



## **FOURTEENTH ANNUAL IFTTA NORTH AMERICA CONFERENCE**

**FEBRUARY 27 – 28, 2025**

The North American section of the International Forum of Travel & Tourism Advocates (“IFTTA”) continued its tradition of meeting in Fort Lauderdale, Florida in order to discuss matters of relevance to Travel Law. This year, the Americans in the group also discussed preparations for the upcoming international conference of which they are the hosts. It will be held in late September, in Washington, D.C.

All presentations were topical, none moreso than the one that led off the day. New York attorney **Tom Carpenter** got the day started. In “*The Trump Executive Order on Passport Gender Markers*”, he dealt with the recent declaration that the US government would recognize only two genders, and that the contrary initiatives of earlier administrations in this area would be rolled back. This includes the existence of “X” as a gender marker on passports.

Travel Advisors will have to be able to counsel their clients in an informed manner about the implications of holding such a passport, whether issued by the US or any other country, and lawyers who advise travel companies will also have to be in a position to counsel their clients in a similarly informed manner. Carpenter spoke of a number of the legal actions that have already been launched in challenge to this Executive Order, as well as various State-level initiatives similar to this one at the federal level.

Together with his colleague **Emilia Bach**, Conference host **Laurence Gore** followed with "*Legal Issues in Yacht Charters*". While various Maritime Law issues have been addressed in past conferences, this was the first one that tackled Yacht Charters.

They addressed the charter contract, insurance, compliance with safety and environmental rules, customs and immigration, drugs and alcohol, and various employment-related issues, all of which are made more complex by the multi-jurisdictional nature of yacht chartering.

*"Issues With Client Releases and Hotel Contracts Too Often Ignored"* was the title of the material presented by Boston-area attorney **Rodney Gould**. While it is true that the Release document is not as novel a topic as the ones tackled in first two presentations, it is one that is fundamental to virtually all aspects of Travel Law. Its relevance was borne-out by the fact that it elicited the greatest amount of feedback and discussion amongst the attendees.

Among other things, Gould pointed out the tension between (on the one hand) the need to be comprehensive and detailed in the language of the Release and the need (on the other hand) to generate a document that is not overly daunting for the traveller, or the supplier, to sign.

**Mark Pestronk** also spoke of conflict, this time in the context of contracts between a Host Agency and an Independent Contractor. In *"Addressing Common Problems under Host Agency Contracts"*, he spoke of the tension between the Host's need to

- a) control the IC's actions in order to avoid fraud and looting that could end up resting on the Host's shoulders, and
- b) avoid control of the IC's activity in order to prevent the legal relationship being reclassified as one of employment.

To illustrate how that tension plays out in reality, he identified a dozen specific instances, and elaborated on each.

A legal relationship that is clearly one of employment can also be fraught with legal issues of its own. **Pat Jennings** of the Ment Law Group dealt with this issue in a presentation entitled “*How to get ahead of common employment law issues and avoid costly mistakes*”. He pointed out how the employer benefits from anticipating issues and dealing with them at the outset of the relationship, rather than trying to backfill when a dispute arises. This is important in and of itself, but of additional importance when the employee is customer-facing (as is often the case with Travel Agencies) and not a one who works in the background and out of sight of the customer.

Comprehensive Offer Letters to prospective employees are the vehicle with which issues can be addressed, and defused, anticipatorily. Ideally working from a standard, uniform document and modified to a minimal extent, the Offer Letter could address things like reporting structure, performance reviews and progressive discipline policies, non-compete provisions, vacation and leave policies, the ways in which termination can take place, and how final payments are made, etc.

**Daniel Zim** followed, with a paper entitled “*Medical Tourism Liabilities and Solutions*”. This segment of the market has grown in recent years, and with it the risk of liability for those who facilitate such travel. That includes both specialists in catering to this market and those who don’t but happen to become involved as part of their general operation.

In many ways, the risk is similar in kind to the liability to which a travel company is exposed with respect to any type of travel. But it also brings with it its own particular legal potholes into which a participating Travel Agent or Tour Operator might fall. Zim discussed those particulars, insurance, and other ways of mitigating the risk.

Miami attorney **Andrea Canona** followed with “*Business Visa Strategies*”. In a comprehensive overview of US Immigration law, she identified the players in the process, the various types of visas that are available, and details of several of the key categories into which a businessperson might logically fall, including an exploration of Waivers.

Her presentation included details of the State Department's information regarding Visa Classes that are currently oversubscribed as opposed to those for which room remains available. In response to questions, she also commented briefly on the recently-announced "Gold Card" program that would replace the existing EB-5 immigrant investor visa program, for those willing to pay \$5m.

Washington attorney **Ashfia Khan** followed with an exploration of recent developments in the field of Artificial Intelligence, focusing in particular on the "***Legal Developments in AI and Effects on the Travel Industry***". After differentiating between AI and Generative AI, she focused on the latter. Referencing recent and current cases by way of illustration, she dealt with issues of Intellectual Property, Privacy, Reputational Harm, Name/Image/Likeness, and Product Liability.

Khan touched on relevant regulation at the State, Federal and International levels, and discussed the recent *Moffatt* case in which Air Canada was found liable for incorrect information provided by a chatbot on its website, even though that chatbot had directed the user to a link that would have revealed accurate information about the carrier's policy.

**Ajanaclair Wise** is both a Travel Advisor and a Lawyer. She brought both skillsets to bear on her topic: "***The DOT Refund Rule: A Consumer Victory or an Airline Loophole?***". It dealt with the rules implemented in the Summer of 2024 that outlined new rules for passenger refunds when a flight is cancelled, baggage is lost, COVID-type pandemics arise, or payments for ancillary services need to be refunded.

She then highlighted the very real practical problems posed by these rules when service fees are involved in addition to the travel services themselves; when both refundable and non-refundable services are mixed in one contract; and when subsidiary companies like Travel Agents face a deadline for paying refunds whereas there are no similar rules governing the timing conduct of the carriers and suppliers involved in the same process (which impacts the cash flow of the Travel Agents). She ended with a trio of specific recommendations.

**Mark Pestronk** returned to the Host/IC relationship in a more specific paper entitled “*How the New Trump Administration's Policies Will Affect the Host/IC Relationship*”. Newly-announced policies on the reclassification of ICs as employees will clearly impact this relationship. So, too, will changes relating to the Non-compete clauses/agreements, and past preferences for female-owned businesses.

There is as well the knock-on effect of new policies on Immigration (both incoming where visa requirements might trigger reciprocal responses, and with respect to the deportation of undocumented people who work in the travel/tourism sector); Tariffs; and the general allure of the US as a destination for travellers while these impacts work their way through the system.

The day ended with a presentation by Toronto lawyer **Doug Crozier** entitled “*Mobility Rights and the Travel Industry in Canada*”. After providing contextual information via a brief primer on Canadian Constitutional Law, he addressed a case that is currently headed to the Canadian Supreme Court.

It deals with a Canadian resident who was prevented from travelling between provinces for her mother’s funeral in the early days of the 2020 pandemic due to legislation that limited (to the point of banning) inter-provincial travel. She alleged that her Mobility Rights (Section 6 of the *Charter of Rights and Freedoms*) were infringed by this provincial statute. The case is slated to be heard in April of this year.

During the day, those in attendance were updated on events involving the international organization, whose most recent Conference was held in Vienna in September of 2024. As noted above, the next one will take place in Washington this September.

\*\*\*\*\*

For more information, please contact:

- Laurence Gore ([goreinternationallaw@gmail.com](mailto:goreinternationallaw@gmail.com)) or
- Doug Crozier ([dcrozier@hclaw.com](mailto:dcrozier@hclaw.com)).