

CLEARED FOR TAKEOFF: AVIATION LITIGATION IN A POST-PANDEMIC WORLD

October 28–29, 2021
Ritz-Carlton Hotel
Washington, D.C.

Sponsored by

ABA Tort Trial & Insurance Practice Section
Aviation and Space Law Committee



CLE This conference is expected to qualify for 9.00 CLE credit hours (including .50 ethics hours) in 60-minute states and 10.80 credit hours (including 1.00 ethics hour) in 50-minute states

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**Tort Trial and Insurance
Practice Section**

GREETINGS

Dear Friends and Colleagues,

We invite you to join your peers, friends, and professional colleagues on October 28–29, 2021, at the Ritz-Carlton Hotel, 1150 22nd Street, N.W., in Washington, D.C. for two days of CLE covering current and developing issues in aviation and space litigation. This year's program, *Cleared for Takeoff: Aviation Litigation in a Post-Pandemic World* will feature key representatives and experts in aviation today, including representatives from insurers, the government, manufacturers, and successful law firms with dedicated aviation practices, all offering views on new and continuing challenges facing the aerospace industry, with an eye on litigation, insurance, and regulatory risks.

The program offers legal updates as well as practical tips and trial tactics. Topics include recent developments in aviation and space law, litigating the design defect case, use of visual evidence in court, remote jury research, and more. Due to popular demand, we are also bringing back a panel of federal judges who will provide their views from the bench on what practices work best in representing clients in court. Also, for the first time, we are including a panel to discuss diversity and inclusion in the legal profession. This year's agenda includes one hour of ethics CLE. Please note too, our Keynote Speaker this year is Mr. Gregory Bowles, Head of Government Affairs of Joby Aviation. Mr. Bowles will be speaking on the subject of The Present and Future of Electric Propulsion in Commercial Aviation.

Particularly after the pandemic-imposed restrictions of the past year, we hope that you will take advantage of this opportunity to meet in person to socialize, network, and discuss the pivotal issues currently facing the aerospace industry and our profession. We look forward to seeing you this fall in Washington, D.C.

Best regards,

Stephen A. Wood
Committee Chair, Aviation and Space Law Committee
Chicago, IL

PLANNING COMMITTEE

Stephen A. Wood, Committee Chair
Angela Savino, Committee Chair-Elect
Ricardo Martinez-Cid, Immediate Past Chair
Garrett Pendleton, Past Chair
Orla Brady, Past Chair
David Harrington, Past Chair
Dan Rose, Past Chair
Andrew Robb, Membership Vice-Chair
Alexandra Wisner, Technology Vice-Chair
Lisa Savitt
Lauren Haertlein
Roberta Miranda
Shalem Massey
Robert Gross
Gary Halbert
James Robinson
Josh Verde
Robert Williams

AGENDA

THURSDAY, OCTOBER 28, 2021

7:30 AM – 5:00 PM **REGISTRATION**

7:30 AM – 8:30 AM **CONTINENTAL BREAKFAST**

8:25 AM – 8:30 AM **WELCOMING REMARKS AND INTRODUCTIONS**

SPEAKERS: **Stephen Wood**, *Committee Chair, Chuhak & Tecson, P.C.*, Chicago, IL
John C. McMeekin II, *TIPS Section Chair, Rawle & Henderson LLP*, Philadelphia, PA

8:30 AM – 9:30 AM

RECENT DEVELOPMENTS IN AVIATION AND SPACE LAW

This panel discussion includes a review and analysis of recent aviation-related regulatory, statutory, and case law developments presented by plaintiff's counsel, defense counsel, and counsel for the United States.

