

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 January 28, 2014 was filed on January 29, 2014.

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: February 5, 2014. 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: February 19, 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.

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If a request for redaction is filed, the redacted transcript is due within 31 days of the date of this notice: March 3, 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: April 29, 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: 1/29/14

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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

January 28, 2014

10:20 AM

B E F O R E:

HON. KATHY A. SURRETT-STATES

CHIEF U.S. BANKRUPTCY JUDGE

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Motion for Authorization to (i) Assume or (ii) Reject Unexpired
Leases of Nonresidential Real Property, by Debtor (1995)

Fifth Omnibus Objection to Claims 19 and others, Filed by
Debtor (4181)

Tenth Omnibus Objection to Claims 1288 and others (Exh A), by
Debtor (4331)

Motion to Amend Proof of Claim, or Extension of the Deadline to
Timely File Claim, by Creditor Michelin North America, Inc
(4445)

Fourteenth Omnibus Objection to Claims 539 and others (Books
and Records Objections), by Debtor (4526)

Fifteenth Omnibus Objection to Claims 948 and others (Redundant
Claims), Filed by Debtor (4527)

Omnibus Application to Expand Retention of Professionals to
Include New Debtors, Filed by Debtor (4740)

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Omnibus Objection to Claims 1693 and Others (Twenty-First
Omnibus Objection to Claims -- Clear Fork Water Supply Claims),
Filed by Debtor (4779)

Motion to Assume Lease or Executory Contract / Notice of the
Debtors' Renewed Motion for Authorization to Assume Unexpired
Leases of Nonresidential Real Property

Motion for Authorization to Assume Unexpired Leases of
Nonresidential Real Property, Filed by Debtor (4882)

Motion to Reconsider (re: (4977) Order) Filed by Creditors
David Evans, Kathy Evans, Judy Fraley, Westley Fraley, Carol
Gunnoe, Danny Gunnoe, Kathy Morris, Kermit Morris, Debra
Pettry, Denver Pettry, Alfred Price, Willa Price, Robert
Scarbro, Theresa Scarbro, Franklin Stump, Marsha Stump (5153)

Omnibus Objection to Claims 3775 and Others (Reorganized
Debtors' Twenty-Third Omnibus Objection to Claims --
Subordinated Investor Claims), Filed by Debtor (5193)

Omnibus Objection to Claims 4140 and Others (Reorganized
Debtors' Twenty-Fourth Omnibus Objection to Claims -- Late-
Filed Claims), Filed by Debtor (5194)

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Omnibus Objection to Claims 2586 and Others (Reorganized Debtors' Twenty-Fifth Omnibus Objection to Claims -- No Liability Claims), Filed by Debtor (5200)

Omnibus Objection to Claims 226 and Others (Reorganized Debtors' Twenty-Sixth Omnibus Objection to Claims -- Claims Inconsistent with Reorganized Debtors' Books and Records), by Debtor (5201)

Transcribed by: Clara Rubin
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A P P E A R A N C E S :

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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.

UNIDENTIFIED SPEAKER: Good morning.

THE COURT: Good morning.

All right, these are the matters in the Patriot Coal Corporation case. Let me first get appearances in the courtroom.

MR. WALSH: Good morning, Your Honor. Brian Walsh for the debtors -- reorganized debtors, that is.

THE COURT: Good morning.

MR. BASILE: Good morning, Your Honor. Thomas Basile for the Pettry claimants.

THE COURT: Good morning.

Mr. Sosne, are you officially appearing on the record this morning?

MR. SOSNE: No, Your Honor. I'm an observer at this point.

THE COURT: All right, thank you.

All right, and then on the phone, we have Ms. McGreal on behalf of the reorganized debtors?

MS. MCGREAL: Good morning, Your Honor.

THE COURT: Good morning.

1 All right, Mr. Walsh, should we take the matters up as
2 they appear on the docket, or --

3 MR. WALSH: Certainly. Happy to do that, Your Honor.
4 When we get to the one contested matter, we can decide whether
5 to tackle that right then or put it to the end. It's certainly
6 up to Your Honor.

7 THE COURT: All right.

8 MR. WALSH: But the first ones are not contested.

9 THE COURT: All right.

10 MR. WALSH: Which would you like to take up first, Your
11 Honor?

12 THE COURT: All right, the first matter on the docket is
13 the motion for authorization to assume or reject unexpired
14 nonresidential leases. The STB and Arch Coal were the
15 objectors.

