

LAW DRONES AND DRONE LAWS



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“Drones are coming. Lots of them. They are fun and useful. But their ability to pry, spy, crash, and drop things poses real risks. Free-for-all drone use threatens air traffic, people and things on the ground, and even national security.”¹

Several industries are using unmanned aircraft systems, popularly known as drones, to support their business activities. Construction managers and surveyors use drones and specialized software to map construction sites,² railroad and pipeline routes, and to monitor construction activities. Agricultural interests use drones to monitor crops for disease and adequate irrigation and also to apply insecticides and fertilizers. Realtors regularly use drones to enhance marketing of properties. Insurance adjusters and inspectors use them to investigate damage and to ascertain continued compliance with safety standards. They have become a regular tool of television stations supplementing ground-based and helicopter coverage of news stories. As the Federal Aviation Administration (FAA) gradually develops regulatory criteria for beyond-line-of-sight use, drones are taking on bigger roles in the inspection of pipelines, electric transmission lines, and railroads. Law enforcement agencies regularly use them for surveillance, hot pursuit, search and rescue, and monitoring riots and demonstrations.³ E-commerce vendors continue to work on package delivery drone systems. For lawyers, drones not only facilitate certain law-practice activities, but they

also involve operators who need legal counseling and representation.

The typical civilian drone is a quadcopter powered by rechargeable lithium-ion batteries, weighing about three pounds, costing from \$600 to \$12,000 depending mostly on camera quality and flexibility. A quadcopter has four rotors and flies more or less like a helicopter, able to hover, take off and land vertically, and maneuver sideways and backwards as well as forward. The Chinese firm DJI controls 70 percent of the market for small quadcopters with its Mini, Air, Mavic, and Inspire models.⁴ None of these vehicles of this class has endurance greater than 35 or 40 minutes, a characteristic that constrains their utility for some applications. Their top speeds rarely exceed 30 or 40 knots and their ceilings (maximum altitude) are around 1,000 feet above ground level. A few more expensive models, costing tens of thousands of dollars, are marketed for specialized functions requiring greater endurance and range. They typically are fixed wing configurations.

All of the commercially useful models carry high-quality cameras, as good as or better than the latest iPhone camera, and sophisticated control and navigation electronics that permit them to hover in place, orbit around a target selected by the operator, and return on command to a spot defined by longitude and latitude coordinates recorded when they take off.

They are flown by an operator standing on the ground using a small console with a video screen and joysticks. Higher end models also can follow an object selected by tapping on the operator screen and perform other maneuvers likely to produce captivating video. Full-motion video of HD quality and still images can be streamed in flight and/or saved on a memory chip. They typically use unlicensed frequency bands such as Wi-Fi for both the control link and for video feed. They know where they are over the ground by integrating inputs from GPS and photographic sensors.

Drone Law

Regulations promulgated by the FAA govern drone operation. They are contained primarily in Part 107 of the Federal Aviation Regulations,⁵ supplemented by Part 48 relating to registration of aircraft.⁶

Part 107 covers small drones—those weighing more than 0.55 pounds and less than 55 pounds. These “UAS,” as the FAA calls them, must be registered,⁷ and may be flown only by persons having remote pilot certificates.⁸ Remote pilot certificates are issued to persons who pass an online test of relevant aeronautical, regulatory, and meteorological knowledge. The test is roughly equivalent to a private pilot test, though considerably easier.

Drones may be flown only within the line of sight of the operator or a separate observer communicating with the operator⁹ and can be flown at night only if they have anti-collision lighting systems.¹⁰ They may not be flown over people unless they meet certain design requirements¹¹ and may not be flown higher than 400 feet above ground level.¹² Special limitations apply to operations near airports.¹³ Recreational, as opposed to commercial, drone operations by drones weighing less than 0.55 pounds are subject to a more lenient set of registration and pilot-licensing rules.¹⁴

The FAA is still developing its regulations for operations beyond line of visual sight (BVLOS). Such operations are believed to be safe only if conducted within a comprehensive radio-controlled airspace management system: an “Unmanned Aircraft System Traffic

