

# NEW MEXICO IMMIGRATION LAWYER BLOG

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## Mine Safety? Shareholders Meet the Trial Attorneys!

President Obama has announced sweeping mine safety initiatives in response to the recent West Virginia mining disaster in which 29 miners were killed. This is all well and good, but will it have any effect on the profit-driven corporations that run these mines? Sadly, the answer is probably no.

Massey Energy, the company that runs the Upper Big Branch mine where the recent tragedy occurred, was issued 515 citations in 2009 for that mine alone. There were already 124 citations against Massey Energy for Upper Big Branch mine in 2010. Over the last 5 years, Massey has been fined over \$7 million for safety violations. Of course, they fight these tooth and nail and have paid only \$2.3 million. Massey Energy, and other like-minded mining operators, seem to take the approach that they will fight every nickel of fines, dragging these cases out for years. All the while, they continue to rack up safety violations jeopardizing the lives of their workers.

Let's say for argument that Massey was forced to pay the full \$7 million in fines. Would that change their safety practices? Take a look at the numbers and judge for yourself. Massey Energy reportedly had 2009 revenue of \$583.9 million, down from previous year's revenue of \$661.28 million. It is also reported that Massey Energy CEO Don Blankenship made somewhere in the vicinity of \$19 million in 2008. It doesn't take a math genius to recognize that these paltry fines are not going to alter the profit driven decisions of Massey Energy or any other corporate actor.

What is a miner's life worth? Is a mine worker's life worth the investment in safety necessary to prevent the avoidable tragedies that occur far too often in mines? How about 29 workers? Apparently, the answer is no. This is quite obvious when one looks at the safety record of Massey Energy. The profit equation must be altered.

What's the answer? President Obama is certainly on the right track but there needs to be more. These companies must pay the price for reckless safety practices that jeopardize their workers. I am confident they will, but not through the fines envisioned by the new wave of safety inspections. These paltry fines have had and will have no affect companies like Massey Energy that place profitability before the safety of their workers.

Instead, the real price will come from the personal injury lawsuits sure to come in the next several months. And when they do, the Tort Reformers will cry foul that the greedy trial lawyers are simply taking advantage of a tragic situation.

Main Office:  
400 Gold Ave. SW  
Suite 500  
Albuquerque, NM 87102  
(505) 242-5958

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They will make these arguments knowing full well that these lawsuits carrying significant compensatory and punitive damage awards will provide the only real incentive for corporate change. Changing the profit equation to include possible massive damage awards is the only thing that will get their attention. And it is the only way to avoid future tragedies like the Upper Big Branch mine disaster.

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