

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

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

PATRIOT COAL CORPORATION, *et al.*,

Plaintiffs,¹

-against-

Adversary Proceeding No.

**PEABODY HOLDING COMPANY, LLC and
PEABODY ENERGY CORPORATION,**

Defendants.

COMPLAINT

¹ Plaintiffs are the debtors and debtors in possession in the jointly administered chapter 11 proceeding and are listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the plaintiffs are set forth in their chapter 11 petitions.

Plaintiffs Patriot Coal Corporation and its affiliated debtors (collectively, “**Patriot**” or the “**Debtors**”), by their undersigned counsel, as and for their complaint against Peabody Holding Company, LLC and Peabody Energy Corporation (together, “**Peabody**”), hereby allege upon personal knowledge as to Patriot’s own acts, and upon information and belief as to all other matters, as follows:

I.

NATURE OF ACTION AND NEED FOR RELIEF

1. Patriot seeks pursuant to 11 U.S.C. § 105 and Federal Rules of Bankruptcy Procedure 7001(7) and 7065 to extend the automatic stay to enjoin enforcement of the subpoena duces tecum propounded on the Debtors by Peabody (the “**Subpoena**”) until the effective date of a confirmed plan of reorganization.

2. Since filing for bankruptcy, the Debtors have made immense strides toward reorganization. Currently engaged in active negotiations with various parties regarding exit financing and the terms of an acceptable plan of reorganization, the Debtors intend to—and must—have a confirmed plan by the end of the year. The end is in sight, though several critical hurdles remain to be cleared before a plan of reorganization can be confirmed. And Peabody is attempting to erect another hurdle in the Debtors’ path to emergence.

3. Peabody is a defendant in Lowe v. Peabody Holding Co., No. 2:12-CV-06925 (S.D. W.V.), in which that action’s plaintiffs have alleged, among other things, that Peabody attempted to deprive its former employees represented by the United Mine Workers of America (the “**UMWA**”) of their employment benefits through the spinoff of Patriot from Peabody (the “**Spinoff**”).

4. Although Peabody’s motion to dismiss the amended complaint in that case is still pending, Peabody has nevertheless propounded the Subpoena on Patriot—a document of incredible breadth, containing 53 individual requests, a number of which include multiple subparts, and approximately a third of which Peabody itself has previously characterized as being “overbroad” and “unduly burdensome.” Many of the requests have no obvious relevance to the allegations at issue in Lowe, and even more request documents that should already be in Peabody’s custody.

5. Without an extension of the automatic stay enjoining enforcement of the Subpoena, the Debtors’ already thinly spread resources will be stretched yet further as they are forced to have essential personnel expend time combing their files for documents responsive to discovery requests and to review those documents at great expense. Given the fragile state of the Debtors’ recovery and the need for all resources to be allocated to meeting demands ahead of confirmation, such discovery requests pose serious threats to the Debtors’ ability to successfully reorganize.

6. Accordingly, Patriot requests that the Court enter an order extending the automatic stay to enjoin enforcement of the Subpoena against the Debtors until the effective date of a confirmed plan of reorganization.

II.

PARTIES, JURISDICTION, AND VENUE

7. On July 9, 2012 (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Patriot has continued to operate its business and manage its property as debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

8. Peabody is the former parent company of Patriot and certain of its subsidiaries. On October 31, 2007, the shares of common stock of Patriot were distributed to the stockholders of Peabody to effectuate the Spinoff.

9. This Court has jurisdiction over these proceedings pursuant to 28 U.S.C. §§ 157(a), 157(b)(1), 157(b)(2), and 1334. This proceeding is a core proceeding under 28 U.S.C. § 157.

10. Venue properly lies in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

11. This adversary proceeding is initiated under Federal Rules of Bankruptcy Procedure 7001(7) and 7065, and 11 U.S.C. § 105.

III.

