Dinsmore

William E. Robinson

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A seasoned employment litigator, Bill brings more than 35 years of experience to the table for natural resource, health care, manufacturing, commercial, and service industry clients faced with complex labor and employment issues. Throughout his career, he has focused his practice on representing management in single and multiple plaintiff and class action employment litigation before state and federal courts, the Equal Employment Opportunity Commission, the Mine Safety and Health Administration, and the West Virginia Human Rights Commission. Bill has defended clients in a broad array of matters, including claims of sex, race, disability, age, safety, and other employment discrimination; wrongful discharge; sexual and racial harassment; breach of employment contract; workers' compensation claims; and violations of ERISA and the FMLA. He also has more than three decades of experience litigating West Virginia's unique deliberate intent employment actions, having represented employers in cases arising from serious workplace injuries and toxic tort/workplace exposures. Bill also routinely counsels management regarding workers' compensation issues, non-competition agreements, employment policies and procedures, employment handbooks, supervisor training, hiring and firing issues, and disciplinary actions.

Bill's long career as an employment and labor litigator is built upon a combination of vast defense experience and client relationships grounded in an understanding of each client and its business. The client's best interests and objectives, combined with the development of legal solutions and strategies that serve them effectively and efficiently, are always at the forefront of his efforts.

Services

- Employment
- Labor
- Employment Discrimination Litigation
- Wage/Hour Law
- Wrongful Discharge
- Labor Arbitrations
- NLRB Issues

- Workplace Safety
- Audits, Counseling & Training
- Litigation
- Workers' Compensation
- Appellate
- Natural Resources Industry

Education

- West Virginia University College of Law (J.D., 1983)
- West Virginia University (B.S., 1980)

Bar Admissions

- West Virginia

Court Admissions

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

Affiliations/Memberships

- West Virginia State Bar, Employment Law Committee
- West Virginia Chamber of Commerce, Human Resources Committee
- Defense Trial Counsel of West Virginia, Employment Committee
- Defense Research Institute
- Energy & Mineral Law Foundation
- American Bar Association
- Kanawha County Bar Association
- Children's Home Society of West Virginia, Board of Directors, officer
- Goodwill Industries of the Kanawha Valley, Board of Directors
- Glendale Pool, Inc., past president and board member
- United Way of Central West Virginia, Capitol Club

Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers®*
  - Employment Law - Management (2021-2024)
- America's Top 100 Civil Defense Litigators®
- West Virginia *Super Lawyers®*
  - Employment Litigation - Defense (2021)

Experience

Michael v. Consolidation Coal Co.,2017 U.S. Dist. LEXIS 49159 (N.D. W.Va. 2017)
Lead counsel in obtaining dismissal of class action lawsuit surrounding the deaths of 78 coal miners in the Consol No. 9 explosion.

Murray Energy Corp. v. McCarthy, 2017 U.S. Dist. LEXIS 27500 (N.D. W.Va. 2017)
Co-counsel in obtaining summary judgment against the U.S. Environmental Protection Agency on claim that it is not in compliance with section 321(a) of the Clean Air Act of 1971, which requires the agency to evaluate potential job losses within an industry through the act's enforcement.

Viars v. Greenbrier Minerals, LLC, 2016 U.S. Dist. LEXIS 122864 (S.D. W.Va. 2016)
Lead counsel in Dismissal of coal miner's claims that he was wrongfully discharged in violation of the FMLA and West Virginia public policy.

Flowers v. Mastercuts, 2014 U.S. Dist. LEXIS 82884 (S.D. W.Va. 2014)
Lead counsel in dismissal of race discrimination and harassment claims as a result of the plaintiff's failure to submit claims to arbitration as required by the terms of an Arbitration Agreement.

Cochenour v. The Marion County Coal Co., No. 1:14-cv-00164 (N.D. W.Va. 2014)
Lead counsel in successful defense of coal company arising from the discharge of a female employee from its mine located in Marion and Monongalia Counties, West Virginia. The plaintiff asserted claims for wrongful discharge in violation of public policy against all defendants; sex discrimination in violation of the West Virginia Human Rights Act against the corporate employer; and aiding and abetting discrimination in violation of the Human Rights Act against an individual management employee. Following aggressive litigation the case was favorably settled.

Cobra Natural Resources, LLC v. Federal Mine Safety & Health Review Commission, 742 F.3d 82(4th Cir. 2014)
Lead counsel in defense of a West Virginia coal company which allegedly had terminated the employment of a miner in violation of § 105(c) of the federal Mine Act. In addition to ultimately successfully defending Cobra Natural Resources on the merits of the complainant's claims, handled an appeal to the Fourth Circuit Court of Appeals on the issue of whether a Federal Mine Safety and Health Review Commission decision granting temporary reinstatement to a coal miner is immediately appealable by the coal operator under the collateral order doctrine.

