ATTACHMENT B

UNITED STATES DEPARTMENT OF LABOR
WORKERS' COMPENSATION PROGRAMS
CHARLESTON, WV

In the Matter of :	)	
	)	
	)	
GARY FOX,	)	
Claimant,	)	
	)	
	)	
	)	
and	)	
	)	OWCP No. [redacted]
	)	
Elk Run Coal Company,	)	
Employer,	)	
	)	
	)	
	)	

Claimant's Interrogatories to Employer

Pursuant to 20 C.F.R. §725.458 and 29 C.F.R. §18.18, the claimant, by his representative, serves upon the above-named employer, the following interrogatories.

These interrogatories are intended to be continuing in nature and to be supplemented and/or amended whenever the employer or the employer's counsel becomes aware of any additional information, which makes the answers herein either incomplete or inaccurate.

INTERROGATORY # 1: Please state the full name and present address of the person answering these interrogatories:

RESPONSE: These interrogatories are answered by Ann B. Rembrandt, counsel for the Employer, Jackson Kelly PLLC, P.O. Box 553, Charleston, West Virginia 25322, 304/340-1374.

INTERROGATORY # 2: Are you, your attorney, your insurance carrier, or your agent in possession of any interpretations of chest x-rays or chest CT scans, including re-reading, that were generated by either or the employer or the carrier and have not been exchanged with the claimant?

RESPONSE: The Employer and its attorneys are not in possession of any reports of x-ray readings, arterial blood gas studies, or other diagnostic tests of any kind generated by the Employer, which have not been previously submitted or provided to Claimant's counsel in his claim.

In federal black lung claims, the Employer regularly obtains medical records from sources identified by claimants in response to the Employer's Interrogatories. Such medical records have been procured in the instant case, but, since the records were not generated at the Employer's request and are readily obtainable by the Claimant, the Employer is not obliged to secure and forward the medical records to the Claimant. The Claimant may procure all of such information from his own medical providers as identified in his responses to the Employer's Interrogatories.

Medical evidence which consists of expert opinions requested by the Employer in evaluating a claim, and which was requested in the Employer's preparation of its defense but is not the opinion of any expert expected to "testify" (including the submission of a report in this matter) is a privileged information and is not subject to discovery under the Federal Rules of Civil Procedure or the Rules of Practice and Procedure for administrative hearings before the Office of Administrative Law Judges. Such evidence includes reports of medical consultations and re-readings of x-rays or CT scans.

INTERROGATORY # 3: If the answer to Interrogatory # 2 is yes, please provide the following:

(a) Date of the report(s),
(b) Name and address of the physician(s) who prepared the report(s),
(c) Brief description of the report(s),
(d) Number of pages in the report(s), and
(e) Location of the report(s).

RESPONSE: See Response to Interrogatory 2.

INTERROGATORY # 4: Are you, your attorney, your insurance carrier, or your agent in possession of any interpretations of pathology slides that were generated by either the employer or the carrier and have not been exchanged with the claimant?

RESPONSE: The undersigned is not yet in possession of Mr. Fox's prior claim for benefits. Otherwise, see Response to Interrogatory 2.

INTERROGATORY # 5: Are you, your attorney, your insurance carrier, or your agent in possession of any reports by physicians who have reviewed the claimant's medical records on behalf employer or the carrier that have not been exchanged with the claimant?

RESPONSE: See Response to Interrogatory 2.

INTERROGATORY # 6: If the answer to Interrogatory # 2 is yes, please provide the following:

a. Date of the result or report(s),
b. Name and address of the physician(s) who prepared the report(s),
c. Brief description of the report(s),
d. Number of pages in the report(s), and
e. Location of the report(s).

RESPONSE: See Response to Interrogatory 2.

Requests for Production of Documents

Pursuant to Rule 35(b) of the Federal Rules of Civil Procedure the claimant, by his representative, requests copies of all written reports by physicians who examined the claimant (including examinations of his pathology tissue) on behalf of the employer or carrier and the results of all tests (including interpretations of chest x-rays and CT scans) performed at the employer's request as part of any examination of the claimant, which have not been exchanged with the claimant previously. In this regard, the claimant requests a copy of all "diagnoses and conclusions, together with like reports of all earlier examinations of the same condition." Fed. R. Civ. P. 35(b).

Pursuant to 20 C.F.R. §725.458 and 29 C.F.R. §18.14, the claimant, by his representative, serves upon the above-named employer, a request for production of any additional documents identified in its answers to the foregoing Interrogatories. The claimant has a substantial need for these documents in order to adequately cross-examine the employer's experts about what evidence they have or have not reviewed. The claimant has no way of obtaining these documents, if they exist, by other means because they were prepared on behalf of the employer.

VERIFICATION

I verify that the answers and responses to the foregoing Interrogatories are, to the best of my knowledge, complete, true and correct.

Ann B. Rembrandt
Signature

Apr. 5, 2007
Date

CERTIFICATE OF SERVICE

I, Ann B. Rembrandt do hereby certify that service of the foregoing EMPLOYER'S ANSWERS TO CLAIMANT'S INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS was served upon the following by mailing a true and exact copy thereof to each of them in properly stamped and addressed envelopes deposited in the United States mail, postage prepaid, on this 5th day of April, 2007.

REGULAR MAIL

John Cline, Esquire
P. O. Box 47
Piney View, WV 25906

Ann B. Rembrandt
ANN B. REMBRANDT