



## Justin M. Harrison

Member

### Charleston Office

500 Lee Street East  
Suite 1600  
Charleston, WV 25301

(O): 304.340.1358

(F): 304.340.1080

[justin.harrison@jacksonkelly.com](mailto:justin.harrison@jacksonkelly.com)

**Justin M. Harrison is a Member in the Manufacturing, Banking, Health Care, and Energy industry groups, focusing primarily on labor and employment and litigation. He practices out of the Firm's office in Charleston, West Virginia.**

Justin has years of experience in labor and employment law, focusing on counseling employers and defending them against an array of discrimination and retaliation claims, including federal claims under the Americans with Disabilities Act, the Fair Labor Standards Act, the False Claims Act, and the Family and Medical Leave Act, as well as state claims arising under the West Virginia Wage Payment and Collection Act, West Virginia Human Rights Act and the West Virginia Patient Safety Act. Justin also has defended employers against claims involving workplace safety, breach of contract, restrictive covenants, employee drug testing, and class actions.

Justin counsels employers on ways to avoid litigation and ensure compliance, but rest assured – when litigation arises, he knows his way around the courtroom. He has taken several cases to verdict. On the labor front, Justin has successfully defeated union organizing campaigns and elections, participated in contract negotiations, grievances and arbitrations, and defended employers against unfair labor practice charges.

Justin presents often on topics related to the West Virginia Patient Safety Act, sexual harassment, and other issues involving performance management. He has been recognized as a West Virginia Super Lawyers® Rising Star in Employment Law and Litigation and a West Virginia Super Lawyer in Employment Litigation.

A Mountaineer through and through, Justin received a Bachelor's degree, a Master's degree and a law degree -- all from West Virginia University. In fact, he likes people to know that he's a Virginian by birth, but a West Virginian by choice. In his spare time, you will find Justin outdoors, exploring and enjoying his adopted state.

## Awards

- *The Best Lawyers in America*® Litigation - Labor and Employment (2021-2022)
- Ranked in *Chambers USA, America's Leading Lawyers for Business* in the area of Labor & Employment Law in West Virginia, 2021
- Recognized by West Virginia *Super Lawyers* - Employment & Labor Law (2021)
- Recognized by 2016 edition of *Chambers USA: America's Leading Lawyers for Business* and "Top 100 in the Field" for Labor & Employment
- Peer-Review Rated Distinguished by Martindale-Hubbell
- Recognized by West Virginia *Super Lawyers* - Employment Litigation: Defense (2017)
- Recognized by West Virginia *Super Lawyers* as a Rising Star - Employment Law and Litigation (2013-2016)

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## Notable Legal Experience

- Extensive litigation and trial experience
- Assisted employers in various industries during Covid-19 pandemic with workforce management, social distancing and vaccination protocols, and paid leave under Families First Coronavirus Response Act
- Obtained summary judgment on West Virginia Freedom of Information Act claim where plaintiff sought production of confidential personnel files before the Circuit Court of Pendleton County, West Virginia
- Obtained summary judgment on common law wrongful discharge claim predicated upon Family and Medical Leave Act before the Circuit Court of Putnam County, West Virginia
- Obtained summary judgment in state court on aiding and abetting claims asserted under the W.Va. Human Rights Act
- Obtained summary judgment in state court on breach of employment contract claim
- Obtained summary judgment on disability discrimination case under the W.Va. Human Rights Act
- Obtained arbitration award rejecting \$500,000 in damages under W.Va. Wage Payment & Collection Act
- Completely defeated a collective action under the Fair Labor Standards Act
- Obtained complete defense verdict in a sexual harassment case pending before the West Virginia Human Rights Commission
- Obtained complete defense verdict in a sexual harassment case pending before the Circuit Court of Kanawha County, West Virginia
- Aggressive trial defense led to plaintiff abandoning her discrimination claims during her case-in-chief before the Circuit Court of Harrison County
- Defeated arbitration award requiring reinstatement through summary judgment in the U.S. District Court for the Southern District of West Virginia
- Assisted energy services company in defeating union organizing campaign and election
- Assisted industrial painting contractor in resolving prevailing wage claims brought by West Virginia Division of Labor
- Successful resolution of class action claims pursued under the West Virginia Wage Payment and Collection Act
- Extensive experience with discrimination and retaliation claims under the West Virginia Human Rights Act, the West Virginia Patient Safety Act, and the False Claims Act
- Successful resolution of claims brought under the West Virginia Patient Safety Act

## Work History

- Jackson Kelly PLLC (2018-Present)
- Bowles Rice (2002-2018)

## Practices

- Labor & Employment

## Industries

- Banking
- Energy
- Health Care
- Manufacturing

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## Education

- West Virginia University College of Law (J.D., 2002)
- West Virginia University (M.A., 1999)
- West Virginia University (B.A., 1997)

## Admissions

- West Virginia (2002)
- Supreme Court of Appeals of West Virginia (2002)
- Supreme Court of Pennsylvania (2002)
- U.S. District Court, Northern District of West Virginia (2002)
- U.S. District Court, Southern District of West Virginia (2002)
- U.S. Court of Appeals, Fourth Circuit (2002)

## Professional Organizations

- West Virginia Bar Association
- West Virginia Defense Trial Counsel
- American Employment Law Council

