

CATHOLIC COMMITTEE OF APPALACHIA

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The Honorable Kathy A. Surratt-States
RE: Case NO. 12-51502
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, 4th Floor
St. Louis, MO 63102

RECEIVED & FILED
MAR 14 2013
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

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Dear Judge Surratt-States:

I am writing you on behalf of the Catholic Committee of Appalachia (CCA), a network of people in ministry in the mountains, to ask that you do everything in your power to retain the health benefits of the retired miners in the Patriot Coal Company bankruptcy.

Many of our members work in the coalfields and witness the upper respiratory sicknesses, the back injuries and the dysfunctional limbs of miners who earned profits for the coal industry at the cost of their own health. In justice we cannot squeeze the lifeblood from the workers then throw them on the trash pile.

CCA asked the Catholic Scholars for Worker Justice to draft a theological statement on the moral implications of this particular bankruptcy. I have included that statement. Catholic theology teaches that the welfare of workers comes before the maximization of profit. Catholic social teachings recognize Peabody and Arch Coal as "indirect employers" (cf. *Laborem Exercens*, par. 17) whose obligations do not cease with the formation of Patriot, but take up when the first employer, Patriot, can no longer meet its obligations.

I respect that as a judge you will follow the bankruptcy code. But, I also understand that if you deem that Patriot Coal was formed intentionally or recklessly to dump huge heritage obligations with little chance of Patriot's success, you can hold the former employers responsible. Dumping pensions and dumping benefits is now an established practice in many industries which means that workers who produce the product are defrauded of their full wage. That is unjust.

Judge Surratt-States, I will pray that you receive the spirit of wisdom from our loving God. The security and health benefits of over 22,000 retired miners and their dependents rest in your hands. May God bless you in your discernment.

Your brother,

John S. Rausch
(Fr.) John S. Rausch

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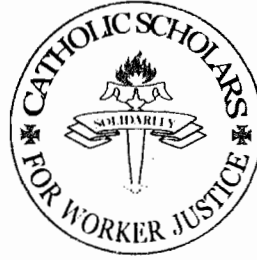
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www.catholicscholarsforworkerjustice.org

Justice for Minors & their Families

**A STATEMENT FROM CATHOLIC SCHOLARS FOR WORKER JUSTICE ON
THE THREAT TO HEALTH-BENEFITS OF WORKERS PRESENTLY OR FORMERLY EMPLOYED BY
PEABODY ENERGY, PATRIOT COAL, ARCH COAL, OR MAGNUM COAL**

*"We must first of all recall a principle that has always been taught by the Church:
the principle of the priority of labor over capital."*

Pope John Paul II, *LABOREM EXERCENS* (On Human Work), September 14, 1981

"Labor has an intrinsic priority over capital."

COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH, par. 277

*Labor is prior to and independent of capital. Capital is only the fruit of labor,
and could never have existed if labor had not first existed.*

Labor is the superior of capital, and deserves much the higher consideration.

Abraham Lincoln, STATE OF THE UNION ADDRESS, December 1, 1862

1. ACCORDING TO CATHOLIC SOCIAL DOCTRINE, the human rights of workers are rooted in their being created in the image and likeness of God. Catholic Social Doctrine also asserts that all workers possess a fundamental human right to health-care. Therefore, we judge and publicly declare that, in the case of a bankruptcy, the right of workers to health-care – as provided for in their union contracts – cannot in justice be subordinated to, or displaced by, any claims of capital, including claims of investors and creditors. It may be that some human-made laws provide for such subordination or displacement by capital of workers' fundamental human rights. But, according to Catholic Social Doctrine, the Eternal Law of God does not permit the subordination or displacement of labor to capital, for labor has priority over capital. In such cases, we judge and declare that those human-made laws would be, in the eyes of God, *unjust laws*.

2. IT HAS BEEN REPORTED THAT: a) in 2007 Peabody Energy, the largest coal producer in the United States, "*spun off*" to Patriot Coal all of its employees in the Eastern United States who belonged to operations covered by contracts with the United Mine Workers of America (UMWA), and Peabody subsequently experienced inflated profits due to transferring its "legacy costs" to Patriot Coal – costs which then became a burden to Patriot Coal; b) in 2008 Patriot Coal acquired Magnum Coal, to which Arch Coal in 2005 had also "*spun off*" all of its operations where workers were represented through UMWA contracts; c) in 2012 Patriot Coal filed for Chapter 11 bankruptcy; d) as a result of the bankruptcy filing, the approximately 22,000 retired UMWA-affiliated miners, surviving spouses, and dependents are now threatened with losing their health-care benefits; and e) the CEO of Peabody Coal told "*investment analysts*" that "*our retiree health-care liability and related expense will be reduced by 40% ... (and) our legacy liabilities, expenses, and cash flows will be nearly cut in half.*"
3. IF THESE REPORTS ARE TRUE, AND MANY BELIEVE THEY ARE, Catholic Scholars for Worker Justice – guided by faith in the Living God of Truth, Justice, and Love, as well as by the wisdom of the Holy Spirit expressed through Catholic Social Doctrine, and reaffirming the principle of the priority of labor – here judges and declares that it would be *ethically unjust and objectively sinful* (though we make no subjective judgments) for any of the above companies, or for a judge in a bankruptcy court, to deny to these workers, to their dependents, or to their families, their God-given human right to health-care which was provided for in the relevant UMWA union contracts. Also, many claim that the primary motivation for the "*Arch/Magnum Transaction*" and the "*Peabody/Patriot spin-off*" was to avoid the financial responsibilities to former employees; whether that claim is true or not, according to the principle of the priority of labor we judge and declare that the miners and their families are in justice still due their health-care benefits.
4. THIS JUDGMENT APPLIES TO BOTH DIRECT & INDIRECT EMPLOYERS, as Blessed John Paul II makes clear in paragraph 17 of his landmark encyclical on human work, LABOREM EXERCENS.¹ The concept of "*indirect employers*" includes here other corporations (in this case Peabody Energy and Arch Coal) related to a given labor case, as well as judges in relevant divisions of the court system (in this case a bankruptcy court). Catholic Social Doctrine teaches that "*indirect employers,*" even though their relation to a case may be "less direct," nonetheless have "*a true responsibility*" to the workers. Thus, we also judge and declare that no indirect employer (again, in this case Peabody Energy, Arch Coal, and their investors) and no creditor is free of the moral obligation to ensure that contracted health or pension benefits to workers are not reduced or abandoned.
5. **FOR THESE REASONS, we urge all parties directly or indirectly involved in this bankruptcy case to ensure that the health-care benefits of the retired UMWA miners, their surviving spouses, and their dependents are fully protected – according to the principle of the priority of labor.**

¹ "The concept of indirect employer includes both persons and institutions of various kinds, and also collective labor contracts and the *principles* of conduct which are laid down by these persons and institutions and which determine the whole socioeconomic *system* or are its result. The concept of "indirect employer" thus refers to many different elements. The responsibility of the indirect employer differs from that of the direct employer-the term itself indicates that the responsibility is less direct-but it remains a true responsibility: the indirect employer substantially determines one or other facet of the labor relationship, thus conditioning the conduct of the direct employer when the latter determines in concrete terms the actual work contract and labor relations." LABOREM EXERCENS, Par. 17.

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