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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI

Case No. 12-51502

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In the Matter of:

PATRIOT COAL CORPORATION, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court  
111 South 10th Street  
4th Floor  
St. Louis, Missouri

December 17, 2013

9:02 AM

B E F O R E:  
HON. KATHY A. SURRETT-STATES  
CHIEF U.S. BANKRUPTCY JUDGE

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CONFIRMATION HEARING - Fourth Amended Chapter 11 Plan (5139)

Motion to Assume Lease or Executory Contract and to Approve  
Settlement of Claims of United Leasing, Inc. Filed by Debtor  
(5060)

Motion to Expedite Hearing by Debtor (5090)

Motion for Entry of an Order Authorizing Assignment of Certain  
Assumed Unexpired Leases Filed by Debtor (5089)

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P R O C E E D I N G S

THE CLERK: Please rise. The United States Bankruptcy Court for the Eastern District of Missouri is now in session, the Honorable Kathy A. Surratt-States presiding.

THE COURT: Good morning. Please be seated.

All right, this is the various matters and confirmation hearing in the Patriot Coal case. Let me start first with appearances in the courtroom.

MR. HUEBNER: Good morning, Your Honor. For the record, I am Marshall Huebner of Davis Polk & Wardwell LLP, here on behalf of Patriot and its affiliates. With me today are my colleagues Michelle McGreal and Brian Resnick.

THE COURT: Good morning.

MR. WILLARD: Good morning, Your Honor. May it please the Court. Greg Willard and Angie Schisler from Carmody MacDonald, on behalf of the official unsecured-creditors' committee.

THE COURT: Good morning.

MS. ALFONSO: Good morning, Your Honor. Ana Alfonso from Willkie Farr & Gallagher, counsel for Bank of America as second-out DIP agent. With me, on the phone is my partner Margot Schonholtz.

THE COURT: Good morning.

MR. GARTNER: Good morning, Your Honor. Matthew Gartner of Husch Blackwell, on behalf of Citibank, the first-out DIP

1 agent. With me in the courtroom is co-counsel Andrea Saavedra,  
2 and on the phone, as well, is Joe Smolinsky, of Weil, Gotshal &  
3 Manges.

4 THE COURT: All right. Good morning.

5 MR. COUSINS: Good morning, Your Honor. Steven Cousins  
6 of Armstrong Teasdale, here today on behalf of Peabody Energy  
7 Corp. I also am accompanied by Mr. Carl Black of Jones Day,  
8 and also Susan Ehlers of my firm. Thank you.

9 THE COURT: All right. Good morning.

10 MR. SMOTKIN: Good morning, Your Honor. Howard Smotkin  
11 on behalf of Shonk Land Company. And, Your Honor, I'm also  
12 appearing on behalf of Payne-Gallatin Company, Southern Land  
13 Company LP and Dickinson Properties LP. Also, on the phone is  
14 Tom Persinger on behalf of the Payne-Gallatin companies, as  
15 well.

16 THE COURT: All right, good morning.

17 MR. SMOTKIN: Thank you, Your Honor.

18 MR. EARLY: Good morning, Your Honor. Blaine Early from  
19 Stites & Harbison, on behalf of four sureties: Indemnity  
20 National, Travelers Casualty & Insurance Company, Westchester  
21 Fire, and U.S. Specialty Insurance Company. Thank you.

22 THE COURT: Good morning.

23 MR. YOUNG: Good morning, Your Honor. John Young from  
24 Stinson Morrison Hecker, and James Mazza from Skadden Arps, but  
25 we're both here on behalf of Barclays Bank, Deutsche Bank, in

1 their various capacities with regard to the exit financing.

2 THE COURT: All right. Good morning

3 MR. MAZZA: Good morning, Your Honor.

4 THE COURT: Good morning.

5 MR. HESSLER: Good morning, Your Honor. Steve Hessler of  
6 Kirkland & Ellis, on behalf of the ad hoc group of Patriot  
7 investors. With me in the courtroom, also, is my partner Wayne  
8 Williams.

9 THE COURT: Good morning.

10 MR. HESSLER: Thank you.

11 MR. ROVAK: Steve Rovak, Your Honor, of Dentons, on  
12 behalf of Kentucky Utilities Company.

13 THE COURT: Good morning.

14 MR. LONG: Good morning, Your Honor. Leonora Long on  
15 behalf of the United States Trustee. I have a cold, so,  
16 apologize.

17 THE COURT: Good morning, Mrs. Long.

18 All right. All right, thank you.

19 And then on the phone, we have Ms. Starr on behalf of the  
20 debtors?

21 MS. STARR: Good morning, Your Honor.

22 THE COURT: Good morning.

23 Mr. Blank and Mr. Rogoff on behalf of the creditors'  
24 committee?

25 MR. BLANK: Good morning, Your Honor.

1 THE COURT: Good morning.  
2 MR. ROGOFF: Good morning, Your Honor.  
3 THE COURT: Good morning.  
4 Mr. Perillo on behalf of the United Mine Workers of  
5 America?  
6 MR. PERILLO: Good morning, Your Honor.  
7 THE COURT: Good morning.  
8 Ms. Schonholtz on behalf of Bank of America?  
9 MS. SCHONHOLTZ: Good morning, Your Honor.  
10 THE COURT: Good morning.  
11 Mr. Smolinsky on behalf of Citibank?  
12 MR. SMOLINSKY: Good morning, Your Honor.  
13 THE COURT: Good morning.  
14 Nick Kodes on behalf of Barclays Bank?  
15 MR. KODES: Good morning, Your Honor.  
16 THE COURT: Good morning.  
17 Luke Barefoot on behalf of Alpha Natural Resources?  
18 MR. BAREFOOT: Yes. Good morning, Your Honor.  
19 THE COURT: Good morning.  
20 Mr. Alter on behalf of Alice Wright, et al.?  
21 MR. ALTER: Good morning, Your Honor.  
22 THE COURT: Good morning.  
23 Charles Canter on behalf of the U.S. Department of  
24 Justice?  
25 MR. CANTER: Good morning, Your Honor.



1 THE COURT: Good morning.

2 And Mr. Schnabel on behalf of U.S. Bank?

3 MR. SCHNABEL: Good morning, Your Honor. My colleague  
4 Erik Detlefson is with me as well.

5 THE COURT: All right, thank you.

6 And -- I'm sorry -- and then we have Ms. Stone on behalf  
7 of Republic Bank?

8 MS. STONE: Yes. Good morning, Your Honor.

9 THE COURT: Good morning.

10 And Tom Persinger on behalf of Payne-Gallatin?

11 MR. PERSINGER: Good morning, Your Honor. Also appearing  
12 today on behalf of Southern Land Company LP and Dickinson  
13 Properties LP, with Mr. Smotkin.

14 THE COURT: All right, thank you.

15 And Laura Thoms on behalf of the U.S. Environmental  
16 Protection Agency?

17 MS. THOMS: Good morning, Your Honor. Also I have my  
18 colleague Stacy Coleman here with me.

19 THE COURT: All right, thank you.

20 And then of course, last but not least, Mr. Walsh and  
21 Ms. Hughes are here as local counsel for Debtors. Good  
22 morning.

23 MR. HUEBNER: Thank you, Your Honor.

24 MS. MCGREAL: Good morning, Your Honor.

25 THE COURT: All right, Mr. Huebner, I thought we'd start

1 at the bottom of the docket and work our way up to the top  
2 event today.

3 Let me remind everybody on the phone, please put your  
4 phone on mute except when speaking. Thank you.

5 MR. HUEBNER: Sure, Your Honor. Would you like to go in  
6 the docket order or the agenda -- the reverse docket order or  
7 the reverse agenda letter order?

8 THE COURT: Reverse docket order.

9 MR. HUEBNER: Sure.

10 THE COURT: If we start at the bottom of the docket, I  
11 believe at the bottom of page 2 is the motion to expedite  
12 hearing and motion for entry of order authorizing assignment of  
13 certain assumed and expired leases, filed by the debtor.

14 MR. HUEBNER: Sure, Your Honor. I'd like to ask my boss,  
15 Michelle McGreal, to handle that matter, if I may.

16 THE COURT: All right.

17 Ms. McGreal.

18 MS. MCGREAL: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MS. MCGREAL: This is the debtors' motion to assign  
21 certain nonresidential real-property leases. In connection  
22 with the restructuring transactions contemplated by the plan,  
23 the debtors have determined that the assignment of certain  
24 leases to other affiliated debtors will help facilitate the  
25 debtors' goal of simplifying their corporate structure, by

1 consolidating their coal-reserve mineral interests to a limited  
2 number of entities.

3 Your Honor, the motion is going forward uncontested  
4 today. The debtors did receive one objection to the motion,  
5 from a group of three lessors: Payne-Gallatin, Southern Land,  
6 and Dickinson Properties. We also received an informal  
7 objection just prior to the hearing, from Shonk Land Company.  
8 After discussions among the parties, the debtors have  
9 determined to withdraw the motion with respect to those  
10 lessors.

11 In addition, as noted on today's agenda, after  
12 discussions with another counterparty, the debtors have  
13 withdrawn the motion with respect to the leases referred to in  
14 the motion, as the LRPB assumed unexpired leases. And the  
15 parties will discuss, post-effective date, how to deal with  
16 those leases.

17 The remaining leases covered by the motion have all been  
18 previously assumed by the debtors, either pursuant to an order  
19 of this Court or they will be assumed by the debtors pursuant  
20 to the plan, as set forth on schedule 9.2a of the plan. In  
21 each case, the assignor debtors either have the express right  
22 to assign the lease pursuant to the terms of the lease, or  
23 they're permitted to assign the lease pursuant to Section  
24 365(f) of the Bankruptcy Code, notwithstanding any prohibition  
25 on assignment contained in the lease.

1 For those counterparties to the assigned leases that  
2 contain an anti-assignment provision, the debtors have agreed  
3 to provide those lessors with a guarantee from either Patriot  
4 Coal Corporation or the assignor debtor; so those lessors will  
5 be provided with adequate assurance of future performance by  
6 the assignee debtors.

7 Your Honor, unless you have any questions, given that it  
8 is now an uncontested motion, we would propose to submit a  
9 revised order with the revised schedule taking off those  
10 lessors that we are no longer seeking to assign their leases,  
11 and we'd ask that you enter the order.

12 THE COURT: All right. No, I have no other questions.

13 Are there other parties in the courtroom that wish to be  
14 heard on this motion?

15 And are there other parties on the phone that wish to be  
16 heard on this motion?

17 All right, then hearing none, then I will grant the  
18 motion in part, excluding the parties that are being removed  
19 from the motion.

20 MS. MCGREAL: Thank you, Your Honor.

21 THE COURT: Thank you.

22 All right, then next that brings us, coming up, page 2 to  
23 the motion to assume lease or executory contracts and to  
24 approve settlement of claims with United Leasing, Inc.

25 MR. HUEBNER: Your Honor, that matter is being handled by

1 Bryan Cave, so again I'll --

2 THE COURT: All right.

3 MR. HUEBNER: -- cede the podium.

4 THE COURT: Thank you.

5 MR. HUGHES: Good morning, Your Honor. Laura Hughes for  
6 the debtors.

7 THE COURT: Good morning.

8 MR. HUGHES: This is a motion to assume certain unexpired  
9 equipment leases with United Leasing, and this is similar to  
10 the motions that we brought before the Court at our previous  
11 hearing. The assumption of the leases is for the benefit of  
12 the debtors, and it is distinct from confirmation because this  
13 motion seeks to compromise two proofs of claim that were filed  
14 by United Leasing. And so it reduces the amounts filed, from  
15 2 -- I'm sorry -- 7.5 million dollars down to 679. And we  
16 worked with United Leasing to put together the motion and to  
17 work on a proposed order, which we will submit to the Court if  
18 the motion is granted.

19 THE COURT: All right, and I've seen no written  
20 opposition to the motion, so I will grant that motion.

21 MR. HUGHES: Thank you.

22 THE COURT: Thank you.

23 All right, then next appearing on the docket is the  
24 motion to assume the lease of nonresidential property that  
25 Alpha Natural Resources, Inc. has an objection to. I believe

1 we'll be continuing that?

2 MR. HUEBNER: Yeah.

3 THE COURT: I'll put it on January 28 just so I don't  
4 lose track of it.

5 MR. HUEBNER: Yeah, Your Honor, that --

6 THE COURT: But I will --

7 MR. HUEBNER: My guess is that motion -- my hope is that  
8 motion will be obviated by today's events.

9 THE COURT: All right.

10 MR. HUEBNER: But in any event, that motion is adjourned.

11 And as we'll talk about in a few minutes, those leases are  
12 proposed to be addressed, as they have been for many, many  
13 years, by the schedules of the confirmation and the plan. And  
14 we'll be talking about Alpha, I think, in a few moments.

15 THE COURT: All right. Then next is the objection to  
16 claims 2302 and 2303 of Drummond Coal Sales. I have a note  
17 that that's being continued to January 28?

18 MR. HUEBNER: Yes, Your Honor.

19 THE COURT: All right. And then we have the twenty-first  
20 omnibus objection; I have that that is being continued, as  
21 well, to January 28?

22 MR. HUEBNER: Yes, Your Honor.

23 THE COURT: All right. And then we have the omnibus  
24 application to expand retention of professionals to include new  
25 debtors?

1 MR. HUEBNER: Yes, Your Honor. Those are the two new  
2 debtors that were filed subsequently, and this is a  
3 housekeeping motion so the professionals are retained as to all  
4 debtors, not just the initial filers from July 9th, 2013 -- 12.

5 THE COURT: All right. And I believe now we have all of  
6 the professionals on board, then?

7 MR. HUEBNER: Yes, although our goal is to fire all of  
8 them in about an hour, Your Honor.

9 THE COURT: Let me see Mr. Walsh.

10 MR. WALSH: Your Honor, for the record --

11 THE COURT: Mr. --

12 MR. WALSH: Brian Walsh for the debtors.

13 Your Honor, there still are a few loose ends on that  
14 matter. We will figure out, should the Court confirm the plan,  
15 whether there's any need to follow up and close the loop on  
16 those professionals or whether they have not and will not do  
17 any work for the new debtors, in which case the matter will be  
18 moot, Your Honor.

19 THE COURT: So for my purposes, what do we want to do  
20 with this one?

21 MR. WALSH: I think we can continue it to January 28th  
22 for now, Your Honor.

23 THE COURT: All right.

24 MR. WALSH: And we may be able to withdraw it before  
25 then.

1 THE COURT: All right. Good. I'll continue that matter  
2 to January 28th.

3 MR. WALSH: Thank you, Your Honor.

4 THE COURT: Thank you. All right, then at the bottom of  
5 page 1, the fifteenth omnibus objection is being continued to  
6 January 28th, as well as the fourteenth omnibus objection.

7 Then we have the motion to amend proof of claims or  
8 extension of deadline for timely filed claims by Michelin North  
9 America. Again, I think maybe that's a matter we're just  
10 continuing. All right, then we'll continue that to January 28.

11 Then we have the tenth omnibus objection, which is being  
12 continued to January 28th; and the fifth omnibus objection is  
13 being continued to that same date, as well.

14 Then we have the motion for authorization to assume or  
15 reject unexpired leases, with the objections by STB and Arch  
16 Coal. Again, I believe -- are we just continuing that matter  
17 past the effective date?

18 MR. HUEBNER: Yes, Your Honor.

19 THE COURT: All right, then we'll continue that out to  
20 January 28th, as well.

21 And then that brings us to confirmation of the debtors'  
22 fourth amended plan.

23 MR. HUEBNER: It does, Your Honor. Good morning. For  
24 the record again, I am Marshall Huebner of Davis Polk &  
25 Wardwell.



1 Your Honor, today is a -- we hope and trust that today  
2 will be a wonderful day in the life of Patriot Coal and also,  
3 candidly, in the life of this Court and jurisdiction, since  
4 this is a rather sizeable company on which, as we all knew from  
5 the first moment, many thousands of real families and real  
6 retirees and real workers rely, as well as, obviously,  
7 customers and other stakeholders.

8 It's not an easy time for coal, Your Honor, and the  
9 outcome of this case was, frankly, not always crystalline  
10 clear. But the one thing that was true was that this company  
11 was moving forward towards survival, towards recapitalization  
12 and towards a successful emergence, really from its very first  
13 moment, with the aid of a great many people.

14 Before I head into a little bit of a discussion on that,  
15 Your Honor, just to make some housekeeping details clear for  
16 the record -- although I think they are clear on the docket,  
17 just that there's no mistake -- on December 15th we filed a  
18 fourth amended plan; it had some pretty minor blacklines, which  
19 was also filed for ease of all parties to see what the changes  
20 were against the third amended plan that had been previously  
21 filed on November 4th and approved by Your Honor on November  
22 7th in connection with the disclosure statement.

23 On December 15th we also filed a detailed memorandum of  
24 law, in support of confirmation, that laid out all the  
25 confirmation standards and the evidence and facts that the

1 debtors believe more than amply support confirmation under the  
2 various strictures of the Bankruptcy Code. In addition, Your  
3 Honor, since there does need to be a factual predicate when  
4 relief is being sought, we filed two declarations: one by John  
5 Lushefski, the company's chief financial officer, and one by  
6 Flip Huffard of Blackstone, the lead on the company's  
7 financial-advisor and investment-banker side at Blackstone.

