

## Transportation Group Of The Year: Steptoe & Johnson

By **Chuck Stanley**

*Law360 (February 8, 2018, 4:46 PM EST)* -- In 2017, Steptoe & Johnson LLP helped defend major railroads in antitrust and liability suits, and also helped airlines like Portugal's TAP and Japan Airlines navigate the complex international regulatory environment for air travel, as well as U.S. regulations, landing the firm among Law360's Practice Groups of the Year.

Steptoe's transportation team, led by partner Linda Stein, boasts a deep bench of attorneys with expertise in issues related to aviation, railroad, trucking and autonomous vehicles.

The firm showcased its ability to draw on deep regulatory knowledge in the transportation space to support trial teams when it helped net BNSF Railway a win in its yearslong rail freight fuel surcharge antitrust case in October.

Steptoe worked in support of lead trial counsel provided by Gibson Dunn to overturn a previous decision granting class certification to a group of rail shippers who accused BNSF and other major railroads of conspiring to fix rates for fuel surcharges levied on the shippers.

Acting in a similar support role, Steptoe represented Union Pacific Railroad when the company was named in a Texas liability suit over an accident involving a parade float that drove onto a railroad crossing, resulting in four deaths.

Union Pacific claimed the parade organizers never informed it that their route crossed the tracks.

Steptoe was called in to provide support for the trial team on industry and regulatory issues related to the case.

Steptoe litigation and regulatory and industry partner Alice E. Loughran said the firm drew on its deep, industry-specific regulatory knowledge to craft an argument that the Federal Railroad Safety Act preempted the plaintiffs' claims related to the amount of warning time, speed of the train, volume of the signal and crew training, an argument that ultimately won summary judgment for Union Pacific.

Loughran said Steptoe's work supporting trial teams on cases like this is analogous to a "special



operations team" brought in to provide expert support on complex, industry-specific issues related to federal preemption, tax issues, tribal-sovereign immunity issues, property damage and a variety of other cases.

"We parachute in, we write a lot of summary judgment papers, we do a lot of work cooperating with the trial court team and we focus on our specific area and let the trial court team hone in on other arguments they want to make," she said.

This kind of support, according to Loughran, takes a significant burden off firms that may not be as well versed in the particulars of industry-specific regulatory issues.

"When we come in, many times we already know what the framework is, we already know what a lot of the arguments are, and we're able to be more efficient briefing the issue, because we've had a steady diet of these types of cases for years," she added.

Step toe last year served as a one-stop-shop for TAP Air Portugal on all aspects of its business in the States, including U.S. Department of Transportation regulations related to consumer protection and tarmac delay issues; compliance with the Federal Aviation Administration's aircraft operations specifications requirements; and building codesharing relationships with U.S.-based airlines related to expansion efforts like the launch of two new gateways in the U.S. in the past 12 months.

In May, Steptoe won dismissal of a suit from a family of passengers who were ejected from a flight prior to takeoff for disorderly behavior. A Connecticut federal judge nixed the family's claims, which were brought under a broad range of federal statutes, on preemption grounds, primarily under the Montreal Convention on international air travel because the incident occurred during the embarkation process.

In addition to its work on regulatory and litigation matters in the U.S., Steptoe helped air carrier clients like Japan Airlines and TAP navigate the complex web of regulations covering international air travel in 2017.

Partner Bill Karas, who focuses on aviation matters in Steptoe's transportation practice, said international issues have increasingly become a focus for the firm's airline clients.

"Domestic aviation is pretty much deregulated, and there's a more limited role than in the past for lawyers. But international aviation operates within a complicated international system of bilateral agreements, and we have a pretty thriving practice in international aviation," he told Law360.

Step toe has represented Japan Airlines throughout the course of air freight cartel investigations in the U.S. and ongoing investigations before the European Commission and the Swiss Competition Authority.

"I think what sets us apart is the breadth of our practice in terms of different modes of transportation, the areas in which we practice and have significant experience, and also the depths of our expertise within each area," says Stein.

--Editing by Catherine Sum.