

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re:	)	Chapter 11
	)	Case No. 12-51502-695
PATRIOT COAL CORPORATION, <i>et al.</i>	)	Jointly Administered
	)	
Debtors.	)	Hearing Date: May 21, 2013
	)	Hearing Time: 10:00 a.m.
	)	Location: Courtroom 7-N
	)	Objection Deadline: May 14, 2013

**SUMMARY SHEET PURSUANT TO UNITED STATES TRUSTEE GUIDELINES FOR  
REVIEWING APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF  
EXPENSES FILED UNDER 11 U.S.C. §§ 330 AND 331**

**SECOND INTERIM APPLICATION**

<b>NAME OF APPLICATION:</b>	Thompson Coburn LLP ("Thompson Coburn")	
<b>ROLE IN CASE:</b>	Special Counsel to the Debtors and Debtors in Possession	
<b>DATE OF RETENTION:</b>	Order entered September 10, 2012 Authorizing Retention of Thompson Coburn Nunc Pro Tunc to July 9, 2012 (Docket No. 538)	
<b>TIME PERIOD:</b>	October 1, 2012 through and including January 31, 2013	
<b>CURRENT APPLICATION:</b>	Total Fees Requested: <sup>1</sup>	\$155,173.95
	Total Expenses Requested:	\$ 2,876.53
<b>PRIOR APPLICATION(S):</b>	First Interim Application dated November 16, 2012	

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<sup>1</sup> This amount reflects a 10% discount of Thompson Coburn's standard rates provided to the Debtors.

**I. Partners/Counsel**

Name of Partner/Counsel	Year Admitted	Department	Hourly Rate	Total Hours Billed	Total Fees
Mark Mattingly	2000 – IL	Business Litigation	\$330	218.5	\$72,105.00
at 2013 rate <sup>2</sup>			\$345	136.7	\$47,161.50
David Warfield	1984 – MO	Financial Restructuring	\$510	2.7	\$1,377.00
Roman Wuller	1986 –	Business Litigation	\$475	67.8	\$32,205.00
at 2013 rate			\$495	33.2	\$16,434.00
<b>Total Partners and Counsel</b>				<b>458.9</b>	<b>\$169,282.50</b>
<b>Total Fees with 10% discount applied</b>					<b>\$152,354.25</b>

**II. Associates**

Name of Associate	Year Admitted	Department	Hourly Rate	Total Hours Billed	Total Fees
David Mangian	2009 – MO	Business Litigation	\$260	8.5	\$1,104.00
<b>Total Associates</b>				<b>8.5</b>	<b>\$2,210.00</b>
<b>Total Fees with 10% discount applied</b>					<b>\$1,989.00</b>

**III. Paraprofessionals**

Name	Department	Hourly Rate	Total Hours Billed	Total Fees
Donna K. Murray	Analyst, Tobacco Litigation	\$195	0.3	\$58.50
Miriam Parrish	CTS, Manager	\$180	0.3	\$54.00
at 2013 rate <sup>3</sup>		\$185	3.7	\$684.50
Jacqueline Wallach	CTS	\$180	0.7	\$126.00
<b>Total</b>			<b>5.0</b>	<b>\$923.00</b>
<b>Total Fees with 10% discount applied</b>				<b>\$830.70</b>

<sup>2</sup> Thompson Coburn's rates changed in 2013. The first row for Messrs. Mattingly and Wuller reflect time at their 2012 rates, while the second row reflects time billed at their 2013 rates. Notice of the rate increase was provided in accordance with the Court's order.

<sup>3</sup> Thompson Coburn's rates changed in 2013. The first row for Ms. Parrish reflects time at her 2012 rate, while the second row reflects time billed at her 2013 rate.

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In re:	)	Chapter 11
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	)	
Debtors.	)	Hearing Date: May 21, 2013
	)	Hearing Time: 10:00 a.m.
	)	Location: Courtroom 7-N
	)	Objection Deadline: May 14, 2013

**SECOND INTERIM APPLICATION OF THOMPSON COBURN LLP FOR  
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Thompson Coburn LLP ("**Thompson Coburn**"), special counsel to Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**"), and files this *Second Interim Application of Thompson Coburn LLP for Allowance of Compensation and Reimbursement of Expenses* (the "**Application**"), pursuant to Sections 330(a) and 331 of title 11 of the United States Code (the "**Bankruptcy Code**") and rule 2016 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for allowance of compensation for professional services performed by Thompson Coburn during the period commencing October 1, 2012 through and including January 31, 2013 (the "**Compensation Period**"), respectfully represents:

**BACKGROUND**

1. On July 9, 2012 (the "**Petition Date**"), each Debtor commenced with the United States Bankruptcy Court for the Southern District of New York (the "**New York Bankruptcy Court**") a voluntary case under Chapter 11 of 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 108 of the Bankruptcy Code.

