



## TWELFTH ANNUAL IFTTA NORTH AMERICA CONFERENCE

**MARCH 16 - 17, 2023**

After being forced by COVID to resort to Zoom for the 2021 and 2022 Conferences, the North American section of the International Forum of Travel & Tourism Advocates (<http://iftta.org/>) met once again in-person, in Fort Lauderdale, Florida, in March of 2023. The event was held in the Shepard Broad College of Law at Nova Southeastern University (“NSU”).

Local lawyer Laurence Gore hosted the event, that got underway with words of welcome from Beto Suarez (Dean of the Faculty) and Daniel Zim (President of the IFTTA section).

In 2019, Washington lawyer **Chun Wright** had spoken on “The Next Frontier: An Overview of VR/AR in Travel, and Top Legal Issues”. This year, she led off the day by going further into (and beyond) that frontier. The title of her presentation was “**The Metaverse: What It Is and the Top Legal Issues**”. Drawing on American and European sources, and cases such as *Lemmon v. Snap*, she identified the breadth of legal issues associated with this development by listing such things as Privacy Rights and Personal Data, Rights of Publicity, Content Integrity, Health and Safety Issues, Cybersecurity, Free Speech, Trespass, Harassment, IP and Licensing, Advertising and Marketing, Business and Reputational Injury, and Anti-Trust. She finished off her presentation by bringing the topic to bear on the Travel and Tourism Industry.

**Laurence Gore** picked up that baton by dealing with advances in technology and their impact on this Industry, in his presentation entitled “**Potential Encryption and Privacy Liability Standards for Travel Agencies and Tour Companies**”. Drawing on actual cases, he spoke to the peril that businesses face when utilizing technology without considering the associated risks, and the prospect of purchasing insurance against those risks.

**Prof. John Thomas** of Florida International University continued the morning focus on technology. In his presentation entitled “**What Do Chatbots Say About the Travel and Tourism Industry?**”, he flagged the age of the data typically relied upon by Artificial Intelligence products; their unfiltered and unquestioning use of what they find no matter the quality, the bias, the infringement on IP rights, etc.; the risk of use for criminal purposes; and some of the ways they can be used to target travel businesses in particular. This is another area in which Law has not yet caught up with Technology.

He was followed by **Greg Takehara**, the former Chair, and current CEO of Tourism Cares (<https://www.tourismcares.org/>). In a presentation entitled “**From Insured to Administrator to the Ultimate Insurer**”, Greg drew on his careers in Law, Insurance and Travel to paint a picture of what the Travel and Tourism Industry can do in the realm of sustainable tourism.

**Dr. Barry Nierenberg** is a Distinguished Professor of Psychology within the NSU College of Psychology. He completed the morning session with “**Headaches with Wellness Travel: Choosing the RIGHT Wellness Professional**”. While not himself a lawyer, Barry highlighted adroitly a number of legal risk factors that can be encountered when engaging in Wellness Travel, or counselling a client who is carrying on business in that specialized field.

**Daniel Zim** got things underway after lunch with “**Navigating the Sanctions Labyrinth: An Update on Legal Travel to Cuba**”. He combined the legal and the practical, by highlighting changes in the way the USA deals with Cuba in general (and the travel and tourism industry in particular) during the Obama, the Trump, and the Biden administrations. In doing so, he touched on Title III of the *Libertad Act*, and *Havana Docks Corporation v. Carnival Corporation*.

**“Legal Implications of the Extreme Verticalization of the Retail Travel Business”** was the title of this year’s presentation by well-known lawyer and author **Mark Pestronk**. In it, he highlighted the trend in which Travel Agents/Counsellors have in recent years increasingly traded independent stand-alone status for status as a branch of a Host Agency (which may itself be a franchisee), and then adding sub-agents themselves, which sub-agents might in turn engage their own home-based sub-agents and independent contractors. The result is fraught with legal relationships, and legal liabilities involving those in the vertical tower of parties, as well as their customers and regulators such as IATAN and ARC.

**Rose Haché** followed, with **“New Distribution Capabilities (NDC) Impact on GDS Contracts: Open Issues.”** Over the years, Rose has developed a considerable body of knowledge about GDS contracts, and a reputation as being the “go to” person with respect to them. Some of that expertise was on display with her presentation on this topic, full of references to actual cases, actual wording of contracts, and actual expertise acquired on the front-lines of negotiating such agreements. How GDSs will fare in an era of NDC remains a question with both legal and practical aspects.

**“Why The Fraud?!?!?!?”** was the attention-catching title of the next presentation, from Hartford-based attorney **Jeff Ment**. Drawing on cases from the media and from his own files, Jeff outlined some of the ways in which Travel Agents have been both victims and victimizers, when it comes to fraud. He finished with some practical advice as to wording that a Travel Agent might consider using in its Terms and Conditions and its invoices, to combat the risks posed by such behaviour.

New Yorker **Tom Carpenter** combined his dual careers as both a Travel Agency owner and a practicing lawyer, when tackling **“Current Issues in Independent Contractor Relationships”**. His very practical presentation summarized the underlying reasons that contribute to the environment in which these issues can arise, and then tackled a number of the specific problems that he has seen. He finished off by listing “What Worries Me” about what he has seen in his extensive career of dealing with IC agreements.

The day ended with “**Canadian Consumers and Carrier Cancellations**” from Toronto lawyer **Doug Crozier**. In a presentation that was “part legal, part political, and 100% practical”, he sought to summarize the recent evolution of the country’s Air Passenger Protection Regulations; their enforcement by the Canadian Transportation Agency; the failure of the former to deliver effective consumer protection and of the latter to deliver the program with administrative efficiency. Promising developments in both regards, publicized in the days leading up to the Conference, were also referenced.

During the day, all in attendance were

- updated on events involving the international organization, whose most recent Conference was held in Malta in November/December of 2022, and
- advised that the 13<sup>th</sup> annual North American event is expected to take place in March of 2024, once again in Fort Lauderdale.

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