

January 15, 2021

Re: Ex Parte 730 (Sub No. 1) Roster of Arbitrators—Annual Update

Ms. Allison C. Davis
Director-Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Via E-Filing

Dear Ms. Davis:

Please add my name to the list of individuals requesting to be included in the Board's Roster of Arbitrators for the coming year. I am attaching a summary of my experience in the rail industry that confirms my qualifications to serve as an arbitrator on issues arising in this industry.

My experience with rail transportation and economic regulation, as well as professional and business experience, is summarized in the attached proposed roster entry, and explained in greater detail in my attached resume.

I thank the Board for its consideration to be included on this list.

Respectfully submitted,



Charles A. Spitulnik

Charles A. Spitulnik
Kaplan Kirsch Rockwell, LLP
1634 I (Eye) Street, NW
Suite 300
Washington, DC 20006
(202) 955-5600
Fax: (202) 955-5616
Email: cspitulnik@kaplankirsch.com

Experienced transportation industry attorney.

- Currently a partner in a national law firm that focuses on transportation regulatory representation and on development and implementation of infrastructure projects.
- Practice focuses on representation of clients in the rail industry, with a long history of representation of various industry-related interests in proceedings at the Surface Transportation Board.
- Forty years of experience in the freight rail industry. Experience with proceedings and transactions presenting issues involving rail line acquisitions, mergers and consolidations, line rationalization issues, intercarrier disputes, abandonments and trackage rights agreements and disputes.
- Participated in numerous arbitrations and mediations.
- Fee: Between \$425-\$525/hour, depending on the matter, or as otherwise agreed with the parties. Daily rate to be negotiated. Virtual hearings by electronic media accepted. If travel to hearing locations is appropriate, all reasonable travel expenses to be reimbursed.

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Suite 300
Washington, DC 20006
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Versatile attorney with broad experience in respected law firms in a wide range of transportation transactional, management and regulatory matters. Extensive, direct experience in management and securing approvals of large-scale transportation infrastructure projects, organization and governance of public transportation agencies, and creation and implementation of fixed guideway transit systems. Extensive experience negotiating and implementing transactions and transaction documents with all U.S. and Canadian Class I freight railroads and with Amtrak. Practice has focused on representation of state and local governments in addressing issues related to the rail companies that serve their communities or to the issues that arise when those communities develop and implement plans for operation of rail transit systems, whether commuter rail, light rail, or heavy rail systems. Additional work has included representation of rail labor unions in federal regulatory and section 13(c) issues. Operating experience as Chief Legal Officer of railroad industry car-building and fleet management company and President and Chief Operating Officer of fleet management subsidiary.

CAREER OVERVIEW

Partner, Kaplan Kirsch & Rockwell LLP, Washington, D.C.

6/2006 - Present

Practice focuses on: representing local governments and shippers in developing and implementing large-scale transportation infrastructure projects; addressing service, rate and political issues presented by the railroads serving the communities or facilities involved; advising commuter rail systems and short line railroads in start-up negotiations, and transaction and operations planning; negotiation and drafting of agreements required for new and continuing operations; obtaining regulatory approvals and representing clients before federal and state agencies and courts to enable them to achieve their objectives. Particular emphasis placed on using existing laws and regulations for the benefit of the client and to understanding the implications of federal rail labor regime in planning transactions. Advise clients in strategic planning to identify and successfully address issues that could thwart valid corporate objectives.

Partner, McLeod, Watkinson & Miller, Washington, D.C.

6/2000 – 6/2006

Developed practice focused on representation of commuter rail transit agencies in envisioning, developing, negotiating acquisition and operating agreements and establishing governance structures for, and implementing operation of new service to communities seeking alternatives that reduce environmental impacts and congestion that result from construction of additional highway alternatives for traveling public

Partner, Hopkins & Sutter, Washington, D.C.