8 We also filed on the case Web site, as we've worked out  
9 in this jurisdiction, a proposed confirmation order so that  
10 people could see, in all of its glory, the various complicated  
11 and sometimes technical things that go into a confirmation  
12 order in a mega case like this where hundreds of millions and  
13 billions of dollars are moving around and being resolved.

14 Since then, Your Honor, there have been a few minor  
15 changes to the confirmation order, that you might imagine, as  
16 exactly as was the hope. People looked at it, they called with  
17 some questions or comments, you know, I want to be mentioned,  
18 pick me, I want confirmatory language. And as we told you,  
19 Your Honor, from literally the first moments that we met, our  
20 modus operandi is to have our phone lines wide open and our  
21 doors wide open and to be reasonable and responsive wherever we  
22 can. And I think that one of the reasons we're standing here  
23 today with, I guess, what I will call one-third of an objection  
24 from one party out of 45,000, which is a pretty remarkable  
25 achievement in its own right, is precisely because we're open

1 twenty-four hours a day to try to resolve issues and take  
2 comments. So there are a few changed pages.

3 As a matter of process, Your Honor, what I'd like to do  
4 at this point, if I may, is actually move into evidence the two  
5 declarations and have them admitted. We do have both  
6 declarants in the courtroom today. No party has indicated any  
7 intention of making this an evidentiary hearing or seeking  
8 testimony from the witnesses, but I do think that it is  
9 important that the declarations be officially in evidence as  
10 facts in support of the debtors' request that the confirmation  
11 order be entered.

12 THE COURT: All right.

13 MR. HUEBNER: And I know of no party that objects to  
14 that.

15 THE COURT: All right. So then you would like to move  
16 for admission, then, of the declaration of Mr. Lushefski and  
17 Mr. Huffard?

18 MR. HUEBNER: Yes, ma'am.

19 THE COURT: Are there any objections by any parties in  
20 the courtroom?

21 And are there any objections by any parties on the phone?

22 All right, then hearing none, both of those declarations  
23 will be admitted.

24 (Declaration of John Lushefski, CFO, was hereby received into  
25 evidence as a Debtors' Exhibit, as of this date.)

1 (Declaration of Flip Huffard of Blackstone was hereby received  
2 into evidence as a Debtors' Exhibit, as of this date.)

3 MR. HUEBNER: Thank you, Your Honor.

4 Your Honor, it's always a little bit unclear to me in  
5 what order to do things at a confirmation hearing, but I  
6 thought that, without hopefully seeming presumptuous, I would  
7 actually like to start with just a moment or two of thank-yous,  
8 because there are a great number of parties whose extraordinary  
9 efforts have brought us to today.

10 First, and in many ways foremost, is a huge and heartfelt  
11 thank-you to the Court itself, including obviously chambers in  
12 the form of Ms. Magnus and others, Mr. Howley, who were there  
13 for us with often very complicated matters, sometimes with very  
14 short time frames. And I am quite aware, having clerked  
15 myself, that a chambers is a live organic being in which many  
16 people come together to bring together the wheels of justice  
17 turning as they should. And the level of responsiveness and  
18 accommodation that we received in the jurisdiction has been  
19 very notable, especially for a case of this size that sort of  
20 got dumped on you rather unawares on some level.

21 The U.S. Trustee's office, in particular -- I'm sorry  
22 she's under the weather, because she's always been sunshine --  
23 in the form of Ms. Long, who got up to speed even before we  
24 came to St. Louis, came out to New York, met us and, again,  
25 frankly, with a philosophy similar to our own, wanting to sort

1 of be involved in the issues and fully up to speed even before  
2 it's needed, so that she could be immediately understanding and  
3 responsive of the situations. And really everybody has been  
4 flexible and accommodating really from the very beginning,  
5 which, as we all worked really extremely hard on a case of this  
6 size that, frankly, had a lot of complexities to it, made a  
7 tremendous difference in our ability to be here today.

8 But then of course there are the people who worked day  
9 and night, and night and day, to save this company; and, Your  
10 Honor, most of them, out of respect for the Court and the  
11 process, are actually in the courtroom with us here today: our  
12 CEO, Ben Hatfield; our CFO, Jack Lushefski; Joe Bean, our  
13 general counsel; Mike Day, the COO; Chuck Ebetino, the  
14 executive vice president; Bob Bennett, who -- I think he kind  
15 of runs lots of stuff; I never know what his title is, but he's  
16 the guy that brings in all the revenue, so he's very beloved;  
17 Rob Mead, our treasurer, who has been juggling all of the  
18 financings and the capital-markets work, along with many other  
19 things; and Jacquie Jones, our deputy general counsel, who,  
20 along with Joe Bean and the others on the legal staff, has been  
21 simply remarkable for us.

22 Your Honor, Chapter 11 can be a very complicated place  
23 with very choppy waters, Your Honor, and especially in a case  
24 that does involve labor issues and retiree issues and pension  
25 issues. You know, a management team that leads by example,

1 with personal sacrifice and taking a huge amount of personal  
2 risk, is actually a relative rarity in this day and age. And  
3 the fact that the management team, to my eyes, did "the right  
4 thing" at every single crossroads, often in no small risk to  
5 themselves and their own families, was very notable.

6 The UCC and its professionals, Your Honor, worked with us  
7 very constructively. I think I can really only remember one  
8 thing the entire case where we had a material difference of  
9 opinion, and even there we worked it out before it ever got to  
10 the courtroom. Other than that, it was a very constructive and  
11 iterative process, both with the New York professionals and the  
12 St. Louis professionals, and for that we are very grateful.

13 The UMWA, Your Honor -- I know Mr. Perillo is on the  
14 phone, which is a shame because today would have actually been  
15 hug day for the UMWA, in my book. It was a long hard road with  
16 them, and nobody should lose sight of that. They fought very  
17 hard to protect their constituency, as Your Honor knows better  
18 than anybody alive. We had a very extensive trial, over which  
19 this Court presided, and people advocated in the ways that they  
20 felt they needed to. But at the end of the day, Mr. Roberts  
21 and Mr. Hatfield, as you heard at the time when we were  
22 privileged to bring you the settlement, spent day after day,  
23 week after week, month after month, in what were largely  
24 bilateral negotiations, and ultimately worked out a deal that  
25 everybody could live with and, frankly, saved the company.

1           We have new investors, Your Honor, both the backstop  
2 investors, whose counsel is here in the courtroom today, as  
3 well as our DIP lenders, some of whom are "rolling" into a  
4 reduced and high-priority facility; others of whom are being  
5 paid off and supported us during the case, for which we are  
6 also grateful; and candidly, Your Honor, Peabody and Arch,  
7 which it sounds sort of funny to potentially mention someone  
8 who is both a competitor in the industry and, at least a few  
9 months ago, was a very determined adversary. But the reality  
10 is that we cut very substantial, complicated, nuanced deals  
11 with both of them, and they were extremely workmanlike in  
12 reaching those deals.

13           And frankly, even the mechanics of the closing we hope  
14 will be taking place beginning later today and tomorrow that  
15 involve, in many cases, Peabody LCs swapping in for debtor LCs,  
16 with literally choreographed things with beneficiaries and  
17 workers'-comp organizations and the like, all over the country.  
18 And Peabody has really stepped up to help with the mechanics,  
19 because it only takes a few things to go wrong for the organism  
20 to not do what it needs to. And they have in fact been our  
21 partners since we settled, in a way that's really constructive,  
22 in particular Mr. Black, who is here, of the Jones Day firm, or  
23 the only guy not saving Detroit, because he was tasked with  
24 helping save Patriot.

25           Your Honor, I'm not going to review all the milestones of

1 the case; I think that would unduly belabor this morning's  
2 hearing. There is much to be proud of, and I think everybody  
3 knows that. And I think I can leave it at that.

4 Let's talk about the exit and the financing, Your Honor,  
5 because it is really Patriot's remarkable go-forward story that  
6 now needs to shift to the fore, as the fact that it was  
7 hopefully soon to be "once a Chapter 11 debtor" moves farther  
8 into the rearview mirror. Your Honor, the debtors have worked  
9 tirelessly to ensure that they will be exiting bankruptcy with  
10 very substantial and new financing and an extremely strong  
11 balance sheet. There are several pieces to their capital  
12 structure on the way out; the first is the exit facilities,  
13 which consist of a senior secured term loan in the aggregate  
14 amount of 250 million dollars, an asset-based revolving credit  
15 facility in the aggregate principal amount of 95 million  
16 dollars, and a letter-of-credit facility in the aggregate  
17 amount of approximately 201 million dollars. I believe it to  
18 be the case, Your Honor, that, as of this morning, we have all  
19 the signatures that we need in escrow, from the arrangers, to  
20 all those facilities, so those should be ready to go once you  
21 give us permission to turn the key and begin to move towards  
22 the closing mechanics.

23 In addition, Your Honor, there is 250 million dollars of  
24 junior capital, pursuant to extremely successful rates  
25 offerings, which I'm going to talk about in a few minutes,



1 because they actually, candidly, surprised me how successful  
2 they were. The reliance on the backstop parties ended up being  
3 quite substantially less, I think, than many originally  
4 envisioned that it would be.

5 Finally, Your Honor, the debtors are -- as I  
6 aforementioned, there is 140 million dollars, or so, of letter-  
7 of-credit support from Peabody that's swapping in for some of  
8 the debtors' current collateral obligations.

9 Everybody supports the plan, which is great and not  
10 typical, and we shouldn't take it for granted. It took a lot  
11 of work to get there. The UCC and the UMWA -- and we thank  
12 them for it -- went as far as to file statements of support on  
13 the record. And of course, the UCC included a letter  
14 supporting the plan, to all the constituents, that went out  
15 with the plan. And literally -- literally -- the only  
16 objection, in the entire case, to confirmation, which I am most  
17 assuredly going to discuss in a few minutes, out of more 50,000  
18 parties-in-interest and more than 4,300 claimholders who filed  
19 claims, is from a single party, which is, as I'll talk about in  
20 a few minutes -- I don't actually think it's a confirmation  
21 objection at all; but that's anon.

22 Voting results, Your Honor, also great, just really  
23 great, and a really strong affirmation of the fact that, even  
24 in a very difficult industry and very difficult times, with a  
25 plan that does not provide ninety-two percent recoveries for

1 unsecured creditors -- far from it. In fact, the recoveries  
2 are, by far, the best available, as far as we were all able to  
3 do, but they still reflect a lot of pain to a lot of people and  
4 we should not lose sight of that. Nonetheless, the response  
5 and the acceptances of the debtors' plan were simply nothing  
6 short of overwhelming. Of the 1,280 ballots cast, 96.17  
7 percent represented those to accept the plan, over 411 million  
8 dollars in amount, or 94.12 percent in terms of amount of  
9 voting claims.

10 That, however, really understates it, because almost all  
11 the rejections, in terms of dollar amount, consist of a single  
12 claim that was filed against two debtors that is actually a  
13 governmental claim that is riding through and will be  
14 automatically withdrawn immediately upon entry of the  
15 confirmation order. So the pro forma numbers of acceptances  
16 and rejections are actually, in the real world, even more  
17 attractive than the extremely high percentages that I just  
18 related.

19 Of the 245 classes entitled to vote on the plan, 239 of  
20 them have either voted to accept or have been deemed to accept,  
21 pursuant to the solicitation procedures order. Six classes  
22 have voted to reject, although I should note that, even as to  
23 those six, two of the six are only as a result of this  
24 unimpaired claim that's about to be withdrawn. And if you  
25 pro-forma that claim away, I think actually even those two

1 classes probably accept.

2 Notably, Your Honor, in terms of dollar amount and  
3 economic state, the largest category of voting creditors, which  
4 is the 250 million dollar senior noteholders who, as the Court  
5 remembers, have guarantees against all debtors and thus have a  
6 quarter billion dollar claim at every debtor, voted to accept  
7 the plan at 99.9 percent in amount and 97.5 percent in number.  
8 I'm guessing there's probably someone somewhere who was in Bora  
9 Bora and just didn't get the solicitation package.

10 The rights offering, Your Honor, is another nice success  
11 story, and I think it's worth taking just a moment on, because  
12 what it does is it reflects, up to the second, incredible  
13 market confidence and excitement about Patriot's future. You  
14 know, it's easy for lawyers to get up and tell the Court and  
15 make statements -- granted, eloquently -- about how wonderful  
16 things are and how fixed the company is. But the question is,  
17 what do investors, who actually need to write a check to evince  
18 their belief of that, have to say about the situation. And in  
19 that sense, it was really a wonderful success.

20 Basically, the rights were fully subscribed, and the  
21 backstop parties didn't get to soak up -- or were not obligated  
22 to soak up, depending on your point of view -- virtually any of  
23 the rights that they were not initially allocated as backstop  
24 parties. We received a hundred subscription forms from  
25 certified holders, who were qualified investors. And of the

1 250 million dollars available for subscription, 237.8 million,  
2 or just about 240, of the 250 -- over 95 percent -- was  
3 subscribed for by the creditors to whom they were first  
4 offered. And that last little tiny piece was dealt with in the  
5 oversubscription. In fact, we had far more money than we could  
6 use, given the available amount to be given out. We ended up  
7 returning I think something like fifty million dollars to  
8 people who wanted rights but couldn't get them because we just  
9 didn't have enough to give out.

10 And so that's just really terrific, and I think it really  
11 does bear specific pause and mention as a "it just sort of  
12 happened yesterday morning" type vote of confidence in the  
13 company's balance sheet, capital structure, and emergence plan.

14 Your Honor, there are a couple of governments that we  
15 worked with in the closing lapse in the last few days, to  
16 resolve their claims; in particular, MSHA, which is the federal  
17 mining safety organization, and the Ohio Department of Natural  
18 Resources. And they asked that we put on the record what is  
19 already in the plan, and always happier to do that than have a  
20 long conversation about why that is not certainly necessary.  
21 And so this is already in the fourth amended plan and it's  
22 already in article 11 of the confirmation order -- article 11  
23 of the plan, and paragraph, of the confirmation order.

24 But here is the text that they asked that we highlight on  
25 the record for the transcript: Over the past several weeks, we

1 have been negotiating with various governmental agencies,  
2 regarding the plan and confirmation order, including the  
3 Department of Justice, the EPA and various federal- and state-  
4 level regulatory agencies. The company interacts very closely  
5 with them, given the industry in which we operate. Happily,  
6 Patriot reached mutually agreeable language in the plan and  
7 confirmation order that makes clear that certain of their  
8 claims relating to certain environmental and health and safety  
9 issues are unimpaired by the plan.

10           Given that they will remain unaffected, the Mine Health  
11 and Safety Administration -- know as MSHA -- and the Ohio  
12 Department of Natural Resources have informed the debtors that  
13 they will withdraw their proofs of claim following the  
14 effective date. We were asked to acknowledge on the record  
15 that withdrawal of these claims is not a waiver of any rights  
16 and is merely an acknowledgment that the plan does not impair  
17 them and that the parties will continue to deal with the issues  
18 underlying those claims, outside of and subsequent to the  
19 bankruptcy case.

20           Your Honor, there are only really a couple of other small  
21 changes to the plan on file, and changes to the proposed  
22 confirmation order. First, we agreed to a reservation of  
23 rights by a group of lessors, that we're putting into the  
24 confirmation order, which we thought was fine, and everybody  
25 preserved their rights. Those lessors, Your Honor, are:

1 Alderson Heirs -- spelled H-E-I-R-S -- LLC; Horse Creek Land &  
2 Mining; Lawson Heirs LLC; Little Cole Land Company; Pocatamico  
3 (ph.) Hills; and Southern Land Company LP; which I will  
4 collectively refer to as the Alderson lessor group.

5 The real-property leases at issue, Your Honor, were  
6 either previously assumed by the debtors or being assumed  
7 pursuant to the plan. The new agreed language in the  
8 confirmation order will reserve the lessor's right to argue --  
9 again, we're not asking for a decision either way, and nobody  
10 is conceding the issue; we're each just preserving our  
11 rights -- that the scope of the discharge and the plan and the  
12 confirmation order does not apply to any default, under the  
13 applicable lease, that is not in existence as of the effective  
14 date, or to environmental claims against the debtors that are  
15 contingent or unliquidated as of the effective date. The  
16 debtors, Your Honor, of course retain all rights and defenses  
17 with respect to any such future assertions. Hopefully the day  
18 will never come where we ever need to think about this again  
19 but, if it does, nobody is inappropriately prejudiced by the  
20 confirmation order.

21 Also, Your Honor, paragraph 45 of the confirmation order  
22 further clarifies that the debtors will satisfy the terms of  
23 the payoff letter with respect to the payoff of the DIP.

24 Your Honor, what that leaves is just the one objection,  
25 which is that of Alpha, or Alpha Massey, which I'd like to turn

1 to now, if I may.

2 THE COURT: You may.

3 MR. HUEBNER: So, Your Honor, the Alfa Massey objection  
4 is kind of interesting because it is about a page and a half  
5 long, and I think all it really is, is kind of a reservation of  
6 rights. I mean, it's a little bit interesting to me that they  
7 actually request entry of an order conditioning confirmation of  
8 the plan on removal of the Boone-ERC lease from the plan  
9 schedules or, in the alternative, denying confirmation.

10 So why is this extremely bizarre and in fact kind of  
11 shockingly inappropriate? Because in their disclosure-  
12 statement objection, they asked for the exact opposite relief,  
13 literally the opposite relief. And in that pleading, which  
14 wasn't like a one-pager, they actually attached a whole bunch  
15 of case law. And they seemed quite passionate at the time and  
16 they said, you cannot confirm a plan unless it definitely  
17 assumes or rejects leases, and we demand perfect clarity in the  
18 plan, as to what's happening with our lease and what's  
19 happening with our payment agreement, the debtors  
20 inappropriately tried to reserve their rights to potentially  
21 change their mind in the future if something happened after the  
22 effective date, no deal, you have to decide now with perfect  
23 clarity, and no, like, wiggle room in the future.

