

# Judge tells U of L to keep its hands off rail-gaters' cabooses, at least for now

---

[Andrew Wolfson](#) | Louisville Courier Journal Updated 6:11 p.m. EDT  
Mar. 29, 2019

## **Some University of Louisville boosters unhappy about losing party cabooses**

One booster said his group is shocked the university would "mess with something as successful as this."

Mary Ann Gerth

The iconic cabooses used by "rail-gaters" at Cardinal Stadium aren't going anywhere, at least for now.

Miffed that it wasn't making enough money from them, the University of Louisville Athletic Association had demanded that Caboose Express, which leases 14 of the cabooses to fans, remove them by Saturday.

But the company sued, and on Friday, Jefferson County Circuit Judge Mary Shaw issued an order telling the university to keep its hands off the cabooses until at least June 30.

"The cabooses at Cardinal Stadium are uniquely situated and provide a one of a kind tailgating experience for fans at Cardinal Stadium," Shaw said in a nine-page order. "Their removal would irreparably harm Caboose Express."

**Background:** [U of L Cardinal Stadium cabooses caught in a fight over profits. And tailgaters are ticked](#)

Attorney Don Cox, who represents Caboose Express, said he was pleased with the ruling but "flabbergasted" the athletic association and university "would let this go so far," given that many of those who lease the rail cars are major donors.

U of L sports information director Kenny Klein said it doesn't comment on pending litigation.

## Support our journalism

Become a Courier Journal subscriber today to support stories like this one. [Get unlimited digital access here!](#)

Caboose Express says it spent \$1 million in 1999 to acquire the refurbished cabooses and to build a rail spur to the stadium, and that fans have spent up to \$100,000 decorating them.

The athletic association in 2004 renewed its lease with the company and gave it the option to renew it ... for up to two successive five-year

terms."

But in January, the university told Caboose Express' owner, Maury Burchart, that it was terminating the agreement, citing a state law it said allowed it as a "licensor of state-owned property" to terminate any lease on 30-day notice.

The company's lawyer, Don Cox, said that the statute had "absolutely no application" because it covers only property leased by the state.

And Shaw said in her ruling that a close reading of the law showed it did not give ULAA the authority to unilaterally cancel the deal.

"The damage to Caboose Express by not issuing injunctive relief could be dramatic," she wrote. "It could drive away customers or end the business."

Under its contract, Caboose Express pays \$1,200 a year for each caboose, while the company leases each of them for \$15,000 annually.

U of L Athletic Director said earlier in March that is not a good deal for the university. "The economics are on the back of U of L athletics," he said.

He said he didn't know if the university will try to buy them and lease the cars directly, sell them to a third party to lease, or get rid of them entirely, to allow more parking.

A lawyer for ULAA told Burchart he had until March 29 to remove the rail cars and restore the surface under the tracks to their original condition.

*Andrew Wolfson: [502-582-7189](tel:502-582-7189); [awolfson@courier-journal.com](mailto:awolfson@courier-journal.com);  
Twitter: @adwolfson. Support strong local journalism by subscribing  
today: [www.courier-journal.com/andreww](http://www.courier-journal.com/andreww)*

Originally Published 3:57 p.m. EDT Mar. 29, 2019

Updated 6:11 p.m. EDT Mar. 29, 2019