2. On December 19, 2012, the Debtors' cases were transferred from the New York Bankruptcy Court to the United States Bankruptcy Court for the Eastern District of Missouri (the [ECF No. 1789]).

3. Pursuant to an order of the New York Bankruptcy Court dated September 10, 2012 (Dkt. No. 538), the Debtors were authorized to retain Thompson Coburn as their special counsel to render legal services during the pendency of the their Chapter 11 cases *nunc pro tunc* to the Petition Date.

4. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

**SUMMARY OF REQUESTED PROFESSION COMPENSATION  
AND REIMBURSEMENT OF EXPENSES**

5. This Application has been prepared in accordance with (a) the Local Rules for the United States Bankruptcy Court for the Eastern District of Missouri (the "**Local Rules**"), (b) the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 adopted on January 30, 1996 (the "**UST Guidelines**") and (c) the Order to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals entered by the New York Bankruptcy Court on August 2, 2012 [ECF No. 262] (the "**Interim Compensation Order**" and, collectively with the Local Rules and the UST Guidelines, the "**Guidelines**").

6. Thompson Coburn previously requested compensation from the New York Bankruptcy Court for professional services or reimbursement of expenses in its First Interim Application dated November 16, 2012.

7. In accordance with the Interim Compensation Order, Thompson Coburn filed monthly fee statements (the "**Monthly Fee Statements**") covering the periods October 1, 2012

to October 31, 2012 [ECF No. 1609], November 1, 2012 to November 30, 2012 [ECF No. 1808], December 1, 2012 to December 31, 2012 [ECF No. 2409] and January 1, 2013 to January 31, 2013 [ECF No. 3007].<sup>4</sup>

8. By this Application, Thompson Coburn seeks allowance in full of interim compensation for professional services rendered to the Debtors during the Compensation Period, in the aggregate amount of \$155,173.95, and for reimbursement of actual, necessary expenses incurred in connection with such services in the aggregate amount of \$2,876.53. During the Compensation Period, Thompson Coburn attorneys and paraprofessionals expended a total of 472.4 hours for which compensation is sought.

9. In accordance with the Interim Compensation Order, Thompson Coburn has submitted monthly fee statement for payments totaling \$127,015.69 (\$124,139.16 of which is for services rendered and of which \$2,876.53 is for reimbursement of expenses) for the Compensation Period. By this Application, Thompson Coburn seeks allowance of all fees and expenses incurred during the Compensation Period and payment of all allowed amounts that have not yet been paid to Thompson Coburn on account of the 20% holdback or otherwise.

10. During the Compensation Period, other than pursuant to the Interim Compensation Order, Thompson Coburn has received no payment and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Application. There is no agreement or understanding between Thompson Coburn and any other person, other than partners of the firm, for the sharing of compensation to be received for services rendered in these cases.

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<sup>4</sup> Thompson Coburn has not attached copies of its invoices to this Application but all of them were previously filed as part of the Monthly Fee Statements.

11. The fees charged by Thompson Coburn in these cases are billed in accordance with its agreed-upon billing rates and procedures in effect during the Compensation Period. The rates charged by Thompson Coburn for the services rendered in these Chapter 11 cases do not (and will not) exceed the rates Thompson Coburn customarily charges for services rendered in comparable matters – to the contrary, Thompson Coburn is providing a ten percent (10%) discount to Debtors from its customary rates for the services rendered. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable assignment in a competitive national legal market.

12. Prior to the filing of this Application, Thompson Coburn filed with the Court and served on the Debtors, the U.S. Trustee, counsel to the Debtors, attorneys for the administrative agents for Debtors' postpetition lenders, and counsel for the official committee of unsecured creditors monthly fee statements setting forth Thompson Coburn's fees for professional services rendered and expenses incurred for the period October 1, 2012 to January 31, 2013. In connection with preparing each of the monthly statements and this Application, Thompson Coburn has voluntarily provided a ten percent (10%) reduction in its fees in favor of the estates totaling \$17,241.55.

13. Pursuant to the UST Guidelines, annexed to the U.S. Trustee summary section preceding this Application is a schedule setting forth all Thompson Coburn professionals who have performed services in these Chapter 11 cases during the Compensation Period the capacities in which each such individual is employed by Thompson Coburn, the department in which each individual practices, the hourly billing rate charged by Thompson Coburn for services performed by such individual, the year in which the profession was first licensed to practice law and the jurisdiction in which each professional was licensed to practice, and the aggregate number of hours expended in this matter and fees billed therefor.

