



Robert Huston Beatty, Jr.

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Bob is a founding partner of Dinsmore's Mine Safety and Health practice group. He focuses his practice exclusively on representing mine operators in the coal and metal/non-metal sectors of the mining industry. During his tenure with the firm, Bob has been responsible for overseeing litigation in over 1400 cases before the Federal Mine Safety and Health Review Commission and state regulatory enforcement agencies.

Prior to joining Dinsmore, he worked for nearly a decade as an underground coal miner. Between 1997 and 2004, he served as a presidential appointee, twice confirmed by the United States Senate, as a member of the Federal Mine Safety and Health Review Commission. He has also served as the administrator of Legal Services for the West Virginia Office of Miners' Health, Safety and Training.

In addition to litigation, Bob provides comprehensive pre-enforcement awareness training for mine operators covering the Mine Act, MSHA regulations, and other MSHA related matters. He is also a frequent speaker nationally on MSHA related topics.

Services

- Mine Safety & Health Administration
- Workplace Safety
- Occupational Safety & Health Administration
- Natural Resources Industry

Education

- West Virginia University College of Law (J.D., 1993)
- West Virginia University (B.A., *magna cum laude*, 1990)
 - Honors scholar

Bar Admissions

- District of Columbia (inactive)

- West Virginia (inactive)

Court Admissions

- U.S. District Court for the Northern District of West Virginia
- U.S. District Court for the Southern District of West Virginia

Affiliations/Memberships

- West Virginia State Bar
- West Virginia Coal Association
- National Mining Association
- National Stone, Sand and Gravel Association (NSSGA), Legal Affairs Committee
- White House Athletic Center, Board of Directors (2000 - 2004)
- Leadership West Virginia, Class of 2007

Distinctions

- *Best Lawyers*[®]
 - Mining Law (2022)

Experience

Secretary of Labor, Mine Safety and Health Administration, (MSHA), v. North American Drillers, LLC, Docket Nos. LAKE 2008-2-R and LAKE 2008-98 (February 12, 2012)

The Secretary of the Labor, Mine Safety and Health Administration (MSHA) issued a citation to our client, a national drilling company. After completion of the discovery process and conducting depositions to determine the citation's validity, the Secretary vacated the enforcement action and civil penalty. We filed a declaratory judgment action with an ALJ which was denied. We then appealed, and the Federal Mine Safety and Health Review Commission upheld the mine operator's argument that the Commission's jurisdiction relating to a legal challenge, issued pursuant to Section 105(d) of the Mine Act, does not terminate upon the Secretary of Labor's vacating of a citation and civil penalty.

National Coal Company v. Secretary of Labor, Mine Safety and Health Administration, (MSHA), Docket No. LAKE 2010-408-R (September 8, 2010)

The Secretary of the Labor, Mine Safety and Health Administration (MSHA) alleged that smoke from client's coal stock pile, demonstrated the existence of a fire which constituted an accident under the Mine Act. The Secretary issued a control order under Section 103(k) of the Mine Act. We argued before an administrative law judge for the Federal Mine Safety and Health Review Commission that MSHA had failed to establish the existence of a fire, and therefore an accident did not occur. At trial, the judge ordered MSHA to vacate the control order. The case has been appealed by the Secretary and the briefs and requested oral arguments have been filed in front of the Review Commission on behalf of our client.

Secretary of Labor, Mine Safety and Health Administration, (MSHA) v. Banner Blue Coal Company, Docket Nos. VA 2011-367 and VA 2011-368 (March 12, 2010)

The Secretary of the Labor, Mine Safety and Health Administration (MSHA) issued two citations pursuant to 30 C.F.R. Section 75.512 requiring electrical equipment to be frequently examined, tested, and properly maintained. The citations alleged that the locking mechanism on our client's electrical power source was not functioning properly. An ALJ upheld the violation, but vacated the "significant and substantial" designations attached to the violations. Additionally, the ALJ vacated a third citation issued pursuant to 30 C.F.R. Section 75.503 requiring electrical face equipment to be maintained in permissible condition. The ALJ asserted that the citation lacked validity.

Secretary of Labor, Mine Safety and Health Administration (MSHA) v. Marfork Coal Company, Inc., Docket Nos. WEVA 2006-788-R, WEVA 2006-789-R, WEVA 2006-790-R (September 27, 2006)

This case involved an appeal to the appellate level of the Federal Mine Safety and Health Review Commission of an Administrative Law Judge's (ALJ) decision to dismiss three notices of contests filed by the mine operator pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977 (Mine Act). The issue in the case was whether the mine operator had a right to file a notice of contest under Section 105(d) of the Mine Act if the operator was not seeking an immediate hearing.

The Commission concluded that the ALJ abused his discretion in dismissing the mine operator's Section 105(d) notice of contest proceeding. The Commission held that the ALJ's decision contained a number of statements that were not supported by the record. The Commission further held that it must accommodate a mine operator's presumptive right to contest citations and orders under Section 105(d) of the Mine Act, and that initiating discovery and settlement negotiations are valid reasons to bring and maintain a Section 105(d) contest proceeding. The Commission reversed the ALJ's dismissal of the Section 105(d) contest proceedings and reinstated the mine operator's notices of contest.

Secretary of Labor Mine Safety and Health Administration (MSHA) v. Oak Grove Resources, LLC. Docket No. SE 2007-194 (November 26, 2007)

This case involved, inter alia, a significant and substantial, high gravity and moderate negligence violation of 30 C.F.R. Section 75.604(b) issued by MSHA alleging that a permanent splice in the trailing cable on a shuttle car was not effectively insulated and sealed to exclude moisture.

The Administrative Law Judge (ALJ) held that the Secretary of Labor did not sustain her burden of proving the alleged violation was significant and substantial or of high gravity, and that the negligence should be reduced from moderate to low. The ALJ assessed a penalty of \$250.00 for the violation.

Publications

September 15, 2017

The Mine Line - Insights for the Mining Industry

May 25, 2017

What's Behind MSHA's Delay Implementing the Workplace Examination Rule?

March 16, 2017

An Update on the Clash of Civil Penalty Cases v. MSHA Section 110(c) Investigations

February 17, 2016

You Have the Right to Remain Concerned

October 5, 2015

Navigating the 2015 Work Place Examination

New Mexico Bureau of Mine Safety