was: next week, next month, et cetera.”**

faced. I told him to resign himself to paying the \$23,000 and chalk it up to tuition.

**LESSONS LEARNED**

It's essential for owners to actively manage their maintenance and always get detailed cost estimates in writing before authorizing any work. This is true for any maintenance transaction, but especially for one that involves insurance reimbursement or warranty work. In such cases, a prudent owner will always submit the shop's written estimates to the insurance company or manufacturer and obtain written preapproval that insurance or a warranty will pay for repair costs before authorizing the shop to start work.

An owner who handles such things verbally, or simply allows his mechanic to

do whatever he feels needs to be done, is likely to have an acute case of sticker shock. If insurance or a warranty is involved, the owner will be at the mercy of the insurance adjuster or warranty administrator.

Aircraft owners often do a miserable job of managing situations like this. The damage to their airplanes has them stressed out, and their business instincts often fly out the window. But maintenance management is always the owner's responsibility, and abdicating that responsibility to the shop, mechanic, or insurance adjuster almost always has unwelcome consequences.

**AOPA**

Mike Busch is an A&P and IA.

**+ EMAIL** [mike.busch@savvyaviator.com](mailto:mike.busch@savvyaviator.com)



**9AM DEMO, 10AM PURCHASE.<sup>SM</sup>**

I've owned Cubs, Turbine Maules, AirCams and Cessna Aircraft. I got into a Husky for the first time last week and I was instantly impressed how much confidence it gave me. The ailerons responded to my every move. When I got into some mountain turbulence, no big deal. The plane is so well balanced that it just molds itself to the pilot - all inputs are immediate. It was love at first flight. Dave Hermel

**Try HuskyFlight. Your Ride to Freedom.**  
Log on to <http://husky.aviataircraft.com>. Check out the videos, get inspired and call to schedule your own Husky Experience!

**HUSKY**  
**AVIAT AIRCRAFT INC.**

307.885.3151 [AVIATAIRCRAFT.COM](http://AVIATAIRCRAFT.COM)  
**HUSKY ★ PITTS ★ EAGLE**  
Post Office Box 1240 Afton, WY 83110

©2015 Aviat Aircraft, Inc.