



## Ashley C. Pack

Partner

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Ashley has significant experience representing employers in a variety of labor and employment matters, including employment litigation, sexual harassment investigations, unfair labor practice and union representation cases. She also practices media and First Amendment law, advising newspapers and media outlets on prepublication review, FOIA and open records, advertising, and defamation issues.

She leverages a thorough knowledge of employment law to help steer clients through myriad challenges, having represented clients in the banking, health care, retail, and energy and natural resources industries. Understanding that labor and employment cases often take unique twists and turns, she works closely with business owners, human resource managers and in-house counsel to learn each client's operations and objectives before tailoring an approach to fit the circumstance. She has teamed with her clients to offer counseling on an array of employment law matters, including employee discipline, termination, and employee policies and procedures. Ashley also handles Title VII and West Virginia Human Rights issues for clients, including all manners of discrimination claims and litigation. She has successfully represented clients in mediations and arbitrations, as well as before state and federal courts and administrative agencies. She litigated several Section 10(j) injunctive relief cases and recently obtained a defense verdict in an employment contract dispute.

Ashley also advises newspapers and media outlets on prepublication review, advertising, and defamation issues. Having practiced in both Kentucky and West Virginia, she leverages a thorough knowledge of First Amendment matters with an industry-level understanding of the challenges facing the media.

The office managing partner, she is AV-Rated and listed in the *Best Lawyers*® and *Super Lawyers*® and is very active in the community, sitting on various nonprofit boards. She was selected by the Benchmark Litigation's "Under 40 Hot List." She graduated from Leadership WV and is an active speaker and writer. She also is a recipient of the 2012 Generation Next 40 Under 40 award from *The State Journal*. Ashley is also a member of the firm's Board of Directors.

Ashley was appointed by West Virginia's governor in 2024 to serve as one of five members of the West Virginia Industrial Council, which is charged with overseeing the worker's compensation insurance market in the state.

## Services

- Labor
- Employment
- Employment Discrimination Litigation
- Labor Arbitrations
- Collective Bargaining Negotiations
- NLRB Issues
- Strike Preparation/Litigation
- Wage/Hour Law
- Wrongful Discharge
- Workplace Safety
- Audits, Counseling & Training

## Education

- University of Kentucky College of Law (J.D., 2001)
- University of Kentucky (B.A., *summa cum laude*, 1998)
  - Phi Beta Kappa

## Bar Admissions

- West Virginia
- Kentucky

## Court Admissions

- U.S. District Court for the Western District of Kentucky
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Southern District of West Virginia
- U.S. District Court for the Northern District of West Virginia
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Sixth Circuit

## Affiliations/Memberships

- West Virginia Chamber of Commerce, Board of Directors
- Clay Center for the Arts and Sciences, Board of Directors
- Thomas Health Systems, Board of Trustees
- Coalfield Development, Board of Directors

- Women for Economic Leadership Development, Board of Directors
- WVU College of Law, Visiting Committee
- Energy & Mineral Law Foundation, Board of Trustees
- Children's Therapy Clinic, Past Board of Directors, president (former)
- The Greater Kanawha Valley Foundation, Disbursements Committee
- Leadership Council on Legal Diversity, state lead for West Virginia
- Foundation for Thomas Health Systems, past Board of Directors, chairperson
- Tamarack Foundation for the Arts, past Board of Directors, vice president
- YWCA, past Board of Directors
- Leadership West Virginia, Class of 2011
- Defense Trial Counsel of West Virginia, Labor and Employment Committee

## Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- *Chambers USA*®: *America's Leading Lawyers for Business*, Labor & Employment
- *Best Lawyers*®
  - Labor & Employment Litigation, Mining Law, Employment-Management
- West Virginia *Super Lawyers*®
  - Employment Litigation, Defense
- WVU College of Law, Lawyer & Leader honoree
- 2020 West Virginia Wonder Women
- Russ Metz Most Valuable Member Award, Kentucky Press Association (2017)
- *Benchmark Litigation* Under 40 Hot List
- Generation Next 40 Under 40 award by *The State Journal* (2012)
- Difference Maker Award in Honor of Alice J. Neeley
- Future Star in *Benchmark Litigation*

## Experience

### **Successfully Defended a Physician's Practice from a Former Physician Seeking Termination Benefits**

We represented a physician's practice at trial in a matter involving a physician who had been denied termination benefits that had been provided to other shareholders in the practice. While the physician was a shareholder, their contract did not include a provision for termination benefits. The physician filed suit, and a jury found in favor of

our client. The physician appealed the decision, and the West Virginia Supreme Court of Appeals affirmed the jury verdict, resulting in substantial financial savings for our client.

