



Jill Cranston Rice (formerly Bentz)

Partner
jill.rice@dinsmore.com

Morgantown, WV
Tel: (304) 225-1430

Charleston, WV
Tel: (304) 225-1430

Jill is the chair of the Government Relations practice group and focuses her practice on government relations, insurance and health care law but litigates on behalf of many sectors. She has extensive legislative and administrative government relations and commercial litigation experience. She has been a registered lobbyist in West Virginia for nearly 20 years and has lobbied on behalf of various businesses and industry sectors.

Jill currently serves as president of the West Virginia Insurance Federation and is the lead lobbyist for the property and casualty insurance industry in West Virginia. She played a key role in the passage of West Virginia's comprehensive insurance and civil justice reform legislation in 2005 and she regularly defends insurers in civil and administrative proceedings involving coverage disputes and claims for common law and statutory bad faith.

She maintains an active commercial litigation practice, representing West Virginia businesses ranging from financial institutions to national drug companies to health care providers. She has extensive health care experience as well, having represented hospitals in antitrust, on-call pay, uninsured billing, medical staff privilege, certificate of need, and rate-setting cases, and routinely deals with clients on day-to-day regulatory matters.

Jill also is a member of the firm's Professional Development and Diversity committees.

Services

- Government Relations
- Litigation
- False Claims Act
- Health Care Industry
- Insurance Industry
- Banking & Financial Services

Education

- West Virginia University College of Law (J.D., 1997)

- University of Kentucky (B.A., 1994)
 - Political Science
 - Otis A. Singletary Outstanding Freshman
 - University commencement speaker, May 1994

Bar Admissions

- West Virginia

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court for the Southern District of West Virginia
- U.S. District Court for the Northern District of West Virginia

Affiliations/Memberships

- Defense Research Institute (DRI)
 - Issues and Advocacy Committee, Center for Law and Public Policy, chair
 - State representative for West Virginia
 - Insurance Roundtable, member
 - Annual Meeting Steering Committee, member
- Defense Trial Counsel of West Virginia (DTC)
 - Immediate past president (2017 - 2018)
 - President (2016 - 2017)
 - Vice president (2015 - 2016)
 - Treasurer (2014 - 2015)
 - Secretary (2013 - 2014)
- International Association of Defense Counsel
- West Virginia Insurance Federation, president
- Highland - Clarkburg Hospital, Inc., board member
- WVU College of Law Visiting Committee
- Leadership West Virginia, board member
- West Virginia Chamber of Commerce, Government Relations Committee, Civil Justice Committee
- Junior League of Charleston, Inc., past president
- National MS Society, West Virginia Chapter

- Bridgeport Varsity Soccer Association
 - President (2017)
 - Vice president (2016)
 - Secretary (2015)
 - Vice president (2014)
- Read-A-Loud West Virginia, volunteer
- Junior Achievement of the Kanawha Valley, volunteer
- Association of Defense Trial Attorneys, prime member

Distinctions

- *Best Lawyers*®
 - "Lawyer of the Year" in Morgantown for Appellate Practice (2021)
 - Government Relations Practice (2021)
- *Chambers USA*®: Guide to America's Leading Business Lawyers
- Young Gun by the *West Virginia Executive* (2010)
- Generation Next: 40 Under 40 award by *The State Journal* (2005)
- Leading WV Business Lawyer by *WV Inc.* (2007)
- West Virginia *Super Lawyers*®
- Kevin Driskill Outstanding State Representative Award (2020)

Experience

Assisted Client in Securing Certificate of Need for Essential Health Services

We successfully represented a health system in connection with its certificate of need (CON) application to establish Primary Therapeutic Cardiac Catheterization (Primary PCI) services at its Beckley, West Virginia hospital. Primary PCI is a life-saving cardiac catheterization procedure offered to heart attack patients that this client was not able to offer at its southern West Virginia hospital without approval by the West Virginia Health Care Authority. We were successful in helping the client secure the CON following the administrative hearing and post-hearing brief.

Successfully Represented Insurance Company in Policy Dispute

We represented our client, an insurance company, in a dispute over the application of a \$5 million commercial umbrella policy following a fatal car accident. The case involved the owner of a car dealership, whose son was driving a dealership car that struck and killed a motorcyclist and the motorcyclist's estate. The estate and the owner of the dealership contended that the dealership's commercial umbrella insurance policy covered the owner's son because he was driving a car owned by the dealership, even though the son was not working for the dealership. After significant discovery disputes and motions practice, we sought a writ of prohibition from the West

Virginia Supreme Court of Appeals based, in part, upon what was eventually found to be “outrageous conduct” by the owner of the dealership during the course of discovery. Ultimately, the West Virginia Supreme Court agreed with our position that the commercial umbrella insurance policy did not apply, and all claims against our client were dismissed.

