

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

Objection Deadline:

March 28, 2013 at 4:00 p.m.

(prevailing Central Time)

Hearing Date:

April 10, 2013 at 10:00 a.m.

(prevailing Central Time)

Hearing Location:

Courtroom 7 North

**MOTION TO REJECT COLLECTIVE BARGAINING AGREEMENTS  
AND TO MODIFY RETIREE BENEFITS  
PURSUANT TO 11 U.S.C. §§ 1113, 1114 OF THE BANKRUPTCY CODE**

Patriot Coal Corporation and its affiliated debtors (collectively, “**Patriot**” or the “**Debtors**”) respectfully move, pursuant to sections 1113(c) and 1114(g) of title 11 of the United States Code (the “**Bankruptcy Code**”) for an order: (1) authorizing those Debtors (the “**Obligor Companies**”) that are signatories to collective bargaining agreements with the United Mine Workers of America (the “**UMWA**”) to reject such collective bargaining agreements;<sup>2</sup> (2) implementing the terms of the Debtors’ section 1113 proposal (the “**1113 Proposal**”); (3)

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<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

<sup>2</sup> The following Debtors are the Obligor Companies: Apogee Coal Company, LLC; Colony Bay Coal Company; Eastern Associated Coal, LLC; Gateway Eagle Coal Company, LLC; Heritage Coal Company LLC; Highland Mining Company, LLC; Hobet Mining, LLC; Mountain View Coal Company, LLC; Pine Ridge Coal Company, LLC; and Rivers Edge Mining, Inc.

authorizing the Debtors to terminate retiree benefits for certain of their current retirees;<sup>3</sup> and (4) implementing the terms of the Debtors' section 1114 proposal (the "**1114 Proposal**" and, together with the 1113 Proposal, the "**Proposals**").<sup>4</sup>

### **BACKGROUND AND JURISDICTION**

1. On July 9, 2012 (the "**Petition Date**"), each Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure and the Joint Administration Order entered on July 10, 2012 [ECF No. 30].

2. On November 27, 2012, the United States Bankruptcy Court for the Southern District of New York (the "**SDNY Bankruptcy Court**") issued a memorandum decision transferring venue of the Debtors' jointly-administered chapter 11 cases and associated adversary proceedings (the "**Cases**") to the United States Bankruptcy Court for the Eastern District of Missouri. On December 19, 2012, the SDNY Bankruptcy Court entered an order transferring the Cases, effective as of that date (the "**Transfer Order**") [ECF No. 1789].<sup>5</sup>

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<sup>3</sup> The UMWA has agreed, pursuant to section 1114(c)(1) of the Bankruptcy Code, to serve as the authorized representative for the retirees of Patriot who currently receive retiree benefits pursuant to collective bargaining agreements.

<sup>4</sup> Pursuant to 11 U.S.C. §§ 1113(d)(1) and 1114(k)(1), the Court is to schedule a hearing to be held not later than fourteen days after the Debtors file an application for relief under Sections 1113 and 1114. The Debtors consent to extending the time for the commencement of such hearing until, but no later than, April 10, 2013. The Debtors reserve all other rights with respect to the timetables set forth in Sections 1113 and 1114.

<sup>5</sup> Pursuant to the Transfer Order, all orders previously entered in the Cases remain in full force and effect in accordance with their terms notwithstanding the transfer of venue.

3. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be heard and determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested herein are sections 1113 and 1114 of the Bankruptcy Code.

### **RELIEF REQUESTED**

5. By this motion (the “**Motion**”), and for the reasons articulated in the Memorandum of Law filed [under seal] contemporaneously herewith, the Debtors respectfully request that this Court grant an order: (1) authorizing the Obligor Companies that are signatories to collective bargaining agreements with the UMWA to reject such collective bargaining agreements pursuant to section 1113 of the Bankruptcy Code; (2) implementing the terms of the Debtors’ 1113 Proposal; (3) authorizing the Debtors to terminate retiree benefits for certain of their current retirees pursuant to section 1114 of the Bankruptcy Code; and (4) implementing the terms of the Debtors’ 1114 Proposal.

### **NOTICE**

6. Consistent with the Order Granting Debtors’ Motion for an Order Establishing Certain Notice, Case Management and Administrative Procedures entered on October 18, 2012 [ECF No. 1386] (as may be amended, the “**Case Management Order**”), the Debtors will serve notice of this Motion on (a) the Core Parties and (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order). All parties who have requested electronic notice of filings in these cases through the Court’s ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of

this Motion and any order approving it will also be made available on the Debtors' Case Information Website (located at [www.patriotcaseinfo.com](http://www.patriotcaseinfo.com)).

7. A copy of the Proposed Order will be provided to the Core Parties, and will be available at [www.patriotcaseinfo.com/orders.php](http://www.patriotcaseinfo.com/orders.php) (the "**Patriot Orders Website**"). The Proposed Order may be modified or withdrawn at any time without further notice. If any significant modifications are made to the Proposed Order, an amended Proposed Order will be made available on the Patriot Orders Website, and no further notice will be provided. In light of the relief requested, the Debtors submit that no further notice is necessary.

**NO PREVIOUS REQUEST**

8. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE the Debtors respectfully request that the Court grant the Debtors' Motion for an order authorizing the Obligor Companies to reject their collective bargaining agreements pursuant to section 1113 of the Bankruptcy Code; implementing the terms of the Debtors' 1113 Proposal; authorizing the Debtors to terminate retiree benefits for certain of their current retirees pursuant to section 1114 of the Bankruptcy Code; implementing the terms of the Debtors' 1114 Proposal; and granting such other and further relief as the Court deems just and proper.

Dated: March 14, 2013  
New York, New York

Respectfully submitted,

/s/ Elliot Moskowitz

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