BACKGROUND

A. The Debtors' Continuing Efforts to Reorganize

12. On November 15, 2012, the United States Bankruptcy Court for the Southern District of New York entered an Order Extending the Debtors' Exclusive Periods Within Which to File a Plan of Reorganization and Solicit Votes Thereon [ECF No. 1575] (the "**First Extension Order**"). Pursuant to the First Extension Order, the Debtors' exclusive period within which to file a plan of reorganization was extended by 180 days, to May 5, 2013, and the Debtors' exclusive period within which to solicit acceptances of a plan of reorganization was extended to July 4, 2013. On April 26, 2013, this Court entered the Second Order Extending the Debtors' Exclusive Periods Within Which to File a Plan of Reorganization and Solicit Votes Thereon [ECF No. 3848] (the "**Second Extension Order**"). Pursuant to the Second Extension Order, the Debtors' exclusive period within which to file a plan was extended by an additional 120 days to September 2, 2013, and the Debtors' exclusive period within which to solicit acceptances of a plan of reorganization was extended to November 1, 2013. On August 21,

2013, this Court entered the Third Order Extending the Debtors' Exclusive Periods Within Which to File a Plan of Reorganization and Solicit Votes Thereon [ECF No. 4497] (the "**Third Extension Order**"). Pursuant to the Third Extension Order, the Debtors' exclusive period within which to file a plan was extended by an additional 120 days to December 1, 2013, and the Debtors' exclusive period within which to solicit acceptances of a plan of reorganization was extended to January 30, 2014.

13. Since the Petition Date, the Debtors have made tremendous progress toward emerging from bankruptcy as a successfully reorganized company. The Debtors and their advisors have dedicated significant time and resources to, among other things:

- (a) obtaining approval of an \$802 million debtor-in-possession credit facility on appropriate terms, permitting the financing of the Debtors' operations during these chapter 11 cases (the "**DIP Financing**");
- (b) obtaining authority from this Court to modify their collective bargaining agreements and retiree obligations pursuant to sections 1113 and 1114 of the Bankruptcy Code;
- (c) achieving a settlement with the non-union retiree committee regarding the modification and termination of certain non-union retiree benefits, and obtaining a court order authorizing the termination of the Debtors' supplemental 401(k) program;
- (d) commencing and prosecuting multiple adversary proceedings related to coal sale contracts, and negotiating and entering into settlements to resolve certain such proceedings, resulting in cost savings to the Debtors of tens of millions of dollars;
- (e) negotiating and entering into coal supply agreement stipulations;

- (f) rejecting over 265 executory contracts that were determined to not be beneficial to the Debtors' estates;
- (g) completing the Debtors' real property leases assumption/rejection process (except for certain matters pending before the Court), including obtaining court authority to assume hundreds of leases and reject several leases, negotiating with certain landlords to consensually extend the assumption/rejection decision deadline and/or consensually resolving objections to the assumption or rejection of certain leases and continuing to prosecute adversary proceedings and a contested matter relating to the few real property leases remaining to be assumed or rejected;
- (h) responding to various automatic stay issues (including with respect to significant environmental obligations);
- (i) addressing a multitude of creditor, supplier, and customer inquiries;
- (j) successfully defeating a motion to appoint an official committee of equityholders and a motion to appoint a chapter 11 trustee;
- (k) finalizing and filing the Debtors' schedules of assets and liabilities, income and expenditures, and executory contracts and unexpired leases, and their statements of financial affairs;
- (l) establishing a bar date for the filing of claims and working to reconcile the more than 4,100 proofs of claim filed in these cases;
- (m) establishing procedures for settlements of, and objections to, proofs of claim;
- (n) objecting to over 890 claims;

- (o) negotiating claim settlement agreements with certain claimants (including with respect to significant environmental obligations), and entering into claim settlement agreements resolving over 1,000 disputed claims; and
- (p) evaluating the Debtors' compensation programs and—in light of significant attrition across the company—developing, and obtaining Court approval of, an annual incentive program and critical employee retention program.

The Debtors' most significant strides toward a successful reorganization have come most recently, as just weeks ago the Debtors and the UMWA reached a consensual resolution regarding modification of the Debtors' collective bargaining agreements and the funding of a trust for certain benefits of the Debtors' represented retirees [ECF Nos. 4460, 4462]. The Court approved that settlement on August 22, 2013 [ECF No. 4511].

14. Great progress has been made toward the Debtors' goal of successfully emerging from chapter 11 as a viable and competitive company. However, as would be expected of companies as large as and with businesses as complex as the Debtors', there is more work to be done. Certain critical near-term objectives must be achieved before a consensual plan of reorganization can be confirmed, and they must be achieved while being mindful of the covenants—including, among others, the \$100 million liquidity covenant—upon which the DIP Financing depends.

