SUPREME COURT
FILED

JUL 18 2019

Jorge Navarrete Clerk

Deputy

S251135

IN THE CALIFORNIA SUPREME COURT

JOHN BUSKER,

Plaintiff–Appellant,

v.

WABTEC CORPORATION, ET AL.,

Defendant–Respondent.

On Certified Questions
from the United States Court of Appeals
for the Ninth Circuit, Case No. 17-55165
Judge Otis D. Wright, II, No. 2:15-cv-08194-ODW-AFM

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY IN SUPPORT OF RESPONDENT WABTEC CORPORATION; AMICUS CURIAE BRIEF

HANSON BRIDGETT LLP
ADAM W. HOFMANN, SBN 238476
*JOSEPHINE M. PETRICK, SBN 280233
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
jpetrick@hansonbridgett.com

Attorneys for Amicus Curiae
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

S251135

IN THE CALIFORNIA SUPREME COURT

JOHN BUSKER,

Plaintiff–Appellant,

v.

WABTEC CORPORATION, ET AL.,

Defendant–Respondent.

On Certified Questions
from the United States Court of Appeals
for the Ninth Circuit, Case No. 17-55165
Judge Otis D. Wright, II, No. 2:15-cv-08194-ODW-AFM

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY IN SUPPORT OF RESPONDENT WABTEC CORPORATION; AMICUS CURIAE BRIEF

HANSON BRIDGETT LLP
ADAM W. HOFMANN, SBN 238476
*JOSEPHINE M. PETRICK, SBN 280233
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
jpetrick@hansonbridgett.com

Attorneys for Amicus Curiae
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

There are no entities or persons that must be listed in this certificate under California Rules of Court, rule 8.208.

DATED: July 15, 2019 HANSON BRIDGETT LLP

By: _____

ADAM W. HOFMANN
JOSEPHINE M. PETRICK
Attorneys for California
Regional Rail Authority
(Metrolink)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

Rules

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

Pursuant to rule 8.520(f) of the California Rules of Court, Southern California Regional Rail Authority ("Metrolink") respectfully requests permission to file the attached amicus curiae brief in support of Respondent Wabtec Corporation.[1]

Metrolink is a joint powers authority made up of the transportation commissions of Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties. Metrolink trains operate on seven routes across a six-county, 540 route-mile network throughout the Los Angeles Basin. Metrolink is among the largest commuter rail systems by size and ridership in the country, serving approximately 40,000 passengers each weekday.

As a public agency providing rail service in California, Metrolink has a strong interest in plaintiff and appellant John Busker's effort to expand the traditional definition of the term "public works," as used in the State's prevailing-wage law, to include for the first time railcars and other moveable items like ferries, buses, cars, and other rolling stock that are not affixed to land. Metrolink both owns the project that underlies this dispute and has planned and budgeted for several other taxpayer-funded projects that could be implicated by the decision in this case. As a result, Metrolink is both deeply interested in this case and able

---

[1] Metrolink certifies that no person or entity other than Metrolink and its counsel authored or made any monetary contribution intended to fund the preparation or submission of the proposed brief. (See Cal. Rules of Court, rule 8.520(f)(4).)

to provide perspective that will shed light on the practical implications of Mr. Busker's arguments, aiding the Court's resolution of the issues presented.

DATED: July 15, 2019 HANSON BRIDGETT LLP

By: 

ADAM W. HOFMANN
JOSEPHINE M. PETRICK
Attorneys for California
Regional Rail Authority
(Metrolink)

AMICUS CURIAE BRIEF

INTRODUCTION

There can be little serious doubt that plaintiff and petitioner John Busker seeks to change and significantly expand the scope of "public works" subject to California's prevailing-wages laws. For all the reasons discussed in defendant and respondent Wabtec Corporation's Answer Brief on the Merits, Mr. Busker's approach is inconsistent with the text, structure, and intent of the relevant statutes.

Nearly as importantly from the perspective of public rail agencies like amicus curiae Southern California Regional Rail Authority ("Metrolink"), Mr. Busker's arguments would overturn decades of settled precedent as well as direction by the State's Department of Industrial Relations. That agency—which is charged by statute to determine the applicability of the prevailing-wage laws to specified types of work and assign the relevant wage—has consistently concluded and advised public agencies that, contrary to Mr. Busker's position, work aboard railcars and other rolling stock are not "public works." Like all public agencies in California, Metrolink has long budgeted and planned projects in reliance on that direction. Because the statute does not itself demand a different result, the Court should reject Mr. Busker's effort to upend the financial underpinnings of Metrolink's budgets and contracts and to threaten the viability of taxpayer-funded projects.

