

## IFTTA NORTH AMERICA CONFERENCE

**MARCH 11, 2016**

The fifth annual meeting of the North American section of the International Forum of Travel and Tourism Advocates (<http://iftta.org/>) took place on March 10 and 11, 2016. Held in Fort Lauderdale, Florida, it was once again hosted by local attorney Laurence Gore.

The event attracts a broad spectrum of people, in terms of both their experience in the Travel and Tourism Industry and the types of exposure to it that they have had. Some specialize in cruise clients, others in the retail and/or wholesale field. The aviation industry has been represented at past conferences. This one had an Industry regulator and a professor who works with government to develop the parameters for tourism development. The result is an interesting cross-pollination of ideas from people who share the sentiment expressed at last year's event by prominent Travel attorney/writer Mark Pestronk;

*"Every year I come to this Conference in order to get something off my chest, because this is the only group of people to whom I can talk about these things, and know that I am being understood."*

Attendees also represented a broad geographic range. Along with an eminent visitor from Ireland (Marc McDonald, who received his Gerald Heifetz Award for 2015), attorneys and academics from Canada, Mexico and the USA attended this year's event. It got underway with a social evening on the Thursday evening, then got down to business on the Friday.

**Daniel Zim** was the first speaker. Formerly counsel to ASTA, he now operates his own firm that specializes in Travel Law. He asked, and sought to answer, the commercially-important question "**Who Owns Airline Data, and Why Does It Matter?**" Drawing on often-hidden airline website Terms and Conditions, he pointed out their attempts to ensure that the ownership answer favours the carriers, and some of the vulnerabilities in those attempts.

"**Mergers and Acquisitions in the Travel Industry**" was the title of the presentation by New York attorney **Norman Bluth**. Rather than analyze past transactions, he sought to predict those that may occur in the future. The role of technology was addressed, as was the need to find synergies beyond those offered by simple economies of scale. The breadth of his professional experience gave added credence to his observations.

Florida International University **Prof. John Thomas** has a habit of choosing intriguing topics, and making fascinating presentations of practical relevance. This year, he chose "**Chinese Influence on Tourism in Cuba**". His well-researched paper contained a number of unexpected facts. Those who were listening now know that the recent liberalization of American travel to Cuba will not necessarily result in a return to American domination of the Cuban economy.

The title **“The Use of International Commercial Arbitration in Resolving Cross-Border Travel & Tourism Disputes”** tells you all you need to know of the next presentation. Coming from **Ava Borrasso**, a Miami-based lawyer with extensive experience in international commercial arbitration, it was clear explanation of the pros and cons of arbitration as an alternative to litigation. Few industries are as transnational as Travel and Tourism, so her remarks were relevant to all in attendance.

Toronto lawyer **Timothy Law** followed, with an illustration. In **“IATA-Related Dispute Resolution, Canadian Style”**, he referred to a particular (but anonymous) case in which he had been counsel. It involved the arbitration process before the Travel Agency Commissioner. The TAC is a creature of IATA’s Resolutions, and is intended to provide a vehicle for addressing disputes between a Travel Agency and IATA or one of its carriers.

Canada’s largest province has a long-standing and mature regime for regulating the retail and wholesale industry, through the Travel Industry Council of Ontario. Its authority is based on provincial “Seller of Travel” legislation, and it oversees the industry-funded Compensation Fund that was established by that statute. Using a Power Point presentation, TICO counsel **Soussanna Karas** introduced attendees to TICO’s mandate and methodology in **“Introducing TICO – Ontario’s Travel Regulator”**.

The session followed by **“Diving into Travel Law”**. Adventure Travel in general is a branch of the Travel Industry that is fraught with risk for all concerned. Its subset, involving SCUBA diving, is even more so. **Larry Gore** talked of the organizational (e.g. PADI) and individual (e.g. with express waivers of liability) ways in which legal exposure can be reduced.

The next presentation focused on the Tourism, not the Travel, Industry. Originally a practicing lawyer, **Prof. Enrique Mota** now teaches at the *Universidad del Caribe* in Cancun. With his Power Point **“Tourism Regionalization ---A Way in Innovation to Regional Development”** he illustrated how extensive research contributes to tourism planning decisions by the various governments involved in Mexico’s principal tourist regions.

**Mark Pestronk** brought the day to a close with **“The War on Independent Contractors”**. He spoke to the difference between ICs and employees, some of the US government officials who are interested in defining that difference, their alleged motivation (to “protect” misclassified staff members who might be treated as ICs even though they are in fact employees), ways in which their definitions differ, and why all of this poses a threat to Travel retailers and their staff, many of whom want to be classified as ICs and do not want governments to intervene. As he usually does, Mark also offered possible solutions to the problem that he had illustrated.

An informal business session took place over lunch. Based on it, it is expected that the sixth annual Conference of IFTTA’s North American section will take place in Fort Lauderdale in March of 2017.