

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**HARRY WILEY, individually
and on behalf of all others similarly situated,**

Plaintiff,

v.

**Civil Action No. 2:25-cv-227
(Honorable Irene C. Berger)**

**ROBERT F. KENNEDY, JR., in his
official capacity as Secretary of Department
of Health and Human Services, and
U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Defendants.

MOTION FOR PRELIMINARY INJUNCTION

NOW COMES Plaintiff, Harry Wiley, by counsel, and applies for a Preliminary Injunction pursuant to Rule 65 of the *Federal Rules of Civil Procedure*, effective during the pendency of this litigation, to enjoin the Defendants from terminating the epidemiology program known as the Coal Workers' Health Surveillance Program ("CWHSP") and the job transfer program known in the mining industry by the name of its implementing regulation, "Part 90." *See* 30 C.F.R. Part 90. With no advance notice, on April 1, 2025, Defendants terminated most of the critical employees, including the chief medical officer, overseeing the CWHSP and job transfer programs, thus jeopardizing miners – like the Plaintiff, Harry Wiley – who seek to utilize these critical and time-sensitive protections from continued dust exposure and debilitating disease. Specifically, Defendants terminated or placed on administrative leave all employees in the Respiratory Health Division of the National Institute for Occupational Safety and Health ("NIOSH"). As set forth more fully in the Memorandum of Law accompanying this Motion, the Plaintiff seeks a

Preliminary Injunction that restores NIOSH's Respiratory Health Division and permits that Division to carry out its mandatory statutory duties.

**Respectfully Submitted,
HARRY WILEY, individually and on
behalf of all others similarly situated,
By counsel:**

/s/ Samuel B. Petsonk
Samuel B. Petsonk (WVSB #12418)
PETSONK PLLC
PO Box 1045
Beckley, WV 25802
(304) 900-3171 (phone)
(304) 986-4633 (fax)
sam@petsonk.com

/s/ Bren J. Pomponio
Bren J. Pomponio (WVSB #7774)
MOUNTAIN STATE JUSTICE, INC.
1217 Quarrier Street
Charleston, West Virginia 25301
(304) 344-5565
(304) 344-3145 (fax)
bren@msjlaw.org

/s/ J. Michael Becher
J. Michael Becher (W.Va. Bar # 10588)
APPALACHIAN MOUNTAIN ADVOCATES
PO Box 507
Lewisburg, WV 24901
(304) 382-4798
mbecher@appalmad.org