

# **Bond Case Briefs**

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## **CHOO CHOO TRAINS - KENTUCKY**

### **CSX Transportation, Inc. v. City of Sebree, Kentucky**

**United States Court of Appeals, Sixth Circuit - May 14, 2019 - F.3d - 2019 WL 2094029**

Railroad brought action seeking to prohibit municipality from enforcing ordinance requiring railroad to obtain approval from city council before commencing any maintenance or construction project that would result in any change in grade at any of six railroad crossings in municipality, prior related settlement agreement, or otherwise interfering with its railroad operations.

The United States District Court for the Western District of Kentucky granted permanent injunction prohibiting municipality from enforcing ordinance or settlement agreement. Municipality appealed.

The Court of Appeals, Cole held that:

- Ordinance was preempted by Interstate Commerce Commission Termination Act as applied to railroad's plan to raise grade at crossing;
- Ordinance was preempted by Federal Railroad Safety Act;
- State court order implementing settlement agreement constituted unreasonable interference with rail transportation, and therefore it was void as against public policy; and
- District court did not abuse its discretion by issuing permanent injunction to prohibit municipality from preventing railroad from raising its tracks for maintenance purposes, in addition to enjoining enforcement of ordinance.