UNITED STATES DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

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RECENT SIGNIFICANT DECISIONS -- MONTHLY DIGEST # 325

November-December 2025

Stephen R. Henley, Chief Judge

Longshore:

Paul R. Almanza, Associate Chief Judge for Longshore

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Black Lung:

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Francesca Ford, Senior Counsel for Black Lung

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I. Longshore and Harbor Workers' Compensation Act

A. U.S. Circuit Courts of Appeals

Bommarito v. Belle Chasse Marine Transportation, **__ F.4th __, 2025 WL 3166250 (5th Cir. 2025).**

The Fifth Circuit reversed an award of damages for wrongful death under § 5(b) of the LHWCA, holding that the longshoreman's ingestion of an illegal drug was a superseding cause that broke the chain of causation between his work injury and his death, even if he continued to experience pain from his work-related injuries. It was not reasonably foreseeable to employer that he would ingest illegal drugs that proved to be lethal.

Bosit Bommarito, a rigger, was injured while constructing a launch site on the Mississippi River. A defective hook, which lacked a safety latch, came loose and struck Bommarito, causing him to fall 9 to 12 feet off the walkway. Bommarito sustained a large cut over his eye, was diagnosed with a concussion, strain, and a fractured eye socket, and was released for light duty. Bommarito went back to a physician complaining of arm pain, was diagnosed with a displaced C6-7 cervical disk and had emergency surgery. He continued to experience shoulder pain and was diagnosed with a torn labrum. Bommarito then had a CT scan, which revealed a "right orbital floor fracture"; his "right eye was sunken in . . . he couldn't move his left eye and right eye together," causing double vision and pain. He was told on February 26th, four months after the accident, that two further surgeries would be needed to alleviate his pain.

During the four months between the accident and the February 26th consult, Bommarito was prescribed Oxycodone, fentanyl, and Tramadol, with the last installment being a fifteen-day supply of Tramadol on February 7th. After that supply ran out, Bommarito attempted to control his pain with over-the-counter medications, but his mother, Susan Bomamrito, a retired nurse, testified that he was still experiencing an unacceptable level of pain. She called and attempted to obtain an appointment with a physician but was told there were no earlier appointments available. The day after that phone call, Susan found Bommarito unconscious from what a pathologist determined was an overdose of fentanyl mixed with Xylazine. Xylazine is a horse tranquilizer that is not available for human use, which means the fentanyl was purchased on the street. Bommarito's autopsy revealed that his blood contained more than six times what is considered to be a lethal dose of fentanyl. Bommarito had no criminal record, and there was no evidence he had previously used illegal drugs.

Bommarito's estate sued Land and Marine (collectively, Belle Chasse). After a bench trial, the district court held Belle Chasse liable for vessel negligence under § 5(b) the LHWCA and awarded damages to Bommarito's children and mother. Belle Chasse appealed.

The Fifth Circuit initially held that the hook that caused Bommarito's injury was an appurtenance of the vessel, as required to satisfy location test for federal admiralty jurisdiction. Further, the district court's determination that the defective design of the hook was both but-for and proximate cause of accident was not clearly erroneous. The hook was both the but-for and the proximate cause of the accident: if the hook was not defective, Bommarito would not have been standing so close by to hold the crane lines and keep the hook from slipping out. There were enough facts in the record to support the district court's conclusion that the reason Bommarito was standing so close was because of the defective hook design. Additionally, the determination that Bommarito's employer and its parent operated as the same company, thus permitting court to pierce corporate veil, was not clearly erroneous.

Next, the Fifth Circuit addressed the issue of causation of Bommarito's death. When a case is decided by a district court without a jury, the Court of Appeals reviews the district court's factual findings for clear error; conclusions of law are reviewed de novo. The common law negligence doctrines of proximate causation and superseding cause apply in admiralty. The superseding cause doctrine applies where the defendant's negligence in fact substantially contributed to the plaintiff's injury, but the injury was actually brought about by a later cause of independent origin that was not foreseeable.

The court observed that whether an overdose from illegal drugs is a superseding cause is an issue of first impression in the Fifth Circuit, and one that few federal courts have addressed. *Id*. at *6 n.29 (collecting cases). The court drew guidance from state law. It found persuasive state cases that have concluded that ingesting illegal drugs to be a superseding cause. *Id*. at *7 n.31 (collecting cases). The court stated that foreseeability is a continuum; at some point, there is no causation as a matter of law.

