



# Air & Transportation Law Reporter

International  
Air & Transportation  
Safety Bar  
Association



ISSUE  
**SUMMER**  
2021

# Past President's Note

by  
Marc Warren

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IATSBA Membership

Application

This is my last President's column. I sign off with a report that our Association is in great shape and good hands. We are financially sound, have more than one hundred members, and continue to offer exciting legal education events. David Tochen is taking the helm as President, and we are fortunate to have him.

David has been a good friend to many of us for years and we admire his outstanding career in public service and the private sector. Before joining the Fox Rothschild law firm, David was NTSB General Counsel, Deputy Chief Counsel at the U.S. DOT Federal Motor Carrier Safety Administration, and Deputy Assistant General Counsel at U.S. DOT. He was honored by the Federal Bar Association as Transportation Lawyer of the Year. David is very familiar with IATSBA governance and served as Treasurer for the past two years. He will lead an outstanding group of officers anchored by Jamie Rodriguez, who will remain as executive vice president.

IATSBA has held its ground during the pandemic. While many

other Bar and social organizations have taken a dive in membership, we have actually added members. We are planning an in-person CLE conference in November, featuring a return to Pensacola Beach. And we are poised to rally from the past year with renewed vigor and a continuing commitment to professionalism, scholarship, and advocacy.

It has been a privilege to serve as your President and I am proud to have been associated with our Association. I will always have fond memories of presenting the Nall Award to Peggy Gilligan at the National Naval Aviation Museum, watching the Blue Angels from the tarmac at NAS Pensacola, playing with the "drone gun" at the Washington conference, and listening to a lunchtime presentation by the Federal Air Surgeon at the Army and Navy Club on Farragut Square. I owe a debt of gratitude to many of you and, in particular, offer my thanks to Tony and Nancy Jobe, Jamie Rodriguez, Vince Lesch, John Yodice, David Tochen, Greg Winton, and Greg Reigel. Stay safe and healthy, and I look forward to seeing everyone in Sandestin, Florida!



**MARC WARREN** is a partner and co-chair of the Aviation and Aerospace practice group at Jenner & Block, LLP. Prior to joining Jenner & Block, Marc chaired the Aviation practice group at Crowell & Moring, LLP. He served as acting chief counsel, deputy chief counsel, and deputy chief counsel for operations of the Federal Aviation Administration (FAA). Before joining the FAA, he retired after 26 years of service in U.S. Army Judge Advocate General's Corps.

# President's Message

by  
David Tochen

I am honored to serve as your President and look forward to helping carry out IATSBA's mission and activities. As we approach the Association's fourth decade of operation, I am excited about our role in continuing to foster collegiality and professionalism in the practice of aviation/aerospace and transportation law.

Our deepest thanks to Marc Warren, who provided superb leadership as President for nearly three years. Marc worked tirelessly on behalf of the Association and its members and has capably piloted the Association during these fraught months of the pandemic. We, of course, look forward to Marc's continuation of service to the Association as a Board Member.

I want to give thanks as well to John Yodice, who is stepping down as IATSBA Secretary. John is a giant in the field of aviation law, and we have been so fortunate that he has served us so capably for so many years. John was a founding member of our Association and was the recipient of the IATSBA Lifetime Achievement Award in 2016. We wish John the best in all his future activities.

Additional changes at the National Officer level -- Vince Lesch is now serving as the IATSBA Secretary. (Replacing Vince as Membership Director will be Matt Robinson, who has been doing a fantastic job in recruiting new IATSBA members). Ray Speciale is serving as IATSBA Treasurer, a role he so capably performed before my service as Treasurer.

We also acknowledge the excellent service and contributions of two Regional Vice Presidents who are stepping down: Ernest Anderson (Great Lakes Region)

and John Van Geffen (Western Pacific). Ernie and John, thank you both. I'm also pleased to announce that Joe Vacek is now serving as the Great Lakes Regional Vice President and Ben Klein is serving as the Western Pacific Regional Vice President. Welcome Joe and Ben.

As we return from COVID isolation/hibernation, we are anxious to resume in-person regional events for our members. If you have any ideas or suggestions for an event please let your Regional Vice President know.

