

Hearing Date: October 11, 2012, 10:00 AM (prevailing Eastern Time)

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and Donald Petrie, Trustee for the PPW Royalty Trust*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
In re	:	Chapter 11
	:	
PATRIOT COAL CORPORATION, <i>et al.</i> ,	:	Case No. 12-12900 (SCC)
	:	
Debtors.	:	Jointly Administrated
	:	
-----X	:	

**REPLY OF PATRICIA WILLITS, WILLIAM G. PARROT, JR., AND DON PETRIE,
TRUSTEE FOR THE PPW ROYALTY TRUST, TO
DEBTORS’ OBJECTION TO MOTION FOR STAY RELIEF**

Movants respectfully submit this reply (i) in further support of the Motion of Patricia Willits, William G. Parrott, Jr., and Don Petrie, Trustee for the PPW Royalty Trust, for Relief from Automatic Stay (the “Motion”)¹, and (ii) to the Debtors’ Objection to the Motion (the “Objection”), and respectfully state as follows:

¹ Capitalized terms not defined herein have the same meaning ascribed to such terms in the Motion.

SUMMARY OF ARGUMENT

1. The Objection is based upon a series of flawed premises. When these flaws are exposed, it becomes clear that the Objection has no merit and that the Motion should be granted.

2. First, contrary to the contention in the Objection, the Movants possess standing as contingent creditors of the Debtors. The Movants are, by definition, contingent creditors. The Debtors concede this fact by listing the Movants as contingent creditors in their sworn schedules. Moreover, the Bankruptcy Code's definition of "claim" specifically includes contingent claims, and is intended to be construed broadly.

3. Further, *Comcoach*² and other cases relied upon by the Debtors to support their "standing" argument are inapposite for the reason that in those cases the moving parties were not creditors. The Debtors also disregard the line of cases following *Comcoach* that make clear that the "standing" rule articulated in *Comcoach* only applies where other parties are present to pursue the claim. Here, the Movants are indisputably the only parties who will pursue these claims, and, accordingly, the reliance on *Comcoach* is misplaced.

4. Second, although the Debtors make boilerplate allegations regarding the need to maintain the automatic stay in effect during the early stages of their chapter 11 cases (*see, e.g.*, Objection, ¶41), they do not deny the Movants' specific allegations that make clear that any prejudice to the Debtors would be *de minimus*. For example, paragraph 27 of the Motion alleges that the Five Patriot Debtors share counsel in the Appeal with the Peabody Defendants. Thus, whether or not the Debtors invest effort or not, the brief in the Appeal will be filed, and the arguments on behalf of the Debtors will be made.

5. Third, in their effort to manufacture arguments to defeat the Motion, the Debtors invent a factor which is nowhere found in the *Sonnax* decision – that the relative merits of the

² *Roslyn Savings Bank v. Comcoach Corp. (In re Comcoach Corp.)*, 698 F.2d 571 (2d Cir. 1983).

stayed litigation (or at least the debtor's perception thereof) are relevant. Nothing in *Sonnax* or other case law that Movants have reviewed lends support to the notion that the relative strength or weakness of the stayed claim is or should be a factor in this Court's consideration. Indeed, to the extent that the Debtors contend the claim being pursued by Movants has little or no chance of success, such contention serves to undermine the claimed prejudice to the Debtors.

6. Lastly, as demonstrated in the Motion and briefly reviewed below, all of the applicable *Sonnax* factors are fully satisfied, and the Motion should be granted.

ARGUMENT

A. The Movants Possess Standing to Seek Relief from the Automatic Stay.

7. The Debtors' contention that the Movants claims against the Debtors are not "contingent" (Objection, ¶21) is belied by the fact that the Debtors scheduled Movants as holding contingent claims. The relevant pages from the Debtors' schedules are annexed hereto as **Exhibit A**. Having admitted that Movants are indeed contingent creditors, the Debtors cannot now claim otherwise.

8. Moreover, the Debtors were obviously correct in scheduling the Movants as contingent creditors. In essence, Movants assert a claim, but that claim is subject to the occurrence of certain events – the success in the Appeal followed by success on remand to the Trial Court. Should Movants succeed, its now-contingent claim will become an actual, non-contingent claim.

