

# NICHOLAS S. PRESERVATI

## Personal Data

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**Citizenship:** United States

**Language:** English

## Education

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**The Johns Hopkins University**, Baltimore, Maryland  
Master of Science Degree - Energy Policy & Climate, 2021  
Honors: *summa cum laude*

**Loyola University School of Law**, Chicago, Illinois  
Juris Doctorate Degree - 1997  
American Jurisprudence Award - Legislation  
American Jurisprudence Award - Federal Jurisdiction

**University of Notre Dame**, South Bend, Indiana  
Bachelor of Arts Degree - 1994  
Double Major: Psychology and Sociology

## Government Experience

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**West Virginia Office of Energy**, Charleston, West Virginia  
*Director*, July 2023 – Present

**West Virginia Public Energy Authority**, Charleston, West Virginia  
*Executive Director*, August 2023 – Present

**Appalachian Regional Clean Hydrogen Hub (ARCH2)**  
*Executive Committee – Member*  
*Advisory Board – Chair*  
January 2024 – Present

**WV Energy Emergency Assurance Coordinator (ESF-12 Designee)** - state liaison to the U.S. Department of Energy for Emergency Support Function (ESF) #12 under the National Response Framework.

**National Coal Heritage Authority** – Charleston, West Virginia  
*Board Member*, August 2023 - Present

**Recycling Assistance Fund Grant Review Committee**, WV DEP, Charleston, West Virginia  
Committee Member, 2023 - Present

### **Legal Experience**

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**Spilman Thomas & Battle, PLLC**, Charleston/Huntington, West Virginia  
Co-Chair Energy Practice Group - *2016 to Present*  
*Registered Mediator* – West Virginia State bar

**Preservati Law Offices, PLLC**, Charleston, West Virginia  
Owner - *2004-2015*

**American Electric Power**, Charleston, West Virginia  
Regional Counsel - *2001-2004*

**Goodwin & Goodwin, LLP**, Charleston, West Virginia  
Associate Attorney - *1999-2001*

**Hinshaw & Culbertson, LLP**, Chicago, Illinois  
Associate Attorney - *1998-99*

**Hartigan & Cuisner, P.C.**, Chicago, Illinois  
Associate Attorney - *1998*

### **Corporate Experience**

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**CNP Properties, LLC**, Princeton, West Virginia  
Managing Member & General Counsel - *2006 to 2019*  
Surface Mine Reclamation Award - McComas Point Surface Mine - W.Va. DEP

**Met Resources, LLC**, Princeton, West Virginia  
Managing Member & General Counsel - *2009 to 2019*  
*Surface Mine Reclamation Award*, McComas No. 1 Surface Mine - W.Va. DEP  
*Surface Mine Reclamation Award*, McComas No. 2 Surface Mine - W.Va. DEP

**Onyx Energy, LLC**, Princeton, West Virginia  
Managing Member & General Counsel - 2009 to 2019  
*Mountaineer Guardian Safety Award* - W.Va. Office of Miners' Health, Safety and Training  
*Joseph A. Holmes Safety Award* - West Virginia State Council  
*Sentinels of Safety Award* - National Mining Association  
*Certificate of Achievement in Safety* (2009-15) - (US DOL & MSHA)

### **Professional Positions & Affiliations**

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**American Bar Association**, Young Lawyers Division, Chicago, Illinois  
Public Utilities, Transportation & Telecommunications Committee - Chair - 2002-03

**American Bar Association**, Young Lawyers Division, Chicago, Illinois  
Environment, Energy & Resources Law Committee - Chair - 2002-03

**American Bar Association**, Environment & Energy Litigation Section, Chicago,  
Illinois Editor - 2020 to Present

**American Bar Association**, Environment, Energy & Resources Committee, Chicago,  
Illinois Member - 2020 to Present

**American Bar Association**, Climate Change, Sustainable Development & Ecosystem Section,  
Chicago, Illinois  
Member - 2020 to Present

**Energy & Mineral Law Foundation**, Lexington, Kentucky  
Board of Trustees - 2021 to 2023

**Forbes Business Council**, Jersey City, New Jersey  
Member - 2021 to Present

**Lex Mundi**, Houston, Texas  
Energy Practice Group Chair, North America - 2016 to 2021  
International Association of 150+ Independent Law Firms in over 125 Countries

**West Virginia Department of Environmental Protection**, Charleston, WV  
Oil & Gas Program Task Force - 2010

**West Virginia Public Energy Authority**, Charleston, WV  
Vice-Chair - 2022 to 2023

**West Virginia School Building Authority**, Charleston, West Virginia  
Finance Committee Chairman - 2003-2014  
Served Governors Wise, Manchin and Tomblin

**World Services Group**, Houston, Texas  
Energy Group Leader, North America - *2021 to Present*  
International Association of 120 + Independent Law Firms in over 150 Jurisdictions

### **Publications, Presentations & Media**

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**Interference with Coal Mining Operations** - National Council of Coal Lessors  
Annual Meeting - Washington, D.C.