Bowman v. Charleston Area Medical Center

Ms. Rice represented a hospital in a class action filed by four uninsured patients who alleged that a hospital's charging of uninsured patients at full charges, while charging Medicare, Medicaid, and insured patients at less than full charges, was unlawful.

Obtained Dismissal of a West Virginia Patient Safety Act Claim

A former hospital administrator's claim of retaliation in violation of the West Virginia Patient Safety Act was dismissed because we proved that the former employee was not subject to the Act's protection because she was an administrator.

Summary Judgment on Employment Discrimination Claims

We successfully demonstrated to the judge that a hospital administrator's allegations of harassment by a male nurse and failure by the hospital to properly respond to her report of harassment could not be tied to a gender motivated bias. This summary judgment award was subsequently upheld on appeal.

Obtained Writ of Prohibition from the West Virginia Supreme Court Dismissing Insurance Bad Faith Claims for Lack of Subject Matter Jurisdiction

We represented an insurance carrier accused of acting in bad faith in violation of West Virginia common law and the West Virginia Unfair Trade Practices Act in connection with the defense of an ongoing personal injury lawsuit and related declaratory judgment action concerning the scope of insurance coverage applicable to the personal injury lawsuit. The insurance carrier had offered what it considered the limits of the applicable coverage in order to settle the personal injury lawsuit, but this was insufficient to resolve the matter and the underlying plaintiff initiated a declaratory judgment action to seek an expansion of the amount of applicable coverage. Because the insureds wanted as much coverage afforded to them as possible for the personal injury lawsuit they asserted bad faith claims against the insurance carrier for taking the position it had offered its limits. The West Virginia Supreme Court found the insureds' bad faith claims were not ripe because the question of what coverage applied to the personal injury lawsuit had not been resolved. The West Virginia Supreme Court further noted there is basis for a bad faith cause of action when an insurance carrier retains independent counsel to defend an insured and separate counsel to prosecute a declaratory judgment action concerning the scope of coverage afforded to the insured.

Acquisition of Acute Care Hospital

Dinsmore represented a non-profit health care enterprise in the multi-million dollar acquisition of a closely-held acute care hospital and related multi-million dollar financing transaction.

Successful Defense and Appeal of Declaratory Judgment Action for an Insurer in a Liquor Liability Case

We represented a large commercial insurer in a liquor liability case where the plaintiff sought the policy limits of \$5 million in damages. Our client insured an establishment that served alcohol to a patron, who struck a pedestrian with her car after leaving the establishment. The pedestrian sued the driver, the insured establishment, the nightclub, and our client, seeking in part a declaratory judgment that our client was obligated under an umbrella

policy to pay for the insured establishment's liability. We represented the insurer through the entire case, from pleadings through successful appeal. We won summary judgment at the trial court, and the West Virginia Supreme Court of Appeals affirmed on appeal that the loss was subject to an exclusion under the policy and, thus, was not covered under the insurance policy. The ruling resulted in zero liability for our client.

Successfully Defended a Large Regional Insurer From a Challenge to their Product and Rate

We successfully defended a challenge by an insured to a new personal lines product and corresponding rate filed with the West Virginia Insurance Commissioner. We defended the insurer before the proceeding, before the West Virginia Insurance Commissioner, on appeal to the Circuit Court and successfully briefed and argued the insurer's position before the Supreme Court of Appeal of West Virginia. The product and rate filing had already been in use in West Virginia at the time the insured filed the rate, so a decision to invalidate the product or rate would have been significant.

Accidental Death Insurance Policy

Represented insurer in the Circuit Court in Mingo County, West Virginia in a case related to an insurer's accidental death and disability insurance plan. Plaintiffs claimed that the policy regarding accidental deaths was not explained properly; however, the court stated that the language in the policy was clear and unambiguous. The court granted summary judgment for our client and dismissed the case with prejudice.

Amicus Curiae Brief

Filed an *amicus curiae* brief in the Supreme Court of Appeals of West Virginia on behalf of an insurance trade association in support of prevailing party. Client argued that a circuit court had previously erred in granting partial summary judgment in a case related to deliberate intent coverage and a claim that policy language was ambiguous. The Court overruled the circuit court's decision, resulting in a significant victory for the insurance industry.