11/1987 – 6/2000

(Of Counsel, 11/1987 – 10/1988)

Represented Class I railroads in negotiation and securing regulatory approvals for acquisition, abandonment and construction of rail lines or systems, including both proposing and opposing merger transactions; began representation of local government agencies proposing creation of new commuter rail services using existing rail right-of-way; represented Class I railroad in acquisition of rail corridor for transfer to Amtrak

for its use in intercity rail passenger operations; focus on regulatory issues and addressing labor issues that arise in development and implementation of transactions

**General Counsel and Corporate Secretary, Fruit Growers Express Company, 6/1984-11/1987
and its subsidiary, Fleet Management, Inc.;
President and CEO of Fleet Management, Inc.,
Alexandria, Virginia**

Sole in-house counsel on executive staff of corporation with \$35 million in operating revenues and nationwide facilities and service operations. Daily interaction with all levels of management and frequent interaction with Board of Directors. Active participation in policy development with respect to long term planning, and all phases of company's operations. Also included extensive and direct supervision of outside counsel and active participation in all litigation, and in all applicable federal and state regulatory proceedings. Work also involved contract drafting and negotiation for all company transactions, including frequent direct contact with customers.

From June 1987 through November 1987, served as well as President and Chief Operating Officer of Fleet Management, Inc. Supervised staff of 13 in company which relied on state-of-the-art software to manage equipment pools with the goal of improving utilization efficiency. Reorganized company to cut costs in the face of declining revenues, and maintained extensive personal contact with customers nationwide to increase confidence in the company's product. This subsidiary was offered for sale, and the focus of the President's task shifted to preservation of ongoing operations to preserve value during negotiations with potential buyers. Completed sale of company.

Additional Professional Experience:

**Staff Attorney, Pension Benefit Guaranty Corporation, May – June, 1984
Washington, D.C.**

Private Practice, Washington, D.C. area. 1983-1984

Associate, Dechert Price & Rhoads, Washington, D.C. 1982-1983

Associate, Highsaw & Mahoney, P.C., Washington, D.C. 1979-1982

**Psychiatric Social Worker, New Canton Mental Health Center 1975-1976
(now Central Virginia Health Services), New Canton, VA**

PUBLICATIONS

NCRRP Legal Research Digest 3: Issues That Emerge When Public Entities Acquire a Real Property Interest in Rail Lines

Co-authored with Allison I. Fultz and Christian L. Alexander

Transportation Research Board's National Cooperative Rail Research Program
February 2016

Use of Freight Rail Lines for Commuter Operations: Public Interest, Private Property

Co-Authored with Jamie P. Rennert

26 *Transportation Law Journal* 319
Summer 1999

Peaceful Coexistence Between Local Governments and Freight Rail Lines: An Impossible Dream?

Co-Authored with Jamie P. Rennert

40 *Municipal Lawyer* 1 at 10

PROFESSIONAL AND CIVIC ACTIVITIES/AWARDS

Admitted to Practice before the United States Supreme Court; in the District of Columbia, Virginia, Maryland, and New York; before the United States Supreme Court, the United States Courts of Appeals for the D.C., First, Second, Third, Fourth, Sixth, Seventh and Ninth Circuits, and the U.S. District Courts for D.C., E.D. Virginia, E. D. Michigan, S.D. New York, and N.D. Illinois.

Member: D.C., Virginia, and Maryland Bar Associations; Association of Transportation Law Professionals (Previously Editor, Commuter Rail for “Highlights”; Chair of Annual Meeting Program Committee, 2013); American Public Transportation Association (Chair, Legal Affairs Committee, 2009-2012)

Professional Recognition:

- *Best Lawyers in America*® for Transportation Law and Railroad Law (2021)
- Martindale-Hubbell AV Preeminent Top Rated Lawyer, Labor & Employment Law

EDUCATION

1987	Wharton School, University of Pennsylvania, “Finance and Accounting for the Non-Financial Manager”
1979	J.D., University of Virginia, Charlottesville, Virginia
1975	M.S.W., Syracuse University, Syracuse, New York
1973	B.A. with High Honors, Oberlin College, Oberlin, Ohio