SPEAKERS: **Irene Firippis**, *Department of Justice*, Washington, D.C.
Vincent Lesch, *Kreindler & Kreindler*, New York, NY
Jennifer Steeve, *Riley Safer Holmes and Cancila*, Irvine, CA

9:30 AM – 10:30 AM

EMERGING INSURANCE ISSUES FOR THE AVIATION AND AEROSPACE INDUSTRIES IN THE POST-COVID-19 ERA

In response to the first global pandemic in more than 100 years, governments world-wide ordered citizens to stay at home, shuttered entire industries, and scrambled to reinforce healthcare resources strained beyond capacity. Few, if any, industries were affected more than the commercial aviation and aerospace. Congress, through the CARES Act, sought to provide a measure of financial relief. In spite of the success in developing a vaccine and reducing infections dramatically, the impact on the industry will be long-lasting. A panel of insurance professionals will discuss the insurance risks facing the industry currently and in the future in the wake of this life-altering and historic event.

MODERATOR: **Angela Savino**, *Global Aerospace*, Parsippany, NJ

SPEAKERS: **E.W. Ted Green**, *AIG Aerospace*, Atlanta, GA
MC Ernst, *USAIG*, New York, NY
Sharon Holahan, *Global Aerospace*, Parsippany, NJ
Steven D. Allen, *QBE North America*, Atlanta, GA
James C. "Jacy" Watt, *Starr Adjustment Svcs., Inc.*, Atlanta, GA

10:30 AM – 10:45 AM **BREAK**

10:45 AM – 11:30 AM

EMERGING LITIGATION AND REGULATORY ISSUES FOR THE AVIATION AND AEROSPACE INDUSTRIES IN A POST-COVID-19 WORLD

The crisis brought on by the spread of the novel coronavirus, and its effect on the commercial aviation and aerospace industries, has produced a range of novel issues in terms of both litigation and regulatory action. The unprecedented economic upheaval will surely trigger prolonged commercial, employment, and other litigation aftershocks. The breadth and volume of claims may lead to new class and other mass action litigation. Massive government response to the crisis will likely lead to statutory and regulatory measures intended to limit the impact of the crisis on both individuals and businesses. Representatives from the aviation bar, industry, and government discuss these developments and how stakeholders are responding to them.

MODERATOR: **Christopher Odell**, *Arnold & Porter*, Houston, TX

SPEAKERS: **Kathryn Inman**, *Federal Aviation Administration*, Washington, D.C.
Doug Mullen, *Airlines for America*, Washington, D.C.
Tracy A. Brammeier, *Clifford Law Offices*, Chicago, IL



11:30 AM – 12:15 PM

ELIMINATION OF BIAS/DIVERSITY & INCLUSION IN THE LEGAL PROFESSION

To create diverse and inclusive workplaces, we need to understand that everyone has biases. Instead of pretending bias does not exist, we need to recognize it within ourselves and create structures that help to minimize its impacts. We also need to understand the experiences of members of marginalized communities, ways to have frank and open dialog, and inclusive practices to create and sustain diversity within the legal profession. This panel will demonstrate how bias exists within you, provide a basic understanding of panelists' experiences, and begin a conversation for you to continue back in your own offices.

MODERATOR: **Shalem Massey**, *Riley Safer Holmes and Cancila*, Los Angeles, CA

SPEAKERS: **Andrea Phillips**, *Rolls-Royce Corporation*, Fairfax Station, VA
Jamie Rodriguez, *Holland & Knight*, Washington, D.C.
Jennifer Russell, *Piiq Risk Partners*, Chicago, IL
Thomas Dale, *Rolls-Royce Corporation*, Reston, VA

12:15 PM – 1:30 PM

LUNCH

KEYNOTE SPEAKER: **Mr. Gregory Bowles**, *Head of Government Affairs, Joby Aviation*, Washington, D.C.

