

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

A. FRANK DUNHAM, *et al.*,  
Plaintiffs,  
v.  
MICHAEL H. HOLLAND, *et al.*,  
Defendants.

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: Civil Action No. 04-1993 (JR)  
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## ORDER

For reasons to be set forth in an opinion to follow, the motion of Employer Trustees A. Frank Dunham and Elliot A. Segal for summary judgment [5] is **granted** as to Arbitrator Irving's decision that BethEnergy is "no longer in business" if Massey is not legally obligated to provide health benefits to BethEnergy retirees at the High Power Mountain Preparation Plant and Eagle Nest Mine who never came to work for a covered Massey subsidiary and otherwise **denied**. The motion of Union-Appointed Trustees Michael H. Holland and Marty D. Hudson for summary judgment [6] is **denied** as to Arbitrator Irving's decision that BethEnergy is "no longer in business" if Massey is not legally obligated to provide health benefits to BethEnergy retirees at the High Power Mountain Preparation Plant and Eagle Nest Mine who

never came to work for a covered Massey subsidiary and otherwise  
**granted.** It is **SO ORDERED.**

JAMES ROBERTSON  
United States District Judge