We also owe a debt of gratitude to Greg Reigel, Editor of our top-notch Air & Transportation Law Reporter. Compiling each issue of the Reporter involves a ton of work and Greg does an outstanding job in ensuring publication of informative and high-quality articles. I particularly appeal to our members to contribute articles for publication and continue to maintain the high caliber content of the Reporter.

We are excited about our upcoming live/non-virtual Conference in Sandestin, Florida, October 31- November 3, 2021. Tony and Nancy Jobe and Greg Winton have done excellent work in planning for this long-anticipated event. We are in the early stages of planning for the conference and identifying speakers and sponsors. If you have any suggestions for speakers, please let me or any other IATSBA Officer know. Please stay tuned for further news.

I welcome your thoughts, ideas, suggestions, criticisms, etc. on any IATSBA matter. Please do not hesitate to contact me at [dtochen@foxrothechild.com](mailto:dtochen@foxrothechild.com) or [dtochen@aol.com](mailto:dtochen@aol.com) or 301-221-7615 (cell).

Please stay safe!



**DAVID TOCHEN** is Counsel in the Washington, DC office of Fox Rothschild, LLP. He advises clients on a broad array of transportation issues, including aviation matters, autonomous vehicles, commercial motor vehicle safety, and pipeline safety. Prior to entering private practice, he held several highranking posts in federal agencies, including General Counsel of the National Transportation Safety Board (2011-2017).

# Editor's Column

by  
Greg Reigel



**GREG REIGEL** is a partner with the law firm of Shackelford, Bowen, McKinley and Norton, LLP in Dallas, Texas. He has more than two decades of experience working with airlines, charter companies, fixed base operators, airports, repair stations, pilots, mechanics, and other aviation businesses in aircraft purchase and sale transactions, regulatory compliance including hazmat and drug and alcohol testing, contract negotiation, airport grant assurances, airport leasing, aircraft related agreements, wet leasing, dry leasing, FAA certificate and civil penalty actions and general aviation and business law matters. Greg also has extensive experience teaching the next generation of aviation and legal professionals including in such courses as aviation law, aviation transactions, aviation security, business law and trial advocacy. Greg holds a commercial pilot certificate (single-engine land, single-sea and multi-engine land) with an instrument rating.

As I write this column, I am once again preparing for my annual pilgrimage to the Mecca of general aviation in Oshkosh, Wisconsin: EAA's Airventure. Since the 2020 Airventure was cancelled due to the COVID-19 pandemic, this year's event is anticipated more than usual. The trip will provide me with my first opportunity in a long time (over a year) to immerse myself once again in all things aviation; the latest and greatest, as well as the timeless and classic. And, of course, it never hurts to fan the flames of my passion for aviation.

EAA's Airventure will also be a chance to reconnect with clients, prospective clients, colleagues, and friends, and also with the industry that we aviation attorneys serve. Staying connected is important. The client and prospective client connection is vital: we represent clients, and we need to pay the bills. However, the connections with colleagues are equally as critical. Maintaining a network of other aviation attorneys and industry experts provides a ready base of support from which we can draw as needed for the work we perform for our clients. It will be nice to do so in person, rather than via Zoom, Teams, and other virtual venues.

This year's Airventure will definitely offer a chance to re-charge

my aviation battery. But before I go, this issue of the Air & Transportation Law Reporter needs to go to press!

In this issue of the Reporter, our Past-President Marc Warren provides his farewell column, and our new President David Tochen writes his first President's column. John David has also written an article updating us on the actions of the 117th Congress impacting aviation.

You will also find information about our upcoming conference in Sandestin, Florida October 31-November 3, 2021. As always, this will be a "can't miss" event with interesting speakers and great content.

This edition of the Reporter includes a new "Meet the Board" column where we spotlight our IATSB Board members. In this column we feature Great Lakes Regional Vice President Joe Vacek. Finally, I have included an article discussing what pilots and aviation employers need to know about COVID-19 vaccines.

I hope you enjoy this issue of the Air & Transportation Law Reporter. As always, I welcome your comments, input and contributions. I look forward to seeing many of you in Sandestin, Florida in the fall.