**Oil & Gas Issues** - 35<sup>th</sup> Annual West Virginia Mining Symposium - Charleston, West Virginia  
January 10, 2008

**Oil & Gas Interferences with Coal Mining Operations** - 33<sup>rd</sup> Kentucky Mineral Law  
Conference, Kentucky Mineral and Law Foundation - October 16, 2008

**Marking Gas Lines** - 36<sup>th</sup> Annual West Virginia Mining Symposium - Charleston, WV  
February 18, 2009

**Practical Implications of Oil & Gas Well Spacing for Coal Mining Operations**  
Spilman Thomas & Battle, PLLC Environmental Forum, Wheeling, WV - April 14, 2016

**Climate Change and Fossil Fuels** - Interview with Dr. Patrick Moore, Founder of  
Greenpeace - Vancouver, Canada - 2017

**Recent Developments in Global Energy Markets** - Lex Mundi Energy & Natural Resources  
Group Meeting - Prague, Czech Republic - April 2017

**Big Oil Operators Sued by San Francisco, Oakland for Climate Change Impacts from  
Operations** - Natural Gas Intelligence - September 22, 2017

**Get that Gas Moving - The Increase of Natural Gas Pipeline Construction and Impacts**  
Spilman Insights, April 18, 2018

**Overview of Recent Climate Change Litigation** - Co-member of panel with EPA General  
Counsel addressing corporate officer and director liability for failure to address climate change  
Spilman Energy Forum - University of Charleston, WV - June 12, 2018

**Conversations on Climate Change** - Moderator of panel consisting of the following four world-  
renowned climate scientists: Dr. Michal Mann, Dr. David Titley, Dr. Patrick Moore and Dr.  
Judith Curry Spilman Energy Forum - University of Charleston, WV - June 12, 2018

**Impacts of Citizen Groups & Non-Governmental Organizations in Energy and  
Renewable Efforts** - Lex Mundi Environmental Practice Group and Energy & Natural  
Resources Group Joint Global Meeting - Columbia University School of Law, New York, NY -  
November 9-10, 2017

**Charleston Attorney applauds Proposed EPA Regulations** - WV Record - May 2018

**Geo-Political Challenges to Energy System Integration (ESI)** - Lex Mundi Environmental and Energy Joint Global Meeting - Paris, France - November 8, 2019

**The US Should Pursue CCS Technology** - Principles and Applications of Energy Technology, Johns Hopkins University, December 17, 2019

**Interview with ArcelorMittal In-House Counsel** - American Bar Association Environmental and Energy Litigation Committee - July 7, 2020

**Climate Change Adaptation Plan for the Ohio River Basin** - Science of Climate Change, Johns Hopkins University, July 27, 2020

**European Commission Carbon Markets** - Interview of Damian Meadows of European Commission - October 14, 2020

**China's National Climate Policy: Goals vs. Implementation** - Climate Change Policy Analysis, Johns Hopkins University, November 3, 2020

**Cognitive Dissonance and the Appalachian Coal Miner's Aversion to Electric Vehicles** - Understanding Public Attitudes for the Communication of Climate and Energy Policy, Johns Hopkins University, November 19, 2020

**The Road Less Followed - Changing the Allocation of Funding between Highways and Mass Transit in Future Federal Surface Transportation Bills** - Transportation Policy in a Carbon Constrained World, Johns Hopkins University, December 13, 2020

**Multi-Step Framework for Developing Climate Change Adaptation Response Plans** - Adaptation to Climate Change, Johns Hopkins University, May 15, 2021

**FERC Order 1000 - A Useful Tool that Needs Revamping** - The Electric Grid: Technology & Policy, Johns Hopkins University, May 13, 2021

**Climate Change Induced Migration Case Study - Bangladesh** - Climate Risk: Society and the Economy, Johns Hopkins University, July 26, 2021

**Climate Change Mitigation and Adaptation Strategies - Savannah, Georgia** - Climate Risk: Society and the Economy, Johns Hopkins University, August 12, 2021

**Whether the Social Cost of Carbon Determined Pursuant to President Biden's Executive Order 13990 Meets the Admissibility Requirements for Scientific Expert Testimony in U.S. Federal Court** - Johns Hopkins University, December, 2021

**Pathways for Workforce Development and Training - Enabling Regional and Community Benefits (Panelist)** - West Virginia Hydrogen Hub Coalition - Charleston, West Virginia - July 28, 2022

