

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 22 August 2018

CASE NO.: 2017-BLA-06241

In the Matter of:

TOLBERT P. MULLINS,
Claimant,

v.

PRESTIGE COAL COMPANY, INC.,
Employer,

and

OLD REPUBLIC INSURANCE COMPANY,
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. While the Secretary of Labor ratified my appointment on December 21, 2017, the

parties may still be entitled to the relief announced in *Lucia* because I decided this matter and/or took significant action in this case prior to my ratification.

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 reassignment is confirmed, a new ALJ will be assigned to this case. If a response is not timely filed, the remedy of reassignment and a new hearing in this matter will be deemed waived and the case will proceed before the undersigned.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts