

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1244 SPEER BOULEVARD #280
DENVER, CO 80204-3582
303-844-3577/FAX 303-844-5268

July 25, 2007

PHELPS DODGE TYRONE, INC.,	:	CONTEST PROCEEDING
Contestant	:	
	:	Docket No. CENT 2006-212-RM
	:	Citation No. 6244790; 6/17/2006
v.	:	
	:	
SECRETARY OF LABOR,	:	Tyrone Mine
MINE SAFETY AND HEALTH	:	Id. No. 29-00159
ADMINISTRATION (MSHA),	:	
Respondent	:	

DECISION

Appearances: Timothy R. Olson, Esq., Jackson Kelly PLLC, Denver, Colorado, for Phelps Dodge Tyrone, Inc., Brian L. Hurt, Esq., Office of the Solicitor, U.S. Department of Labor, Dallas, Texas, for the Secretary of Labor.

Before: Judge Manning

This case is before me on a notice of contest filed by Phelps Dodge Tyrone, Inc., (“Phelps Dodge”) against the Secretary of Labor, acting through the Mine Safety and Health Administration (“MSHA”) pursuant to section 105 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 815 (the “Mine Act”). Phelps Dodge contested a citation issued under section 104(a) of the Mine Act alleging a violation of 30 C.F.R. § 50.10. An evidentiary hearing was held in Albuquerque, New Mexico. The parties introduced testimony and documentary evidence and filed post-hearing briefs.

I. BACKGROUND

Phelps Dodge operates a large surface copper mine known as the Tyrone Mine in Grant County, New Mexico. The mine uses electric P&H mining shovels in its mining operations. Phelps Dodge sold its No. 16 electric shovel to a company called P&H Mine Pro (“P&H”). The No. 16 shovel was moved to a salvage yard at the mine so that P&H could remove all of its usable parts. This salvage yard is on mine property but it is several miles away from active mining operations. After P&H removed all of the shovel’s valuable parts, only the shovel’s car body remained.

At about 6:00 a.m. on Saturday, June 17, 2006, three employees of Metal Management of Arizona, LLC (“Metal Management”) arrived at the mine to conduct salvage operations on the

car body. The car body was resting on stacked railroad ties in the salvage yard. These employees were instructed to cut the car body into pieces using oxyacetylene torches. Raudel Davila, an employee of Metal Management, supervised this work. Davila filled out a Phelps Dodge hot work permit to allow Rafael Dominguez and Sergio Caudillo to cut up the car body with a torch. Davila was the fire watch for the crew. Fire extinguishers and a power washer were available for use at the car body.

At around 7:30 a.m., smoke began pouring out of the car body. MSHA contends that this smoke was caused by a fire inside the car body that was started by a torch. Phelps Dodge maintains that, although a lot of smoke was produced by grease on the car body that had been heated up by the cutting operations, there was never a fire that lasted more than 30 minutes. At the conclusion of MSHA's investigation into the incident, Inspector Jim Coats issued Citation No. 6244790 alleging a violation of 30 C.F.R. § 50.10. As modified, the citation states:

A fire occurred at this operation on June 17, 2006 at 7:30 a.m. when a contractor, using an oxygen/acetylene torch to cut apart the car body of the #16 shovel, ignited oil and grease which had been allowed to accumulate. The mine operator was aware of the fire, failed to extinguish the fire within 30 minutes of discovery and failed to notify MSHA after having knowledge [that] the fire was not extinguished within 30 minutes. After consulting with field office supervisor, it was determined that not reporting Immediate Notification to MSHA within the 15 minutes required is high negligence.

Inspector Coats determined that there was no likelihood of an injury and that any injury resulting from the violation is not likely to result in any lost workdays. He determined that the violation was not of a significant and substantial nature. The cited regulation provides, in part, that “[i]f an accident occurs, an operator shall immediately contact the MSHA District or Subdistrict Office having jurisdiction over its mine.” The regulation goes on to state that the “operator shall contact MSHA as described at once without delay and within 15 minutes.” The regulation defines “accident” in section 50.2(h)(6) to include “[a]n unplanned mine fire not extinguished within 30 minutes of discovery.”