9. The Bankruptcy Code's definition of "claim" specifically includes contingent claims. 11. U.S.C. § 101(5)(A). That definition is to be given the broadest possible interpretation. See *King's Terrace Nursing Home and Health Related Facility v. New York State Department of Social Services (In re King's Terrace Nursing Home and Health Related Facility)*,

184 B.R. 200, 204 (S.D.N.Y. 1995) (citing *In re Chateaugay Corp.*, 944 F.2d 997, 1003, 1008 (2d Cir. 1991)) (claim is broadly defined to ensure that “all those with a potential call on the debtor’s assets, provided the call in at least some circumstances could give rise to a suit for payment...come before the reorganization court so that those demands can be allowed or disallowed and their priority and dischargeability determined”). Lastly, applicable case law defines the term “contingent claim” in a manner entirely consistent with the foregoing analysis. *See Pearl–Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 580 (S.D.N.Y.2001) (citing *Mazzeo v. U.S. (In re Mazzeo)*, 131 F.3d 295, 303 (2d Cir. 1997)) (a claim is “contingent” when the debtor’s legal duty to pay does not come into existence until triggered by the occurrence of a future event). *See also* 2 Collier on Bankruptcy ¶ 109.06[2][b] (Alan J. Resnick & Henry Somme eds., 16th ed., 2012) (same).

10. The cases cited by the Debtors in support of their argument that Movants lack standing are inapposite. In *Comcoach*, for example, the bank-movant was simply not a creditor of the debtor. In addition, the bank-movant was not without remedy because “the Bank has the right to the appointment of a receiver in the state court action” and “[a] court-appointed receiver would qualify as a party in interest for purposes of section 362(d).” *Roslyn Savings Bank v. Comcoach Corp. (In re Comcoach Corp.)*, 698 F.2d 571, 574 (2d Cir. 1983). But, where the movant has “no alternative route to the relief it requests,” the Court should hold that the movant has standing to seek relief from the automatic stay. *See In re Village Rathskeller, Inc.*, 147 B.R. 665, 670 (Bankr. S.D.N.Y. 1992); *see also Commercial Union Ins. Co., v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 31 B.R. 965, 971 (S.D.N.Y. 1983) (“Since if [movant] cannot seek relief from the stay, no one can do so on its behalf, we would be reluctant to deny [movant] standing as a ‘party in interest.’”); *In re St. Vincent’s Catholic Med. Ctrs. of N.Y.*, 429 B.R. 139,

145 (“[t]he ‘real party in interest’ is the one who under the applicable substantive law, has the legal right which is sought to be enforced or is the party entitled to bring suit”) (citing *Comcoach*, 698 F.2d at 573). As set forth herein, the Movants are the only party who can pursue the claim against the State of Missouri and seek to nullify the Missouri Judgments. If this Court found a lack of standing, the Court “would be precluding [the movant] from attempting to enforce a right which only it can exercise.” See *In re Village Rathskeller, Inc.*, 147 B.R. 665, 670 (Bankr. S.D.N.Y. 1992). Accordingly, the Movants have standing to seek the relief sought in the Motion.

11. The *Saint Vincent’s* case is likewise inapposite for the reason that the party seeking stay relief was not a contingent creditor. Rather, the parties seeking stay relief “argued that they are entitled as taxpayers with standing under state court law...”. *In re St. Vincent’s Catholic Med. Ctrs. of N.Y.*, 429 B.R. at 145. Such is clearly not the case here.

12. Based upon the foregoing, it is clear -- indeed it is conceded -- that the Movants are contingent creditors and accordingly possess standing.

B. Cause Clearly Exists to Modify the Automatic Stay.

13. The analysis of cause under Bankruptcy Code Section 362(d) is guided by the *Sonnax* factors.

(i) Factor 1 (No Partial or Complete Resolution) and Factor 10 (Judicial Economy)

14. Although identifying these relevant *Sonnax* factors, the Objection then fails to address them. Rather, the Objection contends that the Movants’ litigation in Missouri has little chance of success, and that litigation of the Appeal alone will not result in a complete resolution of the Movants’ contingent claim. Neither, however, is relevant.

