



## Mark A. Carter

Partner  
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Mark is the past Chair of the Firm's Labor Practice Group. He is also the Chair of the West Virginia Chamber of Commerce Human Resources Committee and member of the Labor Relations Committee of the United States Chamber of Commerce.

He has advised and represented employers throughout the United States in corporate campaigns, collective bargaining, arbitrations, and federal litigation involving labor unions as well as serving employers in employment litigation. He has litigated in Alaska, New Jersey, Idaho, Michigan, Alabama, and other states and has advised clients in Washington state, Puerto Rico, California, New York, Florida, the District of Columbia, and the majority of the states in the nation.

Mark has testified before the United States Senate and the House of Representatives. He is a former management chair of the Antitrust RICO and Labor Law Committee of the American Bar Association and has spoken at more than 10 annual meetings of that organization. He has also spoken for the U.S. Chamber of Commerce, the Canadian Association of Counsel to Employers, the Labor Policy Association and other national trade groups.

He previously served as the chairman of the Federal Service Impasses Panel upon the appointment of President Trump in July 2017. He and his colleagues resolved impasses in collective bargaining between the United States Government and unions representing federal employees. From 2002 through 2009, he served as a member of the Federal Service Impasses Panel upon three successive appointments by President George W. Bush.

### Services

- Employment
- Labor
- Collective Bargaining Negotiations
- Labor Arbitrations
- NLRB Issues

- RICO Actions
- Strike Preparation/Litigation
- Employment Discrimination Litigation
- Wage/Hour Law
- Wrongful Discharge
- Audits, Counseling & Training

## **Education**

- West Virginia University College of Law (J.D., 1986)
- University of Michigan (B.A., *with high distinction*, 1982)
  - Burnett Scholar

## **Bar Admissions**

- West Virginia

## **Court Admissions**

- U.S. Supreme Court
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Western District of Michigan
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Northern District of West Virginia
- U.S. District Court for the Southern District of West Virginia
- U.S. District Court for the District of Columbia

## **Affiliations/Memberships**

- Federal Service Impasses Panel
  - Past chairman (2017 - 2021)
  - Past member (2002 - 2009)
- Fellow, College of Labor and Employment Lawyers, (2006 - present)
  - Past Credentials Committee member, chair

- American Bar Association
  - Section of Labor and Employment Law
  - Annual Meeting Subcommittee, past management chair
  - Antitrust, RICO and Labor Law Committee, past management chair
  - National Institutes Subcommittee, management chair
- WV Chamber of Commerce, Human Resources Committee, chair (2014 - present)
- West Virginia Judicial Vacancy Advisory Commission (2020-present)

## Distinctions

- *Best Lawyers*<sup>®</sup>
  - Labor and Employment Management Law (2004-2024)
  - "Lawyer of the Year" in Charleston for Employment Law-Management (2012)
  - "Lawyer of the Year" in Charleston for Labor Law-Management (2020, 2024)
- West Virginia *Super Lawyers*<sup>®</sup>
  - Employment & Labor (2007-2021)
  - Top Rated Employment & Labor Attorney in Charleston, West Virginia (2021)
- Top Ten lawyer in the state by West Virginia *Super Lawyers*<sup>®</sup> magazine (2007 - 2015, 2021, 2022)
- *Chambers USA*<sup>®</sup>: *America's Leading Lawyers for Business*, Labor & Employment Tier 1
- Rated 5.0. AV in *Martindale-Hubble*

## Experience

### **Writ of Mandamus allows client to be placed on general election ballot**

Due to a candidate withdrawing from the general election ballot, our client registered and gained her party's nomination to be the substitute on the ballot. However, the State Election Commission refused the petition. We secured a Writ of Mandamus from the West Virginia Supreme Court of Appeals compelling the West Virginia Secretary of State and State Election Commission to place our client on the ballot as a candidate for the West Virginia House of Delegates on the general election ballot.

### **BE&K Construction v. NLRB, 536 U.S. 516 (2002)**

U.S. Supreme Court overruled circuit court holding that practice of the National Labor Relations Board of awarding attorney fees to all Unions who were not adjudicated liable in civil actions brought by Employers was a violation of the Employer's First Amendment right to petition. Filed amicus curiae brief in aid of Employer's successful claim on behalf of the Labor Policy Association.