> Here, Bommarito died from an overdose of fentanyl mixed with Xylazine. At that point in time, Bommarito did not have an active prescription for fentanyl. Xylazine is a horse tranquilizer that is not available for human use, and it is undisputed that the fentanyl was purchased on the street. Bommarito died from ingesting over six times what is considered a lethal dose of fentanyl. Under the facts and circumstances of this case, the cause of Bommarito's death was ingestion of the drugs found in his system. That was not traceable to the liability of Belle Chasse Marine for the injuries he sustained while working, even if he continued to experience pain from his work-related injuries. It was not reasonably foreseeable to Belle Chasse, who caused Bommarito's original injury, that he would ingest illegal drugs which proved to be lethal. We therefore conclude that Bommarito's ingestion of illegal drugs was a superseding cause of his death.

Id. at *7. Additionally, the court observed that non-dependent parents of a longshoreman who dies in territorial waters are not entitled to recover damages for loss of society stemming from that death.

For these reasons, the court reversed the award of damages for wrongful death to all plaintiffs and loss of consortium to Susan Bommarito and remanded for further proceedings consistent with this opinion.

Circuit Judge Haynes dissented in part. She disagreed with the majority's determination that Bommarito's death was due to a superseding cause. She stressed that the district court's factual findings must be affirmed unless there is clear error. If the district court's finding is plausible in light of the record viewed as a whole, the court of appeals cannot reverse even though, if sitting as the trier of fact, it would have weighed the evidence differently. Judge Haynes opined that the district court's determination that Bommarito's overdose was not a "separate, intervening cause of his death, but rather was a direct consequence of his injuries from the accident and the pain those injuries caused him" was not clear error. An intervening act is not a superseding cause if the original actor should have realized a person might so act, a reasonable person would not consider it highly extraordinary that the person acted in such a way, or if the intervening act is a normal consequence of the situation created by the original actor. The touchstone of this inquiry is foreseeability. In this case, a defense witness testified that it was common for people in a situation such as Bommarito who was suffering to take fentanyl to address the injuries. Bommarito was not randomly taking fentanyl but, instead, as the district court stated, the evidence at trial showed that Bommarito took the drugs only to cope with the intractable pain from his injuries after he ran out of prescription opioid painkillers, which his doctors had prescribed only for a limited time. The evidence supported that Bommarito had never used illegal drugs before; he passed all his drug tests; and the pathologist who performed his autopsy testified Bommarito's overdose could have happened from taking fentanyl once and that she has seen many cases where people with chronic pain who had been prescribed opioid painkillers later sought fentanyl to deal with their pain and suffered overdoses shortly thereafter. He only took it because he had no other assistance for his pain. Thus, it is not a superseding act as he never would have done this had he not had the original injury. Accordingly, whether or not this court would have ruled the same on the facts, Judge Haynes did not see any clear error and would have affirmed the award of damages for wrongful death to the plaintiffs.

[Section 5(b) (causation/superseding cause)]

Alvarado v. Briese Schiffahrts**, 161 F.4th 289 (5th Cir. 2025).**

While working as a temporary longshoreman tasked with loading cargo onto the vessel, the BBC Sapphire, Alberto Alvarado slipped and fell as he descended a ladder into the ship's cargo hold, breaking both legs. He sued the owner and operator of the BBC Sapphire and Jacintoport International ("JPI"), which operates terminals at the Port of Houston, asserting negligence and gross-negligence claims under Section 5(b) the LHWCA.

The court initially addressed the burdens of proof in the context of a summary decision. The movant does not need to negate the elements of claims on which the nonmoving parties would bear the burden of proof at trial. Rather, the movant's burden is only to point out the absence of evidence supporting the nonmoving party's case. If the movant meets that burden, the nonmovant must go beyond the pleadings and designate specific facts showing that there is a genuine issue for trial, by identifying specific evidence in the record and articulating the precise manner in which that evidence supports his claims.

Turning to the merits, the court affirmed the district court's grant of summary judgment to the BBC Sapphire defendants. Alvarado contended that the BBC Sapphire breached the turnover duty and the active-control duty under the LHWCA. (On appeal, Alvarado conceded that given that cargo operations had not yet begun at the time he fell, his negligence claim for breach of the duty to intervene was not viable.) The turnover duty places two responsibilities on the vessel owner: the duty to exercise ordinary care under the circumstances to turn over the ship and its equipment in such condition that an expert stevedore can carry on stevedoring operations with reasonable safety, and a duty to warn the stevedore of latent or hidden dangers which are known to the vessel owner or should have been known to it. But the duty to warn of hidden dangers is narrow and does not include dangers which are either (1) open and obvious or (2) dangers a reasonably competent stevedore should anticipate encountering. The court rejected Alvarado's assertion that the BBC Sapphire did not fulfill their turnover duty because the ladder, platform, and chute were wet and dimly lit. The obligation to ensure proper lighting lies with the stevedore not the shipowner. Further, the dim lighting was not a hidden danger. And foggy conditions are common aboard vessels.