TOPIC: THE PRESENT AND FUTURE OF ELECTRIC PROPULSION IN COMMERCIAL AVIATION

1:30 PM – 2:30 PM

THE FALSE CLAIMS ACT: WHAT AVIATION PRACTITIONERS AND THEIR CLIENTS NEED TO KNOW ABOUT LITIGATING FALSE CLAIMS

The False Claims Act (FCA) is a complex federal statutory scheme that prosecutors describe as the government's primary anti-fraud weapon. It applies to any transaction with the federal government and allows the government to recoup losses arising from the knowing submission of a claim for payment that is deemed false in some material respect. Any party who contracts with the government or is the beneficiary of federal funds is potentially exposed to civil liability under this statute. The statute also permits these claims to be brought by "whistleblowers" who sue in the name of the government and receive a share of the recovery. And the consequences can be severe—treble damages plus statutory penalties for each false claim in addition to attorneys' fees and costs. The aerospace industry, in light of its extensive contractual dealings with the federal government, is particularly at risk under this law. Significant increases in FCA filings are forecast in the wake of massive increases in federal spending in response to the COVID-19 pandemic. A panel of experts will discuss the FCA and how to both prosecute and avoid these claims.

MODERATOR: **Stephen A. Wood**, *Chuhak & Tecson, P.C.*, Chicago, IL

SPEAKERS: **Allison Cendali**, *United States Department of Justice*, Washington, D.C.
Edward Arens, *Phillips & Cohen, LLP*, San Francisco, CA
Kenneth M. Reiss, *Northrop Grumman Corporation*, Falls Church, VA
Ryan M. Archer, *The Boeing Company*, Seattle, WA

2:30 PM – 3:15 PM

JURY RESEARCH IN THE ERA OF SOCIAL DISTANCING—REMOTE MOCK TRIALS, FOCUS GROUPS, AND MORE

The virtual practice of law has become a necessity. This includes jury research. Two seasoned experts in this field will discuss the practices and procedures to test case issues and assess case risk online. Attendees will learn how to use virtual jury research to determine where your strengths and weaknesses are and how to put forward your best-case scenario — thematically and visually. Tips for creating powerful visuals will be discussed and examples of effective graphics will be shared. A demonstration of online jury research will also be shown.

SPEAKERS: **Marygrace Schaeffer**, *DecisionQuest*, Minneapolis, MN
Gayle Rossi, *DecisionQuest*, New York, NY



3:15 PM – 3:30 PM

BREAK

3:30 PM – 4:30 PM

DAMAGES IN AIR CRASH LITIGATION: LATEST DEVELOPMENTS AND ANALYSIS OF THE KEY ISSUES

Litigation arising out of aviation accidents can present rather unique facts and legal issues because of their often horrific circumstances as well as the laws that have been adopted by countries to address liability and damages issues. The minutes or seconds before and after the accident typically draw great attention in discovery and at trial, not only because they can reveal much about the cause of an accident, but also because they inform the issue of damages. In the aviation context, for domestic flights, state law, which can vary significantly from one state to the next, controls damages issues. Choice of law in these instances can be outcome determinative. For international flights, the Montreal and Warsaw Conventions govern damages. This panel will take a look at recent decisions highlighting some of the more significant and contentious damages issues in air crash litigation.

MODERATOR: **Nicole Wolfe Stout**, *Strawinski & Stout*, Atlanta, GA

SPEAKERS: **Allison Surcouf**, *Condon & Forsyth*, New York, NY
Andrew Robb, *Robb & Robb*, Kansas City, MO
Megan Bennett, *Kreindler & Kreindler*, New York, NY

4:30 PM – 5:30 PM

LITIGATING THE DESIGN DEFECT CASE—PRETRIAL STRATEGY

While the law on general and specific personal jurisdiction limit the jurisdictions in which corporations may be sued, there remains a wide field of tactical and strategic, pre-trial decision-making addressing how to prosecute and defend product liability cases. From the plaintiff's viewpoint, certain states' product liability and consumer protection statutes, Uniform Commercial Code, or measures of damages available may make certain jurisdictions more attractive. From a defendant's perspective, there may be great value in a state's product liability structure such as a statute of repose, comparative negligence structure, or even favorable rules on offers of judgment or settlement. This panel will discuss many of the issues that must be researched early and then, where appropriate, pursued vigorously as the parties to a product liability lawsuit attempt to shape the parameters of the lawsuit and eventual trial.

