



THE AVIATION LAWYER'S OPERATING HANDBOOK: LEARNING TO LITIGATE, NAVIGATE, AND COMMUNICATE

October 24–25, 2019 | Ritz-Carlton | Washington, DC

Sponsored by

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



AMERICAN **BAR** ASSOCIATION

Tort Trial and Insurance
Practice Section

GREETINGS

Dear Friends and Colleagues,

Join your peers, friends, and colleagues on October 24–25, 2019, at the Ritz Carlton in Washington, DC for two days of CLE covering current and developing issues in aviation and space litigation. This year's program, **The Aviation Lawyer's Operating Handbook: Learning to Litigate, Navigate, and Communicate**, will feature key players in the aviation industry, including representatives from insurers, the government, manufacturers, and successful law firms with devoted aviation practices, all offering views on new and continuing challenges facing the aviation, space, and insurance sectors.

The program offers legal updates, as well as practical tips and trial tactics. Topics include recent developments in aviation and space law, overcoming procedural obstacles and applying foreign law in aviation cases, handling expert witnesses, and effective negotiation and mediation strategies, just to name a few. One hour of Ethics CLE will be offered.

We hope that you take advantage of this opportunity for lawyers, in-house counsel, and insurance and industry executives to socialize, network, and discuss the pivotal issues currently facing the aviation and space law industry. Looking forward to seeing you this fall in Washington, DC

Best,

Ricardo M. Martinez-Cid

Committee Chair, Aviation and Space Law Committee
Podhurst Orseck, PA
Miami, Florida

PLANNING COMMITTEE

Thea Capone, TIPS Chair
Ricardo Martinez-Cid, Committee Chair
Garrett Pendleton, Immediate Past Chair
Stephen Wood, Committee Chair-Elect
Orla Brady, Past Chair
David Harrington, Past Chair
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Erin Applebaum
Robert Gross
Gary Halbert
John Kelly
Laura McGinn
Tara Nicola
Ranse Partin
James Robinson
Robert Williams
Alexandra Wisner

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.

AGENDA

THURSDAY, OCTOBER 24, 2019

8:00 AM – 5:00 PM **REGISTRATION**

8:00 AM – 9:00 AM **CONTINENTAL BREAKFAST**

8:55 AM – 9:00 AM **WELCOMING REMARKS AND INTRODUCTIONS**

SPEAKERS: **Ricardo M. Martinez-Cid**, *Committee Chair, Podhurst Orseck, PA*, Miami, FL
Thea Capone, *TIPS Section Chair, Baumeister & Samuels, PC*, New York, NY

9:00 AM – 10:00 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: **Erin Applebaum**, *Kreindler & Kreindler LLP*, New York, NY
Sam Escher, *United States Department of Justice*, Washington, DC
Catherine E. Kiernan, *Reed Smith LLP*, Princeton, NJ

10:00 AM – 10:45 AM **TRAVERSING THE MINEFIELD: OVERCOMING PROCEDURAL OBSTACLES IN AVIATION CASES**

Aviation and aerospace-related litigation often involves certain threshold procedural hurdles and substantive defenses that are less common in other civil litigation. *Bristol Myers v. Superior Court* has altered the personal jurisdiction calculus, limiting the options for suit against non-resident defendants. Forum non conveniens remains an issue confronting both defendants and plaintiffs in litigation over accidents in foreign countries. Greater options for removal jurisdiction including the practice of snap removals often makes it more challenging for plaintiffs to remain in state court. Experienced trial lawyers discuss pitfalls and strategies behind these and other threshold issues including the best practices for successfully navigating them to get to the heart of the case, or exploiting them to achieve an early victory.

MODERATOR: **Ilyas Akbari**, *Baum, Hedlund, Aristei & Goldman*, Los Angeles, CA

SPEAKERS: **Debra Fowler**, *United States Department of Justice*, Washington, DC
Jeanne O'Grady, *Speiser Krause, PC*, New York, NY
Larry Kaplan, *KMA Zuckert LLC*, New York, NY
James Robinson, *Gordon Rees Scully Mansukhani, LLP*, Philadelphia, PA

10:45 AM – 11:00 AM **BREAK**

11:00 AM – 11:45 AM **NOTALS (NOTICES TO LITIGATORS) FROM THE GENERAL COUNSEL'S OFFICE**

In-house counsel share their perspective and lessons learned regarding best practices for outside counsel including such topics as communications with company and insurer, managing discovery of electronically stored information (ESI), assisting the efforts of outside counsel from inside the company to reduce costs/increase efficiency, handling departing employees, overseeing the progress of the litigation, when to consider settlement, and when to take a case to trial, among other topics.