24 We happen not to really agree with them, but it wasn't  
25 worth the fight, so we changed the plan and disclosure

1 statement to do exactly what they wanted. So the plan is now  
2 perfectly clear in the schedules that we are assuming the lease  
3 and are not assuming the contracts that this Court, in a very  
4 detailed and thoughtful ruling, found were not part of the  
5 lease and/or not executory. So the stuff that we want and need  
6 and is good for the estate, we're keeping; and the stuff that's  
7 unrelated and we're allowed to, we're rejecting. That's how it  
8 works.

9 And we understand that they're appealing, and that's  
10 their right; of course it's their right. They'll appeal;  
11 there's a briefing schedule; we're going to deal with that.  
12 But to say that we're not allowed to confirm a plan and we're  
13 not allowed to get out of bankruptcy because there's an appeal  
14 pending about one lease and what's incorporated with it,  
15 there's just -- there's no cognizable argument there. It's  
16 just simply not a confirmation objection at all, which may be  
17 why there's no case law, no statutory support, no rule support,  
18 because it just makes no sense.

19 It's sort of like saying -- and this is the best analogy  
20 I could think of -- you know, let's assume we just did a  
21 straight-up assumption motion and we said, you know, Dear  
22 Court, we want to assume this lease. And they object and they  
23 say, well, no, because the lease also includes this credit-card  
24 agreement. And the Court rules that it doesn't. And then we  
25 say, okay, so we won, please enter the order. And they say, we



1 object, the order can't be entered, because we lost the  
2 litigation, so you're not allowed to assume the lease because  
3 we lost. You can't even say it out loud, because it just has  
4 no possible logic or coherence behind it.

5 And so, Your Honor, the plan does not only exactly what  
6 it is supposed to do, which is, in their minds -- and for these  
7 purposes we're willing to accept it arguendo in our minds --  
8 provide perfect clarity and a definitive final position of the  
9 debtors about what we are assuming and what we are rejecting.  
10 But the thought that confirmation should be denied or not  
11 allowed to assume the lease, when we won the litigation, is  
12 just -- it's just wrong. It's just wrong.

13 And unsurprisingly, Your Honor, in our confirmation  
14 brief, unlike their little tossed-off pleading that has not a  
15 word of case law or statutory cite, we have a whole bunch of  
16 case law because we're right; and the answer is, when you win a  
17 litigation, you're entitled to rely on it and move forward, and  
18 that's all we're asking to do. You know, perhaps had we left  
19 in the provision that says, if Your Honor is reversed on  
20 appeal, we reserve the right to revisit the assumption of the  
21 Alpha lease, perhaps we would have had what I call a legitimate  
22 dispute today about whether that type of provision is allowed  
23 in a plan; and I can't believe we wouldn't have put it in,  
24 unless we thought it was. But we took it out because in their  
25 disclosure-statement objection, they said, this is what you

1 need to do to have the confirmed plan; and that's what we did.

2 And in fact, Your Honor, I'm going to read you paragraph  
3 18 of the disclosure-statement objection, just to make it clear  
4 beyond any peradventure that we did exactly what they demanded  
5 in their nine-page pleading filed with this Court only a few  
6 weeks ago: "Without an amendment to the plan providing for the  
7 assumption or rejection of the agreements, the debtors will  
8 impermissibly extend the period during which they may make the  
9 decision to assume or reject contracts, until after the plan is  
10 confirmed. To the detriment of the Alpha entities, there are  
11 counterparties to those agreements. Because the plan cannot be  
12 confirmed without modification on this discrete point, the  
13 Court should not approve the disclosure statement until this  
14 facial defect in the plan is cured." So I guess you need to  
15 choose which of their pleadings to believe, since they say  
16 opposite things. But we think it's pretty clear which one is  
17 appropriate.

18 So, obviously they'll be able to speak in just a moment.  
19 But again, I want to be very clear; we're not saying they don't  
20 have a right to appeal. They could win on appeal. And if they  
21 win on appeal, then ultimately these agreements will be found,  
22 or some of them might be found, to be part of the lease that  
23 we're assuming; and if they are, then we'll have to accept them  
24 as unexpected baggage and pay the freight. We understand that.  
25 But to say that our plan can't be confirmed and we're not

1 allowed to assume the lease in reliance on this Court's order,  
2 has simply no basis in either law or logic.

3 The very last issue, Your Honor, is just the request as  
4 to closing and timing. Your Honor, given that at most the  
5 Alpha objection is merely about a single lease, we are very,  
6 very hopeful that confirmation will be approved by the Court  
7 today. The time line here is actually tighter than any case in  
8 which I have yet been involved, because although our DIP  
9 matures on December 31, the LCs under the DIP mature in advance  
10 of December 13, and the beneficiaries understandably were  
11 not -- I leave that to, sort of, others to judge -- are very  
12 skittish and don't want to go until the last business day when  
13 they could hypothetically draw the LC. And we've kept  
14 everybody at bay with sort of a promise that we're going to  
15 close sort of virtually immediately.

16 And so one thing that we would request/beg is that if the  
17 Court were going to approve confirmation this morning, which I  
18 think several tens of thousands of people very much hope you  
19 will -- and I actually think, in their hearts, Alpha Massey  
20 does too -- we would ask that the order be entered as  
21 expeditiously as absolutely possible. There are literally  
22 people waiting in several jurisdictions all over the country,  
23 to begin acting on the entry of the confirmation and swapping  
24 out LCs and providing backstop guarantees, because some people  
25 won't return their LCs till they have the new LCs; we won't

1 tender the new LCs until they know the confirmation order's  
2 been entered. And so it's unfortunately an extremely time-  
3 pressured balletic dance, for which I apologize.

4 With that, Your Honor, I actually would like to end where  
5 I began, which is sort of how my mom taught me, which is to end  
6 with a thank-you, which is, we are not unaware -- in fact we  
7 are quite mindful -- of the burden that this case has put on  
8 the Court and chambers and the district as well as, frankly,  
9 many of the people working on it, to achieve what we believe is  
10 a truly, truly extraordinary outcome. And I think that we and  
11 many others look forward to a remarkable future for the  
12 recapitalized, reenvisioned and reinvigorated Patriot Coal.  
13 Thank you.

14 THE COURT: Thank you.

15 All right, are there other parties in the courtroom that  
16 wish to be heard in support of confirmation?

17 All right, then hearing none, are there other parties on  
18 the phone that wish to be heard in support of confirmation?

19 All right, then hearing none, those who wish to be heard  
20 in opposition to confirmation, in the courtroom?

21 All right. And then on the phone?

22 MR. BAREFOOT: Your Honor, it's Luke Barefoot from Cleary  
23 Gottlieb Steen & Hamilton, on behalf of Alpha Natural Resources  
24 and certain of its affiliates.

25 If I may just briefly, Your Honor, in response to

1 Mr. Huebner's remarks, address the extremely limited nature of  
2 the position and the pleading that Alpha filed. We certainly  
3 understand, Your Honor, the decision on the motion for judgment  
4 on the pleading, entered in the adversary proceeding after we  
5 had filed our disclosure-statement objection, and certainly  
6 appreciate the debtors' ability to rely on it. We filed our  
7 limited objection and reservation of rights, which is, as  
8 Mr. Huebner indicated, limited to a reservation of rights, only  
9 in order to preserve and protect potential appellate remedies,  
10 because, while we appealed the declaratory-judgment order, the  
11 debtor -- unlike at the time we had filed our disclosure-  
12 statement objection when they proposed to effectuate an  
13 assumption, if any, through a separate motion and to carve out  
14 the Alpha leases from the scope of the leases that were to be  
15 assumed and rejected and to reserve that down the road, the  
16 debtors are now effectuating independent assumption of the  
17 Boone lease, separately from the payment agreement and the  
18 other Alpha agreements that were the subject of the adversary  
19 proceeding, through this confirmation order and the plan  
20 schedules.

21 So the import of our objection is only to ensure that we  
22 are on the record and in order to appropriately perfect our  
23 appeal and protect appellate remedies in the event that a  
24 higher court or other court disagrees with the Court's  
25 conclusion in the adversary proceeding and to allow, through

1 the mechanism that remains in section 9.5(b) (ph.) of the  
2 debtors' plan, a subsequent assumption of the -- not only the  
3 Boone lease but the other leases that Alpha has contended are  
4 integrated with it.

5 THE COURT: All right, thank you.

6 MR. HUEBNER: Your Honor, I guess, based on what I heard,  
7 it may be that we actually don't have much of a disagreement,  
8 because the words "preservation of rights on appeal" -- we all  
9 have whatever rights we have on appeal; I think we were very  
10 clear about that. I guess my problem is that, when the prayer  
11 for relief includes things like -- I shall just read in its  
12 totality -- "For all the foregoing reasons, the Massey Entities  
13 respectfully request entry of an order (a) conditioning  
14 confirmation of the Plan on the removal of the Boone-ERC Lease  
15 and Partial Assignments from the Plan Schedules or, in the  
16 alternative, (b) denying confirmation of the Plan, and (c)  
17 granting such other further relief as the Court may deem just  
18 and proper." Obviously that's sort of -- that sounds a little  
19 more frightening, and we just want to make sure that everyone  
20 understands that we're appealing.

21 So as long as it's now clear that what they're really  
22 doing -- and we very much appreciate Mr. Barefoot's  
23 statement -- that really this was just to be clear on the  
24 record that they're appealing and that we all have rights on  
25 appeal. It may be that we have a totally uncontested

1 confirmation hearing, which is even nicer than a confirmation  
2 hearing with only a single objection.

3 THE COURT: All right, well, to the extent that Alpha has  
4 filed an objection based on the comments here, including,  
5 Mr. Huebner, of course, your recognition that they do have the  
6 right to appeal and, if they win, the debtors know what they'll  
7 have to do at that point and that would be dealt with, I'll  
8 overrule the objection.

9 MR. HUEBNER: Your Honor, I don't think I have anything  
10 further, other than to request that the confirmation order be  
11 entered and that we be allowed to leave the protective aegis of  
12 your jurisdiction -- well, except for all the reservations of  
13 jurisdiction for all the things that may come later, but that  
14 Patriot can get the hell out of bankruptcy; how about that?

15 THE COURT: All right. Then certainly it does appear  
16 that we have resolved the one remaining objection that was out  
17 there, so I will confirm the fourth amended Chapter 11 plan.

18 MR. HUEBNER: Thank you, Your Honor.

19 THE COURT: Thank you. Do I have the latest proposed  
20 order?

21 UNIDENTIFIED SPEAKER: No.

22 THE COURT: No.

23 UNIDENTIFIED SPEAKER: No. Be glad to, Your Honor --

24 THE COURT: All right. As soon as --

25 MR. HUEBNER: We'll have that forthwith, Your Honor.

1 THE COURT: All right. As soon as we get it, we will put  
2 a number -- a set of eyes on it and try to get it entered as  
3 quickly as possible, then.

4 MR. HUEBNER: Great. Thank you so much, Your Honor.

5 THE COURT: All right. Thank you. Mr. Huebner, then, is  
6 there anything else on behalf of the debtor -- or the  
7 reorganized debtor?

8 MR. HUEBNER: No, Your Honor, there is not.

9 THE COURT: All right. Are there any other requests by  
10 any other parties in the courtroom?

11 All right. And on the telephone?

12 All right, then hearing none, we'll be in recess. Thank  
13 you.

14 MR. HUEBNER: Thank you, Your Honor.

15 (Whereupon these proceedings were concluded at 9:47 AM)

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I N D E X

E X H I B I T S

DEBTOR'S	DESCRIPTION	PAGE
1	Declaration of John Lushefski, CFO	27
2	Declaration of Flip Huffard of Blackstone	27

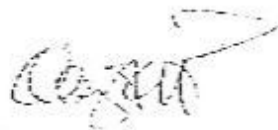
RULINGS

	Page	Line
Motion for Entry of an Order Authorizing Assignment of Certain Assumed Unexpired Leases Filed by Debtor, granted in part, excluding the parties being removed from the motion.	20	17
Motion to Assume Lease or Executory Contract and to Approve Settlement of Claims of United Leasing, Inc., granted.	21	20
Fourth amended Chapter 11 plan confirmed.	47	17

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C E R T I F I C A T I O N

I, Clara Rubin, certify that the foregoing transcript is a true and accurate record of the proceedings.



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CLARA RUBIN

eScribers  
700 West 192nd Street, Suite #607  
New York, NY 10040

Date: December 18, 2013

<b>A</b>	<p><b>47:11</b>  <b>affiliated (1)</b>                  18:24  <b>AFFILIATES (4)</b>                  6:10,18;13:11;                  44:24  <b>affirmation (1)</b>                  33:23  <b>aforementioned (1)</b>                  33:6  <b>again (8)</b>                  21:1;24:9,16,24;                  28:24;38:9,18;42:19  <b>against (4)</b>                  25:20;34:12;35:5;                  38:14  <b>age (1)</b>                  30:2  <b>agencies (2)</b>                  37:1,4  <b>Agency (1)</b>                  17:16  <b>agenda (3)</b>                  18:6,7;19:11  <b>Agent (5)</b>                  5:3;8:12,20;13:21;                  14:1  <b>aggregate (3)</b>                  32:13,15,16  <b>ago (2)</b>                  31:9;42:6  <b>agree (1)</b>                  39:24  <b>agreeable (1)</b>                  37:6  <b>agreed (3)</b>                  20:2;37:22;38:7  <b>agreement (3)</b>                  39:19;40:24;45:17  <b>agreements (4)</b>                  42:7,11,21;45:18  <b>aid (1)</b>                  25:13  <b>al (4)</b>                  9:21;11:3;12:3;                  16:20  <b>Alderson (2)</b>                  38:1,4  <b>Alfa (1)</b>                  39:3  <b>ALFONSO (3)</b>                  8:24;13:19,19  <b>Alice (2)</b>                  11:3;16:20  <b>alive (1)</b>                  30:18  <b>allocated (1)</b>                  35:23  <b>allow (1)</b>                  45:25  <b>allowed (8)</b>                  40:7,12,13;41:2,                  11,22;43:1;47:11</p>	<p><b>almost (1)</b>                  34:10  <b>along (2)</b>                  29:18,20  <b>Alpha (16)</b>                  9:21;16:17;21:25;                  22:14;38:25,25;                  41:21;42:10;43:5,                  19;44:23;45:2,14,18;                  46:3;47:3  <b>ALTER (3)</b>                  11:8;16:20,21  <b>alternative (2)</b>                  39:9;46:16  <b>although (4)</b>                  23:7;25:16;34:22;                  43:8  <b>always (4)</b>                  25:9;28:4,22;                  36:19  <b>amend (1)</b>                  24:7  <b>amended (5)</b>                  24:22;25:18,20;                  36:21;47:17  <b>amendment (1)</b>                  42:6  <b>America (6)</b>                  8:20;12:11;13:20;                  16:5,8;24:9  <b>Americas (1)</b>                  10:21  <b>among (1)</b>                  19:8  <b>amount (10)</b>                  30:1;32:14,15,17;                  34:8,8,11;35:2,7;                  36:6  <b>amounts (1)</b>                  21:14  <b>amply (1)</b>                  26:1  <b>ANA (2)</b>                  8:24;13:19  <b>analogy (1)</b>                  40:19  <b>and/or (1)</b>                  40:5  <b>ANDREA (2)</b>                  8:16;14:1  <b>ANGELA (1)</b>                  4:18  <b>Angie (1)</b>                  13:15  <b>anon (1)</b>                  33:21  <b>anti-assignment (1)</b>                  20:2  <b>apologize (2)</b>                  15:16;44:3  <b>appeal (11)</b>                  40:10,13;41:20;                  42:20,20,21;45:23;</p>	<p><b>46:8,9,25;47:6</b>  <b>appealed (1)</b>                  45:10  <b>appealing (3)</b>                  40:9;46:20,24  <b>appear (1)</b>                  47:15  <b>appearances (1)</b>                  13:8  <b>appearing (3)</b>                  14:12;17:11;21:23  <b>appellate (2)</b>                  45:9,23  <b>applicable (1)</b>                  38:13  <b>application (1)</b>                  22:24  <b>apply (1)</b>                  38:12  <b>appreciate (2)</b>                  45:6;46:22  <b>appropriate (1)</b>                  42:17  <b>appropriately (1)</b>                  45:22  <b>approve (3)</b>                  20:24;42:13;43:17  <b>approved (2)</b>                  25:21;43:6  <b>approximately (1)</b>                  32:17  <b>Arch (2)</b>                  24:15;31:6  <b>argue (1)</b>                  38:8  <b>arguendo (1)</b>                  41:7  <b>argument (1)</b>                  40:15  <b>ARMSTRONG (2)</b>                  4:2;14:6  <b>around (1)</b>                  26:13  <b>ARPS (3)</b>                  6:10,18;14:24  <b>arrangers (1)</b>                  32:19  <b>article (2)</b>                  36:22,22  <b>assertions (1)</b>                  38:17  <b>asset-based (1)</b>                  32:14  <b>assign (4)</b>                  18:20;19:22,23;                  20:10  <b>assigned (1)</b>                  20:1  <b>assignee (1)</b>                  20:6  <b>assignment (3)</b>                  18:12,23;19:25  <b>Assignments (1)</b></p>	<p><b>46:15</b>  <b>assignor (2)</b>                  19:21;20:4  <b>assume (10)</b>                  20:23;21:8,24;                  24:14;40:20,22;41:2,                  11;42:9;43:1  <b>assumed (7)</b>                  18:13;19:14,18,                  19;38:6,6;45:15  <b>assumes (1)</b>                  39:17  <b>assuming (4)</b>                  40:2,3;41:9;42:23  <b>assumption (7)</b>                  21:11;40:21;                  41:20;42:7;45:13,                  16;46:2  <b>assurance (1)</b>                  20:5  <b>assuredly (1)</b>                  33:17  <b>attached (1)</b>                  39:14  <b>Attorney (1)</b>                  12:11  <b>Attorneys (21)</b>                  4:3,12,21;5:3,12,                  20;6:3,11,19;7:3,12;                  8:3,12,20;9:21;10:3,                  11,20;11:3,12;12:3  <b>attractive (1)</b>                  34:17  <b>authorization (1)</b>                  24:14  <b>authorizing (1)</b>                  18:12  <b>automatically (1)</b>                  34:14  <b>available (3)</b>                  34:2;36:1,6  <b>Avenue (7)</b>                  4:13;5:13,21;8:13,                  21;10:21;11:4  <b>aware (1)</b>                  28:14  <b>away (1)</b>                  34:25</p>
			<b>B</b>	
			<p><b>backstop (5)</b>                  31:1;33:2;35:21,                  23;43:24  <b>baggage (1)</b>                  42:24  <b>balance (2)</b>                  32:11;36:13  <b>balletic (1)</b>                  44:3  <b>ballots (1)</b>                  34:6  <b>Bank (15)</b></p>	

