

railroad practice group

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For more than three decades, Dickinson Wright members have represented all classes of railroads in all types of matters throughout the Midwest, including Michigan, Illinois, Ohio, as well as Pennsylvania.

Our railroad lawyers have significant wide-reaching experience prosecuting railroad claims and defending railroads in wrongful death, third-party personal injury, commercial, contracts, trackage rights, property damage, Federal Employer Liability Act (FELA), environmental, easements, freight, toxic tort, trespass, condemnation, property tax, municipal and insurance coverage matters.

As industry legal practice leaders, we handled the defense of a railroad in the first PRP CERCLA action in the State of Michigan, and we regularly represent clients in state and federal courts throughout the country and before regulatory agencies and bodies.

Our lawyers are members of the National Association of Railroad Trial Counsel, and possess the industry knowledge, legal experience, and technical know-how to critically analyze railroad accident cases and devise effective strategies for trial.

Areas of Expertise

- Defending railroads against wrongful death, catastrophic and other personal injury third-party liability claims involving public and private motor vehicle crossings, derailments and trespasser and other pedestrian injury claims
- Defending railroads in FELA wrongful death, catastrophic injury (loss of limb, paralysis, closed head brain injury, mesothelioma, etc.), and non-catastrophic injury claims, including total body wear out, loss of limb, asbestos, chemical and toxic exposure matters
- Prosecuting and defending railroad crossover and trackage rights agreement claims
- Defending railroads in employment disputes
- Litigating property damage, freight disputes, offers of financial assistance disputes, and environmental damage claims, including federal, state and private ground, water and air pollution matters
- Evaluating and litigating various types of railroad insurance coverage claims and disputes
- Representing railroads in tax assessments
- Defending railroads in private, municipal, state and federal easement and federal government property condemnation actions
- Identifying and preserving critical evidence and providing effective accident scene management
- Resolving commercial issues and transactional disputes
- Resolving state and local property tax disputes
- Representing railroads in alternative dispute resolution proceedings, including arbitration, mediation and pre-suit mediation
- Mediators in railroad disputes

Litigation

From offices in Michigan, Arizona, Kentucky, Nevada, Ohio, Tennessee, Washington, D.C. and Toronto, Dickinson Wright trial lawyers win cases for clients across a broad spectrum of litigation matters. With more than 120 lawyers engaged in the firm's litigation practice, our reach extends from our "home court" jurisdictions to federal, state and provincial trial and appellate courts, governmental bodies, specialty courts and international, national and regional arbitral organizations across the United States and Canada.

Representative Railroad Clients

Ann Arbor Acquisition Corporation
a/k/a Ann Arbor Railroad
Canadian National Railway Company
Canadian Pacific Railway Company
Central Michigan Railway Company
CSX Transportation, Inc.
Decatur Junction Railway Company
Elkhart & Western Railroad Company
Grand Trunk Western Railroad Company
Great Lakes Central Railroad Company
Lake State Railway Company
Michigan Southern Railroad Company
Pioneer Railcorp
Soo Line Railroad Company
The Straits Corporation
Tuscola and Saginaw Bay Railway Company
Wisconsin Central Limited

Practice Group Leader

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24-7 Availability and Critical Response Representation

Knowing that crucial evidence can fade or disappear within hours of an accident, our firm members will go to the accident scene on a moment's notice to assure proper legal management in conjunction with a railroad's in-house and/or outside claims investigators and otherwise direct and advise throughout an accident's investigation. We are particularly experienced at utilizing experts to assist in case evaluation and litigation. In each instance, we evaluate the potential liability, preserve the evidence, identify and interview witnesses, and work with law enforcement, insurance adjusters, reconstructionists and other experts.

Cost-Effective Comprehensive Representation

When disputes arise or litigation is threatened, we always strive to obtain the best solution at the lowest cost to our clients. Our vast knowledge of the railroad industry and experience handling virtually every legal challenge have provided us with insights that enable us to offer clients cost-effective, timely and efficient representation. Whether representing a railroad client directly or through its insurer, we are prepared to serve as national, regional, state or local counsel.

Exemplary Representations

- *Nancy McPherson v. CSX Transportation, Inc.* (Livingston County, Michigan), defended CSX Transportation, Inc. in a wrongful death action involving a high school student who was killed after being struck by a locomotive while proceeding over a railroad trestle.
- *Kissee v. CSX Transportation, Inc., et al* (Ingham County, Michigan), defended CSX Transportation, Inc. in a double leg off claim arising when a middle school student had both legs severed as a result of his allegedly being sucked under a passing freight train while waiting to cross tracks on his way to school.
- *Drzewicki v. Central Michigan Railway Company* (U.S. District Court Eastern District of Michigan), defended Central Michigan Railroad Company against an FELA total disability claim premised upon the Plaintiff serving as a railroad carman for Central Michigan Railroad Company, CSX Transportation, Inc., and Huron & Eastern Railway Company, over a thirty year career, with his having sustained an alleged total body wear out resulting in his being totally disabled.
- *Slack v. Michigan Southern Railroad Company* (Peoria County, Illinois), defended Michigan Southern Railroad Company in an FELA wrongful death action when a conductor was killed after falling off a boxcar as the train proceeded rearward into a yard.
- *Bleicher, et al v. Ann Arbor Acquisition Corporation a/k/a Ann Arbor Railroad* (Washtenaw County, Michigan), defended Ann Arbor Railroad from an alleged \$51 million claim for destruction of art arising out of a fire generated by sparks emitted from a locomotive due to a purported defective spark arrestor.