# Meet the Board

## JOSEPH J. VACEK, J.D. REGIONAL VICE PRESIDENT, GREAT LAKES

Joseph J. Vacek, J.D. is an associate professor at UNDAerospace, and has been an IATSBA member for over 10 years. He teaches classes at the undergraduate, graduate, and law school levels. Vacek's primary research relates to UAS (drones). He holds FAA commercial pilot and flight instructor certificates, as well as a remote pilot certificate. His research in the UAS technical field has resulted in a patent for a counter UAS system, with an additional related patent pending. He is noted as a UAS legal expert and has presented his work to the United States Federal Courts System, the Ninth Circuit Court of Appeals, the Eighth Circuit Court of Appeals, the Knowledge Foundation, the American

Bar Association, IATSBA, and several regional, state, and local bar associations. Vacek serves as an ad-hoc reviewer for several national and international journals in the areas of aviation and UAS law, as well. He lives with his family in the beautiful, rugged state of North Dakota, and enjoys working and recreating outdoors there.



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# Actions of the 117th Congress

## Addressing Aviation

by:  
David Tochen

In the Winter 2020 issue of the Air & Transportation Law Reporter, I provided a summary of Congressional actions related to aviation during the both sessions of the previous Congress (the 116th Congress). I also promised to continue to offer periodic summaries in the Reporter that briefly describe recent legislative proposals and their status, as well as related Congressional committee activities, and House and Senate floor actions, if any, related to these proposals. I am pleased to offer the following summary of Congressional activities related to transportation since the current Congress commenced its work on January 3, 2021.

Before addressing these current legislative action, I also want to point out that one key piece of aviation legislation described in the previous Reporter – the Aircraft Certification Reform and Accountability Act (H.R. 8408) – was subsequently enacted in the closing days of the 116th Congress. The Aircraft Certification, Safety, and Accountability Act, division V, title I of the Consolidated Appropriations Act, 2021, Pub. L. 116-260 (December 27, 2020), also enacts several provisions that were not included in H.R. 8408. These include provisions requiring the Federal Aviation Administration (FAA) to: “enter into an agreement with the Transportation Research Board [of the National Academies of Science] for the purposes of developing an annual report identifying, categorizing, and analyzing emerging safety trends in air transportation” (section 132);

and “enter into an agreement with an appropriate Federally-funded research and development center to review, develop, and submit a report” that, among other things, analyzes and assesses “[w]hether or not aviation safety would improve as the result of institution of a fixed time beyond which a type certificate may not be amended” (section 136).

### Proposals

1. Kobe Bryant & Gianna Bryant Helicopter Safety Act, S. 36, introduced 1/25/21, Sen. Feinstein (D-CA). [Note: An identical bill, H.R. 486, was introduced in the House of Representatives on the same date by Rep. Sherman (D-CA)].

These bills would:

- direct the Federal Aviation Administration (FAA) to issue regulations to implement National Transportation Safety Board recommendations for crash-resistant systems with respect to existing and new U.S.-registered turbine-powered rotorcraft (e.g., a helicopter) certificated for six or more passenger seats;

- require the FAA to mandate that all U.S.-registered turbine-powered rotorcraft certificated for six or more passenger seats to be equipped with a flight data recorder, a cockpit voice recorder, and a terrain awareness and warning system;

# Congress Addresses Aviation

...continued

- allow the FAA to exempt any civilian helicopter from one or more of the equipment requirements.

2. Notice to Airmen Improvement Act, H.R. 1262, introduced 2/23/21, Rep. Stauber (R-MN). [Note: this bill is identical to a bill, H.R. 1775, as reported by the Committee on Transportation and Infrastructure on 5/16/19 (H. Rpt. 116-67) and passed by the House of Representatives on 10/29/19].

This bill would establish a Federal Aviation Administration (FAA) taskforce to determine what improvements should be made to the Notice to Airmen (NOTAM) system, which alerts pilots of potential hazards along a flight route or at a location that could affect the safety of the flight.

3. Healthy Flights Act of 2021, H.R. 2770, introduced 4/22/21, Rep. DeFazio (D-OR). [Note: this bill is substantially similar to a bill, H.R. 7867, introduced by Rep. DeFazio on 7/30/20].

The bill would create a set of uniform requirements during pandemics to help keep passengers, airline workers, and airport workers healthy by minimizing the transmission of viruses. Additionally, it would prepare U.S. aviation stakeholders for any future public health emergencies like pandemics or epidemics to develop a national preparedness plan that would define the aviation system's response to outbreaks.