Alternatively, Mr. Busker attempts to expand the scope of work considered "integral to" public works and thereby subject a

wider range of activities to prevailing-wage requirements than previously recognized. But Mr. Busker fails to explain why the standards adopted by prior cases should be rejected, nor does he propose a clear, predictable standard for application in future cases. Accordingly, to ensure that prevailing-wage laws are enforced in a clear, predictable manner, the Court should reject Mr. Busker's ambiguous expansion of the "integral to" standard.

If the Court adopts either of Mr. Busker's arguments, the once clear lines between public works and non-public works would be blurred into oblivion. What is now predictable would become senseless and unmanageable—thereby burdening California's taxpayers and delaying and complicating much-needed public transportation projects, maintenance, and upgrades. This Court should accordingly reject Mr. Busker's approach and affirm the longstanding rules governing the payment of prevailing wages for public works projects.

FACTUAL BACKGROUND

Metrolink adopts and incorporates the factual background set forth in Wabtec's Answer Brief on the Merits, pages 14-17.

ARGUMENT

To guard the predictability of public budgets and the related viability of public, taxpayer-funded projects, this Court should affirm the longstanding definition of "public works," to exclude work performed aboard railcars and other rolling stock.

A. The scope of "public works" subject to prevailing-wage requirements has never included the kind of work Mr. Busker performed for Wabtec.

During the Great Depression, Congress enacted the Davis-Bacon Act, 40 U.S.C. §§ 3141–3148, which requires contractors on federal construction projects to pay workers not less than a prevailing wage as determined by the Secretary of Labor. In 1937, the California legislature followed suit and enacted a state version of the prevailing wage-law, Labor Code sections 1720 *et seq.* That law requires all workers employed on "public works" projects must be paid not less than the "prevailing wage" set by the Director of the DIR, according to the type of work and location of the project.

As Wabtec's Answer Brief explains in greater detail, the text, structure, intent, and legislative history of California's prevailing-wage law all confirm that "public works" are "fixed works" and "structures," *i.e.*, things that are fixed to the ground and cannot move from one place to another. (See *Swanton v. Corby* (1940) 38 Cal.App.2d 227, 230 ("*Swanton*") ["[T]he term 'public works' may be said to embrace all fixed works constructed for public use or protection[,]" such as "bridges, waterworks, sewers, light and power plants, public buildings, wharves,

breakwaters, jetties, seawalls, schoolhouses and street improvements."]; see also Answer Brief on the Merits ("ABM"), 18-19.) And work onboard rolling stock constitutes neither "installation" nor "construction" as those terms are used in Labor Code section 1720, subdivision (a)(1). (See ABM 27-31.)

Thus, an unbroken line of opinions of the Court of Appeal, Attorney General, and DIR, dating back nearly a century, confirm that the prevailing-wage law does not govern work performed on rolling stock (trains, boats, buses, etc.). (See, e.g., *Swanton, supra,* 38 Cal.App.2d at p. 230; 25 Ops.Cal.Atty.Gen. 153, 154 (1955) [collecting authorities dating back to 1920]; 69 Ops.Cal.Atty.Gen. 300 (1986) [finding "fixed works constructed for public use" is common definition of "public works"].) Indeed, DIR has "determined, consistent with previous court rulings and opinions from the Attorney General's Office, that maintenance/repair of rolling stock, i.e., vehicles, vessels, rail cards, etc., is not covered under prevailing wage laws." (10 ER 2067; see also ABM 26-29.)

This construction is consistent with the definition of "public works" used in the federal law. (See *District of Columbia v. Dept. of Labor* (D.D.C. Cir. 2016) 819 F.3d 444, 447, 452 ("District of Columbia") [surveying definitions of "public works" since the Depression Era, all centering on fixed structures built with government funds]; see also *Sheet Metal Workers' Internat. Assn., Local 104 v. Duncan* (2014) 229 Cal.App.4th 192, 211 ("*Sheet Metal Workers*"), citing *City of Long Beach v. Dept. of Industrial Relations* (2004) 34 Cal.4th 942, 954 [noting that the federal

prevailing-wage law is similar to and aids construction of California's statute].)