16 MR. WALSH: Your Honor, I don't know whether it's best to
17 describe that one as moot or resolved by the plan or resolved
18 by things that have happened in the various adversary
19 proceedings, or some combination of the above, but my
20 understanding is that there is no remaining controversy as to
21 those matters.

22 THE COURT: All right, well, we'll mark the matter
23 resolved, moot. All right, so I will overrule the objections,
24 then, as moot and we'll remove that matter from the docket.

25 All right, the next is the fifth omnibus objections to

1 claim 19 and others. There were responses by Continental Bank
2 and David Cox?

3 MR. WALSH: Yes, Your Honor. Those disputes we're still
4 attempting to resolve, and so we'd request that be continued to
5 the next hearing.

6 THE COURT: All right, I'll continue that matter to
7 February 25th.

8 Next is the tenth omnibus objection and a response by
9 Nancy Smith?

10 MR. WALSH: Your Honor, the status of that one is the
11 same. We're going to try and work that out with Ms. Smith,
12 and --

13 THE COURT: All right.

14 MR. WALSH: -- hope to be able to take care of that
15 before February 25th.

16 THE COURT: All right, then I'll continue it to February
17 25th.

18 Then next, a motion to amend proof of claim or extension
19 of the deadline to timely filed claims, by Creditor Michelin
20 North America?

21 MR. WALSH: Your Honor, I must acknowledge I don't know
22 the exact status of that matter, because we have not been
23 handling that one. I don't believe it is a live controversy,
24 but I'm not exactly sure why not.

25 MS. MCGREAL: No, Your Honor.

1 Michelle McGreal on behalf of the debtors.

2 That has also been resolved.

3 THE COURT: All right, then should I deny that motion,
4 then, as moot?

5 MS. MCGREAL: Yes, that would -- thank you.

6 THE COURT: All right, thank you.

7 All right, the next is the fourteenth omnibus objections
8 to claims, and there was a response by Industrial Contracting
9 of Fairmont, Industrial Resources, Salem Electric Company, West
10 Virginia Electric Industries?

11 MR. WALSH: And, Your Honor, that remaining outstanding
12 issue has been resolved by a stipulation that the Court has
13 approved, and so that matter is concluded.

14 THE COURT: All right. All right, thank you. The next
15 is the fifteenth omnibus objections to claim, with responses by
16 Industrial Contracting of Fairmont, Industrial Resources, Salem
17 Electric, and then objections by Alpha Engineering Services and
18 by Environmental Resource (sic) Management Consulting Company.

19 MR. WALSH: Yes, Your Honor. The stipulation I just
20 referred to resolved the first of those with Industrial
21 Contracting and its affiliates, and --

22 THE COURT: All right.

23 MR. WALSH: -- we'd request that it be continued, as to
24 Alpha Engineering and Environmental Resources, to the next
25 hearing.

1 THE COURT: All right, then we'll continue it as to those
2 other parties, then, to February 25th.

3 All right, next is the omnibus application to extend
4 retention of professionals to include new debtors, filed by
5 Debtor?

6 MR. WALSH: Yes, Your Honor. I think we're finally, I
7 hope, ready to conclude this one, which has been bouncing
8 around from agenda to agenda. The Bowles Rice firm has filed a
9 supplemental declaration; I need to find the reference to that
10 in my notes here. That was number 5196. There've been no
11 objections or other responses since the filing of that
12 supplemental declaration. And we have confirmed that Veritas
13 Consulting has not been engaged by the two most recent filing
14 debtors: Patriot Ventures or Brody. And so therefore, if it's
15 acceptable to the Court, we propose to submit a proposed order
16 that would grant the motion as to Bowles Rice and withdraw it
17 as to Veritas Consulting. And that will be the end of that
18 motion, Your Honor.

19 THE COURT: All right, then that would be fine. And I'll
20 grant the expansion, then, as to Bowles Rice and we'll withdraw
21 it as to the remaining party.

22 All right, then next is the omnibus objection to claim
23 1693 and others, and there was a response by Avery Bailey, et
24 al.?

25 MR. WALSH: Yes, Your Honor. That one is an outstanding

1 dispute and we'd request that that be continued to February
2 25th.

