

CCASE:
ODELL MAGGARD V. CHANEY CREEK COAL
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

ODELL MAGGARD,
COMPLAINANT

DISCRIMINATION PROCEEDING

v.

Docket No. KENT 86-1-D
MSHA Case No. BARB CD 85-48

CHANEY CREEK COAL CORPORATION,
RESPONDENT

DISCRIMINATION PROCEEDING

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION, (MSHA),
COMPLAINANT

Docket No. KENT 86-51-D
MSHA Case No. BARB DC 85-48

v.

Dollar Branch Mine

DOLLAR BRANCH COAL CORPORATION
AND
CHANEY CREEK COAL CORPORATION,
RESPONDENTS

DECISION AND ORDER

Appearances: Tony Oppeward, Esq., Appalachian Research &
Defense Fund of Kentucky, Hazard, Kentucky for
Complainant Maggard;
Joseph B. Lockett, Esq., Office of the
Solicitor, U.S. Department of Labor, Nashville,
Tennessee for the Secretary of Labor;
No Appearance on behalf of Respondents.

Before: Judge Melick

These cases are before me following the Commission remand
order dated March 27, 1990, and as supplemented on June 5, 1990.
Hearings on remand were held on August 9, 1990, at which no
representative of Respondents appeared. Accordingly they are
deemed to have waived their rights to a hearing on the remand
issues and to their right to objections thereat.

Complainant Maggard seeks additional attorney fees and
expenses totalling \$56,957.55 for work performed during appellate
proceedings and recalculated interest of \$4,246.84. The unopposed
petitions are legally and factually supported and are accordingly
granted.

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This is not a final decision and will not become final until completion of discovery and determination by Complainant Maggard of whether or not he will file a motion to join Mr. John Chaney in these proceedings under an alter ego theory of liability. Discovery on this issue must be completed on or before October 12, 1990, and any motion to join John Chaney as an individual must be filed within 10 days thereafter.

Gary Melick
Administrative Law Judge