II. SUMMARY OF THE EVIDENCE

At about 7:30 a.m., on June 17, Yancy McCauley, a mine shift supervisor for Phelps Dodge, was driving along a mine road when he observed smoke coming from the salvage yard. He traveled to the area and saw smoke rising from the car body. At the hearing, he testified that he did not see any flames. (Tr. 25, 27, 43-44). After briefly speaking with Mr. Davila, he left the area to resume his normal work duties. He also made sure that Phelps Dodge's fire brigade was alerted to stand watch in the event that a fire developed. McCauley testified that he would have

called a “mayday” over the mine radio if he had believed that there was an emergency situation at the car body. (Tr. 28-29). McCauley also told his supervisor that he requested a fire watch.

Hank Bobo is a firefighter for Phelps Dodge. He was told by the mine dispatch operator that McCauley wanted him to go to the salvage yard for fire watch. (Tr. 62-63). He took the mine’s fire truck and drove to the No 16 shovel car body. He testified that he arrived at the car body sometime after 9:00 a.m. (Tr. 66-68). When Bobo arrived at the car body he saw Metal Management employees spraying the shovel with a pressure washer. He also saw that the car body was smoking. At the hearing Bobo testified that he did not observe any flames in the car body and he did not believe that there was a grease fire at that time. (Tr. 68, 94). Through a Spanish interpreter, he told the Metal Management employees to move away from the car body to get away from the smoke.

Mr. Bobo called McCauley to ask him to come to the car body. Once McCauley arrived at about 9:15 a.m., Bobo explained to him that, under company policy, there must be at least three firefighters and a water truck at the scene whenever the fire brigade is activated. McCauley took action to get two additional firefighters and a water truck dispatched to the area. He remained in the area for about ten minutes before he returned to his regular duties. McCauley testified that he did not see any flames while he was at the car body.

Between 9:00 a.m. and 9:30 a.m., Mr. Bobo testified that he closely observed the car body to look for flames, prepared the fire hoses, set out air packs, and put on his bunker gear. (Tr. 67, 69, 83-84). Because there were holes cut into the sides of the car body, he testified that he could see inside when he was looking for flames. (Tr. 69, 83-84). He stated that he did not observe any flames during this 30-minute period and he did not believe that there was a grease fire. (Tr. 68, 84, 96).

Bobo testified that, at about 9:30 a.m., he saw flames inside the car body. As soon as he saw the flames, he put on his air pack and began spraying the flames with water from the fire truck. He estimates that he sprayed about 300 gallons of water at the car body between 9:30 a.m. and 9:50 a.m. (Tr. 75). He testified that he extinguished all of the flames that he could see by 9:50 a.m. (Tr. 75). His air pack contains about 15 to 20 minutes of breathable air and he testified that he extinguished the flames before he ran out of air. (Tr. 85-86). The water truck arrived at about 9:50 a.m., after Bobo had removed his air pack. (Tr. 86). He directed the water truck operator to spray water at the smoke that was still rising from the car body. Bobo testified that he wanted to cool down the car body to prevent any flare ups. (Tr. 79).

McCauley visited the car body again sometime after 10:30 a.m. He did not see any flames at that time. (Tr. 43-44). Bobo briefed McCauley on his fire fighting efforts. McCauley remained at the car body for about ten minutes. McCauley testified that, because he understood that the fire was extinguished in about 20 minutes, he determined that the fire did not have to be reported to MSHA. (Tr. 47-49). McCauley based this conclusion, in part, on MSHA’s finding that Phelps Dodge was not required to report an event that occurred on March 23, 2006. On that

day, smoke inside an operating shovel activated the shovel's fire suppression system. Matthew Main, the mine's safety director, called a "mayday" and reported the event to MSHA as a mine fire lasting more than 30 minutes because there was smoke coming from the shovel for more than 30 minutes. MSHA issued a section 104(k) order for the shovel but did not investigate the situation until six days later. (Tr. 124). At the conclusion of its investigation, MSHA decided that the event was not immediately reportable as a mine fire under section 50.10. (Tr. 125). MSHA determined that a transformer on the shovel overheated and that there had not been a fire. As a consequence, McCauley determined, in the instant case, that Phelps Dodge was not required to report the fire in the car body because, although there was a lot of smoke, the flames were extinguished within 30 minutes.

