



## Brian J. Moore

Partner  
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Brian represents companies in labor, employment, deliberate intent, and general litigation. His business-oriented approach enables him to guide clients through a myriad of challenges. He draws on his experience to help clients reach efficient resolutions -- or pursue litigation and trial -- as the situation warrants. Working with clients in the banking, insurance, retail, health care, energy, hospitality, and food and beverage industries, he has guided them through an array of issues, including discrimination, harassment, wage and hour, deliberate intent, unfair labor practice, union representation, injunction, and general litigation matters. Brian has substantial experience practicing in both state and federal courts, including trying cases to verdict, as well as practice before the West Virginia Human Rights Commission, the Equal Employment Opportunity Commission, and the National Labor Relations Board. He has also drafted and litigated employment and arbitration agreements, covenants not to compete, and various other contracts.

He places a premium on partnering with his clients to learn their operations and culture as he builds a strategy that suits their needs. He often works closely with in-house counsel, human resources professionals, and company management, taking a proactive approach to help clients anticipate and overcome challenges before they arise. He prepares employee handbooks, conducts supervisory training, and understands the increasing role of technology and social media in the workplace.

Brian is an active speaker and writer and has published a book entitled *The Pocket Guide to West Virginia Law*. In addition, he speaks, writes and provides training on leadership, networking, time management and other personal development topics. When he is not practicing law, speaking, or writing, Brian is an avid fitness, automobile and college football enthusiast.

### Services

- Labor
- Employment
- Litigation
- Employment Discrimination Litigation
- Labor Arbitrations

- Collective Bargaining Negotiations
- NLRB Issues
- Strike Preparation/Litigation
- Wage/Hour Law
- Wrongful Discharge
- Workplace Safety
- Audits, Counseling & Training
- First Amendment & Media
- Natural Resources Industry

## **Education**

- West Virginia University College of Law (J.D., 2001)
  - West Virginia Law Review, executive editor for research
  - Class treasurer
- West Virginia University (B.S.B.A., *summa cum laude*, 1998)
  - Accounting

## **Bar Admissions**

- West Virginia
- Kentucky

## **Court Admissions**

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

## **Affiliations/Memberships**

- Mountain State Rotary, president (2013 - 2015)
- Putnam County Chamber of Commerce, Board of Directors
- Generation Putnam, director

- Generation West Virginia, Board of Directors (2013 - 2015)
- Defense Trial Counsel of West Virginia, Chairperson of Employment Law Committee (2009 - 2010)
- Habitat for Humanity of Kanawha & Putnam County, Board of Directors (2011 - 2012)
- Appalachian Reading Center, Inc., Board of Directors (2009 - 2012)
- Problem Gamblers' Help Network of West Virginia Advisory Board (2009 - 2012)
- American Bar Association, Section of Labor and Employment Law
- Defense Research Institute (DRI), Employment Law Committee
- West Virginia Bar Association
- Kentucky Bar Association
- Kanawha County Bar Association
- West Virginia Bar, Employment Law Committee
- Generation Charleston, Membership Committee
- WVU Alumni Association
- Energy & Mineral Law Foundation
- Leadership West Virginia, Class of 2012
- Leadership Putnam County, Class of 2009

## Distinctions

- *Best Lawyers*®
  - Employment Law - Management and Litigation - Labor and Employment, Mining Law (2021)
- West Virginia *Super Lawyers*®
- *West Virginia Rising Stars*®
- Peer Review Rated AV in *Martindale-Hubbell*
- National Kidney Foundation of Maryland, Volunteer Service Award (2008)
- University of Virginia Trial Advocacy Institute (2004)
- Generation Next: 40 Under 40 award by *The State Journal* (2011)
- Young Leader Award, Putnam County Chamber of Commerce

## Experience

### **Represented a Company in NLRB Charges Related to Collective Bargaining Negotiations (2017)**

We successfully represented a Caterpillar dealer in NLRB charge following last best final offer and implementation in collective bargaining with the Operating Engineers.

