

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:)
)
PATRIOT COAL CORPORATION, *et. al.*,) Case No. 12-51502-659
) Chapter 11
)
Debtors.) Jointly Administered
) Doc. 4670

ORDER SUSTAINING DEBTORS' SEVENTEENTH OMNIBUS OBJECTION TO CLAIMS
(Pettry Litigation Claims)

The matter before the Court is Debtors' Seventeenth Omnibus Objection to Claims, Claimant's Omnibus Response in Opposition to Debtors' Seventeenth Omnibus Objection to Claims (Filed September 20, 2013, Objecting to Pettry Litigation Claims), Notice of Filing Supplemental Exhibits that Failed to Link to Claimants' Omnibus Response in Opposition to Debtors' Seventeenth Omnibus Objection to Claims and Notice of Inability to Locate Debtors' Seventeenth Omnibus Objection to Claims to Link to on the CM-ECF System (Debtors' Objection Filed September 20, 2013, Objecting to Pettry Litigation Claims) and Debtors' Reply in Support of Seventeenth Omnibus Objection to Claims (Pettry Litigation Claims). A hearing was held on October 22, 2013, at which Debtor Eastern Associated Coal and the Pettry Litigation Claimants appeared by counsel. Oral argument was presented. The Court rules as follows.

The Pettry Claimants commenced the Pettry Litigation as a putative class action in the Circuit Court of Boone County, West Virginia on March 28, 2002. Debtor Eastern Associated Coal Corporation is among the Defendants in the Pettry Litigation. The Pettry Litigation was transferred to the Circuit Court of Marshall County, West Virginia (hereinafter "West Virginia Court") because a similar class action lawsuit, the Stern Litigation, was pending there.

The Pettry Litigation was stayed until resolution of the Stern Litigation. See West Virginia Court Nunc Pro Tunc Order, February 20, 2011. After an October 18, 2011, conference with the parties of the Stern Litigation, on November 23, 2011, the West Virginia Court vacated the early

February 20, 2011 *Nunc Pro Tunc* Order which stayed the Pettry Litigation. See Order, November 23, 2011.

The West Virginia Court received notice of the Voluntary Petition for relief under Chapter 11 of the Bankruptcy Code of Debtor Eastern Associated Coal Corporation as an affiliated Debtor of Debtor Patriot Coal Corporation. On July 16, 2012, Notice of Intent to Proceed was entered in which the West Virginia Court stated its express intent to proceed with the Pettry Litigation “relative to all parties and all causes of action, with the exception of any which may relate to Defendant, Patriot Coal Corp. and its affiliated companies.” See Notice of Intent, July 16, 2012. The Pettry Claimants objected to the West Virginia Court’s Notice of Intent and the West Virginia Court entered Order Confirming Intent to Proceed. See Order Confirming Intent to Proceed, August 16, 2012.

The Pettry Claimants timely filed their proofs of claim in this case. On January 11, 2013, the West Virginia Court entered Order Granting Defendants’ Motions for Summary Judgment and Dismissing All Remaining Claims with Prejudice in which the West Virginia Court stated the following:

Considering the arguments set forth by the defendants in their dispositive motions and supporting memoranda, and in light of Plaintiffs’ failure to respond to such arguments (either in writing or orally at the November 9, 2012 hearing), the Court after due consideration grants all pending motions for summary judgment...

Further, after careful deliberation and in light of Plaintiffs’ counsel’s systematic, egregious, and willful misconduct in connection with their prosecution of this case, the Court also dismisses with prejudice all remaining claims in this matter and deems all other pending motions moot. . .Plaintiffs’ counsel has engaged in a consistent pattern of dilatory and obstructionist conduct with the apparent sole purpose of delaying this action. The Court has provided Plaintiffs’ counsel numerous opportunities during the past year to adjust his behavior, fully engage in this litigation, and remedy the prejudice that his conduct has reaped. Plaintiffs’ counsel failed to avail himself of these opportunities....

See Order Granting Defendants’ Motions for Summary Judgment and Dismissing All Remaining Claims with Prejudice, at 1, January 11, 2013. The West Virginia Court stated that the remaining claims were dismissed, with prejudice, as a sanction for the dilatory manner in which Plaintiffs’

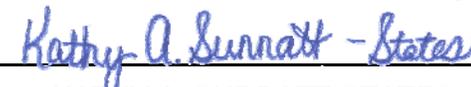
claims were prosecuted. See Order Granting Defendants' Motions for Summary Judgment and Dismissing All Remaining Claims with Prejudice, at 34, January 11, 2013.

The Pettry Claimants' Motion to Alter or Amend the Judgment and a Motion for Relief from Judgment was denied by the West Virginia Court on April 22, 2013. See Order Denying Plaintiffs' Rule 59 Motion to Alter or Amend Judgment and Rule 60 Motion for Relief from Judgment, April 22, 2013. The Pettry Claimants have appealed the West Virginia Court's January 11, 2013 Order to the Supreme Court of Appeals of West Virginia.

Based upon the West Virginia Court's determinations, Debtors now object to the claims of the Pettry Claimants and requests that those claims be disallowed. Debtors' objection is permitted under Rule 3007. Fed. R. Bankr. P. 3007 (2012). Further, Debtors are permitted to file an omnibus objections where the "claims seek recovery of amounts for which the Debtors are not liable." See Order Establishing Procedures for Claims Objections, at ¶ 3(d), March 1, 2013. Because the West Virginia Court's Findings of Fact and Conclusion of Law in the Order Granting Defendants' Motions for Summary Judgment and Dismissing All Remaining Claims with Prejudice were ultimately in favor of Debtor Eastern Associated Coal, the automatic stay does not apply. In any event, it was within the purview of the West Virginia Court to determine whether and to what extent the automatic stay applies. Further, under the Rooker-Feldman Doctrine, this Court cannot review the West Virginia Court's Orders concerning the Pettry Claimants' claims against Debtor Eastern Associated Coal Corporation. There is no basis for the Pettry Claimants to assert claims against Debtor Eastern Associated Coal at this time. Therefore,

IT IS ORDERED THAT Debtors' Seventeenth Omnibus Objection to Claims is
SUSTAINED.

DATED: November 8, 2013
St. Louis, Missouri


KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

Copies to: All Creditors and Parties in Interest.