

# CHRISTOPHER W. BOWMAN

Yaeger & Jungbauer Barristers, PLC • 4601 Weston Woods Way • Saint Paul, MN 55127  
(651) 288-9500 • cbowman@yjbllaw.com

## EXPERIENCE

**Yaeger & Jungbauer Barristers, PLC** – Saint Paul, MN March 2013 – Present  
**(f/k/a Yaeger, Jungbauer & Barczak, PLC)**

*Attorney*

*Named to Best Lawyers in America, 2018-2020*

*Named a Minnesota Rising Star (Labor & Employment) by SuperLawyers, 2018-2019*

Serve as lead appellate counsel, including both briefing and oral argument, on Federal Employers' Liability Act and Federal Rail Safety Act in state and federal courts around the country; draft complaints, discovery responses, and motion practice pleadings; argue motions before state and federal courts and U.S. Department of Labor; assist senior attorneys in research, pleading drafting, depositions, and trial work; track and summarize relevant caselaw for internal listserv; serve as resource for attorneys on various rules of practice in varying jurisdictions.

**Episcopal Church in Minnesota** – Minneapolis, MN October 2013 – Present

*Vice Chancellor*

Assist state-wide diocese in range of legal matters, including but not limited to premises liability, church and corporate structure, employment matters, statutory interpretation, and government relations.

**Minnesota Court of Appeals** – Saint Paul, MN August 2009 – August 2010; October 2010 – March 2013

*Judicial Law Clerk to Judge Edward Toussaint, Judge Michelle Larkin, and Judge Larry Stauber*

Researched and prepared memoranda on procedural, factual, and substantive issues arising before the appellate court, including but not limited to criminal, family, juvenile, civil commitment, administrative, and complex civil litigation matters; drafted opinions and orders of the court.

## REPRESENTATIVE CASES

*In re Thornton v. Ortiz Bosquez*, No. A18-0223 (Minnesota Supreme Court): In a family-law appeal concerning Minn. Stat. § 518.17's presumption against joint custody in situations of domestic abuse, Bowman (along with co-counsel from another firm) participated as counsel for *amicus curiae* Minnesota State Bar Association, arguing that the Minnesota Court of Appeals had correctly held that Minnesota law requires that child-custody determinations be based on individualized best-interest factors, that the statute's presumption operates to facilitate that analysis rather than override it, and the statute provides a multi-factor framework for rebutting the presumption in appropriate cases.

*In re Application of J.M.M. o/b/o Minors for a Change of Name*, No. A17-1730 (Minnesota Supreme Court): Following the Minnesota Court of Appeals' affirmance of a dismissal of a petition by appellant mother to change the name of her minor children on the basis that the children's biological father had not been served with notice of the proceeding and that notice was required under Minn. Stat. § 259.10, the Minnesota Supreme Court granted review and directed the Minnesota State Bar Association to appoint counsel to "file and serve a response to appellant's brief." Bowman, along with co-counsel from two other firms, participated in responding to the brief and participating in oral argument arguing for affirmance of the decision of the Minnesota Court of Appeals.

*Wooten v. BNSF Ry. Co.*, No. 9:16-CV-139-DLC, 2019 WL 1778017 (D.Mont. April 23, 2019): Following a two-week trial in Missoula, Montana, a federal jury unanimously found in favor of the plaintiff on both his claim for a personal injury under the FELA and the railroad's termination of his employment for filing the personal injury report under the FRSA's whistleblower protections (49 U.S.C. § 20109(a)(4)). The jury awarded over \$1.4 million in lost wages, \$500,000 in emotional pain and suffering, and \$249,999 in punitive damages (\$1 below statutory maximum). Following post-trial motions, the district court denied the railroad's motions for a new trial and remittitur, and added an additional \$1 million in fees and costs, commenting that plaintiff's attorneys "demonstrated a thorough and reliable understanding of the state of FRSA litigation on a national scale" and had "risen to national prominence in [FRSA litigation] for good reason." The \$3.2 million judgment represents the largest to date under the FRSA's whistleblower protections.