MODERATOR: **Gary Halbert**, *Holland & Knight*, Washington, D.C.

SPEAKERS: **Sara Anderson Frey**, *Gordon Rees Scully Mansukhani*, Philadelphia, PA
John G. Sams, *Bell Helicopter Textron*, Fort Worth, TX
Jeanne O'Grady, *Speiser Krause*, Rye Brook, NY
Tracy L. Morris, *AIG Aerospace*, Atlanta, GA

5:30 PM – 6:30 PM

RECEPTION, RITZ-CARLTON

FRIDAY, OCTOBER 29, 2021

7:00 AM – 8:00 AM

FUN RUN

8:00 AM – 9:00 AM

CONTINENTAL BREAKFAST

9:00 AM – 10:00 AM

VIEWS FROM THE BENCH: A JUDGES' PANEL

Federal trial and appellate judges share their insights and experiences presiding over aviation and other cases, including their advice on litigation dos and don'ts. We will hear directly from members of the judiciary on how practitioners can more effectively represent their clients' interests. In addition, apart from offering advice on how to be better advocates, this panel will explore the judges' opinions on how lawyers can better serve both their profession and the larger society.

MODERATOR: **Lisa Savitt**, *The Axelrod Firm, P.C.*, Washington, D.C.



SPEAKERS: **The Honorable Barbara A. McAuliffe**, *United States District Court for the Eastern District of California, Fresno, CA*
The Honorable Matthew W. Brann, *United States District Court for the Middle District of Pennsylvania, Harrisburg, PA*
The Honorable Donald L. Cabell, *United States District Court for the District of Massachusetts, Boston, MA*
The Honorable William V. Gallo, *United States District Court for the Southern District of California, San Diego, CA*

10:00 AM – 11:00 AM

VISUAL EVIDENCE IN THE COURTROOM: BEYOND EASELS, FLIPCHARTS, AND POSTER BOARDS

A trial lawyer's ultimate objective is to persuade with facts and argument regarding the inferences to be drawn from those facts. The persuasive effect of the evidence can be greatly enhanced when presented visually. Apart from the use of available photographic or video evidence, there is much that trial lawyers can do to organize, describe, and depict facts so as to maximize their persuasive and dramatic effect. A panel of trial lawyers will discuss techniques for presenting evidence visually so as to leverage the art, science, and technology for maximum impact.

MODERATOR: **Dan Rose**, *Kreindler & Kreindler, New York, NY*

SPEAKERS: **Lea P. Bucciero**, *Podhurst Orsek PA, Miami, FL*
Christopher Hickey, *Fitzpatrick & Hunt, Pagano, Aubert, LLP, Los Angeles, CA*
Loretto Kennedy, *Chuhak & Tecson, P.C., Chicago, IL*

11:00 AM – 11:15 AM

BREAK

11:15 AM – 12:00 PM

THE ETHICS OF REMOTE LITIGATION

Remote litigation and alternative dispute resolution were emerging as an alternative to in person proceedings even before the onset of the global pandemic and consequent court closures. Now, remote litigation has become an accepted, even preferred method in some jurisdictions, even where in-person activity is returning. Remote depositions are becoming more common and accepted among practitioners and reporters. Remote mediation is becoming a standard offering of most ADR organizations. The conduct of litigation or ADR where the attorneys, witnesses, judges, neutrals, and parties are not co-located raises ethical considerations that were largely non-existent prior to this shift in practice. Too, the ethics of attorneys practicing remotely in jurisdictions where they are not licensed raises added concerns. The panel will discuss the ethical pitfalls and best practices.

MODERATOR: **Keith Maynard**, *Spohrer & Dodd, Jacksonville, FL*

SPEAKERS: **Barry Benson**, *United States Department of Justice, Washington, D.C.*
Kristina Infante, *Podhurst Orseck, Miami, FL*
Sara K. Kornbluh, *Pratt & Whitney, East Hartford, CT*

12:00 PM – 12:15 PM

LAW STUDENT WRITING COMPETITION WINNER

Stephen Wood, *Committee Chair, Chuhak & Tecson, P.C., Chicago, IL*
Angela Savino, *Committee Chair-Elect, Global Aerospace, Parsippany, NJ*
Roberta Miranda, *Marsh, New York, NY*

12:15 PM – 12:30 PM

CLOSING REMARKS AND RAFFLE DRAWING

Stephen Wood, *Committee Chair, Chuhak & Tecson, P.C., Chicago, IL*
Angela Savino, *Committee Chair-Elect, Global Aerospace, Parsippany, NJ*

REGISTRATION FORM

**ABA TORT TRIAL & INSURANCE PRACTICE SECTION (TIPS)
CLEARED FOR TAKEOFF: AVIATION LITIGATION IN A POST-PANDEMIC WORLD**

The Ritz-Carlton, Washington, D.C. • Washington, D.C. • October 28-29, 2021

REGISTRATION DEADLINE: OCTOBER 19, 2021

1. REGISTRANT: *(Please print or type one form per person; photocopy this form for additional registrants)*

LAST NAME FIRST NAME MI

NAME AS YOU WISH IT TO APPEAR ON YOUR BADGE

FIRM/COMPANY WHAT STATE(S) ARE YOU LICENSED IN?

ADDRESS

CITY STATE ZIP

(AREA CODE) BUSINESS TELEPHONE

E-MAIL ADDRESS

Are you attending your first TIPS Conference? Yes No

I am a member of the ABA and wish to join the Tort Trial & Insurance Practice Section.

I have enclosed a separate check for \$65 made payable to the American Bar Association.

2. REGISTRATION FEES:

	Price	QTY	Total
TIPS Member	\$700	_____	_____
ABA Member	\$785	_____	_____
General Attendee	\$920	_____	_____
Government Employee	\$425	_____	_____
Law Student	\$50	_____	_____

3. MATERIALS

I will not be attending the meeting and wish to order the program materials in PDF format for \$150.

4. TOTAL PAYMENT

TOTAL _____

5. PAYMENT INFORMATION

Check (made payable to the ABA) American Express MasterCard VISA

CREDIT CARD NUMBER EXPIRATION DATE

SIGNATURE

TWO WAYS TO REGISTER

1. ONLINE:
ambar.org/tips

2. MAIL:
American Bar Association
Tort Trial & Insurance Practice Section
**CLEARED FOR TAKEOFF: AVIATION LITIGATION IN A
POST-PANDEMIC WORLD**
Attn: Service Center/Meeting Event Code: IL2110AVI
321 North Clark Street, Floor 19
Chicago, IL 60654

GENERAL INFORMATION

Hotel Deadline: Wednesday, October 6, 2021

Registration Deadline: Tuesday, October 19, 2021

ADVANCE REGISTRATION

Visit the TIPS website to register at www.americanbar.org/tips or complete the registration form included in this brochure for the *Cleared for Takeoff: Aviation Litigation in a Post-Pandemic World* to be held at the Ritz-Carlton Hotel, Washington D.C.

The registration fee includes admission to the program, course materials, continental breakfast, breaks, and reception. If you wish to have your name appear on the pre-registration list distributed at the program, all registration forms must be received no later than the registration deadline of **October 19, 2021**. Registration reservations will be confirmed in writing within 10 business days.

ON-SITE REGISTRATION

On-site registrations will be accepted. Call Danielle Daly at 312.988.5708 or email danielle.daly@americanbar.org 36 hours prior to the program to confirm that space is available. On-site registrants must pay the program fee by credit card or check made payable to the American Bar Association. A \$25 fee will be charged to individuals registering on-site.

CANCELLATION POLICY

No registration fee refunds will be granted for cancellations received after **October 19, 2021**. To receive a refund (less a \$50 administrative fee), the ABA must receive written cancellation by **October 19, 2021**. Registrants who are unable to attend may send a substitute or will receive course materials in lieu of a refund.

HOTEL INFORMATION

For Reservations call: **202.835.0500**

A limited number of rooms have been blocked for program registrants of the 21 TIPS Aviation Conference at the Ritz-Carlton Hotel Washington, D.C., 1150 22nd St. Washington, D.C. for a hotel room rate of \$380.00 single/double plus 14.8% tax. For reservations, please call the hotel directly at **202.835.0500**. The room block will be held until exhausted or until **Wednesday, October 6, 2021 at 5:00 p.m. (CST)**. After the meeting specified hotel deadline, reservations will be confirmed based on availability. Please refer to the ABA Tort, Trial & Insurance Practice Section Aviation Litigation Conference, when calling the hotel to make reservations. Hotel check-in is 3:00 p.m. and checkout is 12:00 p.m. All reservations must be guaranteed by credit card or deposit check for one night's room and tax. Individuals with guaranteed reservations must cancel their reservations 48 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

AIRLINE INFORMATION

ABA NEGOTIATED AIRFARE DISCOUNTS – AVAILABLE ONLINE!

With ABA Egencia*, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination.

Reservations with ABA Egencia can be made online or offline. For offline reservations, call (877) 833-6285. ABA Egencia is available online via ABA Travel Services*. ABA airfare discounts on some carriers may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent.

ABA Members can take advantage of exclusive airline discounts.

CLE CREDIT

In your state, visit https://www.americanbar.org/cle/mandatory_cle.html or contact Danielle Daly at danielle.daly@americanbar.org

The ABA will seek 9 hours of CLE credit in 60-minute states, and 10.8 hours of CLE credit for this program in 50-minute states including 1 hour of Ethics credit in 60-minute states and 1.2 hours of Ethics credit in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit the program website at ambar.org/tips for program CLE details or visit www.americanbar.org/mcle for general information on CLE at the ABA.

*Florida Bar regulators have stated that attorneys will not receive Florida credit for this ABA program, even if they self-apply.

MEMBERSHIP INFORMATION

For more information about membership in the ABA or the Tort Trial & Insurance Practice Section (TIPS), please visit us online at https://www.americanbar.org/groups/tort_trial_insurance_practice/membership/ or call 800. 285.2221. Membership in TIPS includes three industry-leading periodicals, discounts of up to 20% on many TIPS CLE programs, and other career and practice-enhancing benefits. Join TIPS today!

PERSONS WITH DISABILITIES

Services for persons with disabilities are available. If special arrangements are required for an individual to attend this program, please notify Danielle Daly at either 312.988.5708 or at danielle.daly@americanbar.org promptly. Reasonable notice is requested.

GET CONNECTED WITH TIPS

Information on this and other TIPS CLE programs is available online at ambar.org/tips. Visit us and get connected!

SCHOLARSHIPS AVAILABLE!

ATTENTION TIPS MEMBERS: Scholarships are available for all Section activities, courtesy of the TIPS Scholarship Fund. The Fund, established with the International Risk Management Institute ("IRMI") and supported by subscriptions to the IRMI CGL Reporter, is intended to increase membership involvement in TIPS' activities by minorities, solo and small firm practitioners, government attorneys, women, and young lawyers by providing financial support to those who would otherwise be unable to participate. To request an application or receive additional information, visit https://www.americanbar.org/groups/tort_trial_insurance_practice/membership/ or contact Norma Compos at Norma.Compos@americanbar.org for more information and an application.

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United States Department
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Mr. Gregory Bowles

Head of Government Affairs,
Joby Aviation
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Tracy A. Brammeier

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The Honorable Matthew W. Brann

United States District Court
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Harrisburg, PA

Lea P. Bucciero

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The Honorable**Barbara A. McAuliffe**

United States District Court
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