

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**ORDER AUTHORIZING THE EMPLOYMENT AND
RETENTION OF THOMPSON COBURN LLC
AS SPECIAL COUNSEL FOR THE DEBTORS
NUNC PRO TUNC TO THE PETITION DATE**

Upon the application (the “**Application**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), pursuant to section 327(e) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the Southern District of New York (the “**Local Bankruptcy Rules**”), for authorization to employ and retain Thompson Coburn LLC (“**Thompson Coburn**”) as special counsel for the Debtors *nunc pro tunc* to the Petition Date and to compensate Thompson Coburn, pursuant to the terms set forth in the Application; and upon the Declaration of Roman Wuller, a Partner of Thompson Coburn, filed in support of the Application, annexed to the Application as Exhibit B (the

¹ The Debtors are the entities listed on Schedule 1 attached to the Application. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Application.

“**Wuller Declaration**”); and the Court being satisfied, based on the representations made in the Application and the Wuller Declaration, that, as required by section 327(e) of the Bankruptcy Code and section 5002 of the Bankruptcy Rules, Thompson Coburn and its professionals neither hold nor represent any interest adverse to the Debtors or their estates with respect to the matter on which Thompson Coburn is to be employed; and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed in support of the Debtors’ first-day pleadings on July 9, 2012, [ECF No. 4]; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. § 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Application and the requested relief being a core proceeding that the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Application having been provided in accordance with the Order Establishing Certain Notice, Case Management and Administrative Procedures entered by the Court on July 16, 2012 [ECF No. 84] and it appearing that no other or further notice need be provided; and the relief requested in the Application being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Application; and the Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Application is approved, to the extent provided herein, *nunc pro tunc* to the Petition Date; and it is further

ORDERED that the Debtors are hereby authorized to employ and retain Thompson Coburn as their special counsel in the Debtors' chapter 11 cases, all as contemplated by the Application and on the terms provided in the Application and the Wuller Declaration, as modified herein; and it is further

ORDERED that Thompson Coburn is authorized to render the following professional services:

a. Take all necessary or appropriate actions, on behalf of the Debtors, as debtors in possession, to prosecute the two pending lawsuits against customers for breach of their contractual obligations to purchase coal styled as *Patriot Coal Sales, LLC v. Keystone Industries, LLC*, case no. 2:12-cv-01808, pending in the United States District Court for the Southern District of West Virginia; and *Patriot Coal Sales, LLC v. Bridgehouse Commodities Trading Limited, et al.*, case no. 12-C-578, initially filed in the Circuit Court of Kanawha County, West Virginia, but now pending after removal in the United States District Court for the Southern District of West Virginia, case no. 2:12-cv-03653;

b. Advise the Debtors and represent them, as needed, in any other disputes relating to any customer's failure to meet its obligations set forth in the parties' coal supply contracts, including but not limited to representing the Debtors in negotiations, alternative dispute resolution and/or litigation against customers that are or are likely to be in breach of their contractual obligations to

the Debtors; c. Review and analyze coal sale contracts to identify issues, if

any, arising from the filing of these Chapter 11 cases and advise the Debtors as to the same; and it is further

ORDERED that, if the Debtors request that Thompson Coburn undertake any additional representation as described in subparagraph b. above, Thompson Coburn shall file a supplemental affidavit with the Court within five business days of: (1) the mailing of a demand letter stating that the Debtors will seek relief via alternative dispute resolution or litigation if certain action is not taken; or (2) the filing or service of any document initiating any form of alternative dispute resolution or litigation; or (3) the filing or service of any pleading or other document in response to the initiation of any form of alternative dispute resolution or litigation; and it is further

ORDERED that Thompson Coburn shall be compensated for its services and reimbursed for any reasonable and necessary expenses and disbursements in accordance with the rates and disbursement policies as set forth in the Application, the Wuller Declaration and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the Standing Order Establishing Procedures For Monthly Compensation and Reimbursement of Expenses of Professionals [M-412] (Dec. 21, 2010), the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases [M-389] (Nov. 25, 2009), any order entered in these chapter 11 cases establishing procedures for interim monthly compensation and reimbursement of expenses of professionals, and the United States Trustee Guidelines (collectively, the “**Fee Guidelines**”) and any other applicable orders of this Court; and it is further

ORDERED that Thompson Coburn shall file fee applications for interim and final allowance of compensation and reimbursement of expenses pursuant to the Fee Guidelines; and it is further

ORDERED that ten business days' notice must be provided by Thompson Coburn to the Debtors, the United States Trustee and any official committee prior to any increases in the hourly rates set forth in the Wuller Declaration, and such notice must be filed with the Court; and it is further

ORDERED that Thompson Coburn shall use its best efforts to avoid any inappropriate duplication of services provided by any of the Debtors' other retained professionals in these chapter 11 cases; and it is further

ORDERED that the relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these chapter 11 cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of any of these chapter 11 cases to cases under chapter 7; and it is further

ORDERED that Thompson Coburn shall not withdraw as the Debtors' special counsel prior to the effective date of any chapter 11 plan confirmed in these chapter 11 cases without prior approval of this Court in accordance with Local Bankruptcy Rule 2090-1(e); and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the Application or the Wuller Declaration and this Order, the terms of this Order shall govern; and it is further

ORDERED that the Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

ORDERED that the notice procedures set forth in the Application are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing the parties with a notice and an opportunity to object and be heard at a hearing; and it is further

ORDERED that this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court retains jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: September 10, 2012
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE