

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

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In re	:	Chapter 11
	:	
PATRIOT COAL CORPORATION, <i>et al.</i> ,	:	Case No. 12-51502-659
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	
EASTERN ROYALTY LLC f/k/a EASTERN ROYALTY CORP.,	:	
	:	
Plaintiff,	:	Adv. Pro. No. 12-04353-659
	:	
v.	:	
	:	
BOONE EAST DEVELOPMENT CO., PERFORMANCE COAL CO., AND NEW RIVER ENERGY CORP.,	:	
	:	
Defendants.	:	
	:	
-----	X	

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Defendants Boone East Development Co., Performance Coal Co., and New River Energy Corp. hereby appeal under 28 U.S.C. § 158 to the United States District Court for the Eastern District of Missouri from the final order entered by the United States Bankruptcy Court for the Eastern District of Missouri in the above-referenced adversary proceeding on November 14, 2013 (the "Order"). The names of all parties to the Order appealed from and the names, addresses, and telephone numbers of their respective attorneys are:

CLEARY GOTTLIEB STEEN & HAMILTON LLP

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Luke A. Barefoot

-and-

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Laura Uberti Hughes (# 60732)

Counsel for Eastern Royalty LLC f/k/a Eastern Royalty Corp.

Dated: November 27, 2013
St. Louis, Missouri

Respectfully Submitted,

/s/ David A. Sosne

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Certificate of Notice **SECRET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Boone East Development Co., Performance Coal Co., and New River Energy Co.

(b) County of Residence of First Listed Plaintiff Kanawha County, WV
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

See attachment

DEFENDANTS

Eastern Royalty LLC, f/k/a Eastern Royalty Corp.

County of Residence of First Listed Defendant Kanawha County, WV
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

See attachment

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input checked="" type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

11 U.S.C. s. 365; 28 U.S.C. s. 158

Brief description of cause:

Appeal of final bankruptcy order granting motion for judgment on the pleadings

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

11/27/2013

SIGNATURE OF ATTORNEY OF RECORD

/s/ David A. Sosne

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Civil Cover Sheet (cont'd)

I.c Attorneys for Appellant

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Brian C. Walsh (# 58091)

Laura Uberti Hughes (# 60732)

Eastern Royalty LLC F/K/A Eastern Royalt,
Plaintiff

Adv. Proc. No. 12-04353-kss

Boone East Development Co., Performance,
Defendant**CERTIFICATE OF NOTICE**

District/off: 0865-4

User: klom
Form ID: pdfaplPage 1 of 1
Total Noticed: 8

Date Rcvd: Nov 27, 2013

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on
Nov 29, 2013.

aty +Brian M. Resnick, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017-3982
 aty +Darren S. Klein, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017-3982
 aty +James L. Bromley, Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza,
 New York, NY 10006-1470
 aty +Jeffrey S. Stein, GCG, Inc., 1985 Marcus Avenue, Suite 200, Lake Success, NY 11042-2029
 aty +Timothy E. Graulich, Davis Polk & Wardwell LLP, 450 Lexington Avenue,
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 ust +Office of U.S. Trustee, 111 South Tenth Street, Suite 6.353, St. Louis, MO 63102-1127
 ust +Paul A. Randolph, Office of U.S. Trustee, 111 S. 10th St., Ste. 6353,
 St. Louis, MO 63102-1125
 op +GCG, Inc. aka The Garden City Group, Inc., 1985 Marcus Ave, Lake Success, NY 11042-2008

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

pla Eastern Royalty LLC F/K/A Eastern Royalty Corp., 450 LEXINGTON AVENUE, NEW YORK
 cd Eastern Royalty LLC F/K/A Eastern Royalty Corp., 450 LEXINGTON AVENUE, NEW YORK
 TOTALS: 2, * 0, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.****Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Nov 29, 2013

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system on November 27, 2013 at the address(es) listed below:

Angela Ferrante on behalf of Other Professional GCG, Inc. aka The Garden City Group, Inc.
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 David A. Sosne on behalf of Defendant Boone East Development Co., Performance Coal Co., And
 New River Energy Corp. dasattymo@summerscomptonwells.com
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 And New River Energy Corp. dasattymo@summerscomptonwells.com
 David A. Sosne on behalf of Defendant New River Energy Corp. dasattymo@summerscomptonwells.com
 Michelle M. McGreal on behalf of Plaintiff Eastern Royalty LLC F/K/A Eastern Royalty Corp.
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TOTAL: 7