



## Scott K. Sheets

Partner  
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Scott focuses his practice primarily in the representation of employers in the areas of labor and employment law, employment litigation, and general commercial litigation.

He represents employers in trial, mediation, arbitration, and appeals at all levels of state and federal courts and administrative agencies in connection with claims of wrongful termination, harassment, discrimination, unemployment, workers' compensation, unfair labor practices OSHA citations, and other labor and employment.

Scott's practice includes consultation with and representation of employers in traditional areas of labor law, including contract negotiations, employee handbooks, bargaining unit elections, disciplinary proceedings, and the defense of grievances and arbitrations.

Representative examples of his work in this area include negotiating on behalf of a manufacturing client in its collective bargaining with the United Steelworkers of America, assisting a manufacturing client with a decertification election, representing a manufacturing client in proceedings before an administrative law judge for the National Labor Relations Board, representing an electrical company in federal court litigation with the IBEW in a dispute over a national agreement and a local insider agreement, and representing an electrical company in federal court injunction proceedings involving the IBEW. He has also represented a transportation client in grievance and interest arbitration proceedings involving the Amalgamated Transit Union, defended a construction company in labor contract disputes in federal court involving the Plumbers and Pipefitters Union, and successfully

preserved union-free status for a medical supply manufacturer in a union representation election pursued by the International Association of Machinists and Aerospace Workers.

In addition to traditional labor law, Scott also represents employers in all areas of employment law, including claims of wrongful termination, harassment, discrimination, unemployment and workers' compensation. Representative examples of his work in this area include defending age and disability claims against a service industry employer before the West Virginia Human Rights Commission and in federal court, defending a mining supply company in state and federal court from a job applicant's disability discrimination claim, defending charges of age and disability discrimination filed with the West Virginia Human Rights Commission against a lumber company in connection with an employee's dismissal for failure to return to work after exhausting all leave, and defending a manufacturing employer from a lawsuit in which an employee alleged his termination was the result of workers' compensation discrimination. He also has experience litigating the enforcement of restrictive covenants against former employees on behalf of a medical group, defending a banking corporation from state public policy violation claims of wrongful termination involving alleged whistleblowing, defending a transportation client with respect to claims of malicious prosecution involving the unauthorized removal of company property, defending an electrical company in federal court against claims of a sexually hostile work environment, and defending various employers from West Virginia Wage Payment and Collection Act claims.

Scott frequently conducts seminars and publishes articles of interest to employers and the employment defense bar on such topics as internal investigations, employee disciplinary and job performance strategies, employee handbooks, workplace privacy, limiting employer liability for sexual and other types of harassment, compensation issues under the Fair Labor Standards Act, and state and federal developments in employment and labor law.

## **Services**

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

- Wage/Hour Law
- Workers' Compensation

## Education

- College of William and Mary, Marshall-Wythe School of Law (J.D., 1986)
  - National Moot Court
  - Order of the Coif
- Marshall University (B.A., *summa cum laude*, 1983)
  - History

## Bar Admissions

- Ohio
- West Virginia

## Court Admissions

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

## Affiliations/Memberships

- American Bar Association
- West Virginia State Bar Association
- Ohio State Bar Association
- Cabell County (WV) Bar Association
- Defense Trial Counsel of WV

## Distinctions

- *Best Lawyers*®
  - Labor Law, Management
  - Employment Law, Management
  - Litigation, Labor and Employment
- *Chambers USA*®: *America's Leading Lawyers for Business*, Labor & Employment
- West Virginia *Super Lawyers*® Labor and Employment Law

## Experience

## **Obtained summary judgment on discrimination case**

Our client, a national transportation company, was granted a summary judgment in U.S. District Court in the Western District of Kentucky. The plaintiff, a former carman, alleged race discrimination when his employer pulled a posted job and re-posted it with a CDL license requirement. He also alleged race discrimination for his employment termination following his conviction in Indiana state court on a drug-related charge. District court granted summary judgment on all counts, finding the employer had a legitimate, non-discriminatory and non-pretextual reason for its addition of a commercial driver's license requirement for the posted job and finding the employee's termination following a drug conviction was in keeping with the employer's written drug policy. The summary judgment was affirmed by the U.S. Court of Appeals for the Sixth Circuit.

## **Obtained summary judgment for client in harassment and retaliatory discharge case**

We obtained summary judgment for our client, an electrical subcontractor in U.S. District Court – Eastern District of Kentucky. The plaintiff, an electrician, sued her employer and the project manager on a construction site claiming sexual harassment in the presence of open, movable urinals on the construction site and retaliatory discharge. District court granted summary judgment on all counts, finding no sexually hostile work environment as plaintiff admitted both other male employees had expressed distaste over the urinals and the other female employees had indicated they had no problem with them. The court also found the plaintiff's discharge was not retaliatory, as her termination was for an admitted violation of the construction site's no-smoking policy, and the site manager's directive for her removal from the worksite for this violation and her employer's lack of any other job sites to which it could send her rendered her termination valid. The judgment was not appealed.

## **Obtained summary judgment for client on disability discrimination claim**

We obtained summary judgment for our client, a mining company, in Fayette County Circuit Court in West Virginia. The plaintiff laborer was dismissed after a random drug test revealed the presence of a controlled substance for which he could not produce a prescription. He filed suit claiming his termination was disability discrimination, because he had revealed a back condition. The circuit court found the employer had a legitimate, non-discriminatory reason for the termination, as the employee had, by the employer's written drug policy, failed the drug screen by his inability to produce a prescription for the controlled substance in question. The judgment was not appealed.

## **Settled wrongful termination claims case**

We negotiated a favorable settlement for our client, an assisted living center, in a state court civil action involving claims of wrongful termination, disability discrimination, workers' compensation discrimination, and intentional infliction of emotional distress following an employee's termination after her exhaustion of workers' compensation benefits. Among others, the suit included claims the employer had terminated the employee despite having information her likely return to work was within two weeks of the termination date and a dispute as to whether an offer of light duty was ever conveyed to the plaintiff. Potential damages included back pay and front pay, emotional distress damages, punitive damages and an attorney's fee award. Mediation following the filing of a comprehensive summary judgment motion resulted in settlement.