15. The Debtors and their advisors Blackstone Advisory Partners L.P. (“**Blackstone**”) are engaged in active discussions with Knighthead Capital Management, LLC and Aurelius Capital Management, LP (the “**Potential Backstop Parties**”) on the potential terms of a plan of reorganization that would involve an investment of hundreds of millions of dollars into the Debtors' estates through a rights offering backstopped by entities managed by the Potential

Backstop Parties. The Debtors and Blackstone are also in discussions with certain other parties regarding exit financing proposals and potentially supplying the Debtors with the capital they need to emerge as a viable and competitive company, which involves providing those parties with company-wide due diligence. Under any scenario, the Debtors intend to move expeditiously toward plan confirmation with the best available financing package.

16. Continual coordination with the lenders of the DIP Financing is required, particularly as September 20, 2013—the date by which a plan of reorganization acceptable to such lenders must be filed in order for the Debtors to receive an extension on the DIP Financing—approaches. Without that extension, the DIP Financing will mature on October 4, 2013. Should the DIP Financing mature before the Debtors have secured exit financing, the reorganization effort may well fall apart. Even with the extension, the DIP Financing will mature on December 31, 2013, necessitating a viable plan of reorganization well in advance of that date to allow for a sufficient solicitation period. (Superpriority Secured Debtor-in-Possession Credit Agreement [ECF No. 78, Ex. A] at 35.) Moreover, the Debtors must secure committed exit financing by October 31, 2013 to remain compliant with the DIP Financing covenants. (Amendment No. 2 to Credit Agreement [ECF No. 4442, Ex. A] at 2.)

17. Further, the Debtors and their advisors are continuing their diligent efforts to stabilize their businesses and reassure customers, suppliers, and employees.

18. All of these endeavors require constant engagement from Patriot's legal and financial departments, as well as the senior members of Patriot's management team, Blackstone, and the Debtors' other advisors. At this critical juncture, the Debtors must develop their plan of reorganization and draft and review the disclosure statement. These tasks require Patriot personnel and their advisors to coordinate with both internal and external sources to acquire the

necessary information, as well as to continually negotiate with the lenders of the DIP Financing and to aid potential exit financiers with their due diligence of the company. In addition to dealing with these issues, each member of Patriot's management team must continue performing the other duties that are necessary simply to keep a company of Patriot's size operational.

19. Inhibiting the Debtors and their advisors from focusing on the key milestones remaining before the effective date of a confirmed plan of reorganization would threaten the likelihood of the reorganization's success and potentially nullify all of the work performed to date.

B. The Debtors' Rule 2004 Investigation into Peabody

20. Through the Spinoff, Peabody divested itself of the vast majority of its mining operations that were represented by the UMWA. As a result of that divestment, Peabody rid itself of approximately \$600 million of retiree healthcare liabilities, along with hundreds of millions of dollars of other liabilities, including environmental reclamation obligations and black lung benefits. Patriot, in turn, became responsible for providing retiree healthcare and benefits to thousands of retirees who had never worked a day in their lives for Patriot.

21. Given these and other acts of Peabody, in late 2012 the Debtors and the Official Committee of Unsecured Creditors of Patriot Coal Corporation (together with the Debtors, the "**Fiduciaries**") launched an investigation under Federal Rule of Bankruptcy Procedure 2004 into, among other things, whether Peabody had committed a fraudulent transfer by spinning off Patriot. In January 2013, the Fiduciaries initiated a meet-and-confer process to begin obtaining discovery from Peabody. After nearly three months of negotiating, it had become clear that Peabody was unwilling to voluntarily provide the Fiduciaries with the discovery to which they were entitled under Rule 2004, and, on April 2, 2013, they moved this Court for leave to conduct discovery of Peabody.

22. At a hearing on April 23, 2013, the Court granted the Fiduciaries' motion in substantial part and asked the parties to submit a proposed order embodying the relief. After more than an additional month negotiating with Peabody, the parties submitted their proposed order, which the Court entered on June 7, 2013 [ECF No. 4114] (the "**Rule 2004 Order**"). Three days later, on June 10, 2013, the Fiduciaries served on counsel to Peabody the subpoena contemplated by that order (the "**Rule 2004 Subpoena**"), containing 37 requests pertaining to the Spinoff and the relationship between Peabody and Patriot thereafter.

23. On June 20, 2013, Peabody provided the Fiduciaries with its objections to the Rule 2004 Subpoena, as contemplated by the Rule 2004 Order. Despite the breadth of inquiry afforded to debtors under Rule 2004, Peabody objected to every single request contained in the Rule 2004 Subpoena as "overbroad" and "unduly burdensome."