15. Focusing on the actual factors, it is clear that the Motion is well taken and should be granted. First, as argued in the Motion, failure to modify the stay could result in partial resolution of the issues as well as inconsistent court rulings. In this respect, the Debtors urge that this Court undertake to rule on the issues raised by the Appeal. (Objection, ¶ 34.) If the Debtors' invitation were to be accepted, there would be a substantial risk of inconsistent results. Simply stated, this Court could rule one way, but the Missouri Appeals Court could rule the other way. Proceeding in this manner would clearly contravene Factors 1 and 10.

16. Second, the Movants' narrowly tailored relief solely to complete the appellate process supports, rather than detracts from, granting stay relief. In the cases cited by the Debtor, the movants asked the Court to open the floodgates and allow the litigation to continue unimpeded. In each case, the Court was concerned that granting full stay relief to pursue all aspects of the litigation would result in protracted litigation rather than a speedy resolution. *See In re Motors Liquidation Co.*, 10 Civ. 36 RJH, 2010 WL 4630327, at *4 (S.D.N.Y. Nov. 8, 2010) (court refused to grant stay relief where the plaintiff was unlikely to win on summary judgment, and stay relief would and "would more likely expose MLC to protracted litigation rather than speedily resolve the ERISA suit."); *In re Bally Total Fitness of Greater New York, Inc.*, 402 B.R. 616, 623 (Bankr. S.D.N.Y. 2009) (court refused to grant stay relief because of the extensive discovery and briefing that would be necessary either to succeed on the merits or to certify the class). Here, the Movants' narrowly tailored relief abates any such concerns because the Movants only seek stay relief to continue the appellate process, a process in which the Debtors have limited involvement.³

³ If the appeal is successful, the case would be remanded back to the Missouri Trial Court for a determination on the merits. At such time, Movants may return to this Court to seek appropriate additional relief from the automatic stay.

17. Accordingly, the automatic stay should be modified in order to promote judicial economy as well as to avoid the manifest risk of partial, incomplete, and inconsistent rulings.

(ii) Factors 2 (Interference with the Bankruptcy Case) and 7 (Prejudice to Creditors)

18. Here, the Debtors argue, among other things, that they would be “forced to waste estate assets and divert personnel from the more pressing effort of reorganization.” (Objection, ¶33.) This boilerplate statement, however, is contrary to the actual facts and circumstances before the Court. First, the Debtors’ management would not be distracted by or even involved in the filing of a brief in connection with the Appeal. Moreover, the Debtors’ counsel will also hardly be distracted by the Appeal because another law firm, which is representing other, non-Debtor parties to the Appeal, will handle this appellate brief – a fact not disputed by the Debtors in the Objection. Further, these issues have been previously briefed before the Trial Court, providing all the more reason why any distraction of the Debtors’ counsel would be *de minimus*.

(iii) Factor 4 (No Specialized Tribunal)

19. The Debtors’ argument that this Court is as well-equipped as the Missouri state courts to deal with the issues of the Missouri Constitution (as well as, to a lesser extent, the United States Constitution) is bereft of common sense. It would seem beyond dispute that the Missouri courts should interpret Missouri state law, and that this principle is particularly applicable with respect to issues of the Missouri Constitution. Moreover, briefing has already taken place in connection with the Appeal and, as a result, the Missouri Appeals Court is already invested in the matter. Lastly, this Court cannot sit as an appellate court of the Missouri Trial Court. *See Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

20. For these reasons it is clear that Factor 4 argues in favor of modification of the automatic stay.

(iv) Factor 5 (No Insurance Coverage)

21. For the reason that the cost to the Debtors of participating in the Appeal will be *de minimus*, this factor should be given little weight.

(v) Factor 6 (Action Does Not Primarily Involve Third Parties)

22. Movants respectfully refer the Court to Paragraph 25 of the Motion, which discusses this factor.

(vi) Factor 11 (Parties Not Ready for Trial)

23. The flaw in the Debtors' argument with respect to this Factor is that it minimizes the impact of the applicable Missouri statute. R.S.Mo. § 527.110 provides that "[w]hen declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the right of persons not parties to the proceedings." The presence of an indispensable party is a jurisdictional requirement. *Bauer v. Board of Election Comm'rs*, 198 S.W.3d 161, 164 (Mo. Ct. App. 2006). (holding that failure to join the City of St. Louis as a party to the circuit court proceeding was fatal to the court's judgment and rendered such judgment void).