This California/federal approach also reflects the legislative policy goals that informed enactment of these prevailing-wage laws. As noted, those laws were enacted during the Depression, when significant spending on construction of "public works" was central to federal initiatives to alleviate unemployment, including in particular in the construction sector.[2] And focusing specifically on fixed structures helped advance that goal. Projects tied to land cannot be moved out of state by employers hoping to find lower-wage workers. (Cf. *Carrion v. Agfa Construction, Inc.* (2d Cir. 2013) 720 F.3d 382, 384 fn. 4 [prevailing wage law enacted in the Depression Era to protect local construction workers from wage depression]; see *District of Columbia, supra*, 819 F.3d at 447, citing 74 Cong. Rec. 6515 (1931) (statement of Rep. Kopp) [same].)

This is yet another reason why public works should continue to be limited to construction projects affixed to the land. By contrast, for work not tied to a fixed location, subcontractors can move their operations to a lower-priced labor market. And, in order to remain competitive, other subcontractors will need to follow suit, lest they be underbid on every project. Such downward pressure on wages and local labor markets is

---

[2] "[P]ublic works formed an integral element of New Deal policy, so . . . it should come as no surprise that such projects should have occupied a favored position in appropriations." (*Building & Construction Trades Dept., AFL-CIO v. Turnage* (D.D.C. 1988) 705 F.Supp. 5, 7.)

inconsistent with policies underlying these worker-friendly statutes.

B. Mr. Busker's "integral to" test would sow ambiguity and confusion for public agencies like Metrolink.

Even if the Court does not alter the definition of "public works" to encompass work on rolling stock, Mr. Busker maintains that the Court can rule "narrowly" in his favor. Specifically, he suggests the Court find his work fell within the ambit of prevailing-wage laws because it was "integral to" the public-works aspects of Metrolink's PTC project. (Opening Brief on the Merits ("OBM"), pp. 22-34.) As Wabtec explained in its Answer Brief, however, there no support for Mr. Busker's approach.

Courts have long held that it is the specific work being performed, and not the nature of any general contract or broader project at large, that determines whether that work is "integral" to a public works project. (See, e.g., ABM 42-50, discussing, *Williams v. SnSands Corp.* (2007) 156 Cal.App.4th 742 ("*Williams*"); *Sheet Metal Workers, supra*, 229 Cal.App.4th 192; *Boat Removal During Replacement of Slip Piling* (Feb. 8, 2012) PW 2011-029; see also ABM 54-56, discussing *Oxbow Carbon & Minerals, LLC v. Dept. of Industrial Relations* (2011) 194 Cal.App.4th 538 ("*Oxbow*"); *Cinema West, LLC v. Baker* (2017) 13 Cal.App.5th 194 ("*Cinema West*").) As the Ninth Circuit Court of Appeals noted, Mr. Busker's work aboard Metrolink's railcars simply was not an integral part of completing the fixed "wayside" work, even if it advanced the overall goal of the larger project

(and Mr. Busker does not contend otherwise). (*Busker v. Wabtec* (9th Cir. 2018) 903 F.3d 881, 886 [finding "the contracts and other information about the project do not suggest that completion of the on-board work is integral to the completion of the field installation work."]; see also *Williams,* at p. 752.)

What is most distressing to Metrolink about Mr. Busker's position, however, is that he never really articulates the new standard he wants this Court to adopt for distinguishing between work that is "integral to" a public-works project and work that is not. For example, at times he seems to suggest that all work set out in a general contract touching on public works should be subject to prevailing wages. (OBM 7; Reply Brief on the Merits ("RBM"), 20.) But then he adamantly insists that is not his position. (See, e.g., RBM 18-19.)

At other times he claims the test should be whether work was "integral to the functional completion of the public works aspect of the project." (RBM 21, discussing *Oxbow*, *supra*, 194 Cal.App.4th at p. 549; *Cinema West*, *supra*, 13 Cal.App.5th at pp. 210-215.) But, as Wabtec explained, neither case held that prevailing-wage laws governed work on rolling stock (or otherwise untethered from real property); they merely held that construction work—indisputably constituting "public works"—could not be separated into component parts to evade prevailing wages. (See ABM 55.) And, in any event, Mr. Busker never identifies the outside limits of the "functional completion" standard he advocates. Would the workers who manufactured

the PTC components be engaged in "public works" because the PTC system could not operate without their contribution?

Perhaps most revealing is Mr. Busker sharp criticism of Wabtec's effort to identify and respond to his position. (See, e.g., RBM 18-20.) What is notably absent from that discussion is a clear, affirmative articulation of what his position is. Instead, he merely recites that the critical question is whether his work was "integral to the completion of" the (unidentified) public-works aspects of Metrolink's PTC project. But he never explains how his test for integration differs from the traditional, work-focused test articulated by *Williams* and *Sheet Metal Workers*. Nor does he explain how courts might differentiate between integral work and other activities in future cases.

In short, where the Labor Code calls upon DIR to make advanced decisions regarding the applicability of prevailing-wage laws to specific work, Mr. Busker appears content leave the question open to post hoc interpretation by workers and courts. Needless to say, far from constituting a "narrow" ruling, this approach is tailor made both to deprive public agencies and contractors of predictability when contracting and to encourage otherwise needless litigation.[3] (See *Sheet Metal Workers, supra,* 229 Cal.App.4th at p. 213 ["The position taken by the department here provides certainty and clarity. . . . '[P]arties must be able to predict the public-works consequences of their actions under reasonably precise criteria and clear precedent.' A nebulous

[3] Any such work above the threshold of $1,000 would invite a challenge similar to Mr. Busker's here. (Labor Code, § 1771.)

standard or set of factors governing whether offsite work is covered by the prevailing wage law would create confusion and uncertainty."], internal citation omitted.) And for all his rhetorical insistence that no confusion will ensue, Mr. Busker offers no explanation of how public contracting will operate in the legal landscape he seeks.

C. Projects that Metrolink has planned and contracted for would be thrown into chaos if Mr. Busker successfully upends decades of consistent direction regarding the non-applicability of prevailing-wage laws to work aboard rolling stock.

All of the preceding constitute good, sufficient reasons to reject Mr. Busker's analysis in this case. From Metrolink's perspective, however, DIR's consistent determination that work aboard rolling stock falls outside the scope of the prevailing-wage law is perhaps the most salient. As explained in Wabtec's Answer Brief on the Merits, pages 31-32, prevailing wages are not set by the contracting agency when it goes out to bid; they are determined by the Director of DIR. (Lab. Code, § 1773.) Similarly, DIR's Director determines what "types of work" are covered by prevailing-wage requirements. (Lab. Code, § 1773.5, subd. (d).) In turn, the agency contracting for public work specifies the prevailing wage DIR has determined for the location and type of work to be performed in its call for contract bids. (Lab. Code, §§ 1773, 1773.2.)

Not only has DIR never determined a prevailing wage for work involving electronic equipment aboard rail cars and other

rolling stock, it has expressly refused to do so in connection with similar projects in the past.[4] (10 ER 2067, 2139, 2140.) And determining prevailing wage for such work for the first time will, at a minimum, require DIR to undertake a comprehensive, county-by-county survey of wages and arrive at a determination.[5] (See Lab. Code, §§ 1770, 1773.) Meanwhile, Metrolink—like countless public rail agencies throughout the state—is planning or has undertaken and secured contractor bids for projects in reliance on DIR's longstanding guidance. The installation of Positive Train Control ("PTC") components—the work giving rise to this case—is just one example.[6]

---

[4] Mr. Busker suggests that DIR's Division of Labor Standards Enforcement considered applying prevailing-wage requirements to the work underlying this case, but decided to let the courts resolve the question. (OBM 19-20.) Not so. The record reflects that the DLSE released its initial wage and penalty assessment because, as discussed above, work aboard rolling stock has not traditionally been subject to prevailing wages. (See ABM 16-17, discussing 10 ER 2045, 2048.) And, whatever view the DLSE field investigator briefly took before changing course, it remains that DIR's director has never adopted a prevailing wage for the type of work Mr. Busker performed. (See Lab. Code, § 1773.)

[5] Indeed, there is good reason to doubt whether DIR will be able to determine prevailing wages for this kind of work at all. For example, most importantly, DIR is obliged to determine prevailing wages by reference to rates of pay in the locality where work will be performed. (Lab. Code, § 1773.) But work on rolling stock can be performed almost anywhere—including outside of California. It is accordingly unclear how DIR could determine the prevailing wage for work untethered from real property before a contract is even awarded.

