

# Federal Appeals Court Affirms \$2 Million Accelerated Coal Royalty

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*United States Court of Appeals for the Fourth Circuit affirms enforcement of \$2,000,000 Accelerated Coal Royalty*

Representing Thomas K. Lampert in litigation against Tams Management, Inc. and Southern Coal Corporation, attorneys from Bailey Glasser prevailed during a recent appeal to the United States Court of Appeals for the Fourth Circuit.

U.S. District Judge Irene Berger had concluded that the parties' agreement, to immediately accelerate a \$2,000,000 coal royalty in the event that Tams Management, Inc. and Southern Coal failed to obtain timely permit transfers, could and should be fully enforced under West Virginia law.

Tams Management, Inc. and Southern Coal Corporation contended that the accelerated royalty instead constituted an unenforceable contractual penalty. Judge Berger concluded that the accelerated royalty is just that, a royalty, and that both State and Federal law supported the enforcement of the accelerated payment.

Berger explained that "the parties negotiated a straightforward royalty provision as part of a mining contract, and Tams agreed that if it was unable to obtain certain essential permits within 90 days of execution of the agreement, it would be immediately liable to the Plaintiff for a significant portion of the total royalty amount: \$2,000,000." In addition to substantial prejudgment interest on the royalty, Judge Berger also awarded Mr. Lampert all of the attorneys' fees that he incurred in the litigation.

Tams Management, Inc. and Southern Coal Corporation appealed that decision. Bailey Glasser partner Brian Glasser defended Judge Berger's ruling on appeal, and the Fourth Circuit agreed.

A copy of Judge Berger's Memorandum Opinion is available [here](#).

## **Attorneys**

Brian A. Glasser

## **Practice Areas**

Environmental