#### **Successfully Defended Appeal of the Dismissal of Breach of Fiduciary Duty and Conversion Claims**

We obtained dismissal of breach of fiduciary duty and conversation claims against our client, a bank, based upon the statute of limitations. The plaintiff, an attorney, had deposited client funds into an account under his name. These funds were seized by the state of West Virginia as a result of the lawyer owing back taxes. The lawyer sued the bank, alleging that it should not have permitted the state to seize the funds because they were client funds, despite being in an account in his name. We argued that the lawyer knew for more than five years of the seizure of the funds before he filed suit and that the claims should be dismissed under the statute of limitations. After we prevailed at the Circuit Court, the lawyer appealed to the West Virginia Supreme Court, which upheld the dismissal.

#### **Cape Publications v. City of Louisville**

Our firm represented The Courier-Journal in a suit involving the issue of access to the performance evaluations of employees terminated by a public agency. The Court of Appeals of Kentucky ruled that such records were available, with redactions to remove truly personal information.

#### **Cape Publications v. City of Louisville**

The firm represented The Courier-Journal, Inc. in an action involving the issue of an exemption under the Open Records Law for the names in police records of the victims of alleged sexual offenses. The Court of Appeals of Kentucky ruled that the City of Louisville was entitled to redact identifying information of alleged sexual violence victims in police records available to the public.

#### **Central Kentucky News-Journal v. George, 306 S.W.3d 41 (Ky. 2010)**

A public school employee filed suit against her employing school district, claiming sexual harassment by a school district official. She filed suit against another school district, claiming to have been wrongfully refused employment. Both claims were settled, but the settlement agreements contained confidentiality provisions. The newspaper sought, but was denied, access to the settlement agreements under the Open Records Act. After the trial court and Court of Appeals refused to grant access, we prevailed in the Kentucky Supreme Court, which held that settlement of litigation between private citizens and a governmental entity was matter of legitimate public concern that the public is entitled to scrutinize regardless of the existence of a confidentiality clause.

#### **Hallahan v. Courier-Journal**

The firm represented The Courier-Journal before the Court of Appeals of Kentucky in a matter involving summary judgment standards and disability issues. The Court of Appeals affirmed the lower court's determination of summary judgment for the Defendant employer.

#### **Hospitality Industry**

Plaintiff, a current employee and chef at a large resort, claimed that she was discriminated against based in her gender, specifically that she did not receive five promotions to which she alleged she was entitled. Despite a

demand for damages in the upper six figures, during a mediation we resolved the case favorably for the client by offering her an open position at the resort as she was still a current employee, but paid no damages to settle the case.

## **Roman Catholic Diocese v. Noble**

Our firm represented Intervening Partial-Defendant The Courier-Journal in an issue involving the sealing of court documents and a motion to hold the newspaper in contempt for publishing information contained in the sealed documents. The Motion for Contempt was overruled.

## **Shepherd v. Rite Aid of West Virginia, Inc.**

We obtained summary judgment in a case involving the Plaintiff, who claimed that she was discriminated against on the basis of her gender, race, and that she was wrongfully terminated in violation of public policy after failing a drug test. She alleged that the drug test itself was against public policy concerning drug testing of current employees. The circuit court granted our client summary judgment on the wrongful termination issues. The Plaintiff then filed a writ of mandamus, requesting that the Supreme Court of Appeals in West Virginia accept the appeal. the Court, 5-0, rejected the Plaintiff's request. Because the gender and race claims hinged on the wrongful termination claim, the Plaintiff dismissed those claims.

## **Publications**

September 3, 2021

### **How COVID-19, Vaccines and the ADA Affect Employees' Remote-Work Requests**

Best Lawyers

Summer 2019

### **"Reaching New Heights - LCLD and West Virginia Climb Together"**

Defense Trial Counsel of West Virginia "WV Defender"

September 17, 2019

### **An Ounce of Prevention with Working from Home ADA Accommodations**

Bank Director

April 1, 2019

### **Working from Home? A Look at the Employer's Duty to Provide Remote Access as a Reasonable Accommodation under the Americans with Disabilities Act**

2019 Defense Trial Counsel of West Virginia Notebook of Articles