

Objection Date: August 20, 2012 at 4:00 p.m. (prevailing Eastern Time)
Hearing Date (if necessary): September 11, 2012 at 1:30 p.m. (prevailing Eastern Time)

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**DEBTORS' FOURTH OMNIBUS MOTION FOR AN ORDER APPROVING
(i) THE REJECTION OF CERTAIN AGREEMENTS AND (ii) THE
ABANDONMENT OF CERTAIN EXCESS LEASED EQUIPMENT**

Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") respectfully represent:

Relief Requested

1. By this motion (the "**Motion**"), the Debtors seek an order in the form attached hereto as Exhibit A (the "**Order**") approving (i) the rejection, pursuant to

¹ 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.

section 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006, of the Human Resource Service Agreements and the Equipment Sublease (each as defined below and as listed in Exhibit B attached hereto) (collectively, the “**Agreements**”),² and (ii) the abandonment, pursuant to section 554(a) of the Bankruptcy Code and Bankruptcy Rule 6007, of the Excess Leased Equipment (as defined below), in each case effective as of August 10, 2012 (the “**Effective Date**”).

Background and Jurisdiction

2. On July 9, 2012 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (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.

3. The Court has subject matter jurisdiction to consider 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 determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Basis for Relief

4. **The Human Resource Service Agreements.** The Debtors hereby seek to reject (i) the human resource service agreement dated January 9, 2012 between Monster Worldwide, Inc. and Patriot Coal Corporation (the “**Monster Agreement**”) and (ii) the Professional Services Agreement and the Master Agreement, each dated June 24, 2011,

² Due to confidentiality concerns, the Debtors have not attached copies of the Agreements to this Motion. However, upon request, the Debtors will provide copies of these Agreements to the Court and the advisors to the official committee of unsecured creditors.

between Workday, Inc. and Patriot Coal Services LLC (together with all statement of work, order forms and change orders related thereto, the “**Workday Agreements**”, and together with the Monster Agreement, the “**Human Resource Service Agreements**”). Pursuant to the Monster Agreement, Monster Worldwide, Inc. provides a power resume search license as well as job postings and internet job ads on Monster.com. The Debtors have determined that this recruiting tool is no longer needed and provides an unnecessary, ongoing expense to the Debtors’ estates. In addition, pursuant to the Workday Agreements, Workday, Inc. (i) provides a Software-as-a-Service (SAAS) solution to Patriot Coal Services LLC’s legacy Human Resources Information System (HRIS) and (ii) provides professional services in connection with its hosted application service. The Debtors have determined that, in their business judgment, it is not in their best interests to continue using this software, or the related professional services, at this time. The Debtors estimate that rejection of the Human Resource Service Agreements would save their estates over \$600,000.

5. **Equipment Sublease.** The Debtors hereby seek to reject the equipment sublease agreement dated September 1, 2007 between Patriot Leasing Company LLC and PEC Equipment Company, LLC (the “**Equipment Sublease**”), pursuant to which Patriot Leasing Company LLC leases a haul truck (the “**Excess Leased Equipment**”). The Excess Leased Equipment is no longer being used by the Debtors, and would be burdensome to continue to lease and maintain. The Debtors estimate that they will save several hundred thousand dollars from rejecting the Equipment Sublease.

Filing Proofs of Claim

6. The Debtors propose that any claims arising out of the rejections or abandonments discussed herein must timely be filed in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which claims arising before the Petition Date must be filed (the “**Bar Date**”), on or before the later of (i) the Bar Date and (ii) 30 days after entry of the order authorizing the rejection or abandonment to which the claim relates, and that absent a timely filing, such claim will be irrevocably barred.

Retrieval of Excess Leased Equipment

7. The Debtors have provided information on Exhibit B hereto that will assist the counterparty to the Equipment Sublease (the “**Counterparty**”) in retrieving the Excess Leased Equipment. The Counterparty must remove such Excess Leased Equipment from the location designated in Exhibit B. If the Counterparty does not retrieve or otherwise take control of the Excess Leased Equipment within 15 days of the Effective Date, the Debtors request that the Counterparty be responsible to the Debtors for the subsequent costs of, and all risks attendant to, storing such equipment and for other attendant costs as determined by the Debtors, including the cost of insuring the relevant Excess Leased Equipment. If the Counterparty does not remove its Excess Leased Equipment or make timely payments for storage and other costs, the Debtors may file a motion to compel removal of the Excess Leased Equipment and/or payment to the Debtors of storage and other attendant costs, including, without limitation, all legal fees.

**Rejection of the Agreements
Is Supported By the Debtors' Business Judgment
and Should Be Approved By the Court**

8. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a); *see also*; *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *In re Lavigne*, 114 F.3d 379, 386 (2d Cir. 1997). "[T]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to 'renounce title to and abandon burdensome property.'" *In re Orion Pictures Corp.*, 4 F.3d 1095, 1098 (2d Cir. 1993).

