

Phillips Murrah Director advises Oklahoma Agricultural Aviation Association on potential crop dusting legal issues



Director Patrick Hullum speaks at the Oklahoma Agricultural Aviation Association annual convention.

[Phillips Murrah Director Patrick L. Hullum](#) spoke to aerial spray applicators, or crop dusters, on January 16 at the Oklahoma Agricultural Aviation Association's annual convention about potential legal issues facing these business owners and pilots and ways to avoid them.

"When legal or insurance claims are brought against an aerial spray business, the claims are most often alleging 'drift' against the company," Hullum said. " 'Drift' occurs when the chemical spray dispensed by the aircraft moves beyond the intended target area. Such claims allege that the aerial spray caused chemical damage or harm to land or vegetation owned by

someone else.”

Drift complaints must first be filed with the Oklahoma Department of Agriculture within 90 days of the spray/damage before a lawsuit can be filed. Following this step:

- The aerial spray company must be allowed access to the property to view alleged damage, inspect and obtain samples for testing.
- The Department of Agriculture will conduct a complete investigation of any complaint and make a determination of whether the company committed any violations.
- The complainant may still file a lawsuit following the Department of Agriculture investigation, even if the Department of Agriculture clears the company.

If the company is notified of a Department of Agriculture complaint or subsequent lawsuit, it needs to notify its attorney immediately, Hullum said.

“The attorney can quickly determine if the complaint and/or lawsuit was properly and timely filed and served, and whether the court has proper jurisdiction and venue,” he said. “The attorney can also quickly organize an inspection of the property and gather crucial maps, imaging, Satloc flight information, chemical testing, etc. and can determine whether the lawsuit has diversity of the parties and an amount in controversy to transfer from state to federal court.”

Hullum’s primary advice to these business owners is to be prepared.

“Overall, as an aerial spray business, be organized and diligent on the front end of your customer relations and service,” he said. “Speak openly with your customers and identify concerned neighbors, take video and photos of your spray applications, have your Satloc software up to date and in place, maintain Mesonet weather data for the days leading to/during/after the chemical application, maintain color

satellite maps of the property areas and boundaries, obtain statements, and obtain samples for testing.”

[To learn more about Patrick Hulum's practice, visit his attorney profile here.](#)