Short Circuit 297 | Working in a Coal Mine with TikTok

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Wilgar Land Co v. Director, In re TikTok

SPEAKERS

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A Anthony Sanders 00:24

"Five o'clock in the morning. I'm already up and gone. Lord, I'm so tired. How long can this go on? Working in a coal mine. Going down, down, down. Working in a coal mine. Oops, about to slip down." Well, that of course was Lee Dorsey's famous track about a man working in a coal mine who's so tired, he can't even have fun on a Saturday, shorn of the music and singing to protect the listeners. And you're going to hear about coal mining and also Tik Tok, interesting contrast today, here on Short Circuit, your podcast on the federal courts of appeals. I'm your host, Anthony Sanders, director of the Center for Judicial Engagement at the Institute for Justice. We're recording this on Friday, November 3, 2023. And I have two Institute for Justice attorney experts to explain the old and the new economy to everyone today, which is actually having to do with administrative law and writs of mandamus. So we got a lot going on. We got the old economy of coal mining, the new economy of dancing videos that last only 15 seconds, and you're gonna hear about all of that from my good friends, Dan Alban and Suranjan Sen. Welcome both of you.

D Dan Alban 01:51

Thank you.

S Suranjan Sen 01:52

Thanks, Anthony.

A Anthony Sanders 01:53

Well, let's start in the hills of Kentucky. Our regular contributor Brian Morris, I think, is gonna be a little jealous that his Kentucky real estate that he's occupied in Short Circuit in recent months is going to be taken away by Dan, who is going to fill us in on working in a coal mine. So what's

it like Dan?

D **Dan Alban** 02:17

Well, it's dark, and it's dirty, and you breathe a lot of stuff that you don't want to be breathing. And that's the basis of the case that I'm going to be talking about out of the 6th Circuit: *Wilgar Land Company v. the Office of Workers' Compensation*. So this is a case about black lung disease and specifically whether or not a miner named Tony Lee Adams is covered by a program that was set up to administer various benefits related to being a victim of black lung disease. And so there is a federal statute, the Black Lung Benefits Act, that authorizes these benefits for coal miners, which is still being litigated lo these many years later. Mr. Adams last was mining coal in 1995 and did so on and off between 1979 and 1995. He worked a little over 10 years as a coal miner during that time, and his job involved working on the cutting machine, which is apparently one of the dustier jobs in a coal mine. So higher risk, more likely to be inhaling the kinds of dust that cause black lung disease, which, by the way, is called pneumoconiosis, although I'm going to be calling it black lung disease. That's the colloquial term for it, and a lot easier for me to say.

A **Anthony Sanders** 03:52

I think you said it excellently, Dan. I could never say that word.

D **Dan Alban** 03:58

I'm going to say it that one time and move on. So Mr. Adams, who was born in 1960, passed away in 2013 and worked as a coal miner for a little over 10 years. He also smoked about a pack a day of cigarettes from age 18 until he passed away. And so the question in the case is, is he covered by this federal Black Lung Benefits Program? Or is the cause of his demise solely from his pack-a-day consumption of cigarettes? And the case sort of turns on a preamble to a set of regulations issued by the Department of Labor related to this Black Lung Benefits Act. And as people who are familiar with administrative law probably know, administrative agencies, in order to carry out the statutes that Congress has enacted, promulgate regulations to sort of fill in the blanks and apply those statutes to specific situations. And so those regulations go through notice and comment rulemaking, and that happened with the underlying regulations in this case. However, as part of the notice and comment rulemaking, it will shock no one to learn that many of the mining companies and/or their insurers had lots of comments about the regulations that were proposed and lots of pushback about the proposed regulations. And so, as part of the notice and comment process, the Department of Labor modified and added additional explanations and other material in response to those public comments, including a preamble to the regulations that sort of explained the position that the Department of Labor was taking in the regulations about how even if someone's black lung disease is only partly caused by coal dust, they are still someone who is subject to this Black Lung Benefits Program. So this preamble, I think, would normally be called guidance. It's, you know, something that the agency issues in order to provide clarity to the people it regulates or to really anyone who's curious about how it intends to interpret its regulation. But because this preamble did not go through the notice and comment process itself (again, it came at the end of the process), it is not binding. It is not the regulation; it is merely guidance from the agency about how to

