LAW OFFICE OF
ADELE L. ABRAMS P.C.

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April 2023

Federal Budget

Biden OSHA Budget: Ambitious … and DOA?

By Adele Abrams, Esq.ASP, CMSP

As the Biden Administration's first labor secretary, Marty Walsh, bid farewell in March 2023, the U.S. Labor Dept.'s proposed FY 2024 budget was released to Congress.

It includes $2.3 billion, an increase of $430 million from current funding levels, for worker protection agencies, including the Occupational Safety & Health Administration. To provide some perspective, however, OSHA's current budget is $632 million – and the Environmental Protection Agency receives close to $10 BILLION in annual funding.

OSHA's proposed 17% budget increase would provide for hiring 432 new employees and dedicates over half of the monies for development of safety and health standards. Compliance assistance, prosecution of whistleblower protection cases, and enforcement take up the majority of remaining funds.

The National Institute for Occupational Safety & Health, which conducts workplace OHS research and informs OSHA's regulatory decisions (but which is part of the Department of Health & Human Services) received a 2% CUT in the proposed Biden budget, without explanation.

The Mine Safety & Health Administration (MSHA) would pocket an additional 13% in funding, should the Biden budget be adopted. Much of that is earmarked for completion of MSHA's crystalline silica standard update, which is due as a proposed rule in Spring 2023. This would bring MSHA's FY 2024 funding to $438 million. Again, by way of comparison, MSHA has jurisdiction over approximately 13,000 mines in the U.S., while OSHA covers over 6,000,000 workplaces with $632 million.

The budget proposal was declared "Dead on Arrival" by the House Republican leadership, and all spending bills originate in that chamber, so it is likely

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D.C. Metro and West Virginia
(301) 595-3520

Colorado
(303) 228–2170

that a GOP version will offer draconian cuts to OSHA's current spending — and a deadlock with the Senate will ensue. In recent years, the Dept. of Labor has almost always been funded through continuing resolutions, due to failure of congress to pass individual department spending bills.

Appropriations hearings follow March Madness in Washington, DC, so stay tuned!

Mine Safety and Health Administration

MSHA Releases Findings of Impact Inspections

Sarah Ghiz Korwan, Esq.

In a news release dated March 28, 2023, the Mine Safety and Health Administration (MSHA) released its findings from impact inspections conducted at US mines with a history of repeated health or safety violations.

The purpose of these inspections is to identify and correct unsafe conditions and practices that may be putting miners' lives at risk. The impact inspections resulted in the issuance of 373 violations and three safeguards, MSHA alo reporting finding 113 alleged significant and substantial and 13 alleged unwarrantable failure violations at the mines inspected.

MSHA's impact inspections are unannounced, targeted inspections of mines with a history of significant violations of health and safety regulations. These mines are selected based on a number of factors, including injury and illness rates, enforcement history, and other indicators of safety and health performance.

One of the more concerning findings is the repeated failure of mine operators to properly address hazardous conditions related to ventilation, which can lead to deadly explosions or the buildup of toxic gases. MSHA also found numerous instances of inadequate safety training, failure to properly maintain equipment, and insufficient safeguards to prevent accidents and injuries.

It is important to note that not all mines with a history of violations are unsafe or putting miners at risk. However, MSHA's impact inspections are an important tool for identifying and correcting potentially hazardous conditions before they lead to serious accidents or fatalities.

MSHA reported on two specific impact inspections in its news release.

On February 1, MSHA issued 25 citations and 7 to order to the operator of Frontier Coal Company, Belcher Branch Mine, in Wyoming County, W.Va. Previously, in October 2022, the mine operator was issued two unwarrantable failure violations for failing to follow the MSHA-approved roof control plan and not conducting an adequate pre-shift examination; unwarrantable failure violations of the same mandatory standards were found during the impact inspection.

The citations issued in February, 2023, were for failure to comply with the roof control plan; failure to conduct adequate workplace examinations; failure of miners to wear proximity detection system equipment; and failure to identify and clean up loose coal and coal dust in the active travelways.

On Jan. 31, MSHA conducted an impact inspection at the Atalco Gramercy LLC, Gramercy Operation, located in St. James, Louisiana. MSHA inspectors issued 36 citations for violations of various mandatory health and safety standards, and two orders removing miners who lacked adequate training.