At about 10:45 a.m., McCauley tried to call Phil Tester, the company's safety supervisor on the shift. He wanted to make sure that he was not required to call MSHA to report the fire. McCauley was not able to talk to Tester until about 11:30 a.m. When McCauley used the word "fire" in this conversation, Tester immediately ended the conversation to call MSHA to report the fire. Tester reported the fire to MSHA at 11:40 a.m. (Tr. 99, 161, 178). Tester next called Matthew Main at home and both Tester and Main arrived at the car body at about 1:00 p.m. Mr. Main then proceeded to investigate the incident. He talked to a number of people including security personnel, McCauley, and Davila. He asked the Metal Management employees to provide written statements, which were in Spanish. Mr. Main also called Benny Lara, MSHA's acting field office supervisor in Albuquerque. Inspector Lara asked for a written report of the events. Inspector Lara also issued an oral section 104(k) order of withdrawal for the car body and the car body was cordoned off by Phelps Dodge.

At about 3:40 p.m., Main sent Inspector Lara an e-mail describing the events of the day. (Ex. G-3). In the e-mail, Main wrote, in part, "[t]oday at approximately 7:30 AM contractors, Metal Management, MSHA ID 6JQ, was cutting apart the car body on the 16 shovel that had been sold to P&H and *started a fire.*" *Id.* (emphasis added). The e-mail further states that the mine shift supervisor saw that the car body "was smoking" and that he called for a fire brigade. Main advised Inspector Lara that the "incident commander decided to let the grease on the car body burn itself out," but that later he "made the decision to put the fire out and the fire was out by 10:45 A.M." *Id.*

Later in the day on June 17, Mr. McCauley prepared a written statement describing the events at the car body. (Ex. G-4). His description of the events is the same as his testimony at the hearing except that he wrote that, as he was traveling at the mine at 7:30 a.m. that day, he "saw a fire at the 16 shovel salvage area." *Id.* He also wrote that the "fire was inside the car body." *Id.*

Hank Bobo also prepared a written statement that day. He wrote, in part, that when he arrived at the shovel, employees of Metal Management were spraying water on the bottom of the car body. He then wrote, "[t]here wasn't a lot of flames then but a lot of smoke." (Ex. G-8). Without specifying any time frames, Bobo wrote:

I put on my bunker gear and asked the O-2 to call a water truck and other fire brigade members that were on the property. I saw flames inside the car body but I couldn't get to them with my hose. The flames then started coming out the bottom of the car body. That's when I started fighting the fire. When the water truck arrived we were able to get to the inside of the car body with the cannon on the water truck and get it under control.

Id.

As stated above, the three Metal Management employees also provided written statements that were subsequently translated into English. The statement of Mr. Davila states that the Metal Management crew arrived at 6:00 a.m. (Ex. G-5). He then wrote that "at about 7:30 the fire started." *Id.* He states that the torches "made sparks and ignited in the center of the structure. . . ." *Id.* "The fire progressed . . . [and] when the fire was on top, the fire brigade arrived and put the fire out." *Id.* He stated that the fire was extinguished at about 8:00 a.m. Sergio Caudillo wrote that at "7:30 we started the fire." (Ex. G-6). He also wrote that "[w]e attempted to put out the fire but couldn't so we used water and extinguisher but it was impossible, after a while the fire truck arrived and put out the fire." *Id.* Rafael Dominguez stated that he was cutting into the car body where there was a lot a grease. His statement is not very clear but he wrote that after about 15 minutes "the grease started to burn." (Ex. G-7). He then wrote that he got down and Caudillo "attempted to put out fire and put water on [the] fire but it was impossible to put it out completely." *Id.* He stated that after the fire truck arrived, the fire was put out.

III. DISCUSSION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Brief Summary of the Argument

The Secretary contends that the preponderance of the evidence demonstrates that a fire started at 7:30 a.m. or shortly thereafter and that it was not totally extinguished until at least 9:50 that morning. Thus, the fire was not extinguished within 30 minutes of its discovery. The Secretary also argues that the evidence shows that the fire was an "unplanned mine fire." There is no dispute that Phelps Dodge did not notify MSHA that there had been a fire at the mine until 11:40 a.m. Thus, the Secretary contends that Phelps Dodge failed to immediately notify MSHA of the fire and a violation of section 50.10 was established.