interpret a regulation. But one thing that's rather unusual about this guidance is it doesn't just include information about how the agency will interpret the Black Lung Benefits Act and its regulations promulgated thereunder. It also includes a factual statement about the scientific evidence related to black lung disease and its causes and sort of whether working in coal mine can contribute to someone developing black lung disease, even if there are other causes such as smoking or other types of pollution. And the case really centers on that factual statement in the preamble and whether or not the administrative law judge, who was interpreting and applying the regulation with respect to Mr. Adams, deferred overly much to that factual preamble. The mining company and really its insurer (because the mining company, I think, went out of business long ago) argues that the administrative law judge inappropriately treated this preamble as binding and deferred to it in every instance over the three experts presented by the insurer who indicated that, in fact, Mr. Adams' disease was caused entirely by smoking and not from his working in a coal mine. And so this is kind of an odd thing, right? Because normally, guidance is, you know, something that offers some sort of interpretive guidance (as the term indicates), but here, it's really a factual statement that I guess is kind of treated as the default factual scenario. It has some sort of presumptive value that can be overcome by better evidence but is kind of presumptively what the Department of Labor and, therefore, its administrative law judges think is kind of the background way of looking at this issue. And that strikes me as really peculiar, and it seemed to strike the panel as rather peculiar as well, because I haven't seen this very often in a judicial opinion where there is a nearly half page string cite justifying this sort of reliance on a factual statement and a preamble. But on page 10 of the slip opinion, there is nearly a half page of a string cite that explains that yeah, this is how we do it. And the opinion says, more unusually, we and many other courts have held that judges, these administrative law judges, may rely on the preamble statement of scientific fact when resolving evidentiary disputes in particular cases. And under this case law, a judge may assign more weight to an expert opinion that comports with the medical principles accepted by the Department of Labor, as compared to an expert opinion that conflicts with these principles. And that's where the long string cite comes in. And so, at the end of this, the panel says this precedent thus seems to allow judges to treat the preamble as additional scientific evidence in black lung cases. So I thought it was kind of unusual that the court kind of went out of its way to justify this. It seems like it struck either Judge Murphy or someone else as pretty weird that there's this preamble that has evidentiary value in these cases. And I should mention, by the way, technically, this is an appeal from the review board that oversees the administrative law judge's decision, but the review board essentially said, yep, A-OK on the LJ's decision. And so the 6th Circuit is really effectively just reviewing what the ALJ did. And so the 6th Circuit says no, this was not an instance of an ALJ inappropriately treating this preamble, this guidance, as binding because the judge simply found the preamble more persuasive than the experts. And so they kind of go through, and they look at five different examples that the insurer points out is sort of odd instances where the ALJ defers to the preamble, the scientific evidence in the preamble, over the experts, doctors, and scientists, I think, presented by the insurer to show that, in fact, Mr. Adams' death was caused by his smoking rather than the black lung disease. And I'm not totally persuaded by what the court says here because although, you know, the ALJ does say I am not treating this as binding ... And there's several points in the opinion, in his opinion, which indicate that, you know, quite affirmatively, he's not treating the preamble as binding. The way that the ALJ evaluates these scientific claims by the experts is really just to say do they conform with or contradict the preamble? And if they conform with it, then they're okay. And if they contradict it, then I don't believe them. And that strikes me as weird. That doesn't strike me as someone who's finding something more persuasive. It strikes me as the ALJ is holding the scientific evidence in the preamble up as kind of the exemplar against which everything else should be judged. And is not saying well, the basis for the scientific conclusions in the preamble is stronger than those reached by the scientific experts. Like there's more

reason to believe this because, you know, there was a broader base of studies, or the evidence was much more directly on point to, you know, black lung disease and coal mining. Instead, he's really just saying well, what they're saying conflicts with the preamble, and therefore, I don't agree with it. Now, in a couple of instances, it sounds like the ALJ actually did say I'm not so persuaded by what these experts are saying because it kind of lacks scientific validity. And, in those cases, I don't have the same concerns that I have about the others. But, in a few instances, it seems like what the ALJ is saying is look, the experts disagree with the preamble, and therefore, they're wrong. And, you know, it's hard to think of an analogy to this, but I'm a Star Wars fan. So, you know, people debate the Star Wars movies and which are the best and, you know, that sort of thing. And I think the original Star Wars from 1977 is the best. And if you thought well, actually, the new sequels that came out, you know, starting in 2015 or so, those are the best. And you and I could have a debate about, you know, which of the Star Wars movies is the best. It would be a weird debate, but that's okay. But if Suranjan the ALJ was applying some sort of preamble to the regulations governing this debate that said well, Star Wars 1977 is the best movie, it wouldn't really matter what arguments you offered in support of the new Star Wars movies because all I'd have to say is well, those are not Star Wars from 1977. And, therefore, you lose. And that kind of seems like what the ALJ is doing here.

