

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:)	
)	
PATRIOT COAL CORPORATION, et. al.)	Case No. 12-51502-659
)	Judge Kathy A. Surratt-States
)	Chapter 11
Debtors.)	
)	
EASTERN ROYALTY LLC, F/K/A)	Adversary No. 12-4353--659
EASTERN ROYALTY CORP.,)	
)	PUBLISHED
Plaintiff,)	
)	
-v-)	
)	
BOONE EAST DEVELOPMENT CO.,)	
PERFORMANCE COAL CO., AND NEW)	
RIVER ENERGY CORP., et. al.)	
)	
Defendants.)	

ORDER

Upon consideration of the record as a whole, consistent with the Findings of Fact and Conclusions of Law entered separately in this matter,

IT IS ORDERED THAT Plaintiff's Motion for Judgment on the Pleadings is **GRANTED** and the judgement on Plaintiff's Complaint is entered in favor of Plaintiff and against Defendants in that the Payment Agreement is not an executory contract for purposes of Section 365 of the Bankruptcy Code, and the Payment Agreement is not integrated with or is severable from the Settlement Agreement and the attached agreements, the Partial Assignments and the Boone-ERC Lease; and

IT IS FURTHER ORDERED THAT Defendants' Counterclaim for Post-Petition Breach of Contract is **DISMISSED** for failure to state a claim upon which relief can be granted in that any claim

that arises under the Payment Agreement is a pre-petition claim and is not allowable as an administrative expense; and all other requests of Defendants are **DENIED**; and this is the final judgment and Order of the Bankruptcy Court in this case.



KATHY A. SURRETT-STATES
Chief United States Bankruptcy Judge

DATED: November 13, 2013
St. Louis, Missouri

Copies to:

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