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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI

Case No. 12-51502

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In the Matter of:

PATRIOT COAL CORPORATION, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

111 South 10th Street

4th Floor

St. Louis, Missouri

February 25, 2014

10:20 AM

B E F O R E:

HON. KATHY A. SURRETT-STATES

CHIEF U.S. BANKRUPTCY JUDGE

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Fifth Omnibus Objection to Claims 19 and others Filed by Debtor  
(4181)

Tenth Omnibus Objection to Claims 1288 and others (Exh A) by  
Debtor (4331)

Twenty-Fifth Omnibus Objection to Claims 2586 and Others (No  
Liability Claims) Filed by Debtor (5200)

Objection to Claim 3739,3740,3742,3743,3745,3746,3747 of United  
Mine Workers of America Cash Deferred Savings Trust of 1988 for  
\$96600 by Debtor (5298)

Twenty-Seventh Omnibus Objection to Claims 844, 1216, 1219,  
1249, 1266, 1789, 3005, 3007, 3263, 3301, 3318 (Employment-  
Related / Books and Records) by Debtor (5306)

Transcribed by: Sharona Shapiro  
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A P P E A R A N C E S :

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BY: MICHELLE M. MCGREAL, ESQ. (TELEPHONICALLY)

ALSO PRESENT:

MR. ROGER WYCISKALLA, Pro Se

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P R O C E E D I N G S

THE CLERK: Please rise. The United States Bankruptcy Court for the Eastern District of Missouri is now in session, the Honorable Kathy A. Surratt-States presiding.

THE COURT: Good morning. Please be seated.

All right. These are the matters in the Patriot Coal Corporation. Let me get appearances in the courtroom first.

MR. WALSH: Good morning, Your Honor. Brian Walsh and Laura Hughes for the reorganized debtors.

THE COURT: Good morning.

All right. And then on the phone, Ms. McGreal is appearing on behalf of the reorganized debtors.

MS. MCGREAL: Yes. Good morning, Your Honor.

THE COURT: Good morning.

All right, Mr. Walsh, should we take the matters in the order they appear on the docket?

MR. WALSH: Certainly, Your Honor. Ms. Hughes is going to handle the first few, so I will yield the podium to her.

THE COURT: All right. Let's see, Ms. Hughes, the first matter is the fifth omnibus objection, which the responses to Continental Bank and David Cox have been continued to the March 25th date. And then there's a notation about some related claims of Hulin Cook, Jr.?

MS. HUGHES: Yes, Your Honor, and it's those that we plan to take up today.

1 THE COURT: All right.

2 MS. HUGHES: Mr. Cook is a current employee of the  
3 reorganized debtors. And we objected to two claims that he  
4 filed which are contained in this fifth omnibus objection. And  
5 the claim numbers, for the record, are Eastern District numbers  
6 3257 and 3299.

7 THE COURT: Right.

8 MS. HUGHES: So both of these claims are for unliquidated  
9 priority amounts, and they assert priority status under  
10 507(a)(5) for contributions to an employee benefit plan. As I  
11 said, Mr. Cook is a current employee of the reorganized  
12 debtors, and he works in West Virginia. He is not unionized.

13 The proof of claim doesn't describe the benefits that Mr.  
14 Cook asserts, other than to say that it is payment for services  
15 rendered. The company's investigation of what benefits Mr.  
16 Cook receives, and what that might be in reference to, would  
17 reveal that this claim probably refers to discretionary payouts  
18 made under the 2012 annual incentive compensation plan, which  
19 the company did not elect to make any payments under. And so  
20 this just doesn't give rise to any claim. And because the  
21 claim asserts a priority amount, the company believes that it's  
22 important to have the claim disallowed in order not to hold up  
23 any distributions to any other creditors.

24 And then the second claim 3299 is a very similar story.  
25 It asserts an unliquidated priority amount, and this time it

1 seems to refer to the company's medical reimbursement plan.  
2 And on this, the Court would recall that on April 26th, 2013,  
3 the Court entered an order allowing the modification and  
4 termination of certain nonvested benefits for nonunion  
5 retirees. And the company's exercise of discretion under that  
6 plan, again, did not give rise to any claim.