24. While having been obligated to produce documents under the Rule 2004 Order as of June 20, 2013, and having known the tenor of the Rule 2004 Subpoena's requests since January 11, 2013, to date Peabody has provided the Fiduciaries with only 4,688 documents.

C. Peabody Propounds an Admittedly Overbroad and Unduly Burdensome Subpoena on Patriot

25. On October 23, 2012, the UMWA and a number of retirees initiated the Lowe action against Peabody and Arch in the United States District Court for the Southern District of West Virginia (the "**West Virginia Court**"). The plaintiffs in that action allege, among other things, that Peabody intended to interfere with the benefits owed to its retirees by effectuating the Spinoff of Patriot.

26. Peabody moved to dismiss the claims against it in their entirety on February 20, 2013. That motion was fully briefed as of March 13, 2013 and currently remains pending before the West Virginia Court.

27. On February 26, 2013, the West Virginia Court issued a scheduling order that sets the close of discovery at January 15, 2014. Upon information and belief, no party has requested that this deadline be extended.

28. Peabody did not provide its first set of document requests to the Lowe plaintiffs until June 10, 2013. The Lowe plaintiffs served their first set of document requests (the “**UMWA Requests**”) on Peabody the following day, and, as of August 14, 2013, Peabody had yet to produce any documents in response to those requests. Upon information and belief, Peabody still has not produced documents pursuant to the Lowe plaintiffs’ requests.

29. On or about August 7, 2013, Peabody served on CT Corporation System, Patriot’s service agent, the Subpoena, which demands that Patriot produce documents responsive to 57 individual requests by September 6, 2013. Given the rate at which Peabody has produced documents responsive to the Rule 2004 Subpoena, the timeframe in which Peabody demanded that the Debtors comply with the Subpoena is bafflingly unrealistic.

30. Of the 57 Requests in the Subpoena, no fewer than 17 are identical or substantially similar to requests contained in the Rule 2004 Subpoena to which Peabody objected they were “overbroad” and “unduly burdensome.” Three of the Requests are also substantially similar to certain of the UMWA Requests that Peabody objected to as “overbroad” and “unduly burdensome.” The Subpoena also brazenly includes a definition that is identical to one utilized by the Rule 2004 Subpoena and which Peabody objected was “overbroad,” as well as an

instruction that is substantially similar to an instruction contained in the Rule 2004 Subpoena that Peabody found to be “unduly burdensome.”

31. The Subpoena’s Requests cover a broad spectrum of topics, though a significant proportion seek documents pertaining specifically to Patriot’s financial state, financial projections, and valuations of assets and liabilities.

32. Many of the Requests seek documents dating through the present. These requests have no obvious connection to the allegations at issue in Lowe, which pertain solely to the Spinoff itself and Peabody’s motivations for effectuating the Spinoff.

33. To the extent the Requests do seek relevant materials, they seek documents that ought to already be in Peabody’s custody because Peabody had all of Patriot’s documents prior to the Spinoff. Peabody, however, propounded the Subpoena without even knowing the content of the documents in its possession. At an August 20, 2013 hearing before the Court, counsel for Peabody acknowledged that it had engaged in only preliminary review of the documents in its possession and estimated that its review would not be completed until sometime in 2014.

34. The Debtors anticipate that complying with the demands of the Subpoena will cost millions of dollars and thousands of hours of labor. The Debtors’ estimate is based on the breadth of the Requests and their prior experiencing reviewing and producing documents. For instance, in connection with the modification of their collective bargaining agreements, the Debtors supplied the UMWA with a narrower set of financial data than has been requested by Peabody, and that process required a comprehensive, “all hands on deck” engagement of Patriot’s staff and advisors. (Mem. Decision and Order on Mot. to Reject Collective Bargaining Agreements and to Modify Retiree Benefits Pursuant to 11 U.S.C. §§ 1113, 1114 of the Bankruptcy Code [ECF No. 4081] at 41.) Peabody has already acknowledged that the limited

scope of Rule 2004 discovery to which it voluntarily agreed—discovery of far less breadth than is at issue here—would subject it to “substantial cost.” (Obj. to the Mot. of the Debtors and the Official Comm. of Unsecured Creditors for Leave to Conduct Discovery of Peabody Energy Corp. Pursuant to Rule 2004 at 7; see also id. at 17 (contending that the voluntary production was imposing “substantial expense” on Peabody).)