## **Secured Favorable Resolution for a Publicly Held Client in Hazing Case (2013)**

We obtained the favorable and confidential resolution of a case for a publicly held client where two employees claimed constructive discharge following unfortunate horseplay and extreme hazing which led to embarrassing allegations and two constructive discharges.

## **Ellis v. West Virginia American Water Company, Inc. (Kanawha County, WV 05-C-749) (2010)**

Successful defense in suit by HR manager alleging sex discrimination by company where HR manager was discharged for inappropriate e-mail communications. Obtained summary judgment on all issues on case of trial.

## **Represented a Hospital Following Collective Bargaining (2010)**

We successfully defended a hospital in NLRB charge following the implementation of its last best final offer in collective bargaining with the USW.

## **Hospital and Union**

Successfully defended against an unfair labor practice charge alleging that the Hospital improperly declared impasse and implemented its last best final offer.

## **Plaintiff v. Hospital**

Successfully obtained reversal by the West Virginia Supreme Court of an award of unemployment compensation benefits.

## **Plaintiff v. Large Retailer**

Obtained summary judgment in United States District Court for the Southern District of West Virginia on disability discrimination claim brought by former employee.

## **Plaintiff v. Regional Airline**

Successfully obtained reversal by the West Virginia Supreme Court of the West Virginia Human Rights Commission's finding of discrimination.

## **Publications**

September 8, 2020

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

August 28, 2020

### **Transgender Students Protected from Discriminatory Restroom Policies under Equal Protection Clause & Title IX, Fourth Circuit Court of Appeals Rules**

July 28, 2020

### **DOL Releases Updated FMLA Forms**

April 22, 2020

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

February 28, 2020

## **NLRB Publishes Final Rule on Joint Employers**

December 19, 2019

### **NLRB Restores Longstanding Dues Checkoff Rule**

December 16, 2019

### **NLRB Issues Final Rule Modifying Representation Case Procedures**

September 25, 2019

### **Breaking: US DOL Final OT Rule Raises the FLSA Exemption Thresholds, Effective Jan. 1, 2020**

September 18, 2019

### **MV Transportation Inc. – NLRB rules on employer unilateral action**

September 11, 2019

### **NLRB Issues New Decision Adopting 3 Part Test for Analyzing Bargaining Unit Scope Disputes**

September 4, 2019

### **FMLA for School IEP Meetings**

August 20, 2019

### **NLRB Addresses Several Issues Involving Mandatory Arbitration Agreements Following Supreme Court Opinion in Epic Systems**

August 8, 2019

### **Fifth Circuit Court of Appeals Enjoins EEOC Guidance on use of Criminal History in Employment Decisions**

June 18, 2019

### **NLRB Will No Longer Require Employers to Permit Union Organizers in “Public Space” on Employers’ Property**

June 3, 2019

### **U.S. Supreme Court Rules Title VII’s Administrative Charge-Filing Requirement is Not Jurisdictional**

July 26, 2018

### **The Top 10 Reasons Your Organization Should Have an Employee Handbook**

April 7, 2017

### **Employer’s Rights and Obligations When Dealing With Employees on Workers’ Compensation Leave** Sterling Education Services

April 6, 2017

### **Privacy and Today’s Technology in the Workplace** Sterling Education Services

November 23, 2016

**District Court in Texas Issues Nationwide Injunction on New DOL Overtime Rule**

December 2014

**Keeping Pace With Social Media and Other Technologies in the Workplace, from The Impact of Recent Regulatory Developments in Employment Law (2015 Edition, Aspatore Publishing).**

2013

**The Pocket Guide to West Virginia Employment Law**

New Linxus Publishing, LLC

June 1, 2012

**Employment Litigation Issues**

May 25, 2012

**The Uniformed Services Employment and Re-employment Rights Act**

May 17, 2012

**Retaliation Claims Under Civil Rights Statutes**

May 10, 2012

**How Do You Handle Employees in the Workplace?**

May 3, 2012

**Employment Law Issues in the Workplace: EEOC Developments**

February 17, 2012

**Accommodating Religion in the Workplace is a Balancing Act**