6:11,19;7:3,3; 8:20;10:3,11;11:12; 13:20;14:25,25;16:8, 14;17:2,7 <b>Bankruptcy (7)</b> 13:2;19:24;26:2; 32:9;37:19;40:13; 47:14 <b>Barclays (5)</b> 6:11,19;7:3;14:25; 16:14 <b>BAREFOOT (5)</b> 9:25;16:17,18; 44:22,22 <b>Barefoot's (1)</b> 46:22 <b>based (2)</b> 46:6;47:4 <b>Basically (1)</b> 35:20 <b>basis (1)</b> 43:2 <b>bay (1)</b> 43:14 <b>Bean (2)</b> 29:12,20 <b>bear (1)</b> 36:11 <b>began (1)</b> 44:5 <b>begin (2)</b> 32:21;43:23 <b>beginning (2)</b> 29:4;31:14 <b>behalf (29)</b> 12:11;13:11,16, 25;14:6,11,12,14,19, 25;15:6,12,15,19,23; 16:4,8,11,14,17,20, 23;17:2,6,10,12,15; 44:23;48:6 <b>behind (1)</b> 41:4 <b>belabor (1)</b> 32:1 <b>belief (1)</b> 35:18 <b>beloved (1)</b> 29:16 <b>Ben (1)</b> 29:12 <b>beneficiaries (2)</b> 31:16;43:10 <b>benefit (1)</b> 21:11 <b>Bennett (1)</b> 29:14 <b>best (2)</b> 34:2;40:19 <b>better (1)</b> 30:17 <b>beyond (1)</b> 42:4	<b>bilateral (1)</b> 30:24 <b>billion (1)</b> 35:6 <b>billions (1)</b> 26:13 <b>bit (3)</b> 25:14;28:4;39:6 <b>bizarre (1)</b> 39:10 <b>BLACK (3)</b> 5:16;14:7;31:22 <b>blacklines (1)</b> 25:18 <b>Blackstone (3)</b> 26:6,7;28:1 <b>BLACKWELL (2)</b> 5:2;13:25 <b>BLAINE (2)</b> 7:19;14:18 <b>BLANK (3)</b> 10:24;15:23,25 <b>board (1)</b> 23:6 <b>Bob (1)</b> 29:14 <b>book (1)</b> 30:15 <b>Boone (2)</b> 45:17;46:3 <b>Boone-ERC (2)</b> 39:8;46:14 <b>Bora (2)</b> 35:8,9 <b>boss (1)</b> 18:14 <b>both (7)</b> 14:25;27:5,22; 30:11;31:1,8,11 <b>bottom (4)</b> 18:1,10,11;24:4 <b>Boulevard (3)</b> 4:4;7:4;8:5 <b>Brian (2)</b> 13:12;23:12 <b>brief (1)</b> 41:14 <b>briefing (1)</b> 40:11 <b>briefly (1)</b> 44:25 <b>bring (2)</b> 28:16;30:22 <b>brings (3)</b> 20:22;24:21;29:16 <b>Broadway (1)</b> 4:22 <b>brought (2)</b> 21:10;28:9 <b>Bryan (1)</b> 21:1 <b>bunch (2)</b> 39:14;41:15	<b>burden (1)</b> 44:7 <b>business (1)</b> 43:12  <b>C</b>  <b>call (2)</b> 26:23;41:21 <b>called (1)</b> 26:16 <b>came (2)</b> 28:24,24 <b>can (6)</b> 23:21;26:22; 29:22;30:7;32:3; 47:14 <b>candidly (3)</b> 25:3;31:6;33:1 <b>CANTER (3)</b> 9:17;16:23,25 <b>capacities (1)</b> 15:1 <b>capital (3)</b> 32:11,24;36:13 <b>capital-markets (1)</b> 29:18 <b>CARL (2)</b> 5:16;14:7 <b>CARMODY (2)</b> 4:11;13:15 <b>Carondelet (1)</b> 5:4 <b>carve (1)</b> 45:13 <b>case (21)</b> 13:7;19:21;23:17; 25:9;26:8,12;28:19; 29:5,23;30:8;31:5; 32:1,18;33:16; 37:19;39:15;40:17; 41:15,16;43:7;44:7 <b>cases (1)</b> 31:15 <b>cast (1)</b> 34:6 <b>Casualty (2)</b> 7:12;14:20 <b>category (1)</b> 35:3 <b>Cave (1)</b> 21:1 <b>cede (1)</b> 21:3 <b>Central (1)</b> 4:13 <b>CEO (1)</b> 29:12 <b>certain (7)</b> 18:13,21,23;21:8; 37:7,8;44:24 <b>certainly (4)</b> 36:20;45:2,5;	47:15 <b>certified (1)</b> 35:25 <b>CFO (2)</b> 27:24;29:12 <b>chambers (3)</b> 28:11,15;44:8 <b>change (1)</b> 39:21 <b>changed (2)</b> 27:2;39:25 <b>changes (4)</b> 25:19;26:15; 37:21,21 <b>Chapter (3)</b> 29:22;32:7;47:17 <b>CHARLES (2)</b> 9:17;16:23 <b>Charleston (1)</b> 12:5 <b>check (1)</b> 35:17 <b>Chicago (2)</b> 6:5,13 <b>chief (1)</b> 26:5 <b>choose (1)</b> 42:15 <b>choppy (1)</b> 29:23 <b>choreographed (1)</b> 31:16 <b>Chuck (1)</b> 29:13 <b>cite (1)</b> 41:15 <b>Citibank (4)</b> 5:3;8:12;13:25; 16:11 <b>City (1)</b> 11:15 <b>Civil (1)</b> 9:12 <b>claim (7)</b> 21:13;34:12,13,24, 25;35:6;37:13 <b>claimholders (1)</b> 33:18 <b>claims (11)</b> 20:24;22:16;24:7, 8;33:19;34:9;36:16; 37:8,15,18;38:14 <b>clarifies (1)</b> 38:22 <b>clarity (3)</b> 39:17,23;41:8 <b>classes (3)</b> 34:19,21;35:1 <b>Clayton (1)</b> 8:7 <b>clear (11)</b> 25:10,15,16;37:7; 40:2;42:3,16,19;	46:10,21,23 <b>CLEARY (2)</b> 9:20;44:22 <b>CLERK (1)</b> 13:2 <b>clerked (1)</b> 28:14 <b>Cleveland (1)</b> 5:14 <b>close (2)</b> 23:15;43:15 <b>closely (1)</b> 37:4 <b>closing (4)</b> 31:13;32:22; 36:15;43:4 <b>Co (1)</b> 12:3 <b>Coal (7)</b> 13:7;20:4;22:16; 24:16;25:2,8;44:12 <b>coal-reserve (1)</b> 19:1 <b>co-counsel (1)</b> 14:1 <b>Code (2)</b> 19:24;26:2 <b>cognizable (1)</b> 40:15 <b>coherence (1)</b> 41:4 <b>cold (1)</b> 15:15 <b>Cole (1)</b> 38:2 <b>COLEMAN (2)</b> 12:18;17:18 <b>collateral (1)</b> 33:8 <b>colleague (2)</b> 17:3,18 <b>colleagues (1)</b> 13:12 <b>collectively (1)</b> 38:4 <b>coming (1)</b> 20:22 <b>comments (3)</b> 26:17;27:2;47:4 <b>Committee (4)</b> 4:12;10:20;13:17; 15:24 <b>companies (1)</b> 14:14 <b>Company (21)</b> 4:21;7:13;8:3,3,4; 14:11,12,13,20,21; 15:12;17:12;19:7; 25:4,10;29:9;30:25; 35:16;37:4;38:2,3 <b>company's (3)</b> 26:5,6;36:13 <b>competitor (1)</b>
--	---	--	---	--

<p>31:8  <b>complexities (1)</b>                  29:6  <b>complicated (4)</b>                  26:10;28:13;                  29:22;31:10  <b>compromise (1)</b>                  21:13  <b>conceding (1)</b>                  38:10  <b>concluded (1)</b>                  48:15  <b>conclusion (1)</b>                  45:25  <b>conditioning (2)</b>                  39:7;46:13  <b>confidence (2)</b>                  35:13;36:12  <b>confirm (4)</b>                  23:14;39:16;                  40:12;47:17  <b>confirmation (43)</b>                  13:6;21:12;22:13;                  24:21;25:24,25;26:1,                  9,11,15;27:10;28:5;                  33:16,20;34:15;                  36:22,23;37:2,7,22,                  24;38:8,12,20,21;                  39:7,9;40:16;41:10,                  13;43:6,17,23;44:1,                  16,18,20;45:19;                  46:14,16;47:1,1,10  <b>confirmatory (1)</b>                  26:18  <b>confirmed (4)</b>                  42:1,10,12,25  <b>connection (2)</b>                  18:21;25:22  <b>consist (2)</b>                  32:13;34:11  <b>consolidating (1)</b>                  19:1  <b>constituency (1)</b>                  30:17  <b>constituents (1)</b>                  33:14  <b>constructive (2)</b>                  30:10;31:21  <b>constructively (1)</b>                  30:7  <b>contain (1)</b>                  20:2  <b>contained (1)</b>                  19:25  <b>contemplated (1)</b>                  18:22  <b>contended (1)</b>                  46:3  <b>contingent (1)</b>                  38:15  <b>continue (5)</b>                  23:21;24:1,10,19;                  37:17</p>	<p><b>continued (5)</b>                  22:17,20;24:5,12,                  13  <b>continuing (3)</b>                  22:1;24:10,16  <b>contracts (3)</b>                  20:23;40:3;42:9  <b>conversation (1)</b>                  36:20  <b>COO (1)</b>                  29:13  <b>Corp (2)</b>                  5:12;14:7  <b>corporate (1)</b>                  18:25  <b>Corporation (2)</b>                  4:3;20:4  <b>Corps (1)</b>                  12:12  <b>counsel (5)</b>                  13:20;17:21;                  29:13,19;31:2  <b>counterparties (2)</b>                  20:1;42:11  <b>counterparty (1)</b>                  19:12  <b>country (2)</b>                  31:17;43:22  <b>couple (2)</b>                  36:14;37:20  <b>course (6)</b>                  17:20;29:8;33:13;                  38:16;40:10;47:5  <b>Court (90)</b>                  13:3,5,13,15,18,                  23;14:4,9,16,22;                  15:2,4,9,13,17,22;                  16:1,3,7,10,13,16,19,                  22;17:1,5,9,14,19,                  25;18:8,10,16,19;                  19:19;20:12,21;21:2,                  4,7,10,17,19,22;22:3,                  6,9,15,19,23;23:5,9,                  11,14,19,23;24:1,4,                  19;25:3;27:12,15,19;                  28:11;29:10;30:19;                  35:4,14;39:2;40:3,                  22,24;42:5,13;43:6,                  17;44:8,14;45:24,24;                  46:5,17;47:3,15,19,                  22,24;48:1,5,9  <b>courtroom (12)</b>                  13:8;14:1;15:7;                  20:13;27:6,20;                  29:11;30:10;31:2;                  44:15,20;48:10  <b>Court's (2)</b>                  43:1;45:24  <b>COUSINS (3)</b>                  4:8;14:5,5  <b>covered (1)</b>                  19:17  <b>credit (1)</b></p>	<p>32:14  <b>credit-card (1)</b>                  40:23  <b>Creditors (4)</b>                  4:12;34:1;35:3;                  36:3  <b>Creditors' (2)</b>                  10:20;15:23  <b>Creek (1)</b>                  38:1  <b>crossroads (1)</b>                  30:4  <b>crystalline (1)</b>                  25:9  <b>cured (1)</b>                  42:14  <b>current (1)</b>                  33:8  <b>customers (1)</b>                  25:7  <b>cut (1)</b>                  31:10</p>	<p>33:5;34:12;35:5;                  37:12;38:6,14,16,22;                  39:19;41:9;42:7;                  45:16;47:6  <b>debtors' (10)</b>                  18:20,25;24:21;                  27:10,25;28:2;33:8;                  34:5;45:6;46:2  <b>December (4)</b>                  25:17,23;43:9,10  <b>decide (1)</b>                  39:22  <b>decision (3)</b>                  38:9;42:9;45:3  <b>declarants (1)</b>                  27:6  <b>declaration (3)</b>                  27:16,24;28:1  <b>declarations (4)</b>                  26:4;27:5,9,22  <b>declaratory-judgment (1)</b>                  45:10  <b>deem (1)</b>                  46:17  <b>deemed (1)</b>                  34:20  <b>default (1)</b>                  38:12  <b>defect (1)</b>                  42:14  <b>defenses (1)</b>                  38:16  <b>definitely (1)</b>                  39:16  <b>definitive (1)</b>                  41:8  <b>demand (1)</b>                  39:17  <b>demanded (1)</b>                  42:4  <b>denied (1)</b>                  41:10  <b>DENTONS (2)</b>                  4:20;15:11  <b>denying (2)</b>                  39:9;46:16  <b>DEPARTMENT (7)</b>                  9:2,11;12:10;                  16:23;36:17;37:3,12  <b>depending (1)</b>                  35:22  <b>deputy (1)</b>                  29:19  <b>detailed (2)</b>                  25:23;40:4  <b>details (1)</b>                  25:15  <b>determined (3)</b>                  18:23;19:9;31:9  <b>DETLEFSEN (1)</b>                  10:16  <b>Detlefson (1)</b>                  17:4</p>	<p><b>detriment (1)</b>                  42:10  <b>Detroit (1)</b>                  31:23  <b>Deutsche (2)</b>                  7:3;14:25  <b>Dickinson (4)</b>                  8:4;14:13;17:12;                  19:6  <b>difference (2)</b>                  29:7;30:8  <b>difficult (2)</b>                  33:24,24  <b>DIP (9)</b>                  5:3;8:12,20;13:21,                  25;31:3;38:23;43:8,                  9  <b>disagreement (1)</b>                  46:7  <b>disagrees (1)</b>                  45:24  <b>discharge (1)</b>                  38:11  <b>disclosure (3)</b>                  25:22;39:25;42:13  <b>disclosure- (2)</b>                  39:11;45:11  <b>disclosure-statement (3)</b>                  41:25;42:3;45:5  <b>discrete (1)</b>                  42:12  <b>discuss (2)</b>                  19:15;33:17  <b>discussion (1)</b>                  25:14  <b>discussions (2)</b>                  19:8,12  <b>dispute (1)</b>                  41:22  <b>distinct (1)</b>                  21:12  <b>District (2)</b>                  13:3;44:8  <b>Division (1)</b>                  9:12  <b>docket (7)</b>                  18:1,6,6,8,10;                  21:23;25:16  <b>dollar (4)</b>                  34:11;35:2,4,6  <b>dollars (10)</b>                  21:15;26:13;                  32:14,16,17,23;33:6;                  34:8;36:1,7  <b>doors (1)</b>                  26:21  <b>DORSEY (2)</b>                  10:2,10  <b>down (2)</b>                  21:15;45:15  <b>draw (1)</b>                  43:13  <b>Drive (2)</b></p>
<b>D</b>				
<p><b>dance (1)</b>                  44:3  <b>date (9)</b>                  19:15;24:13,17;                  27:25;28:2;37:14;                  38:14,15;39:22  <b>Davis (2)</b>                  13:10;24:24  <b>DAY (15)</b>                  5:11;14:7;25:2;                  27:1;29:8,9,13;30:2,                  15,20,22,22;31:22;                  38:17;43:12  <b>days (1)</b>                  36:15  <b>DC (2)</b>                  9:15;12:15  <b>deadline (1)</b>                  24:8  <b>deal (5)</b>                  19:15;30:24;                  37:17;39:22;40:11  <b>deals (2)</b>                  31:10,12  <b>dealt (2)</b>                  36:4;47:7  <b>Dear (1)</b>                  40:21  <b>debtor (8)</b>                  18:13;20:4;31:15;                  32:7;35:6;45:11;                  48:6,7  <b>debtors (34)</b>                  15:20;17:21;                  18:23,24;19:4,8,12,                  18,19,21;20:2,6;                  21:6,12;22:25;23:2,                  4,12,17;26:1;32:8;</p>	<p><b>dance (1)</b>                  44:3  <b>date (9)</b>                  19:15;24:13,17;                  27:25;28:2;37:14;                  38:14,15;39:22  <b>Davis (2)</b>                  13:10;24:24  <b>DAY (15)</b>                  5:11;14:7;25:2;                  27:1;29:8,9,13;30:2,                  15,20,22,22;31:22;                  38:17;43:12  <b>days (1)</b>                  36:15  <b>DC (2)</b>                  9:15;12:15  <b>deadline (1)</b>                  24:8  <b>deal (5)</b>                  19:15;30:24;                  37:17;39:22;40:11  <b>deals (2)</b>                  31:10,12  <b>dealt (2)</b>                  36:4;47:7  <b>Dear (1)</b>                  40:21  <b>debtor (8)</b>                  18:13;20:4;31:15;                  32:7;35:6;45:11;                  48:6,7  <b>debtors (34)</b>                  15:20;17:21;                  18:23,24;19:4,8,12,                  18,19,21;20:2,6;                  21:6,12;22:25;23:2,                  4,12,17;26:1;32:8;</p>	<p><b>dance (1)</b>                  44:3  <b>date (9)</b>                  19:15;24:13,17;                  27:25;28:2;37:14;                  38:14,15;39:22  <b>Davis (2)</b>                  13:10;24:24  <b>DAY (15)</b>                  5:11;14:7;25:2;                  27:1;29:8,9,13;30:2,                  15,20,22,22;31:22;                  38:17;43:12  <b>days (1)</b>                  36:15  <b>DC (2)</b>                  9:15;12:15  <b>deadline (1)</b>                  24:8  <b>deal (5)</b>                  19:15;30:24;                  37:17;39:22;40:11  <b>deals (2)</b>                  31:10,12  <b>dealt (2)</b>                  36:4;47:7  <b>Dear (1)</b>                  40:21  <b>debtor (8)</b>                  18:13;20:4;31:15;                  32:7;35:6;45:11;                  48:6,7  <b>debtors (34)</b>                  15:20;17:21;                  18:23,24;19:4,8,12,                  18,19,21;20:2,6;                  21:6,12;22:25;23:2,                  4,12,17;26:1;32:8;</p>	<p><b>dance (1)</b>                  44:3  <b>date (9)</b>                  19:15;24:13,17;                  27:25;28:2;37:14;                  38:14,15;39:22  <b>Davis (2)</b>                  13:10;24:24  <b>DAY (15)</b>                  5:11;14:7;25:2;                  27:1;29:8,9,13;30:2,                  15,20,22,22;31:22;                  38:17;43:12  <b>days (1)</b>                  36:15  <b>DC (2)</b>                  9:15;12:15  <b>deadline (1)</b>                  24:8  <b>deal (5)</b>                  19:15;30:24;                  37:17;39:22;40:11  <b>deals (2)</b>                  31:10,12  <b>dealt (2)</b>                  36:4;47:7  <b>Dear (1)</b>                  40:21  <b>debtor (8)</b>                  18:13;20:4;31:15;                  32:7;35:6;45:11;                  48:6,7  <b>debtors (34)</b>                  15:20;17:21;                  18:23,24;19:4,8,12,                  18,19,21;20:2,6;                  21:6,12;22:25;23:2,                  4,12,17;26:1;32:8;</p>	<p><b>dance (1)</b>                  44:3  <b>date (9)</b>                  19:15;24:13,17;                  27:25;28:2;37:14;                  38:14,15;39:22  <b>Davis (2)</b>                  13:10;24:24  <b>DAY (15)</b>                  5:11;14:7;25:2;                  27:1;29:8,9,13;30:2,                  15,20,22,22;31:22;                  38:17;43:12  <b>days (1)</b>                  36:15  <b>DC (2)</b>                  9:15;12:15  <b>deadline (1)</b>                  24:8  <b>deal (5)</b>                  19:15;30:24;                  37:17;39:22;40:11  <b>deals (2)</b>                  31:10,12  <b>dealt (2)</b>                  36:4;47:7  <b>Dear (1)</b>                  40:21  <b>debtor (8)</b>                  18:13;20:4;31:15;                  32:7;35:6;45:11;                  48:6,7  <b>debtors (34)</b>                  15:20;17:21;                  18:23,24;19:4,8,12,                  18,19,21;20:2,6;                  21:6,12;22:25;23:2,                  4,12,17;26:1;32:8;</p>