MODERATOR: **Jennifer Coates**, *Bowman and Brooke LLP*, Minneapolis, MN

SPEAKERS: **Andrew Cooper**, *United Parcel Service*, Louisville, KY
Kevin Keegan, *Piper Aircraft, Inc.*, Vero Beach, FL
Donald Vilim, *AAR Corp.*, Wood Dale, IL
Christian Bonat, *Telephonics Corp.*, Farmingdale, NY



11:45 AM – 12:15 PM

FOREIGN LAW IN AVIATION CASES: GO OR NO GO

Aviation litigation in the U.S., particularly catastrophic accident litigation, often presents the parties with a decision regarding the application of law other than that of the forum where the dispute is brought. Resolution of the issues in the case may involve application of the law of one or more foreign countries. The decision regarding choice of law can often be outcome determinative, not just of individual issues, but of entire cases. Applying the law of the locus of a dispute, although often the default approach, is not always necessary or even prudent. Experienced defense and plaintiffs' counsel will debate the substantive merits of applying the law of a foreign country and the procedural considerations that precede litigation of choice of law issues.

MODERATOR: **Alexandra Wisner**, *Wisner Law Firm*, Chicago, IL

SPEAKERS: **Christopher Kelly**, *Holland & Knight LLP*, New York, NY
Ralph Pagano, *Fitzpatrick & Hunt, Pagano, Aubert, LLP*, New York, NY
Keri Ryan, *AXA XL*, New York, NY
Ladd Sanger, *Slack Davis Sanger LLP*, Dallas, TX

12:15 PM – 1:45 PM

LUNCH

Marygrace Schaeffer, *DecisionQuest, Inc.*, Minneapolis, MN, will educate and entertain us with a demonstration of the latest in trial graphics and courtroom technology. Learn to apply these tools effectively in mediation and trial.

1:45 PM – 2:30 PM

DEALING WITH EXPERT WITNESSES: SEE AND AVOID THESE COMMON MISTAKES

As with most complex litigation in state and federal courts, expert witnesses are a *sine qua non* of proof in aviation litigation today. Yet, relying on experts to prosecute or defend your cases presents unique challenges. This presentation will address the range of challenges that litigants face in dealing with experts, from selection criteria (experience, credentials, *Daubert*, etc.) communication with experts, facilitating the production of an expert report, preparing and presenting, experts for testimony, and more.

SPEAKERS: **Robert Gross**, *United States Department of Justice*, Washington, DC
Robert Winn, *ESi*, Colorado Springs, CO

2:30 PM – 3:15 PM

KEEPING FORMATION: NAVIGATING THE RELATIONSHIP OF INSURED, INSURER, AND OUTSIDE COUNSEL

Most aviation cases involve an insurer, an insured, and defense counsel retained to represent the insured. Although all are concerned with looking out for the best interests of the defendant-insured in the litigation, the tripartite relationship presents several concerns that do not typically arise in litigation lacking vigorous insurer involvement, for example, concerns over fiduciary duties, control of the defense strategy, confidentiality of communication, maintenance of privilege, and more. This panel will discuss the tripartite relationship itself, the issues which arise within it, and best practices for in-house counsel, outside counsel, and insurer to avoid conflict, protect the interests of the insured, and successfully defend the litigation.

MODERATOR: **Laura McGinn**, *Global Aerospace*, Parsippany, NJ

SPEAKERS: **Tamer Ahmed**, *Global Aerospace*, Parsippany, NJ
Shalem Massey, *Riley Safer Holmes & Cancila LLP*, Los Angeles, CA
Roberta Miranda, *Marsh*, New York, NY
Andrea Phillips, *Rolls Royce Corporation*, Fairfax Station, VA
Lili Rubenstein, *AIG Aerospace*, New York, NY

3:15 PM – 3:30 PM

BREAK



3:30 PM – 4:30 PM

IS SELF-CERTIFICATION ADEQUATE PRE-FLIGHT?