24. When an indispensable party to a declaratory judgment action is not joined in the case, any judgment rendered in that party's absence is a nullity. *Jones v. Jones*, 285 S.W.3d 356, 361 (Mo. Ct. App. 2009). In *Jones*, Rebecca Jones filed a petition for declaratory relief against Cathy Jones requesting the trial court declare Rebecca Jones the Chief President and Chairman of the Amonsoquath Tribe of the Cherokee Nation, a not-for profit Missouri corporation (the "Corporation"), and further declare that Cathy Jones have no office, position or title in the

Corporation. *Id.*, at 357-58. After the trial court entered a judgment in favor of Rebecca Jones, Cathy Jones appealed and argued that the trial court's judgment should be reversed because the Corporation was not named a party in the litigation. *Id.*, at 359. The Missouri Appeals Court agreed, and reversed the trial court's judgment because the declaratory judgment affected the Corporation, including its legal rights and obligations with third parties. *Id.*, at 361.

25. Based upon the foregoing, it is clear that, under Missouri law, the Movants were required to name the Five Patriot Debtors as parties -- even though, at this point, the State of Missouri is the principal respondent.⁴

(vii) Factor 12 (Balance of Harms)

26. As noted above, the harm to the Debtors in connection with modification of the automatic stay would be *de minimus*. On the other hand, as a result of the Missouri statute cited above, the prejudice to the Movants would be substantial absent stay modification. Moreover, by arguing that the Debtors are nominal parties in connection with the Appeal, the Debtors provide further support to Movants' position that the prejudice from stay modification upon the Debtors is minimal.

⁴ Were it not for the clear command under the Missouri statute, Movants would certainly be willing to consider with the Appeal without the Five Patriot Debtors as parties. Missouri law, however, may preclude this result. In this respect, the Missouri Appeals Court requested briefing as to whether it can consider the Appeal as to the non-Debtors if the stay is not lifted. Currently, briefing is to be completed by October 25, 2012.

CONCLUSION

27. For the foregoing reasons, the Motion should be granted.

Dated: New York, New York
October 9, 2012

Respectfully submitted,
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Parrott, Jr., and Donald Petrie, Trustee for the PPW
Royalty Trust*

EXHIBIT A

In re **Beaver Dam Coal Company, LLC**, Case No. **12-12905 (SCC)**
 Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	Husband, Wife, Joint, or Community		CONTINGENT	UNLIQUIDATED	DISPUTED	Amount of Claim
	CODEBTOR	H W J C				
Various						\$254,010,416.66
None						F2 - Accounts Payable
Various						See Exhibit F3 - Litigation Undetermined
None						F4 - Customer Claims
None						F5 - Compensation
None						F6 - Employee Benefit Plans
None						F7 - Rejection Damages
Various						See Exhibit F8 - Intercompany Debt \$12,588.56

Sub- Total >
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\$254,023,005.22

In re **Beaver Dam Coal Company, LLC**, Case No. **12-12905 (SCC)**
 Debtor

F3 - Litigation
 (Continuation Sheet)

Creditor's Name and Mailing Address Including Zip Code and an Account Number <i>(See Instructions Above)</i>	C O D E B T O R	H W J C	C/U/D	Date Claim was Incurred and Consideration for Claim. If claim is subject to Setoff, so state.	Claim Amount
LEWIS, GEORGE ET AL. C/O CAMPBELL WOODS PLLC ATTN JAMES H. MOORE III PO BOX 1862 ASHLAND, KY 41105			CUD	Litigation - Contract, Case No. 4:11-cv-55-M	Undetermined
WILLITS, PATRICIA ET AL. C/O GEORGE A. BARTON LAW OFFICES OF GEORGE A. BARTON PC 800 WEST 47 STREET, SUITE 700 MISSOURI CITY, MO 64112			CUD	Litigation - Contract, Case No. IISL-CC03193	Undetermined
F3 - Litigation			TOTAL:		Undetermined

In re **Central States Coal Reserves of Kentucky, LLC**, Case No. **12-12914 (SCC)**

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

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Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	Husband, Wife, Joint, or Community			CONTINGENT	UNLIQUIDATED	DISPUTED	Amount of Claim
	CODEBTOR	H	W				
Various							\$254,010,416.66
None							F2 - Accounts Payable
Various							See Exhibit F3 - Litigation Undetermined
None							F4 - Customer Claims
None							F5 - Compensation
None							F6 - Employee Benefit Plans
None							F7 - Rejection Damages
Various							See Exhibit F8 - Intercompany Debt \$61,070,803.02