**Understanding the Shortfalls of the 2021 Interim Social Cost of Carbon (Part 1)** – Environmental & Energy Litigation, American Bar Association Litigation Section, Summer 2022, Vol 6 No. 3 – September 15, 2022

**The Promise and Pitfalls of Zero Carbon** – West Virginia Manufacturers Association – 7<sup>th</sup> Annual Meeting & Winter Convention, White Sulphur Springs, West Virginia, November 30, 2022

**America's Energy Powerhouse – WV's Role in the Future of Energy** – Energy discussion with U.S. Senator Joe Manchin and Bill Gates, Charleston, West Virginia, January 9, 2023

**The Social Cost of Carbon – Valuing the Energy We Produce** – West Virginia Manufacturers Association – West Virginia Manufacturing Energy Growth Summit, Wheeling, West Virginia, May 2, 2023

**Overview of West Virginia Office of Energy** - WV Coal Association Coal Leadership Conference – The Greenbrier, White Sulphur Springs, WV August 11, 2023

**WV REAL Energy Policy** - WV Governor's Energy Summit — Stonewall Resort, Roanoke, WV October 24, 2023

**Infrastructure Coordinator's Quarterly**, National Governor's Association & U.S. Department of Energy – Washington, D.C. December 11, 2023

**Reducing Emissions in the Electric Generation Sector**, WV Office of Energy Public Meeting, Charleston, WV January 3, 2024

**Plug-In of Ft. Martin Solar Farm** – First Energy, Maidsville, WV January 4, 2024

**Reducing Emissions in County & Municipal Government**, WV Office of Energy Public Meeting, Charleston, WV – January 8, 2024

**WV Interim Joint Standing Committee on Energy and Manufacturing** – Testified before the Legislative Committee regarding West Virginia energy policy and operations of the West Virginia Office of Energy – Charleston, WV January 9, 2024

**Overview of West Virginia Energy Policy** - Presented to German Parliament Delegation – Charleston, WV – January 22, 2024

**WV House Energy Committee** – Testified before the WV House Energy Committee regarding the WV Public Energy Authority's "Rule to Petition the Public Energy Authority for Approval of

Decommissioning or Deconstruction Activities Related to any Coal, Oil or Natural Gas Power Plant” – Charleston, WV - January 23, 2024

**Review of Bipartisan Infrastructure Law Grant to WV Office of Energy “Preventing Outages and Enhancing the Resilience of the Electric Grid Formula Grants”** – WV Public Energy Authority– Charleston WV – January 24, 2024

**Advancing Carbon Management and Clean Hydrogen** – National Association of State Energy Officials – Washington, D.C. February 7, 2024

**State Energy Leadership: Trends and Impacts in Resilience, Infrastructure and Innovation** National Association of State Energy Officials – Washington, D.C. February 8, 2024

**WV REAL Energy Strategic Plan** - Gateway for Accelerated Innovation in Nuclear (GAIN) Planning Workshop – Charleston, West Virginia – February 13, 2024

**West Virginia REAL Energy Policy** – Ohio Valley Construction Employers Council, Inc. – Annual Meeting, Oglebay Resort, Wheeling, WV February 20, 2024

**West Virginia Office of Energy Grant Program** – Governor’s Infrastructure Funding Summit Charleston, WV February 28, 2024

**To Ensure Energy Reliability, Make Coal Cleaner** – RealClearEnergy.org, April 1, 2024

### **Distinctions & Awards**

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**AV Preeminent - Martindale Hubbell** - The highest possible rating in both legal ability and standards reflecting the confidential opinions of members of the Bar and Judiciary

**Best Lawyers in America** - Nominated by peers for inclusion in The Best Lawyers in America in the areas of Energy Law and Natural Resources Law

**America's Leading Lawyers for Energy Law** - Chambers, USA, Recognized as one of America's Leading Lawyers for Energy Law

**West Virginia's Best Attorneys** - The State Journal

**2019 Readers' Choice Award** - JD Supra - Top 10 Energy Author chosen from pool of 3,000

**2021 Top Energy Author Award** - JD Supra rated #2 Energy Author out of pool of 3,200 authors

**Representative Published Opinions & Cases**

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**Adkins v. Appalachian Power Company et al.**, Civil Action No.: 3:21-cv-00164

**Adkins Energy, Inc. v. Dominion Transmission, Inc., et al.**, Circuit Court of Harrison County, WV, Civil Action No.: 16-C-92

