

This document is presented for informational purposes only and should not be relied upon as legal authority. Individuals are urged to seek the advice of legal counsel prior to filing any action.

FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION

[NAME]	:	Discrimination Proceeding
Complainant	:	Docket No. _____
v.	:	Mine:
	:	Mine ID:
[OPERATOR’S NAME]	:	
Respondent	:	

COMPLAINT OF DISCRIMINATION

[NAME], pursuant to section 105(c)(3) of the Federal Mine Safety and Health Act of 1977 (the Mine Act), 30 U.S.C. § 815(c)(3), hereby files this Complaint alleging a violation of section 105(c)(1) of the Mine Act, 30 U.S.C. § 815(c)(1).

PARTIES

1. Complainant [NAME] was assigned to work as a [POSITION] at the [MINE or MINING FACILITY NAME] in [TOWN, STATE]. At all relevant times, [NAME] was a “miner” as defined in section 3(g), 30 U.S.C. § 802(g), of the Mine Act. [NAME] resides in [TOWN, STATE].

2. At all relevant times, Respondent [OPERATOR’S NAME] operated a [TYPE OF MINE or MINING FACILITY] and, therefore, was an “operator” as defined in Section 3(d) of the Mine Act, 30 U.S.C. § 802(d). The Respondent’s products enter into and affect interstate commerce.

JURISDICTION

3. Pursuant to section 105(c)(3), 30 U.S.C. § 815(c)(3) of the Mine Act, the Federal Mine Safety and Health Review Commission has jurisdiction over the subject matter of this case.

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4. On [DATE], [NAME] filed a discrimination complaint with the U.S. Department of Labor's Mine Safety & Health Administration ("MSHA"). Exhibit A [ATTACH COMPLAINT FILED WITH MSHA]

5. On [DATE], [NAME] received a notice from MSHA dated [DATE] stating that MSHA did not find evidence that the provisions of section 105(c)(1) of the Mine Act, 30 U.S.C. § 815(c)(1), were violated. Exhibit B [ATTACH NOTICE]

FACTS

6. *This is where you describe the basic "story" of what happened. Number each paragraph. The "story" does not need to list or describe all the evidence in support of your complaint, only a short plain statement of the basic facts you believe to be true.*

7. *Include basic facts about your participation in one or more activities that you believe are protected by the Mine Act. Protected activities include but are not limited to: making safety complaints, identifying hazards, serving as a miners' representative, refusing to engage in unsafe acts, etc. More information about the types of activities protected by the Mine Act can be found HERE and in published COMMISSION DECISIONS addressing section 105(c).*

8. *Describe the adverse actions you believe were taken by the operator because of your participation in protected activities. An "adverse action" may include but is not limited to the operator taking or threatening to take any of the following actions: discipline, suspension, discharge, and reassignment to unfavorable shifts, positions, or tasks.*

9. *Continue facts as necessary. Number each paragraph.*

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10. NOTE: *The complaint need not include the names of potential witnesses, which may remain confidential until a Commission Judge directs you to disclose their names. You may refer to witnesses by number instead of name, e.g., Miner Witness # 1, Miner Witness # 2.*

...

[FINAL NUMBER] Complainant alleges Respondent undertook the above-described adverse action because Complainant engaged in the above-described protected activity.

REQUESTS FOR RELIEF

WHEREFORE, Complainant respectfully requests the Commission to: *State the relief or remedy that you believe is appropriate based upon the facts of your complaint. Examples of relief or remedies include but are not limited to:*

1. *A decision finding that the operator unlawfully discriminated against you because of your exercise of protected activity in violation of section 105(c) of the Mine Act;*
2. *Payment to make you whole including but not limited to lost wages and benefits plus interest;*
3. *Referring the case to the Secretary of Labor so that a civil penalty may be proposed for each violation of the Mine Act;*
4. *Ordering the operator to purge from your personnel file any and all records of discipline connected to your protected activity;*
5. *Ordering the operator to display the Commission's decision or order in a conspicuous place at the mine;*
6. *Ordering the operator to conduct annual training of miners at the mine regarding their rights under section 105(c) of the Mine Act;*

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7. *Ordering the operator to pay attorney's fees and other costs you have had in connection with this proceeding;*
8. *Any other relief to make you whole; And any other relief that the Commission deems appropriate.*

Respectfully Submitted,

[NAME]

[ADDRESS]

[PHONE NUMBER]

[E-MAIL ADDRESS]