

Civil Action No. 82-383

DEPT. OF LABOR v. DEEP RIVER COAL CO.
(mining violations)

Prelim. Conf. 23 June, 10 AM

Motion (w/affidavit) of plaintiff for Summary Judgment/

Deep River has been charged with numerous violations. Labor has assessed \$10,567.00 in civil penalties. The record shows that the procedures were proper, notice given, etc.

Defendant denies generally on the ground of lack of knowledge, and raises (without authorities) these issues:

1. Did violations describe with particularity the nature of of violations charged? (Yes, sufficiently so)
2. Did defendant receive notice of civil penalties? (Yes)
3. Did assessments of civil penalties take into consideration defendant's history of previous violations? (Don't think this is a requirement . . . haven't read any thing that says Labor must consider record. Anyway, defendant had an opportunity for a hearing, and passed on it).

Pleadings, exhibits, and the Affidavit seem to be sufficient to award summary judgment in favor of the plaintiff.

GLP