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- *United States of America v. Parcel Consisting Of 1.90 Acres Of Land More Or Less Situated In Chippewa County, State of Michigan and Wisconsin Central, Ltd.* (U.S. District Court Western District of Michigan), defended Wisconsin Central, Ltd. and its successor, Canadian National Railroad in a condemnation action initiated by the federal government for the taking of property owned by Wisconsin Central, Ltd., in Sault Ste. Marie, Michigan, for development of a new border patrol facility headquarters.
- *U.S. Environmental Protection Agency and State of Michigan v. CSX Transportation, Inc., et al* (Ingham County, Michigan), defended a lawsuit initiated by the Federal Environmental Agency and Michigan Department of Natural Resources against CSX Transportation, Inc. and a number of other defendants involving the first PRP site in the State of Michigan.
- *Lytle v. CSX Transportation, Inc. and Soo Line Railroad Company* (Ionia County, Michigan), defended CSX Transportation and Soo Line in a lawsuit initiated by an Ionia County snow plow truck driver who suffered a severe brain injury when his truck was struck by a train while proceeding over a railroad crossing.
- *Schwartz v. Central Michigan Railway Company* (Washtenaw County, Michigan), defended Central Michigan Railway from a closed head brain injury claim asserted by a bicyclist who fell off his bike while proceeding over a railroad crossing.
- *Johnson v. Soo Line Railroad Company* (Delta County, Michigan), defended Soo Line Railroad from an FELA mesothelioma claim involving a former laborer and machinist exposed to asbestos during the course of his employment by a Soo Line Railroad predecessor company.
- *Johnson v. Pioneer Railcorp, Decatur Junction Railway Co.* (US District Court Central District of Illinois), defended Pioneer and Decatur Junction Railway Co. from a FELA hearing loss and wrongful death claim involving a former locomotive mechanic who allegedly suffered a traumatic hearing loss when attempting to extract a piston and ring of one of the engines in a locomotive and thereafter purportedly drank himself to death due to the alleged stress and distress of his inability to work and hear.

- *Grayling Game Club v. Lake State Railway Company*, defendant Lake State Railway Co. and three of its officials from claims for destruction of a game club and surrounding forest caused by a fire which was caused by a spark omitted during the operation of the railroad's locomotive without an operative spark arrestor
- *Hines v. Canadian Pacific Railway & CSX Transportation*, defended CPR & CSX from an arm amputation claim when a pedestrian attempted to mount a railcar forming part of a train stopped at a road crossing with the train's slack action then causing the pedestrian to fall under the car.
- *Kaminen v. Soo Line Railroad Company, et al* (Marquette County, Michigan), defended Soo Line RR from a FELA asbestosis claim involving a former locomotive engineer exposed to asbestos during the course of his employment by a Soo Lines RR predecessor company.
- *Pequeno v. Michigan Southern Railroad Company* (Peoria County, Illinois), defended Michigan Southern Railroad Company from FELA back and upper body injury claims involving a former locomotive engineer and conductor who had slipped from a locomotive onto the ground during his course of employment with the Michigan Southern Railroad.
- *Maxwell v. Great Lakes Central Railroad* (US District Court for the Eastern District of Michigan), defended Great Lakes RR from a FELA significant ankle injury involving a truck laborer when a rail truck he was driving during the course of his employment with Great Lakes RR was struck by one of its trains.
- *Selinske v. Huron Railroad Company* (US District Court Northern District of Ohio), defended Soo Line Railroad Company from an FELA asbestosis, cancer phobia and pneumoconiosis involving a former locomotive engineer exposed to asbestos friable fibers, asbestos containing products, and other chemicals and toxic substances during the course of his employment by Soo Line Railroad Company.
- *Roethig v. Soo Line Railroad Company* (US District Court Eastern District of Pennsylvania and US District Court Western District of Michigan), defended Soo Line Railroad Company from a FELA interstitial fibrosis claim involving a former fireman and locomotive engineer for total disability arising out of his exposure to asbestos friable fibers, asbestos containing products, and other chemicals and toxic substances during his employment by Soo Line Railroad Company.
- *Magnuson v. Soo Line Railroad Company* (US District Court Eastern District of Pennsylvania and US District Court Western District of Michigan), defended Soo Line Railroad

Company from FELA plural abnormalities and interstitial fibrosis claims involving a former brakeman and conductor exposed to asbestos friable fibers, asbestos containing products, and other chemicals and toxic substances during the course of his employment by the Soo Line Railroad Company.