MSHA has made it clear that it will continue to conduct impact inspections at mines with a history of repeated violations and will take strong enforcement action against operators who fail to address safety and health hazards. This includes issuing citations and fines, requiring corrective action, and potentially shutting down mines that pose an imminent danger to workers.

The recent findings from MSHA's impact inspections are a stark reminder of the importance of maintaining a strong commitment to safety and health in the mining industry. While progress has been made in reducing the number of mining-related fatalities and injuries in recent years, there is still much work to be done to ensure that every miner goes home safe and healthy at the end of the day. It is vital that mines take all necessary steps to ensure that miners are working in safe and healthy conditions.

Our lawyers have experience and knowledge related to all things MSHA compliance related. If you need assistance with safety training and/or training plans, workplace examinations, or any compliance concerns, feel free to contact us for consultation and/or at The Law Office of Adele L. Abrams, P.C., 301-595-3520.

Occupational Safety and Health Administration

Workplace Monitoring May Come Under OSHA Scrutiny

By Adele L. Abrams, Esq., ASP, CMSP

The Center for Democracy & New Technology (CDT) a coalition of more than a dozen advocacy groups, has taken aim at employers' use of electronic surveillance and algorithmic management (ESAM) in the workplace, calling it a physical and mental health hazard and asking OSHA to regulate it. In an April 3, 2023, letter to OSHA chief Doug Parker (with copies to the White House Domestic Policy Council and the National Institute for Occupational Safety and Health (NIOSH)), CDT claims that ESAM is used by management to push workers – employees and contractors – harder and faster to their physical and mental health detriment.

The CDT letter targets three companies that use ESAM extensively – Amazon, Tesla and McDonald's. CDT claims that in the case of Amazon, the pervasive monitoring and discipline systems contributed to its "abysmal" safety and health record, while the other companies use surveillance to quash organizing efforts or to control frachisees' cashier employees.

CDT called on NIOSH to fund new research into the effects of ESAM technologies on worker health, noting that the increased pace of work results in musculoskeletal strain and increases the likelihood of accidents. Specifically, the call for research involves the effects of ESAM on workers' mental health, effects on physical health, and effects on accident rates.

OSHA was asked to include discussion of ESAM in sector-by-sector guidance on workplace injury prevention, and to issue new guidance specifically addressing workplace injury risks and solutions in warehousing. OSHA has issued ergonomic guidance for various industry sectors, but is barred from issuing a comprehensive ergonomics rule as its 2001 standard was rescinded by Congress under the Congressional Review Act.

Several state-plan states do have ergonomics standards, however, and CDT's arguments could lead to consideration of ESAM's role when conducting ergonomic hazard assessments under those rules.

The CDT coalition also called on OSHA to begin a regulatory process for ESAM based on its underlying statutory rulemaking authority. Their letter included a voluminous appendix, including a legal memorandum on why it would not violate the congressional rescission of the ergonomics rule because this would focus on mental health hazards in the workplace, which falls within OSHA's jurisdiction, and an ESAM rule would not be "substantially the same" as the defunct 2001 ergonomics rule and therefore can legally be promulgated.

This would not be a unique undertaking, should OSHA move forward in response. Canada's 2013 workplace mental health and safety rule addresses mental health as part of the employer responsibility

and was a world leader in this regard. More recently, Australian regulators and legislators focused on the psychological health of workers and are considering the level of scrutiny appropriate for business owners. Mental health in the workplace is also a centerpiece of NIOSH's "Total Worker Health" initiative and has been included in recent standards development projects by ISO and ANSI.

A recent report in the *Harvard Business Review* found that while employees are talking about mental health more at work than did in 2019 (nearly two-thirds of respondents reported talking about their mental health to someone at work in the previous year), only 49% sand their experience in doing so was positive in terms of getting a supportive response. In addition, 54% of all respondents said that mental health is a DEI issue, an increase from 41% in 2019. Clearly, there is more progress to be made.

For more information on workplace mental health and employment law, contact Adele Abrams at ***safetylawyer@gmail.com***.

State Laws

Cannabis Legalization Advances

By Adele L. Abrams, Esq., ASP, CMSP

April showers bring May flowers … Spring also brings cannabis flowers, apparently.

