

SO ORDERED
Main Document
Apr 12, 2013
Kathy A. Surratt - States
KATHY A. SURRETT-STATES
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

)	
In re:	)	Chapter 11
	)	Case No. 12-51502
PATRIOT COAL CORPORATION, et al.,	)	(Jointly Administered)
)	
Debtors.	)	Objection Deadline:
	)	April 12, 2013 at 4 p.m. CST
)	
	)	Hearing Date (if necessary):
	)	April 29 to May 3, 2013 at 10 a.m.
	)	CST each day
)	
	)	Hearing Location:
	)	Courtroom 7 North

**MOTION OF THE UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST
AND THE UNITED MINE WORKERS OF AMERICA 1993 BENEFIT PLAN TO FILE
UNDER SEAL THEIR OBJECTION TO THE DEBTORS'
MOTION TO REJECT COLLECTIVE BARGAINING AGREEMENTS**

The United Mine Workers of America 1974 Pension Trust ("1974 Plan") and the United Mine Workers of America 1993 Benefit Plan ("1993 Plan," and together with the 1974 Plan, the "UMWA Plans" or "Plans") by and through their undersigned counsel, respectfully move the Court for leave to file under seal (i) relevant portions of their Objection to Patriot Coal Corporation ("Patriot") and its subsidiaries' (collectively, "Debtors") *Motion to Reject Collective Bargaining Agreements and to Modify Retiree Benefits Pursuant to 11 U.S.C. §§ 1113, 1114 of the Bankruptcy Code* ("1113/1114 Motion") [ECF No. 3214] and Memorandum of Law in support thereof ("Brief") [ECF No. 3219], and (ii) relevant portions of the materials filed in support thereof (the foregoing (i) and (ii), together, the "Objection"). In support of their motion, the UMWA Plans state as follows:

1. On March 14, 2013, Debtors filed the 1113/1114 Motion, along with a *Motion for Leave to File the Debtors' 1113/1114 Motion Under Seal* (“Debtors’ Motion to File Under Seal”) [ECF No. 3213]. On March 20, 2013, the Court granted the Debtors’ Motion to File Under Seal [ECF No. 3327].

2. On March 29, 2013 the Plans filed a *Motion to Intervene and Emergency Hearing Thereon* (“Motion to Intervene”) [ECF No. 3444] in the contested matter concerning the 1113/1114 Motion. This Court granted the Plans’ Motion to Intervene on April 5, 2013 [ECF No. 3547], and directed the Plans to file an Objection by 4:00 p.m. prevailing central time on April 12, 2013. *Id.* at 2.

3. The Plans anticipate that their Objection may contain “confidential . . . commercial information” under § 107(b)(1) of the Bankruptcy Code, including confidential financial information of the Debtors. This information is necessary to fully develop the Plans’ Objection as it relates to whether the Debtors’ proposals to reject collective bargaining agreements are necessary, fair, and equitable.

4. The confidential information is covered by the Stipulated Protective Order Under 11 U.S.C. §§ 1113(d)(3) and 1114(k)(3) (“Stipulated Protective Order”) [ECF No. 1040] executed between the Debtors and the UMWA. In particular, the Stipulated Protective Order covers information regarding Debtors’ “financial and/or business operations, business ventures, strategic plans, pricing, marketing strategies, and programs, ideas, concepts, business plans, financial condition and projections, identifying information about employees and retirees, distribution arrangements, trade secrets, and/or ideas.” *Id.* ¶ 1. Pursuant to Paragraph 6 of the Stipulated Protective Order, “[i]f a party wishes to file with the Court any Confidential

Information or any information derived therefrom, such material or information shall be filed with the Court under seal.” *Id.* ¶ 6.

5. Pursuant to November 28, 2012 Confidentiality and Non-Disclosure Agreements between the Debtors and each of the Plans, the Plans are authorized to use the confidential information in preparation for court proceedings under §§ 1113 and 1114 of the Bankruptcy Code.

6. The Plans will prepare a redacted version of their Objection to be filed in the public record.

7. Pursuant to the Procedures Manual for the Bankruptcy Court for the Eastern District of Missouri (the “Procedures Manual”), documents may be filed under seal “on motion to the Court.” Procedures Manual at 22. The Court has authority, with or without notice, to make an order “to protect the estate or any entity in respect of . . . confidential . . . commercial information.” Fed. R. Bankr. P. 9018. In light of the confidentiality designations Debtors have placed upon the materials that the UMWA Plans will rely upon in Objection, sealing of this information is warranted.

WHEREFORE, for the foregoing reasons, the UMWA Plans respectfully request that the Court enter an Order (i) granting them leave to file their Objection under seal, and (ii) providing such other and further relief as the court deems just and appropriate.

Dated: April 9, 2013

Respectfully submitted,

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Workers of America 1993 Benefit Plan*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed on April 9, 2013 using the Court's CM/ECF system and that service will be accomplished upon all Core Parties by operation of that system.

/s/ James E. Crowe, III