The bill, among other things, would:

- clarify the FAA's authority to impose, by emergency order or otherwise, air travel requirements during public health emergencies and require passengers to wear masks onboard aircraft and within airports;

- require airline passengers to wear a mask or protective face covering while on board an airplane during national emergencies pertaining to a respiratory disease;

- requires any individual within the indoor public space of a U.S. airport to wear a mask or protective face covering during national emergencies pertaining to a respiratory disease.

- requires the FAA to initiate a rulemaking to amend the requirements for airline passenger briefings held during a national emergency pertaining to a respiratory disease to include: (1) an announcement of any new passenger requirements, such as a mask or protective face covering requirement; (2) a demonstration of proper compliance with such new requirements; and (3) an announcement of any potential fines for non-compliance, such as fines for disobeying a crew member's instruction;

- require airlines to provide necessary personal protective equipment to airline employees and FAA employees;

- ensure aircraft and enclosed facilities are cleaned, disinfected, and sanitized frequently in accordance

# Congress Addresses Aviation

...continued

with Centers for Disease Control and Prevention guidance;

- ensure cleaning workers are provided masks or protective face coverings and gloves;

- establish guidelines for notifying employees who may have come into physical contact with another employee diagnosed with the infectious disease;

- require the U.S. Secretary of Transportation to develop a National Aviation Preparedness Plan to respond to epidemics or pandemics, create an FAA Center of Excellence on Infectious Disease Response and Prevention in Aviation;

- call for a study on how infectious diseases are transmitted in airplane cabins.

4. Civil Aviation Security and Safety Act of 2021, H.R. 1462, introduced 3/1/21, Rep. Lynch (D-MA).

The bill would require:

- the FAA Administrator, in consultation with enumerated components of four Federal agencies (the Departments of Justice, Homeland Security, Treasury, and Transportation) and the National Transportation Safety Board, to “conduct a comprehensive review of the process under which the [FAA] reviews and approves aircraft registration applications and dealer Certifications”;

- the owner of an aircraft

submitting an application pursuant to 49 U.S.C. § 44102 to include with the application their name, address, date of birth, driver’s license or pilot’s license (or both if applicable), and the applicant’s photo (or in the case of an entity, applicant photos for each individual that owns more than 25 percent of the aircraft and the name, physical address, State of residence, and taxpayer identification number for each entity that owns more than 25 percent of the aircraft);

- the FAA to issue regulations “as are necessary to increase the fees for registration of an aircraft under [49 U.S.C. § 44103] to a level sufficient to cover the costs of efforts of the [agency] to collect and verify applicant data and to cover the costs of inflation”;

- require the FAA to establish an Aircraft Registry Task Force “to examine national security, law enforcement, and public safety issues related to civil aircraft registration and developing solutions to mitigate security and safety risks and increase inter-agency cooperation.”

5. Drone Integration and Zoning Act, S. 600, introduced 3/4/21, Sen. Lee (R-UT). [Note: this bill is identical to a bill introduced in the 116th Congress by Sen. Lee, the Drone Integration and Zoning Act of 2019, S. 2607, on 10/16/19].

The bill would protect the authority of the states to issue time, place, and manner restrictions, while not unreasonably prohibiting access



# Congress Addresses Aviation

...continued

to the federal “navigable airspace”; and would protect the local zoning authority of state, local, or tribal governments to designate commercial drone take-off and landing zones, while still allowing for interstate commerce.

Specifically, the bill would require the FAA to:

- prescribe regulations or standards related to unmanned aircraft systems.
- designate the area between 200 feet and 400 feet above ground level for use of civil unmanned aircraft systems;
- authorize, only with a property owner’s permission, the operation of a civil unmanned aircraft in the immediate reaches of airspace above private property;
- preserve state, local, and tribal authority to issue certain reasonable restrictions on the operation of a civil unmanned aircraft system within 200 feet of the ground or a structure;
- establish a process for the designation of routes above 200 feet of the ground as authorized commercial routes.

6. American Security Drone Act of 2021, S. 73, introduced 1/27/21, Sen. Scott (R-FL), reported by the Committee on Homeland Security and Governmental Affairs, 5/12/21.

The bill would, subject to certain exceptions, ban the procurement or

use by the Federal government of unmanned aircraft systems (UAS) that are manufactured or assembled by certain entities, including entities subject to influence or control by China.