7 THE COURT: All right.

8 MS. HUGHES: So we would ask that the Court sustain the  
9 objection and just disallow both of these claims.

10 THE COURT: All right. And have we heard anything from  
11 Mr. Cook?

12 MS. HUGHES: Well, not lately. When this objection was  
13 first filed last summer, the company had certain communications  
14 with him, explaining to him its position. And he just said, I  
15 believe, in e-mails that I have seen, that he believes he  
16 should be paid. And then since then, I'm not aware of any  
17 other substantive communications regarding him wanting to come  
18 in and speak to the Court about it. He certainly isn't here  
19 today.

20 THE COURT: All right.

21 MS. HUGHES: And I don't think that he's done anything to  
22 prosecute the claims.

23 THE COURT: All right. Then under the circumstances, I  
24 will sustain the objection and the claims will be disallowed.

25 MS. HUGHES: Thank you.

1 THE COURT: Thank you. All right. Next is the tenth  
2 omnibus objections to claims, and there's a response by  
3 creditor Nancy Smith.

4 MS. HUGHES: Yes, thank you. So on this one, again, the  
5 omnibus objection referenced many claims, and we heard a  
6 response from Mrs. Smith and so have continued this.

7 The proof of claim asserts approximately 83,000 dollars  
8 in future benefits, because it appears that Mrs. Smith believes  
9 that her ability to access the benefits would be or has been  
10 altered because of the bankruptcy cases.

11 Based on the company's records and what it can ascertain  
12 from the record that it has about her benefits -- not so much  
13 from what is on the proof of claim, which is pretty vague -- it  
14 appears that she is the widow of a nonunion employee and that  
15 she receives retiree benefits and that they are included in the  
16 claims that were part of the settlement with the retiree  
17 committee, and that she's eligible to participate in the  
18 nonunion VEBA.

19 And as such, again, it is the company's position that her  
20 benefits were not altered at all by the bankruptcy cases, and  
21 so we would ask that the Court disallow her claims and sustain  
22 the objection.

23 THE COURT: All right. Other than the letter that she  
24 filed, is there no other response from her?

25 MS. HUGHES: That's correct.

1 THE COURT: All right. Then under the circumstances,  
2 I'll sustain the objection and disallow the claim.

3 MS. HUGHES: Thank you, Your Honor.

4 THE COURT: Thank you. All right. Let's see. The  
5 fourteenth omnibus objection has been continued to March, as  
6 well as the fifteenth, the twenty-first and the twenty-fourth  
7 objection.

8 So that brings us to the twenty-fifth omnibus objection  
9 and the response of Roger Wyciskalla?

10 MR. WALSH: That's correct, Your Honor. Brian Walsh, for  
11 the record.

12 Your Honor, the twenty-fifth omnibus objection was  
13 sustained at last month's hearing, as to all of the claims that  
14 were included in it, except for Mr. Wyciskalla's. He has  
15 asserted a priority claim of 750,000 dollars.

16 Your Honor, the basis for the objection to this claim is  
17 simple, and in fact it's arguably even simpler than what's  
18 stated in the objection itself. Mr. Wyciskalla received  
19 benefits under the Coal Act, formerly known as the Coal  
20 Industry Retiree Health Benefits Act of 1992. Neither his  
21 benefits nor the benefits of other beneficiaries of the Coal  
22 Act were modified under the plan of reorganization or any other  
23 proceedings in the Chapter 11 cases, and he continues to  
24 receive benefits.

25 Michael Luna, the vice president of human resources for



1 the reorganized debtors, advised Mr. Wyciskalla of these facts  
2 by a letter dated January 27th, which has been subsequently  
3 filed with the Court. It's in document number 5364. It's page  
4 4 of the PDF there. There is, we submit, Your Honor,  
5 therefore, no basis for Mr. Wyciskalla to file a claim against  
6 the bankruptcy estate. He hasn't been harmed and his claim  
7 hasn't been -- his rights haven't been modified.