A Anthony Sanders 14:32

That'd be a weird debate, by the way.

S Suranjan Sen 15:09

The Empire Strikes Back is the best one, by the way.

D Dan Alban 15:13

Which one, Suranjan?

S Suranjan Sen 15:14

The Empire Strikes Back.

D Dan Alban 15:15

The Empire Strikes Back? Fair enough.

S Suranjan Sen 15:16

If the preamble is gonna say something, it's gonna say the Empire Strikes Back is the best one. Let's be honest.

A Anthony Sanders 15:20

Okay. Well, the original trilogy, I think, is far superior. But yeah, so I am not totally persuaded that the ALJ is really just finding the preamble more persuasive. I think saying he's not, the ALJ is not, treating the preamble as binding, but is finding it more persuasive is really a distinction without a difference when you're holding up the preamble as the exemplar, and anything that departs from it is disregarded. That said, the tail end of the opinion actually is quite skeptical of what happened here but also a bit critical of the counsel on the case for failing. Although they preserved their objections to the ALJ's findings generally, they failed to raise a substantial evidence challenge to the ALJ's findings. And, because of that, the court doesn't think it can kind of independently conduct this substantial evidence challenge on its own, but kind of walks through and points out how, on a substantial evidence challenge, there are reasons to question why the ALJ relied on both the preamble and the ALJ also relied on the attending physician for Mr. Adams, a gentleman named Dr. Alam. And the opinion points out that Dr. Alam, although he had, you know, firsthand access to Mr. Adams, was the one who diagnosed the cause of death. His opinion doesn't offer much reasoning. It just simply concludes that the coal mine work was partially responsible for the obstructive impairment that caused his death. And so the opinion points out there's a lot of weakness here. But since the counsel for the insurance company did not preserve this substantial evidence challenge, they don't really have to consider it. But it's interesting the extent to which they point out the sort of weakness here, and I think they're kind of drawing a roadmap for future insurer defendants, coal mine owner defendants for how to go about challenging this preamble. But that's a lot for me. So I guess I should probably turn it over to Suranjan for any further comment. That was a great preamble though, Dan. Thank you. Let's see what Suranjan has to say.

D Dan Alban 17:52

Thank you.

S Suranjan Sen 17:57

Working in a coal mine. Going down, down, down. Sorry, I've had that stuck in my head the entire time. Thanks. Thanks, Anthony.

A Anthony Sanders 18:03

That's much better than I would have done it.

S Suranjan Sen 18:05

So yeah. Well, it's interesting, you know. We're told over and over again, I remember going back to law school, that the preamble doesn't matter; the preamble is just a bunch of fluff. And then it's interesting to see a case where the preamble matters extensively. So I'm a little confused. So did the preamble say just that it can contribute to this disease or that it necessarily does?

D Dan Alban 18:39

It didn't say that it necessarily does. It says that it can, and in fact, near the end of the opinion, that's where the 6th Circuit sort of points out that the Department of Labor is trying to have it both ways by relying on the preamble in ways that suggest more the former than the latter. But the construction based on the notice and comment of the preamble is designed to prevent coal mine operators and their insurers from arguing that black lung disease can never be latent and progressive and can never be caused by, you know, additional factors. And so the idea is it's supposed to leave open the possibility that someone could have multiple causes of black lung disease that then leads to their death.

S Suranjan Sen 19:37

Okay, so these experts, the insurance company's experts, weren't arguing yeah, it can, but it didn't in this case? They were actually arguing it cannot?

D Dan Alban 19:47

They were arguing it did not in this case. They were arguing that because of, and it's pretty technical, the respiratory measurements that were made of Mr. Adams and a thing called a forced vital capacity test and its ratio to a forced expiratory volume in one second test, that those indicated that Mr. Adams' breathing patterns more closely resembled someone who dies solely of black lung disease caused by coal mining than someone who's suffering from ... Sorry, they were arguing it was more similar to someone who's been smoking their whole life than someone who has, you know, gotten black lung disease from coal dust.

