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COMMENTARY / SAVVY AVIATOR



It's never a good sign when my first contact with an aircraft owner comes from his attorney.

The Blame Game

When 'stuff' happens to your aircraft, it's not always someone else's fault

REGULAR READERS OF THIS COLUMN know that I grumble a lot about “stupid mechanic tricks” made by career A&Ps who should know better. Some have accused me of mechanic-bashing. That’s a bit harsh, but I’ll readily admit to being a hard marker when it comes to genuinely dumb mistakes made by folks who work on airplanes for a living and hold themselves out as being maintenance professionals.

Last week, for example, one of my clients had a hole punched clean through the wing of his airplane during a routine tire change when a mechanic discovered he didn’t have the proper jack points and tried jacking the airplane by its tie-down rings—something explicitly forbidden by the maintenance manual. Last month, at one of the best-known service centers in the United States, a young mechanic (“nugget”) installed a new battery in a high-performance single-engine airplane belonging to another of my clients, and managed to reverse the polarity and destroy \$13,000 worth of electrical components and avionics. The month prior, it was an alternator drive hub that came loose because the installing mechanic neglected to torque it properly and install the cotter pin, resulting in so much damage to the mating crankshaft face gear that my client’s engine had to be torn down. Ugh!

But this month’s column isn’t about stupid mechanic tricks. It’s about stupid aircraft owner tricks.

I see plenty of those, of course, since my company now manages maintenance for nearly 500 aircraft owners. Most of my clients are bright, and their mistakes are usually small and readily resolved. But occasionally, I encounter a real doozy—one worth memorializing and sharing.

SAY AGAIN, COUNSELOR?

One such doozy began when my phone rang on a Friday afternoon at the end of a long week. The caller identified himself as an attorney representing a businessman who is the owner of “a small airplane” and who asked the lawyer to contact me for advice. My first question was, What make and model airplane is this?

“All I know is that it’s a little airplane with six seats. I think it has two propellers. Does that help?”

“May I assume, then, that you’re not an aviation attorney?”

The lawyer confirmed that he was the owner’s business lawyer and knew nothing about airplanes. He proceeded to relate a rather confusing story involving a Florida-based aircraft owner whose airplane was being “held hostage” by a Midwest maintenance shop I’d never heard of. Apparently the aircraft owner and the shop owner were having some sort of protracted dispute. After nearly a year, the shop had filed a lawsuit against the owner for nonpayment. The shop’s complaint asked for a mechanic’s lien against the airplane and a court order

allowing the shop to sell the airplane to satisfy the owner's unpaid obligations.

The aircraft owner's lawyer explained that "time is of the essence" because he needed to act soon to prevent the court from granting the plaintiff a summary judgment against his client. He'd called me at his client's suggestion because of my reputation for helping aircraft owners deal with difficult maintenance predicaments.

I asked the attorney to e-mail me the lawsuit pleadings, any discovery documents, the maintenance shop's invoice, and any associated work orders, discrepancy lists, or repair estimates prepared by the shop. I promised to review this material over the weekend and scheduled a follow-up conference call with the attorney and his businessman-client on Monday afternoon.

He did, and I did. By the time the lawyer and his client phoned me on Monday,

I had a bunch of questions for the aircraft owner. As he answered them, a picture of the situation began to emerge. It wasn't pretty.

HOW NOT TO BUY AN AIRPLANE

I learned that in early 2010 our hero decided he'd outgrown his single-engine airplane. He wanted to step up to a pressurized cabin-class twin and wound up buying a Cessna 421B. This "little airplane with two propellers" is an astonishingly sophisticated and capable flying machine, but unless maintained meticulously it can also be a real money pit. Even under the best of circumstances, the cost of maintaining and operating such an aircraft is formidable—particularly in this era of \$7 avgas and breathtakingly expensive repair parts. Spend a few minutes browsing Trade-A-Plane or Aircraft Shopper Online and you'll see that the resale

market for cabin-class pressurized piston twins is seriously in the tank. There is a good reason.