3 THE COURT: All right, I'll continue it to that date.

4 All right, the objection to claims 2302 and 2303 has been
5 withdrawn.

6 And there's a motion to assume lease or executory
7 contract, and an objection by Alpha Natural Resources, Inc.?

8 MR. WALSH: Your Honor, I believe that also is moot for a
9 combination of reasons I mentioned before: developments under
10 the plan, and have been various adversary proceedings.

11 THE COURT: All right, then I'll overrule the objection
12 as moot. Thank you.

13 And there's the motion to reconsider; that's our
14 contested matter?

15 MR. WALSH: That's correct, Your Honor.

16 THE COURT: All right, let's take that up at the end of
17 the docket.

18 MR. WALSH: Okay.

19 THE COURT: And there's the omnibus objections to claims
20 3775 and others.

21 MR. WALSH: Yes, Your Honor. That's the twenty-third
22 objection. There have been no responses. This is an
23 objection, based on Section 510(b) of the Bankruptcy Code, to
24 claims that are in the nature of equity or damages arising from
25 the purchase or sale of equity, and we believe they are

1 appropriately subordinated under the Code and the plan. And as
2 I mentioned, there've been no responses or other opposition to
3 that objection, and we request that it be sustained.

4 THE COURT: All right, then I'll sustain the objection.

5 Then there's the omnibus objections to claim 4140 and
6 others, which is the twenty-fourth omnibus objection, and
7 there's been a response by Mark Atkinson?

8 MR. WALSH: That's correct, Your Honor. I believe
9 Mr. Atkinson is the attorney, and I believe the parties at
10 issue are Josh Chafin and Albert Hoosier. And as to those two
11 creditors, we'd request that it be continued to the next
12 hearing. Otherwise, there've been no responses or other
13 opposition. The nature of this objection is that the claims
14 were filed after the bar date. It's a fairly straightforward
15 issue. And we'd request that it be sustained as to everyone
16 other than Mr. Chafin and Mr. Hoosier.

17 THE COURT: All right, then I'll sustain the objection as
18 to all the other parties and then we'll continue the matter
19 with the response, then, to February 25th.

20 All right, then there's the omnibus objections to claims
21 2586 and others, which is the twenty-fifth omnibus objection;
22 and there's been a motion to continue the hearing that was
23 filed by Mr. Wyciskalla?

24 MR. WALSH: Yes, Your Honor. We certainly have no
25 opposition to continuing the hearing as to Mr. Wyciskalla. We

1 have -- just for the Court's benefit; we've done a little
2 investigation, and Mr. Wyciskalla receives benefits under the
3 Coal Act. His benefits have not been affected by this
4 proceeding. We've gotten a letter out to him yesterday, or
5 today, explaining that, and we'll hope to follow up.

6 THE COURT: All right.

7 MR. WALSH: As he's mentioned in his various papers, he
8 doesn't have Internet access, and so it will be a slow process
9 of communicating with him. But we hope to make that -- we hope
10 to get him comfortable that he's not prejudiced --

11 THE COURT: Okay.

12 MR. WALSH: -- in any way by this objection.

13 THE COURT: Very good. I'm sure he may call you all, as
14 he has called the Clerk's Office from time --

15 MR. WALSH: Oh, I did --

16 THE COURT: -- to time.

17 MR. WALSH: I know. He's written a few times, Your
18 Honor. I --

19 THE COURT: Yes, he has.

20 MR. WALSH: -- didn't realize he's been calling. Okay.

21 THE COURT: He sent us voluminous documents --

22 MR. WALSH: Yes. Okay.

23 THE COURT: -- which we have put on the record for him.

24 MR. WALSH: Right. Right. Very good.

25 THE COURT: But -- all right, good.

1 MR. WALSH: Very --

2 THE COURT: Well, that certainly as well gives me some
3 comfort as well to know that we're moving towards that and that
4 he is covered under that and will continue to be covered, then,
5 under the Coal Act.

6 MR. WALSH: Yes, Your Honor.

7 THE COURT: All right, then I would sustain the
8 objection, then, as to all the other parties. And then as to
9 Mr. Wyciskalla, I'll continue the matter to February 25th.

10 MR. WALSH: Thank you, Your Honor.

11 THE COURT: Thank you. And then the omnibus objection to
12 claims 226 and others, the twenty-sixth objection to claims?