6:12;11:21 <b>Drummond (1)</b> 22:16 <b>dumped (1)</b> 28:20 <b>during (2)</b> 31:5;42:8	30:8;33:16 <b>entities (3)</b> 19:2;42:10;46:12 <b>entitled (2)</b> 34:19;41:17 <b>entry (5)</b> 18:12;34:14;39:7; 43:23;46:13 <b>Environmental (3)</b> 17:15;37:8;38:14 <b>envisioned (1)</b> 33:4 <b>EPA (2)</b> 12:11;37:3 <b>equipment (1)</b> 21:9 <b>ERIC (1)</b> 10:7 <b>ERIK (2)</b> 10:16;17:4 <b>ERIN (1)</b> 11:17 <b>escrow (1)</b> 32:19 <b>especially (2)</b> 28:19;29:23 <b>ESQ (30)</b> 4:8,9,17,18,25;5:8, 16,24;6:7,15,23;7:8, 19:8;9,16,17,24,25; 9:8,17,25;10:7,16, 24;11:8,17,25;12:7, 17,18 <b>estate (1)</b> 40:6 <b>et (4)</b> 9:21;11:3;12:3; 16:20 <b>even (10)</b> 28:23;29:1;30:9; 31:13;33:23;34:16, 22,25;41:3;47:1 <b>event (3)</b> 18:2;22:10;45:23 <b>events (1)</b> 22:8 <b>everybody (7)</b> 18:3;29:3;30:25; 32:2;33:9;37:24; 43:14 <b>everyone (1)</b> 46:19 <b>evidence (5)</b> 25:25;27:4,9,25; 28:2 <b>evidentiary (1)</b> 27:7 <b>evince (1)</b> 35:17 <b>exact (1)</b> 39:12 <b>exactly (4)</b> 26:16;40:1;41:5;	42:4 <b>example (1)</b> 29:25 <b>except (2)</b> 18:4;47:12 <b>excitement (1)</b> 35:13 <b>excluding (1)</b> 20:18 <b>executive (1)</b> 29:14 <b>executory (2)</b> 20:23;40:5 <b>Exhibit (2)</b> 27:25;28:2 <b>existence (1)</b> 38:13 <b>exit (3)</b> 15:1;32:4,12 <b>exiting (1)</b> 32:9 <b>expand (1)</b> 22:24 <b>expedite (1)</b> 18:11 <b>expeditiously (1)</b> 43:21 <b>expired (1)</b> 18:13 <b>express (1)</b> 19:21 <b>extend (1)</b> 42:8 <b>extension (1)</b> 24:8 <b>extensive (1)</b> 30:18 <b>extent (1)</b> 47:3 <b>extraordinary (2)</b> 28:8;44:10 <b>extremely (8)</b> 29:5;31:11;32:10, 24;34:17;39:10; 44:2;45:1 <b>eyes (2)</b> 30:3;48:2	25:25;27:10 <b>factual (1)</b> 26:3 <b>families (2)</b> 25:5;30:5 <b>far (5)</b> 33:12;34:1,2,2; 36:5 <b>FARR (2)</b> 8:19;13:20 <b>farther (1)</b> 32:7 <b>federal (1)</b> 36:16 <b>federal- (1)</b> 37:3 <b>felt (1)</b> 30:20 <b>few (12)</b> 22:11,14;23:13; 26:14;27:2;31:8,19; 32:25;33:17,20; 36:15;42:5 <b>fifteenth (1)</b> 24:5 <b>Fifth (2)</b> 8:13;24:12 <b>fifty (1)</b> 36:7 <b>fight (1)</b> 39:25 <b>figure (1)</b> 23:14 <b>file (2)</b> 33:12;37:21 <b>filed (19)</b> 18:13;21:13,14; 23:2;24:8;25:17,19, 21,23;26:4,8;33:18; 34:12;42:5;45:2,5,6, 11;47:4 <b>filers (1)</b> 23:4 <b>final (1)</b> 41:8 <b>Finally (1)</b> 33:5 <b>financial (1)</b> 26:5 <b>financial-advisor (1)</b> 26:7 <b>financing (3)</b> 15:1;32:4,10 <b>financings (1)</b> 29:18 <b>fine (1)</b> 37:24 <b>Fire (3)</b> 7:14;14:21;23:7 <b>firm (2)</b> 14:8;31:22 <b>FIRMS (1)</b> 11:20	<b>first (8)</b> 13:7;25:5,12; 26:19;28:10;32:12; 36:3;37:22 <b>First-Out (3)</b> 5:3;8:12;13:25 <b>fixed (1)</b> 35:16 <b>flexible (1)</b> 29:4 <b>Flip (2)</b> 26:6;28:1 <b>FLOM (2)</b> 6:10,18 <b>Floor (1)</b> 11:5 <b>follow (1)</b> 23:15 <b>following (1)</b> 37:13 <b>fore (1)</b> 32:6 <b>foregoing (1)</b> 46:12 <b>foremost (1)</b> 28:10 <b>form (2)</b> 28:12,23 <b>forma (1)</b> 34:15 <b>forms (1)</b> 35:24 <b>Forsyth (3)</b> 4:4;7:4;8:5 <b>forth (1)</b> 19:20 <b>forthwith (1)</b> 47:25 <b>forward (4)</b> 19:3;25:11;41:17; 44:11 <b>fought (1)</b> 30:16 <b>found (3)</b> 40:4;42:21,22 <b>four (1)</b> 14:19 <b>fourteenth (1)</b> 24:6 <b>fourth (4)</b> 24:22;25:18; 36:21;47:17 <b>frames (1)</b> 28:14 <b>FRANKEL (1)</b> 10:19 <b>frankly (6)</b> 25:9;28:25;29:6; 30:25;31:13;44:8 <b>FREDERICK (1)</b> 11:25 <b>freight (1)</b> 42:24
<b>E</b>				
<b>EARLY (3)</b> 7:19;14:18,18 <b>ease (1)</b> 25:19 <b>Eastern (1)</b> 13:3 <b>easy (2)</b> 25:8;35:14 <b>Ebetino (1)</b> 29:13 <b>economic (1)</b> 35:3 <b>effective (5)</b> 24:17;37:14; 38:13,15;39:22 <b>effectuate (1)</b> 45:12 <b>effectuating (1)</b> 45:16 <b>efforts (1)</b> 28:9 <b>EHLERS (2)</b> 4:9;14:8 <b>either (7)</b> 19:18,21;20:3; 34:20;38:6,9;43:2 <b>ELLIS (3)</b> 5:19;6:2;15:6 <b>eloquently (1)</b> 35:15 <b>else (1)</b> 48:6 <b>emergence (2)</b> 25:12;36:13 <b>end (3)</b> 30:20;44:4,5 <b>ended (2)</b> 33:2;36:6 <b>ends (1)</b> 23:13 <b>Energy (3)</b> 4:3;5:12;14:6 <b>enough (1)</b> 36:9 <b>ensure (2)</b> 32:9;45:21 <b>enter (2)</b> 20:11;40:25 <b>entered (7)</b> 27:11;41:1;43:20; 44:2;45:4;47:11; 48:2 <b>entire (2)</b>				
			<b>F</b>	
		<b>facial (1)</b> 42:14 <b>facilitate (1)</b> 18:24 <b>facilities (2)</b> 32:12,20 <b>facility (3)</b> 31:4;32:15,16 <b>fact (9)</b> 30:3;31:20;32:6; 33:23;34:1;36:5; 39:10;42:2;44:6 <b>facts (2)</b>		

<p><b>frightening (1)</b> 46:19 <b>fully (2)</b> 29:1;35:20 <b>funny (1)</b> 31:7 <b>further (3)</b> 38:22;46:17;47:10 <b>future (6)</b> 20:5;35:13;38:17; 39:21,23;44:11</p>	<p>25:13;28:8;33:9, 22,23;48:4 <b>Greg (1)</b> 13:15 <b>GREGORY (1)</b> 4:17 <b>Group (6)</b> 5:20;6:3;15:6; 19:5;37:23;38:4 <b>guarantee (1)</b> 20:3 <b>guarantees (2)</b> 35:5;43:24 <b>guess (5)</b> 22:7;26:23;42:14; 46:6,10 <b>guessing (1)</b> 35:8 <b>guy (2)</b> 29:16;31:23</p>	<p><b>HECKER (2)</b> 7:2;14:24 <b>Heirs (2)</b> 38:1,2 <b>H-E-I-R-S (1)</b> 38:1 <b>hell (1)</b> 47:14 <b>help (2)</b> 18:24;31:18 <b>helping (1)</b> 31:24 <b>hereby (2)</b> 27:24;28:1 <b>HESSLER (4)</b> 5:24;15:5,5,10 <b>high (1)</b> 34:17 <b>higher (1)</b> 45:24 <b>highlight (1)</b> 36:24 <b>high-priority (1)</b> 31:4 <b>Hills (1)</b> 38:3 <b>Hoc (3)</b> 5:20;6:3;15:6 <b>holders (1)</b> 35:25 <b>Honor (103)</b> 13:9,14,19,24; 14:5,10,11,17,18,23; 15:3,5,11,14,21,25; 16:2,6,9,12,15,18,21, 25;17:3,8,11,17,23, 24;18:5,14,18,19:3; 20:7,20,25;21:5; 22:5,18,22;23:1,8, 10,13,18,22;24:3,18, 23;25:1,8,15,21; 26:3,14,19;27:3; 28:3,4;29:10,22,23; 30:6,13,17;31:1,6, 25;32:4,8,18,23; 33:5,22;35:2,10; 36:14;37:20,25;38:5, 16,21,24;39:3;41:5, 13,19;42:2;43:3,4; 44:4,22,25;45:3; 46:6;47:9,18,23,25; 48:4,8,14</p>	<p><b>hour (1)</b> 23:8 <b>hours (1)</b> 27:1 <b>housekeeping (2)</b> 23:3;25:15 <b>HOWARD (2)</b> 8:9;14:10 <b>Howley (1)</b> 28:12 <b>HUEBNER (34)</b> 13:9,10;17:23,25; 18:5,9,14;20:25; 21:3;22:2,5,7,10,18, 22;23:1,7;24:18,23, 24;27:13,18;28:3; 39:3;45:8;46:6;47:5, 9,18,25;48:4,5,8,14 <b>Huebner's (1)</b> 45:1 <b>Huffard (3)</b> 26:6;27:17;28:1 <b>hug (1)</b> 30:15 <b>huge (2)</b> 28:10;30:1 <b>Hughes (5)</b> 17:21;21:5,5,8,21 <b>hundred (1)</b> 35:24 <b>hundreds (1)</b> 26:12 <b>HUSCH (2)</b> 5:2;13:25 <b>hypothetically (1)</b> 43:13</p>	<p><b>included (1)</b> 33:13 <b>includes (2)</b> 40:23;46:11 <b>including (3)</b> 28:11;37:2;47:4 <b>incorporated (1)</b> 40:14 <b>incredible (1)</b> 35:12 <b>Indemnity (2)</b> 7:12;14:19 <b>independent (1)</b> 45:16 <b>indicated (2)</b> 27:6;45:8 <b>industry (3)</b> 31:8;33:24;37:5 <b>informal (1)</b> 19:6 <b>informed (1)</b> 37:12 <b>initial (1)</b> 23:4 <b>initially (1)</b> 35:23 <b>Insurance (3)</b> 7:13;14:20,21 <b>integrated (1)</b> 46:4 <b>intention (1)</b> 27:7 <b>interacts (1)</b> 37:4 <b>interesting (2)</b> 39:4,6 <b>interests (1)</b> 19:1 <b>into (8)</b> 25:14;26:11;27:4, 24;28:2;31:3;32:8; 37:23 <b>investment-banker (1)</b> 26:7 <b>Investors (7)</b> 5:20;6:3;15:7; 31:1,2;35:17,25 <b>involve (2)</b> 29:24;31:15 <b>involved (2)</b> 29:1;43:8 <b>issue (3)</b> 38:5,10;43:3 <b>issues (7)</b> 27:1;29:1,24,24, 25;37:9,17 <b>iterative (1)</b> 30:11</p>
<b>G</b>	<b>H</b>			
<p><b>GALLAGHER (2)</b> 8:19;13:20 <b>GARTNER (3)</b> 5:8;13:24,24 <b>GELDZAHLER (1)</b> 11:11 <b>general (2)</b> 29:13,19 <b>GERSHMAN (1)</b> 8:2 <b>given (6)</b> 20:7;36:6,6;37:5, 10;43:4 <b>glad (1)</b> 47:23 <b>glory (1)</b> 26:10 <b>goal (2)</b> 18:25;23:7 <b>go-forward (1)</b> 32:5 <b>Good (58)</b> 13:5,9,13,14,18, 19,23,24;14:4,5,9,10, 16,18,22,23;15:2,3,4, 5,9,13,14,17,21,22, 25;16:1,2,3,6,7,9,10, 12,13,15,16,18,19, 21,22,25;17:1,3,8,9, 11,17,21,24;18:18, 19;21:5,7;24:1,23; 40:6 <b>GOTSHAL (2)</b> 8:11;14:2 <b>GOTTLIEB (2)</b> 9:20;44:23 <b>governmental (2)</b> 34:13;37:1 <b>governments (1)</b> 36:14 <b>grant (2)</b> 20:17;21:20 <b>granted (3)</b> 21:18;33:10;35:15 <b>granting (1)</b> 46:17 <b>grateful (2)</b> 30:12;31:6 <b>great (6)</b></p>	<p><b>half (1)</b> 39:4 <b>HAMILTON (2)</b> 9:20;44:23 <b>handle (1)</b> 18:15 <b>handled (1)</b> 20:25 <b>happen (1)</b> 39:24 <b>happened (2)</b> 36:12;39:21 <b>happening (2)</b> 39:18,19 <b>happier (1)</b> 36:19 <b>Happily (1)</b> 37:5 <b>HARBISON (2)</b> 7:11;14:19 <b>hard (3)</b> 29:5;30:15,17 <b>Hatfield (2)</b> 29:12;30:21 <b>head (1)</b> 25:14 <b>health (2)</b> 37:8,10 <b>heard (7)</b> 20:14,16;30:21; 44:16,18,19;46:6 <b>hearing (14)</b> 13:7;18:12;19:7; 20:17;21:11;27:7, 22;28:5;32:2;44:17, 19;47:1,2;48:12 <b>heartfelt (1)</b> 28:10 <b>hearts (1)</b> 43:19</p>	<p><b>highlight (1)</b> 36:24 <b>high-priority (1)</b> 31:4 <b>Hills (1)</b> 38:3 <b>Hoc (3)</b> 5:20;6:3;15:6 <b>holders (1)</b> 35:25 <b>Honor (103)</b> 13:9,14,19,24; 14:5,10,11,17,18,23; 15:3,5,11,14,21,25; 16:2,6,9,12,15,18,21, 25;17:3,8,11,17,23, 24;18:5,14,18,19:3; 20:7,20,25;21:5; 22:5,18,22;23:1,8, 10,13,18,22;24:3,18, 23;25:1,8,15,21; 26:3,14,19;27:3; 28:3,4;29:10,22,23; 30:6,13,17;31:1,6, 25;32:4,8,18,23; 33:5,22;35:2,10; 36:14;37:20,25;38:5, 16,21,24;39:3;41:5, 13,19;42:2;43:3,4; 44:4,22,25;45:3; 46:6;47:9,18,23,25; 48:4,8,14 <b>Honorable (1)</b> 13:4 <b>hope (5)</b> 22:7;25:1;26:16; 31:13;43:18 <b>hopeful (1)</b> 43:6 <b>hopefully (3)</b> 28:6;32:7;38:17 <b>Horse (1)</b> 38:1</p>	<b>I</b>	
			<p><b>III (1)</b> 7:19 <b>IL (2)</b> 6:5,13 <b>imagine (1)</b> 26:15 <b>immediately (3)</b> 29:2;34:14;43:15 <b>impair (1)</b> 37:16 <b>impermissibly (1)</b> 42:8 <b>import (1)</b> 45:21 <b>important (1)</b> 27:9 <b>inappropriate (1)</b> 39:11 <b>inappropriately (2)</b> 38:19;39:20 <b>Inc (2)</b> 20:24;21:25 <b>include (1)</b> 22:24</p>	<b>J</b>
				<p><b>Jack (1)</b> 29:12</p>