### **Coca-Cola Bottling Co. Consolidated v. Teamsters Local 991, 210 Fed. Appx. 873, 2006 U.S. App. LEXIS 30758 (11th Cir. 2006)**

Court overruled district court order granting judgment to Union enforcing arbitration award. Court held an arbitration award granting "make whole" ruling without quantifying the award was ambiguous and vacation of the award was appropriate.

**IBEW, Local 1547 v. NLRB, 50 Fed. Appx. 814, 2002 U.S. App. LEXIS 18206 (9th Cir. 2002)**

Court affirmed order of the National Labor Relations Board holding that an Employer may maintain a by-law prohibiting family members of Union employees or representatives from qualifying for Board membership.

**Labor and Employment Training**

When an international technology company sought counsel on the impact of new federal labor laws, they turned to Dinsmore. We organized and conducted a panel discussion, featuring former representatives from the National Labor Relations Board and Dinsmore attorneys, focused on addressing current and pressing issues with regard to federal labor law, including social media, collective bargaining and regulations intended to accelerate elections. The training session educated and prepared members of the client's human resources and labor personnel on the potential impact of relevant laws and initiatives, as well as strategies for effective compliance.

**New Beckley Mining Corp. v. UMWA, 18 F.3d 1161 (4th Cir. 1994)**

Court upheld dismissal of Union claims of RICO against Employer. Court also upheld dismissal of Employer's allegations of civil RICO violations arising out of strike violence.

**New Beckley Mining Corp. v. UMWA, 946 F.2d 1072 (4th Cir. 1991)**

Court overruled lower court's dismissal of civil RICO allegations against Union focused on strike violence. The Court ruled the federal district court abused discretion by abstaining from hearing federal RICO action.

**Progressive Minerals, Inc. v. Muhammad Haroon Rashid, et al., Civ. Action No. 5:07 CV 108, 2009 U.S. Dist. LEXIS 90437 (N.D. WV 2009)**

The Court found in the favor of the firm's client, Progressive Minerals, Inc., in a tort action alleging that the defendants defrauded the client in a mineral transaction in West Virginia.

**Rum Creek Coal Sales, Inc. v. Caperton, 926 F.2d 353 (4th Cir. 1991)**

Assisted lead counsel in case against Governor where Fourth Circuit held state trespass statute unconstitutional and preempted. Also assisted in successful claim for attorney fees of \$850,000.

**Stafford v. Rocky Hollow Coal Corp., 198 WV 593 (1996)**

Court overruled trial court's grant of judgment for wrongful discharge to discharged employee. Court held the lower court erred by allowing evidence of parent company's "bad acts" and evidence did not warrant submission of punitive damages to the jury.

**Teamsters Local 372, et al. v. Detroit Newspapers Agency, 956 F.Supp. 753 (E.D. MI 1997)**

Court declined to dismiss civil RICO action by Employer against striking Unions. Court held Employer would prevail on civil RICO allegations alleging strike violence involving attempted murder, arson and extortion.

**Teamsters Local 372, et al. v. Detroit Newspapers Agency, 993 F.Supp. 1052 (E.D. MI 1998)**

Court declined to dismiss civil RICO action by Employer against striking Unions. Court held Employer would prevail on civil RICO allegations alleging strike violence involving attempted murder, arson and extortion.

## Publications

November 18, 2021

**OSHA Suspends Implementation and Enforcement of COVID-19 Vaccine and Testing Mandate**

November 15, 2021

**National Labor Relations Board to Enforce Bargaining Duties to Accomplish COVID Vaccination and Testing Policies**

September 8, 2020

**Sixth Circuit Court Of Appeals Limits Enforcement of NLRB Special Remedies**

April 30, 2020

**Dinsmore's Mark Carter on Constitutionality of Workplace Freedom Act**

West Virginia Record

April 22, 2020

**West Virginia Supreme Court Upholds Right-to-Work Law**

February 4, 2020

**What is RICO?**

Automotive News

December 20, 2019

**NLRB Presumes Confidentiality of Investigative Reports is Lawful**

November 26, 2019

**An Introduction to Labor Racketeering Actions Under The Federal Racketeer Influenced & Corrupt Organizations Act**

June 18, 2019

**NLRB Will No Longer Require Employers to Permit Union Organizers in "Public Space" on Employers' Property**

January 31, 2019

**National Labor Relations Board Returns to Longstanding Independent Contractor Standard**