## Representative Cases

- *Scraggs v. NGK Spark Plugs (U.S.A.), Inc.*, 2016 WL 3676739 (S.D.W.Va. July 7, 2016) (granting summary judgment on claims for retaliation and interference under the Family and Medical Leave Act)
- *Scraggs v. NGK Spark Plugs (U.S.A.), Inc.*, 2016 WL 2851567 (S.D.W.Va. May 13, 2016) (granting motion to exclude plaintiff's expert witness)
- *Scraggs v. NGK Spark Plugs (U.S.A.), Inc.*, 2015 WL 8485248 (S.D.W.Va. Sept. 1, 2015) (granting motion to dismiss disability discrimination claims asserted under the W.Va. Human Rights Act)
- *Smith v. Board of Education of Berkeley County*, 2015 WL 2364292 (W.Va. Sup. Ct. May 15, 2015) (affirming circuit court's reversal of Unemployment Compensation Board of Review; denying unemployment compensation benefits to a former employee for engaging in gross misconduct)
- *Porter v. Petroleum Transport, Inc.*, 2012 WL 3918356 (S.D.W.Va. Sept. 7, 2012) (granting summary judgment on the issue of "willfulness" and determining that two year, rather than three year, statute of limitations applied to a collective action under the Fair Labor and Standards Act)
- *Spano v. Metropolitan Life Insurance Company*, 2011 WL 2180657 (S.D. W.Va. June 2, 2011) (granting summary judgment on claims for constructive discharge and unpaid commission income asserted under the W.Va. Wage Payment and Collection Act)
- *United Steel Workers, AFL-CIO, CLC v. Ravenswood Federal Credit Union*, 2010 WL 11432267 (S.D.W.Va. June 3, 2010) (granting summary judgment for employer and vacating arbitration award requiring reinstatement of discharged employee where arbitration award violated public policy)
- *Woods v. Town of Danville*, 712 F.Supp.2d 502 (S.D.W.Va. May 14, 2010) (denying summary judgment in police case involving claims of false arrest and excessive force under 42 U.S.C §1983)

## Speaking Engagements & Publications

### Speaking Engagements

- Presentation, "Returning to the Workplace After (or more precisely during) the Pandemic," West Virginia Society of Certified Public Accountants Annual Meeting, The Greenbrier, White Sulphur Springs, West Virginia, June 16, 2021
- Presentation, "Returning to the Workplace after (or, more precisely, during), the Pandemic," West Virginia Society of Certified Public Accountants, Annual Meeting, June 16, 2021
- Presentation, "COVID-19 and Mandatory Vaccination Policies," Defense Trial Counsel of West Virginia, [jacksonkelly.com](https://www.jacksonkelly.com)
- Presentation, "Pandemic Look at Employee Issues," West Virginia Shale Law (WVU Law School), Nov. 6, 2020
- Presentation, "Identifying & Responding to Workplace Impairment," West Virginia Oil and Natural Gas Association, Oct. 28, 2020

- Presentation, "Employee Discipline and Termination – Documentation, Progressive Discipline, Performance Improvement Plans," West Virginia Association of Housing Agencies, Webinar, Sept. 30, 2020
- Presentation, "Navigating ADA Interactive Process/Reasonable Accommodation," West Virginia Association of Housing Agencies, Webinar, Sept. 29, 2020
- Presentation, "Workplace Investigations & Pay Equity," Kentucky Bankers Association, Webinar, June 18, 2020
- Presentation, "Navigating Employment Issues During COVID-19," Webinar, WVONGA, April 9, 2020
- Presentation, "A Primer for Employment Law in the Age of COVID-19," Webinar, Defense Trial Counsel of West Virginia, April 2, 2020
- Presentation, "COVID-19 Issues for HR Professionals," Webinar, West Virginia Automobile Dealers Association, March 31, 2020
- Presentation, "COVID-19 Issues for HR Professionals," Webinar, Kentucky Bankers Association, March 30, 2020
- Presentation, "COVID-19 Issues for HR Professionals," Webinar, West Virginia Bankers Association, March 27, 2020
- Presentation, "COVID-19 Issues for HR Professionals," Webinar, West Virginia Community Bankers Association, March 27, 2020
- Presentation, "Latest Changes in Employment Law," by Mark H. Dellinger and Justin M. Harrison, 15th Annual AlignHR Hot Topics Conference, Embassy Suites, Charleston, West Virginia, May 3, 2017
- Presentation, Dealing with Difficult Employees and the Patient Safety Act, Flatwoods, West Virginia, Sept. 15, 2016
- Presentation, West Virginia Patient Safety Act, South Charleston, West Virginia, July 26, 2016

#### **Writings and Publications**

- "Defending disability discrimination claims in places of public accommodation: What can we learn from Covid-19?" *The Litigation Digest* (June 2021)
- Citation, "What The EEOC's Updated Covid Guidelines Mean For Business Leaders," *Forbes*, May 28, 2021
- Citation, "How Companies Could Be Impacted By Federal Policy Change On Freelancers," *Forbes*, May 4, 2021
- "Responding to the Coronavirus: What Employers Should Know," *The Community Banker*, Q1, 2020
- "Guns in the Workplace: Maintaining a Safe Workplace and Complying with West Virginia's New Gun Bill," West Virginia Chamber *HR Journal* (April 2018)
- "The New Overtime Rule Has Been Blocked - Now What?," Labor and Employment e-Alert, Nov. 23, 2016
- "The EEOC Wants Your Compensation Data," by Justin M. Harrison, *West Virginia Banker Magazine*, Spring 2016
- "The Pitfalls of Social Networking for Employers: Why Employers Should Have Social Networking Policies," by Justin M. Harrison, *West Virginia Banker Magazine*, Fall 2011

#### **Community**

- Habitat for Humanity of West Virginia, Vice President