8 In some of his more recent filings, Your Honor, Mr.  
9 Wyciskalla appears to be taking a slightly different tact.  
10 Those filings could be read to suggest that he believes he's  
11 not been compensated sufficiently for his injury. But as the  
12 documents make clear, that occurred in 1987, and any claim  
13 arising out of the original injury would have been long barred  
14 by the statute of limitations.

15 So in short, Your Honor, Mr. Wyciskalla has asserted a  
16 750,000-dollar priority claim that we believe is legally and  
17 factually unsound and it would be appropriate for it to be  
18 disallowed so that other creditors can receive their fair share  
19 of the funds to be distributed under the plan of  
20 reorganization, and we thus request that the objection be  
21 sustained and the claim disallowed.

22 THE COURT: All right. Is Mr. Wyciskalla present here in  
23 the courtroom today?

24 MR. WYCISKALLA: Yes, Your Honor.

25 THE COURT: Mr. Wyciskalla, would you come up to the

1 podium, please?

2 MR. WYCISKALLA: Yes.

3 THE COURT: And Mr. Wyciskalla, you understand what Mr.  
4 Walsh has said and what the reorganized debtors' objection is  
5 to your claim?

6 MR. WYCISKALLA: Not entirely, Your Honor.

7 THE COURT: All right. Did you have some que -- they  
8 believe that your benefits have not been altered, because you  
9 received benefits under the Coal Act, and there were no changes  
10 to any of those benefits in the bankruptcy case. The changes  
11 that were made were made to other former employees who were  
12 retirees but not covered under the Coal Act. So they believe  
13 that you haven't suffered any changes because of the bankruptcy  
14 case and therefore that your claim should not be allowed.

15 MR. WYCISKALLA: Um-hum.

16 THE COURT: I have reviewed the various documents that  
17 you have sent here and letters that you have sent, and I think  
18 that I understand what your argument is, is that you believe  
19 that you're entitled to some compensation, going forward, for  
20 long-term care and things of that nature. And I believe that  
21 you may have mentioned that you thought there had been some  
22 changes in your insurance since the bankruptcy case had been  
23 filed. But I'll ask you, is there anything else that you would  
24 like for me to consider before I make a ruling on this matter?

25 MR. WYCISKALLA: Yes, ma'am. I'm not asking, in

1 particular, for the 750,000. I'm asking to sustain the  
2 benefits that I have had, and prior to a couple of years ago I  
3 had an insurance called a UMR card. And I've been to Mayo  
4 Clinic, and I had few problems with the Mayo Clinic with the  
5 card. And as you know, they will not see you unless you have  
6 substantially insurance. I need -- I have several upcoming  
7 problems, and along with my age -- I live alone. And they had  
8 changed my insurance to United Health Care. With United Health  
9 Care I have probably 25,000, more or less, dollars that are not  
10 paid.

11 I recently had several problems this last year, starting  
12 in about this time last year. One was with breathing, which I  
13 went to a doctor, and with medications and so forth I got on  
14 top of that, to a certain extent. Then I had heart problems.  
15 And with the heart problems, under United Health Care, I  
16 acquired numerous -- one bill, in particular, I think I sent it  
17 to -- there again, I'm no attorney; I just was trying to do  
18 what I could for myself. No attorney would take my case. The  
19 ones that would even offer wanted 12,000 dollars, and the other  
20 one wanted more, which I don't have.

21 I have not worked in -- since I had the accident or saved  
22 that man's life that night. And that was in September of 1987.  
23 And I just get by; that's all. I live alone. My children --  
24 two children are grown and they have their own lives. And I  
25 see, at this point, I cannot make it through another winter

1 living alone. I'm standing here in front of you, standing  
2 upright, but I have a lot of problems. I even, at one time,  
3 was in a motorized wheelchair, which UMR paid for, and I had to  
4 use a chair, a motorized one, for about a year, a year and a  
5 half.