[6] This Court may properly take notice of the experience of California agencies like Metrolink and the likely impacts that an

For example, having secured installation of PTC equipment aboard its trains, Metrolink later contracted with Wabtec for related repair and maintenance work onboard its rail cars. (Metrolink Contract No. H1661-17, July 1, 2017.)[7] Under that long-term contract, Wabtec will provide Metrolink with support services for its PTC onboard software and hardware for five years, at a total cost of $16 million. The contract will then renew every five years thereafter unless terminated. Metrolink has also approved a $150 million contract with Talgo-SYSTRA Joint Venture to upgrade all of Metrolink's cars. (Metrolink Contract No. EP199-19.)[8] The project includes certain emergency and safety improvements to the railcars, and is projected to continue until April 2023. Other public rail agencies are planning or have

---

adverse ruling of this Court might have on them. (See *Cal. Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 352 [taking notice of the practice and experience of Amicus Curiae the State Department of Transportation with respect to the rate of interest on tort judgments]; see also, e.g., *Placerville Historic Preservation League v. Judicial Council of Cal.* (2017) 16 Cal.App.5th 187, 191, fn. 1 [geographic and demographic facts from official government website].)

[7] See Metrolink Board Meeting Minutes, March 24, 2017, available at http://metrolink.granicus.com/DocumentViewer.php?file=metrolink_a0e5000649165814c347728d8114f6b6.pdf&view=1.

[8] See Metrolink Board Meeting Minutes, May 10, 2019, available at http://metrolink.granicus.com/DocumentViewer.php?file=metrolink_61a036647fc5c9959541f4f85e3505e9.pdf&view=1, Item 9, at pp. 125-126.)

undertaken similar projects, such as the ongoing upgrade of Bay Area Rapid Transit's railcars.[9]

Needless to say, relying on the longstanding definition of "public works," Metrolink did not incorporate prevailing-wage requirements into the procurement processes for either the PTC-maintenance or railcar-upgrade projects, and prevailing wages were not part of Metrolink's budget or the contractor bids. A judicial determination that prevailing wages should have been paid will necessarily throw these existing contracts into turmoil, potentially generating budget shortfalls either for Metrolink or the contractors and putting those projects at risk, and delaying much-needed projects. Notably, Mr. Busker's briefs offer no suggestions about how DIR, public agencies, and contractors should navigate this uncertainty, in an environment where mistakes can carry criminal consequences. (See Lab. Code, § 1777.)

Looking forward, Metrolink has also started a process to procure a bundled contract for a wide range of maintenance and operational services, which are currently being provided by many different providers, pursuant to a series of unbundled contracts. (Metrolink Proposal No. MSOP150-120—Rail Operations, Maintenance, and Support Services ["O&M Contract"].)[10] The

---

[9] https://www.bart.gov/about/projects/cars.

[10] See Metrolink Board Meeting Minutes, May 10, 2019, *supra*, available at http://metrolink.granicus.com/DocumentViewer.php?file=metrolink_61a036647fc5c9959541f4f85e3505e9.pdf&view=1, Item 7, at pp. 122-123.)

bundled contract will be the largest in Metrolink's history, both in terms of scope and term. The base term of the anticipated agreement will for approximately ten years, ending on June 30, 2030. There are also two four-year option terms as well as additional month-to-month extensions if necessary, with the result being that the total contract term could be for a twenty-year period. The contract will involve a wide array of maintenance and operations, as well as ancillary services required to support all aspects of the rail system. Those services will include: train operations and crew services; rolling stock maintenance; signal, communication, and train control systems maintenance; track, structure, and right-of-way maintenance; maintenance of automobiles and other non-train vehicles used for maintenance and emergency response along Metrolink's right-of-way; inspection and repair of railcars' brake systems, motors, seats, and passenger communication equipment.

This bundled contract is designed to serve multiple goals: increased on-time performance of Metrolink's trains; improved customer service for Metrolink's riders; financial efficiency and overall reduced costs; and, above all, safety. The contract is accordingly scheduled to be awarded in early 2020. But if Mr. Busker prevails here, and the DIR is thus forced into the uncharted, time consuming, and ultimately unpredictable territory of setting prevailing wage rates for maintenance work on rolling stock, the result could impact each of the above-referenced policy goals for the bundled contract, to the detriment

of tax payers in the Los Angeles region, not to mention riders of the Metrolink service.

These are just a few, concrete examples of the kinds of confusion that public agencies throughout California will face if Mr. Busker succeeds in overturning decades of DIR guidance and settled law. Still, they are illustrative of the problem. Mr. Busker's claims in this case would penalize public agencies and contractors for relying in good faith on DIR's interpretation of the prevailing-wage law. This Court should not countenance such a result.

