

1334. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief requested is Rules 2004 and 7030 of the Federal Rules of Bankruptcy Procedure and Rule 2004 of the Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the Eastern District of Missouri.

BACKGROUND

2. On July 9, 2012 (the “**Petition Date**”), each Debtors commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On July 10, 2012, this Court entered an order to jointly administer the Debtors’ cases.¹

¹ Specifically, an order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Affinity Mining Company; Apogee Coal Company, LLC; Appalachia Mine Services, LLC; Beaver Dam Coal Company, LLC; Big Eagle, LLC; Big Eagle Rail, LLC; Black Stallion Coal Company, LLC; Black Walnut Coal Company; Bluegrass Mine Services, LLC; Brook Trout Coal, LLC; Catenary Coal Company, LLC; Central States Coal Reserves of Kentucky, LLC; Charles Coal Company, LLC; Cleaton Coal Company; Coal Clean LLC; Coal Properties, LLC; Coal Reserve Holding Limited Liability Company No. 2; Colony Bay Coal Company; Cook Mountain Coal Company, LLC; Corydon Resources LLC; Coventry Mining Services, LLC; Coyote Coal Company LLC; Cub Branch Coal Company LLC; Dakota LLC; Day LLC; Dixon Mining Company, LLC; Dodge Hill Holding JV, LLC; Dodge Hill Mining Company, LLC; Dodge Hill of Kentucky, LLC; EACC Camps, Inc.; Eastern Associated Coal, LLC; Eastern Coal Company, LLC; Eastern Royalty, LLC; Emerald Processing, L.L.C.; Gateway Eagle Coal Company, LLC; Grand Eagle Mining, LLC; Heritage Coal Company LLC; Highland Mining Company, LLC; Hillside Mining Company; Hobet Mining, LLC; Indian Hill Company LLC; Infinity Coal Sales, LLC; Interior Holdings, LLC; IO Coal LLC; Jarrell’s Branch Coal Company; Jupiter Holdings LLC; Kanawha Eagle Coal, LLC; Kanawha River Ventures I, LLC; Kanawha River Ventures II, LLC; Kanawha River Ventures III, LLC; KE Ventures, LLC; Little Creek LLC; Logan Fork Coal Company; Magnum Coal Company LLC; Magnum Coal Sales LLC; Martinka Coal Company, LLC; Midland Trail Energy LLC; Midwest Coal Resources II, LLC; Mountain View Coal Company, LLC; New Trout Coal Holdings II, LLC; Newtown Energy, Inc.; North Page Coal Corp.; Ohio County Coal Company, LLC; Panther LLC; Patriot Beaver Dam Holdings, LLC; Patriot Coal Company, L.P.; Patriot

1. On about February 26, 2013, the Debtor and certain retirees stipulated to an agreed order, pursuant to which the Retiree Committee was formed (the “**Agreed Order**”). Pursuant to the Agreed Order, a hearing is scheduled for April 23, 2013 (the “**Initial Hearing**”) for the Bankruptcy Court to determine whether some or all of the Covered Benefits (as defined in the Agreed Order) sought to be discontinued or modified by the Debtors are subject to the Debtors’ asserted right of unilateral termination (such benefits, the “**Amendable Benefits**”), and, if so, whether the Debtors’ motion to terminate some or all of the Covered Benefits (the “**363 Motion**”) should be granted with respect to such Amendable Benefits.

4. Prior to the Petition Date, on or about October 27, 2007, Peabody Energy Corporation (“**PEC**”) spun off the Patriot Coal Corporation (“**Patriot**”), a Debtor entity, by and through, in part, Separation Agreement, Plan of Reorganization and Distribution (“**Separation Agreement**”). In conjunction with same, an Employee Matters Agreement between PEC and Patriot and a Salaried Employee Liabilities Assumption Agreement were entered. As a result of the aforementioned agreements, various salaried retiree health and welfare obligations were transferred to Patriot (“**Transferred Retiree Benefits**”). Upon information and belief, Peabody Holding Company, LLC (“**PHC**”) and Peabody Coal Company, LLC (“**PCC**” and together with PEC and PHC, the “**Respondents**”) also were previously or are currently obligated to provide benefits to all or

Coal Corporation; Patriot Coal Sales LLC; Patriot Coal Services LLC; Patriot Leasing Company LLC; Patriot Midwest Holdings, LLC; Patriot Reserve Holdings, LLC; Patriot Trading LLC; PCX Enterprises, Inc.; Pine Ridge Coal Company, LLC; Pond Creek Land Resources, LLC; Pond Fork Processing LLC; Remington Holdings LLC; Remington II LLC; Remington LLC; Rivers Edge Mining, Inc.; Robin Land Company, LLC; Sentry Mining, LLC; Snowberry Land Company; Speed Mining LLC; Sterling Smokeless Coal Company, LLC; TC Sales Company, LLC; The Presidents Energy Company LLC; Thunderhill Coal LLC; Trout Coal Holdings, LLC; Union County Coal Co., LLC; Viper LLC; Weatherby Processing LLC; Wildcat Energy LLC; Wildcat, LLC; Will Scarlet Properties LLC; Winchester LLC; Winifrede Dock Limited Liability Company; Yankeetown Dock, LLC (collectively referred to as the “**Debtors**”).

some of the Debtors' employees and/or retirees.

