

Out in Front on Drone Integration

When a coalition of news organizations wanted to make the case before the National Transportation Safety Board that unmanned aerial newsgathering is protected by the First Amendment, they called on Holland & Knight's cutting-edge Drone Practice Team to file a first-ever brief on their behalf.

Traditionally, unmanned aircraft have been used for military and civil applications, such as special operations or police work. In recent years, however, the technology has advanced exponentially. As a result, businesses and other entities await Federal Aviation Administration regulations governing the commercial use of unmanned aerial systems (UAS) as they seek to use these devices in a wide range of applications, from reporting on tornadoes to monitoring oil spills and managing crops in Indian Country.

The novel case before the NTSB involves Raphael Pirker, an aerial photographer who was fined \$10,000 for flying a camera-equipped model aircraft around the University of Virginia. He successfully challenged the fine before an administrative law judge, who ruled that the FAA's stringent regulation of commercial drones was unenforceable because the agency had failed to adopt it through appropriate procedures. After the FAA appealed the ruling to the NTSB, 16 news outlets asked Holland & Knight – which has established one of the few drone-related practice teams at an Am Law 100 law firm – to submit a brief in support of Mr. Pirker.

In the brief filed by Holland & Knight, the coalition argued that the judge's ruling was correct. They also contended that, because newsgathering is protected by the First Amendment, the federal government should not consider journalism to be a commercial use of the technology. Furthermore, they made a case for including the media in policy discussions that accompany the drafting of future government UAS-related regulations.

The media coalition was able to take part in this case of first impression because of Holland & Knight's national media practice and the firm's forward-thinking approach in establishing its Drone Practice Team. The team includes seasoned Media Law, Public Policy & Regulation, Communications and Native American Law attorneys, as well as members of the firm's Aviation practice – which includes a former NTSB general counsel and aviator. It puts the firm in the vanguard of advising clients on compliance with existing and developing federal regulations, as well as the evolving safety and privacy issues associated with the non-military use of drones.

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