The bill would also require:

- all executive agencies to account for existing inventories of UAS manufactured or assembled by a foreign entity in their personal property accounting systems and inventory and track data related to UAS manufactured or assembled by a foreign entity;
- the Federal Acquisition Regulatory Council to issue regulations or guidance to implement the bill’s requirements pertaining to federal contracts;
- the Office of Management and Budget to (1) establish a government-wide policy for the procurement of UAS, taking into account information security; and (2) contract with a federally funded research and development center to study certain UAS-related issues.

7. Aviation Manufacturing Jobs Protection Act of 2021, H.R. 553, introduced 1/28/21, Rep. Larsen (D-WA).

This bill would make available payroll assistance to eligible aviation employers impacted by the COVID-19 pandemic.

The bill specifically provides that:

- aviation employers

# Congress Addresses Aviation

...continued

demonstrating at least a 15% decline in revenues and economic conditions that justify assistance may enter an agreement with the Secretary of the Treasury to receive up to 50% of the amount of total compensation for the 25% of its workforces most at risk of permanent reduction or furlough, excluding senior executive and highly-compensated employees;

- assistance would remain available through April 30, 2023.

8. Advanced Air Mobility Coordination and Leadership Act, S. 516, introduced 3/1/21, Sen. Moran (R-KS), reported by the Committee on Commerce Science, and Transportation, 5/12/21.

The bill would promote efforts to integrate advanced air mobility (AAM) aircraft into the national airspace system. Section 1(b) of the bill, Sense of Congress, states:

Advanced Air Mobility (AAM) represents a key area of sustainable transportation and economic growth for the United States and globally, and ... it is imperative that the United States take a leadership role in the adoption and furtherance of this technology. Therefore given the path to initial operations is taking place utilizing today's regulatory framework, it is critical that government agencies collaborate and focus on taking this vital industry to the next level.

The bill would require the Secretary of Transportation to establish an AAM interagency working group comprised of members from nine Federal agencies to "engage with aviation industry and labor stakeholders, certifying organizations, and others determined appropriate by the Secretary of Transportation" to develop an AAM National Strategy. The National Strategy would include

recommendations concerning the safety, security, infrastructure, air traffic concepts, and other Federal investment or actions necessary to support the evolution of early AAM to higher levels of activity and societal benefit.

# IATSBA Conference

OCTOBER 31—NOVEMBER 3, 2021  
SANDESTIN, FLORIDA



We are pleased to announce that we will be holding the IATSBA Conference in Sandestin, Florida, this Fall. After initially considering Pensacola, Florida and Washington, DC as venues for our Conference, IATSBA has decided to hold our Conference at the Hotel Effie in Sandestin, Florida, from Sunday, October 31 through Wednesday, November 3. (Please feel free to visit the [Hotel's website](#).)

Please join us at this important event. We look forward to being with you in person after such a long COVID interregnum. Conference planning is underway and we promise to again offer lively and informative sessions and discussions with Government leaders, aviation practitioners, and representatives from cutting edge air transportation services and technology companies.

Conference and hotel registration information (including “early-bird” rate information) will be available shortly on the IATSBA website and information emails to our members.

We look forward to seeing you in Florida!



# IATSBA Conference

**IATSBA AIR AND TRANSPORTATION LAW CONFERENCE  
DEDICATED TO THE MEMORY OF GREGORY WINTON  
MIRAMAR BEACH (EFFIE HOTEL SANDESTIN), FLORIDA**

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- \*FAA Aeromedical Certification
- \*Pathogen detection and eradication on aircraft
- \*Counter UAS technology
- \*Balloon Safety
- \*Space Port America
- \*FOIA and the NTSB
- \*Illegal charters
- \*Increased violence on commercial flights
- \*PRIA
- \*Diversity
- \*Aeromedical Issues
- \*Ethics
- \*Air Carrier Crash Litigation

**REGISTER BEFORE SEPTEMBER 1st**  
TO TAKE ADVANTAGE OF THE LOWEST  
REGISTRATION FEES. MAKE YOUR  
TRAVEL AND HOTEL ARRANGEMENTS  
NOW!

