

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

No. 15-3999

ABERRY COAL, INCORPORATED;  
ARROWPOINT CAPITAL INC.,  
c/o Underwriters Safety & Claims,  
Petitioners,

v.

JOSEPH FLEMING; DIRECTOR, OFFICE  
OF WORKERS' COMPENSATION PROGRAMS,  
UNITED STATES DEPARTMENT OF LABOR,  
Respondents.

**FILED**  
Dec 01, 2016  
DEBORAH S. HUNT, Clerk

Before: BATCHELDER and KETHLEDGE, Circuit Judges; LEVY, District Judge.

**JUDGMENT**

THIS MATTER came before the court upon the petition for review by Aberry Coal, Incorporated and Arrowpoint Capital Inc. of an order of the Benefits Review Board.

UPON FULL REVIEW of the record and the briefs of the Petitioners and Respondent Fleming,

IT IS ORDERED that the award of benefits by the Benefits Review Board is REVERSED, and the case is REMANDED for further proceedings consistent with the opinion of this court.

**ENTERED BY ORDER OF THE COURT**

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Deborah S. Hunt, Clerk