DeBias v. Coastal Lumber Co., 2014 W. Va. LEXIS 755 (June 13, 2014)

Co-counsel in successful defense of employer in deliberate intent action arising from serious injuries, including paralysis, incurred by a truck driver when a load of lumber fell from a flatbed trailer and struck him during the unloading process. The parties strongly disputed whether Coastal's training of its forklift operators created a specific unsafe working condition which presented a high degree of risk and a strong probability of serious injury or death, whether Coastal had actual knowledge of the existence of that specific unsafe working condition, and whether its training regimen was a violation of OSHA forklift training standards. Complicated liability and medical issues have required the involvement of expert witnesses in a wide array of specialties. Coastal Lumber moved for summary judgment, arguing that the plaintiff could not establish any of the statutory elements of his deliberate intent claim. The Circuit Court of Randolph County agreed and granted summary judgment in favor of Coastal Lumber. On appeal, the Supreme Court of West Virginia affirmed.

Obtained a Favorable Resolution for a Law Firm Client Accused of Sex Discrimination (2013)
We obtained the favorable and confidential resolution of case for a client where the plaintiff claimed sex discrimination as the reason she was not made a partner in the law firm.

Loughlin v. Regis Corp., (Ohio County, WV 10-C-230 (2012))
Lead counsel in defense of Regis in a class action claim alleging that, for a period of five years, it failed to issue final paychecks to former involuntarily discharged employees within 72 hours as required by the West Virginia Wage Payment and Collection Act. At issue are complex questions as to numerosity, commonality and typicality of the claims and defenses of the class, as well as the proper method for determining reasonable attorneys' fees and costs potentially payable to class counsel. This matter remains in active litigation.

Mullins v. Charleston Stamping & Manufacturing, Inc., 2011 U.S. Dist. LEXIS 65846 (S.D. W.Va. 2011)
Lead counsel in representation of a stamped parts manufacturer sued for age discrimination by an unsuccessful applicant for employment at its plant located in South Charleston, West Virginia. The plaintiff alleged that Charleston Stamping intentionally discriminated against him because of his age in failing to hire him, and that its hiring policies and procedures had a disparate impact on applicants over age 40. Charleston Stamping moved for summary judgment as a matter of law, asserting alternatively that the plaintiff's claims were barred by the applicable statute of limitations, and that he could not make out a prima facie case of age discrimination. The court granted summary judgment on all claims.

Groves v. United Steel Workers Local Union No. 15293, et al. 2010 U.S. Dist. LEXIS 110238 (S.D. W.Va. 2010)
Lead counsel in the successful defense of Georgia Pacific against claims by a group of former workers whose employment was terminated when Georgia Pacific sold a sawmill to a successor company. The plaintiffs contended that Georgia Pacific violated the terms of their collective bargaining agreement by not ensuring their subsequent employment with the successor company, and filed suit under § 301 of the Labor Management Relations Act. The court found that the sale of the sawmill did not violate the CBA, as it reserved exclusively to Georgia Pacific certain rights, including the right to plan, direct, control, increase, decrease, or discontinue operations, or to move, close, sell, or liquidate it whole or in part. Accordingly, the court granted summary judgment to Georgia Pacific.

Panetta v. Chesapeake Energy Corp., 2010 U.S. Dist. LEXIS 46947 (S.D. W.Va. 2010)
Co-counsel in the successful enforcement of contractual arbitration provisions against a plaintiff who alleged that Chesapeake engaged in fraud in connection with his severance. After removing the case to federal court,

Chesapeake filed a motion to dismiss maintaining that the plaintiff's claim falls under the arbitration clause of the severance agreement, and that under the Federal Arbitration Act it must be stayed or dismissed so that the case could be arbitrated. The Court granted Chesapeake's motion and stayed further action.

AT&T Corp. Deliberate Intent Litigation (Kanawha, County, WV 2008)
Lead counsel in the successful defense of AT&T against 25 consolidated deliberate intent civil actions filed by a unified group of former employees who alleged that they sustained serious injuries as a result of exposure to mold in the company's Charleston Call Center. Suit also was filed against several co-defendants, including the building's owners and maintenance contractors. AT&T denied that there was mold present in the building sufficient to establish the existence of a specific unsafe working condition, or that the plaintiffs could establish any of the other requisite statutory elements of their deliberate intent claims. After extensive lay and expert witness discovery, the plaintiff's dismissed their claims against AT&T in exchange for payment of only nominal sums.

