

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

**Chapter 11
Case No. 12-51502-659
(Jointly Administered)**

Re: ECF No. 1919

**SALARIED RETIREE COMMITTEES' MOTION FOR LEAVE TO
EXCEED THE PAGE LIMITATION IN ITS RESPONSE TO MOTION
FOR AN ORDER AUTHORIZING THE MODIFICATION AND
TERMINATION OF CERTAIN NON-VESTED BENEFITS FOR
NON-UNION RETIREE BENEFIT PARTICIPANTS**

The Salaried Retiree Committee (the "Retiree Committee") by and through its undersigned counsel, hereby submits this motion for an order pursuant to rule 9004(C) of the Local Rules of the Bankruptcy Court for the Eastern District of Missouri granting the Retiree Committee leave to exceed the Court's page limitation for its Response to Debtors' Motion for An Order Authorizing the Modification and Termination of Certain Non-Vested Benefits for Non-Vested Benefits for Non-Union Retiree Benefit Participants (the "Motion"). In support of this Motion, the Retiree Committee states as follows:

1. Through the pending Motion, Debtors seek to terminate nearly all of the retiree welfare benefits with respect to nearly 1,300 families of non-union retirees.
2. Debtors' Motion is almost wholly largely predicated upon reservation of rights language pulled from approximately eighty (80) ERISA plan documents spanning several decades of time. Debtors attached a myopic seventeen (17) page appendix to their Motion reflecting specific reservation of rights language upon which they rely, while

someone concluding in a summary fashion in the Motion that said language in the aggregate presenting the vesting of the benefits at issue. Debtors did not describe in the Motion or the Appendix the nature of the various plans or any language appearing outside of any reservation of rights portions of the historical documents.

3. In responding to the Motion, the nature of the arguments required to be made by the Retiree Committee did not lend itself to the mere citation of language cited in Debtors' appendix nor mere citation of additional quotes from the same ERISA plan documents. Rather, in order for the Retiree Committee to argue why the reservation of rights relied upon by Debtors were ineffectual or insufficient, it was required to delve into the nature of the ten (10) different ERISA plans at issue, to demonstrate the interplay of various parts of said plans to demonstrate inconsistencies and ambiguities, and to cite to other plan materials that was not cited by Debtors. These arguments did not lend themselves to putting a majority of its arguments into an Appendix form as Debtors utilized.

4. The Retiree Committee made every effort to comply with the applicable page limitation for Motions and Responses. However, because of the great number of ERISA plan documents at issue, the large number of relevant historical documents required to be addressed (under the applicable legal standards) and the complexity of the arguments that raised by the Retiree Committee, the Response to the Motion sought to be filed could not be limited to the normal page number guideline limits.

5. The Retiree Committee respectfully request leave to exceed the Court's page limitation by 27 pages.

WHEREFORE, for the foregoing reasons, the Retiree Committee respectfully request leave to exceed the applicable page limitation by 27 pages in its Response to the Motion , and for such other relief as the Court deems just and proper.

Counsel for the Non-Union
Retiree Committee

/s/ Jon D. Cohen
Jon D. Cohen

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CERTIFICATE OF SERVICE

I certify that on April 16, 2013, I caused a copy of the foregoing pleading to be served through the Court's CM/ECF system on those parties receiving ECF notices in these proceedings.

/s/ Thomas H. Riske

Thomas H. Riske