Phelps Dodge contends that there was no fire at the car body that burned for more that 30 minutes. It maintains that if there are no flames, there is no fire. It believes that the Secretary is twisting the definition of fire to include those periods when the car body was smoking without a flame being present. The testimony presented by Inspectors Coats and Lara failed to establish that there was a fire lasting more than 30 minutes. The hearing testimony of McCauley, Bobo

and Main, on the other hand, demonstrates that the fire was extinguished in less than 30 minutes after it was discovered. In addition, it argues that Main's e-mail to Inspector Lara cannot be used to establish the Secretary's case. Much of the information in Main's e-mail was later determined to be inaccurate and it should not be given any evidentiary weight. Phelps Dodge also argues that the fire was not "unplanned." Finally, Phelps Dodge maintains that the Secretary failed to provide adequate notice that the presence of smoke for more than 30 minutes triggers the immediate notification requirement. It relies, in part, on the events in March 2006 when Phelps Dodge reported as a fire, smoke that emanated from a shovel for more than 30 minutes. As discussed above, following the investigation, MSHA determined that there had not been a fire in that instance because there had not been any flames.

B. Analysis

1. Fact of Violation

The term "mine fire" is not defined in the Mine Act or the Secretary's regulations. Thus, a "mine fire" is a fire that occurs in a "coal or other mine," as that term is defined in section 3(h)(1) of the Mine Act. The term "fire" can be defined as a "rapid, persistent chemical change that releases heat and light and is accompanied by flame, especially the exothermic oxidation of a combustible substance." (*American Heritage Dictionary of the English Language*, 62 (4th ed. 2006). I agree with Phelps Dodge that flames must be present for there to be a fire. Grease that is smoking without any flames does present an event that must be immediately reported under section 50.10.

The description of events provided by Phelps Dodge employees in their written statements differs significantly from the description presented in their testimony at the hearing. As stated above, Mr. Bobo wrote in his statement that when he arrived at the shovel there "wasn't a lot of flames then. . . ." (Ex. G-8). Sometime after he put on his bunker gear he saw "flames inside the car body." He also stated that the fire was not put out until after the water truck arrived. At the hearing, Bobo testified that he did not see any flames, which he referred to as "flare-ups," until about 9:30 that morning. (Tr. 68). He admitted that he could not see inside the car body very well and there could have been flames in there. (Tr. 70). Thick black smoke was rising from the car body. He also indicated that he put the fire out before the water truck arrived and the water truck was used to cool down the car body.

McCauley wrote in his statement that he saw a "fire at the 16 shovel salvage area" when he first arrived but that he "wasn't sure at that time if it was a concern or not." (Ex. G-4). He further stated that the fire was inside the car body. *Id.* At the hearing, he testified that he is sure that he went to the car body shortly after 7:30 a.m. (Tr. 19-20, 53). When he was asked about his statement that he saw a fire when he first arrived at the car body, he testified that he used the word "fire" as "a generalization of the scene." (Tr. 20). He stated that he saw smoke coming from the car body and believed that there was a fire. (Tr. 20-22). He testified, however, that he did not see any flames at that time. (Tr. 25, 27, 43-44, 50-51).

The e-mail that Main sent to Inspector Lara states that the Metal Management employees “started a fire” sometime after 7:30 a.m. and that the incident commander decided to let the “grease on the car body burn itself out.” (Ex. G-3). It further states that this incident commander later decided to “put the fire out” and it was out by 10:45 a.m. *Id.* At the hearing, Main testified that he conducted an investigation of the incident when he arrived at the mine at 1:00 p.m. When he called Inspector Lara, he told him that there was smoke “or it could have been a fire” at the 16 shovel car body and that “sometime later, the fire brigade put the fire out.” (Tr. 107). Main further testified that he now believes that McCauley actually first went to the salvage yard to see the car body at 8:30 rather than 7:30 a.m. (Tr. 112). He also testified that his statement in the e-mail that the incident commander decided to let the grease on the car body burn itself out was not accurate. (Tr. 113). Main testified that he now believes that the fire was put out between 9:50 and 10:00. (Tr. 115). Thus, he believes that the fire only lasted about 20 minutes starting at 9:30 a.m. (Tr. 146). Main testified that the e-mail is not accurate because it was written before he had the opportunity to fully investigate the situation. (Tr. 133).

None of the Metal Management employees testified at the hearing. As summarized above, all of the Metal Management employees described the events in written statements. Each of them reported that a fire started sometime soon after 7:30 that morning.