6 The thing that bothers me is I'm familiar with the coal  
7 mining industry, as I was an explosive expert. And I've worked  
8 for Amax Coal. That's the original person that I hired into  
9 this particular mine. Then Arch of Illinois purchased Amax  
10 Coal out of Indianapolis, Indiana, for which I was a shooter  
11 for them. And then I was also a shooter on a drills for Arch  
12 of Illinois. And then I was working for Arch when the driller  
13 fell through the shot ground, and being gas, but underground  
14 gas, and I tried to save him and I sustained substantial  
15 injuries which caused me never to be able to work again, nerve  
16 damage and all sorts of things.

17 But anyway, that being what it is, I was, at that time of  
18 the accident, working for Arch of Illinois, who had purchased  
19 our mine, which they were right across the road from us with a  
20 big mine. And therefore, I did not work anymore. I've seen a  
21 psychiatrist for twenty-three years, until he passed away just  
22 about three years ago, two and a half years ago. I had all  
23 sorts of problems. I didn't get out much. I didn't go  
24 nowhere.

25 And the bottom line is -- then came Patriot Coal. And

1 then I get cards in the mail for insurance from Patriot Coal.  
2 I get 316 dollars a month from the United Mine Workers, which  
3 if you get twenty years in the United Mine Workers, you get a  
4 pension of 500 dollars. I did not have twenty years then. I  
5 was a disabled miner, and therefore they allotted the time that  
6 I had worked in the mines as to how I got 316 dollars a month.  
7 In this day and age, that is next to nothing.

8 And my concerns is and are, I should say, that I don't  
9 know where all this is going. Yeah, my benefits have not  
10 changed. But I will also tell you, Your Honor, that United  
11 Health Care is not taking care of their end of the deal. And I  
12 have over here in my seat three or four books, I have this  
13 thick of rules and regulations of what they will and will not  
14 do.

15 And the reason I'm asking for this is to assure, because  
16 I see myself going to assisted living, and with that, I've seen  
17 nursing home, I've seen assisted livings -- I will be sixty-  
18 five November the 10th. And I do not wish to live the rest of  
19 my life, which I hope I live a long time, such as it is, in a  
20 rundown nursing home that I have seen in the area where I live,  
21 which is Southern Illinois. And I wonder who will pay for  
22 this.

23 I realize I have Medicare. Medicare is good, but no one  
24 will take you without Medicare card and an insurance card. I'm  
25 not asking for the money. I'm asking for assurance that will

1 continue to be able to be taken care of because that night,  
2 when I saved that man's life, I laid my life -- my life ended  
3 saving him. And I would do it again, but I didn't realize that  
4 I would get all of this dumped on me from the coal mines and  
5 the insurances and so forth.

6 Yes, UMWA is what UMWA is. I know Richard Trumka years  
7 ago; he's head of the AFL-CIO. I know the president of the  
8 United Mine Workers now, and I cannot say one good thing about  
9 either one of them as far as the way they take care of their  
10 men. I don't feel privileged; I was asked to join a union. I  
11 was a shooter. I was an explosive -- I'm third generation. My  
12 dad was in World War II. He done it; he taught it to me. I  
13 know it. I'm good at it. But after I got hurt, it was all  
14 over. The money was good.

15 Also, Your Honor, I belong -- eighteen years old, I  
16 joined the operating engineers out of Granite City, Illinois,  
17 Local 520. The reason I done that is when the mines ended I  
18 was going into the engineering -- operating engineers. And the  
19 pay scale on that is around 250 dollars a day. I had seniority  
20 in that where I could work, choose my jobs. I was a  
21 journeyman; I could go anywhere I wanted. That limited my  
22 income. I raised horses. I had Tennessee walking horses. I  
23 lost all of those on a farm.

24 I only ask that I can be taken care of the rest of my  
25 life. They can put it in a trust. They can do whatever they

1 want. But the word "disallowed" is used often, and I don't  
2 really appreciate it when you can't stand up and take care of  
3 yourself.