A Anthony Sanders 20:43

Yeah, I read what the 6th Circuit was saying here to be very uncomfortable with this use of the preamble and kind of giving every excuse they can that, you know, it's been done before, it's not that much, it's just a fact. But it's a little bit of a shot across the bow if in the future, whether it's an ALJ or a district court somewhere interpreting whatever regulation it is, it's a reminder that if it's a part of a regulation that has not gone through notice and comment, which already has additional worries in the last few years with kind of the demise of various deference doctrines, that you need to walk very carefully here. I thought it was interesting. I hadn't thought about it before, but yeah, if you have a preamble to a regulation that is kind of talking about the notice and comment process that it's already gone through. It basically, by definition, hasn't gone through notice and comment, which is, you know, weird. Another way to think about it is we generally have not placed much weight in our history on the Preamble to the U.S. Constitution for kind of obvious reasons. I know there's some people today, especially our friends in the common good constitutionalism movement, who are trying to bring back the Preamble to some extent. I think, generally, that the Preamble is better put in its place for kind of just themes of the Constitution. But that Preamble went through ratification; it was before all the states that ratified it. A preamble to a regulation is a very different story. And I guess it just reminds us that when we have law, "the law," it's not necessarily the same law that was created by the lawmaker in the way that we always understand. Another example that comes up that we had on Short Circuit (in the newsletter) in the last year or so, is the fact that the U.S.

Code is not actually the law that Congress passes. It's put together by, you know, the code writers on Capitol Hill as an abstract of the actual acts that Congress passes. Sometimes, they contradict each other. And it kind of blows your mind whenever you remember that.

D **Dan Alban** 23:22

Yeah, I mean, I had never heard. And, you know, the types of administrative law cases that IJ litigates don't generally involve a lot of disputes over scientific facts and things like this. We're generally disputing things as sort of arbitrary and capricious and not based on something like the substantial evidence standard. But I had never heard of something like a preamble or guidance being given evidentiary weight and sort of having this default status as being the scientific truth. And it strikes me as odd and problematic in a wide variety of ways. I mean, scientific evidence can fall out of date quite quickly. I can't remember when this was done, but I think it was quite some time ago. And, you know, if we've learned anything in say the past three years or so about wild changes and swings in which scientific evidence is considered valid and which is on the outs, I think we should be probably pretty concerned that an agency can kind of put a bunch of scientific evidence into the preamble (even if, at the time, it's the state of the art, greatest evidence there is) and just say this remains the default indefinitely going forward, even though we know that there may be new scientific advances and discoveries that make it out of date. So I thought that was very odd. The opinion seems to regard it as odd and spends a lot of time kind of justifying it before getting to the point of examining the ALJ's opinion and deciding he's just treating it as persuasive authority and not binding.

A **Anthony Sanders** 25:11

Well another thing that can get out of date very quickly are dance routines on TikTok. And Suranjan is going to take us through one of those. This is an interesting dance routine because it has to do with something you don't see very often, which is a successful writ of mandamus.

S **Suranjan Sen** 25:32

Yeah, so this is a case about ... The name of the case is called *In re TikTok*. So I don't know if I should be proud or ashamed, or if this is cool or not cool or whatever, but I do not have TikTok. I have never had TikTok. If I have anything to say about it, I will continue not having TikTok.

A **Anthony Sanders** 25:54

Well, I'll say Short Circuit is on TikTok, which we have not highlighted much in the past. So we will correct you, Suranjan, if you get something wrong (at least as it relates to Short Circuit).