## HOTEL INFORMATION

Hotel Effie Sandestin  
1 Grand Sandestin Boulevard  
Miramar Beach (Sandestin), FL 32550  
Website: [www.hoteleffie.com](http://www.hoteleffie.com)  
Reservations: 1-833-873-3343

Deluxe King Room Rate of \$199.00 per night plus taxes and fees available through **September 30, 2021**. To allow conference participants to take full advantage of the Hotel Effie Sandestin resort experience (golf, tennis, beach, rooftop pool, shopping, spa, marina), the Hotel Effie is offering this preferential rate from **October 28, 2021 – November 6, 2021**.

## Social Networking Opportunities

**WELCOME RECEPTION  
UNDER THE STARS**

Sunday, October 31<sup>st</sup>, 6:00 p.m. - 8:00 p.m.  
We are so excited to see everyone in person!  
Cool cocktails, Florida Panhandle food at its best (make it dinner?). Don't miss it!

SPONSORED BY:  
CONDON & FORSYTH and AOPA

**GALA DINNER  
HOTEL EFFIE SILVERBELL BALLROOM**  
Monday, November 1<sup>st</sup>, 5:00 p.m. – 9:00 p.m.  
Start with a bubbly cocktail hour  
Followed by a spectacular banquet  
**FEATURING THE 2021 NALL AWARD**

**COCKTAIL RECEPTION**

Tuesday, November 2<sup>nd</sup>  
Gather for cocktails, featuring the Hotel Effie's unique Blue Tide and Florida Panhandle style hors d'ouvres, before choosing from a large selection of restaurants in the Village of Baytown Wharf entertainment district next door to the hotel.

SPONSORED BY: GULFSTREAM  
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## SPONSORSHIPS

This Conference is also supported by the sponsorship received from law firms and the aviation industry from across the country.

*Fox Rothschild, LLP, Michael Dworkin,  
Matthew Robinson, Ray Speciale,  
Tony Jobe, Jim Gilman, and David Tochen*

Thanks to all of them! For information on other sponsorship opportunities, including free registrations for \$5,000 and \$3,000 donors, contact:

Tony Jobe at (985) 845-8088.

# IATSBA Conference



International Air & Transportation Safety Bar Association

**2021 IATSBA Law Conference at the Beach**  
**October 31 - November 3, 2021**

**Hotel Effie Sandestin**  
**1 Grand Sandestin Boulevard**  
**Miramar Beach, FL 32550**

**CONFERENCE REGISTRATION**

Name: \_\_\_\_\_ (As you wish it to appear on your badge)  
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Bars of licensure for which CLE will be requested: \_\_\_\_\_

EVENT FEES	Through	Through	September 21, 2021 -	After
	September 1, 2021	September 20, 2021	October 15, 2021	October 15, 2021
IATSBA	\$ 430.00	\$ 460.00	\$ 495.00	\$ 530.00
Government Employee	\$ 390.00	\$ 420.00	\$ 420.00	\$ 420.00
Full Time Student	\$ 380.00	\$ 400.00	\$ 420.00	\$ 420.00
Non-Member	\$ 560.00	\$ 580.00	\$ 595.00	\$ 630.00

**Additional Tickets** *(Guests accompanying paying attendees. Limited seating: first come, first served.)*

- All-inclusive (Non-attorney Only) \$ 422.00
- Awards Ceremony and Dinner Only \$ 75.00
- Cocktail Receptions and Dinner Only \$ 70.00
- Breakfast(s) \$ 30.00
- Lunch(s) \$ 40.00

Register On-Line at [www.iatsba.org](http://www.iatsba.org) or  
 Return registration to:

IATSBA – Attn: Barbara  
 P O Box 3035;  
 Frederick, MD 21705-3035

Registration may be paid by check, payable to  
 "IATSBA" or by  
 VISA/MasterCard:  
 Name on Card: \_\_\_\_\_  
 Card No.: \_\_\_\_\_  
 Exp. Date: \_\_\_\_\_ CVV No.: \_\_\_\_\_  
 Zip Code: \_\_\_\_\_

**Check if you/your firm are/is a sponsor.....**

Sponsors at the \$5,000 level receive two free conference registrations and sponsors at the \$3000 level receive one free conference registration. If your firm or company is a sponsor at one of these levels, please check this block and submit your payment after deducting the cost of your Conference Registration Fee shown above. Other levels of sponsorship are also available. Please contact Tony Jobe at (985) 249-0159 for additional information on sponsorship.

