



## Transportation Law

# FLYNN|WIRKUS|YOUNG, P.C.

*Attorneys at Law Serving Transportation and Logistics Companies, and their Insurers*

FLYNN|WIRKUS|YOUNG, P.C. is a sophisticated firm of trial attorneys, rated AV® Preeminent™ by Martindale-Hubbell. We are a medium-sized firm dedicated to the practice of civil litigation in New England and across the U.S. At FWY, we put our passion to work to ensure your excellence. We develop a creative approach to suit each of our clients' individual needs. To us, conventional wisdom is never good enough.

### Practice Areas

We are experienced in analyzing complex legal issues, advising our clients as to the effects of various common law principles, and developing strategies to deal with favorable and unfavorable legal precedents throughout these practice areas:

- Construction site accidents
- Defective design
- Equipment machinery and device failures
- FELA claims (traumatic and occupational)
- Grade-crossing accidents
- Intermodal operations
- Motor Vehicle Accidents
- Premise owner / trespasser liability
- Products liability
- Railroad claims and litigation
- Terminal / facility injuries
- Toxic torts
- Transloading operations
- Trucking Accidents
- Wrongful death

We are also experienced in commercial insurance and litigation matters involving:

- A&E professional liability
- Contracts and leases
- Dram shop liability
- Insurance coverage
- Medicare Secondary Payer Act Compliance
- Property damage claims

We are skilled in advising our clients in a variety of commercial contexts, including the interpretation of contracts and leases and providing insurance coverage analyses. We have also developed a proven track record of pursuing indemnity, contribution and breach of contract claims through third-party and declaratory judgment actions.

### FRSA/OSHA Whistleblower Representation

We assist railroad industry clients in the processing and investigation of whistleblower complaints, including: training on FRSA/OSHA whistleblower law; compliance reviews; real-time guidance on the potential whistleblower implications of employment actions; and representation during OSHA enforcement proceedings.

**Our Passion.  
Your Excellence.<sup>SM</sup>**

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John E. Young, IV  
[jyoung@flynnwirkus.com](mailto:jyoung@flynnwirkus.com)



## Nationwide Legal Representation

Since its inception in 1998, FWY has litigated cases across the nation. In addition to representing clients throughout all of the New England states, we have experience in state and federal courts in Arkansas, Illinois, Iowa, Kentucky, New Jersey, New York, and Pennsylvania.

Collectively, the firm's lawyers are admitted to practice in the state courts of Massachusetts, New York, Pennsylvania, New Jersey, Connecticut, and Ohio, the federal courts of each of those states, as well as Vermont and Illinois. We also practice in numerous other states through pro hac vice admission.

## Courtroom Highlights

FWY has recently won ten defense verdicts for our clients, along with nine summary judgments and substantive dismissals as well as several *forum non conveniens* dismissals. Several case outcomes are worth noting:

- A month long trial in Chittenden County Superior Court, Burlington, VT, that resulted in a defense verdict for FWY's client, a regional railroad
- Three cases involving the Federal Employers Liability Act are included in the favorable defense verdicts. FELA disputes are known to present very difficult legal standards for defendants to overcome.
- Another FELA case resulted in a hung jury, thereby resulting in a potential savings to the firm's client - the plaintiff's demand going into trial was \$1.5 million. This case and another FELA case which resulted in a defense verdict were tried in the Philadelphia Court of Common Pleas, identified by the American Tort Reform Association as the number one "judicial hellhole" in America for defendants.
- Other cases resulted in extremely favorable settlements for our clients, which were achieved after the majority of the trial had been completed, but before the verdict was reached.

We have collectively tried dozens of cases to verdict. Many of our cases involve complicated factual scenarios, frequently relating to equipment performance, as well as the analysis, interpretation and application of various contractual, statutory, and regulatory requirements.

A list of selected representative cases and recent results is attached as Exhibit 1. Additional case-specific information will be provided upon request.

## Leadership Level Involvement in Defense Industry Groups

FWY is actively involved in organizations representing the interests of railroads and self-insureds, including:

- Association of American Railroads (AAR)
- American Short Line and
- Defense Research Institute (DRI)
- National Association of Railroad Trial Counsel (NARTC)
- Claims & Litigation Management Alliance (CLM)

We also provide FRSA/OSHA whistleblower training, education, guidance and representation to our railroad industry clients.