S **Suranjan Sen** 26:05

Perfect. Well, so clearly there is some use for TikTok in that case then. So I perhaps should reevaluate my conclusion. But so this is a case that was filed in the Western District of Texas where this company ... I do not know exactly how to pronounce it. Let's call it Meishe. I think we

might be somewhere close to accurate. It's a Chinese company where they are alleging that a former employee of theirs, who was an engineer based in China, had given a source code regarding video editing to TikTok, who then used that to implement some sort of new kind of video editing program and feature in TikTok. And so they sued TikTok. Now, TikTok seems like it has its main operations in Northern California. All of its engineers except one that would have any relationship to this case are all based in Northern California. And then one of them is based in, I think, the Northern District of Texas. The engineer who allegedly gave this information to TikTok is based in China, and notwithstanding all of that, Meishe filed this case in the Western District of Texas. And so TikTok had moved to transfer the case to Northern California, and then the court proceeded to, I think, sit on it for like some sort of, if I may say, absurdly long time like a year or something like that. And the case proceeded to discovery anyway. And then, finally, the district court got around to it, and their motion for transfer was denied. And so TikTok filed a writ of mandamus in the 5th Circuit. And usually, you know, the first step is to figure out if this is the proper kind of thing for a writ of mandamus, but this is for a motion to transfer. It's well settled that it is. And so the real question here was, was the denial of that motion to transfer clearly erroneous (basically)? And the appellate court, as Anthony said earlier, somewhat surprisingly (not surprising once you get into the facts of the case, but surprising given the standard of deference that's afforded to the lower court) agreed with TikTok and held that the case does need to be transferred to Northern California. It's pretty clear why once you look at it. I already previewed that earlier, but there's this, of course ... one of the lawyer's favorite kind of eight factor tests that's about what you look for in these kinds of situations. And it was the district court that had found that they were all either neutral or counseled against transfer. And the record just didn't really bear any of that out on a few key areas. So, for example, the first factor is relative ease of access to sources of proof. And the district court said well, these are all electronic records, and they can all be accessed electronically, so it doesn't matter at all whether it's located here in Northern California. Now, that would make sense, perhaps ordinarily, when you're talking about electronic documents, but the documents in this case, as the record showed, were highly restricted documents that even though they're in electronic format, they are only able to be accessed through particular USB thumb drives or something that certain employees with the requisite security clearance had who were all in Northern California or in China. And then you have one guy in the Northern District of Texas who still is several hundred miles away from the district court in the Western District of Texas. And so the appellate court said I mean, the mere fact that they're electronic is kind of ... They might as well not be. These are basically physical documents, really, for the purpose of this analysis. Another one is that the court found that all of the main witnesses, so this is about the cost of attendance for willing witnesses or otherwise, are in China so it doesn't really matter. But it's a lot easier to get from China to Northern California than to get from China to Texas. That's, you know, another major flight. And there was no local interest involved where you would need to have this be resolved in Texas versus in California or the familiarity. There's no reason why, in California, they wouldn't be able to deal with this. Even if Texas law should apply, there wasn't like some extremely arcane facet of Texas law that would mean that the Northern District of California would be unable to deal with it. And so, ultimately, the court really didn't have much of a problem justifying overruling the district court in this matter. That was interesting because I clerked for Judge Smith once upon a time, full disclosure, and Judge Smith (just, you know, this isn't exactly inside baseball), you can read from his opinions and his doctrine. He takes it very seriously: deference to trial courts and not wanting to just come over and Monday morning quarterback from New Orleans or from Houston, you know, every chance he got. There is one line from this opinion that says, you know, this review is deferential, but it's not a rubber stamp. And so, I think, at the end of the day, just judging from this opinion, I'm confused why the district court would have found transfer not appropriate here. I think maybe

one of the reasons might have been that by the time the court got around to dealing with the transfer (as I said earlier, it had been like quite a long time already), the court seemed to treat the motion for transfer as if it had been filed when the court dealt with it.

A Anthony Sanders 32:48

Sunk cost fallacy perhaps?

S Suranjan Sen 32:51

Yeah, maybe something like that. I mean, it would have been one thing if the defendants waited a year to file it, and then the court said it is too late for this. But, I mean, it's another thing when they file it first, and then you fault them for the court's delay. And so I would suspect that something like that probably was going on here.

A Anthony Sanders 33:15

Dan, do you have any dance routines about filing in the Western District of Texas?

