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Case study: Zero damages awarded in dispute over surface/highwall mining reserves

Problem

Our client was the operator/lessee of certain coal properties that were owned by a large land company in West Virginia and comprised underground, surface and highwall mining reserves. The land company claimed that our client sterilized substantial blocks of the coal, predominantly in the underground mine areas and the highwall mining areas. Arbitration was commenced seeking substantial lost coal damages.

Solution

The client hired Frost Brown Todd (FBT) to defend its practices at arbitration. FBT's trial team, led by [Barry Hunter](#), retained two prominent mining engineers to defend against the land company's claims. On both the deep mine and the highwall mining areas, FBT's engineers were able to demonstrate that the plaintiff's engineers had substantially overestimated the amount of recoverable coal that was left behind in the allegedly sterilized areas, and they were further able to demonstrate that none of the coal that was left behind was merchantable and marketable.

Client Benefit

The arbitration panel issued an award, after a five-day arbitration, finding no damages and no liability against our client.

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