

Rail

Transportation sector clients turn to Kelley Drye for help in a broad range of complex matters involving environmental, real property, commercial, international trade, and labor and employment matters, including those that often arise from historical operations of railroads, tenants, or prior owners.

About

Kelley Drye is dedicated to representing railroads of all classes (i.e., Class I, Class II and Shortline Railroads) in a wide variety of matters. The current breadth and depth of our legal experience includes environmental regulation and litigation, commercial litigation and contract disputes, chemical releases, easement disputes, derailments, accident investigation and emergency response, personal injury and Federal Employer Liability Act claims, and a wide variety of other legal matters.

We also represent other transportation sector clients, including rail manufacturers, railcar service companies, and shippers, with opportunities involving rail-related transactions, including acquisitions, dispositions, and leasing.

We advise clients on international trade and tariff issues, including how changes in the tariff regulations impact the transportation sector, including rail. We also have experience representing rail companies in labor and employment litigation.

Environmental Litigation and Regulatory Compliance

At Kelley Drye, we represent railroads and transportation sector clients in complex environmental matters that often arise from historical operations of railroads, tenants or prior owners. Our attorneys have significant experience representing railroads and transportation clients in a wide variety of environmental actions, including Superfund litigation, cost recovery actions, contribution actions, nuisance and property damage litigation, natural resource damages litigation and many other matters relating to contamination and impaired real property. We also use our significant environmental experience to assist our clients with environmental regulatory matters and enforcement actions at the local, state and federal levels. From representing railroads in large CERCLA litigation to investigating and pursuing contribution for legacy-contaminated sites from prior owners, operators and tenants, our attorneys handle the full spectrum of environmental and property damage litigation for our railroad and transportation clients. In addition, we have experience securing VW settlement funding for development and alternative fuel projects that reduce emissions and operating costs. We have secured alternative certification procedures and development exemptions for alternative fuel operation, including engine conversion for well gas and LNG operation. We have developed internal policies for compliance to local, national and international standards for existing fleets and have secured grant funding for fleet upgrades.

Property Management Claims

Through almost two decades of representing the interests of railroads, we have learned the import and extent of our clients' property holdings, lease and tenant programs, environmentally impaired

properties, and the costs, risks and damages often associated therewith. We offer a unique ability to mitigate our railroad clients' exposure associated with their real-property holdings and to enhance recoveries on first-party claims. Our lawyers have undertaken to quantify and pursue some of the most daunting and creative damages claims in the country, ranging from property and market damages on a macroeconomic level to the prosecution of economic and tax revenues for entire state governments. At Kelley Drye, we consistently help railroad clients mitigate the risk posed by impacted properties and obtain significant damages and recoveries from responsible third parties.

Derailments, Accident Investigation and Personal Injury Claims

As part of our work with railroads and other transportation clients, the attorneys at Kelley Drye are called upon to respond to transportation-related accidents involving train derailments, chemical releases and personal injuries. We assist our clients from the initial phases of accident response and investigation through the ultimate resolution of the claims. By working directly with engineering and safety experts, we are able to determine the root cause of incidents and assign ultimate responsibility to the proper party or parties. We also address issues that arise with the Federal Railroad Administration, the Environmental Protection Agency and other regulatory bodies concerning accidents and safety compliance. Our lawyers also defend personal injury claims, including railroad workers' claims pursuant to the Federal Employers Liability Act.

At-Grade Crossings

Kelley Drye has extensive experience managing grade-crossing issues on behalf of railroad clients as a result of the rapid development of the fracking industry and exploding population growth in Texas. Our firm is well positioned to provide a broad spectrum of legal services in crossing closures, negotiating and drafting crossing agreements, and developing and implementing crossing-protection programs. We share the industry's goal of increasing the safety of its public and private at-grade crossings while maintaining the efficiency of railroad operations.

Condemnation and Related Property Disputes and Acquisitions

Kelley Drye has significant experience representing railroads, condemning authorities and private land owners in eminent domain matters and related litigation involving railroad corridors and property adjacent thereto. Kelley Drye's team has practiced extensively in the United States Court of Federal claims and is knowledgeable with related proceedings before the Surface Transportation Board. Our lawyers have litigated a wide swath of condemnation-related issues involving railroad corridors on behalf of railroads, pipeline companies and quasi-governmental entities, including:

- Right to take and authority to condemn
- Whether a property interest is constitutionally protected
- Whether a government action constitutes a physical or regulatory taking
- Fair market value and just compensation
- Relocation expenses
- Permanent and temporary takings
- Easements, including rights of access

- Jurisdiction and statute of limitations in inverse condemnation
- Complex valuation questions
- Historic Interstate Commerce Commission valuation records and title analyses
- Admissibility of expert witnesses, including appraisers and economists

Our extensive understanding of real-property appraisal methods, damage models, and creative approach to the quantification of market and economic damages, gives our team a facility with condemnation matters and damages that can add tremendous value to railroad and transportation companies. Learn more about our experience in [condemnation matters](#).

Rail-Related Commercial Transactions

The attorneys at Kelley Drye have an extensive history of advising on rail-related transactions on behalf of manufacturers and shippers, including railcar leasing transactions, and railcar acquisitions and sales. We also have experience with the acquisition and disposition of railcar repair businesses, which have involved complex issues related to the sale of real property, track licenses, and rights of way. Our understanding of the rail industry, combined with the expertise of our tax, environmental, and real estate practices enable us to support clients with all aspects of a transaction.

Contacts

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