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**DENIED
MOOT**

Jan 25, 2013

Kathy A. Surratt - States

KATHY A. SURRATT-STATES
United States Bankruptcy Judge

Counsel to Bank of America, N.A., as Second Out DIP Agent

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

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

**JOINDER OF BANK OF AMERICA, N.A., AS SECOND
 OUT DIP AGENT, TO DEBTORS’ MEMORANDUM OF LAW
 IN OPPOSITION TO THE MOTIONS TO TRANSFER VENUE
 FILED BY (i) THE UNITED MINE WORKERS OF AMERICA,
 (ii) CERTAIN SURETIES AND (iii) THE UNITED STATES TRUSTEE**

Bank of America, N.A., in its capacity as administrative agent (in such capacity, the “Second Out DIP Agent”) for itself and the other lenders (the “Second Out DIP Lenders”) under that certain Amended and Restated Superpriority Secured Debtor-in-Possession Credit Agreement, dated as of July 11, 2012, by its undersigned counsel, hereby supports, adopts and joins in the Debtors’ Memorandum of Law in Opposition [Dkt No. 425] (the “Opposition”) to (i) the Motion of the United Mine Workers of America to Transfer the Case to the Southern District of West Virginia [Dkt No. 116, 127] (the “UMWA Motion”), (ii) the Sureties’ Motion to Transfer Jointly Administered Cases to Southern District of West Virginia [Dkt. No. 287] (the “Sureties’ Motion”), and (iii) the United States Trustee’s Motion, Pursuant to 28 U.S.C. § 1412 and Fed. R. Bankr. P. 1014(a)(1), to Transfer Venue of These Cases [Dkt. No. 406] (together

with the UMWA Motion and the Sureties' Motion, and together with all joinders thereto, the "Motions").

JOINDER

The Second Out DIP Agent fully supports, adopts and joins in the Opposition, which is incorporated herein by reference. The Debtors' Opposition sets forth ample reasons why the Motions should be denied. In addition, pursuant to the Sureties' Motion, Argonaut Insurance Company, Indemnity National Insurance Company, US Specialty Insurance, and Westchester Fire Insurance Company (collectively, the "Sureties") suggest that they are the economic stakeholders with respect to approximately \$70 million in surety bonds issued on behalf of certain of the Debtors. However, the Second Out DIP Lenders have issued more than \$32 million in outstanding letters of credit which backstop the Sureties' obligations under the relevant bonds. *See Declaration of Mark N. Schroeder in Opposition to (i) Motion of the United Mine Workers of America to Transfer the Case to the Southern District of West Virginia, (ii) Sureties' Motion to Transfer Jointly Administered Cases to Southern District of West Virginia, and (iii) Motion of the United States Trustee to Transfer in the Interest of Justice, at ¶ 54 [Docket No. 426].* Therefore, much of the Sureties' purported risk is actually borne by the Second Out DIP Lenders. In the context of these large chapter 11 cases, the Sureties' credit exposure is insignificant compared to that of the Second Out DIP Lenders and other major creditor groups that support the Debtors' choice of venue. Accordingly, the Second Out DIP Agent submits that the Court should deny the Sureties' request to transfer venue.

WHEREFORE, for the reasons set forth in the Debtors' Opposition, the Second Out DIP Agent respectfully requests that this Court deny the Motions and grant such other and further relief as is just and proper.

Dated: New York, New York
August 27, 2012

Respectfully submitted,
WILLKIE FARR & GALLAGHER LLP

By: /s/ Ana M. Alfonso _____
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