The court also rejected Alvarado's contention that the BBC Sapphire violated the active-control duty. The fact that the cargo operations had not yet commenced precluded this claim. And even assuming the cargo operations had commenced, Alvarado still failed to show the BBC Sapphire violated the duty. To create a genuine issue of fact regarding the active-control duty, Alvarado had to provide evidence that BBC Sapphire exercised active control over the actual methods and operative details of the longshoreman's work. However, he offered little evidence to support his position. Oversight of the cargo operations by the chief mate for the BBC Sapphire, including supervising the stevedores' work to ensure that the cargo was properly loaded and unloaded, does not constitute evidence of active control over the actual methods and operative details of the longshoremen's work. Further, while Alvarado asserted that the vessel's gangway watch directed him to the hatch cover to access the ladder, this would not demonstrate that the BBC Sapphire controlled the details of his work. There was no evidence to show control over the timing or manner in which Alvarado was to descend the ladder to the cargo hold.

Next, the Fifth Circuit affirmed the district court's grant of summary judgment to JPI. Undisputed evidence demonstrated that Alvarado was the borrowed employee of JPI. And because JPI secured workers' compensation benefits for Alvarado, the LHWCA' exclusive-remedy provision barred his negligence suit. The district court decides the borrowed employee issue as a matter of law, and, if sufficient basic factual ingredients are undisputed, the court may grant summary judgment. To determine whether an employee is a borrowed employee, nine factors are relevant:

> (1) Who had control over the employee and the work he was performing, beyond mere suggestion of details or cooperation? (2) Whose work was being performed? (3) Was there an agreement, understanding, or meeting of the minds between the original and the borrowing employer? (4) Did the employee acquiesce in the new work situation? (5) Did the original employer terminate his relationship with the employee? (6) Who furnished tools and place for performance? (7) Was the new employment over a considerable length of time? (8) Who had the right to discharge the employee? (9) Who had the obligation to pay the employee?

Even if some factors depend upon unresolved fact issues, summary judgment may still be appropriate if other factors clearly weigh in favor of borrowed-employee status.

Here, the district court did not err by resolving the legal question of whether Alvarado was serving as JPI's borrowed employee. Alvarado failed to point out any material dispute on this issue. This case turned on the first, second, and third factors: Because undisputed evidence demonstrated that there was a formal agreement between Labor Finders and JPI for the provision of short-term laborers to fulfill JPI's labor obligations, Alvarado was assigned to JPI pursuant to that agreement, a JPI foreman assigned Alvarado to work aboard the BBC Sapphire, and that work was to be conducted at the JPI dock in the Port of Houston, Alvarado was, as a matter of law, JPI's borrowed employee at the time he fell. The other factors were immaterial to the analysis.

[Section 5(b)]

B. U.S. District Courts[1]

No decision to report.

C. Benefits Review Board

Zawedde v. SOC, LLC**, __ BRBS __ (2025).**

Board held that ALJ decisions and orders that adopt bench transcripts, no matter how detailed, are inconsistent with the Administrative Procedure Act ("APA"), the Longshore Act, and the applicable regulations.

Claimant alleged a psychological injury as a result of working as an armed security guard in Iraq for approximately four years. In December 2023, the ALJ issued a statement from the

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[1] Only decisions relevant to the adjudication of claims by OALJ are included in this newsletter.

bench finding that claimant invoked the Section 20(a) presumption of compensability, and that employer rebutted it. Weighing the evidence, the ALJ stated that claimant failed to establish a work-related psychological injury. Shortly thereafter, in January 2024, the ALJ issued a written Decision and Order ("D&O") that was less than two pages long. In his decision, the ALJ incorporated a transcript of his statement by reference, identified two corrections to it, "baldly" restated his conclusion, and denied benefits. The ALJ stated that "[t]he purpose of this Decision and Order is to adopt and incorporate the final transcript of the bench decision and enter a final order memorializing the bench decision." Claimant appealed, generally challenging the denial of his claim.