I find that a preponderance of the evidence establishes that a fire started inside the car body soon after 7:30 a.m. on June 17. My finding is supported by the statements of the Metal Management employees, the statements of Bobo and McCauley, and the e-mail sent by Matthew Main. Hank Bobo wrote in his statement that when he arrived at about 9:00 that morning, there “wasn’t a lot of flames then but a lot of smoke.” (Ex. G-4). Thus, flames were present at that time. He observed even more flames after 9:30 so he used the fire truck to start extinguishing the fire.

The eyewitnesses independently wrote their statements on the day of the fire and their memories of the events were still fresh. Each of them reported that they saw a fire or flames at either 7:30 or 9:00 that morning. I credit the events described in these statements over inconsistent hearing testimony. (*See Master Aggregates TOA Baja Corp.* 28 FMSHRC 835, 836-37 (Sept. 2006) (ALJ)). Phelps Dodge argues that these statements should not be given any weight because the company had not gathered all of the facts necessary to complete its investigation at the time that the statements were made. Although that is true, it is not necessary for the investigation to be complete in order for eyewitnesses to record the sequence of events as they saw them. I did not give as much weight to Main’s e-mail to Inspector Lara because he was not an eyewitness to the events.

The preponderance of the evidence shows that the torch heated grease in the car body. The grease began to smolder and smoke. At several points in time flames appeared. There were flames sometime between 7:30 and 8:00 a.m., which the Metal Management employees tried to control. There were flames when Mr. Bobo arrived at the car body. When a larger fire flared up soon after 9:30 a.m., Bobo determined that he needed to extinguish the fire using the hose on the

fire truck and he did so in less than 30 minutes. Based on this evidence, I find that the fire was not extinguished within 30 minutes of its discovery. The fire was discovered soon after 7:30 a.m. and MSHA was not notified until after 11:30 a.m.

Phelps Dodge takes the position that, if flames were only present for short intervals during the morning of June 17, then the event did not need to be immediately reported under section 50.10. I hold that such an interpretation of the regulation is neither logical nor consistent with the language of the regulation or the purposes of the Mine Act. Under Phelps Dodge's interpretation, a fire could last for hours and not come under the definition of an accident under section 50.2(h)(6) so long as flames are not present more than 30 minutes at a time. Each flare up would be counted as a separate, discrete fire under this interpretation. I hold that once flames appear, the mine operator is under the obligation to report the fire unless the fire is totally extinguished within 30 minutes.

In this case, a fire developed at the salvage yard at about 7:30 a.m. and it was not fully extinguished until about 9:50 a.m. Although it does not appear that flames were present or at least visible the entire time, I find that this event constituted one fire, not multiple fires. I agree with Phelps Dodge that there can be smoke without fire, but I find that once flames appear, it is a fire. The fire was not extinguished within 30 minutes of discovery. Metal Management employees and Mr. McCauley became aware of the fire at about 7:30 that morning.¹

I reject Phelps Dodge's argument that the fire was not an "unplanned mine fire." It contends that because cutting was being performed with torches, a fire was anticipated. (Tr. 116). It points to the fact that the Metal Management employees had a water sprayer and a fire extinguisher at the site. Precautions were taken by Metal Management and later by Phelps Dodge to make sure that the planned fire would not create a safety hazard. The cutting was performed in a remote area, a hot work permit was obtained, and a fire watch was established. Thus, it argues that the fire was planned. I agree that Metals Management and Phelps Dodge knew that a fire was possible because of the nature of the work being performed and, as a

¹ For purposes of this decision, I do not need to determine exactly when Phelps Dodge was required to immediately notify MSHA of the fire. The Secretary takes the position that Phelps Dodge was required to notify MSHA by no later than 8:15 that morning, assuming that the fire started at 7:30. I believe that, in the case of a fire with intermittent flames, the answer is not always that straightforward. For example, if grease and oil starts to smolder and flames appear at 7:30, the operator may reasonably believe that it extinguished the fire at 7:50 as a result of its firefighting efforts. Thus, it would not be required to report the fire under section 50.10 at that time even if the grease continues to smoke. If the flames flare up again at 8:20, the mine operator's obligation to immediately report the fire would arise at that time because more than 30 minutes had passed since the fire started at 7:30. The two flare-ups constitute a single fire because they occurred close together in time at the same location. Consequently, the mine operator would be required to report the fire by no later than 8:35 because its belief that the fire had been extinguished at 7:50, although reasonable at the time, was not correct.

