

**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)**

OBJECTION TO MOTION TO STRIKE

COME NOW The Ohio Valley Coal Company¹ and The Ohio Valley Transloading Company (collectively, "Ohio Valley Coal"), by and through counsel, and file their Objection (the "Objection") to the Motion to Strike the Second Objection [sic] of The Ohio Valley Coal Company and the Ohio Valley Transloading Company to the Debtors' Motion to Reject Collective Bargaining Agreements and to Modify Retiree Benefits Pursuant to 11 U.S.C. §§ 1113, 1114 [Docket No. 3796] (the "Motion to Strike" regarding the Objection to the "Rejection Motion") filed by Patriot Coal Corporation, *et al.* (collectively, "Patriot" or the "Debtors"), and in support hereof respectfully state as follows:

1. On March 14, 2013, the Debtors filed the Rejection Motion [Docket No. 3214] accompanied by a Memorandum of Law in Support of the Rejection Motion [Docket No. 3219] and accompanying declarations [Docket Nos. 3220-3225] (collectively, the "Rejection Pleadings").
2. The Notice accompanying the filing of the Rejection Pleadings [Docket No. 3215] established a deadline of March 28, 2013 for parties to object to the Rejection Motion.
3. On March 19, 2013, Ohio Valley Coal filed its Objection to the Rejection Motion [Docket No. 3326].

¹ On March 19, 2013, The Ohio Valley Coal Company acquired Claim No. 3578 against Pine Ridge Coal Company, LLC from Top Notch Custodial Care, Inc. [Docket No. 3325].

4. Commencing on or about March 28, 2013, a number of parties to the Debtors' Chapter 11 cases including, without limitation, the Debtors, the United Mine Workers of America, the Official Committee of Unsecured Creditors, and Wilmington Trust Company sent correspondence to this Court regarding their positions on the participation of parties other than the Debtors and the United Mine Workers in the discovery and hearings related to the Rejection Motion.

5. On March 29, 2013, the United Mine Workers of America 1974 Pension Trust and the United Mine Workers of America 1993 Benefit Plan (jointly, the "Plans") filed their Emergency Motion to Intervene regarding the Rejection Motion (the "Motion to Intervene") [Docket No. 3444].

6. On April 1, 2013, Ohio Valley Coal filed its Joinder in the Plans' Motion to Intervene [Docket No. 3479].

7. On April 2, 2013, the Court conducted an emergency telephonic hearing on the Motion to Intervene.

8. At that hearing, the Court announced that it would grant the Plans' Motion to Intervene, permit all parties to participate in briefing and discovery regarding the litigation of the Rejection Motion, and allow all parties to participate in the hearing on the Rejection Motion in a specified fashion. Thereafter, on April 5, 2013, the Court issued its comprehensive order documenting the procedures for that briefing, discovery and participation. [Docket No. 3544].

9. On April 12, 2013, Ohio Valley Coal timely filed its Brief in Support of its Objection the Rejection Motion (the "Brief") [Docket No. 3617].

10. Ohio Valley Coal's Brief complies with the Court's comprehensive procedures and scheduling order regarding the Rejection Motion. The Court's order permitted "all" parties to file a brief in support of their position; that order did not contain any limitation or other language prohibiting any party that already had objected to the Rejection Motion from placing a brief on record.

11. Moreover, the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") do not authorize the filing of a "Motion to Strike" in a contested matter under Bankruptcy Rule 9014.

12. Pursuant to Rule 9014, only certain portions of the Bankruptcy Rules apply to contested matters that do not comprise adversary proceedings. See Fed. R. Bankr. P. 9014 (lacking the inclusion of Bankruptcy Rule 7012, and thus Federal Rule of Civil Procedure 12(f), in a list of Bankruptcy Rules applicable in contested matters).

13. As a result, the Motion to Strike seeks relief not available in the matter at bar.

WHEREFORE, for the reasons set forth herein, Ohio Valley Coal respectfully requests that the Court enter an order denying the relief requested in the Debtors' Motion to Strike and grant such further relief as the Court deems just and proper.

Date: April 26, 2013

Respectfully submitted:

SUMMERS COMPTON WELLS PC

/s/ Bonnie L. Clair
Bonnie L. Clair, #41496MO
8909 Ladue Road
St. Louis, MO 63124
Telephone: (314) 991-4999/Fax: (314) 991-2413
blcattymo@summerscomptonwells.com

and

MCGUIREWOODS LLP

Leonard J. Marsico, Pa. I.D. No. 33206
Mark E. Freedlander, Pa. I.D. No. 70593
625 Liberty Avenue, 23rd Floor
Pittsburgh, PA 15222
Telephone: (412) 667-6000
Fax: (412) 667-6050
lmarsico@mcguirewoods.com
mfreedlander@mcguirewoods.com

*Counsel to The Ohio Valley Coal Company and
The Ohio Valley Transloading Company*

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2013, a copy of the foregoing was served via electronic filing in the CM/ECF system for the United States Bankruptcy Court for the Eastern District of Missouri. I also certify that a copy of this document also was served via e-mail, on April 26, 2013 to the Core Parties listed below to the extent that they were not served via CM/ECF:

Curtis Mallet Prevost Colt & Mosle LLC Steven J. Reisman** Michael A. Cohen**	Davis Polk & Wardwell LLP Brian M. Resnick Marshall S. Huebner Patriot.Routing@DPW.com
GCG, Inc. Attn: Elizabeth Vrato Elizabeth.vrato@gcginc.com	Kramer Levin Naftalis & Frankel LLP Adam C. Rogoff, Thomas Moers Mayer P. Bradley O'Neill, Robert T. Schmidt tmayer@kramerlevin.com arogoff@kramerlevin.com gplotko@kramerlevin.com boneill@kramerlevin.com
Weil Gotshal & Manges LLP Joseph H. Smolinsky Marcia Goldstein joseph.smolinsky@weil.com marcia.goldstein@weil.com andrea.saavedra@weil.com erica.coleman@weil.com	Willkie Farr & Gallagher LLP Ana M. Alphonso** Penelope J. Jensen ** Margot B. Schonholtz mschonholtz@willkie.com jgoldfarb@willkie.com
Bryan Cave LLP Lloyd A. Palans ** Brian C. Walsh ** Laura Uberti Hughes **	Carmody MacDonald Angela Schisler ** Gregory Willard ** John D. Mcannar **
Office of the United States Trustee Leonora S. Long ** Paul A. Randolph **	

** The double asterisk denotes parties receiving notice electronically via the CM/ECF system of the United States Bankruptcy Court for the Eastern District of Missouri.

/s/ Marquita M. Monroe