D Dan Alban 33:22

I have no such dance routines of really any kind. This is a puzzling case. I thought, you know, it had to involve some kind of gaming the system, but I'm not quite sure why they'd want to be in the Western District of Texas, other than it's less friendly, I suppose, to TikTok and tech companies. It reminds me somewhat of some of the more controversial cases that are being filed in the Northern District of Texas because certain classes of plaintiffs think that they're going to get a better draw there and a judge who's more conservative and more likely to rule in their favor on some of the social issues of the day. But this isn't that district. And so, yeah, it is unusual to see a writ of mandamus granted, but man, it doesn't really seem like there's any reason to be holding this case in the Western District of Texas. It is quite remote and quite inconvenient compared to California where almost all the other people in the case would be. I mean, this seems like a fairly straightforward application of kind of the sort of rules on venue. It's just unusual to see an appellate court overturn a district decision like this. I don't know why the district court would think it wants the case. Normally, judges are eager to get cases off of their docket, but I don't know. I'm not really sure what happened. It may have just been that the case kind of got forgotten by the wayside like Suranjan said. By the time the court finally got around to ruling on it, the judge was sort of like well, it's a little late to grant this, so I'll just say no, it's staying here.

A Anthony Sanders 35:33

There must be an answer to this. And, you know, we would need to maybe interrogate the attorneys involved and the judges involved to really get it. So I guess it's a fun one to speculate about because, you know, it doesn't really have high constitutional or political stakes or

anything like that. Maybe part of what's going on here, and this is speculation, is this is essentially a fight between two Chinese companies about intellectual property, which is kind of ironic, I guess.

S Suranjan Sen 36:02

Yeah, there's a suit going on in China right now about the same issue.

A Anthony Sanders 36:09

Right. And I know from a past experience, a case I had back in my pre-IJ days, that when there's litigation in China or someone's trying to have the legal process work into China, that is very hard to do. If you are on the U.S. side of things, you don't have really deep contacts in China. So perhaps, you know, what's going on here is that TikTok obviously has a presence in the U.S., and they have American lawyers who can advise them on certain stuff. And maybe there was some kind of loss in translation that you'd sue because they did have this office in this district, but it didn't have anything to do with the lawsuit. But perhaps they had a contact there, and he knew an attorney, and the attorney seemed like a better attorney than the ones they have out in San Francisco. And so, you know, one game of telephone and you're like yeah, let's sue in Texas. I mean, that could be one thing that happens. It's like you said, Dan, it's not like the Northern District. There's plenty of judges in the Western District, so it's not like you know you're gonna get one judge. Waco, it looks like, has two district judges and two magistrate judges, like a lot of divisions do around the country within districts. So it could just be as simple as that. And then they get lucky with the clerk sitting on a memo for 10 months for God knows what reason, not to besmirch any clerks involved in this case. I mean, I was a clerk, and things like that happen. And maybe that's just how this came about. But I think the lesson, if you're a practitioner, is that sometimes when we hear about writ of mandamus, it sounds like when the building is burning down, break the glass, and then you can use it. But, other than that, you sound like a crazy person if you're trying to use writ of mandamus. But it's a reminder that writ of mandamus is a real thing that sometimes you are justified in bringing out. And it's not like anything nefarious happened here; it's just that it was appropriate.

D Dan Alban 38:27

Yeah. I mean, if you want a song to intro this one, Anthony, let me suggest Billy Joe Shaver's Wacko from Waco. Not because I think people from Waco are wackos, but it's a great song. And Billy Joe Shaver is, in fact, from Waco. I don't think it's a coincidence that you could hardly get further apart politically than the Western District of Texas and the Northern District of California. And, presumably, the plaintiffs thought that gave them some advantage. It's just not obvious to me what that is here, but I think that's got to play some role in it. But, you know, you see criticisms of this kind of thing much more in the sort of culture war type cases. This one I don't think has that dimension to it, but it certainly seems like they were trying to game the system in some way.

A Anthony Sanders 39:23

Well, and it could be 5th Circuit versus 9th Circuit. And they thought our best route is we have

this office there, so even though it has nothing to do with the case, let's go for it. The software engineer is in the next district over, so it's close enough. And hey, it almost worked.

D **Dan Alban** 39:38

Yeah, I mean, maybe that was it. But, again, you could hardly get further apart politically than the 5th Circuit and the 9th Circuit. So it seems to me to be kind of venue shopping, but not very well formulated.

A **Anthony Sanders** 39:53

The new 9th Circuit, as some people are saying. That's not what I'm saying. I'm just saying I heard that somewhere. All right. Well, thank you very much for your dance routines. You're working in coal mines. Very, very good legal work this week. So thank you, Dan. Thank you, Suranjan. Thank you all for listening. We'll be back with more Short Circuit shortly, but in the meantime, I'd ask that everyone get engaged.