Management (UTM) system.” UAS operators would be responsible for managing their operations safely within UTM constraints. Communication and coordination would occur through a “distributed network of highly automated systems via application programming interfaces (API), and not between pilots and air traffic controllers via voice.”¹⁵ The FAA’s Aviation Rulemaking Committee released its final report on BVLOS operations by drones on May 10, 2022.¹⁶ The agency published a Request for Comments in the Federal Register on May 25, 2023.¹⁷ The Federal Communications Commission (FCC) has proposed to open the 5030-5091 MHz band for communications associated with drone airspace management.¹⁸

To facilitate migration of drones into the National Airspace System, the FAA requires that all drones that operate after September 2023 be equipped with specialized transponders similar to, but different from, the ADS-B transponders already required on most manned aircraft.¹⁹ The drone transponders must broadcast drone identification and position information at one-second intervals. These signals are expected to be received and processed by a collection of private sector airspace management entities certified by the FAA.²⁰

Airworthiness certification is required for drones weighing more than 55 pounds, automated fleet operations, drone flight beyond the range of visual line of sight, or sustained flight over people. Airworthiness certification is an elaborate process requiring testing and FAA approval of design and performance details,²¹ although the agency is offering streamlined airworthiness approval for some complete drone systems.²²

State and local regulation is preempted except when it relates to traditional tort categories or unique local conditions.²³ Nevertheless, attempts by municipalities are common. States are preempted from regulating aviation activities in the national airspace because the United States Congress has occupied the regulation of national airspace field. Uncertainty persists, however, on the lower limits of federal airspace.²⁴

The FAA has issued guidance on preemption.²⁵ Preempted state laws include regulations: (i) restricting flight altitudes or flight paths in order to protect the safety of individuals and property on the ground or aircraft passengers; (ii) designating “highways” or “routes” for UAS; (iii) regulating the selling or leasing UAS-related air rights above roadways; (iv) establishing a licensing scheme for UAS pilots; and (v) mandating safety-related equipment such as geo-fencing.

Certain state or local laws aimed at other objectives that impair the reasonable use by UAS of the airspace also are preempted, according to the FAA. For example, a privacy-related ban on UAS operations over an entire city would very likely be preempted because it would completely prohibit UAS from using or traversing the airspace above the city and impede the FAA’s and Congress’s ability to integrate UAS into the national airspace. In contrast, a privacy-related restriction applied to the lower altitudes over facilities where people could likely have an expectation of privacy—such as parks or schools—would more likely be permissible because of its lesser impact. Similarly, tailored security-related restrictions over open-air water treatment facilities or certain types of critical infrastructure would more likely be permissible where the restrictions were limited to the lower altitudes and still permitted UAS overflight (e.g., by commercial package delivery UAS) at higher altitudes.²⁶

Not likely to be preempted, says the FAA, are state or local laws:

concerning land use or zoning; harassment of individuals or groups; privacy; voyeurism; trespass on property; the exercise of other police powers; reckless endangerment; emergency medical services; search and rescue; law enforcement use of facial recognition; delivery of prison contraband; wildfire suppression; criminal mischief; transfer or delivery of controlled substances; taking photographs or videos with respect to particular facilities (e.g., water treatment facilities; prisons; oil refineries; chemical facilities; railroad facilities; amusement

parks; energy production, transmission, and distribution facilities ...); requirements for police to obtain a warrant prior to using a UAS for surveillance; protection of wildlife; using UAS for hunting or fishing, or to interfere with or harass an individual who is hunting or fishing; and law enforcement operations.²⁷

Negligence actions for personal injury or property damage are understood to fall within state exercise of police power. Preemption also extends to state common law, but many claims of trespass, invasion of privacy, and negligence are not preempted. Plaintiffs, however, still must establish the elements of their legal theories. Someone injured on her personal property by a drone will have to establish duty and breach by the drone operator. Someone claiming invasion of privacy must establish intrusion into the space clothed with a reasonable expectation of privacy, and someone claiming trespass will have to show entry onto private land or above it and altitudes subject to the control of the plaintiff. Operation at higher altitudes, probably those above tree top and utility line level are more likely to be in exclusively regulated federal airspace.