<b>Jacquie (1)</b> 29:19	10:19	14,16,17;20:1,10;	38:2;39:6;41:14;	28:12
<b>JAMES (2)</b> 6:15;14:24	<b>KY (1)</b> 7:17	21:9,11;22:11;	46:18	<b>Main (1)</b> 7:15
<b>January (9)</b> 22:3,17,21;23:21;	<b>L</b>	24:15;38:5;39:17;	<b>live (2)</b> 28:15;30:25	<b>makes (2)</b> 37:7;40:18
24:2,6,10,12,20		<b>Leasing (4)</b> 20:24;21:9,14,16	<b>LLC (2)</b> 38:1,2	<b>making (1)</b> 27:7
<b>JASON (1)</b> 11:8	<b>labor (1)</b> 29:24	<b>least (2)</b> 17:20;31:8	<b>LLP (11)</b> 4:2;5:2;6:10,18;	<b>management (2)</b> 29:25;30:3
<b>Joe (3)</b> 14:2;29:12,20	<b>laid (1)</b> 25:24	<b>leave (3)</b> 32:3;43:11;47:11	7:2;8:11,19;9:20;	<b>MANGES (2)</b> 8:11;14:3
<b>JOHN (4)</b> 7:8;14:23;26:4;	<b>Lake (1)</b> 11:15	<b>leaves (1)</b> 38:24	10:19;11:2;13:10	<b>many (11)</b> 22:12,12;25:5,13;
27:24	<b>Lakeside (1)</b> 5:13	<b>left (1)</b> 41:18	<b>loan (1)</b> 32:13	28:10,15;29:18;
<b>JONES (4)</b> 5:11;14:7;29:19;	<b>Land (10)</b> 8:3,4;14:11,12;	<b>legal (1)</b> 29:20	<b>local (1)</b> 17:21	31:15;33:3;44:9,11
31:22	17:12;19:5,7;38:1,2,	<b>legitimate (1)</b> 41:21	<b>logic (2)</b> 41:4;43:2	<b>MARGOT (2)</b> 8:25;13:22
<b>JOSEPH (1)</b> 8:17	3	<b>lenders (1)</b> 31:3	<b>LONG (9)</b> 9:8;15:14,14,17;	<b>market (1)</b> 35:13
<b>JR (2)</b> 6:15;7:8	<b>language (3)</b> 26:18;37:6;38:7	<b>LEONORA (2)</b> 9:8;15:14	28:23;30:15;36:20;	<b>Marshall (2)</b> 13:10;24:24
<b>judge (1)</b> 43:11	<b>lapse (1)</b> 36:15	<b>less (1)</b> 33:3	39:5;46:21	<b>Massey (4)</b> 38:25;39:3;43:19;
<b>judgment (1)</b> 45:3	<b>largely (1)</b> 30:23	<b>lessor (1)</b> 38:4	<b>longer (1)</b> 20:10	46:12
<b>juggling (1)</b> 29:17	<b>largest (1)</b> 35:3	<b>lessors (7)</b> 19:5,10;20:3,4,10;	<b>look (1)</b> 44:11	<b>material (1)</b> 30:8
<b>July (1)</b> 23:4	<b>LaSalle (1)</b> 6:4	37:23,25	<b>looked (1)</b> 26:16	<b>matter (8)</b> 18:15;20:25;
<b>junior (1)</b> 32:24	<b>last (5)</b> 17:20;36:4,15;	<b>lessor's (1)</b> 38:8	<b>loop (1)</b> 23:15	23:14,17;24:1,9,16;
<b>jurisdiction (5)</b> 25:3;26:9;28:18;	43:3,12	<b>letter (3)</b> 18:7;33:13;38:23	<b>loose (1)</b> 23:13	27:3
47:12,13	<b>later (2)</b> 31:14;47:13	<b>letter- (1)</b> 33:6	<b>LOPEZ (1)</b> 10:7	<b>matters (2)</b> 13:6;28:13
<b>jurisdictions (1)</b> 43:22	<b>latest (1)</b> 47:19	<b>letter-of-credit (1)</b> 32:16	<b>lose (3)</b> 22:4;30:16;34:4	<b>MATTHEW (2)</b> 5:8;13:24
<b>JUSTICE (6)</b> 9:2,11;12:10;	<b>LAURA (3)</b> 12:17;17:15;21:5	<b>level (3)</b> 28:17,20;37:4	<b>lost (2)</b> 41:1,3	<b>mature (1)</b> 43:9
16:24;28:16;37:3	<b>LAW (7)</b> 11:20;25:24;	<b>LEVIN (1)</b> 10:19	<b>lot (4)</b> 29:6;33:10;34:3,3	<b>matures (1)</b> 43:9
<b>K</b>	39:15;40:17;41:15,	<b>Lexington (2)</b> 5:21;7:17	<b>lots (1)</b> 29:15	<b>May (13)</b> 13:14;18:15;
	16:43:2	<b>LEYTON (1)</b> 8:2	<b>loud (1)</b> 41:3	23:24;27:4;39:1,2;
<b>Kathy (1)</b> 13:4	<b>Lawson (1)</b> 38:2	<b>Liberty (2)</b> 9:22;11:4	<b>Louis (9)</b> 4:6,15,23;5:6;7:6;	46:7,17,25;47:13
<b>keeping (1)</b> 40:6	<b>lawyers (1)</b> 35:14	<b>life (2)</b> 25:2,3	8:7;9:6;28:24;30:12	<b>maybe (1)</b> 24:9
<b>Kentucky (2)</b> 4:21;15:12	<b>LC (1)</b> 43:13	<b>limited (4)</b> 19:1;45:1,7,8	<b>LP (7)</b> 8:4,4;14:13,13;	<b>MAZZA (3)</b> 6:15;14:24;15:3
<b>kept (1)</b> 43:13	<b>LCs (7)</b> 31:15,15;43:9,24,	<b>line (1)</b> 43:7	17:12,13;38:3	<b>McGreal (7)</b> 13:12;17:24;
<b>key (1)</b> 32:21	25,25;44:1	<b>lines (1)</b> 26:20	<b>LRPB (1)</b> 19:14	18:15,17,18,20;
<b>kind (4)</b> 29:14;39:4,5,10	<b>lead (1)</b> 26:6	<b>literally (6)</b> 26:19;31:16;	<b>LUKE (3)</b> 9:25;16:17;44:22	20:20
<b>KIRKLAND (3)</b> 5:19;6:2;15:6	<b>leads (1)</b> 29:25	33:15,15;39:13;	<b>Lusheski (4)</b> 26:5;27:16,24;	<b>MCGUIREWOODS (1)</b> 11:2
<b>knew (1)</b> 25:4	<b>lease (23)</b> 19:22,22,23,25;	43:21	29:12	<b>Mead (1)</b> 29:17
<b>knows (2)</b> 30:17;32:3	20:23;21:24;38:13;	<b>litigation (3)</b> 41:2,11,17	<b>M</b>	<b>MEAGHER (2)</b> 6:10,18
<b>KODES (3)</b> 6:23;16:14,15	39:8,18;40:2,5,14,	<b>little (7)</b> 25:14;28:4;36:4;		<b>ma'am (1)</b> 27:18
<b>KRAMER (1)</b>	22,23;41:2,11,21;		<b>MACDONALD (2)</b> 4:11;13:16	<b>mechanics (3)</b> 31:13,18;32:22
	42:22;43:1,5;45:17;		<b>Magnus (1)</b>	<b>mechanism (1)</b> 46:1
	46:3,14			
	<b>leases (18)</b> 18:13,21,24;19:13,			



<b>mega (1)</b> 26:12	26:20	<b>myself (1)</b> 28:15	28:19;30:5	<b>officer (1)</b> 26:5
<b>memorandum (1)</b> 25:23	<b>mom (1)</b> 44:5	<b>N</b>	<b>Notably (1)</b> 35:2	<b>Official (3)</b> 4:12;10:20;13:16
<b>mention (2)</b> 31:7;36:11	<b>moment (5)</b> 25:5,13;28:7; 35:11;42:18		<b>note (2)</b> 22:16;34:22	<b>officially (1)</b> 27:9
<b>mentioned (1)</b> 26:17	<b>moments (2)</b> 22:14;26:19	<b>NA (4)</b> 5:3;8:12;10:3,11	<b>noted (1)</b> 19:11	<b>often (2)</b> 28:13;30:4
<b>merely (2)</b> 37:16;43:5	<b>money (1)</b> 36:5	<b>NAFTALIS (1)</b> 10:19	<b>noteholders (1)</b> 35:4	<b>Ohio (2)</b> 36:17;37:11
<b>met (2)</b> 26:19;28:24	<b>month (2)</b> 30:23,23	<b>National (2)</b> 7:12;14:20	<b>notwithstanding (1)</b> 19:24	<b>omnibus (6)</b> 22:20,23;24:5,6, 11,12
<b>Michelin (1)</b> 24:8	<b>months (1)</b> 31:9	<b>Natural (6)</b> 9:21;16:17;21:25; 36:17;37:12;44:23	<b>November (2)</b> 25:21,21	<b>once (2)</b> 32:7,20
<b>Michelle (2)</b> 13:12;18:15	<b>moot (1)</b> 23:18	<b>nature (1)</b> 45:1	<b>nuanced (1)</b> 31:10	<b>One (14)</b> 9:22;19:4;23:20; 25:10;26:4,5,22,24; 30:7;38:24;40:14; 42:16;43:16;47:16
<b>might (2)</b> 26:15;42:22	<b>more (6)</b> 26:1;33:17,18; 34:16;36:5;46:19	<b>necessary (1)</b> 36:20	<b>number (4)</b> 19:2;28:8;35:7; 48:2	<b>one-pager (1)</b> 39:14
<b>Mike (1)</b> 29:13	<b>morning (59)</b> 13:5,9,13,14,18, 19,23,24;14:4,5,9,10, 16,18,22,23;15:2,3,4, 5,9,13,14,17,21,22, 25;16:1,2,3,6,7,9,10, 12,13,15,16,18,19, 21,22,25;17:1,3,8,9, 11,17,22,24;18:18, 19;21:5,7;24:23; 32:18;36:12;43:17	<b>need (8)</b> 23:15;26:3;32:19; 35:17;38:18;40:5; 42:1,14	<b>numbers (1)</b> 34:15	<b>one-third (1)</b> 26:23
<b>milestones (1)</b> 31:25	<b>morning's (1)</b> 32:1	<b>needed (2)</b> 29:2;30:20	<b>NW (2)</b> 9:13;12:13	<b>only (12)</b> 30:7;31:19,23; 33:15;34:23;37:20; 41:5;42:5;45:8,21; 46:2;47:2
<b>million (11)</b> 21:15;32:14,15,17, 23;33:6;34:7;35:4; 36:1,1,7	<b>MORRISON (2)</b> 7:2;14:24	<b>needs (2)</b> 31:20;32:6	<b>NY (6)</b> 5:22;8:14,22;9:23; 10:5,22	
<b>millions (1)</b> 26:12	<b>most (3)</b> 29:10;33:16;43:4	<b>negotiating (1)</b> 37:1	<b>O</b>	
<b>Milwaukee (1)</b> 11:23	<b>motion (31)</b> 18:11,12,20;19:3, 4,9,13,14,17;20:8,14, 16,18,19,23;21:8,13, 16,18,20,20,24;22:7, 8,10;23:3;24:7,14; 40:21;45:3,13	<b>negotiations (1)</b> 30:24	<b>object (2)</b> 40:22;41:1	<b>open (3)</b> 26:20,21,25
<b>mind (1)</b> 39:21	<b>MOST (2)</b> 7:2;14:24	<b>New (18)</b> 5:22;6:21,21;8:14, 22;9:23;10:5,22; 22:24;23:1,17; 28:24;30:11;31:1; 32:10;38:7;43:25; 44:1	<b>objection (27)</b> 19:4,7;21:25; 22:15,20;24:5,6,11, 12;26:23;33:16,21; 38:24;39:3,12; 40:16;41:25;42:3; 43:5;45:5,7,12,21; 47:2,4,8,16	<b>operandi (1)</b> 26:20
<b>mindful (1)</b> 44:7	<b>motions (1)</b> 21:10	<b>next (3)</b> 20:22;21:23;22:15	<b>objections (3)</b> 24:15;27:19,21	<b>operate (1)</b> 37:5
<b>minds (2)</b> 41:6,7	<b>move (4)</b> 27:4,15;32:21; 41:17	<b>nice (1)</b> 35:10	<b>objects (1)</b> 27:13	<b>opinion (1)</b> 30:9
<b>Mine (2)</b> 16:4;37:10	<b>moves (1)</b> 32:7	<b>nicer (1)</b> 47:1	<b>obligated (1)</b> 35:21	<b>opposite (3)</b> 39:12,13;42:16
<b>mineral (1)</b> 19:1	<b>moving (2)</b> 25:11;26:13	<b>NICK (2)</b> 6:23;16:14	<b>obligations (1)</b> 33:8	<b>opposition (2)</b> 21:20;44:20
<b>mining (2)</b> 36:17;38:2	<b>Mrs (1)</b> 15:17	<b>night (2)</b> 29:9,9	<b>obviated (1)</b> 22:8	<b>order (38)</b> 18:6,6,7,8,12; 19:18;20:9,11; 21:17;26:9,12,15; 27:11;28:5;34:15, 21;36:22,23;37:2,7, 22,24;38:8,12,20,21; 39:7;40:25;41:1; 43:1,20;45:9,10,19, 22;46:13;47:10,20
<b>Minneapolis (1)</b> 10:14	<b>MSHA (2)</b> 36:16;37:11	<b>nine-page (1)</b> 42:5	<b>obviously (4)</b> 25:6;28:11;42:18; 46:18	<b>order's (1)</b> 44:1
<b>minor (2)</b> 25:18;26:14	<b>much (5)</b> 32:2;43:18;46:7, 22;48:4	<b>ninety-two (1)</b> 33:25	<b>of-credit (1)</b> 33:7	<b>organic (1)</b> 28:15
<b>minutes (4)</b> 22:11;32:25; 33:17,20	<b>mute (1)</b> 18:4	<b>nobody (3)</b> 30:16;38:9,19	<b>off (2)</b> 20:9;31:5	<b>organism (1)</b> 31:19
<b>mirror (1)</b> 32:8	<b>mutually (1)</b> 37:6	<b>none (5)</b> 20:17;27:22; 44:17,19;48:12	<b>offered (1)</b> 36:4	<b>organization (1)</b> 36:17
<b>Missouri (1)</b> 13:3		<b>Nonetheless (1)</b> 34:4	<b>offering (1)</b> 35:10	<b>organizations (1)</b> 31:17
<b>mistake (1)</b> 25:17		<b>nonresidential (2)</b> 18:21;21:24	<b>offerings (1)</b> 32:25	<b>originally (1)</b> 33:3
<b>MN (1)</b> 10:14		<b>North (2)</b> 6:4;24:8	<b>Office (2)</b> 9:3;28:21	
<b>MO (7)</b> 4:6,15,23;5:6;7:6; 8:7;9:6		<b>notable (2)</b>		
<b>modification (1)</b> 42:12				
<b>modus (1)</b>				

