



# Join us at the 22nd Annual National Institute on Aviation Litigation

June 1, 2016  
The University Club of New York  
One West 54th Street  
New York, NY 10019





# National Institute on Aviation Litigation



## KEYNOTE

*The Challenges of Continuing Safety Improvement*

### **The Honorable Christopher A. Hart**

Chairman of the National Transportation Safety Board



## ETHICS SESSION

*Ethical Issues Surrounding the Preparation and Testimony of Witnesses During an Aviation Trial*

### **Professor Stephen A. Saltzburg**

Wallace and Beverley Woodbury University Professor of Law; Co-Director of the Litigation and Dispute Resolution Program The George Washington University School of Law

## Program Description

During this one day program, our distinguished faculty will highlight current developments in aviation law including:

- Birds, pets, lasers, stowaways, and other hot topics
- Recent developments in case law in aviation and space law
- Defenses available in war zone tort actions
- Ethics—The preparation and testimony of witnesses during an aviation trial
- Improving aviation safety
- Defining the boundaries of federal preemption in aviation litigation
- Handling Air Traffic Control issues and aviation mishaps in air crash cases
- Carrier liability surrounding the failure to divert due to medical circumstances
- Liability issues surrounding foreign maintenance of American aircraft



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Section of Litigation—Mass Torts Aviation Subcommittee

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## **Professor Stephen A. Saltzburg**

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## **B. Keith Williams**

Founding Member  
*Lannon & Williams*  
Lebanon, TN

# Agenda

## Wednesday, June 1, 2016

**8:00 – 8:25 a.m. Registration/Continental Breakfast**

**8:25 – 8:30 a.m. Opening Remarks**

**Program Moderators:** Christopher R. Christensen, Timothy S. Tomasik

**8:30 – 9:30 a.m. Birds, Pets, Lasers, Stowaways, and Other Hot Topics in Aviation**

This panel will provide an overview of emerging security issues for airlines, airports, manufacturers, and governments with respect to bird and animal strikes, laser strikes, and wheel well stowaways. Each pose the danger of catastrophic mass torts.

- Bird strikes are the second-leading cause of death in aviation, with more than 400 deaths globally. Learn about required airport wildlife management plans and mitigation techniques, and how airports and the government can address liability risks.
- Flight crews are increasingly targets of inexpensive, and increasingly powerful hand-held green lasers. More than 7,000 laser strikes were reported to the FAA in 2015. This panel will discuss efforts by prosecutors pursuing criminal charges, and liability issues arising from laser strikes.
- Pigs, snakes and turkeys are just some of the pets, or emotional support animals, that airlines are confronting. The safety of other passengers, who may be the victims of physical injury of property damage, present liability issues for airports and airlines.
- The number of wheel well stowaway incidents are rising which poses security risks for airports and airlines, and it is not inconceivable that the stowaway with destructive intent could cause a catastrophic mass tort.

**Speakers:** D. Timothy Dazé, Karen Escobar, Robert E. Hagemann, Jeremy Ross

**Moderator:** Scott A. Brooksby

**9:30 – 10:30 a.m. Recent Developments in Aviation and Space Law**

A practical update on the most important recent decisions shaping Aviation and Space litigation.

**Speakers:** Vincent C. Lesch III, Erika Maurice

**10:30 – 10:40 a.m. Break**

**10:40 – 11:40 a.m. Defending Military Contractors Against War Zone Tort Actions**

This session will address the array of defenses available in combat-related tort claims, including the Combat Activities Defense, the Government Contractor Defense, the Political Question Doctrine and the States Secrets Privilege.

**Speakers:** Garth Aubert, Catherine Slavin

**Moderator:** Justin T. Green

# Agenda (Cont'd.)

11:40 – 12:40 p.m.

## **Ethical Issues Surrounding the Preparation and Testimony of Witnesses During an Aviation Trial (Part II)**

Tune in for Professor Saltzburg's continuation from his 2014 presentation on addressing a number of fascinating vignettes dealing with clients, parties, experts, and lay witnesses, all with a great visual program.

**Speaker:** Professor Stephen A. Saltzburg

12:40 – 1:00 p.m.

## **Lunch Break**

1:00 – 1:45 p.m.

## **KEYNOTE ADDRESS**

### **A Challenge of Continuing Safety Improvement**

Experience in many industries has demonstrated that as safety continues to improve, and as the "low hanging fruits" have been addressed, as is the case in US commercial aviation, continuing to improve safety becomes increasingly difficult, and requires more "out of the box" thinking. Examples of previous "out of the box" thinking on the continuing aviation safety improvement journey will be discussed, and a proposal will be presented to help enable further safety improvement, namely, the concept of no-fault compensation — i.e., without litigation — for victims of domestic airline crashes. This concept is not new, but evolving circumstances are more favorable to its adoption with respect to commercial aviation accidents than ever before.

**Speaker:** Honorable Christopher A. Hart, Chairman, NTSB

1:45 – 2:45 p.m.

## **Defining the Boundaries of Preemption in Aviation from the Wright Brothers to 3D Printing to Next Generation**

There is now a large body of case law holding various aspects of flight operations, manufacturing and passenger services to be preempted. This panel discussion will set forth their views on where the boundaries of preemption currently are and where they see those boundaries in the future.

**Speakers:** Jeffrey T. Ellis, Douglas A. Latta

**Moderator:** Joseph P. Taccetta

2:45 – 2:55 p.m.

## **Break**

2:55 – 3:55 p.m.

## **Who Controls You? Handling ATC Issues and Aviation Mishaps in Air Crash Cases**

The panel will discuss various ATC Regulations and issues regarding the control of air space and their role/impact on litigation including perspectives from the plaintiff, defense, and Department of Justice.

**Speakers:** Barry Benson, Michael S. Krzak, Steven M. Sandler

**Moderator:** B. Keith Williams

# Agenda (Cont'd.)

**3:55 – 4:55 p.m.**

## **The Heart Attack That Caused Your Missed Connection: Carrier Liability for Medical Diversions**

This panel will address carrier liability surrounding the failure to divert due to medical circumstances. Panelists will present an overview of liability from the defense and plaintiff perspective, as well as a viewpoint from the cockpit during in-flight medical emergencies.

**Speakers:** Abram I. Bohrer, Captain Robert Shore

**Moderator:** John Maggio

**4:55 – 5:55 p.m.**

## **Flag of Convenience: The Foreign Maintenance of United States Commercial Aircraft – Ignorance Is Not Bliss**

U.S. airlines have shifted major maintenance work on their aircraft to foreign locations, including El Salvador, Mexico, and China. These locations do not fall under the jurisdiction of the F.A.A., and very few mechanics there are certified by the F.A.A. This panel will explore and discuss the legal complexities created by this state of the industry, ranging from fundamental airworthiness considerations, the scope and intent of Federal Aviation Regulations, international treaties, to potential liability for the carriers, maintainers, and other entities.

**Speakers:** Hon. John J. Goglia, Michael B. Slade, Jason L. Vincent

**Moderator:** Nelson Camacho

**5:55 – 6:00 p.m.**

## **Closing Remarks**

**6:00 – 7:00 p.m.**

## **Reception**



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