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Bradley K. Shafer
Partner

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Bradley K. Shafer was born in Detroit, Michigan. He attended Alma College graduating with a double major in History and Political Science in 1993. He obtained his law degree from The Ohio State University College of Law in 1996 before relocating to Wheeling, West Virginia where he continues to reside. Since that time, Bradley has tried cases to verdict in both state and federal courts in Ohio, West Virginia, and Virginia. He has also handled appeals to the West Virginia Supreme Court of Appeals and the United States Circuit Court of Appeals for both the Fourth and Sixth Circuits. Bradley also has experience litigating matters in arbitration and before various administrative agencies.

Bradley spends much of his time advising his clients on labor, employment and workers' compensation matters. He has become a trusted advisor to his clients having relationships with many that date back for over 20 years. Bradley has earned a reputation for breaking down the complex legalese into plain English that his clients can then implement and enforce through their own internal policies and procedures as well as litigating disputes to final judgment.

In addition to helping draft policies and procedures, providing counseling on immediate workforce issues, and conducting internal investigations, Bradley has handled matters pending before the Ohio Civil Rights Administration, West Virginia Human Rights Commission, Equal Employment Opportunity Commission, West Virginia Division of Labor, the United States Department of Labor, OSHA, NLRB, and actions in state and federal court.

Bradley also handles complex, high stakes, personal injury and property damage cases and insurance coverage issues. He has litigated construction claims, product liability claims, wrongful death claims, premises liability, breach of contract, employer intentional tort and deliberate intent claims, and even a case to enforce the result of a local election.

In 2019, Bradley was named to America's Top 100 Civil Defense Litigators for the State of West Virginia. This lifetime honor is limited to 100 attorneys in the State of West Virginia and less than one half of one percent (0.5%) of litigation attorneys nationwide.

In addition to practicing law, Bradley has been a very active member of the Society of Human Resource Management (SHRM). He has served several terms as chapter president, legislative officer, and board member of his local chapter. Bradley also served as the statewide Legislative Director for West Virginia SHRM and as such organized "HR Day" at the West Virginia Capitol where SHRM members visit their state representatives to discuss pending legislation dealing with workplace issues. He also issued statewide legislative alerts to SHRM members and prepared talking points and letters for members to send state legislators regarding HR related bills.

Bradley has written and presented topics on various labor and employment issues at seminars sponsored by his law firms, NBI, SHRM, and WorkForce West Virginia. He has also provided in house training to human resources professionals and insurance claims handlers.

Representative Cases:

Successfully represented an employer in Ohio during a strike by the Union. After being unable to successfully negotiate a new collective bargaining agreement, the union declared a strike. A picket line formed outside the employer's plant. The employer continued operating the plant during the strike. Various picketers threw tire jacks and road spikes, some as large as six inches, in the roadway hoping members of management, temporary employees, and delivery drivers would run over the jacks disabling their vehicles. Picketers also stood in the employer's driveway to stop people from leaving and entering the plant. Picketers also engaged in other acts designed to intimidate delivery drivers, some of which refused to continue to do business with the employer because of the picketers. Suit was filed in Court and an injunction was awarded limiting the total number of people on the picket line to six people, requiring the picketers to stand in an area designated by the Court away from plant entrances and exits, and further prohibiting the picketers from throwing spikes in the roadway and threatening or intimidating people going in and out of the plant.

Successfully appealed to the West Virginia Supreme Court of Appeals to enforce a mandatory arbitration agreement. A former employee sued Employee Resource Group for wrongful discharge and retaliation in circuit court. A motion was filed seeking to dismiss the case and enforce the arbitration agreement signed by plaintiff. The trial court denied the motion. The Supreme Court reversed finding the arbitration agreement enforceable and directing that the case be sent to arbitration. The arbitrator found against the plaintiff at arbitration and also enforced a clause in the arbitration agreement awarding Employee Resource Group attorneys fees and costs for having to litigate the enforcement of the arbitration agreement in court. The opinion enforcing arbitration has been cited in two reported cases and in various briefs filed by other law firms. Employee Resource Group, LLC v. Harless, 2017 WL 1371287

Represented employer in West Virginia accused of retaliatory discharge by employee who made sexual harassment complaint about a customer. The employee claims the employer refused to do anything about the customer and fired her for making the complaint. She also alleged the employer failed to pay her all tips that she had earned. The jury was presented with evidence that the employer did a prompt investigation into the harassment complaint and found the complaint against the customer to be false. Payroll records were also produced showing tips had in fact been paid. The jury returned a verdict in favor of the employer on all counts.