The FAA has a long-standing and substantial program for certification of aircraft as airworthy. The purpose of the program is to oversee aircraft design, production, and testing to promote flight safety. Federal law permits the FAA to delegate to qualified organizations the ability to conduct certain features of the certification program on behalf of the agency. In the wake of recent aircraft accidents, the delegation of certain certification functions, called by some "self-certification," has come under new scrutiny. A panel of experts will discuss the FAA's certification program, the interaction between the agency and industry regarding certification, the recent controversy over the FAA's authority to delegate certain functions to manufacturers, the future of FAA certification, and the implications for litigation involving companies that have assumed some of the agency's certification tasks.

MODERATOR: John Kelly, *Adler Murphy & McQuillen LLP*, Chicago, IL

SPEAKERS: Robert Clifford, *Clifford Law Offices*, Chicago, IL
Lauren Haertlein, *General Aviation Mfrs. Ass'n*, Washington, DC
Christopher Ledford, *Perkins Coie LLP*, Seattle, WA

4:30 PM – 5:30 PM

TRIAL TIPS FROM THE TRENCHES: THINGS THEY DON'T TEACH YOU IN LAW SCHOOL ABOUT TRYING AVIATION LAWSUITS

Although comparatively few cases make it to trial, and many people believe that the ranks of trial lawyers are dwindling, every serious aviation practitioner needs to study and practice the art and science of trial. Seasoned trial lawyers provide their experienced insights on the preparation of an aviation case for trial with a focus on the last 30 days before trial, jury selection, opening, witness examination techniques, and closing arguments. Panelists will share their recommendations for communicating complex technical, legal, and regulatory concepts to both judges and juries. Additional topics may include handling the media attention that surrounds cases involving catastrophic loss.

MODERATOR: Robert Williams, *Schnader Harrison Segal & Lewis LLP*, Pittsburgh, PA

SPEAKERS: Orla Brady, *United States Department of Justice*, Washington, DC
Christopher Odell, *Arnold & Porter Kaye Scholer LLP*, Houston, TX
Gary Robb, *Robb & Robb LLC*, Kansas City, MO
Don Swaim, *Cunningham Swaim LLP*, Dallas, TX

5:30 PM – 6:30 PM

RECEPTION, RITZ CARLTON

FRIDAY, OCTOBER 25, 2019

8:00 AM – 9:00 AM

CONTINENTAL BREAKFAST

9:00 AM – 10:00 AM

PLOT YOUR COURSE: HOW TO AVOID PRE-SUIT ISSUES ETHICS

This panel will discuss the ethical considerations that arise pre-suit. Among other things, plaintiffs' attorneys face restrictions on early contact with victims of an aviation disaster. Defense counsel must navigate relationships with investigators, insurers, and clients to uncover facts, preserve evidence, and manage the public relations consequences of aviation accidents. This panel will further discuss the NTSB's official investigation process, the statutes applicable to the release of information derived from the NTSB's official investigation before the final report is available and the ethical considerations in seeking or withholding information early in the investigative process. This panel will explore these and also the ethical issues facing practitioners considering pre-suit resolution of claims or the preparation of a lawsuit before government investigations are finalized.

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

SPEAKERS: Austin Bartlett, *BartlettChen LLC*, Chicago, IL
Stuart Fraenkel, *Nelson & Fraenkel LLP*, Los Angeles, CA
Justin Lee, *Jackson Walker*, Dallas, TX
Kathleen Silbaugh, *National Transportation Safety Board*, Washington, DC



10:00 AM – 11:00 AM

COMING IN FOR LANDING: EFFECTIVE NEGOTIATION AND MEDIATION STRATEGIES

While few cases make it to trial these days, and many are disposed of at the pleading stage or at summary judgment, the bulk of aviation cases are settled sooner or later in the litigation. The settlement of cases often receives insufficient attention as a strategy or as a skill that should be developed. This panel will explore effective techniques that can be applied at all stages of litigation—from pre-suit to post-trial. The panel will explore the risk and reward of an early mediation, the best practices for a successful mediation, and useful approaches to settling claims without the need for formal mediation.