**Cook v. U.S. Steel, LLC et al.**, Civil Action No.: 5:18-cv-01340 (S.D. W.Va.)

**L&D Investments, Inc. v. Mike Ross, Inc., et al.**, 241 W. Va. 46, 818 S.E.2d 872 (2018)

**Martin v. A.I.O. Holdings, LLC**, Circuit Court of Jackson County, West Virginia, Civil Action No.: 9-C-31

**Mid-Vol Coal Sales, Inc. v. Balli Steel**, Civil Action No.: Civil Action No.: 1:11-cv-0985 (S.D. W.Va.)

**Mountain Valley Pipeline v. Simmons, et al.**, Civil Action No.: 17-cv-211 (N.D. W.Va.)

**National Council of Coal Lessors, et al. v. Cabot Oil & Gas, Corp.**, Circuit Court of McDowell County, WV (2006).

**Norfolk Southern Railway Company v. National Union Fire Insurance of Pittsburgh, PA**, 999 F. Supp. 906 (S.D. W.Va. 2014)

**Ohio Valley Environmental Coalition et al v. United States Army Corps of Engineers et al.**, Civil Action No.: 3:05-0784 (S.D. W.Va.)

**Ohio Valley Environmental Coalition et al v. United States Army Corps of Engineers and Independence Coal**, Civil Action No.: 3:06-438 (S.D. W.Va.)

**Ohio Valley Environmental Coal v. United States Army Corp of Engineers**, Docket No.: 10-1341, United States Fourth Circuit Court of Appeals

**Ohio Valley Environmental Coalition et al v. United States Army Corps of Engineers et al.**, Civil Action No.: 3:12-cv-02291 (S.D. W.Va.)

**Ohio Valley Environmental Coalition et al v. Hernshaw Partners, LLC**, Civil Action No.: 2:13-14851 (S.D. W.Va.)

**Ohio Valley Environmental Coalition et al v. FOLA Coal Company**, Civil Action No.: 2:173013 (S.D. W.Va.)

**Ohio Valley Environmental Coalition et al v. Southeastern Land, LLC**, Civil Action No.: 3:18-cv-00077 (S.D. W.Va.)



**Pocahontas Land v. Penn Virginia**, West Virginia Coalbed Methane Commission, Docket No. 98

**Riley Natural Gas Company v. Berry Energy**, Circuit Court of Harrison County, WV, Civil Action No.: 16-C-365

**Sibley Coal and Coke Company v. EQT Gathering Equity, LLC, et al**, Civil Action No.: 1:13-cv-07559 (S.D. W.Va.)

**State ex rel. Blue Eagle Land, LLC v. W. Virginia Oil & Gas Conservation Commission**, 222 W. Va. 342, 664 S.E.2d 683 (2008)

**Summit Resources, Inc. v. Classic Oil & Gas Resources, Inc.** Circuit Court of Wyoming County, WV, Civil Action No.: 14-C-60

**West Virginia Oil & Natural Gas Association v. Wooten**, 631 F. Supp. 2d 788 (S.D. W.Va., 2008)

**Thomason v. Ritchie Equipment, Inc.**, Circuit Court of Mercer County, West Virginia, Civil Action No.: 19-C-12

**Upper Big Branch Mine Explosion** - represented parties in civil litigation, administrative proceedings and criminal investigation

**Aracoma Mine Fire** - represented party in administrative proceedings and criminal investigation

### **Legislation & Regulations Drafted**

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#### **Natural Gas Horizontal Well Control Act**

West Virginia State Code § 22-6A-3 - *Applicability*

#### **Natural Gas Horizontal Well Control Act**

West Virginia State Code § 22-6A-12 - *Well Location Restrictions*

#### **Shallow Gas Well Review Board**

West Virginia State Code § 22C-8-2 – *Definitions*

#### **Oil and Gas Conservation**

West Virginia State Code § 22C-9-2 - *Definitions*

**W.Va. Code St. Reg. § 35-4-16.8** - *Operating in Designated Mining Areas*

**W.Va. Code St. Reg. § 35-8-2.9.** - *Designated Mining Area*

**W.Va. Code St. Reg. § 35-8-2.18.** - *Notice of Designated Mining Area*

**W.Va. Code St. Reg. § 35-8-12.7. - Requirements for Production and Gathering Pipelines**

**W.Va. Code St. Reg. § 36-27-14 - Requirements for Mining Adjacent to Gas Facilities**

**W.Va. Code St. Reg. § 53-5-1, et seq., Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to Any Coal, Oil, or Natural Gas Fueled Power Plant**

**Admissions**

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**Illinois Supreme Court**

**West Virginia Supreme Court**

**United States District Court for the Northern District of Illinois**

**United States District Court for the Northern District of West Virginia**

**United States District Court for the Southern District of West Virginia**

**United States Court of Appeals for the Fourth Circuit**

**United States Court of Appeals for the Seventh Circuit**