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*Rookaird v. BNSF Ry. Co.*, 908 F.3d 451 (9th Cir. 2018): On appeal following a verdict in favor of plaintiff-employee, the Ninth Circuit rejected railroad-defendant's argument that the FRSA's whistleblower protections applied only when the employee refused to participate in an *actual* violation of a rule or regulation, finding that the FRSA protects railroad employees who engage in a "good-faith refusal to undertake conduct the employee believed to be violative of a law, rule, or regulation, even if the conduct at issue would not constitute an actual violation of a law, rule, or regulation if performed or continued."

*Benda v. BNSF Ry. Co.*, No. 4:14-CV-469-SRB, 2015 WL 4935114 (W.D.Mo. Aug. 18, 2015): District court granted Plaintiff's motion for summary judgment on questions of liability, finding that the railroad had breached its duty to provide a reasonably safe place to work by allowing two trains to head toward each other on the same track and that such negligence was a cause, at least in part, of Plaintiff's injuries. The district court also granted Plaintiff summary judgment on the question of contributory negligence, finding that the railroad's violation of 49 C.F.R. § 240.305(a)(1) (requiring locomotives to come to a complete stop at a red signal) was a violation of a statute enacted for the safety of railroad employees and therefore subjected the railroad to strict liability under the FELA (45 U.S.C. § 53).

*Bjornson v. Soo Line R.R. Co., et al.*, No. 0:14-CV-4596-JRT-SER (D.Minn. June 15, 2015): Magistrate Judge Steven Rau recommended striking two affirmative defenses pleaded by the railroad. The first defense, based on the language of 49 U.S.C. 20109(f), suggested that a railroad employee who challenges discipline through his or her union under a Collective Bargaining Agreement is precluded from filing a lawsuit that the railroad's actions violate federal statute. The court concluded that the defense was "legally insufficient" as being foreclosed by the plain language of the statute. The second defense, based on a Department of Transportation regulation that directs plaintiffs to provide the Department of Labor 15-days' notice in advance of filing a federal claim, suggested that failure to do so deprived the court of jurisdiction. The court rejected the railroad's argument, finding that Article III courts owe "no deference to the Department of Labor's interpretation" of the statute. The Magistrate's order was later adopted in whole by the Article III judge. 2015 WL 5009349 (D.Minn. Aug. 24, 2015)

*Colleran v. Soo Line Railroad Company, d/b/a Canadian Pacific Railway* (Milwaukee County Circuit Court, Wisconsin; 14-CV-1269, Feb. 5, 2015): District court denied railroad's motion for summary judgment after original summons and complaint misnamed defendant railroad. The court rejected the railroad's argument that the misnomer in the initial summons and complaint constituted a fundamental defect—holding that the railroad's reliance on *Johnson v. Cintas Corp. No. 2* was misplaced—and that the complaint could therefore be amended at any stage of the litigation.

*Petersen v. Union Pac. R.R. Co.*, No. 13-090 (U.S. Dep't of Labor ARB, Nov. 20, 2014): ARB affirmance of FRSA whistleblower award. The ALJ had determined that "the central reason for disciplining [the employee] for the parking lot incident was that he failed to prevent his feet from being run over, i.e., he sustained an injury that he reported, thereby causing an investigation to be conducted." The case resulted in a determination that the railroad's rules were "written in such a manner that anyone who is injured and reports it will have violated at least a part of one or more of them," which has the illegal "chilling effect on the reporting of injuries." It also marked the first time that the ALJ awarded punitive damages in nearly 20 years on the bench, noting that the railroad's conduct had been so egregious and "so openly blatant" in ignoring the FRSA's whistleblower protections of railroad employees. Following the ARB's decision, the railroad filed a Petition for Review with the Eighth Circuit, after which the parties settled the matter for a confidential amount.

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*Wallis v. BNSF Railway Co.*, No. 13-CV-40-TSZ, 2014 WL 1648472 (W.D. Wash. April 23, 2014), 680 Fed. Appx. 515 (9th Cir. 2017): Following successful trial on Plaintiff's Federal Rail Safety Act ("FRSA"), 49 U.S.C. § 20109, in which the jury awarded Plaintiff \$20,000 for the railroad's illegal conduct, the district court granted Plaintiff's Motion for Attorney Fees and Costs, awarding Plaintiff's firm attorney fees in the amount of \$231,306.66, expenses in the amount of \$16,601.25, and expert-witness fees in the amount of \$30,459.82. The Court of Appeals for the Ninth Circuit affirmed the order in all respects. *See* 680 Fed. Appx. 515 (9th Cir. 2017)

*Grimes v. BNSF Railway Co.*, 746 F.3d 184 (5th Circuit, 2014): Fifth Circuit vacated district court's dismissal of whistleblower case under the Federal Rail Safety Act ("FRSA"), 49 U.S.C. § 20109, finding that district court's application of collateral-estoppel doctrine was erroneous because the procedures of the Public Law Board were inadequate to allow for the doctrine to apply in FRSA cases.

