



W. Eric Pilsk

For more than 20 years, Eric Pilsk has represented clients in disputes involving public entities, with a particular emphasis on litigating airport, transit, and land use issues. Eric handles cases involving federal aviation laws, FAA grant obligations, federal preemption, the ICC Termination Act, the National Trails System Act, NEPA, the APA, Native American trust claims, and a wide range of issues regarding land use and constitutional law at the state and federal levels. He has acted as lead trial counsel in trials in state and federal courts and administrative agencies, including contested evidentiary hearings before the FAA in FAR Part 16 proceedings.

Eric's appellate experience includes drafting numerous briefs to state and federal Courts of Appeals and the U.S. Supreme Court, as well as arguing cases in federal Courts of Appeals. In addition to litigation, Eric counsels clients on a range of regulatory and pre-litigation issues, including FAA AIP grant compliance matters, airport expansion projects, and rail corridor access issues.

Representative Experience

Chicago O'Hare International Airport Inverse Condemnation Litigation, Illinois

Represented the City of Chicago in a case brought by over 60 property owners seeking damages allegedly caused by noise and vibrations from aircraft using a new runway at Chicago O'Hare International Airport. After deposing all plaintiffs and conducting extensive document and expert discovery, the court entered summary judgment in favor of Chicago on Statute of Limitations grounds.

King Country Railbanking Matters, Washington

Represented King County, Washington in a series of challenges to King County's efforts to develop recreational trails on railbanked right-of-way in both federal court and before the Surface Transportation Board.

Albuquerque ART Bus Rapid Transit Project, New Mexico

Represented the City of Albuquerque in a case brought by a number of citizens and citizen groups seeking to enjoin construction of a bus rapid transit project on historic Route 66 in Albuquerque, New Mexico. After expedited injunction proceedings and a four-day evidentiary hearing, the District Court denied the injunction and allowed the project to proceed. That decision was affirmed in an expedited appeal to the Tenth Circuit.

Philadelphia International Airport Capacity Enhancement Program, Pennsylvania



Partner

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Areas of Practice

Airports
Aviation Bankruptcy
Litigation
Rail, Transit, Highways, and
Infrastructure

Education

J.D., Vanderbilt University
School of Law, 1988
B.A., with honors, Wesleyan
University, 1983

Bar and Court Admissions

District of Columbia
Colorado
Commonwealth of Virginia
United States Supreme Court
United States Court of Appeals
for the District of Columbia and
numerous other United States
Courts of Appeals and District
Courts



KAPLAN KIRSCH ROCKWELL

Represented the City of Philadelphia in litigation and FAA regulatory matters related to the implementation of the Capacity Enhancement Program at Philadelphia International Airport. Representation included defending the Environmental Impact Statement supporting the project and negotiating a complex, long-term settlement with neighboring jurisdiction.

Professional and Civic Activities

- Two-time board member, Potomac Pedalers Touring Club

Recent and Reported Decisions

- Mile-Hi Skydiving Center, Inc. v. City of Longmont, Case No. 2019CV30244 (Dist. Ct., Boulder County, Colo. May 28, 2019)
- *Riser v. City of Chicago*, Case No. 15 L 9955 (Dist. Ct., Cook County, Ill. Dec. 19, 2018) (appeal pending)
- Burgoyne, LLC v. Chicago Terminal RR Co., Case No. 2017 CH 06199 (Dist. Ct., Cook County, Ill. Dec. 18, 2018) (appeal pending)
- *Starr Indemnity and Liability Co. v. Telluride Regional Airport Authority*, CAse No. 2017 CV30048 (Dist. Ct., San Miguel County, Colo., May 8, 2018)
- *Coalition of Concered Citizens to make Art Smart v. FTA and City of Albuquerque*, Case No. 1:16-CV-00252-KG-KBM (Aug. 1, 2016), *aff'd*, 843 F. 3d 886 (10th Cir. 2016)
- Fillmore & Western Freight Service, LLC—Emergency Petition for Declaratory Order, STB Docket No. FD 35813 (Surface Transportation Board March 10, 2015)
- Ballard Terminal Railroad Company, LLC—Acquisition and Operation Exemption—Woodinville Subdivision, STB Docket No. FD 35731 (Surface Transportation Board Dec. 30, 2014)
- *No Night Flights Network v. Telluride Regional Airport Authority*, No. 2011CV71 (Dist. Ct., San Miguel County, Colo., Mar. 20, 2013)
- Tincicum Township v. U.S. Dept of Transportation, 685 F.3d 288 (3d Cir. 2012)
- Brotherhood of Locomotive Engineers and Trainmen v. Southern California Regional Railroad Authority, Case No. CV 09-8286 PA (C.D. Cal. June 30, 2010), *appeal dismissed*, Case No. 10-56197 (9th Cir. Jan. 2012)
- Town of Barnstable, Massachusetts v. Federal Aviation Administration, 659 F.3d. 28 (D.C. Cir. 2011)
- *Trump v. Palm Beach County, Florida*, Case No. 502010CA018444 (15th Cir. Fla. Aug. 30, 2011)
- *GNP Rly, Inc.—Acquisition and Operation Exemption—Redmond Spur and Woodinville Subdivision*, STB Docket No. FD 35407 35731 (Surface Transportation Board June



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15, 2011)

- Brotherhood of Locomotive Engineers and Trainmen v. Southern California Regional Railroad Authority, Case No. BC424287 (L.A. County Sup. Ct. June 1, 2011)
- 41 North 73 West, Inc. v. U.S. Dept of Transportation, Case No. 09-4810 (2d Cir. Nov. 2, 2010)
- *Telnack v. Martin County, Florida*, Case No. 04-459 (19th Cir. Fla. March 5, 2010)
- Osage Nation v. United States, 72 Fed. Cl. 629 (2006) and Osage Nation v. United States, 68 Fed. Cl. 322 (2005)
- Tutor-Saliba Corp. v. City of Hailey, Idaho, 452 F.3d 1055 (9th Cir. 2005)
- City of Naples Airport Authority v. FAA, F.3d 431 (D.C. Cir. 2005)
- City of Burbank, California v. Burbank-Glendale-Pasadena Airport Authority, 72 Cal.App. 4th 366 (1999)
- State of Kansas v. United States, 16 F.3d 436 (D.C. Cir. 1994)
- Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993)

Publications

Airport Law Desk Reference (annual editions)
2005–Present

Airport Law Alert: Airport Law in the Time of COVID-19
05.06.20

ACRP Legal Research Digest 28: Operational and Legal Issues
with Fuel Farms
June 2016

Recent Developments in Takings Litigation
07.17.12

Airport Noise Litigation in the 21st Century: A Survey of Current
Issues
Spring 2012

News

Tenth Circuit Sides with Colorado Communities; Keeps Climate
Change Case in State Court
07.09.20

Illinois Appeals Court Affirms Dismissal Of Takings Claims
Against O'Hare International Airport
06.11.20

Arizona Supreme Court Affirms Constitutionality of TNC Access
Fees Under Arizona Law



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04.02.20

Firm Supports Colorado Communities in Case Seeking Damages from Oil Companies for Climate Change-Related Injuries
01.15.20

Skydiving Lawsuit Against City of Longmont Dismissed
05.29.19

D.C. Circuit Affirms Decision on Airport Revenue
04.23.19

Chicago Court Dismisses Takings Claims Against O'Hare International Airport
12.21.18

Kaplan Kirsch & Rockwell Hosts 34th Annual Airport Law Workshop
10.28.18

Firm Client the Town of Barnstable Celebrates the End of Cape Wind
12.12.17

Kaplan Kirsch & Rockwell Hosts 33rd Annual Airport Law Workshop
10.17.17

Firm Attorneys Help Southern California Logistics Airport Authority Prevail in Part 16 Proceeding
08.31.17

New York Times Chronicles History of President's Lawsuits Against Client Palm Beach County
The New York Times
05.06.17

UPDATED – Colorado Judge Addresses First Amendment Issues Raised by Muslim Ban Protesters at Denver International Airport
03.15.17

UPDATED – Settlement Reached in Santa Monica Airport Disputes
02.03.17

Court of Appeals Rejects Challenge to City of Albuquerque's ART Bus Rapid Transit Project
12.13.16

Kaplan Kirsch & Rockwell Hosts 32nd Annual Airport Law Workshop
11.15.16



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President Elect Dismisses Noise Lawsuit against Airport
11.15.16

The City of Alexandria Secures Federal Approval of Potomac
Yard Metrorail Station
11.02.16

D.C. Circuit Declines to Review DOT Decision on Dallas
Love Field
08.09.16

Firm Attorneys Help Secure Decision Allowing Albuquerque Bus
Rapid Transit Project to Proceed
07.29.16