Fisher v. AT&T Mobility, LLC, 2008 U.S. Dist. LEXIS 91291 (S.D. W. Va. 2008)
Lead counsel for AT&T in litigation alleging that the plaintiff had been subjected to a hostile work environment based on her sex, and was constructively discharged when she was forced to resign from her employment in violation of the West Virginia Human Rights Act. AT&T sought summary judgment on grounds that the plaintiff had failed to show that the conduct alleged to create a hostile environment was gender-based, and further that she has failed to establish that her working conditions were so intolerable that a reasonable person would feel compelled to quit. Summary judgment was granted to AT&T.

Pascocciello v. Interboro School Dist., 2005 U.S. Dist. LEXIS 31421 (S.D. W. Va. 2005)
Lead counsel for a Pennsylvania school district and school principal who had asked a teacher to resign after he was accused of sexually assaulting several students. The principal later signed a reference form on behalf of the district with knowledge that it would be forwarded to potential employers, and the superintendent of the Pennsylvania school district also completed a form which he received from a West Virginia board of education that was considering the teacher's application for employment. The West Virginia board hired the teacher, and 22 years later he sexually assaulted and murdered a student. The court adopted ISD's argument that neither it nor the principal engaged in conduct that allowed the West Virginia court to exercise personal jurisdiction over them, severed the student's claims against them, and transferred those claims to the Eastern District of Pennsylvania.

Wheatley v. Speedway SuperAmerica, LLC, (Kanawha County WV, 02-C-2460 (2004))
Lead counsel for Speedway in defense of same-sex harassment claims by a former male employee who alleged that he was harassed on the basis of his sexual orientation and failure to conform with gender stereotypes in violation of the West Virginia Human Rights Act. The plaintiff also alleged that the harassment resulted in the constructive discharge from his employment in violation of the Act, and asserted common law claims for the tort of outrage and negligent hiring and supervision. When it became clear that summary judgment in Speedway's favor was a near certainty, the plaintiff agreed to dismiss his claims in exchange for a nominal settlement.

Miller v. AT&T Corp., 83 F. Supp. 2d 700 (S.D. W.Va. 2000), aff'd, 250 F.3d 820 (4th Cir. 2001)
Lead counsel in case in which the plaintiff was terminated from her employment by AT&T for excessive absences due to plaintiff's and spouse's illnesses. After her termination, the plaintiff brought suit under the Family and Medical Leave Act and moved for partial summary judgment, which was granted. A trial was subsequently held to determine damages, the issues being whether plaintiff was entitled to back pay, front pay, and liquidated damages. The court ordered that plaintiff be paid back pay with interest, but adopted AT&T's argument that the

speculative nature of front pay made reinstatement a more appropriate remedy. Further, the court found that AT&T had acted in good faith and with reasonable grounds to believe that it acted properly, and thus that liquidated damages were not awardable.

Henderson v. Columbia Natural Resources, 45 F. Supp. 2d 532 (S.D. W.Va. 1999), aff'd 2000 U.S. App. LEXIS 6918 (4th Cir. 2000)
Lead counsel for CNR in a case in which the plaintiff brought an employment discrimination suit alleging age and race discrimination in violation of Title VII of the Civil Rights Act and the West Virginia Human Rights Act. The court granted CNR summary judgment on a number of grounds and dismissed the suit, concluding that the plaintiff's federal claims were untimely because she did not file her complaint within 90 days of receiving her notice of right to sue, as required under Title VII. The court exercised its supplemental jurisdiction to address the plaintiff's state law claims, and held that the plaintiff failed to establish a prima facie case under Human Rights Act because there was no evidence to support a reasonable inference of age or race discrimination.

Smith v. Columbia Gas Transmission Corp., 1999 U.S. App. LEXIS 6521 (4th Cir. 1999)
Lead counsel for Columbia in a case alleging race discrimination and racial harassment in the workplace. After successful mediation efforts, a settlement agreement was drafted between the parties. The plaintiff thereafter alleged that he had not agreed to the terms of the agreement, and fired his counsel after he took a contradictory position on the issue. Testimony was elicited at a hearing from Columbia's in-house counsel and the plaintiff's original trial counsel, each of whom testified that the written agreement comported with a verbal agreement reached between the parties. The district court held, therefore, that the agreement accurately reflected the settlement terms, and that the plaintiff had authorized his original counsel to reach agreement on each term. Enforcement of the agreement was ordered, and was affirmed on appeal by the Fourth Circuit.