Reported cases about drone mishaps are surprisingly sparse given the overheated press reports about various controversies over their use.²⁸ Liability for personal injury or property damage is possible, although the incidence of such litigation is much lower than might be expected. This is probably because the little machines are incapable of causing very serious personal injury or property damage. But rotor blades can cut, a falling drone can bruise or conceivably cause a concussion, and a drone’s four whirling rotors might get caught up in objects and damage them. Then, the question arises who is liable.²⁹ Two tenants were flying a drone inside their apartment when it hit a sprinkler head and caused the sprinkler system to activate, releasing water that damaged the apartment. The insurance company sought subrogation from the tenants. The Supreme Court of Delaware rebuffed the insurance company.³⁰

The typical civil case involves exaggerated claims of invasion of privacy or harassment. In *Hamer v. Byrne*,³¹

for example, recurring conflict among neighbors resulted in a lawsuit claiming intentional infliction of emotional distress; slander per se; defamation per se; abuse of process; and prima facie tort, based on an allegedly defamatory complaint to the police about drone use.

Property owners are privileged to use reasonable force to exclude or remove trespassers. William H. Meridith received a certain amount of notoriety after he shot down a drone belonging to John David Boggs with his shotgun. The United States District Court for the Western District of Kentucky ducked the question of federal preemption of tort claims (and questions of permissible means to exclude trespassers) by finding no federal question jurisdiction.³² A federal district court in Georgia declined to exclude drone imagery in a civil case, finding no criminal trespass when “SRC presented no evidence that the photographer flew the drone in a manner that accessed any private place that was out of public view, invaded SRC’s privacy by secretly observing their activities, or captured images that would not have been visible to a passenger in a small airplane legally flying over SRC’s property.”³³

Plaintiffs sometimes assert other torts, such as intentional infliction of emotional distress, invasion of privacy, private nuisance, or “harassment.”³⁴ The Florida intermediate court held that “[t]he use of a drone can contribute to causing a person substantial emotional distress” in affirming an injunction against stalking.³⁵ A federal district court in Pennsylvania held that allegations that the defendant flew drones over the plaintiffs’ property in a pipeline siting dispute adequately pleaded private nuisance.³⁶

Some states prohibit drone use that constitutes an intrusion upon privacy or is intended to harass a victim.³⁷ The Fifth Circuit recently upheld a Texas statute that prohibits drone-captured imagery of a person or private property to conduct surveillance and that prohibits drone flights under 400 feet above ground level over critical infrastructure facilities or sports venue. It rejected the argument that the FAA had preempted the field.³⁸

In the law enforcement arena, the Fourth Amendment springs into action, and drone surveillance by governmental entities is subject to scrutiny to determine if it is a search, and if it is, whether a warrant is required or the search is otherwise reasonable. There is a good deal of case law in this area. When the drone operator is a public entity or official, the possible sources of legal liability expand considerably because of the Fourth Amendment and 42 USC § 1983, which provides for damages in civil lawsuits for violation of constitutional rights.

In *Long Lake Township v. Maxon*, Todd and Heath Maxon sued their township for flying a drone over their property to capture imagery of junked cars, supporting a citation for a zoning violation.³⁹ The Michigan courts found the aerial warrantless surveillance constituted a Fourth Amendment violation but declined to exclude the drone evidence in a civil case. The Michigan Supreme Court heard oral arguments on October 10, 2023 but at the time of publication, no ruling had been issued.

In *Dircks v. Barnes*,⁴⁰ the district court granted summary judgment to law enforcement officers, finding that their flying of a drone to capture imagery of the plaintiff’s property in a child-endangerment case was covered by qualified immunity, even if it violated the Fourth Amendment. The court noted the uncertainty in the caselaw as to when a drone flight becomes a search.

