

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

Apr 17, 2013

*Kathy A. Surratt - States*

KATHY A. SURRATT-STATES  
Chief United States Bankruptcy Judge

----- X  
:   
**In re:** :   
:   
**PATRIOT COAL CORPORATION, et al.,** : **Chapter 11**  
: **Case No. 12-51502-659**  
: **(Jointly Administered)**  
**Debtors.** :   
:   
:   
----- X

**MOTION OF PEABODY ENERGY CORPORATION FOR AN ORDER  
ALLOWING ITS OBJECTION TO THE MOTION OF THE  
DEBTORS AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
FOR LEAVE TO CONDUCT DISCOVERY OF PEABODY ENERGY  
CORPORATION PURSUANT TO RULE 2004 TO EXCEED FIFTEEN PAGES**

Peabody Energy Corporation (“Peabody”), by and through its undersigned attorneys, hereby moves the Court pursuant to Local Bankruptcy Rule 9004(C) for an Order granting Peabody leave to exceed the Court’s page limitation for Peabody’s Objection to the Motion of the Debtors and the Official Committee of Unsecured Creditors for Leave to Conduct Discovery of Peabody Energy Corporation Pursuant to Rule 2004 (the “Objection”). In support of this motion, Peabody states as follows:

1. On July 9, 2012, the debtors and debtors in possession in these proceedings (collectively, “Debtors”) commenced in the United States Bankruptcy Court for the Southern District of New York voluntary cases under chapter 11 of the Bankruptcy Code. On December 19, 2012, the Bankruptcy Court for the Southern District of New York entered an order transferring the cases to this Court. (ECF No. 1789.)
2. On April 2, 2013, Debtors and the Official Committee of Unsecured Creditors of Patriot Coal Corporation (with Debtors, “Movants”) filed their Motion seeking leave to conduct

discovery from Peabody pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Motion”). (ECF No. 3494.)

3. This Court has jurisdiction to consider the Motion and the Objection pursuant to 28 U.S.C. §§ 157 and 1334. The matter addressed by the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408, 1409, and 1412.

4. By their Motion, Movants seek exhaustive discovery from Peabody under Bankruptcy Rule 2004, beyond even the proposals that Movants made in the meet-and-confer process. Importantly, Peabody does not seek to quash Rule 2004 discovery altogether. In fact, Peabody already has agreed to provide Movants with wide-ranging discovery under Rule 2004, and Peabody has expanded its offer as a last effort to resolve this matter. Movants’ further demands are unreasonable under the circumstances of this case.

5. Peabody has made every effort to be concise in addressing these matters, and has not burdened the Court with an exhaustive list of its objections to Movants’ proposed order and proposed subpoena *duces tecum*. To provide an adequate understanding of the circumstances in which Movants demand this exhaustive discovery, however, and to support Peabody’s request to deny the Rule 2004 Motion to the extent it seeks discovery beyond what Peabody has already agreed to provide, Peabody respectfully requests that the Court allow it to exceed the page limit set forth in Local Bankruptcy Rule 9004(C).<sup>1</sup>

\* \* \*

---

<sup>1</sup> Movants also filed a motion to exceed the page limit (Doc. 3495), upon which the Court has not yet ruled.

WHEREFORE, for the reasons stated above, Peabody respectfully requests that the Court enter an Order: (i) granting it leave, pursuant to Local Bankruptcy Rule 9004(C), to exceed the page limit by 6 pages; and (ii) granting such other and further relief as the Court may deem just and proper.

Dated: April 16, 2013

Respectfully submitted,

/s/ Steven N. Cousins

John M. Newman, Jr. (admitted pro hac vice)

David G. Heiman (admitted pro hac vice)

Robert S. Faxon (admitted pro hac vice)

Carl E. Black (admitted pro hac vice)

Paula Batt Wilson (admitted pro hac vice)

JONES DAY

North Point

901 Lakeside Avenue

Cleveland, Ohio 44114

Telephone: (216) 586-3939

Facsimile: (216) 579-0212

[jmnewman@jonesday.com](mailto:jmnewman@jonesday.com)

[dgheiman@jonesday.com](mailto:dgheiman@jonesday.com)

[rfaxon@jonesday.com](mailto:rfaxon@jonesday.com)

[ceblack@jonesday.com](mailto:ceblack@jonesday.com)

[pbwilson@jonesday.com](mailto:pbwilson@jonesday.com)

Steven N. Cousins (MO 30788)

David L. Going (MO 33435)

Susan K. Ehlers (MO 49855)

ARMSTRONG TEASDALE

7700 Forsyth Boulevard, Suite 1800

St. Louis, Missouri 63105

Telephone: 314-621-5070

Facsimile: 314-621-5065

[scousins@armstrongteasdale.com](mailto:scousins@armstrongteasdale.com)

[dgoing@armstrongteasdale.com](mailto:dgoing@armstrongteasdale.com)

[sehlers@armstrongteasdale.com](mailto:sehlers@armstrongteasdale.com)

ATTORNEYS FOR DEFENDANTS  
PEABODY HOLDING COMPANY, LLC  
PEABODY ENERGY CORPORATION