## Litigation Prevention through Risk Management

FWY is on the cutting edge of FRSA/OSHA whistleblower representation for the railroad industry. We provide railroads and their insurers with education and training on:

- FRSA/OSHA whistleblower law
- Guidance on the potential whistleblower implications of employment actions
- Representation during OSHA enforcement proceedings

Contact us to discuss a training seminar for your company.



Our Passion.  
Your Excellence.<sup>SM</sup>

"FWY brings all of the experience, knowledge, and sophistication you'd expect in a top-notch law firm along with unrivaled drive and fresh perspective. I have worked with many law firms of all sizes and FWY is at the top of the list."

- Claims Investigator,  
Class I Railroad

"I have worked with 100s of law firms of all sizes throughout the country. FWY is at the top of the list, which is why I send them around the country - they know their business, do great work, are not afraid to go to trial, come across great in front a jury, and are nice people who are fun to be with."

- Senior Claims Examiner,  
Insurance Company



## Meet Our Partners

### Michael B. Flynn

President and Senior Trial Attorney



Michael Flynn, peer rated AV® Preeminent™ 5.0 out of 5 in Martindale-Hubbell, is a seasoned trial lawyer with

over 25 years of experience who concentrates his practice in the areas of complex civil and commercial litigation. He serves as lead counsel for insurers and companies in highly regulated industries—such as railroads, shippers and motor carriers—in state and federal courts throughout the U.S. Michael has gained national acclaim for his success in numerous high-profile cases for his clients. His work has been featured in publications such as the MBA Journal and the Massachusetts Lawyers' Weekly—where a case he litigated was reported in 2004 as one of the “biggest” defense wins of the Year — and in the Massachusetts Lawyers' Weekly Annual Report of the largest defense verdicts in 1995 and 1996. Michael frequently speaks on various litigation-related topics—such as trial skills and strategies, persuading juries, evidentiary matters and developments in the law— to legal, claims and trade organizations, including the NARTC, the ASLRRRA and the Southeastern Claims Conference. On the cutting-edge of industry trends and technology, Michael also addresses timely issues such as FRSA/OSHA whistleblower law and how to leverage the latest technological innovations in a legal environment. Before founding the firm in 1998, Michael was an associate attorney at the Boston law firms of Latti Associates; Parker, Coulter, Daley & White; and Brister & Zandrow. He was also a special assistant district attorney with the Middlesex County District Attorney's Office in Cambridge, Massachusetts. He currently resides in Braintree, MA, with his wife and their four children.

### Practice Areas

- Civil and commercial litigation
- FELA defense
- Insurance defense
- Products liability

- Railroad claims and litigation
- Toxic tort defense
- Transportation law
- Trucking litigation
- Whistleblower (FRSA, OSHA)

### Notable Cases

Lead trial Counsel, with Matthew Cianflone and Lori Wirkus in *Ziniti v. NECR, Inc., 2019 VT 9*, a traumatic brain injury case which resulted in a defense verdict. The verdict was upheld on appeal.

Lead Trial Counsel, along with Scott Orndoff, in *Oldread v. CarvedRock LLC, et al*, which resulted in a \$5.3 million settlement for the firm's client, confirmed to be the largest settlement ever reached in Judge Tracey Bannister's session.

Lead trial counsel for CSX Transportation, Inc. in the case of *Wright v. CSX Transp., Inc.*, which Massachusetts Lawyers Weekly reported as “one of the biggest defense wins of the year” for 2004.

Trial counsel in the case of *Santos v. Consolidated R. Corp.*, which was tried to a defense verdict in May 2000 after the plaintiff demanded more than \$5 million.

Trial counsel, along with Lori Wirkus, in *Gillespie v. Emerson*, which resulted in a \$1 million verdict for the firm's client.

Defense trial counsel in the following cases of *Nicholopolous v. Consolidated R. Corp. and Whitehouse v. Consolidated R. Corp.*, which were recognized by Massachusetts Lawyers Weekly as being among the largest defense verdicts in 1995 and 1996, respectively.

### Speeches and Publications

*"Diffuse Tensor Imaging and How to Address the Science at Trial"*, National Association of Railroad Trial Counsel (NARTC) Sponsored Webinar, May 15, 2018

*"Cross-examination in the 21st Century: Have Juries Become Immune to Lying?"*, Presenter, NARTC 61st Annual Meeting, July 27, 2015, Farmington, PA.

*Ammunition or Shackles: Managing Crisis Response to Maximize Your Legal Position"*, Co-presenter with Lori A. Wirkus, New England Railroad Club Annual Rail Forum & Expo, March 19, 2015, Worcester, MA.



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Your Excellence.™

"Mike's preparation for depositions and trials always amazes me. Through his thorough research of the parties and the issues, he is able to ferret out information that wasn't initially apparent – issues that most often led to a resolution favorable to the railroad. I think of Mike as a “dog with a bone”; he digs into things until he knows all there is to know about them."

- Claims Manager,  
Class I Railroad

"I began working with Mike Flynn in 1992, and to this day, he amazes me. He loves the railroad and does everything possible to defend us. No one comes close to the way he and his firm prep for depositions and trials – if there is anything to find, they find it. There are not enough adjectives to describe FWY – they are on top of everything, exceptionally smart and just phenomenal."

- Claims Agent,  
Class I Railroad



*"When Does the Work Come Without the Comp?: How Railroad Workers' Injuries are Handled Under the FELA"*, Work Related Injuries Conference, Waltham, MA, March 25, 2014.

*"Stupid is as Stupid Does: Getting to the Bottom of Neuropsych Testing in TBI Cases."* AAR General Claims Conference, Palm Beach, FL, October 2, 2013 and NARTC 59<sup>th</sup> Annual Meeting, Boston, MA September 10, 2013.

*"The Production of a Trial: Keeping Their Hands Out of Your Pockets by Keeping Them on the Edge of Their Seats."* NARTC 58<sup>th</sup> Annual Meeting, Santa Barbara, CA, July 31, 2012.

*"Persuading by Entertaining: Leveraging Technology to Deliver Winning Results."* Co-presenter with Lori A. Wirkus, SECC, Charlotte, NC, June 27, 2012.

*"Technology in the Courtroom: The iPad is Ready for Primetime, Are You?"* NARTC Trial College, Dallas, TX, June 8, 2012.

*"Anatomy of a FELA Claim: Nailing Down the Facts You Need to Nail Down a Claim."* Panelist, ASLRRRA 99<sup>th</sup> Annual Convention, Indianapolis, IN, April 23, 2012.

*"Creative Thinking for Lawyers: Challenging Conventional Wisdom, Developing Hooks and Persuading by Entertaining."* NARTC Winter Meeting, Phoenix, AZ, March 6, 2012.

*"Dealing With Trespassers - Keeping Them Off Your Tracks and Out of Your Pockets."* ASLRRRA 98<sup>th</sup> Annual Convention, San Antonio, TX, May 2, 2011.

*"Be Careful What You Ask For: How Plaintiff's Counsel Can Profit from the Defense Medicare Set Aside."* NARTC Winter Meeting, Orlando, FL, February 25, 2010.

*"Claims, Coverage and Cooperation: A Factual Guide to Representing Insured Carriers."* Panelist, NARTC Winter Meeting, Phoenix, AZ, March 10, 2008.

*"Kids, Cops and Cartoons: Defending 'Child Trespasser' Cases in Today's Environment."* NARTC 52<sup>nd</sup> Annual Meeting, San Diego, CA, August 2, 2006.

*"Dealing with So-Called 'Speaking Objections: How to Prevent Improper Coaching of Witnesses During Depositions.'" NARTC Winter Meeting, Lake Buena Vista, FL, February 22, 2005.*

*"Dealing with So-Called 'Speaking Objections: How to Prevent Improper Coaching of Witnesses During Depositions.'" NARTC Winter Meeting, Lake Buena Vista, FL, February 22, 2005.*

*"The Admissibility of OSHA Regulations in a FELA Case: Is This Town Big Enough for Both of Us?" NARTC Winter Meeting, St. Petersburg, FL, February 24, 2004.*

## Activities and Honors

AV® Preeminent™ 5.0 out of 5 peer rated in Martindale-Hubbell.

National Association of Railroad Trial Counsel (NARTC), Executive Committee Member, Chairman of Program Committee, and former Eastern Region Vice President.

American Short Line and Regional Railroad Association (ASLRRRA), Member and former General Counsel Committee member.

American Journal of Law & Medicine, former member, Boston University School of Law, 1991.

Received Boston University's American Jurisprudence Book Award for achieving the school's highest grade in Trial Advocacy in 1990-1991.

## Admissions

Massachusetts, 1991  
New York, 2002  
Pennsylvania, 2007

U.S. District Courts for:  
Massachusetts, 1992  
Connecticut, 2000  
Vermont, 2003  
Illinois (Middle District)  
New York (Northern District), 2005  
New York (Western District), 2013  
Pennsylvania (Eastern District), 2006  
First and Eighth  
Circuit Courts of Appeal

Pro hac vice: Arkansas, Iowa, Illinois, New Hampshire, New Jersey, Rhode Island

## Education

J.D., Boston University School of Law, Boston, MA, 1991  
B.A., summa cum laude, University of Massachusetts, Amherst, MA, 1988  
United States Military Academy, West Point, NY, 1983-1985



**Our Passion.  
Your Excellence.™**

"Mike Flynn is an incredibly respectable attorney who administers his law firm with the utmost integrity and skill. Whether dealing with a Federal Employers Labor Act matter, grade crossing incident, or simply providing general legal counsel, Mike has time and again demonstrated his ability to provide sound legal advice regarding complex matters with great tact and professionalism."

- General Counsel,  
Regional Transportation  
Company

"I say with the most sincere conviction that Mike Flynn is the best trial attorney I have ever seen, heard of, or been in the same courtroom with. Simply, there are few people in the country that have the same courtroom skills and presence that Mike Flynn possesses."

- Former Associate General  
Counsel, Regional Carrier



**Lori A. Wirkus**  
*Managing Partner*



Mrs. Wirkus is an experienced litigator with over 20 of years experience in insurance defense, railroad regulations, and transportation law. Prior to joining the firm in 2001, Lori was an

associate with the Law Offices of John R. Gulash & Eugene J. Riccio, a civil and criminal litigation firm in Bridgeport, Connecticut, where she was involved in personal injury litigation, wrongful imprisonment, municipal liability and criminal defense. While attending law school, Lori interned for the Honorable Michael Hartmere and clerked for Gulash, Fleischmann & Riccio, both located in Bridgeport, Connecticut.

Lori is also a certified mediator and provides mediation services for **Re:resolution Mediation Group, LLC**.

Lori resides with her husband and their two children in Norfolk, Massachusetts.

**Practice Areas**

- Civil litigation
- Employment Defense
- Mediation
- FELA defense
- Insurance defense
- Railroad claims and litigation
- Transportation
- Whistleblower (FRSA, OSHA)

**Professional and Community Activities**

- President, Massachusetts Chapter of the Claims and Litigation Management Alliance
- Board of Directors, Franklin Performing Arts Company, Member
- Franklin Performing Arts Co., Resource Development Team Chair
- Member, Boston Chinatown Neighborhood Center (BCNC), Quincy Leadership Council
- American Association of Short Line and Regional Railroads, Member
- National Association of Railroad Trial Counsel, Member
- Connecticut Defense Lawyer's Association
- Quinnipiac Law Alumni Association
- Catechist, St. Jude's Church, June 2011 - present

**Speeches and Publications**

*"It's a New Era: What You Need to Know About Sexual Harassment in the Workplace" , XS Brokers, Workplace Education Presentation, Quincy, MA, November 7, 2017*

*"Is There Really a Monster In the Closet? Shining Light on Current MSP Developments"*, Co-Presenter with Michael B. Flynn, to Global Indemnity Group, Scottsdale, AZ, May 24, 2016; CVS, Cumberland, RI, October 8, 2015; Global Indemnity Group, Bala Cynwyd, PA, June 3, 2015.

*"Ammunition or Shackles: Managing Crisis Response to Maximize Your Legal Position"*, Co-presenter with Michael B. Flynn, New England Railroad Club Annual Rail Forum & Expo, March 19, 2015, Worcester, MA.

