

U.S. Department of Labor

Office of Administrative Law Judges
5100 Village Walk, Suite 200
Covington, LA 70433

(985) 809-5173
(985) 893-7351 (Fax)



Issue Date: 20 August 2018

CASE NO.: 2012-BLA-05298

In the Matter of:

**SARAH POWELL (EXECUTRIX)
O/B/O the estate of ROGER RICHARDSON,
Claimant**

v.

**GARRETT MINING, INC./
AMERICAN INTERNATIONAL,
Employer/Carrier**

and

**DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS,
Party-in-Interest**

NOTICE AND ORDER

In *Lucia v. SEC*, ___U.S.___, 138 S. Ct. 2044, 201 L. Ed. 2d 464, 2018 U.S. LEXIS 3836, 2018 WL 3057893 (2018), the United States Supreme Court ruled that Securities and Exchange Commission ("SEC") Administrative Law Judges ("ALJ") are "Officers of the United States" under the Appointments Clause of the United States Constitution, U.S. Const. art. II, §2. Because the SEC ALJ who heard Mr. Lucia's case lacked a valid appointment at the time he heard and decided the case, the Court ordered a new hearing before a different and properly appointed ALJ.

In this matter, Employer timely raised an Appointments Clause challenge to my appointment as a United States Department of Labor ALJ and my authority to hear and decide this case.

In view of the above, **IT IS ORDERED** that **within 14 days of the date of this Notice and Order** Employer shall file a statement indicating whether it seeks reassignment of this matter to a different ALJ. If a timely response is not filed, this matter will proceed before the undersigned.

SO ORDERED this 20th day of August, 2018, at Covington, Louisiana.

CLEMENT J. KENNINGTON
ADMINISTRATIVE LAW JUDGE