The Board held that the ALJ's decision and order was insufficient on its face to enable meaningful review. The Board reasoned that the Act's statutory and regulatory framework plainly requires written decisions and orders that contain certain elements. The Administrative Procedure Act ("APA"), 5 U.S.C. § 557(c)(3)(A), incorporated into the Longshore Act by Section 19(d), requires every adjudicatory decision to include a statement of "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record." The Longshore Act's implementing regulations at 20 C.F.R. § 702.348, clarify that "[t]he compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order[.]" Additionally, Rule 18.92 of the OALJ's Rules of Practice and Procedure provides that "[a]t the conclusion of the proceeding, the [ALJ] must issue a written decision and order." At the same time, the nothing in the Act or its regulations contemplates that a transcript (including an otherwise substantively sufficient one) can be substituted for a written decision, even if it is "otherwise substantively sufficient." The Board noted that at least one administrative agency, the Social Security Administration, specifically permits bench decisions, but only in fully-favorable cases and under strict rules concerning how the decisions are memorialized. The Act and its extensions do not contain any similar statutory or regulatory authority. The Board concluded that:

> Taken together, we hold this authority, and the lack of any counter-authority, requires written decisions and orders that provide the law and evidence relied upon with sufficient detail to allow for meaningful appellate review. We further hold written decisions and orders that simply adopt bench transcripts, like the one at issue in this case, are inherently insufficient in that task, regardless of the detail of the transcript.

Slip op. at 3.

The Board stated that "[r]equiring a written decision instead of a bench transcript is not an empty elevation of form over substance." *Id.* Courts, including the Supreme Court, have long recognized the need for clear written decisions and orders in agency adjudications. Written decisions are the best way to set forth the grounds for the decision for the parties, allow reviewing bodies to carry out their oversight functions, deter arbitrary administrative actions, and prevent reviewing bodies from exceeding their responsibilities. Such clarity is particularly important in cases such as this one, where a claimant without representation appeals a denial of benefits. Bench decisions may force parties to pay for and obtain a transcript, which would be a significant hurdle for many unrepresented claimants who make up a sizable portion of Longshore and DBA litigants. A comprehensive written decision gives the parties greater access to information essential to their claims and defenses in a form more easily digestible for attorneys, judges, and laypersons alike. Written decisions further allow for meaningful public access to decisions.

The Board pointed out that it had recently admonished ALJs for using bench decisions in place of fully explained written decisions. *Williams v. M.T.C. E.*, BRB No. 22-0065, slip op. at 4 (Apr. 6, 2023) (unpub.). Similarly, in this case, the ALJ did not cite to the record, provide sufficient analysis, or specify which evidence he accepted or rejected; he also did not cite any legal authority to support his conclusion that claimant failed to establish a work-related psychological injury. The ALJ acknowledged *Williams*, stating that it cautioned ALJs to make sure bench decisions adequately detail the rationale. The Board clarified that "[t]o the extent we left the door open, we close it today and hold bench decisions cannot ever adequately substitute for written decisions under the APA, the Act, and its implementing regulations." Slip op. at 4 n.6.

Accordingly, the Board vacated the ALJ's decision and remanded the case for further explanation in a fully developed, written D&O.

[Procedure Before the District Director and Administrative Law Judge – Decisions under the APA 19 – Sufficient Rationale]

II. Black Lung Benefits Act

A. U.S. Court of Appeals

1. Published:

a. Fourth Circuit:

Clinchfield Coal Co. v. Mullins, 160 F.4th 580 (4th Cir. Dec. 2, 2025):

On December 2, 2025, the Fourth Circuit Court of Appeals ("Fourth Circuit" or "Court") issued a published opinion affirming an award of benefits on modification to Geraldine Mullins ("Claimant"), the survivor of Donald Mullins ("Miner"). The Administrative Law Judge on modification ("ALJ") credited the qualifying arterial blood gas study ("ABG") evidence from the hospitalization that culminated in the Miner's death and Dr. Perper's opinion, he found the Miner totally disabled from a pulmonary standpoint, and he found that the Claimant was entitled to invoke the fifteen-year presumption. He further found that Clinchfield Coal Company ("Employer") failed to rebut the presumption. The Benefits Review Board ("Board") affirmed the ALJ's decision.

On appeal to the Fourth Circuit, the Employer argued that the ALJ erred in finding that the ABGs satisfied 20 C.F.R. § 718.105(d), which provides that an ABG administered during a hospitalization that ends in a miner's death "must be accompanied by a physician's report establishing that the test results were produced by a chronic respiratory or pulmonary condition." Although the ALJ found that the Miner's hospital discharge summary written by Dr. Patel did not meet the requirement of 20 C.F.R. § 718.105(d), he found that Dr. Perper's report did. He noted that Dr. Perper addressed the two terminal ABGs and stated that that the Miner's "first symptomatic manifestations of chronic lung disease of shortness of breath on mild exertion, cough[,] and occasional exportation of mucus were documented as starting in 1998[.]" He added that the Miner's respiratory symptoms continued progressively, gradually worsened, and were accompanied by worsening radiological findings, increased objective evidence of abnormal respiratory functions, incremental decrease in diffusion of pulmonary gases, and hypoxemia, which led to very poor quality of life eventual death. Consequently, the ALJ found that these statements from Dr. Perper's report were sufficient to link the Miner's terminal ABGs to a chronic lung condition.

