



## Blair M. Gardner

Member

### Evansville Office

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**Blair M. Gardner is a Member in the Coal and Energy industry groups, focusing primarily on environmental issues. He practices out of the Firm's office in Evansville, Indiana.**

Blair's practice focuses on the defense of environmental enforcement actions brought by citizen groups and government agencies. Blair is comfortable navigating the complex field of environmental law. He enjoys examining a complicated problem and creating a compelling argument for courts and agencies, along with the research and writing involved in appellate work. He counsels energy corporations in the development and extraction of various natural resources and represents clients before administrative agencies and courts in matters involving water, waste, and resource development claims.

Although he received an appointment to the U.S. State Department after graduating from college, Blair decided to attend law school instead. His efforts paid off with a long and outstanding career as an environmental attorney. He's been named a *West Virginia Super Lawyer*®, included in *The Best Lawyers in America*® for environmental law, and was named the West Virginia Water Law "Lawyer of the Year."

Prior to joining the Firm, Blair served as vice president of external affairs and assistant general counsel for Arch Coal, where he counseled the company's operations on environmental and legislative affairs for 15 years. In his spare time, Blair enjoys reading, traveling, classical music, and baseball.

## Awards

- Named the *Best Lawyers'* 2014-2015 West Virginia Water Law "Lawyer of the Year"
- *The Best Lawyers in America*® for Environmental Law, Litigation - Environmental, Mining Law, Natural Resources Law and Water Law (2009-2019)
- *West Virginia Super Lawyers*® (2011)

## Notable Legal Experience

- Represented resource companies in cases in three states to determine the scope of property rights in coalbed methane, *Dye v. CNX Gas and Buckhorn Coal*, 784 S.E.2d 703 (Va. 2016); *Swords Creek Land Partnership v. Belcher*, 762 S.E.2d 570 (Va. 2014); *EDC v. Moss*, 591 S.E.2d 135 (W.Va. 2003); *U.S. Steel v. Hoge*, 468 A.2d 1380 (Pa. 1983)
- Represented a publicly-traded company subsidiary in Clean Water Act citizens' suit in Pennsylvania resulting in dismissal of action over claims of standing and mootness
- Represented privately-held company in negotiations with U.S. EPA and state to resolve Clean Water Act violations and enter consent decree

- Represented the coal industry in three major cases interpreting the relationship of the Clean Water Act and the federal Surface Mining Control and Reclamation Act, *Ohio Valley Environmental Coalition v. Bulen*, 429 F.3d 493 (4th Cir. 2005); *Kentuckians for the Commonwealth v. Rivenburgh*, 317 F.3d 425 (4th Cir. 2003); and *West Virginia Coal Association v. Bragg*, 248 F.2d 275 (4th Cir. 2001)
- Represented manufacturer in first major case interpreting the Toxic Substance Control Act, *Environmental Defense Fund v. EPA*, 636 F.2d 1264 (D.C. Cir. 1980)

## Work History

- Jackson Kelly PLLC (2001-Present)
- Arch Coal, Inc. (1985-2001)
- U.S. Department of the Interior, Office of the Solicitor (1983-1985)
- Rose, Schmidt, Dixon, Hasley, Whyte & Hardesty (1979-1981)
- Department of Health, Allegheny County, Penn. (1977-1979)

## Practices

- Environmental

## Industries

- Coal
- Energy

## Education

- University of Virginia School of Law (J.D., 1977)
- Brown University (B.A. in American History, 1974)

## Admissions

- Indiana (2016)
- West Virginia (inactive) (2001)
- Pennsylvania (1977)
- U.S. District Court, Southern District of Indiana (2016)
- U.S. Court of Appeals, Sixth Circuit (2008)
- U.S. District Court, Southern District of West Virginia (2001)
- U.S. Court of Appeals, Fourth Circuit (1995)
- U.S. Court of Appeals, Third Circuit (1985)
- U.S. Court of Appeals, District of Columbia Circuit (1979)
- U.S. District Court, Western District of Pennsylvania (1977)

## Professional Organizations

- Energy and Mineral Law Foundation, Trustee

## Speaking Engagements & Publications

### Speaking Engagements

- Speaker, "Using Info. Discovered during Title Examination and Lease Negotiations: Legal Duties and Ethical Considerations," American Association of Professional Landmen 60th Annual Meeting, Montreal, Quebec, Canada (June 23-28, 2014)

### Writings and Publications

- Author, "Protecting Aquatic Life: Federal regulation of water continues to grow," *Evansville Business Journal*

(June/July 2016)

- Co-author with **Dale H. Harrison**, "Evidentiary Privileges Applicable to Title Opinions of Counsel," Energy & Mineral Law Foundation (2013)
- Publication with Dave Flannery and Jeff Vining, "The Water Resources Act and Its Impact on West Virginia Water Law," § 107 *W.Va. L. Rev.* 749, (2005)
- Publication, "Reconciling Surface Mining and the Clean Water Act § 404(b)(1) and Mitigation," ABA Section on Natural Resources, Energy and Environment Vol. 17, No. 3 (Winter 2003)

## Community

- St. Paul's Episcopal Church, lay reader, Evansville, Indiana