



TENTH ANNUAL CONFERENCE of IFTTA NORTH AMERICA

APRIL 8, 2021

COVID-19 prevented the North American section of the International Forum of Travel & Tourism Advocates (<http://iftta.org/>) from meeting, as it usually does each March, in Fort Lauderdale. It also provided a wealth of topical material for the speakers, and those who attended the tenth annual iteration of this event. It was held via Zoom on April 8, 2021, hosted by Washington lawyer Chun Wright, with section President Daniel Zim both opening and closing the remote event.

Prof. John Thomas of Florida International University led off the Conference with an interesting discussion entitled **“High Tech Meets the High Seas: New Technology for the Cruise Industry”**. In it, he updated the group on a number of recent developments, now in use by cruise companies, involving robotics and other technological advances. Some of them were coming in any event, and others are responsive to COVID.

Well-known Travel Attorney and columnist Mark Pestronk had the first COVID-specific session of the day. Its long title **“Lessons Learned from Disputing Credit Card Chargebacks Against Agencies, Tour Operators, Consolidators”** belied his concise presentation. Drawing on his experience of the past year, he outlined in a very practical way what a Travel or Tour Company ought to do if it faces a chargeback from a credit card company, triggered by a passenger.

Paul Cronin also drew on his experience of the past year of representing tour companies, in a presentation entitled “**Retrospective and Lessons Learned Since the Onset of Covid-19**”. It focused on the handling of cancellations (both group and individual) and complemented the Pestronk presentation by addressing as well the processing of chargebacks. From a client’s experience, he addressed the risks involved in treating one member of a large travel group better than the others, even though their experiences were identical.

Over the years, Toronto lawyer Tim Law has drafted contractual Terms and Conditions for a number of travel retailers and wholesalers. The COVID experience has allowed him to hone the existing skill by re-drafting these key contractual documents with an eye to the fact situations faced since March of 2020. He involved New York lawyer Tom Carpenter in a transborder discussion under the heading “**Travel Agent Ts & Cs, After COVID-19**”.

In “**Continuing Capital Requirements in Regulated Industries**” Bill Clark, also of Toronto, addressed the elephant in the regulatory room. Where Travel companies are subject to licensing and regulatory oversight, they are often obliged to meet specified capitalization thresholds in order to maintain their licences to operate. In light of the pandemic, the financial statements of many such companies are in a shambles. Will the regulators cull the herd of licensees by enforcing strictly the rules that were crafted pre-COVID? Will they instead exercise discretion (whether or not they officially have it) and look the other way? Will they insist that the rules be relaxed officially so as to allow them to look the other way with the backing of government, as opposed to doing so on their own?

Max Johnson is a travel entrepreneur and legal observer, from Canada and France. In “**Vaccine Thoughts**”, he shared information and insights in regard to the idea of a vaccine passport. His thoughts touched on whether such a regime is apt to exist, who will administer it if so, and what some of its operational obstacles are apt to be. He noted that a number of governments are adapting the manufacturers’ protocols (e.g. the time between first and second shots) and wondered if such adaptations will result in the denial of a “passport” to anyone who follows her country’s guidance, where it varies from the manufacturer’s.

In “**Registrar’s Expansion of Coverage of the Ontario Travel Industry Act**”, Bill Clark returned to deal with a scope-of-authority issue, and the risk of Regulatory Creep. His comments concerned this provincial statute, and the way in which it is being interpreted and enforced. In 1974, it had started out expressly as a consumer protection statute, but seems recently to have evolved in practice into a regime that involves itself in B-to-B and other non-consumer travel transactions.

Rose Hache, another well-known Travel Attorney, ended the day with “**2021 Legal Tips**”. In the course of her presentation, she touched on changes and suggestions relating to the negotiation of future GDS contracts, dealing with COVID-caused shortfalls in performance under existing GDS contracts, the legislative changes in a number of US States regarding the “independent contractor” status of workers, and pet-friendly travel.

All in attendance were advised that the date and venue of the next Worldwide conference of IFTTA has yet to be determined, due to the ambiguities caused by COVID-19. For the same reason, it is currently unclear whether the next North American Conference will be held virtually, or in Florida.

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