MODERATOR: Michael Siboni, *Siboni, Buchanan, & McLean, PLLC*, Ocala, FL

SPEAKERS: Mark Dombroff, *Fox Rothschild LLP*, Washington, DC
Garrett Pendleton, *AIG Aerospace*, Atlanta, GA
Keith Williams, *Lannom & Williams*, Nashville, TN

11:00 AM – 11:15 AM

BREAK

11:15 AM – 12:00 PM

ORBITAL SPACE DEBRIS: ONE PERSON'S JUNK IS NOT ANOTHER PERSON'S TREASURE

As the volume of orbital debris continues to grow, this panel will discuss the technical and legal issues related to the mitigation and removal of orbital debris, including Active Debris Removal, On-Station Servicing, and Space Traffic Management Systems, as well as the liability regime for damage caused by debris in space, in the air, and on the surface of the Earth.

MODERATOR: David Harrington, *Condon & Forsyth LLP*, New York, NY

SPEAKERS: Jamie Rodriguez, *Holland & Knight LLP*, Washington, DC
Scott Ross, *Global Aerospace*, Parsippany, NJ
Roger Thompson, *The Aerospace Corp.*, Chantilly, VA

12:00 PM – 12:15 PM

CLOSING REMARKS AND RAFFLE DRAWING

Ricardo Martinez-Cid, *Committee Chair, Podhurst Orseck, PA*, Miami, FL
Stephen Wood, *Committee Chair-Elect, Chuhak & Tecson, PC*, Chicago, IL



REGISTRATION FORM

THE AVIATION LAWYER'S OPERATING HANDBOOK: LEARNING TO LITIGATE, NAVIGATE, AND COMMUNICATE

Ritz-Carlton • Washington, DC • October 24–25, 2019

REGISTRATION DEADLINE: FRIDAY, OCTOBER 4, 2019

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 FACSIMILE

E-MAIL ADDRESS

Are you attending your first TIPS National Conference? Yes No

How many Aviation Programs have you attended (including this one)?

3 or less 4 or more

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

I enclosed a separate check for \$50 made payable to the American Bar Association.

2. REGISTRATION FEES:

	On or Before	After		
	10/4/19	10/4/19	QTY	Total
TIPS Member	\$675	\$700	_____	_____
ABA Member	\$625	\$650	_____	_____
General Attendee	\$895	\$920	_____	_____
Government Employee	\$395	\$395	_____	_____
Law Student	\$50	\$50	_____	_____

3. MATERIALS

I will not be attending the meeting and wish to order the program materials 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

THREE WAYS TO REGISTER

1. ONLINE:
ambar.org/tips

2. MAIL:
American Bar Association
Tort Trial & Insurance Practice Section
The Aviation Lawyer's Operating Handbook
Attn: Service Center/Meeting
Event Code: IL1910ASL
321 North Clark Street, Floor 19
Chicago, IL 60654

3. SECURE FAX
(312) 988-5850
On-site registrants
must pay the
program fee plus an
additional \$25 by
check or credit card.

GENERAL INFORMATION

Registration Deadline: Friday, October 4, 2019

Hotel Deadline: Wednesday, October 2, 2019

ADVANCE REGISTRATION

Visit the TIPS website to register at ambar.org/tips or complete the registration form included in this brochure for the "2019 TIPS Aviation Litigation Conference "The Aviation Lawyer's Operating Handbook: Learning to Litigate, Navigate and Communicate," to be held at the Ritz Carlton, Washington DC.

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 4, 2019**. 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 4, 2019**. To receive a refund (less a \$50 administrative fee), the ABA must receive written cancellation by **October 4, 2019**. 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 2019 TIPS Aviation Conference at the Ritz Carlton Washington, DC, 1150 22nd St., Washington, DC for a hotel room rate of \$370.00 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 2, 2019 at 5:00 PM (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 PM and checkout is 12:00 PM. 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 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.

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800-328-1111

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Discount available at www.delta.com

Click **Advance Search** and enter Online Meeting Event

Code: **NMS9P** in the **Meeting Event Code**

Southwest

Tickets can be booked on ABA Egencia. If not booking via ABA Egencia you can book via www.swabiz.com and use ABA SWABIZ Company ID **99422890**

*A *Travel Profile* is required when booking airline reservations with ABA Egencia

CLE CREDIT

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 americanbar.org/mcle for general information on CLE at the ABA.

