



## Railroad

We offer railroad clients more than 135 years of experience and a record of proven success. In fact, we still represent our first-ever client, Burlington Northern Santa Fe Railway (now known as BNSF Railway). We have defended and consulted on thousands of cases involving the Federal Employers Liability Act, grade crossing accidents, trespassers injuries, property damage claims, employment disputes and other third-party injuries. We are also experienced with the corporate and regulatory issues facing railroads, including corporate formation, regulation, transactional matters, real estate, employment, administrative, tariff, shipping and environmental matters.

Recent railroad litigation successes have demonstrated our skills of responding immediately to accidents; coordinating investigation with company claims representatives and federal and state agencies; and coordinating employee fact-finding in the high-stakes climate these suits typically engender. Lathrop GPM has proven to be a cost-effective ally to railroad clients in times of reorganization, mergers and new vulnerabilities created by expanding federal and state legislation and regulation.

Lathrop GPM represents railroads in various employment and labor issues in both administrative and judicial forums. Firm attorneys regularly represent management in matters involving federal and state labor laws, including the Railway Labor Act, grievance and arbitration proceedings, collective bargaining negotiations, strikes and union contract interpretations. The firm appears regularly in state and federal courts on behalf of railroad and logistics companies, and before governmental agencies, including the Department of Labor, Equal Employment Opportunity Commission, Office of Federal Contract Compliance Programs, Occupational Safety and Health Administration and National Labor Relations Board, defending our clients in actions brought under an ever-expanding legislative and regulatory scheme.

Many of the firm's railroad attorneys are very active in national bar associations, in particular the National Association of Railroad Trial Counsel. Through their representation of the Santa Fe and the Kansas City Southern in the 19th century, assistance in the organization of The Kansas City Terminal in the early 20th century and assistance in the organization of The Missouri & Northern Arkansas Railroad Company, Lathrop GPM has grown alongside the railroad industry.

### **Representative Experience**

- Real estate and environmental counsel for the BNSF Railway Co.'s new intermodal facility, a project that is being built at a reported cost of \$735 million in Edgerton, Kansas. The project utilizes a total of \$45 million in city- and county-issued bonds. This project, when completed, will be rivaled by at most 2 or 3 other intermodal facilities in the world. This intermodal facility will cover 1,000 acres and is long enough to handle 1.5-mile long trains carrying 250 to 280 double-stacked containers. It will include more than 7 million square feet of warehouse space. The facility is expected to begin construction in 2011, and will have the capacity to handle 400,000 containers a year, increasing to 1.5 million containers per year.
- Navigated the complex regulatory and contractual matrix that accompanied one of the largest redesigns in American rail this century thus far, with the world's largest rail flyover. We served as borrower's counsel in the financing as well and negotiated with the Missouri Highway Commission on behalf of the Kansas City Terminal Railroad. The construction, costing \$91 million, included three integrated projects: the Southwest Boulevard Bridge Reconstruction Project, the Highline Bridge Rehabilitation Project and the Argentine Connection Flyover. The latter project — the world's largest rail flyover — elevated the BNSF's east-west transcontinental route over the north-south Ft. Scott subdivision route and the Kansas City Junction. The flyover is 9,300 feet long and provides a grade-separated, high-speed, double-track connection between BNSF's Argentine Rail Yard in Kansas and KCT track in Missouri.
- Nationwide trial counsel for BNSF Railway Co. in one of the largest class actions in the nation. These lawsuits involve the installation of fiber-optic cable on the railroad rights-of-way. The Lathrop Gage legal team has successfully defeated certification motions in two of the pending cases, successfully defeated nationwide discovery, all complaints seeking nationwide actions have been amended to

state-wide or multistate actions, and all cases are now stayed pending nationwide settlements negotiated by AT&T, Sprint, MCI, Williams Communications, Level 3 and Qwest.

- Serve as lead counsel in a purported class-action lawsuit seeking damages for operation of zinc smelter for more than 50 years in Oklahoma. Plaintiffs have sued the companies associated with the smelter, as well as BNSF Railway Co. According to the suit, during its operational life, workers at the smelter produced millions of tons of zinc alloy for use in many galvanized iron and steel products, including water piping, windmills, water tanks, siding, roofing and munitions for the military. The smelter played an integral role in both World Wars. The suit alleges that zinc, arsenic, lead, and cadmium from the smelter have contaminated groundwater and the land surrounding the area. Plaintiffs are seeking a medical monitoring class, property damages, unspecified remediation, and other damages, which would affect the entire town and region.
- Serve as national asbestos trial counsel for the BNSF Railway Co. We handle complaints brought under Federal Employers Liability Act and related to exposure used by the railroad for brakes, insulation and other uses.