This Spring, the Delaware legislature (by a veto-proof margin) voted to legalize and regulate retail sales of adult-use marijuana. The legislation is similar to a version passed by the legislature in 2022 that was vetoed by the Governor – and the override failed when it ended in a tie due to a non-voting member.

Delaware will join its companions along the cost – Maryland and Virginia – which legalized recreational cannabis in 2022 by referendum (Maryland) and legislation (effective in Virginia in 2021). It's legal in New Jersey as well, just across the Bay by ferry. Maryland also passed legislation to enable medical dispensaries to service adult recreational customers, perhaps as early as July 2023.

Moving south, Kentucky's General Assembly also signed that state's medical cannabis legislation, making it the 38 th state with legal medical cannabis (plus Washington, DC, and all the territories).

Out West, in Washington State, legislation advanced (supported by the Governor) to prohibit employers from administering pre-employment drug tests for marijuana. This will make WA the eighth state to bar such testing of cannabis consumers.

Utah also is moving forward, with new laws that provide funding to establish a Center for Medicinal Cannabis Research at the University of Utah, facilitating clinical trials in various patient populations. Utah already has some legal cannabis for medical purposes, but the laws are more restrictive than most of the medical law states.

MD Passes Cannabis Law Impacting Criminal Searches

By Adele L. Abrams, Esq., ASP, CMSP

The Maryland legislature enacted legislation in mid-April that protects motorists from being "stopped and searched" by police solely on the basis of the smell of cannabis, although the odor can be a factor if the officer suspects that the driver is under the influence in order to perform an assessment.

Opponents of the bill had argued against it as well based on concerns that officers' ability to police impaired drivers would be reduced.

House Bill 1071 will take effect July 1st, the same day that recreational marijuana becomes legal in the state for adults. It prohibits stops and searches

based solely on possession of the personal use amount of 1.5 ounces of cannabis or on the presence of cash near cannabis without other signs of an intent to distribute the drug.

The legislation is viewed as part of criminal justice reform, as the smell of cannabis was often used to conduct invasive searches against people of color in Maryland historically. The legislation eliminates opportunities for officers to abuse the discretion afforded to them in these situations and reduce opportunities for racial profiling on the road, according to the bill's legislative sponsors.

Opponents of the legislation had argued that it will remove opportunities for police officers to find evidence of more serious crimes.

Now, defendants can argue that if a stop or search was based solely on the smell of marijuana, the evidence should be excluded in court. Lawmakers specified that the "exclusionary rule" applies, giving direct guidance on how courts should interpret the law. For assistance with cannabis legal issues, in or out of the workplace, contact the Law Office at safetylawyer@gmail.com.

Occupational Safety and Health Administration

Will 5th Circuit Reset Unpreventable Employee Misconduct Defense?

By Gary Visscher, Esq.

The Occupational Safety and Health Act is not a "strict liability" statute, unlike the Mine Act, for example. Early cases, such as *Horne Plumbing & Heating,* 528 F.2d 564 (5 th Cir., 1976) and Nat'l Realty & Const., 489 F.2d 1257 (D.C. Cir., 1973) established that "Congress intended to require elimination only of preventable hazards."

As a result, an employer charged with a violation by OSHA may raise the defense that the violative conduct or condition was caused by "unpreventable employee misconduct." The burden of proving the defense is on the employer, and the courts and the OSH Review Commission have developed a 4-part test. To establish the defense, the employer must establish that it (1) has established work rules designed to prevent the violation, (2) has adequately communicated those rules to its employees, (3) has taken steps to discover violations, and (4) has effectively enforced the rules when violations have been discovered.

Though often raised the defense of unpreventable employee misconduct is not often successful.

There are almost always shortcomings, in practice or in the proof submitted at the hearing, that gives the trier of fact reason to find the four elements of the defense were not all met.

For example, if an employer's discipline records show that few employees have been disciplined for violating safety rules, or a particular rule relevant to the citation at issue, does that always mean that the employer has been lax in disciplining? Or, could it mean that adhering to the rule was strongly emphasized by the employer, and that employees rarely violated it? One can find statements by the Commission and ALJs supporting both of those interpretations.

A case now before the 5th U.S. Court of Appeals may result in greater clarity and perhaps more employer-friendly parameters for the defense, at least for employers headquartered or working in the 5th Circuit (Mississippi, Louisiana, Texas).

The case, *J.D. Abrams v. OSHRC*, is an appeal of a decision by the Administrative Law Judge which the Review Commission declined to review.

It involves a citation issued to a construction company that was working adjacent to a public road.

OSHA issued a citation to J.D. Abrams after the area office director, driving past the work site, saw workers working in a trench without use of a trench box. He sent two inspectors to the site, who issued two citations, for failure to use the trench box and for

using a ladder that did not extend a full 3 feet over the edge of the trench.

Before the ALJ, the company argued, among other things, that the failure to use the trench box was contrary to the company's rules and training. The site supervisor testified that he knew the company's rule and failed to follow it. He testified that he had made "a mistake, a big mistake."

The ALJ found that the company had clear safety rules requiring the use of the trench box, and had instructed and trained employees on trench safety, including the use of a trench box. Nonetheless, the ALJ found shortcomings in the employer's proof as to the other two elements – that it took sufficient steps to discover violations and had effectively enforced its safety rules.

As to the former, the ALJ said that Abrams testified that it conducted safety audits, but that no copies of audits had been introduced into evidence. On appeal, Abrams points out that this particular worksite was less than a day old, so no audit of the site had been done. Abrams also claims that the ALJ ignored testimony as to the company's general policies which include conducting safety audits.

Similarly, the ALJ found that Abrams had not shown that it effectively enforced the trenching safety rules, because the only instances of discipline for violating the trenching rules submitted in evidence were "post incident," that is, to the supervisor and worker working at the site when the citation was issued. According to the ALJ, post incident discipline may be relevant but (at least in this case) were not sufficient evidence that the employer enforced its safety rule.

The 5th Circuit's decision may help to put some more clarity and predictability into the unpreventable employee misconduct defense and the employer's proof necessary to establish it.

The case is in the briefing stage, so a final decision is likely several months away.

Mine Safety and Health Administration

MSHA Enforcement Updates

Michael Peelish, Esq.

MSHA is active in the field on how it carries out its enforcement and other initiatives as noted in various factual scenarios that are occurring across the industry at mines, mill, and plants.

MSHA Recent Request for Information

Following the January 2023 fatal injury involving a jaw crusher, an MSHA district began requesting information about jaw crushers including the type of jaw crusher, whether the mine had JSA/JHA/SOP for maintenance, whether the mine had "miners not blocking flywheel or Pitman crushers", and whether "miners fully trained and understood" the blocking of crushers. These questions were being requested under the threat of a section 103 citation for impeding an inspection if not provided.

While this was a District initiative and not a national initiative, it does not make it any less intrusive or unauthorized. The operator is being asked to perform MSHA's job by certifying in writing that employees are properly trained and perform maintenance work all the time exactly right when management cannot possibly be "Everything, Everywhere All At Once".

If presented with this situation, my recommendation is to request that the inspector or their supervisor or the District Manager contact MSHA headquarters before you turn over any information because what MSHA is requesting is a document not required by the Mine Act. The information is available if MSHA wants it, but it will not be provided in writing by the mine operator.

The downside to this approach is some form of retribution by an inspector who must take the time to gather this information versus having it handed to them. The other obvious point is that if an operator provides false information, then that subjects the operator to allegations of falsifying a non-legally required document. The better side of MSHA should

come out and that is to give the operator information such as hazard alerts or a short form JSA/JHA/SOP on crusher maintenance and ask the operator to do its own assessment and make its own process changes if necessary. In my experience, the latter approach was a better motivator than the "give me the information or else" approach.

Hazard Complaint Summary No Longer Provided by MSHA

MSHA is no longer providing operators with a written summary (without names of course) of a hazard complaint per their stated "guidelines". Well, as in bridge, the highest trump card wins and so the regulation trumps the "guidelines".

A written notice Under 30 CFR 43.4(c) is to be provided no later than the time the inspection begins. A copy of such written notice shall be provided to the operator or his agent by the Secretary or his authorized representative no later than the time that the inspection begins.