Bell v. Ashland Oil, Inc.(S.D. W.Va. 1998)
Co-counsel defending Ashland Oil against claims initiated by a former refinery engineer who was terminated from his employment after the company found that he had engaged in conduct in violation of its sexual harassment policy. The plaintiff asserted claims against Ashland Oil for wrongful discharge in violation of West Virginia public policy, defamation and fraud. Following cross examination of the plaintiff on the first day of trial, the court invited us to move for a directed verdict. To avoid that result, the plaintiff voluntarily dismissed his claims and trial was concluded.

Cornell v. General Electric Plastics, 853 F. Supp. 221 (S.D. W. Va. 1994)
Lead counsel defending GE against claims by a former female employee, who, after being fired following 18 years of employment, alleged sex discrimination claims under 42 U.S.C.S. § 1981, Title VII, and the West Virginia Human Rights Act. The Court granted summary judgment to GE on all claims, finding that § 1981 applied to racial but not sexual discrimination, rejecting the Title VII claim because the plaintiff had not first unsuccessfully pursued her state administrative remedies, and dismissing her claim under the Human Rights Act because she could not submit any evidence contradicting GE's evidence suggesting poor work performance as the reason for her discharge.

Abels v. Kaiser Aluminum & Chemical Corp. et al., (S.D. W.Va. 1993)
Co-counsel representing large aluminum manufacturers against class action claims filed on behalf of over 300 employees who were laid off and never recalled to work. The plaintiffs asserted that the defendants violated § 510 of ERISA by terminating them in order to prevent vesting of their employee benefit plans, and sought job

reinstatement and massive awards damages for lost wages and lost benefits, as well as punitive damages. In ruling of the defendants' pretrial motions, the court denied class certification, concluded that § 510 did not provide a right to extra-contractual relief or punitive damages in an ERISA action seeking enforcement through § 502(a), and held that the employees did not have a right to a jury trial. The parties then settled the case on terms viewed as very favorable by Kaiser and Ravenswood.

Columbia Gas Transmission Corp. Condemnation Litigation (1990)
Co-counsel representing Columbia and its sister companies in defense of condemnation by the United States of America of over 16,000 acres of property to which Columbia held mineral rights in southern West Virginia. The government offered approximately $5 million as reasonable compensation for its taking of the property, a sum Columbia felt was grossly insufficient. Following several years of discovery and the resolution of many pretrial issues, the case was tried before a special commission appointed by the court in lieu of a jury due to the complexity of the case. After a three-week trial, the commission entered a verdict for Columbia of over $51 million, then the largest verdict in West Virginia history.

Guyan Valley Hospital v. West Va. Human Rights Comm'n, 181 W. Va. 251; 382 S.E.2d 88 (1989)
Representation of Guyan Valley Hospital in the first known "disparate impact" case filed in West Virginia. The plaintiff filed a race discrimination claim with the West Virginia Human Rights Commission after Guyan failed to offer her the job for which she applied. The Commission ruled at hearing that Guyan violated the plaintiff's rights under the Human Rights Act. The circuit court reversed that decision, and the plaintiff appealed to the Supreme Court. The court held that the circuit court properly rejected the commission's finding of disparate treatment race discrimination because the job applicant was denied employment based on unfavorable references. Noting that a cause of action also arose under the Act for disparate impact race discrimination, the court further found that the plaintiff failed to establish that Guyan's practice of relying upon personal references caused statistical underrepresentation of African-Americans in the job category, and affirmed the judgment.

Kanawha Valley Power Co. v. Justice, 181 W. Va. 509; 383 S.E.2d 313 (1989)
Lead counsel in representation of KVP in an action it brought to recover the return of overpayments made to its employee under a sick leave allowance plan. The employee filed a counterclaim for damages for mental distress. After summary judgment was granted to KVP, the employee appealed, arguing that the sick leave allowance plan required KVP to have reduced each sick leave payment by the amount of any actual or potential workers' compensation benefits. The court disagreed and affirmed the summary judgment, holding that the sick leave allowance plan was clear and unambiguous and that the trial court properly applied the contract as written and did not construe it. The employee also argued that the allowance for restitution of overpayments was an unlawful waiver of his right to have received workers' compensation, in violation of W. Va. Code § 23-2-7. The court held that the sick leave allowance plan did not in any sense impair the employee's ability to have applied for or received worker's compensation benefits. Finally, the court held that the averments set forth in the employee's counterclaim fell short of the level of proof required for the tort of outrageous conduct.