9. Courts defer to a debtor's business judgment in rejecting an executory contract or unexpired lease and, upon finding that a debtor has exercised its sound business judgment, regularly approve the rejection under section 365(a) of the Bankruptcy Code. *See Bildisco & Bildisco*, 465 U.S. at 523 (recognizing the "business judgment" standard used to approve rejection of executory contracts); *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009) (same); *In re Penn Traffic Co.*, 524 F.3d 373, 383 (2d Cir. 2008) (same); *In re Klein Sleep Products, Inc.*, 78 F.3d 18, 25 (2d Cir. 1996) (same); *In re Minges*, 602 F.2d 38, 42-43 (2d Cir. 1979) (same); *In re Balco Equities Ltd.*, 323 B.R. 85, 98-99 (Bankr. S.D.N.Y. 2005) (same); *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994) (approving rejection of license by debtor because such rejection satisfied the "business judgment" test); *In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992) (stating that a debtor may assume or reject an unexpired lease under § 365(a) in the exercise of its "business judgment").

10. The abandonment of the Excess Leased Equipment also reduces the Debtors' obligations with respect to Excess Leased Equipment that is no longer used by the Debtors, would be burdensome to continue to maintain, and the Debtors interest in the property is of inconsequential value to their estates. The Debtors submit that the abandonment of the Excess Leased Equipment satisfies the standard set forth in section 554(a) of the Bankruptcy Code. Section 554(a) provides that a debtor in possession may abandon, subject to Court approval, "property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." By the plain terms of the statute, therefore, before authorizing abandonment of property, the Court must find either that the property is burdensome to the estate or the property is both of inconsequential value and inconsequential benefit to the estate. *See, e.g., Midlantic Nat'l Bank v. N.J. Dep't of Env'tl. Prot.*, 474 U.S. 494, 497, *reh'g denied*, 475 U.S. 1091 (1986).

11. The Agreements either provide no ongoing benefit to the Debtors' estates or provide benefits that are substantially less than the corresponding costs. Rejecting the Agreements and abandoning the Excess Leased Equipment will save the Debtors millions of dollars and, for all the reasons set forth herein, is clearly beneficial to the Debtors' estates and creditors. Additionally, the Debtors have determined that the Excess Leased Equipment is no longer needed to support the Debtors' operations and, accordingly, is no longer being utilized by the Debtors. The Debtors and their financial advisors have thoroughly considered the available alternatives to rejection of the Agreements and abandonment of the Excess Leased Equipment and believe that the relief requested herein is most likely to maximize the value of the estates. In light of the foregoing, the Debtors

respectfully request that the Court approve rejection of the Agreements pursuant to section 365(a) of the Bankruptcy Code and abandonment of the Excess Leased Equipment pursuant to section 554(a) of the Bankruptcy Code in the manner requested herein as a sound exercise of their business judgment.

12. The Debtors submit that the notice procedures set forth herein satisfy Bankruptcy Rules 6006, 6007 and 9014 and Local Bankruptcy Rule 6006-1, by providing the counterparties with a notice and an opportunity to object and be heard at a hearing. *See, e.g., In re Drexel Burnham Lambert*, 160 B.R. 729 (S.D.N.Y. 1993) (granting interested parties an opportunity to present objections satisfies due process); *In re Colorado Mountain Cellars, Inc.*, 226 B.R. 244, 246 (D. Colo. 1998) (noting that a hearing is not required to satisfy Bankruptcy Rule 9014). Furthermore, the notice procedures described herein protect the due process rights of the parties in interest without unnecessarily exposing the Debtors' estates to unwarranted administrative expenses.

13. Bankruptcy Rule 6007 allows the Court discretion to limit notice and the time for filing objections to any abandonment of property. The Debtors submit that requiring notice of abandonment of Excess Leased Equipment be given to all creditors and indenture trustees would be unnecessarily expensive, time consuming, and would not provide any useful purpose. Furthermore, the Debtors submit that any reduction of time to file an objection to abandonment will not prejudice the rights of any party in interest. Accordingly, the Debtors request the Court limit notice under Bankruptcy Rule 6007 to the parties in interest set forth herein and limit the time for filing objections as set forth herein.

14. Local Bankruptcy Rule 6007-1 requires that a notice of a proposed abandonment describe the property to be abandoned, state the reason for the proposed abandonment, and identify the entity to whom the property is proposed to be abandoned. The Debtors submit that the notice provisions contained herein and the description herein of the Excess Leased Equipment satisfy such requirements.

Notice

15. Consistent with the procedures described in the Order Establishing Certain Notice, Case Management and Administrative Procedures entered by the Court on July 16, 2012 [ECF No. 84] (the “**Case Management Order**”), the Debtors will serve notice of this Motion on (a) the Core Parties, (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order) and (c) the counterparties to the Agreements. 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). In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 21 of the Case Management Order, if no objections are timely filed and served in accordance therewith, an order granting the relief requested herein may be entered without a hearing.

No Previous Request

16. 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 relief
requested herein and such other and further relief as is just and proper.

Dated: New York, New York
August 10, 2012

By: /s/ Damian S. Schaible

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*Proposed Counsel to the Debtors
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SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC

EXHIBIT A

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**FOURTH OMNIBUS ORDER APPROVING (i) THE REJECTION OF CERTAIN
AGREEMENTS AND (ii) THE ABANDONMENT OF CERTAIN EXCESS
LEASED EQUIPMENT**

Upon the fourth omnibus motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for an order pursuant to sections 365(a) and 554(a) of the Bankruptcy Code and Bankruptcy Rules 6006, 6007 and 9014, approving the rejection of the Agreements and the abandonment of the Excess Leased Equipment as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided in accordance with the Case Management Order; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their respective estates and creditors; and rejecting the Agreements and abandoning the Excess Leased Equipment representing a prudent exercise of the Debtors' business judgment; and the Debtors having articulated good, sufficient and sound business justifications and compelling circumstances for rejecting the Agreements and abandoning the Excess Leased Equipment; and the Court having reviewed the Motion [and having held a hearing with appearances of parties in interest noted in the transcript thereof (the "**Hearing**")]; and the Court having determined that the legal and factual bases set forth in the Motion [and at the Hearing] establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that pursuant to section 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006 and Local Rule 6006-1, the Debtors' rejection of the Agreements is hereby approved and shall be effective as of the Effective Date; and it is further

ORDERED that pursuant to section 554(a) of the Bankruptcy Code and Bankruptcy Rule 6007 and Local Rule 6007-1, the Debtors' abandonment of the Excess Leased Equipment is hereby approved and shall be effective as of the Effective Date; and it is further

ORDERED that claims arising out of any rejections or abandonments effected pursuant to this Order must timely be filed in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which claims arising before the Petition Date must be filed (the “**Bar Date**”), on or before the later of (i) the Bar Date and (ii) 30 days after the date hereof, and that absent a timely filing, such claim will be irrevocably barred; and it is further

ORDERED that if the Counterparty does not retrieve or otherwise take control of the Excess Leased Equipment within 15 days of the Effective Date, then the Counterparty shall be responsible to the Debtors for the subsequent costs of, and all risks attendant to, storing such equipment and for other attendant costs as determined by the Debtors, including the cost of insuring the relevant Excess Leased Equipment. If the Counterparty does not remove its Excess Leased Equipment or make timely payments for storage and other costs, the Debtors may file a motion to compel removal of the Excess Leased Equipment and/or payment to the Debtors of storage and other attendant costs, including, without limitation, all legal fees; and it is further

ORDERED that notice of the Motion and the relief requested therein satisfy Bankruptcy Rules 6006 and 6007 and Local Bankruptcy Rule 6006-1; and it is further

ORDERED that the description of Excess Leased Equipment in the Motion, coupled with the information contained in Exhibit B to the Motion and the notice provisions contained herein satisfy Local Bankruptcy Rule 6007-1; and it is further

ORDERED that the notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing the counterparties with notice and an opportunity to object and be heard at a hearing; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

_____, 2012

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

NON-LEASE AGREEMENTS					
COUNTERPARTY	DEBTOR	TYPE	DATE OF CONTRACT	EQUIPMENT DESCRIPTION & SERIAL NO.	REJECTION EFFECTIVE DATE
Monster Worldwide, Inc. 5 Clock Tower Place, Suite 500 Maynard, MA 01754	Patriot Coal Corporation	Human Resource Service Agreement	1/9/2012	N/A	August 10, 2012
Workday, Inc. 6230 Stoneridge Mall Road Pleasanton, CA 94588	Patriot Coal Services LLC	Human Resource Service Agreements (Master Agreement and Professional Services Agreement, including all statements of work, order forms and change order forms)	6/24/2011	N/A	August 10, 2012

EQUIPMENT LEASES					
COUNTERPARTY	DEBTOR	TYPE	DATE OF CONTRACT	EQUIPMENT DESCRIPTION & SERIAL NO.	REJECTION EFFECTIVE DATE
PEC Equipment Company, LLC Peabody Plaza Attn: General Counsel 701 Market St St. Louis, MO 63101-1826	PATRIOT LEASING COMPANY, LLC	Equipment Sublease	9/1/2007	Description: Cat 777D Haul Truck Car Location: Wells Preparation Plant 34475 Ponk Fork Road- Building A Wharton, WV 25208 Serial No: AGC02358	August 10, 2012