In affirming the ALJ's analysis, the majority found that the totality of Dr. Perper's opinion established that the terminal ABGs were produced by pneumoconiosis. The Court stated that a reasonable mind could find that Dr. Perper reached his diagnosis of pneumoconiosis based, in part, on the terminal ABGs. It emphasized that throughout his opinion, Dr. Perper discussed the Miner's chronic and acute conditions in relation to the testing conducted throughout the Miner's lifetime and leading up to his death. The Court added that the ABGs from the Miner's terminal hospitalization demonstrated severe hypoxemia and hypercapnia. Thus, it stated that a reasonable mind could infer that Dr. Perper was relying on the ABG results to reach his diagnosis of pneumoconiosis. Consequently, the Court concluded that even though Dr. Perper did not explicitly state that the terminal ABGs were produced by a chronic pulmonary or respiratory condition, a reasonable ALJ could find that his opinion was sufficiently reasoned.

The majority further rejected the Employer's argument that the acute conditions present at the Miner's terminal hospitalization may have instead caused his ABG results. It noted that based on Dr. Perper's report, which the ALJ credited over Dr. Caffrey's report, the acute respiratory injuries present at the Miner's death were attributable to his underlying chronic coal dust injuries.

The Court next considered and rejected the Employer's argument that the ALJ's use of the word "link" instead of "produce" rendered his reliance on Dr. Perper's opinion improper. It found that no meaningful difference between "link" and "produce" existed in this case, and the ALJ's use of the word "link" to connect the terminal ABGs to the Miner's pneumoconiosis did not affect the ALJ's application of 20 C.F.R. § 718.105(d) to Dr. Perper's opinion.

The Court further found that the Claimant properly established that she was entitled to invoke the fifteen-year presumption. It rejected the Employer's argument that the Board failed to require the ALJ to explicitly state whether Dr. Perper's report was "well-reasoned" or "well-documented." It emphasized that the Fourth Circuit does not require an ALJ to explicitly note whether a physician's report is well-reasoned or well-documented. Rather, it is enough for an ALJ to discuss and analyze the medical opinions and denote his or her reasoning, which the ALJ did in this case.

Finally, the Court affirmed the ALJ's decision to find a mistake in a determination of fact in the prior ALJ's decision and award benefits on modification. For all these reasons, it denied the Employer's petition for review.

Judge Quattlebaum issued a dissenting opinion stating that "connecting" the ABGs to the Miner's pneumoconiosis was not sufficient to establish that the ABG results "were produced by" pneumoconiosis, which is what 20 C.F.R. § 718.105(d) requires. Thus, he opined that Dr. Perper's report failed to satisfy 20 C.F.R. § 718.105(d), and it could not be used as evidence of total disability at the time of the Miner's death.

b. Eleventh Circuit:

Fairfield S. Co. v. Dir., OWCP, 161 F.4th 791 (11th Cir. Dec. 8, 2025):

On December 8, 2025, the Eleventh Circuit Court of Appeals ("Eleventh Circuit" or "Court") issued a published opinion granting a petition for review filed by Fairfield Southern Company ("Employer") and vacating the Benefits Review Board's ("Board") decision.

Billie Barr, Jr. ("Claimant") worked as a coal miner for over fifteen years. For some of the time that he worked as a coal miner, he worked at a preparation plant above ground, which was connected to an underground coal mine by over five miles of conveyer belts. Other than the conveyor belts, the land between the preparation plant and the underground mine was forested and undeveloped. In his initial decision, the Administrative Law Judge ("ALJ") found that the Claimant's work at the preparation plant did not qualify as work "in an underground mine" because the plant was not appurtenant to the underground mine located at least five miles away. He found that the belt system that connected the two facilities did not make them part of the same underground mine. He further found that the conditions at the preparation plant were not "substantially similar" to the dust conditions in an underground mine. After finding that the Claimant was not entitled to invoke the fifteen-year presumption, the ALJ denied benefits.

