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UNMANNED AIRCRAFT SYSTEMS (UAS) UPDATE

NTSB DETERMINES FAA CAN FINE UAS OPERATORS

The NTSB issued an important decision today in the developing area of who has authority to regulate unmanned aircraft systems (UAS). The NTSB found that UAS are "aircraft" under the plain language of the law, and that FAA rules prohibiting "careless or reckless" operation of aircraft apply to UAS operators. The NTSB decision overturns an earlier ruling by an administrative law judge. The case involved Raphael Pirker, a UAS operator who had been hired to film the University of Virginia campus. During the filming Pirker allegedly operated a small UAS in close proximity to numerous individuals, buildings, and other structures in a reckless manner. As a result the FAA issued Pirker a $10,000 fine. An administrative law judge vacated the fine after ruling that the FAA had not historically enforced its aircraft regulations against model aircraft, which would include the UAS at issue, and that therefore the FAA could not issue a fine because it had not issued any regulations specifically for UAS. The NTSB overruled the administrative law judge by finding that the UAS did meet the definition of "aircraft," that there was no exclusion in the definition for model aircraft, and that therefore the FAA could take enforcement action against a UAS operator. The NTSB remanded the case to the administrative law judge to determine if Pirker's UAS was in fact operated carelessly or recklessly. The case is a big win for the FAA, but there continues to be increased pressure on the FAA to publish proposed rules for small UAS. The NTSB decision can be found at http://www.ntsb.gov/legal/pirker/5730.pdf.

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*This **UAS Update** is intended to keep readers current on developments in the unmanned aircraft systems world and is not intended to be legal advice. If you have any questions, please contact **Earl Comstock** at 202.659.6627 or ecomstock@eckertseamans.com.*

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