4 That's all I have to say. Maybe I didn't say it right.  
5 I'm not an attorney. But I don't feel that I got a fair deal.  
6 And I know I don't know the law, and I look over here and I see  
7 all of these suits, and I know what their job is and I know  
8 they're good at it. I was good at my job at one time. But I  
9 feel like I'm not getting a fair shake, Your Honor, and that's  
10 all I have to say.

11 THE COURT: All right. Thank you.

12 MR. WYCISKALLA: You're welcome. Thank you for your  
13 time.

14 THE COURT: Mr. Walsh, did you have anything else?

15 MR. WALSH: Your Honor, probably a clarification is in  
16 order. We're talking about disallowing a 750,000-dollar  
17 priority claim. To the extent that Mr. Wyciskalla has remedies  
18 under the plan itself or under ERISA or under the Coal Act  
19 about the way his benefits are being administered, we're  
20 certainly not asking the Court to interfere with those rights  
21 or remedies in any way. This is simply a question of  
22 distributions from the bankruptcy estate. We don't believe  
23 there is a basis for a 750,000-dollar priority claim or any  
24 claim at all, because the benefits are continuing as they have.  
25 And again, we think that's the bottom line, Your Honor.

1 THE COURT: All right. Thank you, Mr. Walsh. I'll take  
2 the matter under submission and I'll issue a written order on  
3 the matter and have it sent out to you all.

4 MR. WYCISKALLA: Is that all, Your Honor?

5 THE COURT: That is all. I will take --

6 MR. WYCISKALLA: All right.

7 THE COURT: I will take the matter as submitted, with  
8 your arguments here and the various pleadings that have been  
9 filed and letters that have been filed with the Court, and I'll  
10 issue a written order, and you'll be sent a copy in the mail.

11 MR. WYCISKALLA: Thank you for listening to me.

12 THE COURT: All right.

13 MR. WYCISKALLA: And thank you for your time.

14 THE COURT: All right. Thank you.

15 MR. WYCISKALLA: I'm through then?

16 THE COURT: Yes, you are.

17 MR. WYCISKALLA: Thank you.

18 THE COURT: All right. Thank you.

19 All right. Then that brings us to the twenty-sixth  
20 omnibus objection was continued to March 25th.

21 The objection to the claim of the Ohio Department of  
22 Revenue (sic) has been denied as moot.

23 The objection to the claim of Western Leasing, there was  
24 a consent order that has been submitted on that.

25 And then on the top of the second page there's the



1 objections to the claims of the United Mine Workers of America  
2 Cash Deferred Savings Trust.

3 MR. WALSH: Yes, Your Honor. This objection relates to  
4 seven claims. They're all related. They relate to similar  
5 subject matter, totaling about 97,000 dollars in aggregate.  
6 Each of these claims seeks contributions to the trust for  
7 what's commonly referred to as walk-around time, which, in  
8 general, is where employees are involved with government  
9 inspections of the facility.

10 The basis for the objection is that all the amounts that  
11 are owed for walk-around time have been paid. The response  
12 deadline was yesterday, Your Honor. We did not receive any  
13 formal or informal response to the objection, and therefore we  
14 request that it be sustained.

15 THE COURT: All right. Then I'll sustain the objection  
16 and the claims will be disallowed.

17 All right. And then that brings us to the twenty-seventh  
18 omnibus objection. And there was a response by creditors Lisa  
19 and Clifford Kuhn.

20 MR. WALSH: That's correct, Your Honor. This objection  
21 relates to a number of claims filed by former employees of the  
22 debtors. On this one, the response deadline was also  
23 yesterday. And as you mentioned, the only response we received  
24 is from Mr. Kuhn. He's asserted a priority claim of about  
25 18,500 dollars for bank vacation days.

1 Your Honor, Mr. Luna's declaration, which is attached to  
2 the objection, states that Mr. Kuhn's claim arose more than 180  
3 days prior to the petition date, and thus it's not a priority  
4 claim under Sections 507(a)(4) or (a)(5) of the Bankruptcy  
5 Code. We would therefore request that the objection be  
6 sustained and that his claim be reclassified as a general  
7 unsecured claim. There is no dispute that that amount is owed,  
8 Your Honor.

