

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

**PATRIOT COAL CORPORATION and
HERITAGE COAL COMPANY,**

Plaintiffs,

v.

**PEABODY HOLDING COMPANY, LLC and
PEABODY ENERGY CORPORATION,**

Defendants.

Adversary Proceeding

No. 13-04067-659

**MOTION FOR AN ORDER AUTHORIZING DEFENDANTS TO FILE A RESPONSE
IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
THAT EXCEEDS FIFTEEN PAGES**

Defendants Peabody Energy Corporation (“PEC”) and Peabody Holding Company, LLC (“PHC” and together with PEC, “Peabody”), by and through its undersigned attorneys, hereby move the Court pursuant to Local Bankruptcy Rule 7056(F) for an Order granting Peabody leave to exceed the Court’s page limitation for its Opposition to Plaintiffs’ Motion for Summary Judgment (the “Objection”). In support of this motion, Peabody state as follows:

1. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408, 1409, and 1412.

2. Plaintiffs Patriot Coal Corporation (“Patriot”) and Heritage Coal Corporation (“Heritage”) commenced the instant adversary proceeding against Peabody on March 14, 2013, seeking a declaratory judgment that any modification to the benefits of certain retirees of Heritage or Eastern Associated Coal, LLC pursuant to Section 1114 of the United States Bankruptcy Code will not relieve PHC of its obligation to fund the healthcare benefits for certain of Heritage’s retirees who are the subject of a prepetition contract between Peabody and Plaintiffs.

3. The adversary has proceeded on a fast track. Within weeks of the filing of the complaint, Plaintiffs’ moved, on shortened notice, for summary judgment, seeking an adjudication of all issues presented in the complaint, and Peabody moved to dismiss the complaint on the basis that the issues presented are not ripe for adjudication. Peabody’s motion to dismiss and Plaintiff’s motion for summary judgment currently are scheduled for hearing on April 29, 2013. Peabody’s Objection to Plaintiff’s motion for summary judgment is due April 22, 2013.

4. While Peabody has made every effort to be concise in its Objection, given the complexity of the issues involved and that Plaintiffs’ memorandum in support of their motion for summary judgment exceeded fifteen pages, Peabody is unable to adequately respond to Plaintiffs’ motion for summary judgment in fifteen pages. Peabody respectfully requests that the Court allow it to exceed the page limit set forth in Local Bankruptcy Rule 7056(F).

WHEREFORE, for the reasons stated above, Peabody respectfully requests that the Court enter an Order: (i) granting it leave, pursuant to Local Bankruptcy Rule 7056(F,) to exceed the

page limit by 6 pages; and (ii) granting such other and further relief as the Court may deem just and proper.

Dated: April 22, 2013

Respectfully submitted,

/s/ Steven N. Cousins

David G. Heiman
Carl E. Black
John M. Newman, Jr.
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
dgheiman@jonesday.com
ceblack@jonesday.com
jmnewman@jonesday.com

Steven N. Cousins (MO 30788)
David L. Going (MO 33435)
Susan K. Ehlers (MO 49855)
ARMSTRONG TEASDALE
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
Telephone: 314-621-5070
Facsimile: 314-621-5065
scousins@armstrongteasdale.com
dgoing@armstrongteasdale.com
sehlers@armstrongteasdale.com

ATTORNEYS FOR DEFENDANTS
PEABODY HOLDING COMPANY, LLC
PEABODY ENERGY CORPORATION