35. Based on information currently available to them, the Debtors estimate that complying with the Subpoena will cost the Debtors multiple millions of dollars and thousands of hours of work from their advisors. Even more distressingly, locating and collecting documents responsive to the Subpoena will require the Debtors’ financial and legal departments to divert their attention from the tasks at hand, which can only be done at the expense of work that is essential to the Debtors’ reorganization.

COUNT I

Injunctive Relief Under Section 105 **(Extending the Automatic Stay to Enjoin Enforcement of the Subpoena)**

36. Patriot incorporates by reference as though fully set forth herein the allegations in paragraphs 1 through 35, above.

37. Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Relief under section 105 is particularly appropriate in a chapter 11 case when necessary to protect a debtor’s ability to effectively confirm a plan.

38. The Debtors have made significant progress toward a successful reorganization and are likely to continue down that path absent undue interference with their efforts.

39. In addition to depleting the assets of the estate, permitting third-party discovery to proceed against the Debtors will divert the attention and resources of key personnel who are critical to the Debtors' ability to successfully emerge from chapter 11.

40. Any harm suffered by Peabody in delaying its ability to pursue discovery against the Debtors is negligible and vastly outweighed by the harm that would be suffered by the Debtors in the absence of an injunction.

41. The injunctive relief requested herein will serve the public interest by promoting compliance with the congressional purpose of the automatic stay and furthering the Debtors' successful plan confirmation, which will have immeasurable benefits for the Debtors' employees and customers, and for the coal, power, and steel industries at large.

42. The Debtors are entitled to an extension of the automatic stay enjoining enforcement of the Subpoena against them until the effective date of a confirmed plan of reorganization, under section 105 of the Bankruptcy Code and Federal Rule of Civil Procedure 65, as made applicable to these proceedings by Federal Rule of Bankruptcy Procedure 7065.

IV.

CONCLUSION

For all of these reasons, the Debtors respectfully request that the Court enter an order extending the automatic stay to enjoin enforcement of the Subpoena against them until the effective date of a confirmed plan of reorganization.

Dated: September 3, 2013
New York, New York

Respectfully submitted,

/s/ Michael J. Russano

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Attorneys for Plaintiffs

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC

| ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse) | | ADVERSARY PROCEEDING NUMBER (Court Use Only) |
|--|---|--|
| PLAINTIFFS See Schedule 1 | DEFENDANTS Peabody Holding Company, LLC Peabody Energy Corporation | |
| ATTORNEYS (Firm Name, Address, and Telephone No.) Davis Polk & Wardwell LLP, 450 Lexington Ave., New York, NY 10017, (212) 450-4000 | ATTORNEYS (If Known) Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114, (216) 586-3939 | |
| PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee | PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee | |
| CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) The Debtors seek pursuant to 11 U.S.C. § 105 and Federal Rules of Bankruptcy Procedure 7001(7) and 7065 to extend the automatic stay to enjoin enforcement of the subpoena duces tecum propounded on the Debtors by defendants until the effective date of a confirmed plan of reorganization. | | |
| NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.) | | |
| FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column) | FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input checked="" type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) | |
| <input type="checkbox"/> Check if this case involves a substantive issue of state law | <input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 | |
| <input type="checkbox"/> Check if a jury trial is demanded in complaint | Demand \$ n/a | |
| Other Relief Sought Injunction of enforcement of a subpoena | | |

| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES | | |
|--|---|---------------------------------|
| NAME OF DEBTOR See Schedule 1 | BANKRUPTCY CASE NO. 12-51502-659 | |
| DISTRICT IN WHICH CASE IS PENDING Bankr. E.D. Mo. | DIVISION OFFICE Eastern | NAME OF JUDGE Surratt-States |
| RELATED ADVERSARY PROCEEDING (IF ANY) | | |
| PLAINTIFF | DEFENDANT | ADVERSARY PROCEEDING NO. |
| DISTRICT IN WHICH ADVERSARY IS PENDING | DIVISION OFFICE | NAME OF JUDGE |
| SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Michael J. Russano | | |
| DATE 9/3/13 | PRINT NAME OF ATTORNEY (OR PLAINTIFF) Michael J. Russano | |

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet. When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
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8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
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28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC