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## Widow wants trial for last suit in Comair crash

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By JEFFREY McMURRAY, The Associated Press

Updated 2:11 PM Thursday, August 6, 2009

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LEXINGTON, Ky. — The widow of one of 49 people killed in a 2006 Kentucky plane crash has told her attorney she wants to go to trial against Comair because she sees her case as the last chance for grieving families to get "a public determination of fault."

One year ago, jury selection in a massive case against the airline over the crash of Comair 5191 was called off when financial settlements were reached between Comair and all but two families of the 47 passengers who died. One of those settled a few weeks later.

That leaves Jamie Hebert's case on behalf of her late husband, Bryan Keith Woodward, and a parallel case by the couple's 18-year-old daughter, as the only passenger claims left against the airline. Months of mediation have pushed the two sides no closer to averting a trial.

Hebert's lawyer, David Rapoport, said Wednesday that she is less interested in money than the principle that Comair should more publicly take the blame and be punished for apparent mistakes by its pilots the morning of the Aug. 27, 2006, crash at Lexington's Blue Grass Airport.

Although the terms of the other settlements were confidential, none of them included punitive damages against Comair, something Rapoport says Hebert and her daughter are insisting be part of any resolution. Jamie Hebert and her family own and run a convenience store in Lafayette, La.

"My clients don't have a price, they have a principle," Rapoport said. "They know acutely they're the last ones left, and a lot of people would like to see them settle, but nevertheless, their principles are clear in their mind, and they feel there's been no clear statement by Comair that their fault caused the crash."

Comair spokesman Jeff Pugh cited the pending litigation and declined to comment on the case, other than saying the airline was making every effort to settle with Hebert. However, Comair's attorneys asked the judge to set a trial date in a court filing Tuesday but requested that trial include only compensatory damages, not punitive.

"This type of procedure would have the benefit of taking a

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relatively small amount of time, and given the constitutional limits on punitive damages may provide a more realistic framework for settlement discussions than the parties have been able to create for themselves," Comair's attorneys wrote in their motion in U.S. District Court in Lexington.

Rapoport said he supports setting a trial date but objects to Comair's request to leave out punitive damages. The trial previously had been scheduled for this month, he said, but was pushed back due to a scheduling conflict by Judge Karl Forester. Rapoport said it's difficult to predict when the trial might be held.

Comair 5191 crashed after trying to take off from the wrong runway at Lexington's airport — a general aviation strip too short for commercial jets. The National Transportation Safety Board cited the pilots' failure to notice clues they were on the wrong runway as the primary cause of the accident. The pilot, Jeffrey Clay, was killed and co-pilot James Polehinke was the lone survivor but was severely injured.

Woodward and Hebert lived near Lafayette, La., where he was an electrician who often worked on offshore oil rigs. He was on his way to Atlanta for a connecting flight when the plane crashed. He left behind his wife and two daughters who were 15 and 11 at the time of the crash.

"They are suffering levels of grief associated with his loss that are as bad as I've seen," Rapoport said. "Their lives were absolutely turned upside down by this."

Although the claims on behalf of Woodward are the only passenger lawsuits left, other lawsuits filed by the crew are outstanding, and the Kentucky Supreme Court still must decide whether the airport is eligible to share some of the blame or is exempt. An undisclosed settlement has already been worked out between Comair and the Federal Aviation Administration.

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