

IFTTA NORTH AMERICA CONFERENCE

MARCH 7, 2014

The third annual Conference of the North American section of IFTTA was held in Fort Lauderdale, Florida in early March of 2014. Once again, Larry Gore hosted the event.

The Conference included a brief introductory session as part of a reception and dinner at the Coral Ridge Country Club, on March 6. Participants hailed from Canada, Mexico and (predominantly) the USA.

Enrique Mota led off the Friday Conference. Prof. Mota trained originally as a lawyer and now teaches at the *Universidad del Caribe* in Cancun, where he focuses on ecotourism. Drawing on his experience in both law and academia, he spoke on “*General Principles of Tourism Law*”. These key principles underlay decisions on the development of tourism products and sites in Mexico.

Travel Agent Arbiter William McGee followed. Under the heading “*Promotion of ADR in the Travel Industry*”, he drew upon his years of experience (as the joint appointee of carriers and travel agents) in resolving specific disputes between companies in both constituencies. He also spoke of the introduction and evolution of the Rules of Procedure that apply to such disputes, and his expansion of the original mandate. He is available to handle in an efficient manner a variety of disputes involving other parties (e.g. ARC itself, GDSs and so forth). The number of such cases has dwindled in recent years, no doubt due in part to the body of decisions that he has provided over the years, upon which the industry can draw for direction.

Expanding on the McGee remarks, Philadelphia lawyer Tom Margiotti shared his experience in both the litigation system (as an advocate) and the ADR regime (as a mediator), expressing a firm belief that there is a role for ADR in general, and in the travel industry in particular. The title of his session was “*Designing an Efficient, Effective and Fair Dispute Resolution System for the Travel Industry*”.

The next speaker also drew upon two sources for her presentation. Before becoming Senior VP and Corporate Counsel for World Travel, Inc., Maribeth Minella had been a litigator in private practice. Both professional lives contributed to her informative session on “*Top 10 Employment Issues Every Attorney Should Know*”. She sprinkled her presentation with a number of practical references to cases or files she has handled in her career, and the lessons learned from them.

Bob Brill also drew on an actual case, in his follow-up session entitled "*Drafting a Tight Exclusion Clause*". Much like Ms. Minella, Mr. Brill is Senior VP and General Counsel, but for the Minnesota-based Travel Leaders Group. His remarks focused on one specific case with which he had personal experience. In doing so, he illustrated clearly some of the pitfalls that lie in wait for a lawyer and his/her client, both in the real world and in the Court Room, given the ways in which Judges sometimes react to fact situations and Exclusion Clauses.

Daniel Zim, is now a private practitioner, but was once counsel for ASTA. He, too, dealt with waivers and exclusion clauses, also building his presentation on a single case. In "*Munn v. Hotchkiss School and Group Tour Waivers*" Mr. Zim outlined the facts of this recent case, provided its juridical history, and offered some of the lessons to be learned from it, by anyone who seeks to draft for a client or employer a group waiver.

"*Click and Lose Your Rights: The Legal Risks of Booking on Public Websites*" was the title of Mark Pestronk's innovative presentation to this year's Conference. He analyzed the wording of the Terms and Conditions portions of several online travel companies, and suggested that a rational consumer would not likely agree willingly to accept the unbalanced relationship that results when he/she clicks the "I agree" box on the computer screen. The presentation begs the question as to whether or not some of the targeted passages will be upheld if challenged.

Prof. John Thomas (of the Florida International University's School of Hospitality and Tourism Management) is developing a reputation for topicality. At the 2013 IFTTA NA Conference, he spoke of the legal issues involved in the then-current Carnival Triumph case. This year, his title was "*Bitcoin Payments in Travel, Tourism and Hospitality Businesses*". It offered him an opportunity to introduce the audience to some of the principles of the Bitcoin phenomena, its problems, and the ways in which it may impact the travel industry in particular.

Larry Gore drew on his extensive experience with cruise line cases to speak to the topic "*Cruise Line Passenger Rights*". In doing so, he touched on a number of the issues that had been raised earlier in the day (e.g. legislating consumer rights, exclusion clauses, and the role of ADR.) and applied them to the cruise portion of the travel industry.

Fellow Floridian John Eversole moved the Conference's attention from the sea to the air, in a session entitled "*Update on Recent Developments in Aviation*".

Toronto lawyer Doug Crozier introduced the group to *Canada's Anti-Spam Legislation*. Passed in 2010, it was only recently that the Regulations were put into place and a July 1, 2014 implementation date was announced. As is suggested by the title of his session --- "*Canada's Anti-Spam Legislation and its Impact on Non-Canadian Businesses*" --- this statute is intended to impact travel (and other) companies located outside of Canada, if they send "commercial electronic messages" into Canada.

An informal business session took place during the lunch break. Attention was once again focussed on the twin objectives of

- Attracting new members from amongst the large number of people who ought to share an interest in IFTTA's issues and objectives, and
- Increasing participation at the annual North American Conferences.

It is expected that the group will reconvene in Fort Lauderdale, in February or March of 2015.