13 MR. WALSH: That's correct, Your Honor. We've received
14 some informal responses from a couple of parties on this one:
15 Tampa Electric company, which has a couple of claims, and
16 Bridgestone Americas Tire Operations, LLC, which has one claim
17 implicated by this objection. So as to those two parties and
18 their three claims among them, we'd request that it be
19 continued as to the 25th. Otherwise, there's been no response,
20 formal or informal, as to this twenty-sixth omnibus
21 objection --

22 THE COURT: All right.

23 MR. WALSH: -- and we'd request it be sustained, Your
24 Honor.

25 THE COURT: Then I'll sustain the objection as to all the

1 claims listed, except those of Tampa Electric and Bridgestone,
2 and we'll continue that matter to February 25th.

3 MR. WALSH: Thank you, Your Honor. We'll --

4 THE COURT: All right, and then --

5 MR. WALSH: We'll submit proposed orders on those four in
6 the near future.

7 THE COURT: All right. Thank you. And then that brings
8 us back to the motion to reconsider, which I have reviewed
9 extensively. Is there anything, other than what appears in the
10 pleadings that were filed, that you all would like the Court to
11 know?

12 MR. WALSH: Your Honor, it's Mr. Basile's motion, so I'll
13 yield to him for that.

14 THE COURT: All right. Mr. Basile, is there anything
15 else? I am intimately familiar and have reviewed the motion
16 and the cases cited.

17 MR. BASILE: Your Honor, I would like to point out to the
18 Court that the In re Kirwan case and the Farley v. Henson cases
19 are really critically important here; and I did cite them, but
20 I think it may be of benefit to the Court to just discuss them
21 briefly for the Court, if the Court could indulge me on that.

22 THE COURT: My law clerk tells me that she's looked at
23 them extensively, and we discussed them yesterday. Oh, she has
24 copies of them for me, even.

25 If there's anything briefly that you would like to --

1 MR. BASILE: Yes, briefly.

2 THE COURT: -- tell me --

3 MR. BASILE: Briefly.

4 THE COURT: -- briefly?

5 MR. BASILE: I guess one of the critical elements that I
6 would like to point out is that -- I believe it's in the Re
7 Kirwan case; and double-check on that. But In re Kirwan, you
8 had a situation where in a state court action the party who
9 filed the claim did not appear -- even appear at the hearing,
10 where an objection was made by the debtor to the claims that
11 were related to an underlying state court case. And of course,
12 without any appearance by the party or response to the
13 objection, the bankruptcy court sustained the objection.

14 On a subsequent motion to lift stay, despite the fact the
15 court had already ruled that the objection was sustained, the
16 court, long after the time for appeal of the court's order
17 sustaining the objection had passed, the court entertained a
18 motion to lift the stay and granted it and, at the same time,
19 reversed itself with respect to sustaining the objection that
20 had never been timely appealed.

21 And in that case, the claimant had not even filed a
22 motion for reconsideration, had not filed a 502(j) or Rule 3008
23 motion. But the court, based upon its remedial powers as a
24 court of equity, determined that based upon the inexperience of
25 claimant's counsel, who never apparently appeared in bankruptcy

1 court, which is not unlike myself, the court determined that it
2 was proper to reverse itself, lift the stay and allow the case
3 to go forward against the debtor in the underlying state court
4 action.

5 This case -- that case is so important to here, Your
6 Honor, because in this case, of course I did object to the
7 objections, did appear, did argue, have filed a motion for
8 reconsideration, none of which was done by the claimant's
9 counsel in the In re Kirwan case. And yet the court there and
10 the reviewing court on appeal determined that the bankruptcy
11 court has the power, because it's a court of equity and based
12 upon its remedial powers, to reverse itself.

13 And what I'm asking for the Court to do here, in summary
14 conclusion, is to recognize that the issue here is
15 jurisdictional. And under Rule 60(b)(4), we're talking about a
16 jurisdictional matter that the state court never had
17 jurisdiction over. Only a bankruptcy court or a U.S. District
18 Court or Appeals Court that's hearing a matter that is related
19 to bankruptcy can determine the scope of a stay and whether the
20 stay applies.

21 And the debtor has referred to three cases in its
22 response brief, saying it's routine or regular for a court to
23 determine its own jurisdiction. Those cases don't need to be
24 looked at, Your Honor, because they're all federal court cases
25 talking about a district court and federal court, or a federal

1 appeals court, determining jurisdiction when there's a stay
2 involved, not a state court. And I've yet to see a citation to
3 a decision that says a state court has jurisdiction to
4 determine the scope of a stay.