What could be clearer? Eventually, as the special inspection proceeds, the nature of the hazard complaint will become evident. Having said that, the operator is entitled to know the allegations being made against it and the operator is entitled to have MSHA play by its own rules. The operator's right to know is grounded in constitutional protections especially when MSHA has warrantless search rights.

Also, MSHA should want to play by its rules and maintain its credibility versus believing it is gaining some tactical advantage by keeping secret the nature of its special inspection which will be revealed eventually. Essentially, this is a "silly little MSHA game" that does nothing to improve MSHA's standing in the mining community when it does not follow its own regulations, but the rest of us must follow the regulations, and thus only raise the ire of operators. And for what?

PPOV – The Nastiest Four-Letter Acronym

A Potential Pattern of Violation (PPOV) letter is something you do not want to receive. Unfortunately, it seems like MSHA is handing them out more frequently.

By regulation, MSHA must perform a PPOV review once annually. Since 2011, eight mines have been issued POV notices – seven of which were coal mines. Those have been removed from the POV list. In December 2022, MSHA issued its eighth POV notice for the first time to a metal/nonmetal operator.

However, what is disturbing is that MSHA pulled out the big stick again in January 2023 by issuing PPOV notices to three (3) additional mines as it announced on its quarterly stakeholder meeting call. Historically, the PPOV letters were not issued as frequently and were handled at the District or field office level with little fanfare. Not anymore.

Operators must stay abreast of their compliance record by using MSHA's POV calculator. More importantly, operators must stay a reast of the mine, mill, and plant conditions and get ahead of a PPOV letter by enhancing existing inspection / correction of hazardous condition processes or by developing new ways to reduce violative conditions and/or practices.

Based on my work experience in all mining sectors, if your company feels it needs assistance in developing a form of corrective action plan for better compliance, email me at: mpeelish@aabramslaw.com or call 301-595-3520.

National Labor Relations Board

NLRB General Counsel Issues Memo on Prosecutorial Priorities

Sarah Ghiz Korwan, Esq.

On March 20, 2023, National Labor Relations Board General Counsel Jennifer Abruzzo issued a 5 page Memorandum (No. 23-04) updating her prosecutorial priorities, and identifying NLRB decisions that

Abruzzo believes are contrary to the agency's Congressional mandate.

This latest memo updates Memorandum 21-04 issued in August 2021. The March 2023 memo notes there are 17 cases before the NLRB raising 15 issues that the Office of the General Counsel believes compromises the statutory rights of workers.

In two years, the GC has moved very quickly on many of her priorities discussed in her first memo. Memo 23-04 is dense with dozens of cases which have changed the labor landscape. Employers should expect the GC to continue issuing complaints and litigating the issues in the cases below.

If you have questions regarding specific cases or areas which may affect your business, feel free to contact us for consultation at The Law Office of Adele L. Abrams, P.C., 301-595-3520.

NLRB Regional Offices are required to submit cases to the Regional Advice Branch involving the following 15 issues:

• Cases involving the applicability of the inherently concerted doctrine, set forth in ***Hoodview Vending Co.***, 359 NLRB 355 (2012), including to subjects other than wages, but that regularly arise in the workplace, such as issues involving employees' health and safety, including insurance coverage; racism; gender or age-based discrimination; and sexual harassment.

• Cases involving applicability of ***Shamrock Foods Co.***, 369 NLRB No. 5 (2020) (distinguishing earlier Board cases, including ***Clark Distribution Systems***, 336 NLRB 747, 751 (2001) and ***Webel Feed Mills & Pike Transit Co.***, 229 NLRB 178, 179-80 (1977) and finding the offer of significantly more backpay than is owed in return for a waiver of reinstatement lawful).

• Cases involving the applicability of ***United Nurses & Allied Professionals (Kent Hospital)***, 367 NLRB No. 94 (2019) (requiring that unions provide non-member ***Beck*** objectors with verification that the financial information disclosed to them has been independently audited and that lobbying costs are not chargeable to such objectors).

• Cases involving the applicability of ***Johnson Controls, Inc.***, 368 NLRB No. 20 (2019) (overruling the "last in time" rule of ***Levitz Furniture Co. of the Pacific***, 333 NLRB 717 (2001) and requiring that a union faced with an anticipatory withdrawal of recognition, based upon evidence of a loss of majority support within 90 days prior to contract expiration, may only reacquire majority status through filing a petition for a Board election within 45 days from the date the employer gives notice of the anticipatory withdrawal during which time the employer is privileged to refuse to bargain or to suspend bargaining for a successor contract).

