



## So, You're Telling Me NOT to Sue my Former Employees?

Insights

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First of all, yes, I'm telling you that (at least in most cases) suing your former employees may not be the best labor relations strategy, unless of course they are violating a valid non-compete or misappropriating your Company's trade secrets. Recently, a coal company learned that suing a former employee for filing a "fraudulent" discrimination complaint can be a violation of the Mine Act.

In Armstrong Coal Company, Judge Feldman found that the Mine Act was violated by Armstrong Coal when the Company filed a lawsuit against its former employee in state court. The employee had filed a discrimination complaint with MSHA and was temporarily reinstated (meaning that the Commission found his claim was not frivolous). MSHA, however, decided after further investigation of the complaint that it would not pursue the miner's discrimination complaint.

The Company decided to sue the former employee in state court, alleging that the employee filed a fraudulent complaint, intentionally designed to force the Company to expend litigation resources. MSHA filed a complaint with the Commission alleging that by filing its lawsuit, the Company interfered with the former employee's rights under the Mine Act.

Judge Feldman agreed with MSHA and held that the Company interfered with the miner's rights under Section 105(c), and that the Company's lawsuit was baseless and "motivated by the unlawful purpose of violating the anti-retaliation provisions of 105(c)(1) with impunity." Judge Feldman, for the first time in Commission history, ordered the Company to cease and desist from prosecuting its civil case against the miner. Judge Feldman also directed the parties to confer regarding appropriate civil penalties to be assessed against the Company.

What can we take away from this case? Now, more than ever, it is important to know what rights your miner's have under the Mine Act, and the steps you should take to protect your Company from discrimination complaints. Armstrong's actions demonstrate just how frustrating it can be to deal with seemingly meritless employee complaints. Therefore, you should ensure that your Company is doing all it can on the front end, to avoid difficult issues on the back end.