*FRSA/OSHA Whistleblower Law: Everything You Wanted to Know But Were Afraid to Ask."* ASLRRRA General Counsel Symposium and Finance and Administration Seminar, Kansas City, MO, November 29, 2012.

*"Employee Injury with Rules Violation: How to Maintain Proper Rules and Discipline without Fear of OSHA Retaliation Claims,"* 19<sup>th</sup> Annual Liability Conference, ASLRRRA, Las Vegas, NV, July 13, 2012.

*"Persuading by Entertaining: Leveraging Technology to Deliver Winning Results."* Co-presenter with Michael B. Flynn, Southeastern Claims Conference, Charlotte, NC, June 27, 2012.

*"Confronting Cutting Edge FELA Plaintiff Lawyer Tactics: The Impact of Plaintiff's Voluntarily Dismissing Garden Variety Negligence Theories in Order to Proceed on Strict Liability in LIA or SAA claims."* NARTC Winter Meeting, Miami, FL, March 7, 2011.

*"Dissecting a Legal Claim,"* co-presenter, ASLRRRA, 18th Annual Railroad Liability Conference, Milwaukee, WI, June 9, 2011.

Assistant editor, *Journal of Business and Economic Studies*, Fairfield University, 1994.

**Admissions**

Massachusetts, 1997  
Connecticut, 1999  
Pennsylvania, 2006  
Ohio, 2014

U.S. District Courts for:

Connecticut, 1998  
Massachusetts, 2001  
Vermont, 2003  
New York, 2006  
Pennsylvania, 2006

Pro hac vice: Iowa,  
Rhode Island, New  
York

**Education**

J.D., Quinnipiac University School of Law, Hamden, CT, 1996  
B.S., Business, Fairfield University, Fairfield, CT, 1994



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Your Excellence.<sup>SM</sup>**

*"In addition to bringing decades of experience and legal skills to the table, FWY takes the time to learn your business and apply that knowledge in a way that allows them to become true partners. Their tenacity, zeal, and attention to detail set them apart from other counsel and provides the framework to allow their clients to effectively mitigate their risks."*

- Director of Risk Management, Class I Railroad

*"FWY's entire legal team is easy to work with, extremely knowledgeable, and unequivocally client-focused."*

- General Counsel, Regional Railroad



**John E. Young, IV**  
*Partner*



Mr. Young joined the firm in September 2002, and became a partner in January 2012. He and Mr. Flynn recently tried two railroad related

cases, one in New York and one in Massachusetts. They received defense verdicts in both cases, each involving multi-million dollar demands. He frequently practices in courts around the country, gaining national experience for the firm. John was previously an associate with the Boston law firm of Murphy & Riley, P.C., where his practice focused on the defense of liability claims including professional malpractice, premises liability, automobile and land transport, and employment litigation. He has worked with a wide variety of professionals, municipalities, property owners, insurers, self-insureds, non-profit organizations, and corporations. While in law school, John served as a law clerk for the Honorable Michael Higgins of the Rhode Island District Court. He also worked for the National Association of Security Dealers in Boston during law school, investigating alleged violations of federal and state securities laws.

A native of Massachusetts, John was born in Hyannis and raised on Cape Cod. He resides in Norwell with wife, Dawn Ethier Young, a family law attorney with the Boston firm of Atwood & Cherny, PC, and their two daughters.

**Practice Areas**

- Personal Injury Defense
- FELA defense
- Grade crossing litigation
- Insurance defense
- Railroad claims and litigation
- Toxic tort defense
- Trespasser accidents
- Trucking and transportation
- Real Estate
- Copyright Infringement

**Professional and Community Activities**

- Massachusetts Bar Association
- Defense Research Institute
- Massachusetts Defense Lawyers Association
- Federal Bar Association
- National Association of Railroad Trial Counsel
- Quincy Chamber of Commerce
- South Shore Chamber of Commerce
- ProVisors – Executive Committee
- University of Rhode Island Alumni Association

**Admissions**

Massachusetts  
Connecticut  
Pennsylvania  
New York  
U.S. Court of Appeals, First and Eighth Circuits