Our hero wound up buying his nearly 40-year-old 421B for a little more than \$200,000. That's definitely a whole lot of airplane for very little dough. On the other hand, a knowledgeable twin owner would realize that \$200,000 represents a relatively small down payment on the total cost of owning an airplane of this caliber and age.

To make matters worse, our hero bought the airplane without doing a pre-buy examination. Instead, the seller delivered the airplane with the proverbial "fresh annual" (performed by the seller's mechanic, of course). The buyer and his mechanic—the one who'd maintained his single-engine airplane—took the big twin up for a quick test flight, his mechanic took a quick pass over the logbooks, the



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buyer wrote a check, and the deal was done. Bada bing.

The new owner wasted no time putting his new pride and joy to work in his business. He quickly fell in love with the all-weather capability, performance, and creature comforts of the 421B. Who could blame him? It's an amazing airplane. Everything seemed to be going swimmingly for about a year, at which point it came time for the first annual inspection on the new owner's watch. That's invariably a come-to-Jesus moment for any new aircraft owner—especially with an airplane of this age, complexity, and sophistication—but apparently our hero never saw it coming.

HOW NOT TO MANAGE AN ANNUAL

Instead of having the 421B annual inspection performed by the mechanic who had been maintaining his single-engine airplane, or by the shop that performed the pre-sale annual inspection, the owner hired a shop in the Midwest that he'd never used before, that had never seen the airplane before, and that I'd never heard of. Apparently the shop came highly recommended by someone the owner trusted.

The shop quoted a shop rate of \$70/hour and a flat-rate fee of \$2,975 to perform the

annual inspection. (In my experience, both of these figures are unusually low.) The owner approved, and the shop proceeded with the inspection.

In due course, the shop completed its inspection and presented our hero with a discrepancy list and repair estimate. The handwritten discrepancy list was 16 pages long and identified 308 separate discrepancies—234 on the airframe, 29 on the left engine, and 45 on the right engine. Roughly half of them were flagged with asterisks as being airworthiness items. There was also a five-page spreadsheet that listed replacement parts required.

The shop's repair estimate came to 642 hours of repair labor at \$70/hour, a bit more than \$57,000 in parts, and \$2,975 for the flat-rate inspection. The estimated grand total was \$105,000 and change. The shop provided no detailed breakdown of this estimate, so there is no way of determining what portion of this \$105,000 was for airworthiness items and what portion was for items that the owner could defer or decline.

Our hero was not amused. He phoned the shop's director of maintenance to complain. He came away from that phone call with the distinct impression that the DOM felt the airplane fell somewhere

between a disaster and a deathtrap. The owner instructed the DOM to stop work immediately and leave the airplane opened up while the owner tried to sort things out.

Our hero's immediate reaction was that he'd been shafted by the prior owner. He had his attorney write the seller a "lawyer letter" explaining that the airplane was found to have hundreds of discrepancies that would cost \$105,000 to fix—more than half of what he'd paid for the plane—and demanding that the seller either pay for the repairs or agree to take the airplane back and refund the purchase price. The seller turned the matter over to his own attorney, who replied that the buyer had purchased the airplane without any warranty or representation of fitness from the seller other than clear title and an annual inspection signoff in the logbooks. After about eight months of back and forth between the lawyers, it became clear to our hero that he was not going to get any consideration from the seller.

In the meantime, the DOM was not amused either. He had a 421B in pieces tying up nearly 2,000 square feet of precious real estate in his maintenance hangar. After several months of hosting this "dead airplane" that the shop could not work on and could not move, the DOM started sending the owner storage invoices for \$450/month. Our hero—who was already upset at the DOM—became even more upset when the storage invoices started arriving. He took the position that he hadn't agreed to the storage charges and wasn't about to pay them.

Our hero also refused to pay the shop for the inspection. He felt that there was no way that an airplane that received an airworthy signoff at its 2010 annual inspection could possibly have more than 150 airworthiness discrepancies a year later, and believed the shop had concocted most of the discrepancies out of thin air, presumably motivated by greed. (In my experience, shops almost never inflate a discrepancy list in order to pad their pockets, but that doesn't stop



The Cessna 421B is a magnificently capable airplane. It can also be a money pit if you're not careful.

some aircraft owners from believing they do.)