Successfully prosecuted federal case in Ohio to overturn the decision of an arbitrator in a union grievance. The employer placed the employee on a Last Chance Agreement due to excessive absenteeism. While subject to the Last Chance Agreement, the employee had car trouble on the way to work. Rather than come in late to work, the employee went home. As a result, the employee was terminated for excessive absenteeism points and violation of the last chance agreement. The Arbitrator ordered reinstatement with back pay. The Judge from the USDC ND Ohio ruled the Arbitrator exceeded his authority by reinstating the employee in violation of the Last Chance Agreement and the employer's policies on absenteeism. The union appealed to the US Court of Appeals for the Sixth Circuit on behalf of the employee and lost again. Tecnocap LLC v. Graphic Communications Conference/International Brotherhood of Teamsters Local 24M, 777 Fed.Appx. 804 (6th Cir. 2019)

Successfully represented USAA in a complex subrogation and choice of law dispute in federal court. The case stemmed from a severe automobile accident in Morgantown, West Virginia involving residents of New Jersey who were insured by USAA under a New Jersey automobile insurance policy. The New Jersey residents made claims exceeding $100,000 on their policy which were honored. Then, they sued others who were involved in the accident and who were at fault. USAA intervened in the case and asserted a right of subrogation to recover the payments it made. The New Jersey residents settled their claims against the other parties and in that settlement agreement the other parties agreed to pay the subrogation claim if it was enforceable. USAA then amended its complaint to join the insurance company that paid the settlement. USAA argued New Jersey law applied and that it was entitled to reimbursement from any settlement or jury verdict. The other parties argued West Virginia law applied and that it did not permit subrogation. They also argued even if New Jersey law applied, there still was no right for subrogation. The court entered summary judgment finding New Jersey law applied and that USAA was entitled to reimbursement. USAA v. Smith, 971 F.Supp.2d 599 (USDC ND WV 2013).

Successfully defended retailer in a product liability claim. Plaintiff was severely injured while using a table saw. Suit was filed in federal court for misrepresentation, failure to warn, and other product defect claims. Because the manufacturer was a Taiwanese company with no presence in the United States, Plaintiff argued under West Virginia law that the retailer should be held liable in its place. Defense counsel navigated international law and joined the Taiwanese manufacturer as a third party defendant in the federal action pending in West Virginia.

Defended a driver in a rear end automobile accident trial in Ohio. Liability was admitted but damages were hotly contested. Plaintiff claimed he suffered traumatic brain injury with growth hormone deficiency and severe permanent back injuries. As a result, Plaintiff claimed he needed medical treatment for the rest of his life. Plaintiff also presented a lost wage claim saying he was unable to work because of the accident. The jury returned with a low verdict which included reimbursement of medical bills, but only for a short period of time following the accident. The jury did not award any damages for traumatic brain injury, other long term back treatment, or future medical treatment, believing those injuries either did not exist or were unrelated to the accident.

Education

- J.D., The Ohio State University College of Law, 1996
- B.S., Alma College, Alma, Michigan 1993
    - Double major, Bachelor of Science History and Political Science

Bar Admissions

- State Courts of Ohio
- State Courts of West Virginia
- U.S. District Court of the Northern Districts of Ohio
- U.S. District Court of the Southern Districts of Ohio
- U.S. District Court of the Northern Districts of West Virginia
- U.S. District Court of the Southern Districts of West Virginia
- United States Court of Appeals, Fourth Circuit