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Dear Judges,

It is difficult to imagine someone more voiceless or whose suffering is more silent than the Appalachian coal miner. Hidden away in the hollows of southern West Virginia, eastern Kentucky and southwestern Virginia are the men and women who live and die for coal, who spend lifetimes underground and see the fruits of their labors enrich others and deliver cheap energy, who suck in dust and don't complain as it blackens their lungs and chokes off their breath.

This world inspired *Breathless and Burdened*, a yearlong Center for Public Integrity investigation exposing how eminent doctors and lawyers, working at the behest of the coal industry, have helped deny sick and dying miners the meager benefits and affordable medical care they need to survive.

The series laid bare the cutthroat tactics, including the withholding of evidence, the industry's go-to law firm has employed for decades to defeat worker claims. It shone a light on a little-known corner of the hallowed grounds of the Johns Hopkins Medical Institutions: a unit of doctors who long have been the industry's experts of choice. These doctors, the Center revealed, consistently have provided opinions crucial to defeating miners' claims, even as evidence proved their methods unsound and their conclusions wrong.

The investigation prompted immediate impact. Two days after the Center's report, Johns Hopkins suspended its black lung program, pending a review; using the stories as a guide, U.S. senators began crafting legislation to reform the benefits system; and members of Congress pressed for an investigation by the Labor Department's inspector general.

To tell the stories, Center for Public Integrity reporter Chris Hamby obtained hundreds of thousands of previously confidential documents, created the first-ever database of doctors' opinions and traversed the hills of central Appalachia, visiting rural clinics and sitting with miners in their homes as they gasped for breath or inhaled oxygen from a tank.

Told against the backdrop of the lives of men like Gary Fox and Steve Day, miners denied benefits despite powerful evidence of their illness, the stories showed the human costs of coal companies' vigorous efforts to defeat virtually every claim for benefits, which start at just over \$600 a month.

Breathless and Burdened grew out of Hamby's time in the coalfields, reporting for a previous project about the surprising resurgence of black lung disease, and continued the Center's years-long effort to expose threats to blue-collar workers. Though black lung often is seen as a relic of a past era of mining, government numbers show incidence of the disease has been on the rise since the late 1990s, and, in recent years, the number of miners filing benefits claims has increased.

Traveling throughout Appalachia, Hamby encountered hopelessness among miners and horror stories about the compensation program created to help them. He turned his

attention to this obscure federal benefits system, a rarely scrutinized realm with its own rules and wrinkles. Were significant numbers of sick and dying miners being wrongfully denied benefits? To answer the question, Hamby immersed himself for a year in a world of legal and medical complexities.

Exposing the behavior of the preeminent black lung defense law firm, West Virginia-based Jackson Kelly PLLC, required piercing the veil of confidentiality surrounding benefits claims. Only the judge's final decision is public; everything else is protected by privacy laws. Hamby identified key cases, then connected with miners or their survivors. Most signed waivers opening their files. They felt what had happened to them was wrong and wanted their stories told.

Included among the stacks of previously secret documents was evidence the firm had kept from miners. Over decades of coal company defense work, Jackson Kelly withheld reports showing miners suffered from severe black lung disease, a practice that helped deprive sick workers their benefits. Jackson Kelly said it was simply presenting evidence to support its case, but, following Hamby's inquiries, West Virginia disciplinary officials opened investigations into three of the firm's lawyers.

The series' second installment revealed how thousands of opinions by doctors at Johns Hopkins have helped the coal industry defeat miners' claims. No data existed on the medical opinions in black lung cases, and the information was scattered in various formats throughout judges' decisions. Hamby spent months creating a unique database of cases. The results were striking.

Dr. Paul Wheeler, the longtime leader of the Johns Hopkins black lung program, had not once reported seeing severe black lung on X-rays in more than 1,500 cases decided since 2000. Yet other doctors examining the same films repeatedly saw the disease. In the rare cases in which pathology evidence – tissue samples considered more reliable than films the doctors saw – existed, it overwhelmingly supported a diagnosis of black lung, proving Wheeler wrong.

Months into the reporting, the Center shared its findings with the ABC News investigative unit, whose broadcasts help reach a wider audience. ABC produced a 10-minute "Nightline" segment focusing on the unit at Johns Hopkins, building from the Center's work and airing the evening of the Center's publication of part two.

The third installment explored the next battleground in black lung cases, exposing the coal industry's denial of science related to an emerging form of the disease.

In addition to the swift impact, *Breathless and Burdened* spurred a push for lasting change. "We have, I think, an abiding obligation to right this wrong," said U.S. Sen. Robert Casey, among the lawmakers crafting reform legislation. "There's a real sense of frustration when you see we haven't made nearly as much progress as we thought we were making before having read this report."

The series has spread throughout rural clinics and law offices, and attorneys are seeking to use it in ongoing cases or to reopen previously denied claims.

Calls and emails from miners and their advocates poured in. After Johns Hopkins suspended its black lung program, one lawyer wrote the Center: "Most very effective public health professionals go their entire careers without something this dramatic occurring. Never have I approached the knockout punch you delivered ... and getting one of the largest institutions in the world to take notice. Hard to believe."

Miner Steve Day, who lost his claim primarily because of the opinions from doctors at Johns Hopkins, has filed a new claim for benefits. Told that the venerable institution would not be able to weigh in on his case, he expressed hope, for the first time in years.

"Thank you," he said, "for all the coal miners."

Sincerely,



Bill Buzenberg
Executive Director