In *In re Application of the United States For An Ord. Authorizing Small Unmanned Aircraft Sys. Surveillance of Priv. Prop.*, the district court denied the government’s application for an order under the All Writs Act that would allow the government to conduct drone surveillance of a suspected illegal drug operation.⁴¹ The court held that the government’s application satisfied probable cause, but that it must seek a warrant under Federal Rule of Criminal Procedure 41 rather than the All Writs Act. In deciding whether the All Writs Act was applicable, the court had to determine if the search violated the Fourth Amendment. It suggested that drone flights at higher altitudes might not constitute a search, but a flight low

enough to determine the identity of individuals would.

In addition, many state legislatures have enacted statutes that curtail law enforcement use of drones more tightly than the restrictions derived from the Fourth Amendment. Typical among these restrictions is a requirement for an advance warrant for any kind of drone surveillance.⁴²

State common law claims are asserted and adjudicated in the regular court. Claims of regulatory violation are asserted initially in administrative agency tribunals. If a violation of Federal Air Regulations is asserted, a long-established enforcement mechanism begins with a citation by an FAA inspector, followed by notice and opportunity for hearing before an FAA officer, with the right of appeal to the FAA administrator or the National Transportation Safety Board depending on the nature of the violation.⁴³

Drone Lawyers

Drone operators generally require legal advice and assistance in obtaining pilot certification, aircraft registration, and establishing a compliance regime to assure conforming to operating rules. Firms needing beyond-line-of-sight approval, airworthiness certification, or other exemptions from the basic Part 107 rules are more likely to require significant legal advice and representation. Many smaller drone service firms flying quadcopters do without lawyers until they get in trouble.

Additionally, legal representation is essential when the FAA asserts violations of its rules. These might relate to a drone operator who lacks the requisite pilot certificate. It might involve violation of the operating rules, operating at night without the required navigation lights, or operating over people outside the parameters permitted by the rules. After 2023, operating without the requisite radio connection features would be a violation, and likely fairly common. Flying too high is another type of likely violation, as is flying beyond line of sight, because it is hard to see a small drone flown nearly 400 feet above ground level.

These claims must be litigated within the FAA's enforcement procedures with eventual administrative appeal within the Department of Transportation or, if an operator's license is suspended or revoked, before the National Transportation Safety Board. Ultimately administrative agency decisions are reviewable in the United States Court of Appeals under the Administrative Procedure Act.

Similarly likely to require legal assistance are claims by local police or other municipal authorities. There, the most likely defense is federal preemption. Common law claims are possible, as well. If a drone causes physical injury or property damage, preemption does not exclude state common law and statutory actions for damages. Accident litigation is a mainstay of personal injury law. In a negligence action seeking to recover for personal injury or property damage, the plaintiff may be able to take advantage of the negligence per se doctrine if she can show that the errant drone failed to comply with federal regulatory requirements. These requirements are intended to protect the class of persons bringing the negligence claim – the predominant test for negligence per se.

Most of the legal controversy involving small civilian drones arises from claims that drones flying over private property are trespassing. One likely defense is that private property extends only as far as the owner or possessor can exercise practical control. The second defense is federal preemption.

Lawyer Drones

Lawyers may use drones themselves to support their practices. The most likely use of drones by a lawyer is for accident reconstruction or scene portrayal for use as demonstrative evidence.⁴⁴ Using drones, the lawyer can obtain overhead imagery that is more compelling than ground-level photography. When full-motion imagery is relevant, that also can be obtained easily. Legal investigators can use small drones for surveillance, although they must take care not to set up liability for trespass or invasion of privacy.

Personal injury practices can use drones for accident reconstruction⁴⁵ and to create evocative day-in-the-life-of videos. From the other side, videos of plaintiffs claiming to be severely disabled engaging in strenuous physical activity can be outcome determinative. In most of these applications, overhead imagery captured by drone is more compelling and complete than imagery captured in conventional ways.

Other possible uses of drones by lawyers include the following:

- The inspection and assessment of physical damage after fires, explosions, natural disasters by insurance practices;
- Imagery to complement due diligence by merger and acquisition practices with respect to facilities to be acquired;
- Imagery of strike and picket line conduct by labor and employment practices;
- Imagery of destructive and performance testing with respect to vehicle licensing and testing;
- As a component of surveys and condition and safety monitoring for lawyers representing railroads, pipelines, and electric utilities; and
- Marketing of real property in the surveying and supervision of construction sites by real estate and construction attorneys.

Rarely would a law firm want to create an in-house drone capability. More often, drone service contractors would be hired for particular matters. A few national firms advertise a range of drone services likely to be interesting to lawyers, but the industry is decentralized. The barriers to entry are low, resulting in relatively small firm size, and no particular advantage is gained by large geographic scope of vendor operations.

So, a law firm needing drone services should simply do a Google search to locate four drone service firms within the vicinity. Then, the firm should quiz the potential vendor on its capability to do particular kinds of work. For example, surveys generally

should be done with the use of specialized drone software with which the potential vendor should be experienced. Accident reconstruction also should involve the use of specialized software.

Sometimes however, it may be enough for a lawyer who enjoys flying small drones to use a personal drone for simple overhead photography, such as might be involved for real estate marketing or for simple illustration of a scene in litigation. When that approach is selected, however, the law firm needs to recognize that the operation almost certainly will be deemed commercial under the Federal Aviation Rules, requiring a certificated unmanned aircraft system pilot and adherence to the Part 107 rules.

Civil litigation may involve drone imagery as evidence. In *Mountain Valley Pipeline, LLC v. 8.37 Acres of Land, Owned by Terry*,⁴⁶ the district court considered the possibility of drone-captured imagery in lieu of a jury view of property subject to a condemnation proceeding. Use of drone imagery is increasing in other types of cases.⁴⁷

Conclusion

As drones become more prevalent in the commercial and recreational spheres, so does their use by the private sector and government agencies. Drones allow for the capture of large amounts of high-quality information, leading to greater accuracy and efficiency in commercial operations and dispute resolutions. Attorneys representing clients who use drones or whose privacy has been invaded by drone usage should be familiar with the federal and state regulations, policies, and constitutional issues governing drone usage. 🚀

Notes

- 1 Brennan v. Dickson, 45 F.4th 48, 53 (D.C. Cir. 2022) (upholding FAA rule requiring remote identification of drones).
- 2 See DJI Terra, <https://enterprise.dji.com/dji-terra> (advertising software that works with DJI drones to produce “complete application solution that caters to verticals such as land surveying and mapping, power transmission, emergency services, construction, transportation, and agriculture”); 360 Virtual Drone Services LLC v. Ritter, NO. 5:21-CV-137-FL, 2023 WL 2759032 at *2 (E.D. N.C. Mar. 31, 2023) (describing use of drones for surveying and mapping in surveyor-licensing case; rejecting First Amendment challenge to regulatory restrictions).
- 3 See Dunn v. Joe 1-22, ___ F. Supp. 3d ___, 4:21-cv-00053-SHL-HCA, 2023 WL 3081611 (S.D. Iowa Apr. 24, 2023) (referring multiple times to drone imagery in adjudicating 1983 claims growing out of demonstrations).
- 4 Nessa Anwar, World’s largest drone maker is unfazed — even if it’s blacklisted by the U.S., CNBC.com (Feb. 7, 2023), available at <https://www.cnbc.com/2023/02/08/worlds-largest-drone-maker-dji-is-unfazed-by-challenges-like-us-blacklist.html>. US vendors include Autel Percepto, Skidio, and Skyfront.
- 5 14 CFR Pt. 107.
- 6 14 CFR Pt. 48.
- 7 14 CFR § 107.13.
- 8 14 CFR § 107.12.
- 9 14 CFR § 107.31.
- 10 14 CFR § 107.29.
- 11 14 CFR § 107.39.
- 12 14 CFR § 107.51(b).
- 13 14 CFR §§ 107.41 and 107.43.
- 14 49 U.S.C. § 44809 (recognizing limited recreational operations). FAA, AC 91-57C - Exception for Limited Recreational Operations of Unmanned Aircraft (Oct. 20, 2022), https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1041362.
- 15 https://www.faa.gov/uas/research_development/traffic_management.
- 16 Fed. Aviation Admin., Unmanned Aircraft Systems Beyond Visual Line of Sight Aviation Rulemaking Committee, Final Report (Mar. 10, 2022), available at https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/UAS_BVLOS_ARC_FINAL_REPORT_03102022.pdf.
- 17 88 Fed. Reg. 33855 (May 25, 2023).
- 18 FCC, Notice of Proposed Rulemaking, Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems, WI Docket No. 22-323 (Jan 4, 2023).
- 19 14 C.F.R. § 89.105. See Brennan v. Dickson, 45 F.4th 48, 58 (D.C. Cir. 2022) (describing remote ID rule); https://www.faa.gov/uas/getting_started/remote_id/Remote-ID-Toolkit-main.pdf.
- 20 See Brennan v. Dickson, 45 F.4th 48, 65-73 (D.C. Cir. 2022) (upholding FAA rule requiring remote identification of drones).
- 21 See 14 CFR Parts 21-39 (certification procedures and airworthiness standards); FAA, Airworthiness Certification of Unmanned Aircraft Systems and Optionally Piloted Aircraft, Order 8130.34D (Sep. 8, 2017).
- 22 See, e.g., FAA, Airworthiness Criteria: Special Class Airworthiness Criteria for the Asylon Drone Sentry Model ASY02C+ Unmanned Aircraft, 88 Fed. Reg. 12268 (Feb. 27, 2023) (proposing airworthiness criteria for unmanned aircraft system); see also Kelsey Reichmann, 10 Drone Companies Receive Airworthiness Criteria from FAA, Avionics Int’l, Nov. 24 2020, available at <https://www.aviationtoday.com/2020/11/24/10-drone-companies-receive-airworthiness-criteria-faa/> (reporting that FAA approved overall system design for 3D Robotics, Airobotics, Amazon, Flirtey, Flytrex, Matternet, Percepto, Telegrid, Wingcopter, and Zipline, eliminating traditional requirements for approval of “every nut and bolt”); Brianna Wessling, Airobotics’ Optimus drone receives FAA Airworthiness, The Robot Report, Sep. 7, 2023, available at <https://www.therobotreport.com/airobotics-optimus-drone-receives-faa-airworthiness/>.
- 23 Michigan Coalition of Drone Operators, Inc. v. Ottawa County, No. 359831, 2022 WL 17073493 at *3 (Mich. Ct. App. Nov. 17, 2022) (affirming injunction against enforcement of preempted local drone rules).
- 24 Henry H. Perritt, Jr. & Albert J. Plawinski, One centimeter over my back yard: where does federal preemption of state drone regulation start?, 17 N.C.J.L. & Tech. 307 (2015).
- 25 FAA General Counsel, Updated Fact Sheet (2023) on State and Local Regulation of Unmanned Aircraft Systems (UAS) (Jul. 14, 2023), available at <https://www.faa.gov/sites/faa.gov/files/State-Local%20Regulation-of-Unmanned-Aircraft-Systems-Fact-Sheet.pdf>.
- 26 Id. at 5-6.
- 27 Id. at 6.
- 28 An October 30, 2023 Westlaw search by the author, using the search term “adv: (drone “unmanned aircraft”) & negligence & (“personal injury” “Property damage”)” resulted in 51 case citations, only one of which involved a drone accident: Philadelphia Indemnity Insurance Co. v. Hollycal Production, Inc., Case No. ED CV 18-768 PA (SPx), 2018 WL 6520412 at *2 (C.D. Cal. Dec. 7, 2018) (finding no insurance coverage for defending claim for injury to eye by drone involved in wedding photography).
- 29 Henry H. Perritt, Jr., Who Pays When Drones Crash?, 21 UCLA J. L. & Tech. 1 (2017)
- 30 Donegal Mutual Ins. Co. v. Thamgavel, No. 379, 2022, 2023 WL 4605076 at *4-*5 (Del. July 18, 2023).