<p><b>OSM (1)</b> 12:12</p> <p><b>others (5)</b> 28:12;29:20;31:4; 43:11;44:11</p> <p><b>out (21)</b> 23:14;24:19; 25:24;26:8,24; 28:24;29:10;30:9, 24;32:12;33:14,17; 36:6,9;40:13;41:3, 24;43:24;45:13; 47:14,16</p> <p><b>outcome (2)</b> 25:9;44:10</p> <p><b>outside (1)</b> 37:18</p> <p><b>over (6)</b> 30:18;31:17;34:7; 36:2,25;43:22</p> <p><b>overrule (1)</b> 47:8</p> <p><b>oversubscription (1)</b> 36:5</p> <p><b>overwhelming (1)</b> 34:6</p> <p><b>own (3)</b> 26:25;28:25;30:5</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>PA (1)</b> 11:6</p> <p><b>package (1)</b> 35:9</p> <p><b>page (4)</b> 18:11;20:22;24:5; 39:4</p> <p><b>pages (1)</b> 27:2</p> <p><b>paid (1)</b> 31:5</p> <p><b>pain (1)</b> 34:3</p> <p><b>Panel-Gallatin (1)</b> 8:3</p> <p><b>paragraph (3)</b> 36:23;38:21;42:2</p> <p><b>part (3)</b> 20:18;40:4;42:22</p> <p><b>Partial (1)</b> 46:15</p> <p><b>particular (3)</b> 28:21;31:22;36:16</p> <p><b>parties (16)</b> 19:8,15;20:13,15, 18;25:19;27:19,21; 28:8;33:2;35:21,24; 37:17;44:15,17; 48:10</p> <p><b>parties-in-interest (1)</b> 33:18</p> <p><b>partner (2)</b></p>	<p>13:21;15:7</p> <p><b>partners (1)</b> 31:21</p> <p><b>party (4)</b> 26:24;27:6,13; 33:19</p> <p><b>passionate (1)</b> 39:15</p> <p><b>past (2)</b> 24:17;36:25</p> <p><b>Patriot (11)</b> 5:20;6:3;13:7,11; 15:6;20:3;25:2; 31:24;37:6;44:12; 47:14</p> <p><b>Patriot's (2)</b> 32:5;35:13</p> <p><b>pause (1)</b> 36:11</p> <p><b>pay (1)</b> 42:24</p> <p><b>payment (2)</b> 39:19;45:17</p> <p><b>Payne-Gallatin (5)</b> 12:3;14:12,14; 17:10;19:5</p> <p><b>payoff (2)</b> 38:23,23</p> <p><b>PC (1)</b> 4:11</p> <p><b>Peabody (7)</b> 4:3;5:12;14:6; 31:6,15,18;33:7</p> <p><b>pending (1)</b> 40:14</p> <p><b>pension (1)</b> 29:24</p> <p><b>people (12)</b> 25:13;26:10,16; 28:16;29:8;30:19; 34:3;36:8;43:18,22, 24;44:9</p> <p><b>peradventure (1)</b> 42:4</p> <p><b>percent (6)</b> 33:25;34:7,8;35:7, 7;36:2</p> <p><b>percentages (1)</b> 34:17</p> <p><b>perfect (4)</b> 39:17,22;41:8; 45:22</p> <p><b>perfectly (1)</b> 40:2</p> <p><b>performance (1)</b> 20:5</p> <p><b>perhaps (2)</b> 41:18,21</p> <p><b>PERILLO (4)</b> 11:25;16:4,6; 30:13</p> <p><b>period (1)</b> 42:8</p>	<p><b>permission (1)</b> 32:21</p> <p><b>permitted (1)</b> 19:23</p> <p><b>PERSINGER (5)</b> 12:2,7;14:14; 17:10,11</p> <p><b>personal (2)</b> 30:1,1</p> <p><b>ph (2)</b> 38:3;46:1</p> <p><b>philosophy (1)</b> 28:25</p> <p><b>phone (12)</b> 13:21;14:2,13; 15:19;18:3,4;20:15; 26:20;27:21;30:14; 44:18,21</p> <p><b>pick (1)</b> 26:18</p> <p><b>piece (1)</b> 36:4</p> <p><b>pieces (1)</b> 32:11</p> <p><b>Pittsburgh (1)</b> 11:6</p> <p><b>place (2)</b> 29:22;31:14</p> <p><b>plan (48)</b> 18:22;19:20,20; 22:13;23:14;24:22; 25:18,20;33:9,14,15, 25;34:5,7,19;35:7; 36:13,19,21,23;37:2, 6,9,16,21;38:7,11; 39:8,8,16,18,25; 40:1,12;41:5,23; 42:1,6,9,11,14,25; 45:19;46:2,14,15,16; 47:17</p> <p><b>Plaza (2)</b> 5:4;9:22</p> <p><b>PLC (2)</b> 6:11,19</p> <p><b>pleading (5)</b> 39:13;41:14;42:5; 45:2,4</p> <p><b>pleadings (1)</b> 42:15</p> <p><b>Please (5)</b> 13:2,5,14;18:3; 40:25</p> <p><b>PLLC (2)</b> 7:11;12:2</p> <p><b>Pocatanico (1)</b> 38:2</p> <p><b>podium (1)</b> 21:3</p> <p><b>point (4)</b> 27:4;35:22;42:12; 47:7</p> <p><b>Polk (2)</b> 13:10;24:24</p>	<p><b>position (2)</b> 41:8;45:2</p> <p><b>possible (3)</b> 41:4;43:21;48:3</p> <p><b>post-effective (1)</b> 19:15</p> <p><b>potential (1)</b> 45:9</p> <p><b>potentially (2)</b> 31:7;39:20</p> <p><b>prayer (1)</b> 46:10</p> <p><b>precisely (1)</b> 26:25</p> <p><b>predicate (1)</b> 26:3</p> <p><b>prejudiced (1)</b> 38:19</p> <p><b>preservation (1)</b> 46:8</p> <p><b>preserve (1)</b> 45:9</p> <p><b>preserved (1)</b> 37:25</p> <p><b>preserving (1)</b> 38:10</p> <p><b>presided (1)</b> 30:19</p> <p><b>president (1)</b> 29:14</p> <p><b>presiding (1)</b> 13:4</p> <p><b>pressured (1)</b> 44:3</p> <p><b>presumptuous (1)</b> 28:6</p> <p><b>pretty (3)</b> 25:18;26:24;42:16</p> <p><b>PREVIANT (1)</b> 11:20</p> <p><b>previous (1)</b> 21:10</p> <p><b>previously (3)</b> 19:18;25:20;38:6</p> <p><b>PRINCE (1)</b> 11:11</p> <p><b>principal (1)</b> 32:15</p> <p><b>prior (1)</b> 19:7</p> <p><b>privileged (1)</b> 30:22</p> <p><b>pro (1)</b> 34:15</p> <p><b>probably (2)</b> 35:1,8</p> <p><b>problem (1)</b> 46:10</p> <p><b>procedures (1)</b> 34:21</p> <p><b>proceeding (3)</b> 45:4,19,25</p> <p><b>proceedings (1)</b></p>	<p>48:15</p> <p><b>process (3)</b> 27:3;29:11;30:11</p> <p><b>professionals (7)</b> 22:24;23:3,6,16; 30:6,11,12</p> <p><b>pro-forma (1)</b> 34:25</p> <p><b>prohibition (1)</b> 19:24</p> <p><b>promise (1)</b> 43:14</p> <p><b>proof (1)</b> 24:7</p> <p><b>proofs (2)</b> 21:13;37:13</p> <p><b>proper (1)</b> 46:18</p> <p><b>Properties (4)</b> 8:4;14:13;17:13; 19:6</p> <p><b>property (1)</b> 21:24</p> <p><b>propose (1)</b> 20:8</p> <p><b>proposed (6)</b> 21:17;22:12;26:9; 37:21;45:12;47:19</p> <p><b>protect (3)</b> 30:17;45:9,23</p> <p><b>Protection (1)</b> 17:16</p> <p><b>protective (1)</b> 47:11</p> <p><b>proud (1)</b> 32:2</p> <p><b>provide (3)</b> 20:3;33:25;41:8</p> <p><b>provided (1)</b> 20:5</p> <p><b>providing (2)</b> 42:6;43:24</p> <p><b>provision (3)</b> 20:2;41:19,22</p> <p><b>purposes (2)</b> 23:19;41:7</p> <p><b>pursuant (7)</b> 19:18,19,22,23; 32:24;34:21;38:7</p> <p><b>put (7)</b> 18:3;21:16;22:3; 36:18;41:23;44:7; 48:1</p> <p><b>putting (1)</b> 37:23</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qualified (1)</b> 35:25</p> <p><b>quarter (1)</b> 35:6</p> <p><b>quickly (1)</b></p>
--	---	--	--	---

48:3 <b>quite (4)</b> 28:14;33:3;39:15; 44:7	21:14 <b>reenvisioned (1)</b> 44:12 <b>refer (1)</b> 38:4 <b>referred (1)</b> 19:13 <b>reflect (1)</b> 34:3 <b>reflects (1)</b> 35:12 <b>regard (1)</b> 15:1 <b>regarding (1)</b> 37:2 <b>regulatory (1)</b> 37:4 <b>reinvigorated (1)</b> 44:12 <b>reject (3)</b> 24:15;34:22;42:9 <b>rejected (1)</b> 45:15 <b>rejecting (2)</b> 40:7;41:9 <b>rejection (1)</b> 42:7 <b>rejections (2)</b> 34:11,16 <b>rejects (1)</b> 39:17 <b>related (1)</b> 34:18 <b>relating (1)</b> 37:8 <b>relative (1)</b> 30:2 <b>reliance (2)</b> 33:2;43:1 <b>relief (5)</b> 26:4;39:12,13; 46:11,17 <b>rely (3)</b> 25:6;41:17;45:6 <b>remain (1)</b> 37:10 <b>remaining (2)</b> 19:17;47:16 <b>remains (1)</b> 46:1 <b>remarkable (4)</b> 26:24;29:21;32:5; 44:11 <b>remarks (1)</b> 45:1 <b>remedies (2)</b> 45:9,23 <b>remember (1)</b> 30:7 <b>remembers (1)</b> 35:5 <b>remind (1)</b> 18:3	<b>removal (2)</b> 39:8;46:14 <b>removed (1)</b> 20:18 <b>reorganized (1)</b> 48:7 <b>represented (1)</b> 34:7 <b>Republic (2)</b> 11:12;17:7 <b>request (5)</b> 27:10;39:7;43:3; 46:13;47:10 <b>request/beg (1)</b> 43:16 <b>requests (1)</b> 48:9 <b>reservation (4)</b> 37:22;39:5;45:7,8 <b>reservations (1)</b> 47:12 <b>reserve (4)</b> 38:8;39:20;41:20; 45:15 <b>Resnick (1)</b> 13:12 <b>resolve (2)</b> 27:1;36:16 <b>resolved (2)</b> 26:13;47:16 <b>Resources (6)</b> 9:21;16:17;21:25; 36:18;37:12;44:23 <b>respect (5)</b> 19:9,13;29:10; 38:17,23 <b>respectfully (1)</b> 46:13 <b>response (2)</b> 34:4;44:25 <b>responsive (2)</b> 26:21;29:3 <b>responsiveness (1)</b> 28:17 <b>restructuring (1)</b> 18:22 <b>result (1)</b> 34:23 <b>results (1)</b> 33:22 <b>retain (1)</b> 38:16 <b>retained (1)</b> 23:3 <b>retention (1)</b> 22:24 <b>retiree (1)</b> 29:24 <b>retirees (1)</b> 25:6 <b>return (1)</b> 43:25 <b>returning (1)</b>	36:7 <b>revenue (1)</b> 29:16 <b>reverse (3)</b> 18:6,7,8 <b>reversed (1)</b> 41:19 <b>review (1)</b> 31:25 <b>revised (2)</b> 20:9,9 <b>revisit (1)</b> 41:20 <b>revolving (1)</b> 32:14 <b>riding (1)</b> 34:13 <b>right (54)</b> 13:6;14:4,9,16; 15:2,18,18;17:5,14, 19,25;18:16;19:21; 20:12,17,22;21:2,19, 23;22:9,15,19,23; 23:5,23;24:1,4,10, 19;26:25;27:12,15, 22;30:3;38:8;40:10, 10;41:16,20;42:20; 44:15,17,19,21;46:5; 47:3,6,15,24;48:1,5, 9,11,12 <b>rights (16)</b> 35:10,20,23;36:8; 37:15,23,25;38:11, 16;39:6,20;45:7,8; 46:8,9,24 <b>rise (1)</b> 13:2 <b>risk (2)</b> 30:2,4 <b>Rivercenter (1)</b> 11:21 <b>road (2)</b> 30:15;45:15 <b>Rob (1)</b> 29:17 <b>Roberts (1)</b> 30:20 <b>ROGOFF (3)</b> 10:25;15:23;16:2 <b>rolling (1)</b> 31:3 <b>Room (3)</b> 9:14;12:14;39:23 <b>ROVAK (3)</b> 4:25;15:11,11 <b>rule (1)</b> 40:17 <b>rules (1)</b> 40:24 <b>ruling (1)</b> 40:4 <b>runs (1)</b> 29:15	<b>S</b> <b>SAAVEDRA (2)</b> 8:16;14:1 <b>sacrifice (1)</b> 30:1 <b>safety (3)</b> 36:17;37:8,11 <b>Sales (1)</b> 22:16 <b>Salt (1)</b> 11:15 <b>same (1)</b> 24:13 <b>satisfy (1)</b> 38:22 <b>save (2)</b> 29:9;31:24 <b>saved (1)</b> 30:25 <b>saving (1)</b> 31:23 <b>saying (2)</b> 40:19;42:19 <b>SC (1)</b> 11:20 <b>schedule (3)</b> 19:20;20:9;40:11 <b>schedules (5)</b> 22:13;39:9;40:2; 45:20;46:15 <b>SCHISLER (2)</b> 4:18;13:15 <b>SCHNABEL (3)</b> 10:7;17:2,3 <b>SCHONHOLTZ (4)</b> 8:25;13:22;16:8,9 <b>scope (2)</b> 38:11;45:14 <b>seated (1)</b> 13:5 <b>second (1)</b> 35:12 <b>Second-Out (2)</b> 8:20;13:21 <b>Section (2)</b> 19:23;46:1 <b>secured (1)</b> 32:13 <b>seeking (2)</b> 20:10;27:7 <b>seeks (1)</b> 21:13 <b>seemed (1)</b> 39:15 <b>seeming (1)</b> 28:6 <b>senior (2)</b> 32:13;35:4 <b>sense (2)</b> 35:19;40:18 <b>separate (1)</b>
---	--	---	---	---