CONCLUSION

Metrolink respectfully asks this Court to reject Mr. Busker's invitation to undo decades of precedent and upend the plans and budgets that public agencies like Metrolink have built in reasonable reliance on that precedent. Instead, the Court should affirm the longstanding definition of "public works" to exclude work on rolling stock; and affirm the well-established and sensible rule that the work itself, and not the nature of the project at large, determines whether the work is "integral" to a public work.

DATED: July 15, 2019 HANSON BRIDGETT LLP

By: 

ADAM W. HOFMANN
JOSEPHINE M. PETRICK
Attorneys for Amicus Curiae
SOUTHERN CALIFORNIA
REGIONAL RAIL
AUTHORITY

CERTIFICATE OF COMPLIANCE

The text of this brief consists of 3539, words as counted by Microsoft Word, the program used to prepare this brief.

Dated: July 15, 2019

By: 
Josephine M. Petrick

PROOF OF SERVICE

Busker v. Wabtec Corp.
California Supreme Court, Case No. S251135

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is 425 Market Street, 26th Floor, San Francisco, CA 94105.

On July 15, 2019, I served true copies of the following document(s) described as:

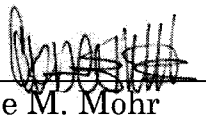
APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (METROLINK) IN SUPPORT OF RESPONDENT WABTEC CORPORATION; AMICUS CURIAE BRIEF

on the interested parties in this action as follows:

BY ELECTRONIC SERVICE: By submitting an electronic version of the document(s) to *TrueFiling,* which provides e-service to all indicated recipients through email.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 15, 2019, at San Francisco, California.



Grace M. Mohr

SERVICE LIST

Party	Attorney
John Busker, Plaintiff and Appellant	Richard Earl Donahoo Donahoo & Associates 440 W. 1st Street, Suite 101 Tustin, CA 92780-3047 Holly Noelle Boyer Esner Chang & Boyer 234 E. Colorado Boulevard, Suite 975 Pasadena, CA 91101-2262 Stuart B. Esner Esner Chang & Boyer 234 East Colorado Boulevard, Suite 975 Pasadena, CA 91101-2262 Shea S. Murphy Esner Chang & Boyer 234 E. Colorado Boulevard Pasadena, CA 91101-2262 Thomas G. Foley Foley Bezek Behle & Curtis, LLP 15 West Carillo Street Santa Barbara, CA 93101 Kevin David Gamarnik Foley Bezek Behle & Curtis, LLP 15 West Carillo Street Santa Barbara, CA 93101
Wabtec Corporation, Mark Martin, Defendants and Respondents	Christophe John Kondon K&L Gates LLP 10100 Santa Monica Boulevard, 8th Fl. Los Angeles, CA 90067

	Patrick Michael Madden Suzanne J. Thomas K&L Gates LLP 925 Fourth Street, Suite 2900 Seattle, WA 98104-1158 Saman M. Rejali K&L Gates LLP 10100 Santa Monica Boulevard, 7th Fl. Los Angeles, CA 90067 Craig E. Stewart Jones Day 555 California Street, 26th Floor San Francisco, CA 94104
Amicus Curiae International Association of Sheet Metal, Air, Rail & Transportation Workers, Sheet Metal Workers' Local Union No. 104	Eileen Goldsmith Zoe Palitz Altshuler Berzon LLP 177 Post Street, Suite 300 San Francisco, California 94108
Amici Curiae California State Association of Counties, League of California Cities, California Association of Sanitation Agencies American Public Transportation Association and California Special Districts Associations	Lann G. McIntyre Lewis Brisbois Bisgaard & Smith LLP 701 B Street, Ste. 1900 San Diego, CA 92101

International Brotherhood of Electrical Workers, Local Union No. 6 : Amicus curiae	Benjamin Kerl Lunch Neyhart, Anderson, Flynn & Grosboll 369 Pine Street San Francisco, CA 94104
International Brotherhood of Electrical Workers, Local Union No. 11 : Amicus curiae	Lisa Charlotte Demidovich Bush Gottlieb 801 North Brand Boulevard, Suite 950 Glendale, CA 91203-1260
Parsons Corporation : Amicus curiae	Donald Gerard Featherstun Timothy M. Hoppe Seyfarth Shaw LLP 560 Mission Street, 31 Floor San Francisco, CA 94105 Elisabeth Carter Watson Seyfarth Shaw LLP 601 South Figueroa, Suite 3300 Los Angeles, CA 90017