

CCASE:  
SOL (MSHA) v. CUMBERLAND VALLEY CONTRACTORS  
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TTEXT:

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges  
2 Skyline, 10th Floor  
5203 Leesburg Pike  
Falls Church, Virginia 22041

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
ON BEHALF OF CLAYTON LAWSON,  
WENDELL SLUSHER, AND BILLY  
RAY HENRY,

DISCRIMINATION PROCEEDING

Docket No. KENT 91-901-D

CV No. 5 Mine

COMPLAINANTS

v.

CUMBERLAND VALLEY CONTRACTORS,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This proceeding concerns a complaint of alleged discrimination filed by the Secretary of Labor on May 15, 1991, against the respondent pursuant to section 105(c)(2) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 815(c)(2). The complaint was filed on behalf of three former miner employees of the respondent (Clayton Lawson, Wendell Slusher, and Billy Ray Henry), and it alleges that on or about January 22, 1990, the three named complainants "were discriminated against and discharged by the respondent because they had prior to this date, complained about unsafe practices which violated provisions of the roof control plan". The respondent filed an answer admitting that the miners were discharged, but denying that it discriminated against them.

The case was scheduled for hearing in Middlesboro, Kentucky on January 22, 1992. However, the hearing was continued after the parties advised me that they agreed to settle the matter. They have now filed their joint settlement proposal pursuant to Commission Rule 30, 29 C.F.R. 2700.30, seeking approval of the proposed settlement.

Discussion

The parties and the three miner complainants have now agreed to the resolution of all matters set forth in the complaint and have settled the matter. The terms of the settlement agreement are set forth in an agreement executed by counsel for the Secretary, counsel for the respondent, and the three miner

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complainants. All of the parties, including the miner complainants, have signed the agreement and they all agree that the settlement terms are fair and proper.

#### Conclusion

After careful review and consideration of the settlement terms and conditions I find that they reflect a reasonable resolution of the complaint and that the proposed settlement is in the public interest. Since it is apparent that all parties are in accord with the agreement for the settlement disposition of the complaint, I see no reason why it should not be approved.

#### ORDER

The proposed settlement IS APPROVED. The parties ARE ORDERED AND DIRECTED to forthwith comply with all the terms of the agreement. Upon compliance, this matter is dismissed with prejudice.

George A. Koutras  
Administrative Law Judge