**Check appropriate boxes if you will attend**

- October 31 Welcome Reception .....
- November 1 Gala Dinner .....
- November 2 Cocktail Hour .....
- November 3 Lunch .....

Special Room Rate of \$199.00 per night  
 through **September 30, 2021**

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 By Phone: 1-833-873-3343  
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# COVID Vaccines in Aviation

by:  
Greg Reigel

## WHAT PILOTS AND EMPLOYERS NEED TO KNOW

With the ever-changing landscape of COVID's impact on the world and the now readily available vaccinations for the virus, many pilots (and their employers) have questions. I thought I would take a moment to address a couple of the questions I have received.

### What Is The FAA's Position On Vaccines?

The FAA does not have a position on whether an airman should or should not be vaccinated. However, the FAA does take a position on what happens if an airman is vaccinated. Specifically, it is concerned about the potential side effects an airman could suffer after receiving a vaccination. As a result, the FAA's Federal Air Surgeon has stated that FAA medical certificate holders may not act as pilot in command, or in any other capacity as a required flightcrew member, for 48 hours after each dose a COVID vaccine.

However, an airman may do the following during the 48-hour post-vaccination period:

1. Provide/receive flight simulator or aviation training device instruction, including ground instruction or operational training not involving flight operations;
2. Perform office duty/administrative tasks;

3. Dead-head/jump-seat; and
4. Engage in distance learning.

Airmen who receive vaccinations are also reminded that they must also still comply with 14 CFR § 61.53(a)'s prohibition on operations during medical deficiency. This means that an airman who experiences side effects after the 48-hour period has elapsed, may not act as pilot in command, or in any other capacity as a required flightcrew member until after the airman is no longer suffering from those side-effects.

### May An Employer Require Its Employees To Be Vaccinated?

The short answer is "yes." Both the Equal Employment Opportunity Commission and the Occupational Safety and Hazards Agency have stated that an employer may require its employees to be vaccinated. However, implementation of a mandatory vaccination policy or program must also comply with other regulations.

For example, such a policy or program must comply with the Americans with Disabilities Act ("ADA"). Aviation employers need to carefully craft their vaccination mandates to ensure they do not discriminate against employees with disabilities. This means

# COVID Vaccines in Aviation

...continued

if an employee has a disability that prevents the employee from taking the vaccination, he or she may be entitled to an exemption or other reasonable accommodation under the ADA.

Similarly, if an employee has a sincerely held religious belief, practice, or observance that prevents the employee from being vaccinated, under Title VII of the Civil Rights Act ("Title VII") he or she may be entitled to a reasonable religious accommodation. In either case, whether under the ADA or Title VII, aviation employers face multiple requirements to successfully implement a vaccine mandate. Employers and their affected employees need to work together to implement accommodations that protect the rights of both and also comply with applicable law.

## Conclusions

Airmen who choose to be vaccinated need to be aware of, and comply with, both the FAA's 48-hour rule as well as FAR 61.53. And before an aviation employer requires its employees to receive COVID vaccinations, the employer should carefully evaluate the implications, risks, and consequences of such a policy or program. If you have questions about airmen and/or aviation employer rights and responsibilities in connection with COVID vaccinations, please contact us and we would be happy to assist.

## In Memoriam

### GREGORY WINTON (MAY 6, 1964-JULY 4, 2021)

We are deeply saddened by Greg's untimely passing. As a longstanding IATSBAs Board Member, he contributed greatly to the organization's successes over many years. As founder of The Aviation Law Firm in Annapolis, Maryland, and an FAA and U.S. Department of Justice attorney, Greg was an extremely experienced and skilled trial lawyer. And an avid pilot and flight instructor.

We will all miss his personal warmth and passion.

Greg's family requests that donations be made to [The Gregory Winton Scholarship Fund](#).