• Cases involving the applicability of ***Ridgewood Health Care Center, Inc***., 367 NLRB No. 110 (2019) (overruling ***Galloway School Lines***, 321 NLRB 1422 (1996) and finding that a successor employer that discriminates in refusing to hire a certain number of the predecessor's workforce to avoid a ***Burns*** successorship bargaining obligation does not necessarily forfeit the right to set employees' initial terms).

• Cases involving the applicability of ***Pittsburgh Post-Gazette***, 368 NLRB No. 41, slip op. at 3, n.5 (2019) (distinguishing Finley Hospital, 362 NLRB 915 (2015) in determining whether the post-contract status quo required increases to employer fund contributions). See also ***Richfield Hospitals, Inc.***, 368 NLRB No. 44, slip op. at 3, n.7 (2019) (where Board again declined to rely on Finley in connection with whether longevity pay increases were required post-contract expiration).

• Cases involving the applicability of ***Brevard Achievement Center, Inc***., 342 NLRB 982 (2004) (declining to extend the Act's coverage to individuals with disabilities on grounds that these individuals, where working in a rehabilitative setting, are not employees within the meaning of Section 2(3) of the Act).

• Cases involving the applicability of ***United States Postal Service***, 371 NLRB No. 7 (2021) (Board refusing to find a pre-disciplinary interview right to information, including the questions to be asked in the interview, as a purported extension of ***Weingarten***).

• Cases involving the applicability of ***ABM Onsite Services-West*** (2018) (Board, after initially asserting jurisdiction and certifying the union as representative of the employer's airport bag jammer technicians and dispatchers, reversed course and deferred to a National Mediation Board advisory decision in which NMB found Railway Labor Act jurisdiction under traditional six-factor carrier control test and overruled NMB cases requiring carrier control over personnel decisions). See also ***Oxford Electronics, Inc. d/b/a Oxford Airport Technical Srvcs***., 369 NLRB No. 6 (Jan. 6, 2020) (giving substantial deference to NMB advisory opinions concerning RLA jurisdiction).

• Cases involving a refusal to furnish information related to a relocation or other decision subject to ***Dubuque Packing*** (see former Chairman Liebman's dissent in ***Embarq Corp.***, 356 NLRB No. 125 (2011) and OM-11-58).

• Cases involving the applicability of ***Shaw's Supermarkets, Inc.***, 350 NLRB 585 (2007) (to assess whether this case should be overruled. The case permits midterm withdrawals of recognition where they occur after the third year of a contract of longer duration).

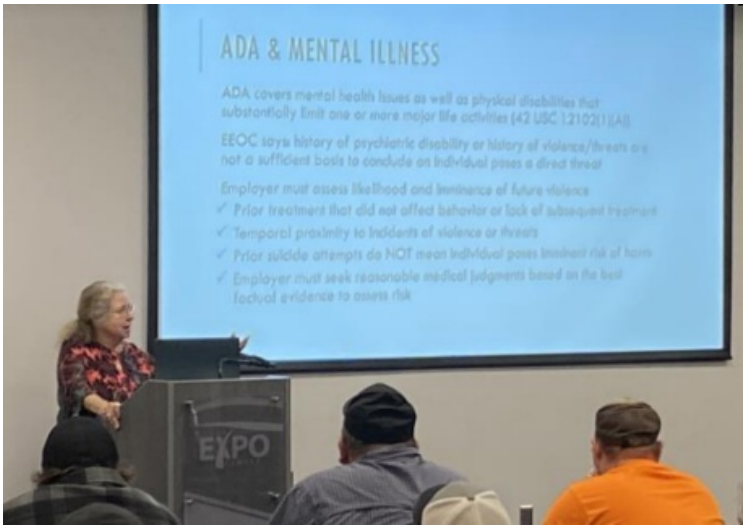
• Cases involving the applicability of ***Wal-Mart Stores***, 368 NLRB No. 24 (2019) (broadly defining an intermittent strike).