*Kennedy v. Soo Line Railroad Co., d/b/a Canadian Pacific* (Hennepin County District Court, Minnesota; 27-CV-12-3265, Oct. 24, 2013): District court denied railroad's motion for judgment as a matter of law, a new trial, or conditional remittitur after finding that a radio communication that is incomplete under GCOR 2.6 violates 29 C.F.R. § 220.45, thereby negating any contributory negligence on the part of a railroad employee in a personal-injury action under the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60. The order was later affirmed on an appeal, handled by a different law office. *See* 2015 WL 404381 (Minn. App., Feb. 2, 2015).

## PUBLICATIONS

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*Whistleblower Protections of the Federal Rail Safety Act: An Overview*, 8 WM MITCHELL J.L. & PRAC. 1 (2015), available online at <http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1003&context=lawandpractice>): This article provides a brief history of the Federal Rail Safety Act, an overview of the elements of an FRSA Whistleblower Claim, a discussion of how such claims are litigated, and the still-developing jurisprudence employed by both the Department of Labor and Article III courts in litigation of such claims.

*Daubert, Frye & DTI: Hijacking the Right to Trial by Jury*, AMERICAN JOURNAL OF BIOETHICS: NEUROSCIENCE, 5(2): 16-23 (Coauthored with William Jungbauer): This article responds to other articles that seek to restrict the admissibility of diffusion tensor imaging (DTI) in court cases where an injured plaintiff has suffered a mild traumatic brain injury, arguing that they misframe the issue of whether DTI technology has gained general acceptance as a diagnostic tool for single incidents. The article offers a brief overview of DTI technology and its capabilities; summarizes the legal standards governing admissibility of such evidence and the position utilized by opponents of DTI to prevent admissibility; discusses events that transpired at an Emory conference seeking to develop some expert consensus around these issues; and concludes that when the question of admissibility is viewed through the proper lens, district courts should reach the conclusion that DTI has gained sufficient acceptance to be admitted under either standard and that the problems raised by its opponents are more properly handled by way of vigorous cross examination.

## RECOGNITION AND HONORS

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*Best Lawyers in America* (Railroad Law) – 2018-2020

*Minnesota Rising Stars* (Labor & Employment) – 2018-2019

Minnesota State Bar Association's Professional Excellence Award – 2019

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## ATTORNEY ADMISSIONS

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**Supreme Court of Minnesota**, November 2, 2009

**Eighth Circuit Court of Appeals**, October 11, 2013

**Fifth Circuit Court of Appeals**, November 22, 2013

**United States Supreme Court**, December 7, 2016

**District of Minnesota**, April 26, 2013

**Seventh Circuit Court of Appeals**, October 18, 2013

**Ninth Circuit Court of Appeals**, April 18, 2014

**Eastern District of Wisconsin**, June 26, 2017

## EDUCATION

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**WILLIAM MITCHELL COLLEGE OF LAW (N/K/A MITCHELL HAMLIN SCHOOL OF LAW)** – Saint Paul, MN

J.D., *cum laude*, 2009; GPA: 3.30; Class Rank: 54 of 269 (Top 20%)

William Mitchell Merit Scholarship Recipient (75% of Tuition)

Stephen & Lois Bergerson Endowed Scholarship Recipient

CALI Excellence for the Future Award: Torts I; Business: Agency, Partnerships, and LLC's

William Mitchell Journal of Law and Practice, Editor

**LAWRENCE UNIVERSITY OF WISCONSIN** – Appleton, WI

B.A., Government, English, 2006; GPA: 3.273

Dean's List (2005-2006)

Judicial Board Member (2004-2006)

## MEMBERSHIPS

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Minnesota State Bar Association: Appellate Practice Section (Council Member since June 2018)

Anoka County Bar Association