Things proceeded downhill rapidly from there. The DOM turned the matter over to his lawyer—that’s lawyer No. 3 if you’re counting—who filed a lawsuit against the aircraft owner, demanding payment for the inspection and storage fees, and asking the court for a mechanic’s lien and for permission to sell the airplane if necessary to satisfy the owner’s debt.

And then my telephone rang.

SO NOW WHAT?

Once I was able to fully understand what had transpired, I was pretty blunt in my advice to the owner and his attorney. To begin with, I told them that in my professional opinion, I felt the owner had no recourse against the seller. It was, after all, the buyer’s decision to purchase the

airplane without conducting a meaningful pre-buy examination.

Nor did I feel that there was any recourse against the shop that performed the prior annual inspection. I explained that “airworthiness” is largely a subjective standard based on the inspecting IA’s determination of what discrepancies prevent the aircraft from being “in condition for safe operation.” The fact that one IA felt that the airplane was airworthy and another IA felt it was a deathtrap is something I run into every day. (Usually the truth lies somewhere in the middle.) It doesn’t mean that one IA was wrong and the other was right, only that airworthiness is an inherently subjective standard and reasonable people may reasonably have different opinions.

The fact is that IA No. 1 made a determination that the aircraft was airworthy, and then—lo and behold—the aircraft flew

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for the next 12 months without falling out of the sky. That doesn’t necessarily mean that the aircraft could fly another 12 months without falling out of the sky. Airworthiness is a moving target. That’s why we’re required to have the aircraft inspected every year.

I also said that I could not see any reasonable basis for the owner refusing to pay the Midwest shop that had performed the most recent annual inspection. The

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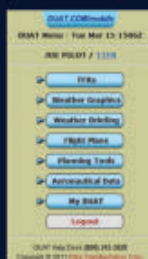
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shop had inspected the airplane (as it was hired to do) and documented its inspection findings in extensive detail. The shop's flat-rate charge was exceedingly reasonable in my opinion. I also considered the shop's storage charges to be quite reasonable, given that the airplane had been tying up a significant portion of the shop's maintenance hangar for nearly a year while the owner tried to figure out what he wanted to do.

My strong recommendation to the owner was that he immediately pay the Midwest shop for all charges due, both for the inspection and for storage, and perhaps even offer to pay the shop's attorney's fees to date—whatever it takes to settle the lawsuit and get the airplane out of jail. I said that if the owner was willing to do this, then I'd be glad to try to help him obtain a ferry permit and get the airplane flown to a location where the 308 listed discrepancies could be triaged and resolved.

I felt the owner had no recourse against the seller. It was, after all, the buyer's decision to purchase the airplane without conducting a meaningful pre-buy examination.

I explained that had the owner approached me when he first received the discrepancy list, I'd have been glad to work with the Midwest shop's DOM to negotiate some compromise plan to get the airplane back in the air. However, at this late date, the relationship between the owner and the DOM had been poisoned to the point that I believed any attempt to work together constructively was futile. Therefore, I felt the owner's best course of action was to get the airplane into the

hands of another mechanic who could be trusted to deal with the issues reasonably without a lot of emotion.

Sadly, this was apparently not what the owner and his attorney wanted to hear. They got audibly upset at me and then summarily hung up. I never heard from either of them again. I have no idea what happened with the lawsuit, nor whether the Cessna 421B is still in jail.

Please accept my sincere apology, faithful reader, for ending this column without a punch line. I just hate when that happens. *EAA*

Mike Busch, EAA 740170, was the 2008 National Aviation Maintenance Technician of the Year, and has been a pilot for 44 years, logging more than 7,000 hours. He's a CFI and A&P/IIA. E-mail him at mike.busch@savvyaviator.com. Mike also hosts free monthly online presentations as part of EAA's webinar series on the first Wednesday of each month. For a schedule visit www.EAA.org/webinars.



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