Breach of Contract

We represented a national bank against an allegation of breach of contract. The plaintiff alleged that he had filed multiple loan applications and had not received a loan, allegedly contrary to the bank's representations. We conducted extensive discovery, and proved that our client had made no commitment to give a loan to the plaintiff, meaning there was no contract to breach. The judge granted summary judgment to our client.

Certificate of Need Appeal

We represented Highland Hospital in a Certificate of Need appeal. Our client sought a Certificate of Need to place 150 mental health beds, with a total capital expenditure exceeding \$40 million, in a vacant facility formerly owned by United Hospital Center. The Certificate was granted, but then appealed by a competitor, who raised issues of financial feasibility, necessity of the project, and compliance with the state health plan, and alleged that it was denied due process. The matter was appealed to the Office of Judges, an administrative appeal body, and our client's Certificate was upheld.

Credit Life Insurance Policy

Represented insurer in U.S. District Court for the Southern District of West Virginia in a case involving a credit life insurance policy. The court granted summary judgment to our client.

Drafting of Legislation

Assisted in the drafting of West Virginia's comprehensive insurance and civil justice reform legislation in 2005, including the repeal of third-party bad faith. Utilized extensive lobbying experience and training to coordinate and implement grassroots campaign, which included conducting opinion research and polling and a targeted media campaign to promote passage of significant legislation.

Fairmont General Hospital v. United Hospital Center

Mr. O'Neil and Ms. Bentz represented a hospital before the West Virginia Health Care Cost Review Authority, the Office of Judges, the Circuit Court of Marion County, and the West Virginia Supreme Court of Appeals in the successful prosecution of the hospital's application for a certificate of need to develop a \$285,000,000 replacement hospital.

Physician Peer Review Process

We represented a regional hospital in physician peer review proceedings. The hospital received complaints regarding a physician, and it had to proceed according to its Medical Staff Bylaws, including holding a hearing before a peer review hearing committee. We counseled the hospital throughout the process, ensuring compliance with the Health Care Quality Improvement Act, state licensure and reporting regulations, and the Medical Staff Bylaws. Any violations during the peer review process could have resulted in the hospital and participating reviewing physicians losing civil immunities and facing potential liability. The hospital completed the hearing and peer review process with no compliance issues.

President of Insurance Trade Association

Ongoing service as President of West Virginia Insurance Federation since 2004. Conduct a number of administrative duties, including day-to-day operations, reviewing and monitoring applicable legislation, lobbying on behalf of or in opposition to legislation, drafting and introducing legislation, drafting amendments and providing testimony regarding legislation. Duties also include distributing regular reports on legislation, meeting regularly with company representatives and lobbyists, monitoring interim committees, scheduling committee and board meetings, working with the Insurance Commissioner's Office and other regulatory agencies, and assisting in distribution of materials, such as media releases and editorials.

Thoracic and Cardiovascular Associates v. Charleston Area Medical Center and Charleston Area Medical Center v. Rashid

Mr. O'Neil and Ms. Bentz represented the state's largest hospital in state litigation brought by cardiovascular surgeons on the hospital's Medical Staff demanding \$2,000 per day to provide on-call coverage to the hospital's trauma center and in related federal litigation brought by the hospital against the cardiovascular surgeons for alleged price fixing and an alleged concerted refusal to deal.

United States of America v. Bluefield Regional Medical Center

We represented a hospital in a federal antitrust investigation by the United States Department of Justice regarding an agreement between two hospitals relating to the provision of open heart surgery and cancer services.

Publications

August 7, 2020

State Legislative Procedural Updates as a Result of COVID-19 Pandemic

July 15, 2020

The First COVID-19 Business Interruption Decision Sides In Favor of Insurers

March 24, 2020

West Virginia's Governor Ensures Financial and Insurance Services are Essential

COVID-19 Business Strategies Hub

June 3, 2019

2019 West Virginia Legislative Highlights: Health Care

HealthBEAT

June 12, 2018

The Nuts and Bolts of West Virginia's Opioid Reduction Act

June 2013

Taking the Pulse of the Civil Justice System

DRI Center for Law and Public Policy

March 6, 2013

Through An Employer's Eyes - The Nuts and Bolts of the Affordable Care Act

West Virginia Executive