U.S District Courts for:  
Massachusetts  
Connecticut  
Vermont  
New York (All Districts)

Pro hac vice: Arkansas, Connecticut, Illinois, Iowa, Maine, New York, Rhode Island

**Education**

J.D., Suffolk University Law School,  
Boston, MA, 2002  
B.A., cum laude, University of Rhode Island,  
Kingston, RI, 1999



**Our Passion.  
Your Excellence.<sup>SM</sup>**

“What makes FWY unique is that our practice has been built on achieving consistently excellent results in a wide-variety of difficult contexts and jurisdictions. Partnering with our clients to earn their confidence and build strong, trusting relationships is one of the fundamental principles upon which our firm was founded in 1998, and the idea which sets the table for our core values today. In fact, ‘Our Passion. Your Excellence’ is our firm motto - it is the bedrock of everything we do. We have built our practice by learning our clients’ businesses, from the inside out, in order to fully understand their needs and determine the best practices necessary to provide services particularly tailored to meet these needs. FWY is a full service civil litigation firm. FWY's attorneys are admitted in many jurisdictions including MA, NY, NJ, OH, CT, PA, NC and SC with offices in Quincy, MA, Philadelphia, PA and Buffalo, NY.”

- John E. Young



## Exhibit 1: Selected Representative Cases and Recent Results

***FWY Secures Defense Verdict for Railroad Client in Alleged Traumatic Brain Injury Case***, Superior Court, Chittenden Unit, Chittenden County, Burlington, VT, January 24, 2018

FWY attorneys secured a defense verdict on behalf of a railroad client in a grade crossing accident case. The plaintiff in the case, a Massachusetts resident, allegedly suffered numerous injuries including an alleged traumatic brain injury. Plaintiff's counsel's demands amounted to at least \$34 million in compensatory and punitive damages. After nearly four years of litigation and a three week trial, the jury returned a defense verdict in less than four hours.

***FWY Receives Summary Judgment in Tragic Case***, Elk County Court of Common Pleas, Ridgway, PA, December 5, 2014

FWY attorneys John Young and Scott Orndoff recently obtaining summary judgment on behalf of the firm's client, Buffalo & Pittsburgh Railroad. The tragic case involved a seven year old girl struck by a locomotive as she was trespassing on the railroad's tracks in Western Pennsylvania. The young girl suffered very serious injuries including a traumatic brain injury and broken bones which had left her seriously impaired both mentally and physically. The Court agreed with the railroad's position that there was no evidence of willful wanton conduct by the railroad. The Court also found that the attractive nuisance doctrine did not apply in this case.

***FWY Team Secures Summary Judgment Victory in Transloading/Trucking Case***, Middlesex County Superior Court, Woburn, MA, May 15, 2013.

FWY's attorneys recently obtained summary judgment for the firm's client, CSX Transportation, Inc., in a case involving a truck driver who fell from his tanker truck at a transloading facility in Allston, Massachusetts. FWY's client owned the facility and was accused of failing to provide training and other safety measures for the injured truck driver's benefit. The Court agreed with FWY's argument, at the summary judgment stage, that CSXT as a landowner had no duty to provide either training or safety devices to the truck driver. Earlier in the case, FWY had secured a defense for its client from Savage Services Corporation, the transloading operator.

***DeBarros v. MBTA, et al.***, Middlesex County Superior Court, Woburn, Massachusetts, January 29, 2013.

Summary judgment was granted in favor of FWY's client, a freight railroad/landowner, in a wrongful death case involving a trespasser. FWY's attorneys successfully argued that their client was neither negligent nor reckless.

***FWY Team Obtains \$600,000 Settlement for Client in Federal Court in Rhode Island***, United States District Court for the District of Rhode Island, Providence, Rhode Island, July 12, 2012.

FWY recently obtained, for a railroad passenger carrier and its insurer, a \$600,000 settlement of reimbursed costs and fees in an indemnity action, which arose from a fatal on-track incident that also resulted in two other serious injury claims. FWY defended all of the underlying FELA claims, which were settled, then prosecuted the indemnity action against a major railroad construction company.