On appeal, the Board reversed the ALJ's finding that the Claimant's work at the preparation plant was not underground coal mine work. It held that the ALJ erred as a matter of law in determining that the preparation plant was not appurtenant to the underground mine. The Board stated that the ALJ implemented a "strictly distanced-based construction of the term" appurtenant, and it concluded that the preparation plant was appurtenant to the underground mine "regardless of the distance separating them." After reversing the ALJ's finding that the Claimant's work at the preparation plant did not constitute work in an underground mine, the Board held that the Claimant qualified for the fifteen-year presumption and remanded the case for further consideration. On remand, the ALJ determined that the Employer failed to rebut the presumption, and he awarded benefits. The Board affirmed the ALJ's decision on remand, and the Employer appealed.

On appeal, the Eleventh Circuit rejected the Employer's argument that aboveground work is not work "in one or more underground coal mines." It joined the Tenth Circuit in holding that a miner can work in an underground coal mine even if his work occurs above ground. It provided three reasons to support its holding. First, it first stated that the statutory definition of "coal mine," at 30 U.S.C. § 802(h)(2), includes buildings placed "upon, under, or above the surface" of an area of land, so it encompasses all mine-related property, even if it is above ground. Second, it explained that its reading is consistent with how the statute as a whole uses the word "in" and categorizes miners for the purposes of presumptions. Third, the Court emphasized that the Act's implementing regulations have long treated aboveground workers at an underground coal mine as workers "in an underground coal mine." Thus, it concluded that the Act's expansive definition of a "coal mine," § 921(c)(4)'s statutory scheme, and the Act's implementing regulations established that work "in an underground coal mine" includes work performed above the surface.

Although the Eleventh Circuit rejected the Employer's first argument, it agreed with the Employer's second argument that the ALJ, in his initial decision, reasonably concluded that the preparation plant more than five miles from the underground mine was not part of the underground mine. In holding that the Board erred in reversing the ALJ, the Court first found that the Board erred as a matter of law when it held that the preparation plant could be a part of the underground coal mine “regardless of the distance separating them.” It reiterated that the statutory definition of a “coal mine” includes property upon, under, or above a particular “area of land.” Since areas of land are geographically bounded, the Court reasoned that the distance between a coal extraction site and a structure was relevant to determining whether the structure was part of the same coal mine, and the Board’s geographically unlimited interpretation of the regulation directly conflicted with the Act’s geographically limited definition. Second, it found that the ALJ’s factual finding that the preparation plant was insufficiently physically connected to the underground mine to be a part of that underground mine was supported by substantial evidence, and the Board should have deferred to the ALJ.

Finally, the Fourth Circuit declined to reinstate the ALJ’s initial denial of benefits. It noted that the ALJ’s denial turned on his finding that conditions at the preparation plant were not “substantially similar” to conditions in an underground mine, and it could not reinstate the ALJ’s decision without endorsing that finding. Because the Board’s initial order of remand did not resolve whether conditions at the preparation plant were substantially similar to conditions in an underground mine, the Court vacated the Board’s decision and remanded the case for further consideration.

2. Unpublished:

a. Fourth Circuit Court of Appeals

Clinchfield Coal Co. v. Dir., OWCP, No. 24-1875, 2025 U.S. App. LEXIS 33591 (4th Cir. Dec. 23, 2025)

On December 23, 2025, the Fourth Circuit Court of Appeals (“Fourth Circuit” or “Court”) issued an unpublished opinion affirming an award of benefits to Johnny Wallace (“Claimant”). The Administrative Law Judge (“ALJ”) found that the Claimant had clinical and legal pneumoconiosis that arose out of coal mine employment and a totally disabling respiratory impairment substantially caused by pneumoconiosis. The Benefits Review Board (“Board”) affirmed the ALJ’s decision, but it did not address the ALJ’s finding that the Claimant had clinical pneumoconiosis.

On appeal to the Fourth Circuit, Clinchfield Coal Company (“Employer”) first argued that the ALJ erred in finding the Claimant totally disabled. The Court stated that because the Employer provided no argument in support of its argument, the Employer abandoned any appeal of the issue.