- 31 FSTCV226056881S, 2023 WL 4211055 (Conn. Super. June 20, 2023).
- 32 *Boggs v. Meredith*, No. 3:16-CV-00006-TBR, 2017 WL 1088093 at *8 (W.D. Ky. Mar. 21, 2017).
- 33 *H & L Farms LLC v. Silicon Ranch Corp.*, Case No. 4:21-CV-134 (CDL), 2023 WL 1795705 at *7 (M. D. Ga. Feb. 7, 2023) (ruling on motion in limine).
- 34 See *Whelan v. Brestelli*, Docket No. CV 20-6028479-5, 2023 WL 2662170 (Conn. Super. Mar. 23, 2023) (rejecting diffuse claims of harassment by drone in property-line dispute).
- 35 *Rosalv v. Konecny*, 346 So.3d 630, 634 (Fla. Ct. App. 2022).
- 36 *Gerhart v. Energy Transfer Partners, L.P.*, No. 1:17-cv-01726, 2020 WL 1503674 at *24 (M.D. Pa. Mar. 30, 2022) (denying motion to dismiss, in material part).
- 37 See *H & L Farms LLC v. Silicon Ranch Corp.*, Case No. 4:21-CV-134 (CDL), 2023 WL 1795705 at *7-*8 (N.D. Ga. Feb. 7, 2023) (rejecting arguments to exclude from evidence drone imagery allegedly taken in violation of Georgie privacy and criminal trespass statutes; finding no violations).
- 38 *National Press Photographers Ass'n v. McGraw*, 84 F.4th 632, 657-58 (5th Cir. Oct. 23, 2023) (upholding state law against federal preemption and constitutional challenges).
- 39 See *Long Lake Township v. Maxon*, No. 349230, 2022 WL 4281509 (Mich. Ct. App. Sep. 15, 2022).
- 40 No. 1:21-cv-00451-JMS-MG, 2023 WL 4761662 at *13 (S.D. Ind. July 26, 2023).
- 41 *In re Application of the U.S. For An Ord. Authorizing Small Unmanned Aircraft Sys. Surveillance of Priv. Prop.*, 637 F. Supp.3d 343, 357 (E.D. N.C. 2022) (denying All Writs Act order for drone surveillance of suspected drug distribution site; search warrant required). The All Writs Act allows courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a).
- 42 See Va. Code § 19.2-60.1(B) (prohibiting use of drone by law enforcement agency without search warrant or administrative or inspection warrant).
- 43 See 14 CFR Pt. 13 (establishing investigative and enforcement procedures).
- 44 See *Forensic Video Law, Elevating Litigation with Drone Video Services: Forensic Video Law*, <http://www.forensicvideolaw.com/Drone.html> (advertising unparalleled visual representation of accident scenes, construction sites, industrial facilities, and more); Ryan Y. Cunningham, *Drones Are the New Way to Reconstruct How Car Accidents Happen* (Jul. 13, 2021), <https://www.cunninghamandmears.com/blog/drones-are-the-new-way-to-reconstruct-how-car-accidents-happen/>.
- 45 See *Rodriguez v. Colorado*, B318828, 2023 WL 4308851 at *3 (Cal. Ct. App. July 3, 2023) (reporting on use of drone by expert for accident reconstruction; affirming judgment against state for condition of road).
- 46 Civil Action No. 7:20-cv-134, 2020 WL 5526504 at *4 (W.D. Va. Aug. 26, 2020).
- 47 See *Details Automotive Finishes, LLC v. Four Children's Enterprises, LLC*, No. 355711, 2022 WL 1194029 at *3 (Mich. Ct. App. Apr. 21, 2023) (referring to drone imagery in trespass to land case).