5 And so I believe, Your Honor, we're talking about a case
6 here where, as I cited in the case of In re -- I believe it's
7 Lovejoy, I believe is the name of the case -- that when there
8 is -- yes. There's no discretion to refuse vacating a judgment
9 that is void. And the state court admitted it really didn't
10 have the authority to dismiss the claims against the debtor; it
11 did it anyway and said, I could just appeal to the Supreme
12 Court. Our Supreme Court doesn't have jurisdiction either.

13 And so, again, respectfully request that Your Honor
14 reconsider these matters with respect to the jurisdictional
15 question. Thank you.

16 THE COURT: All right, thank you.

17 Mr. Walsh, anything briefly?

18 MR. WALSH: Briefly, if I might, Your Honor.

19 Sometimes when I peer across the hall, Your Honor, the
20 phrase "Been there; done that" comes up in court, and I think
21 it's appropriate here. These claims were disallowed by your
22 order dated November 8th; there was no appeal. And there is no
23 legitimate basis for reconsideration here, Your Honor. It's a
24 re-argument of points that were made before; that's not grounds
25 for relief under Section 502(j) or Federal Rule of Civil

1 Procedure 60(b).

2 Based on Mr. Basile's argument, I think there's some
3 confusion about which order we're suggesting might be void
4 here. The Rule 60(b) standard is not whether the state court's
5 order is void; it's whether your order is void, Your Honor. If
6 your order were void, of course you would have to set it aside;
7 we're all in agreement there. But there's been no argument or
8 explanation why your sustaining the claim objection in this
9 case is void. Mr. Basile argues that it was wrong. I
10 disagree. But that's not the point. An order that is wrong is
11 not void and it's not grounds for relief under Rule 60(b)(4).

12 I won't reiterate the argument on the merits; I believe
13 it's thoroughly covered in our papers, and it was thoroughly
14 covered in our papers the first time around.

15 The question of whether a state court has jurisdiction to
16 interpret the automatic stay is a different one from whether
17 the state court has jurisdiction to grant relief from the
18 automatic stay. I think it's quite clear that only a
19 bankruptcy court can grant relief from the automatic stay. But
20 that's not what happened here. The state court interpreted the
21 automatic stay. State courts do that all the time; not just
22 interpret the automatic stay; interpret other provisions of the
23 Bankruptcy Code, including the discharge. They interpret other
24 federal statutes, regulations that come before them in the
25 course of their regular civil, criminal, family law dockets.

1 Whatever comes before a state judge on a particular day may
2 have a federal issue in it, and that means the state judge has
3 to interpret it, and that's no different when you're talking
4 about the Bankruptcy Code.

5 I don't think that anything else that I would say this
6 morning would be different from what's in our papers. And so
7 unless Your Honor has any questions, I think I'll stop here.

8 THE COURT: No, I do not. Thank you.

9 MR. WALSH: Thank you, Your Honor.

10 THE COURT: All right, so, based on my review, then, of
11 the motion and the response, and the brief argument that we've
12 had here this morning, at this time I believe there is no basis
13 for reconsideration of my final order and, therefore, I will
14 deny the Pettry claimants' motion. And I'll prepare that order
15 in chambers.

16 All right, then, Mr. Walsh, is there any other request
17 this morning on behalf of the reorganized debtors?

18 MR. WALSH: No. Thank you, Your Honor.

19 THE COURT: All right. Mr. Basile, anything else on
20 behalf of the Pettry claimants?

21 MR. BASILE: No, Your Honor. Thank you.

22 THE COURT: All right, thank you.

23 Ms. McGreal, anything else from New York on behalf of the
24 reorganized debtors?

25 MS. MCGREAL: No. Thank you, Your Honor.

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THE COURT: All right, thank you.
Then we'll be in recess. Thank you.
(Whereupon these proceedings were concluded at 10:39 AM)

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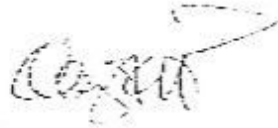
RULINGS

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Motion to Reconsider (re: (4977) Order) Filed by Pettry claimants, denied.	20	14

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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.



CLARA RUBIN

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New York, NY 10040

Date: January 29, 2014

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