

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

PATRIOT COAL CORPORATION and
HERITAGE COAL COMPANY,

Plaintiffs,

-against-

PEABODY HOLDING COMPANY, LLC and
PEABODY ENERGY CORPORATION,

Defendants.

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

Adversary Proceeding
No. 13-04067-659

Objection Deadline:
April 22, 2013 at 4:00 p.m.
(prevailing Central Time)

Hearing Date (if necessary):
April 29, 2013 at 10:00 a.m.
(prevailing Central Time)

Hearing Location:
Courtroom 7 North

NOTICE AND PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

PLEASE TAKE NOTICE THAT this motion is scheduled for hearing on April 29, 2013, at 10:00 a.m. (prevailing Central Time), in Bankruptcy Courtroom Seventh Floor North, in the Thomas F. Eagleton U.S. Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102.

WARNING: ANY RESPONSE OR OBJECTION TO THIS MOTION MUST BE FILED WITH THE COURT BY 4:00 P.M. (PREVAILING CENTRAL TIME) ON APRIL 22, 2013. A COPY MUST BE PROMPTLY SERVED UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE.

PLEASE TAKE FURTHER NOTICE that, upon the accompanying Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment ("**Plaintiffs' Memorandum of Law**"),¹ Plaintiffs Patriot and Heritage, by their undersigned counsel, hereby move this Court before the Honorable Kathy A. Surratt-States of the United States Bankruptcy Court for the Eastern District of Missouri, for an Order pursuant to Federal Rule of Civil Procedure 56, as incorporated by Rule 7056 of the Federal Rules of Bankruptcy Procedure, granting summary judgment on Plaintiffs' declaratory judgment action and declaring that Peabody Holding's obligations with respect to the healthcare benefits owed to the Assumed Retirees will not be affected by modification of the benefits of retirees of Heritage or Eastern Associated under Section 1114.

WHEREFORE, Patriot and Heritage respectfully request this Court to grant their motion for summary judgment and enter an order in their favor on their claim for declaratory judgment.

¹ All capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms in Plaintiffs' Memorandum of Law.

Dated: New York, New York
April 5, 2013

Respectfully Submitted,

DAVIS POLK & WARDWELL LLP

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