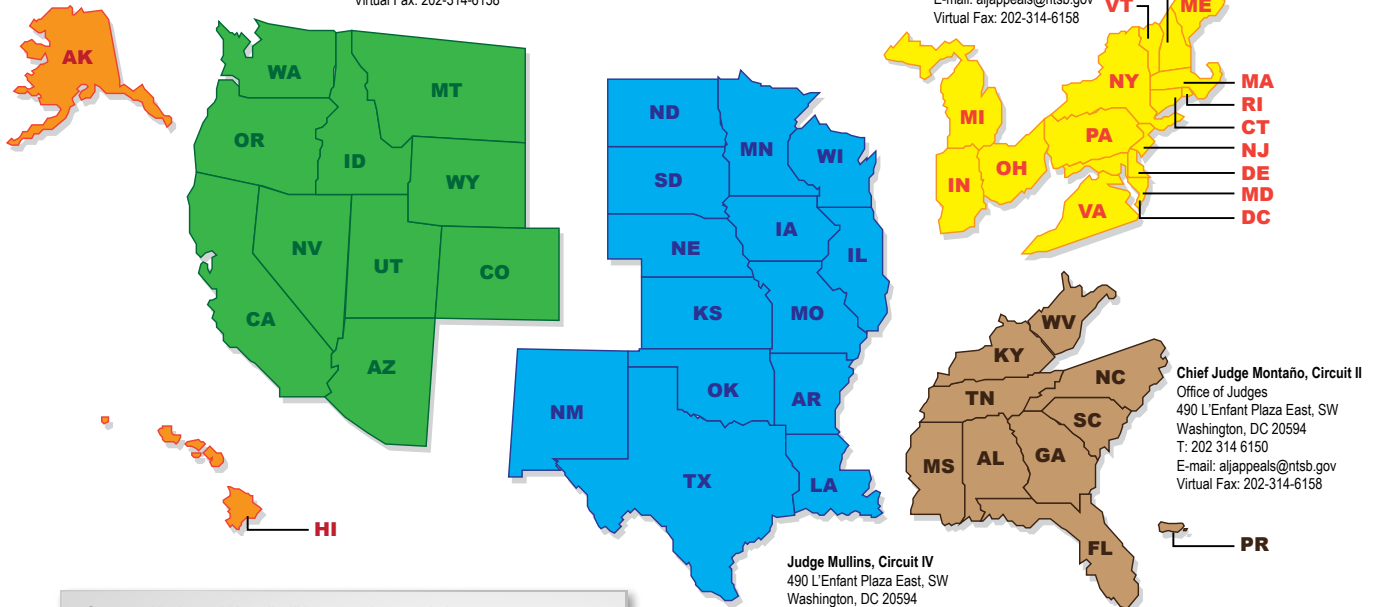
# Circuit Assignments



## NTSB LAW JUDGE CIRCUIT ASSIGNMENTS

**Judge Schumacher, Circuit III**  
 4760 Oakland Street  
 Denver, CO 80239  
 T: 202-314-6150  
 E-mail: [aljappeals@ntsb.gov](mailto:aljappeals@ntsb.gov)  
 Virtual Fax: 202-314-6158

**Judge Woody, Circuit I**  
 Office of Judges  
 490 L'Enfant Plaza East, SW  
 Washington, DC 20594  
 T: 202 314 6150  
 E-mail: [aljappeals@ntsb.gov](mailto:aljappeals@ntsb.gov)  
 Virtual Fax: 202-314-6158



- Cases in Alaska and Hawaii will be rotated among judges.
- Emergencies will be assigned across circuits based on availability.

**Judge Mullins, Circuit IV**  
 490 L'Enfant Plaza East, SW  
 Washington, DC 20594  
 T: 202 314 6150  
 E-Mail: [aljappeals@ntsb.gov](mailto:aljappeals@ntsb.gov)  
 Virtual Fax: 202 314 6158

**Chief Judge Montaño, Circuit II**  
 Office of Judges  
 490 L'Enfant Plaza East, SW  
 Washington, DC 20594  
 T: 202 314 6150  
 E-mail: [aljappeals@ntsb.gov](mailto:aljappeals@ntsb.gov)  
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## PLEASE CIRCLE MEMBERSHIP TYPE

Checks are to be made payable to "IATSBA" and sent to the mailing address below.  
Online application and payment by credit card at [www.IATSBA.org](http://www.IATSBA.org).

Regular/Full Annual Membership: ----- \$119.00

Federal Government Annual Membership: ----- \$59.00

Recent Law School Graduate Annual Membership:

*(Within two years of graduation from law school)* ----- \$49.00

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*(Associate Membership is for those not eligible for a Regular/Full Membership.)*

*Associate Membership is non-voting. There are two types of Associate Membership.)*

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