



**Mine Safety  
& Health Law  
Special Institute**  
*Encore at Wynn Las Vegas*  
**September 24, 2016**  
**Las Vegas, Nevada**

**Sponsored by the  
Energy & Mineral Law Foundation  
and the  
Rocky Mountain  
Mineral Law Foundation**  
*in conjunction with the  
National Mining Association's  
2016 MINExpo International*

## Program Committee

- Daniel W. Wolff  
Program Chair  
*Crowell & Moring LLP*  
Washington, DC

Special thanks to the attorneys at the following law firms and federal agencies who contributed to the development of this program:

- Crowell & Moring
- Dinsmore & Shohl
- Hardy Pence
- Holland and Hart
- Hunton and Williams
- Husch Blackwell
- Jackson Kelly
- Law Offices of Adele Abrams
- Ogletree Deakins Nash Smoak & Stewart
- Rajkovich Williams Kilpatrick & True
- Spilman Thomas & Battle
- Steptoe & Johnson PLLC
- Squire Patton Boggs
- Vinson & Elkins
- U.S. Solicitor of Labor, Federal Mine Safety and Health Division
- U.S. Department of Justice

## Program schedule

7:30 a.m.

### Registration Desk Opens Continental Breakfast

8:30 - 8:40 a.m.

### Welcome and Introductions

- Daniel W. Wolff, Program Chair, *Crowell & Moring LLP*, Washington, DC

8:40-10:00 a.m.

### Criminal Enforcement

This panel will address the perspectives of government and industry practitioners on the potential criminal implications of mine safety and health violations; the December 2015 Memorandum of Understanding between the Department of Justice and Department of Labor regarding criminal prosecution of workplace safety and health violations; and recent prosecutions of significance.

- Deborah J. Harris, Chief, Environmental Crimes Section, Environment and Natural Resources Division, *U. S. Department of Justice*, Washington, DC
- Derek Baxter, U. S. Department of Labor, *Office of the Solicitor*, Arlington, VA
- Gregory E. Goldberg, *Holland & Hart LLP*, Denver, CO

10:00-10:15 a.m.

### Break

10:15-11:00 a.m.

### MSHA Investigations and Document Requests

This panel will address MSHA's investigation authority, including its right to obtain documents and records, and the developing judicial recognition of MSHA's de facto administrative subpoena authority.

- Mark E. Heath, *Spilman Thomas & Battle PLLC*, Charleston, WV
- Derek Baxter, U. S. Department of Labor, *Office of the Solicitor*, Arlington, VA
- Jeffrey K. Phillips, *Steptoe & Johnson PLLC*, Lexington, KY

11:00-11:30 a.m.

### 105c Cases and Developments

This topic will address legal developments regarding the Mine Act's whistleblower provision.

- Noelle Holladay True, *Rajkovich, Williams, Kilpatrick & True, PLLC*, Lexington, KY

11:30 am.-Noon

### Judicial Deference in Mine Act Cases

This topic will address case law developments regarding the deference given MSHA and the Review Commission.

- Margaret S. Lopez, *Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*, Washington, DC

Noon-1:30 p.m.

### Lunch

#### Program: Western Mining Issues

Former Wyoming Governor Dave Freudenthal will address topics of interest to western mining, including recent federal actions related to sage grouse, "net gain" mitigation policy, the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act, and land use planning.

- Dave Freudenthal, former Governor of Wyoming, *Crowell & Moring LLP*, Cheyenne, WY

1:30-2:00 p.m. **Case Law Update**

This will be an update on recent Commission and court cases of note (excluding cases arising under Mine Act 105c, which will be covered in an earlier topic).

■ Patrick W. Dennison, *Jackson Kelly PLLC*, Pittsburgh, PA

2:00-2:30 p.m. **Effects of Bankruptcy on Mine Act Enforcement**

This topic will address MSHA enforcement issues pre- and post-petition, the limits of the automatic stay, and potential successor liability.

■ Peter S. Gould, *Squire Patton Boggs LLP*, Denver, CO

2:30- 3:30 p.m. **MSHA's Regulatory Agenda**

This panel will address MSHA's regulatory agenda and provide in-house perspectives on the effect of recent and proposed rulemakings from both the coal and industrial mineral sectors.

■ Adele L. Abrams, *Law Office of Adele L. Abrams*, Beltsville, MD

■ Gary Broadbent, *Murray Energy Corporation*, St. Clairsville, OH

■ Susan F. Wiltsie, *Hunton & Williams LLP*, Washington, DC

■ Daniel W. Wolff, *Crowell & Moring LLP*, Washington, DC

3:30-3:45 p.m. **Break**

3:45-4:45 p.m. **Ask the Commission**

This will be a moderated Q&A with a commissioner and the chief administrative law judge of the Federal Mine Safety and Health Review Commission.

■ Donna Pryor, Co-moderator, *Husch Blackwell LLP*, Denver, CO

■ Derek Baxter, Co-moderator, Derek Baxter, U. S. Department of Labor, *Office of the Solicitor*, Arlington, VA

■ William I. Althen, Commissioner, *Federal Mine Safety and Health Review Commission*, Washington, DC

■ Robert J. Lesnick, Chief Judge, *Federal Mine Safety and Health Review Commission*, Washington, DC

4:45-5:15 p.m. **Legal And Other Benefits To Building And Maintaining  
A Culture Of Workplace Safety**

:This topic will address how a safety culture rooted in training and inculcating employees to make the safe decision each and every time can not only eliminate accidents but also help mitigate MSHA enforcement consequences, and in turn lower an operator's legal and operating costs and lessen the distraction of diverting human and other resources away from core operations.

■ F. Thomas Rubenstein, *Dinsmore & Shohl LLP*, Morgantown, WV

5:15 p.m. **Closing Remarks**

■ Daniel W. Wolff, *Crowell & Moring LLP*, Washington, DC



# Yes, I want to attend the Mine Safety & Health Law Special Institute

Registration fee includes meeting materials and presentations, continental breakfast and breaks, and luncheon.

<i>Registration fees</i>	<i>Early Bird (by September 1)</i>	<i>After September 1</i>
General Registration Fee.....	\$425	\$525
MINExpo Attendees.....	\$325	\$425
EMLF and RMMLF Members.....	\$325	\$425
Government Employees/Government Attorneys .....	\$225	\$325

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State(s) for CLE Credits? \_\_\_\_\_ Do you need AAPL Credit? \_\_\_\_\_

**Fees:**

Conference registration \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

The program will be accredited for attorneys and contains 335 minutes of Continuing Legal Education (CLE), or approximately 5.5 hours in states which calculate a CLE hour based on 60 minutes, and 6.7 hours of CLE credit in states which calculate a CLE hour based on 50 minutes. Materials for the program will be available for viewing and downloading on the EMLF website at <http://www.emlf.org>. If your state bar requires hard copies of the presentations at the time of the program, please download and print the online materials so you will be able to comply with this requirement.

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### Cancellation policy

Registration refunds less \$75 will be made for cancellations received by September 10. No refunds will be made thereafter, but substitutions can be made at any time.

### Three ways to register

- If registering online, go to [www.emlf.org](http://www.emlf.org)
- If registering by fax, call 859.226.0485
- If registering by mail, send form and payment to EMLF, 340 South Broadway, Suite 101, Lexington, KY 40508

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