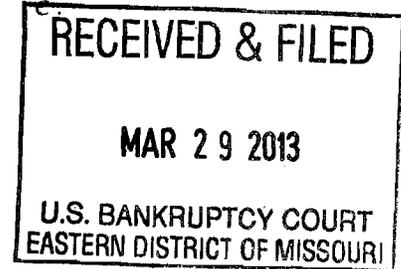




**THE PREVIANT**  
L A W F I R M S.



**March 29, 2013**

The Honorable Kathy A. Surratt-States  
United States Bankruptcy Court for the  
Eastern District of Missouri  
Thomas F. Eagleton US Courthouse  
111 S. 10<sup>th</sup> Street  
St. Louis, Missouri 63102

Re: In re Patriot Coal, Case no. 12-51502-659 (jointly administered)

Dear Judge Surratt-States:

The undersigned represents the United Mine Workers of America in the above proceedings. I write in response to the letter forwarded to chambers yesterday by Attorney Moskowitz concerning the Debtors' desire to limit participation by third parties in the pending motion for rejection of collective bargaining agreements and to modify retiree benefits pursuant to 11 U.S.C. §§1113 and 1114.

The UMWA disagrees with the Debtors in one material respect: We feel the Debtors are wrong about participation by the various union-related pension and welfare funds, which should continue to be allowed to participate in the §1113 and §1114 proceedings to the extent the Debtors' own proposals directly implicate the funds themselves.

The funds are not in the position of general creditors in this matter. While all creditors will be affected in some sense by the pending motions, the Debtors have proposed termination of their pension obligations, triggering a withdrawal from the pension plan, and have imposed duties upon the funds to administer the VEBA proposed to eliminate the Debtors' retiree health care obligations. The union's counterproposals also contemplate the funds having this role. These two items constitute about \$100 million of the Debtors' \$150 million annual concession package. While Attorney Moskowitz has told me orally that the Debtors will drop the latter proposal (that is, fund administration of the VEBA), all negotiations to this point have assumed such administration.

The decision in UAL Corp., 408 F.3d 847 (7<sup>th</sup> Cir. 2005) is not apposite as to the funds in this matter. The fiduciary in UAL was a mere administrator; here the pension fund is not only a third party beneficiary of the contract, but has the power to alter the benefits and contributions required. As a practical matter, no party other than the funds, including the Debtors and UMWA, is in a better position to advise the Court of the mechanics and the impact of an actual pension withdrawal. Likewise, in UAL the debtor's proposal did not seek to impose obligations on the fiduciary. I question whether any court may constitutionally enter an order that purports to impose obligations upon a party without notice and opportunity to be heard at least pertaining to that part of the order. In UAL, the court acknowledged that the Pension Benefit

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Guaranty Corporation was permitted to participate. The funds here similarly are obligated to pay pensions to workers despite a withdrawal. They are clearly implicated in this matter beyond the usual secondary or tertiary effects upon general creditors.

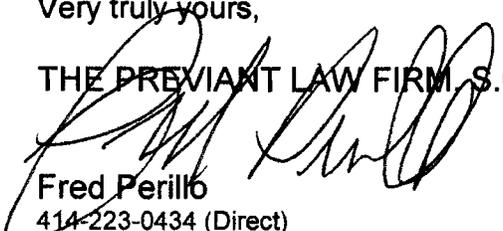
In other respects, UMWA is in full agreement with the Debtors that a proliferation of intermeddlers in the §1113 and §1114 process will impede rather than advance this litigation. UMWA even agrees that the funds should participate to the extent their roles the contract and proposals are implicated, that is, regarding withdrawal liability and the specific roles assigned to them by the collective bargaining agreement and the proposals. UMWA does not envision the funds having equal party status as a collective bargaining representative with a right to comment upon every aspect of the proposals.

UMWA seeks the funds participation knowing that the funds will disagree with UMWA on fundamental issues. Our position herein is not motivated by a desire to have a second party opposing contract rejection. Rather, UMWA believes the most efficient way to introduce evidence regarding fund-related issues raised by the Debtors in their motion is to permit the funds to call and question their own witnesses.

UMWA also understands the funds will file their own motion to intervene which may give different reasons for their participation and seek a different scope for their involvement. UMWA, as always, here speaks only for its 1657 members and approximately 23,000 retirees and beneficiaries, and does not purport to speak for the funds. UMWA thanks the Court for its consideration.

Very truly yours,

THE PREVIAINT LAW FIRM, S.C.



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