

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

PATRIOT COAL SALES LLC,

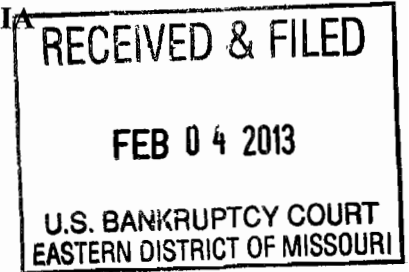
Plaintiff,

v.

CIVIL ACTION NO. 2:12-cv-01808

KEYSTONE INDUSTRIES LLC,

Defendant.



ORDER

Pending before the court is the plaintiff's Motion to Set Aside Notice of Automatic Stay as having been Improvidently Filed [Docket 22]. This motion appears to be unopposed.

On June 1, 2012, the plaintiff instituted this civil action. On July 12, 2012, the court received a Notice of Automatic Stay based upon the plaintiff's involvement as an affiliate debtor in the July 9, 2012, voluntary Chapter 11 petition filed in the United States Bankruptcy Court for the Southern District of New York. That New York bankruptcy proceeding has since been transferred to the United States Bankruptcy Court for the Eastern District of Missouri. *See In re: Patriot Coal Sales LLC*, No. 12-52097 (E.D. Mo. Dec. 19, 2012) (a case jointly administered and associated with *In re Patriot Coal Corp.*, No. 12-51502).

On July 23, 2012, while the voluntary petition remained pending in the Southern District of New York, the plaintiff moved the bankruptcy court to allow this civil action to proceed as not being subject to the automatic stay ("motion to proceed"). The July 23, 2012, motion to proceed remains pending in the bankruptcy court. On January 10, 2013, the plaintiff moved this court to set

aside the plaintiff's July 12, 2012, Notice of Automatic Stay, asserting that the Notice of Automatic Stay was improvidently filed.

It appears, as the plaintiff suggests, that the automatic stay does not apply. That issue, however, is before the bankruptcy court via the motion to proceed, along with perhaps other stay-related matters. The court intends to provide that tribunal the opportunity to pass on the matter if it so desires.

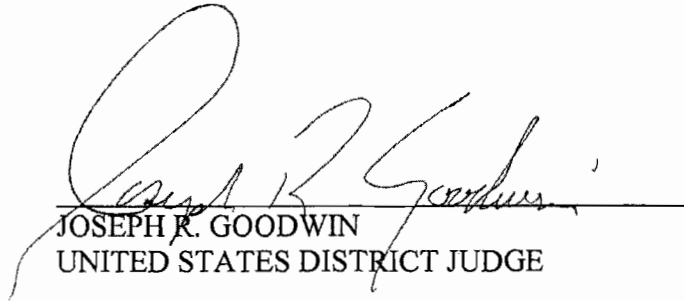
Accordingly, I **ORDER** as follows:

1. That this civil action is stayed until March 15, 2013, in order to allow the bankruptcy court an opportunity to rule on the motion to proceed; and
2. That, in the absence of such a ruling, the court will enter a schedule in this action on or after March 18, 2013.

The court **DIRECTS** the clerk to send a copy of this order to the Clerk of the Bankruptcy Court in the Eastern District of Missouri, to counsel of record in this action, and to any unrepresented party.

The plaintiff is additionally directed to take all steps necessary to provide appropriate notice of this order to all creditors and other interested parties in the bankruptcy proceedings. At a minimum, the plaintiff is directed to comply with the July 16, 2012, Order Establishing Certain Notice, Case Management and Administrative Procedures previously entered by the bankruptcy court and any similar, subsequent orders. After having done so, the plaintiff is directed to file in this action an appropriate affidavit of service reflecting compliance.

ENTER: January 29, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

**CLERK OF COURT
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
111 S 10TH STREET 4TH FLR
ST LOUIS MO 63102**



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