9 THE COURT: Oh, all right. Then under the circumstances,  
10 I'll sustain the objection as to the other claims, and then as  
11 to Mr. Kuhn's claim, I'll sustain that objection and deny the  
12 priority asserted, but the claim will be allowed otherwise  
13 being as a general unsecured claim.

14 MR. WALSH: That's correct, Your Honor. And there are  
15 several other claims of the same nature --

16 THE COURT: All right. So they're all --

17 MR. WALSH: -- where we're moving --

18 THE COURT: -- of that same nature.

19 MR. WALSH: -- from priority to general unsecured.

20 That's correct, Your Honor.

21 THE COURT: All right. Then I'll sustain all of the  
22 objections, and the claims will be denied their priority status  
23 but allowed as general unsecured claims.

24 MR. WALSH: Thank you, Your Honor.

25 THE COURT: Thank you. That looks like that's everything

1 on the docket.

2 MR. WALSH: That's everything on my copy, Your Honor,  
3 unless --

4 THE COURT: All right. Ms. McGreal, anything else from  
5 New York?

6 MS. MCGREAL: No, thank you, Your Honor.

7 THE COURT: All right. Thank you. All right. Then  
8 we'll be in recess. Thank you.

9 MR. WALSH: Thank you, Your Honor.

10 (Whereupon these proceedings were concluded at 10:27 AM)

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C E R T I F I C A T I O N

I, Sharona Shapiro, certify that the foregoing transcript is a true and accurate record of the proceedings.

*Sharona Shapiro*

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Date: February 26, 2014

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UNITED STATES BANKRUPTCY COURT  
Eastern District of Missouri  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, Fourth Floor  
St. Louis, MO 63102

In re: Debtor(s):  
Patriot Coal Corporation

Case No.: 12-51502 -A659

CHAPTER 11

**Notice of Filing of Transcript and of Deadlines Related to Restriction and Redaction**

To: All Persons of Record at Hearing

A transcript of the proceeding held on February 25, 2014 was filed on February 28, 2014.

The following deadlines apply:

If you wish to have personal data identifiers redacted from the transcript, a *Request for Transcript Redaction* must be filed within 7 days of the date of this notice: March 7, 2014. Personal data identifiers **include: social security numbers, financial account numbers, names of minor children, and dates of birth**. If no such request is filed within the allotted time, the Court will presume redaction of personal data identifiers is not necessary.

Any party seeking redaction shall file a *Statement of Transcript Redactions* identifying the location of the personal data identifiers sought to be redacted within 21 days of the date of this notice: March 21, 2014. The party filing the statement shall serve it by regular mail upon all parties at the hearing and shall include a Certificate of Service listing the date and parties served. The *Statement of Transcript Redactions* event will be restricted from public view and cannot be served electronically through the CM/ECF system. If no *Statement of Transcript Redactions* is filed within the allotted time, the Court will presume redaction of personal identifiers is not necessary.

Any party may file a response in opposition to the Statement within 7 days of the date the Statement is filed using the *Response to Statement of Transcript Redactions* event. If a response in opposition to the Statement is filed, the Court will rule on the matter. If a hearing is needed, the Court will send notice of hearing.

If a request for redaction is filed, the redacted transcript is due within 31 days of the date of this notice: March 31, 2014.

The transcript may be made available for remote electronic access upon expiration of the restriction period, which is 90 days from the date of filing of the transcript: May 29, 2014, unless extended by court order. However, during this 90-day period the transcript is available for viewing only during normal business hours at the Clerk's office.

Any questions regarding the transcript process should be directed to Matt Parker, Director of Courtroom Services, at (314) 244-4801.

FOR THE COURT:

/s/Dana C. McWay  
Clerk of Court

Dated: 2/28/14

**Copies Mailed To:**

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Rev. 12/10