

**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. 5459

Hearing Date: May 20, 2014

Hearing Time: 10:00 a.m. Central

Location: Courtroom 7-N, St. Louis

**REORGANIZED DEBTORS' REPLY IN SUPPORT OF
OBJECTION TO ADMINISTRATIVE CLAIM OF FIDELITY PENSION PLAN TRUST**

Patriot Coal Corporation and its affiliates (the “Debtors” or the “Reorganized Debtors”) respectfully submit this Reply in support of their Objection to Administrative Claim of Fidelity Pension Plan Trust [Dkt. No. 5459] (the “Objection”). For the following reasons, the Objection should be sustained, and the Response filed by Fidelity Pension Plan Trust [Dkt. No. 5487] (the “Response”) should be overruled.

Preliminary Statement

In the Response, the Fidelity Pension Plan Trust (“Fidelity Pension”) accuses the Reorganized Debtors of misconduct for suggesting that the Claim was filed as an administrative claim (Response ¶ 8). The Claim, however, was filed on a form that is captioned prominently “ADMINISTRATIVE EXPENSE PROOF OF CLAIM” and states clearly that “THIS FORM SHOULD NOT BE USED FOR ANY CLAIMS THAT ARE NOT OF A KIND ENTITLED TO PRIORITY IN ACCORDANCE WITH 11 U.S.C. §§ 503(b) and 507(a)(2)” (capitalization in original). The Reorganized Debtors’ claims agent appropriately docketed the Claim as an

administrative claim, which is what it appeared to be. Fidelity Pension's concession that the Claim is not, in fact, entitled to administrative-expense priority means that no further discussion of that portion of the Objection is necessary. It also means that the Claim was filed more than a year after the bar date for pre-petition claims.

The balance of the Response addresses a variety of issues, including the claimant's experience in other bankruptcy cases, apparent miscommunications and misunderstandings, and further attacks on the integrity of other parties and their counsel. None of this is relevant unless there was any basis for Fidelity Pension to file the Claim and to seek a portion of the funds available to noteholders directly, rather than through Wilmington Trust, the indenture trustee. For the following reasons, there is no basis for the Claim, and it should be disallowed.

The 8.25% Notes Were Unsecured

Fidelity Pension argues that its initial claim (No. 758-1; GCG Claim No. 1230) (the "Initial Claim") should not have been disallowed, because it was a secured claim, while the Global Proof of Claim filed by Wilmington Trust asserted an unsecured claim (Response ¶¶ 1-5). The short response to this contention is that the Initial Claim was disallowed in June 2013, and Fidelity Pension did not object or appeal. But, in any event, Fidelity Pension did not hold a secured claim. The Debtors' 8.25% Senior Unsecured Notes were *unsecured* obligations. See Declaration of Mark N. Schroeder [Dkt. No. 4] at ¶ 19; Disclosure Statement [Dkt. No. 4870] at 7. The Initial Claim was duplicative of Wilmington Trust's Global Proof of Claim, and the Court properly disallowed the former. The Claim should be disallowed for the same reason.

Post-Petition Interest Is Not Payable

Fidelity Pension also argues that it filed the Claim merely to update the Initial Claim to include additional interest accruals (Response ¶¶ 7-8). But post-petition interest is not allowable under the Bankruptcy Code or the terms of the confirmed plan in these cases. *See* 11 U.S.C. § 502(b)(2); Fourth Amended Joint Plan of Reorganization [Dkt. No. 5139] § 8.6.

A Change of Venue Is Not Appropriate

The caption of the Response also includes a request for a change of venue. The venue of the Debtors' cases was litigated and resolved in 2012. To the extent that Fidelity Pension suggests that this contested matter should be heard and decided in the Southern District of New York, the Court should deny the request. Even if it would be appropriate for the convenience of a single creditor to dictate where and how the Court administers the Reorganized Debtors' cases—and to impose additional expense and inconvenience on the Reorganized Debtors—New York would not be a more convenient venue for the resolution of the Objection. This dispute involves legal issues and the application of legal principles to undisputed facts; thus, an evidentiary hearing is unnecessary. Moreover, Fidelity Pension cannot appear in federal court without an attorney. *See Knoefler v. United Bank*, 20 F.3d 347, 348 (8th Cir. 1994). Retaining an attorney in St. Louis to present argument in support of the Response is not likely to be less convenient or more expensive for Fidelity Pension than retaining an attorney in New York would be.

Conclusion

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

Dated: May 12, 2014
St. Louis, Missouri

Respectfully submitted,
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