The Employer next argued that the ALJ erred in crediting the opinions of Drs. Mabe and Habre on legal pneumoconiosis because they based their opinions on incorrect coal mine employment and smoking histories. Contrary to the Employer's argument, the Fourt Circuit noted that the ALJ gave Dr. Mabe's opinion less weight because he considered a five pack-year smoking history and a sixteen-year coal mine employment history when the Claimant actually had a 13.44-year coal mine employment and a thirty or more pack-year smoking history. As to Dr. Habre's opinion, the Fourth Circuit noted that although he considered incorrect smoking and coal mine employment histories in his initial medical report, he later considered the correct histories in his final report. Based on Dr. Habre's understanding of the Claimant's symptoms, occupational and smoking histories, and the objective tests, the ALJ gave Dr. Habre's opinion probative weight regarding the existence of legal pneumoconiosis. Thus, the Fourth Circuit rejected the Employer's premise that the ALJ failed to acknowledge or address inaccurate coal dust exposure and smoking histories considered by Drs. Mabe and Habre. Furthermore, it held that the ALJ exhaustively considered their opinions and adequately explained why she gave Dr. Habre's opinion dispositive weight.

The Court next rejected the Employer's argument that the ALJ erred in discrediting the opinions of Drs. Sargent and McSharry. Because the Employer did not directly challenge the ALJ's decision to discredit their opinions, the Court held that the Employer abandoned its argument. Nonetheless, the Court proceeded to analyze the Employer's argument and found that the ALJ exhaustively discussed and considered the opinions of Drs. Sargent and McSharry in the same manner and to the same extent that she considered the contrary opinions of Drs. Mabe and Habre, and it found that she adequately explained why the opinions of Drs. Sargent and McSharry were only entitled to limited weight. The Court further affirmed the ALJ's reliance on the preamble to the regulations ("Preamble"). It emphasized that the ALJ did not discredit Dr. McSharry's opinion because it was inconsistent with the Preamble or solely because he did not address how the Claimant's coal dust exposure may have impacted his pulmonary impairment. Rather, the Court stated that the ALJ found Dr. McSharry's failure to address the known additive effects of smoking and coal dust exposure to be one of several reasons to discredit his opinion. Thus, the Court concluded that the ALJ's finding of legal pneumoconiosis was supported by substantial evidence. Because the Board did not consider whether the ALJ erred in finding that the Claimant had clinical pneumoconiosis and because the Court denied the Employer's petition for review, it did not address clinical pneumoconiosis.

Finally, the Court affirmed the ALJ's finding that the Claimant's pneumoconiosis substantially contributed to his total disability based on Dr. Habre's opinion, and, to a lesser extent, Dr. Mabe's opinion. As the ALJ based her decision on substantial evidence, the Fourth Circuit affirmed her award of benefits and denied the Employer's petition for review.

b. Sixth Circuit Court of Appeals

ICG Knott Cnty., LLC v. Dir., OWCP, No. 25-3190, 2025 U.S. App. LEXIS 31457 (6th Cir. Dec. 1, 2025)

On December 1, 2025, the Sixth Circuit Court of Appeals ("Sixth Circuit" or "Court") affirmed an Administrative Law Judge's ("ALJ") award of benefits to Jamie Hamilton ("Claimant"). The ALJ found that the Claimant was entitled to invoke the fifteen-year presumption and ICG Knott Count, LLC ("Employer") failed to rebut it. The Benefits Review Board affirmed the ALJ's decision.

On appeal to the Sixth Circuit, the Employer argued that it was not liable since the Claimant was not diagnosed with pneumoconiosis until nearly a decade after he left coal mine employment. In rejecting the Employer's argument, the Court emphasized that regardless of when the Claimant's pneumoconiosis was detected, the Employer bore the burden to prove that the coal mine employment played no part in causing his total disability, which it failed to do. The Court stated the ALJ correctly explained that the regulations recognize pneumoconiosis as a latent and progressive disease, which may first become detectable only after the cessation of coal mine dust exposure, and the Employer did not offer an expert to dispute that principle or rebut the presumption on other grounds. Thus, it denied the Employer's petition for review.

B. Benefits Review Board

1. **Published:** There were no published BRB decisions for this period.

2. **Unpublished:**

In Paul Winebarger v. Peabody Coal Co., BRB No. 25-0033 BLA (Dec. 9, 2025), the Board affirmed the ALJ's finding that the Employer was the responsible operator. The Employer did not challenge that it met the criteria of a potentially liable operator at 20 C.F.R. § 725.494(a)-(e). Rather, it argued that the ALJ erred in determining that the Claimant's work with a later employer, Hendrix Electric, Inc. (Hendrix), was not qualifying coal mine employment. The Director contended that the Board did not need to address the Employer's argument because no evidence existed to show that Hendrix was able to assume liability for paying benefits. The Board agreed with the Director. In this case, the district director did not designate Hendrix Electric as the responsible operator because, among other reasons, the Department had no record of insurance coverage or authorization to self-insure to show that Hendrix was financially capable of paying benefits. The district director's explanation under 20 C.F.R. § 725.495(d) was prima facie evidence that Hendrix was not financially capable of assuming liability. Therefore, to escape liability, the Employer needed to prove that Hendrix was financially capable of paying benefits. Because the Employer did not identify any evidence or argue that Hendrix was financially capable of paying benefits, any error by the ALJ concerning the nature of the Claimant's work with Hendrix was harmless. Therefore, the Board declined to address the Employer's argument and affirmed the ALJ's finding that the Employer was the responsible operator.

