IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: **PATRIOT COAL CORPORATION, *et al.*,** **Debtors.**	**Chapter 11** **Case No. 12-51502-659** **(Jointly Administered)** Related to Docket No. 4670 Hearing Date: October 22, 2013 Hearing Time: 10:00 a.m. Central Location: Courtroom 7-N, St. Louis

DEBTORS' REPLY IN SUPPORT OF
SEVENTEENTH OMNIBUS OBJECTION TO CLAIMS
(Pettry Litigation Claims)

Patriot Coal Corporation and its affiliated debtors (the "Debtors") respectfully submit this Reply in support of their Seventeenth Omnibus Objection to Claims [Dkt. No. 4670] (the "Objection"). For the following reasons, the Objection should be sustained, and the Claimants' Omnibus Response in Opposition to Debtors' Seventeenth Omnibus Objection to Claims [Dkt. No. 4791] (the "Response") should be overruled.

Preliminary Statement

The arguments of the Pettry Claimants fall into two general categories—issues involving the Federal Rules of Bankruptcy Procedure, and assertions that the decision of the Circuit Court of Marshall County, West Virginia, in the Litigation are not binding on the Pettry Claimants or this Court. As explained in further detail below, the Pettry Claimants' procedural arguments are without merit: an objection to a creditor's claim is a contested matter and does not require an adversary proceeding, and this Court has expressly authorized the Debtors to file omnibus

objections to claims on the basis that the Debtors are not liable for the claims. The Pettry Claimants' arguments regarding *res judicata* and the *Rooker-Feldman* doctrine turn entirely on the propositions that the state court violated the automatic stay by dismissing their claims—that is, by granting relief that was *favorable* to Debtor Eastern Associated Coal Corporation—and that the Pettry Claimants have standing to enforce the stay. Neither is accurate. Notwithstanding the out-of-circuit precedent cited by the Pettry Claimants, controlling authority clearly provides that a state court does not violate the automatic stay by dismissing litigation in which a debtor is a defendant. And, in any event, the automatic stay plainly is not intended to provide a breathing spell to the Pettry Claimants, relieving them of the obligations of prosecuting ten-year-old litigation against a debtor, much less against non-debtor defendants.

The Response also includes a variety of other assertions about the merits and the handling of their litigation by the West Virginia courts, as well as hundreds of pages of supporting exhibits. The Court need not revisit these issues. Indeed, the point of both *res judicata* and *Rooker-Feldman* is to make such an inquiry unnecessary and impermissible. The state court's decision is binding, and that is sufficient to require the disallowance of the Claims.

Procedural Issues

The Pettry Claimants' argument that the Objection requires an adversary proceeding is simply incorrect. The Debtors are not seeking a declaratory judgment; they are seeking to disallow the Claims. Objections to claims are quintessential contested matters and are filed every day without the commencement of adversary proceedings. It is true that a sustained objection is, in some respects, a determination that a claim is unenforceable against the debtor or its property under an agreement or applicable law (assuming that the objection arises under

Section 502(b)(1) of the Bankruptcy Code). But if that were sufficient to make a court's determination equivalent to a declaratory judgment, then *every* claim objection would require an adversary proceeding, and Rule 3007(b) would be meaningless. In any event, Rule 7001 does not require an adversary proceeding merely because the relief sought by a party involves a declaration of the rights of the parties. Rather, Rule 7001(9) applies when a plaintiff seeks "to obtain a declaratory judgment *relating to any of the foregoing*." Fed. R. Bankr. P. 7001(9) (emphasis added). This dispute does not involve the recovery of money or property, the validity of a lien, the sale of a non-debtor's interest in property, or any other issue implicated by the other subsections of Rule 7001.

Rule 3007(d) also is no obstacle to the relief sought in the Objection. The Pettry Claimants do not identify what purpose would be served by requiring the Debtors to file eighteen identical claim objections, each of which would be served on their counsel as the notice party identified in each proof of claim, and requiring each of the Pettry Claimants to file a separate response. But the Objection is proper regardless. In paragraph 3 of its Order Establishing Procedures for Claim Objections [Dkt. No. 3021], the Court authorized the Debtors to file omnibus objections on the basis that "the claims seek recovery of amounts for which the Debtors are not liable." That is precisely the reason for the Objection.

The Automatic Stay

The Pettry Claimants' *res judicata* and *Rooker-Feldman* arguments depend on their contentions that the automatic stay rendered the state court's decision void or deprived the court of jurisdiction to proceed. Neither is accurate.

Much of the Pettry Claimants' response appears to take issue with the state court's determination that the automatic stay in Eastern's bankruptcy case did not apply to the non-debtor defendants in the Litigation (Resp. at 8-10, 15-17). Although that issue does not directly affect Eastern, it underlies the rest of the Pettry Claimants' arguments. It is thus important to emphasize that the Pettry Claimants' position is plainly incorrect; the automatic stay does not protect a debtor's co-defendants. *Croyden Associates v. Alleco, Inc.*, 969 F.2d 675, 677 (8th Cir. 1992). And, while there are limited circumstances in which the stay can be extended to cover a non-debtor, such an extension requires the bankruptcy court to exercise its powers under Section 105 of the Bankruptcy Code and "the usual standards, procedures, and burdens of proof for injunctive relief." *In re Panther Mountain Land Development, LLC*, 686 F.3d 916, 927 (8th Cir. 2012). Neither the Debtors nor any other party requested an extension of the automatic stay to cover the non-debtor defendants in the Litigation.