Latest News on FAA Reauthorization
07.14.16

The Town of Barnstable Wins Important NEPA Decision
07.05.16

NM Biz Groups Fight to Curb Route 66 Rapid Transit Plan
Law360
06.15.16

Kaplan Kirsch & Rockwell Hosts 31st Annual Airport Law
Workshop
11.01.15

Donald Trump and Palm Beach County Back in Court Arguing
Over Airport Noise
Palm Beach Post
10.02.15

Court Affirms East Hampton Town's Right to Regulate Airport
Noise
06.26.15

The Wall Street Journal Features Firm's Representation of Town
of East Hampton
The Wall Street Journal
04.22.15

Firm Clients King County, WA, and Sound Transit Prevail in STB
Dispute to Protect Railbanked Corridor
12.30.14

FAA Dismisses Part 16 Complaint Against the City of Cincinnati
09.12.14

STB Denies Injunction Against Development of Trail on
Railbanked Right-of-Way
08.01.13

FAA Postpones Contract Tower Closures



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04.03.13

State Court Upholds Change in Telluride Curfew
03.20.13

Court Upholds Environmental Review for East Link Project in
Seattle
03.10.13

Federal Court Upholds Seattle East Link Light Rail Project
03.07.13

Court Rejects Challenge to Philadelphia International Airport
Project
07.06.12

FTA Issues Record of Decision Approving the East Link Light
Rail Alignment
11.16.11

Court Rejects FAA Determinations on Cape Wind Project
10.28.11

Trump Dismisses Airport Noise Suit
08.31.11

Kaplan Kirsch & Rockwell Obtains Dismissal of Suite
Challenging Inward-Facing Locomotive Cameras
06.01.11

Court Rejects FBO Challenge at Westchester County Airport
11.02.10

FAA Dismisses Complaint Against City of Venice
09.01.10

Court Rejects Local Controls Over Philadelphia International
Airport Expansion
08.27.10

Firm Scores Victory in Federal District Court for Video Monitoring
of Passenger Locomotive Cabs
06.30.10

Court Rejects FBO Challenge at Barnstable Airport
06.23.10

Town Petitions FAA Over Determinations of No Hazard for Off-
Shore Wind Turbines in Nantucket Sound
06.16.10

FAA Issues Final Order in Westchester County Airport Litigation
09.18.09



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FAA Issues Final Order in Santa Monica Airport Litigation
07.08.09

FAA Hearing Officer Issues Initial Decision in Santa Monica
Airport Litigation
05.14.09

FAA Dismisses Part 16 Complaint Filed Against the County of
Westchester, New York
06.12.08

D.C. Circuit Upholds the Naples Authority Ban on Stage 2
Aircraft
06.03.05

Presentations

Airports Council International-North America Legal Affairs
Conferences

Litigation and FAA Part 16 Update Presentations

Understanding the Foundation of Airport Law: Grant Assurances
10.14.19

Sponsor Obligations Part 1: Avoiding Compliance Issues in
Everyday Operations
10.29.18

Understanding General Aviation Leases and Tenant Agreements
10.29.18

General Aviation Airport Agreements
10.17.17

Sponsor Obligations Part 1: Navigating Compliance Issues
10.16.17

The Law of Airport Noise
10.16.17

Airport Noise Complaints: Everybody Complains About
Complaints, But What Do We Do About Them?
10.13.17

Airspace Management: The New Frontier of Airport Noise
11.15.16

Ethics: Representing a Client in a Fishbowl
11.15.16

Navigating Compliance with Grant Assurances
11.14.16

Maintaining Confidentiality in a Highly Public Environment



KAPLAN KIRSCH ROCKWELL

02.19.16

Compliance with Grant Obligations and Related Federal Laws
and Policies

11.02.15

Inward Facing Cameras in Commuter Rail Locomotives

07.20.15

Litigation Issues When the Case REALLY Matters

02.23.15

Ethics for Airport Lawyers: Maintaining Confidentiality in a Highly
Public Environment

10.21.14

FAA Compliance: Enforcement, Part 16 and Recent Litigation

10.20.14

Airport Law Litigation Update

2012

Energy Development On and Around Airports

09.14.10

Railroads as Neighbors: Tough Nuts to Crack

04.29.10

Access Restrictions: Recent Developments and Future Trends

09.15.09