45:13 separately (1) 45:17 session (1) 13:3 set (2) 19:20;48:2 settled (1) 31:21 settlement (2) 20:24;30:22 Seventh (1) 8:21 several (4) 32:11;36:25; 43:18,22 shall (1) 46:11 shame (1) 30:14 sheet (2) 32:11;36:13 shift (1) 32:6 shockingly (1) 39:11 Shonk (3) 8:3;14:11;19:7 short (2) 28:14;34:6 side (1) 26:7 sight (2) 30:16;34:4 signatures (1) 32:19 similar (2) 21:9;28:25 simplifying (1) 18:25 simply (4) 29:21;34:5;40:16; 43:2 single (5) 30:4;33:19;34:11; 43:5;47:2 site (1) 26:8 situation (1) 35:18 situations (1) 29:3 Six (3) 34:21,23,23 Sixth (1) 10:12 size (2) 28:19;29:6 sizeable (1) 25:4 SKADDEN (3) 6:10,18;14:24 skittish (1)	43:12 SLATE (2) 6:10,18 small (2) 30:4;37:20 SMOLINSKY (4) 8:17;14:2;16:11, 12 SMOTKIN (5) 8:9;14:10,10,17; 17:13 soak (2) 35:21,22 solicitation (2) 34:21;35:9 someone (2) 31:7;35:8 sometimes (2) 26:11;28:13 somewhere (1) 35:8 soon (3) 32:7;47:24;48:1 sorry (3) 17:6;21:15;28:21 sort (10) 28:19,25;31:7; 36:11;40:19;43:11, 14,15;44:5;46:18 sought (1) 26:4 sounds (2) 31:7;46:18 South (4) 4:13;9:4;10:12; 11:13 Southern (5) 8:4;14:12;17:12; 19:5;38:3 speak (1) 42:18 SPEAKER (2) 47:21,23 speaking (1) 18:4 Specialty (2) 7:13;14:21 specific (1) 36:11 speed (2) 28:23;29:1 spelled (1) 38:1 spent (1) 30:22 Square (1) 6:20 St (9) 4:6,15,23;5:6;7:6; 8:7;9:6;28:24;30:12 STACY (2) 12:18;17:18 staff (1)	29:20 stakeholders (1) 25:7 standards (1) 25:25 standing (1) 26:22 Starr (2) 15:19,21 start (4) 13:7;17:25;18:10; 28:7 state (1) 35:3 state- (1) 37:3 statement (6) 25:22;39:12;40:1; 42:13;45:12;46:23 statements (2) 33:12;35:15 STATES (6) 9:2,3,11;12:11; 13:2;15:15 statutory (2) 40:17;41:15 STB (1) 24:15 STEEN (2) 9:20;44:23 STEPHEN (3) 4:25;5:24;10:24 stepped (1) 31:18 Steve (2) 15:5,11 STEVEN (2) 4:8;14:5 still (2) 23:13;34:3 STINSON (2) 7:2;14:24 STITES (2) 7:11;14:19 STONE (4) 8:2;11:17;17:6,8 story (2) 32:5;35:11 straight-up (1) 40:21 Street (7) 7:15;9:4,13;10:4, 12;12:4,13 strictures (1) 26:2 strong (2) 32:10;33:23 structure (3) 18:25;32:12;36:13 stuff (3) 29:15;40:5,6 subject (1) 45:18	submit (2) 20:8;21:17 subscribed (2) 35:20;36:3 subscription (2) 35:24;36:1 subsequent (2) 37:18;46:2 subsequently (1) 23:2 substantial (2) 31:10;32:10 substantially (1) 33:3 success (2) 35:10,19 successful (3) 25:12;32:24;33:1 Suite (11) 4:5,14,22;5:5;7:5, 16;8:6;9:5;10:13; 11:14,22 Summers (1) 12:4 sunshine (1) 28:22 support (9) 25:24;26:1;27:10; 33:7,12;40:17,17; 44:16,18 supported (1) 31:5 supporting (1) 33:14 supports (1) 33:9 supposed (1) 41:6 Sure (4) 18:5,9,14;46:19 sureties (1) 14:19 Surety (1) 7:13 surprised (1) 33:1 Surratt-States (1) 13:4 survival (1) 25:11 SUSAN (2) 4:9;14:8 swapping (3) 31:15;33:7;43:23	31:23 taught (1) 44:5 team (2) 29:25;30:3 TEASDALE (2) 4:2;14:6 technical (1) 26:11 telephone (1) 48:11 TELEPHONICALLY (15) 6:23;8:17,25;9:17, 25;10:7,16,24,25; 11:8,17,25;12:7,17, 18 Temple (1) 11:13 tender (1) 44:1 tens (1) 43:18 tenth (1) 24:11 term (1) 32:13 terms (5) 19:22;34:8,11; 35:2;38:22 terrific (1) 36:10 testimony (1) 27:8 thank-you (2) 28:11;44:6 thank-yous (1) 28:7 third (1) 25:20 THOMS (3) 12:17;17:15,17 thought (5) 17:25;28:6;37:24; 41:10,24 thoughtful (1) 40:4 thousands (2) 25:5;43:18 three (1) 19:5 thus (1) 35:5 tighter (1) 43:7 till (1) 43:25 time- (1) 44:2 timely (1) 24:8 Times (2) 6:20;33:24 timing (1)
			<b>T</b>	
			talk (4) 22:11;32:4,25; 33:19 talking (1) 22:14 tasked (1)	

43:4 <b>tiny (1)</b> 36:4 <b>tirelessly (1)</b> 32:9 <b>title (1)</b> 29:15 <b>today (17)</b> 13:11;14:6;17:12; 18:2;19:4;25:1,1; 26:23;27:6;28:9; 29:7,11;30:14;31:2, 14;41:22;43:7 <b>today's (2)</b> 19:11;22:8 <b>together (3)</b> 21:16;28:16,16 <b>told (1)</b> 26:18 <b>TOM (4)</b> 12:2,7;14:14; 17:10 <b>tomorrow (1)</b> 31:14 <b>took (2)</b> 33:10;41:24 <b>top (1)</b> 18:1 <b>tossed-off (1)</b> 41:14 <b>totality (1)</b> 46:12 <b>totally (1)</b> 46:25 <b>towards (4)</b> 25:11,11,12;32:21 <b>track (1)</b> 22:4 <b>transactions (1)</b> 18:22 <b>transcript (1)</b> 36:25 <b>Travelers (2)</b> 7:12;14:20 <b>treasurer (1)</b> 29:17 <b>tremendous (1)</b> 29:7 <b>trial (1)</b> 30:18 <b>tried (1)</b> 39:20 <b>true (1)</b> 25:10 <b>truly (2)</b> 44:10,10 <b>trust (1)</b> 25:1 <b>Trustee (2)</b> 9:3;15:15 <b>Trustee's (1)</b> 28:21 <b>try (2)</b>	27:1;48:2 <b>turn (2)</b> 32:21;38:25 <b>turning (1)</b> 28:17 <b>twenty-first (1)</b> 22:19 <b>twenty-four (1)</b> 27:1 <b>two (8)</b> 21:13;23:1;26:4; 27:4;28:7;34:12,23, 25 <b>type (2)</b> 36:12;41:22 <b>typical (1)</b> 33:10	<b>unless (3)</b> 20:7;39:16;41:24 <b>unlike (2)</b> 41:14;45:11 <b>unliquidated (1)</b> 38:15 <b>unrelated (1)</b> 40:7 <b>Unsecured (2)</b> 4:12;34:1 <b>unsecured-creditors' (1)</b> 13:16 <b>unsurprisingly (1)</b> 41:13 <b>up (12)</b> 18:1;20:22;23:15; 28:23;29:1;31:18; 33:2;35:12,14,21,22; 36:6 <b>upon (1)</b> 34:14 <b>use (1)</b> 36:6 <b>UT (1)</b> 11:15 <b>Utilities (2)</b> 4:21;15:12	<b>way (4)</b> 18:1;31:21;32:12; 38:9 <b>WAYNE (2)</b> 6:7;15:7 <b>ways (2)</b> 28:10;30:19 <b>weather (1)</b> 28:22 <b>Web (1)</b> 26:8 <b>week (2)</b> 30:23,23 <b>weeks (2)</b> 36:25;42:6 <b>WEIL (2)</b> 8:11;14:2 <b>West (3)</b> 7:15;10:4;11:13 <b>Westchester (2)</b> 7:13;14:20 <b>what's (3)</b> 39:18,18;40:14 <b>wheels (1)</b> 28:16 <b>Whereupon (1)</b> 48:15 <b>wherever (1)</b> 26:21 <b>WHITNEY (2)</b> 10:2,10 <b>whole (2)</b> 39:14;41:15 <b>whose (2)</b> 28:8;31:2 <b>WI (1)</b> 11:23 <b>wide (2)</b> 26:20,21 <b>wiggle (1)</b> 39:23 <b>WILLARD (3)</b> 4:17;13:14,15 <b>WILLIAMS (2)</b> 6:7;15:8 <b>willing (1)</b> 41:7 <b>WILLKIE (2)</b> 8:19;13:20 <b>win (4)</b> 41:16;42:20,21; 47:6 <b>wish (5)</b> 20:13,15;44:16,18, 19 <b>withdraw (3)</b> 19:9;23:24;37:13 <b>withdrawal (1)</b> 37:15 <b>withdrawn (3)</b> 19:13;34:14,24 <b>without (3)</b> 28:6;42:6,12	<b>witnesses (1)</b> 27:8 <b>won (2)</b> 40:25;41:11 <b>wonderful (3)</b> 25:2;35:15,19 <b>word (1)</b> 41:15 <b>words (1)</b> 46:8 <b>work (5)</b> 18:1;21:17;23:17; 29:18;33:11 <b>worked (9)</b> 21:16;26:8;29:5,8; 30:6,9,24;32:8;36:15 <b>Workers (2)</b> 16:4;25:6 <b>workers'-comp (1)</b> 31:17 <b>working (1)</b> 44:9 <b>workmanlike (1)</b> 31:11 <b>works (1)</b> 40:8 <b>world (1)</b> 34:16 <b>worth (2)</b> 35:11;39:25 <b>Wright (2)</b> 11:3;16:20 <b>write (1)</b> 35:17 <b>written (1)</b> 21:19 <b>wrong (3)</b> 31:19;41:12,12 <b>WV (1)</b> 12:5
	<b>U</b>			
	<b>UCC (3)</b> 30:6;33:11,13 <b>ultimately (2)</b> 30:24;42:21 <b>UMWA (3)</b> 30:13,15;33:11 <b>unaffected (1)</b> 37:10 <b>unaware (1)</b> 44:6 <b>unawares (1)</b> 28:20 <b>unclear (1)</b> 28:4 <b>uncontested (3)</b> 19:3;20:8;46:25 <b>under (4)</b> 26:1;28:22;38:12; 43:9 <b>underlying (1)</b> 37:18 <b>understandably (1)</b> 43:10 <b>understands (1)</b> 46:20 <b>understates (1)</b> 34:10 <b>unduly (1)</b> 32:1 <b>unexpected (1)</b> 42:24 <b>unexpired (3)</b> 19:14;21:8;24:15 <b>unfortunately (1)</b> 44:2 <b>UNIDENTIFIED (2)</b> 47:21,23 <b>unimpaired (2)</b> 34:24;37:9 <b>UNITED (11)</b> 9:2,3,11;12:11; 13:2;15:15;16:4; 20:24;21:9,14,16	<b>V</b>	<b>various (6)</b> 13:6;15:1;26:2,10; 37:1,3 <b>vice (1)</b> 29:14 <b>view (1)</b> 35:22 <b>virtually (2)</b> 35:22;43:15 <b>vote (2)</b> 34:19;36:12 <b>voted (3)</b> 34:20,22;35:6 <b>Voting (3)</b> 33:22;34:9;35:3	
		<b>W</b>		
		<b>Wacker (1)</b> 6:12 <b>waiting (1)</b> 43:22 <b>waiver (1)</b> 37:15 <b>Walsh (8)</b> 17:20;23:9,10,12, 12,21,24;24:3 <b>Wardwell (2)</b> 13:10;24:25 <b>Washington (2)</b> 9:15;12:15 <b>waters (1)</b> 29:23		
			<b>Y</b>	
			<b>years (1)</b> 22:13 <b>YEATES (1)</b> 11:11 <b>yesterday (1)</b> 36:12 <b>York (10)</b> 5:22;6:21,21;8:14, 22;9:23;10:5,22; 28:24;30:11 <b>YOUNG (3)</b> 7:8;14:23,23	
				<b>1</b>
				<b>1 (1)</b> 24:5 <b>1,280 (1)</b> 34:6 <b>10006 (2)</b>

9:14,23	<b>202 (1)</b>	10:12	<b>9:47 (1)</b>
<b>10019 (2)</b>	11:22	<b>50,000 (1)</b>	48:15
8:22;10:5	<b>211 (1)</b>	33:17	<b>901 (1)</b>
<b>10022 (1)</b>	4:22	<b>500 (1)</b>	5:13
5:22	<b>2300 (1)</b>	8:6	<b>94.12 (1)</b>
<b>10036 (2)</b>	7:16	<b>51 (1)</b>	34:8
6:21;10:22	<b>2302 (1)</b>	10:4	<b>95 (2)</b>
<b>10153 (1)</b>	22:16	<b>52nd (1)</b>	32:15;36:2
8:14	<b>2303 (1)</b>	10:4	<b>96.17 (1)</b>
<b>10th (1)</b>	22:16	<b>53212 (1)</b>	34:6
9:4	<b>237.8 (1)</b>	11:23	<b>97.5 (1)</b>
<b>11 (5)</b>	36:1	<b>55402 (1)</b>	35:7
29:22;32:7;36:22,	<b>239 (1)</b>	10:14	<b>99.9 (1)</b>
22;47:17	34:19		35:7
<b>1100 (2)</b>	<b>23rd (1)</b>	<b>6</b>	<b>9th (1)</b>
7:5;9:13	11:5		23:4
<b>111 (1)</b>	<b>240 (1)</b>	<b>6.353 (1)</b>	
9:4	36:2	9:5	
<b>1177 (1)</b>	<b>245 (1)</b>	<b>600 (1)</b>	
10:21	34:19	5:5	
<b>12 (1)</b>	<b>250 (6)</b>	<b>601 (2)</b>	
23:4	7:15;32:14,23;	5:21;12:13	
<b>120 (1)</b>	35:4;36:1,2	<b>60606 (1)</b>	
4:13	<b>25301 (1)</b>	6:13	
<b>13 (1)</b>	12:5	<b>60654 (1)</b>	
43:10	<b>28 (4)</b>	6:5	
<b>140 (1)</b>	22:3,17,21;24:10	<b>625 (1)</b>	
33:6	<b>28th (5)</b>	11:4	
<b>15 (1)</b>	23:21;24:2,6,12,20	<b>63102 (2)</b>	
11:13		4:23;9:6	
<b>1500 (1)</b>	<b>3</b>	<b>63105 (5)</b>	
10:13		4:6,15;5:6;7:6;8:7	
<b>15222 (1)</b>	<b>300 (1)</b>	<b>6536 (1)</b>	
11:6	6:4	12:14	
<b>155 (1)</b>	<b>3000 (1)</b>	<b>679 (1)</b>	
6:12	4:22	21:15	
<b>1555 (1)</b>	<b>31 (1)</b>		
11:21	43:9	<b>7</b>	
<b>15th (2)</b>	<b>365f (1)</b>		
25:17,23	19:24	<b>7.5 (1)</b>	
<b>1700 (1)</b>		21:15	
11:14	<b>4</b>	<b>767 (1)</b>	
<b>179 (1)</b>		8:13	
12:4	<b>4 (1)</b>	<b>7700 (2)</b>	
<b>18 (1)</b>	6:20	4:4;7:4	
42:3	<b>4,300 (1)</b>	<b>7733 (1)</b>	
<b>1800 (2)</b>	33:18	8:5	
4:5,14	<b>40507 (1)</b>	<b>787 (1)</b>	
<b>190 (1)</b>	7:17	8:21	
5:4	<b>411 (1)</b>	<b>7th (1)</b>	
	34:7	25:22	
<b>2</b>	<b>44114 (1)</b>		
	5:14	<b>8</b>	
<b>2 (3)</b>	<b>45 (1)</b>		
18:11;20:22;21:15	38:21	<b>84101 (1)</b>	
<b>20005 (1)</b>	<b>45,000 (1)</b>	11:15	
9:15	26:24		
<b>20044 (1)</b>	<b>4th (1)</b>	<b>9</b>	
12:15	25:21		
<b>201 (1)</b>		<b>9.2a (1)</b>	
32:17	<b>5</b>	19:20	
<b>2013 (1)</b>		<b>9.5b (1)</b>	
23:4	<b>50 (1)</b>	46:1	

UNITED STATES BANKRUPTCY COURT  
Eastern District of Missouri  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, Fourth Floor  
St. Louis, MO 63102

In re: Debtor(s):  
Patriot Coal Corporation

Case No.: 12-51502 -A659

CHAPTER 11

**Notice of Filing of Transcript and of Deadlines Related to Restriction and Redaction**

To: All Persons of Record at Hearing

A transcript of the proceeding held on December 17, 2013 was filed on December 18, 2013.

The following deadlines apply:

If you wish to have personal data identifiers redacted from the transcript, a *Request for Transcript Redaction* must be filed within 7 days of the date of this notice: December 26, 2013. Personal data identifiers **include: social security numbers, financial account numbers, names of minor children, and dates of birth**. If no such request is filed within the allotted time, the Court will presume redaction of personal data identifiers is not necessary.

Any party seeking redaction shall file a *Statement of Transcript Redactions* identifying the location of the personal data identifiers sought to be redacted within 21 days of the date of this notice: January 8, 2014. The party filing the statement shall serve it by regular mail upon all parties at the hearing and shall include a Certificate of Service listing the date and parties served. The *Statement of Transcript Redactions* event will be restricted from public view and cannot be served electronically through the CM/ECF system. If no Statement of Transcript Redactions is filed within the allotted time, the Court will presume redaction of personal identifiers is not necessary.

Any party may file a response in opposition to the Statement within 7 days of the date the Statement is filed using the *Response to Statement of Transcript Redactions* event. If a response in opposition to the Statement is filed, the Court will rule on the matter. If a hearing is needed, the Court will send notice of hearing.

If a request for redaction is filed, the redacted transcript is due within 31 days of the date of this notice: January 21, 2014.

The transcript may be made available for remote electronic access upon expiration of the restriction period, which is 90 days from the date of filing of the transcript: March 18, 2014, unless extended by court order. However, during this 90-day period the transcript is available for viewing only during normal business hours at the Clerk's office.

Any questions regarding the transcript process should be directed to Matt Parker, Director of Courtroom Services, at (314) 244-4801.

FOR THE COURT:

/s/Dana C. McWay  
Clerk of Court

Dated: 12/18/13

**Copies Mailed To:**

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Rev. 12/10