



# 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 PRACTICES

Corporate, Business and Finance  
    Banking and Lending  
    Entity Formation and Governance  
    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  
Native American Law  
    Economic Development  
    Energy and Resources  
    Tribal Law and Courts  
Real Estate  
Taxation