The automatic stay also did not preclude the state court from dismissing the Pettry Claimants' claims against Eastern. Under Eighth Circuit authority, a bankruptcy court "does not have the power to preclude another court from dismissing a case on its docket or to affect the handling of a case in a manner not inconsistent with the purpose of the automatic stay." *Dennis v. A.H. Robins Co.*, 860 F.2d 871, 872 (8th Cir. 1988). The dismissal of the Litigation was in no way inconsistent with the purpose of the automatic stay; in fact, it benefited Eastern. The Ninth Circuit case on which the Pettry Claimants principally rely cites *Dennis* and acknowledges that the law in the Eighth Circuit differs. *See Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 755 & n.2 (9th Cir. 1995). *Dean* is thus irrelevant here.

Moreover, the Pettry Claimants do not have standing to enforce the automatic stay in this context. The courts do not agree regarding whether one creditor may obtain relief when another

creditor violates the stay. *Compare In re Pecan Groves of Arizona*, 951 F.2d 242, 245 (9th Cir. 1991) (creditors lack standing) *with St. Paul Fire & Marine Ins. Co. v. Labuzan*, 579 F.3d 533, 543 (5th Cir. 2009) (creditors have standing) *and In re Reserves Development Corp.*, 78 B.R. 951, 957 (W.D. Mo. 1986) (secured creditor had standing where another creditor attached its collateral). But these cases are not relevant to the circumstances of this dispute. Neither Eastern nor any of its other creditors have been adversely affected by the state court's dismissal of litigation against Eastern. The automatic stay is not intended to relieve a plaintiff of the burdens of prosecuting its litigation against debtors or non-debtors (or to protect a plaintiff from sanctions for failing to pursue litigation according to applicable rules). The Pettry Claimants' efforts to avoid the consequences of their actions and omissions are not within the zone of interests protected by the automatic stay. *See, e.g., In re Hen House Interstate, Inc.*, 177 F.3d 719, 723 (8th Cir. 1999) (en banc) (rejecting arguments that creditors have standing to surcharge lenders' collateral), *aff'd*, 530 U.S. 1 (2000).

The Pettry Claimants' *Rooker-Feldman* argument turns on the proposition that the state court lacked jurisdiction over either the subject matter of or the parties to the Litigation (Resp. at 14). But they make no attempt to explain why either was lacking. The parties are residents of and companies doing business in West Virginia, and the claims in the Litigation arise under West Virginia tort law. Instead, the Pettry Claimants take issue with only one decision by the state court—the determination that the automatic stay did not apply to the non-debtor defendants—and suggest that the state court did not have jurisdiction to decide that (Resp. at 15). The Pettry Claimants' argument is misguided and incomplete in several respects. First, it is well-recognized that non-bankruptcy courts have jurisdiction to determine whether and to what extent the automatic stay applies to matters pending before them. *See, e.g., In re Baldwin-United Corp.*

Litigation, 765 F.2d 343, 347 (2d Cir. 1985); *Brock v. Morysville Body Works, Inc.*, 829 F.2d 383, 387 (3d Cir. 1987); *Hunt v. Bankers Trust Co.*, 799 F.2d 1060, 1069 (5th Cir. 1986). Non-bankruptcy courts must make such decisions daily. Second, the case on which the Pettry Claimants rely addressed a different issue. In *Gruntz*, the Ninth Circuit held that a state court's determination that the automatic stay does not apply is not binding, so that a bankruptcy court is free to conclude that the stay in fact applied and that the state court's judgment is void. *See In re Gruntz*, 202 F.3d 1074, 1083-84 (9th Cir. 2000) (en banc). The Eighth Circuit has a different view on a closely-related question: a bankruptcy court *is* bound by a state court's interpretation of a discharge. *See In re Ferren*, 203 F.3d 559, 559-60 (8th Cir. 2000). But this Court need not resolve the question whether it is bound by *Rooker-Feldman* to agree with the state court's interpretation of the automatic stay, because, as discussed above, this Court is bound by *Eighth Circuit precedent* to agree with the state court's interpretation of the automatic stay. And, in any event, that is not the real issue in dispute, which is whether this Court may disagree with the state court's decision on the *merits* of the Litigation. As the Ninth Circuit acknowledged in *Gruntz*, in "non-core proceedings that do not implicate substantive rights granted under title 11 or affect the administration of the bankruptcy case, the normal rules of preclusion, including the *Rooker-Feldman* doctrine, apply." *Gruntz*, 202 F.3d at 1084. This Court thus lacks the power to decide that the state court's dismissal of the Litigation was erroneous, and the Objection must be sustained.

Conclusion

For these reasons, the Objection should be sustained, and the Claims should be disallowed.

Dated: October 18, 2013
St. Louis, Missouri

Respectfully submitted,

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