***FWY Attorneys Secure \$2 Million Settlement of Freight Railroad's Indemnity Claims***, Suffolk County Superior Court, Boston, Massachusetts, April 4, 2012.

FWY's client, a freight railroad, was forced to defend three lawsuits, all arising from different incidents, due to the refusal of another entity to indemnify FWY's client, despite its contractual obligation to do so. After defending the lawsuits, two of which were settled (summary judgment was entered in the third), FWY sought through separate actions the enforcement of its client's indemnity rights. After obtaining declaratory judgments that the defending entity was indeed obligated to indemnify their client, FWY's attorneys then procured a \$2 million settlement, which represented reimbursement of the settlement of the underlying lawsuits and the costs (including attorneys' fees) of defending those suits.



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Your Excellence.<sup>SM</sup>**

"The entire FWY team is friendly and easy to work with and when you ask a question, you get a real answer. They are extremely knowledgeable and thorough, and are most interested in doing what's best for their clients."

- President, Third-Party  
Claims Adjuster



**Monington v. CSXT**, United States District for the Northern District of New York, Albany, New York, March, 2012.

In this FELA case, the plaintiff/railroad employee was injured allegedly as the result of falling from a freight car. FWY's attorneys convinced the court to enter summary judgment for its client, the defendant railroad – the plaintiff was unable to demonstrate that the railroad had failed to provide him a reasonably safe workplace.

**Soto v. CSX Transportation, Inc.**, Philadelphia County Court of Common Pleas, Philadelphia, Pennsylvania, February, 2012.

FWY obtained a defense verdict in the Court of Common Pleas, Philadelphia, Pennsylvania, voted the #1 “judicial hellhole” for 2010-2011 by the American Tort Reform Association. Plaintiff alleged that he sustained a traumatic injury to his left hand as a result of unsafe working conditions.

**Kennedy v. South Buffalo Railway Co.**, Erie County Supreme Court, Buffalo, New York, October, 2011.

Plaintiff, a union electrician, upon leaving his worksite collided with a locomotive at a private crossing in Hamburg, NY and allegedly suffered a number of debilitating injuries. Prior to trial, Plaintiff demanded \$3.8 million. After a very brief deliberation, the jury found that the railroad defendant, successfully represented by Mike Flynn and John Young, was not negligent.

**Seitzinger v. Providence & Worcester Railroad**, Worcester County Superior Court, Worcester, Massachusetts, June, 2011.

Mike Flynn and John Young secured a defense verdict in a FELA case where plaintiff, an employee of a regional railroad with a history of significant pre-existing conditions, alleged two separate workplace injuries resulting from two different incidents. Jury returned a verdict in favor of defendant who was found not liable.

**Crowther v. CSX Transportation, Inc., et al.**, United States District Court for Massachusetts, Springfield, Massachusetts, January, 2011.

Mike Flynn obtained a defense verdict in consolidated actions in favor of two railroad clients. Plaintiff had alleged injuries as a result of repetitive workplace activities and unsafe work conditions during the course of his 32-year career with the railroad.

**Odorski v. CSX Transportation, Inc.**, United States District Court for Massachusetts, Boston, Massachusetts, May, 2010.

Mike Flynn received a defense verdict in favor of a railroad client. The plaintiff alleged that he was injured while operating a defective railroad switch and sustained permanent disabling neck injuries. The FELA case was tried to a jury in federal court in Boston, MA, after the defense rejected the plaintiff's settlement demand of \$500,000. After five days of trial and three hours of deliberations, the jury returned a verdict in favor of the defense and found that the railroad was not negligent and did not cause any injury to the plaintiff.

**FWY Attorneys Secure \$5.35 Million Settlement of Railroad's Indemnity Claims**, United States District Court for the Eastern District of Arkansas, Little Rock, Arkansas June 2009.

*Additional case information is available upon request, including:*

- Recent noteworthy dispositive motions
- Recent settlements in contractual indemnity, third-party and contribution cases
- Sample decisions from published law reporters

*Prior results do not guarantee a similar outcome.*



**Our Passion.  
Your Excellence.<sup>SM</sup>**

**“FWY are litigation partners who are highly motivated and passionate about defending their clients and I could not recommend them more highly.”**

- Director of Risk Management,  
National Freight Carrier