[Responsible Operator; Statement Required by 20 C.F.R. § 725.495(d)]

In Danny S. Moore v. Paramont Coal Company Virginia, LLC, BRB No. 25-0053 BLA (Dec. 9, 2025), the ALJ accorded greater weight to the qualifying resting ABGs than the non-qualifying exercise ABGs, noting that non-qualifying exercise values do not lessen the probative value of resting values since the regulations permit a disability finding based solely on resting values and because an ALJ is not required to accord greater weight to ABG values yielded during exercise than those yielded at rest. In affirming the ALJ's decision, the Board said that while an ALJ may give an exercise ABG increased weight, he is not required to do so.

[Arterial blood gas studies; exercise ABGs]

In Tommy Dixon v. Energy West Mining Co., BRB No. 25-0061 BLA (Dec. 18, 2025), the Board rejected the Employer's argument that the ALJ erred in not considering the Alveolar-arterial ("A-a") gradient in finding the Claimant totally disabled. Citing the preamble to the regulations implementing the standards for total disability, the Board noted that the Department declined to use the A-a gradient as a measure of disability because it was laborious, difficult to administer, and few laboratories were equipped to perform it. 45 Fed. Reg. 13,678, 13,683 (Feb. 29, 1980). Instead, the Department found that because the arterial blood oxygen tension measured the overall ability of the lungs to properly provide oxygen for body metabolism, it provided a more useful measurement to determine the overall ability of an individual to function. The Board stated that given the Department's decision to reject the A-a gradient as a standard measure of disability, and the Employer's failure to show that the A-a gradient was a better indicator of disability than the ABG tables in Appendix C to Part 718, it rejected the Employer's argument that a remand was necessary for the ALJ to consider the A-a gradient. The Board found that the ALJ correctly applied the ABG tables and reasonably determined that the more recent ABG evidence better reflected the Claimant's condition. Therefore, it affirmed the ALJ's finding that the ABG evidence weighed in favor of establishing that the Claimant was totally disabled.

[Arterial blood gas studies; A-a gradient]

In Kenneth D. Taylor v. Justin Construction Company, Inc., BRB No. 25-0046 BLA (Dec. 18, 2025), the Board found that the ALJ failed to consider all relevant evidence in assessing the validity of PFTs administered in February 2021 and December 2022. Regarding the 2021 PFT, the Board stated that the ALJ did not consider: (1) Dr. Ajjarapu's notation of the Claimant's good cooperation and ability to understand/follow directions; (2) the technician's comments that the Claimant had good cooperation and effort and that the PFT met repeatability on the FVC; and (3) Dr. Basheda's assessment of the PFT. Regarding the 2022 PFT, the Board stated that the ALJ did not consider the technician's observation of good cooperation and effort and failed to adequately explain why the December 2022 PFT was insufficiently reliable to assess total disability based on the evidence she did consider. Therefore, it vacated her finding that the PFT evidence did not support a finding of total disability and remanded the case for further consideration.

[Pulmonary function studies; PFT validity]

In Glenn Sadler v. Cowin & Company, Inc., BRB No. 25-0066 BLA (Dec. 19, 2025), the Board rejected the Employer's argument that the ALJ erred in finding valid a PFT administered in November 2022. The ALJ did not give probative weight to Dr. Fino's opinion that all the PFTs of record were invalid. She considered Dr. Fino's opinion regarding the validity of the PFTs but concluded that he did not state with specificity how he determined that each PFT was invalid. Rather, he generally found the PFTs were invalid because of "premature termination to exhalation," "lack of reproducibility in the expiratory tracings," and "lack of an abrupt onset to inhalation." Additionally, the ALJ noted that the technician who administered the November 2022 PFT wrote that the Claimant's spirometry was "acceptable and reproducible," which undermined Dr. Fino's contrary opinion. The Board stated the ALJ permissibly found Dr. Fino's opinion less probative because he addressed the PFTs as a whole, rather than individually, when discussing why they were invalid. Therefore, it affirmed the ALJ's weighing of the PFT evidence and her finding that the Claimant was totally disabled from a pulmonary standpoint.

[Pulmonary function studies; PFT validity]