MEMBERSHIP INFORMATION

For more information about membership in the ABA or the Tort Trial & Insurance Practice Section (TIPS), please visit us online at ambar.org/tipsmembership 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

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. For programs with tuition cost over \$500, qualifying attorneys will receive at least a 50% reduction in the course fee(s). To request an application or receive additional information, visit ambar.org/tips/scholarship or contact Jennifer Michel at Jennifer.Michel@americanbar.org 312/988-5463 for more information and an application.

FACULTY

Tamer Ahmed

Global Aerospace
Parsippany, NJ

Ilyas Akbari

Baum, Hedlund, Aristei
& Goldman
Los Angeles, CA

Erin Applebaum

Kreindler & Kreindler LLP
New York, NY

Austin Bartlett

BartlettChen LLC
Chicago, IL

Christian Bonat

Telephonics Corp.
Farmingdale, NY

Orla Brady

United States Department
of Justice
Washington, DC

Robert Clifford

Clifford Law Offices
Chicago, IL

Jennifer Coates

Bowman and Brooke LLP
Minneapolis, MN

Andrew Cooper

United Parcel Service
Louisville, KY

Mark Dombroff

Fox Rothschild LLP
Washington, DC

Sam Escher

United States Department
of Justice
Washington, DC

Stuart Fraenkel

Nelson & Fraenkel LLP
Los Angeles, CA

Debra Fowler

United States Department
of Justice
Washington, DC

Robert Gross

United States Department
of Justice
Washington, DC

Lauren Haertlein

General Aviation Mfrs. Ass'n
Washington, DC

David Harrington

Condon & Forsyth LLP
New York, NY

Larry Kaplan

KMA Zuckert LL
New York, NY

Kevin Keegan

Piper Aircraft, Inc.
Vero Beach, FL

Christopher Kelly

Holland & Knight LLP
New York, NY

John Kelly

Adler Murphy & McQuillen LLP
Chicago, IL

Catherine E. Kiernan

Reed Smith LLP
Princeton, NJ

Christopher Ledford

Perkins Coie LLP
Seattle, WA

Justin Lee

Jackson Walker
Dallas, TX

Ricardo M. Martinez-Cid

Committee Chair
Podhurst Orseck, PA
Miami, FL

Shalem Massey

Riley Safer Holmes & Cancila LLP
Los Angeles, CA

Keith Maynard

Spohrer Dodd
Jacksonville, FL

Laura McGinn

Global Aerospace
Parsippany, NJ

Roberta Miranda

Marsh
New York, NY

Christopher Odell

Arnold & Porter Kaye
Scholer LLP
Houston, TX

Jeanne O'Grady

Speiser Krause, PC
New York, NY

Ralph Pagano

Fitzpatrick & Hunt, Pagano,
Aubert LLP
New York, NY

Garrett Pendleton

AIG Aerospace
Atlanta, GA

Andrea Phillips

Rolls Royce Corporation
Fairfax Station, VA

Gary Robb

Robb & Robb LLC
Kansas City, MO

James Robinson

Gordon Rees Scully
Mansukhani LLP
Philadelphia, PA

Jamie Rodriguez

Holland & Knight LLP
Washington, DC

Scott Ross

Global Aerospace
Parsippany, NJ

Lili Rubenstein

AIG Aerospace
New York, NY

Keri Ryan

AXA XL
New York, NY

Ladd Sanger

Slack Davis Sanger LLP
Dallas, TX

Michael Siboni

Siboni, Buchanan,
& McLean, PLLC
Ocala, FL

Kathleen Silbaugh

National Transportation
Safety Board
Washington, DC

Don Swaim

Cunningham Swaim LLP
Dallas, TX

Roger Thompson

The Aerospace Corp.
Chantilly, VA

Donald Vilim

AAR Corp.
Wood Dale, IL

Keith Williams

Lannom & Williams
Nashville, TN

Robert Williams

Schnader Harrison
Segal & Lewis LLP
Pittsburgh, PA

Alexandra Wisner

Wisner Law Firm
Chicago, IL

Stephen Wood

Committee Chair-Elect
Chuhak & Tecson, PC
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321 North Clark Street
Chicago, Illinois 60654



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