consequence, they took precautions necessary to isolate and fight a possible fire. Nevertheless, I agree with the Secretary that the fire was not a planned event. (Tr. 180). The precautions were taken in case there was a fire rather than because a fire was planned. Indeed, Metal Management did not specifically advise Phelps Dodge that this work was going to be performed on June 17 or that a fire was anticipated. (Tr. 118). McCauley did not know that Metal Management employees were at the mine that day. When Mr. Bobo arrived, he saw that Metal Management did not have sufficient firefighting equipment and protective gear to fight a fire. Thus, it appears that Metal Management did not believe that a fire was reasonably likely.

Phelps Dodge also argues that it was not on notice that the conditions at the car body constituted an accident as defined by section 50.2(h)(6). It relies on the events of March 2006 when MSHA determined that the presence of smoke emanating from a shovel for more than 30 minutes did not constitute a fire. I find that this previous event was not sufficiently similar to the events of June 17, 2006, to have any direct relevance to the issue of notice. There were never any flames on the shovel in March, just a lot of smoke. Thus, there was never a fire. I find that the language of the section 50.10, when read in conjunction with the definition of accident in section 50.2(h)(6), provided sufficient notice of the requirements of the regulation in this instance. A fire started at about 7:30 a.m. at the car body and flames were present on an intermittent basis until 9:50 a.m. It is clear from the language of the regulation that immediate reporting was required.

2. Negligence

The parties presented evidence and argument on the negligence criterion. I find that the Secretary did not establish that the violation was the result of Phelps Dodge's high negligence. As justification for the high negligence determination, Inspector Lara testified that Phelps Dodge was aware of the requirements of the immediate notification regulation. (Tr. 164-65, 178). While it is true that Phelps Dodge was aware of the regulation, the application of the regulation to the facts presented is at issue here. For the reasons set forth below, I find that the negligence of Phelps Dodge was low in this instance.

The fire started on a Saturday morning at a remote location at the mine. Phelps Dodge personnel at the mine were not aware that Metal Management employees would be cutting up the car body that morning. There were no Phelps Dodge employees working at or near the salvage yard. Phelps Dodge only became aware of the fire when McCauley saw smoke arising from the area. McCauley did not have any supervisory responsibility over the salvage area or Metal Management. As Inspector Coats recognized, the fire did not present a safety hazard to employees of Metal Management or Phelps Dodge. It was highly unlikely that the fire would spread beyond the car body because it was located away from flammable materials. (*See* Ex. C-1). When Phelps Dodge became aware of the fire, its fire brigade was dispatched to the area with appropriate firefighting personnel and equipment. The fire was extinguished soon after the fire brigade arrived and the water truck was used to cool down the car body.

Because it was a Saturday, the mine's safety manager was not at the mine. McCauley did not believe that the situation warranted calling a "mayday." (Tr. 28-29). MSHA was not immediately called because it was a grease fire with intermittent flames and it did not pose a safety hazard to miners. In addition, Phelps Dodge called MSHA in March 2006 when there was smoke coming from a shovel and was advised that the call was not required. I credit the testimony of Mr. McCauley that he genuinely believed that the company was not required to immediately report the grease fire. Although Mr. Tester, the safety supervisor for the shift, should have been notified of the fire earlier that morning, Tester called MSHA immediately after McCauley told him about the fire. Although I find that the fire was required to be reported under section 50.10, I hold that this violation was the result of an honest mistake by mine management under unusual circumstances. The negligence of Phelps Dodge was low.

IV. ORDER

For the reasons set forth above, Phelps Dodge's notice of contest of Citation No. 6244790 is **DENIED**, in part, the citation is **AFFIRMED** as **MODIFIED** by this decision, and this proceeding is **DISMISSED**.

Richard W. Manning
Administrative Law Judge

Distribution:

Timothy R. Olson, Esq., Jackson Kelly PLLC, 1099 18th Street, Suite 2150, Denver, CO 80202-1958 (Certified Mail)

Brian L. Hurt, Esq., Office of the Solicitor, U.S. Department of Labor, 525 Griffin Street, Suite 501, Dallas, TX 75202-5036 (Certified Mail)

RWM