5. On March 13, 2013, counsel for the Retiree Committee sent a document request to counsel for the Respondents, requesting that the Respondents provide any requested document to the Retiree Committee on or before March 27, 2013. While counsel for the Respondents has on a few separate occasions indicated that he was in the process of reaching out to his clients and would participate in a meet and confer telephone conference, as of the date of this Motion, counsel has not provided a date or time for such conference.

6. The requested documents are necessary for the Retiree Committee to prepare for the Initial Hearing. As of the date of this Motion, the Initial Hearing is only 5 weeks away and the initial proposed response date is 9 days away.

REQUEST FOR RELIEF

7. By this Motion, the Retiree Committee seeks entry of an Order, substantially in the form attached hereto as **Exhibit A**, authorizing the Retiree Committee to serve Rule 2004 notice of deposition upon the Respondents for production of documents to the Retiree Committee on a rolling basis, and no later than March 27, 2013, with respect to the information set forth in the attached **Exhibit B**, pursuant to Federal Rule of Bankruptcy Procedure 7030.

8. Rule 2004(a) provides that upon the motion of any party in interest, the court may order the examination of any entity.

9. An examination under Rule 2004 may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate." Fed. R. Bankr. P. 2004(b); *In re Rosenberg*, 303 B.R. 172, 176 (8th Cir. B.A.P. 2004) (holding that a Rule 2004 examination in a Chapter 7 case is proper to the extent it addresses property of the debtor's estate); *In re Isis Foods, Inc.*, 33 B.R. 45, 46 n.2

(Bankr. W.D. Mo. 1983) (approving Rule 2004 examination and holding that “[a]n examination under Bankruptcy Rules is in the nature of inquisition and, consequently, the field of inquiry is wide”). “The scope of examination allowed under Bankruptcy Rule 2004 is larger than that allowed under the Federal Rules of Civil Procedure, and can legitimately be in the nature of a ‘fishing expedition.’” *In re Kroh*, 80 B.R. 488, 491 n.2 (Bankr. W.D. Mo. 1987) (approving Rule 2004 examination).

10. Rule 2004’s purpose is to provide “all interested parties with a mechanism for the investigation and reconstruction of the debtor’s affairs.” *In re Isis Foods*, 33 B.R. at 46 n.2; *see also In re Recoton Corp.*, 307 B.R. 751, 755 (Bankr. S.D.N.Y. 2004) (approving Rule 2004 examination and holding that such examination is designed to “assist a party in determining the nature and extent of the bankruptcy estate, revealing assets, examining transactions and assessing whether wrongdoing has occurred”).

11. The permitted scope of Rule 2004 is extremely broad. *See, e.g., In re Texaco, Inc.*, 79 B.R. 551 (Bankr. S.D.N.Y. 1987); *In re Silverman*, 36 B.R. 254 (Bankr. S.D.N.Y. 1984); *In re Frigitemp*, 15 B.R. 263 (Bankr. S.D.N.Y. 1981). Moreover, as stated by the court in *In re GHR Energy Corp.*, 33 B.R. 451 (Bankr. D. Mass. 1983):

It is clear that the scope of a Rule 2004 examination is unfettered and broad. In general, a large latitude of inquiry should be allowed in the examination of persons closely connected with the bankruptcy in business dealings, or otherwise

Id. at 453.

12. While the parties are typically required to meet and confer prior to filing a motion for discovery under Rule 2004, pursuant to Local Rule 2004(A), the Local Rule 2004(A) also

allows an exception to the meet and confer rule “for cause shown.” The Retiree Committee is still hopeful that it will be able to reach an agreement with the Respondents on the production of the requested documents, given the very short time frame the Retiree Committee has to review the produced documents and prepare for the Initial Hearing, the Retiree Committee believes that under the circumstances, good cause exists for this matter to not be delayed any further and for this Court to hear this Motion on an expedited basis, even if the parties have been unable to meet and confer. The Retiree Committee also requests that its initial response date of a rolling production but not later than March 27, 2013 stands, considering that the Respondents have had notice of the requests since March 13, 2013 and have caused any delay in scheduling the discovery conference.

13. The Retiree Committee also requests shortened notice requirement of Local Rule 2004(C) to 3 days for the presentment of this Motion under the circumstances.

WHEREFORE, the Retiree Committee respectfully requests that this Court enter an Order pursuant to Federal Rule of Bankruptcy Procedure 2004, substantially in the form attached hereto as **Exhibit A**: (i) authorizing it to serve Rule 2004 document requests on the Respondents, with production to occur on a rolling basis but not later than March 27, 2013, or such other date and time as agreed by the parties; and (ii) granting the Retiree Committee such other and further relief as is just and proper.

Dated: March 18, 2013.

Respectfully submitted,
OFFICIAL COMMITTEE OF SALARIED
RETIREES

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COMMITTEE OF SALARIED RETIREES.

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:	)	Chapter 11
	)	Case No. 12-51502-659
PATRIOT COAL CORPORATION, et al.,	)	(Jointly Administered)
)	
Debtors.	)	Honorable Kathy A. Surratt-States
	)	United States Bankruptcy Judge
OFFICIAL COMMITTEE OF SALARIED)	
RETIREES,)	
)	
Movant.)	
)	
vs.)	
)	
PEABODY ENERGY CORPORATION,)	
PEABODY HOLDING COMPANY, LLC,)	
AND PEABODY COAL COMPANY LLC,)	
)	
Respondents.)	
)	

RULE 2004 ORDER

Upon the Official Committee of Salaried Retirees’ (the “**Retiree Committee**”) Motion for Entry of an Order Authorizing the Examination of Debtors Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Motion**”) dated March 18, 2013, seeking entry of an order of this Court authorizing the examination of Peabody Energy Corporation (“**PEC**”), Peabody Holding Company, LLC (“**PHC**”) and Peabody Coal Company, LLC (“**PCC**” and together with PEC and PHC, the “**Respondents**”) pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure: (a) authorizing it to serve Rule 2004 document requests upon the Respondents for documents to be produced on a rolling basis, but no later than March 27, 2013, or such other date and time as agreed by the parties, in the form substantially similar to the requests attached to the Motion as Exhibit B; and (c) granting the Retiree Committee such other

and further relief as is just and proper; and due and sufficient notice of the Motion having been given and no further notice being required; and good and sufficient cause appearing therefore, it is hereby

ORDERED, that pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, the Motion is granted; and it is further

ORDERED, that the Respondents are directed to produce documents responsive to the requests which were attached to the Motion as Exhibit B on a rolling basis but no later than March 27, 2013; and it is further

ORDERED, that notice of the Motion is shortened and is deemed adequate under the circumstances and that the meet and confer requirement of L.R. 2004 is waived for cause.

SO ORDERED:

Date: _____

Honorable Kathy A. Surratt-States

EXHIBIT B

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:	)	Chapter 11
	)	Case No. 12-51502-659
PATRIOT COAL CORPORATION, et al.,	)	(Jointly Administered)
)	
Debtors.	)	Honorable Kathy A. Surratt-States
	)	United States Bankruptcy Judge
OFFICIAL COMMITTEE OF SALARIED)	
RETIREES,)	
)	
Movant.)	
)	
vs.)	
)	
PEABODY ENERGY CORPORATION,)	
PEABODY HOLDING COMPANY, LLC,)	
AND PEABODY COAL COMPANY LLC,)	
)	
Respondents.)	

**SALARIED RETIREE COMMITTEE'S
REQUEST FOR RELEVANT DOCUMENTS AND INFORMATION**

The Salaried Retiree Committee requests that Peabody Energy Corporation (“PEC”), Peabody Holding Company, LLC, and Peabody Coal Company LLC produce the documents described below on or before March 27, 2013.

SCOPE/DEFINITION: On or about October 27, 2007, PEC spun off the Patriot Coal Corporation (“Patriot”) by and through, in part, Separation Agreement, Plan of Reorganization and Distribution (“Separation Agreement”). In conjunction with same, an Employee Matters Agreement between PEC and Patriot and a Salaried Employee Liabilities Assumption Agreement were entered. As a result of the aforementioned agreements, various salaried retiree health and welfare obligations were transferred to Patriot (“Transferred Retiree Benefits”). The scope of this request is for documents dated or effective as of January 1, 1970 through the present.

With respect to the Transferred Retiree Benefits:

1. Provide copies of any and all historical retiree benefit Plans and Summary Plan Descriptions (SPDs) for medical, dental, accidental death and dismemberment, disability (long and short term) and life insurance.

2. All documents provided to salaried employees or salaried retirees describing any salaried retiree benefit plans or retiree benefits, changes to retiree benefits, summaries, retirement information, memos and other written materials relating to same from January 1, 1970 through the current date, other than provided in response to Request No. 1 above.
3. All documents otherwise identifying the names of the benefit plans which became or relate to Transferred Retiree Benefits.
4. All documents reflecting any and all agreements with any employees regarding early retirement, reduction in force agreements and/or other written contracts wherein any salaried retiree benefits are referred to in the context of an agreement to retire as of any particular timeframe.
5. Any and all contractual documents reflecting the transfer of any salaried retiree benefits (including exhibits thereto) to Patriot.
6. All non-privileged documents relating to and/or referring to any complaints, demand or disputes concerning whether PEC had the right to modify or terminate any benefits for retirees who retired on or before March of 1990.

On behalf of the Salaried Retiree Committee

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