• Cases involving the applicability of ***Service Electric Co.,*** 281 NLRB 633 (1986) (allowing an employer to unilaterally set terms and conditions of employment for replacements even where those terms are superior to those that had been paid to striking unit employees).

• Cases involving the applicability of ***Ex-Cell-O Corp***, 185 NLRB 107 (1970) (declining to provide a make whole compensatory remedy for failures to bargain).

• Cases involving the applicability of ***Cordua Restaurants, Inc.***, 368 NLRB No. 43 (2019) (Board finding, among other things, that an employer does not violate the Act by promulgating a mandatory arbitration agreement in response to employees engaging in collective action).

• In addition, as set forth in **GC Memo 23-02**, Electronic Monitoring and Algorithmic Management of Employees Interfering with the Exercise of Section 7 Rights, Regions are now also required to submit to the Division of Advice cases involving electronic surveillance or algorithmic management that interferes with the exercise of Section 7 rights.



Adele Abrams, Esq. presented another successful Part 46 training for the Oregon Independent Aggregate Association on March 7 in Albany, Oregon and March 8 in Roseburg, Oregon.

LAW OFFICE OF
ADELE L. ABRAMS P.C.

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The Law Office of Adele L. Abrams PC is a full service law firm, focusing on occupational and mine safety and health, employment, and environmental law.

Our attorneys are admitted to practice in Maryland, Colorado, Washington DC, Michigan, Montana, Pennsylvania, and West Virginia. We handle OSHA, MSHA, and EPA administrative law cases around the United States. Our attorneys are admitted to federal courts including: US Supreme Court, US Court of Appeals (DC, 3rd and 4th Circuits), and US District Courts (Maryland, Tennessee, Washington, DC, and West Virginia).

In addition to our litigation practice, the Law Office offers mediation and collaborative law services, as well as consultation, audits, and training on safety, health and employment law issues.

Maryland Office

4740 Corridor Pl., Suite D
Beltsville, MD 20705
Tel: 301-595-3520
Fax: 301-595-3525

Colorado Office

600 17th St., Ste. 2800 So.
Denver, CO 80202
Tel: 303-228-2170
Fax: 301-595-3525

West Virginia

Tel: 301-595-3520
Fax: 301-595-3525

Don't Miss These Events in 2023

Presented by Adele Abrams, Esq., CMSP

April 17: National Business Institute – Maryland Employment Law Seminar (virtual)

April 20: Webinar with PA Aggregates & Concrete Assn. On Medical Cannabis Update

April 20: Avetta Webinar on Psychological First Aid & Workplace Mental Health

April 24: MSHA 101 -- Johns Hopkins University School of Public Health

April 26: Maine Aggregates Association – MSHA/OSHA Enforcement Update, Portland, ME

May 4: National Waste & Recycling Assn. Legal Symposium, Presentation on OHS Legal Update, New Orleans

May 15: Lorman, webinar on Bloodborne Pathogens Control

May 17: Avetta, webinar on Multi-Employer Worksites and Independent Contractor Safety

May 18-19: Psychological First Aid & Workplace Mental Health, National Safety Council Spring Safety Conference & Expo, Indianapolis, IN

May 24: National Electrical Contractors Assn. -- Safety Director's Conference, speak on OHS Update, Nashville, TN

May 31: Construction Safety Conference -- presentation on Substance Abuse Prevention & Drug Testing, Dallas, TX

June 2: National Safety Council, webinar on Drug Testing & Substance Abuse Prevention

June 13: SAFEPRO Mine Safety Law Institute, Savannah, GA

June 14 -15: BLR Master Class on OSHA Recordkeeping and Enforcement (virtual, 8 hours total)

July 24: Managers Guide to Workplace Safety and OSHA Compliance**,** Lorman Education Services, Eau Claire, Wisc.

