Railroads



OVERVIEW

Railroad law has been an integral part of Modrall Sperling's practice for decades. Our lawyers in this industry group have worked with railroad clients in a range of transactions including the acquisition and expansion of railroad rights-of-way through eminent domain and the siting and permitting of intermodal and other railroad facilities. We are conversant in the range of federal laws regulating the rail industry from the 1875 Railroad Right of Way Act to the Interstate Commerce Termination Act and were involved in negotiating the transaction that resulted in the creation of the New Mexico Rail Runner passenger train service and the establishment of a new international terminal in Santa Teresa, New Mexico. Our railroad litigators are members of the National Association of Railroad Trial Counsel and regularly defend grade crossing accident cases for freight and passenger railroads, employee injury claims arising under the Federal Employer's Liability Act (FELA). We also handle environmental and cultural resources issues for railroads.

EXPERIENCE

Representative Cases

- Summary judgment affirmed in favor of BNSF Railway Company in a grade crossing accident case. *Henderson v. Amtrak*, 2011 U.S. App. LEXIS 207 (10th Cir. Jan. 5, 2011)
- Lengthy decision denying a motion to remand and affirming federal court jurisdiction over suits involving Amtrak in a case with a complex procedural history which had been partially consolidated with another suit filed in state court. *Stark-Romero v. Amtrak*, 2011 U.S. Dist. LEXIS 11613 (D.N.M. Jan. 12, 2011)
- Exclusion of expert testimony concerning train event recorder data under Daubert and Fed.R.Civ.P 26(a). *Vigil v. Burlington Northern & Santa Fe Ry., 521* F.Supp.2d 1185 (D.N.M. 2007)
- Enjoined prosecution of a grade crossing accident case filed in tribal court based on a lack of tribal court jurisdiction. *Chiwewe v. Burlington Northern & Santa Fe Ry. Co.,* 239 F.Supp.2d 1213 (D.N.M. 2002)
- Filed an amicus brief for the Association of American Railroads which supported a successful challenge to a Hotel Occupancy Tax imposed by the Navajo Nation on guests of Atkinson Trading Company at Atkinson's Cameron Trading Post (and hotel) located on non-member-owned fee lands within the Navajo Reservation near the eastern entrance to Grand Canyon National Park. *Atkinson Trading Co. v. Shirley*, 532 U.S. 645, 121 S. Ct. 1825 (2001)
- Summary judgment for AT&SF on causation under the FELA where a railroad employee brought suit after injuring his back while changing a tire. *Thornton v. The Atchison Topeka & Santa Fe Ry. Co.,* 11 F.Supp.2d 1311 (D.N.M. 1997)

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RELATED ATTORNEYS

Celina C. Baca
Marrisa E. Casados
Earl E. DeBrine, Jr.
Joan E. Drake
Timothy L. Fields
Tomas J. Garcia
Jeremy K. Harrison
Margaret Lewis Meister
Susan E. Miller
Brian K. Nichols
Bayard Roberts IV
Lynn H. Slade

RELATED PRACTICES

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- Private Equity and Venture Capital
- Public Finance

Energy, Environment and Natural Resources
- Cultural and Historic Resources
- Environment
- Mining
- Public Lands
- Wastes / Contaminated Properties

Labor, Employment and Benefits
Litigation
- Commercial
- Torts / Personal Injury

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- Economic Development
- Energy and Resources
- Tribal Law and Courts

Real Estate
Taxation

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