Sub- Total >
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\$315,081,219.68

In re **Central States Coal Reserves of Kentucky, LLC**, Case No. **12-12914 (SCC)**

Debtor

F3 - Litigation
 (Continuation Sheet)

Creditor's Name and Mailing Address Including Zip Code and an Account Number <i>(See Instructions Above)</i>	C O D E B T O R	H W J C	C/U/D	Date Claim was Incurred and Consideration for Claim. If claim is subject to Setoff, so state.	Claim Amount
LEWIS, GEORGE ET AL. C/O CAMPBELL WOODS PLLC ATTN JAMES H. MOORE III PO BOX 1862 ASHLAND, KY 41105			CUD	Litigation - Contract, Case No. 4:11-cv-55-M	Undetermined
WILLITS, PATRICIA ET AL. C/O GEORGE A. BARTON LAW OFFICES OF GEORGE A. BARTON PC 800 WEST 47 STREET, SUITE 700 MISSOURI CITY, MO 64112			CUD	Litigation - Contract, Case No. IISL-CC03193	Undetermined
F3 - Litigation			TOTAL:	Undetermined	

In re Grand Eagle Mining, LLC, Case No. 12-12939 (SCC)
 Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

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Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	Husband, Wife, Joint, or Community			CONTINGENT	UNLIQUIDATED	DISPUTED	Amount of Claim
	CODEBTOR	H	W				
Various							\$254,010,416.66
Various							\$2,939,450.13
Various							Undetermined
None							F4 - Customer Claims
Various							\$12,377.78
Various							Undetermined
None							F7 - Rejection Damages
Various							\$437,566,357.72

Sub- Total >
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\$694,528,602.29

In re **Grand Eagle Mining, LLC**, Case No. **12-12939 (SCC)**
 Debtor

F3 - Litigation
 (Continuation Sheet)

Creditor's Name and Mailing Address Including Zip Code and an Account Number <i>(See Instructions Above)</i>	C O D E B T O R	H W J C	C/U/D	Date Claim was Incurred and Consideration for Claim. If claim is subject to Setoff, so state.	Claim Amount
LEWIS, GEORGE ET AL. C/O CAMPBELL WOODS PLLC ATTN JAMES H. MOORE III PO BOX 1862 ASHLAND, KY 41105			CUD	Litigation - Contract, Case No. 4:11-cv-55-M	Undetermined
WAYNE PRUITT C/O MINE SAFETY & HEALTH ADMINISTRATION ATTN KIRBY SMITH, MSHA SPECIAL INVESTIGATOR 100 YMCA DRIVE MADISONVILLE, KY 42431			CUD	Litigation - Employment, Case No. MADI-CD-2012-10	Undetermined
WILLITS, PATRICIA ET AL. C/O GEORGE A. BARTON LAW OFFICES OF GEORGE A. BARTON PC 800 WEST 47 STREET, SUITE 700 MISSOURI CITY, MO 64112			CUD	Litigation - Contract, Case No. IISL-CC03193	Undetermined
F3 - Litigation			TOTAL:		Undetermined

In re Heritage Coal Company LLC, Case No. 12-12940 (SCC)
 Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

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Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	Husband, Wife, Joint, or Community			CONTINGENT	UNLIQUIDATED	DISPUTED	Amount of Claim
	CODEBTOR	H W J C					
Various			See Exhibit F1 - Unsecured Notes / Debt				\$254,010,416.66
Various			See Exhibit F2 - Accounts Payable				\$2,343,703.73
Various			See Exhibit F3 - Litigation				Undetermined
None			F4 - Customer Claims				
Various			See Exhibit F5 - Compensation				\$104,123.50
Various			See Exhibit F6 - Employee Benefit Plans				Undetermined
None			F7 - Rejection Damages				
Various			See Exhibit F8 - Intercompany Debt				\$1,073,683,395.05

Sub- Total >
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\$1,330,141,638.94

In re **Heritage Coal Company LLC**, Case No. **12-12940 (SCC)**
 Debtor

F3 - Litigation
 (Continuation Sheet)

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	C O D E B T O R	H W J C	C/U/D	Date Claim was Incurred and Consideration for Claim. If claim is subject to Setoff, so state.	Claim Amount
JOHN P. FARNETTI, VICE PRESIDENT REINSURANCE OPERATIONS IL MINE SUBSIDENCE INSURANCE FUND PO BOX 812060 CHICAGO, IL 60681-2060			CUD	Litigation - Property Damage, Case No. 09-104-MJR	Undetermined
TERRY AND DIXIE HOEPER C/O KOTAK ROCK LLP ATTN M. COURTNEY KOGER, ESQUIRE 1010 GRAND BLVD SUITE 500 KANSAS CITY, MO 64106-2220			CUD	Litigation - Other, Case No. 11-BS-CC00055	Undetermined
NALCO COMPANY C/O DINSMORE ATTN DENISE D. PENTINO 2100 MARKET STREET WHEELING, WV 26003			CUD	Litigation - Other, Case No. 06-C-124	Undetermined
PETTRY, DENVER ET AL. C/O THE LAW OFFICE OF THOMAS F. BASILE ATTN THOMAS F. BASILE PO BOX 4006 CHARLESTON, WV 25364-4006			CUD	Litigation - Other, Case No. 06-C-124	Undetermined
PREISER SCIENTIFIC, INC. C/O LAW OFFICE OF THOMAS F. BASILE ATTN WEBSTER J. ARCENEUX, III 300 SUMMERS STREET SUITE 700 CHARLESTON, WV 25081-1638			CUD	Litigation - Other, Case No. 11-C-5000000 11-C-5030003	Undetermined
SOLAR SOURCES, INC. C/O ICE MILLER LLP ATTN G. DANIEL KELLEY, JR. ONE AMERICAN SQUARE, SUITE 2900 INDIANAPOLIS, IN 46282-0200			CUD	Litigation - Other, Case Nos. 12-1700 and 12-1862	Undetermined
WILLITS, PATRICIA ET AL. C/O GEORGE A. BARTON LAW OFFICES OF GEORGE A. BARTON PC 800 WEST 47 STREET, SUITE 700 MISSOURI CITY, MO 64112			CUD	Litigation - Contract, Case No. IISL-CC03193	Undetermined
F3 - Litigation			TOTAL:		Undetermined

In re Ohio County Coal Company, LLC, Case No. 12-12966 (SCC)

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name and Mailing Address Including Zip Code and an Account Number (See Instructions Above)	Husband, Wife, Joint, or Community		C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	Amount of Claim
	C O D E B T O R	H W J C				
Various						\$254,010,416.66
Various						\$416,404.95
Various						Undetermined
None						F4 - Customer Claims
Various						\$20,450.20
Various						Undetermined
None						F7 - Rejection Damages
Various						\$566,094,387.04

Sub- Total >
(Total of this Page)

\$820,541,658.81

In re Ohio County Coal Company, LLC, Case No. 12-12966 (SCC)

Debtor

F3 - Litigation
 (Continuation Sheet)

Creditor's Name and Mailing Address Including Zip Code and an Account Number <i>(See Instructions Above)</i>	C O D E B T O R	H W J C	C/U/D	Date Claim was Incurred and Consideration for Claim. If claim is subject to Setoff, so state.	Claim Amount
LEWIS, GEORGE ET AL. C/O CAMPBELL WOODS PLLC ATTN JAMES H. MOORE III PO BOX 1862 ASHLAND, KY 41105			CUD	Litigation - Contract, Case No. 4:11-cv-55-M	Undetermined
LORI PEARCY, (TEMP EMPLOYEE) KIRBY SMITH, MSHA SPECIAL INVESTIGATOR MINE SAFETY & HEALTH ADMINISTRATION 100 YMCA DRIVE MADISONVILLE, KY 42431			CUD	Litigation - Employment, Case No. MADI-CD-2011-11	Undetermined
WILLITS, PATRICIA ET AL. C/O GEORGE A. BARTON LAW OFFICES OF GEORGE A. BARTON PC 800 WEST 47 STREET, SUITE 700 MISSOURI CITY, MO 64112			CUD	Litigation - Contract, Case No. IISL-CC03193	Undetermined
F3 - Litigation			TOTAL:		Undetermined