Sept. 12: ASSP Region VI PDC -- Pre-conference class on OHS Update

Sept. 13: ASSP Region VI PDC -- presentation on Psychological First Aid & Workplace Safety

Sept. 19 - 20: BLR Master Class on OSHA Recordkeeping and Enforcement (virtual, 8 hours total)

Sept. 26 - 27: BLR Master Class on CalOSHA law and federal changes, San Diego, CA

Oct. 22: National Safety Council: pre-Congress master class on Substance Abuse Prevention & Drug Testing, New Orleans, LA

Oct. 23: PA Governor's Safety Conference, Presentation on Psychological First Aid, Hershey, PA

Oct. 24: PA Governor's Safety Conference, Presentation on Psychological First Aid, Hershey, PA

Nov. 8: ASSP/AIHA PDC, Presentation on OHS Update, Rochester, NY

Our Attorneys

Adele L. Abrams, Esq., CMSP
Firm president

Adele L. Abrams is the founder and president of the Law Office of Adele L. Abrams P.C. in Beltsville, MD, Charleston, WV, and Denver, CO, a multi-attorney firm focusing on safety, health and employment law nationwide. As a certified mine safety professional, Adele provides consultation, safety audits and training services to MSHA and OSHA regulated companies.

She is a member of the Maryland, DC and Pennsylvania Bars, the U.S. District Courts of Maryland, DC and Tennessee, the U.S. Court of Appeals, DC, 3rd and 4th Circuits, and the United States Supreme Court. She is a graduate of the George Washington University's National Law Center. Her professional memberships include the American Society of Safety Professionals, National Safety Council, the National Stone, Sand & Gravel Association, Associated Builders and Contractors, the Industrial Minerals Association-North America, and the American Bar Association. In 2017, she received the NSC's Distinguished Service to Safety Award.

Email: safetylawyer@gmail.com Tel: 301-595-3520

Diana Schroeher, Esq.
Associate attorney (MD), Sr. Employment Counsel

Diana Schroeher's practice is concentrated in employment law, occupational safety and health law, and maintains a wide-ranging local Maryland practice. She has extensive experience representing clients in the Maryland Courts, before the federal Equal Employment Opportunity Commission, the Department of Labor, Mine Safety and Health Administration, the Occupational Safety and Health Administration and many other federal and state administrative agencies. Diana is a member of the Maryland bar, and the U.S. District Court for the District of Maryland.

Email: dschroeher@aabramslaw.com Tel: 301-595-3520

Gary Visscher, Esq.
Of Counsel Emeritus
(DC, MI)

Gary Visscher has long-time involvement in occupational safety and health (OSHA and MSHA) and employment law. Prior to his current position, Gary worked in several U.S. government positions, including Workforce Policy Counsel for the U.S. House of Representatives Education and Workforce Committee, Commissioner on the Occupational Safety and Health Review Commission, Deputy Assistant Secretary for OSHA, and Board Member for the U.S. Chemical Safety Board. He has also served as Vice President, Employee Relations for the American Iron & Steel Institute, and as adjunct professor of Environmental and Occupational Health Policy at the University of Maryland Baltimore County (UMBC). Gary is a member of the Michigan and District of Columbia bars.

Email: gvisscher@aabramslaw.com Tel: 301-595-3520

Sarah Ghiz Korwan is a graduate of West Virginia University College of Law. She is the Managing Attorney of the Law Office of Adele L. Abrams P.C.'s West Virginia office. She has extensive experience representing mine operators and individuals cited by the US Department of Labor, Mine Safety and Health Administration and the WV Office of Miners' Safety and Training, and in accident investigations.

Email: skorwan@aabramslaw.com Tel: 304-543-5700

Sarah Ghiz Korwan,
Esq.Of counsel (WV)

Michael R. Peelish, Esq.
Sr. Counsel (CO, WV, PA)

Michael R. Peelish is an attorney and mining engineer with degrees from West Virginia University College of Law, Morgantown, WV (JD), and West Virginia University, Morgantown, WV (B.S. in Mining Engineering). He has over 28 years working in the mining sector and at OSHA-related facilities. He has handled cases before the MSHA and OSHA Review Commissions and in state and federal courts. Before re-entering the legal profession, he had company oversight for safety and health for 19 years and during that time served as a senior executive for over 14 years for multiple publicly traded mining companies with oversight for human resources, environmental affairs, purchasing, government affairs, training, natural gas production JV and methane capture operating unit, and continuous improvement. Throughout his career, he has worked with mine operators and OSHA general industry facilities on 5 continents to implement safety and health programs, to audit operations against their safety and health programs, and to seek improved ways of protecting employees' safety and health. He regularly performs safety and health audits and exposure assessments for his clients.

Email: mpeelish@aabramslaw.com Tel: 301-595-3520