14. Annexed hereto as Exhibit A is a schedule specifying the categories of actual, necessary expenses for which Thompson Coburn is seeking reimbursement and the total amount for each such expense category.

15. Pursuant to the UST Guidelines, annexed hereto as Exhibit B is a summary of the number of hours and amount billed by Thompson Coburn during the Compensation Period. Due to the nature of the services rendered by Thompson Coburn, the summary is organized by matter name and not by project categories.

16. Thompson Coburn maintains computerized records of the time spent by all Thompson Coburn attorneys in connection with the Debtors' Chapter 11 cases.

17. To the extent time or disbursement charges for services rendered or expenses incurred relate to the Compensation Period, but were not processed prior to the preparation of this Application, Thompson Coburn reserves the right to request compensation for such services and reimbursement of such expenses in a future application.

#### **SUMMARY OF SERVICES**

18. The following summary highlights the services provided by Thompson Coburn in its representation as special counsel to the Debtors during the relevant time period. Exhibit B provides a detailed breakdown of the time devoted and fees allocable to each billing matter.

- a) Bankruptcy: Thompson Coburn prepared the monthly fee statements, interim fee application and other documents related to these proceedings.
- b) Bridgehouse: Thompson Coburn has prosecuted a lawsuit against a customer styled as *Patriot Coal Sales LLC v Bridgehouse Commodities Trading Limited, et al.*, Case No. 2:12-cv-03653, pending in the United States District Court for the Southern District of West Virginia. The Debtors seek damages from the defendants for their breach of multiple contracts and fraud.

- c) Keystone: Thompson Coburn has prosecuted a lawsuit against a customer 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. The Debtors seek damages from the defendant for its breach of a coal supply contract.
- d) Mountain State: Thompson Coburn provided legal advice and assisted in the preparation of documents related to a customer dispute.
- e) Price Reopener: Thompson Coburn analyzed legal issues, provided advice and drafted documents relating to a customer dispute regarding a price reopener provision in a coal supply contract.

19. The foregoing professional services performed by Thompson Coburn were necessary and appropriate to the administration of the Debtors' Chapter 11 cases. These services were in the best interests of the Debtors and other parties in interest. Compensation for the foregoing services as requested is commensurate with the complexity, importance and nature of the problems, issues and tasks involved. The services were performed in an efficient manner.

#### **ACTUAL AND NECESSARY EXPENSES**

20. As set forth in Exhibit A hereto, Thompson Coburn has incurred or disbursed \$2,876.53 in expenses in providing professional services to the Debtors during the Compensation Period. These expense amounts are intended to cover Thompson Coburn's direct operating costs, which are not incorporated in the Thompson Coburn hourly billing rates. Only clients who actually use services of the types set forth in Exhibit A are separately charged for such services. The effect of including such expenses as part of the hourly billing rates would unfairly impose additional costs upon clients who do not require extensive photocopying, delivery and other services.



21. In accordance with the Guidelines, Thompson Coburn is seeking reimbursement for standard photocopying expenses at the lesser of \$0.20 per page or cost.

22. On several occasions, overnight delivery of documents and other materials was required as a result of circumstances necessitating the use of such express services. These expenses are not included in Thompson Coburn's overhead for the purpose of setting billing rates. Thompson Coburn is not seeking reimbursement of the expenses it has incurred (if any) of delivering documents to Thompson Coburn attorneys at their homes. Thompson Coburn has made every effort to minimize its expenses in these cases. The actual expenses incurred in providing professional services to the Debtors were absolutely necessary, reasonable and justified under the circumstances to serve the needs of the Debtors, their estates and their creditors.

#### **INFORMATION REQUIRED BY LOCAL RULES**

23. Local Rule 2016-1(B) requires that all professional fee applications analyze the twelve factors (the "*Johnson Factors*") for allowance of compensation set forth in *Johnson v. Georgia Highway Express*, 388 F.2d 714 (5th Cir. 1974). See also *P.A. Novelly v. Palans (In re Apex Oil Co.)*, 960 F.2d 728 (8th Cir. 1992); *Chamberlain v. Kula (In re Kula)*, 213 B.R. 729, 736-39 (B.A.P. 8th Cir. 1997); *In re Grimes*, 115 B.R. 639, 642-43 (Bankr. D.S.D. 1990).

24. The *Johnson Factors* are as follows:

- a) *The time and labor required.* Thompson Coburn has described in detail the time spent and has included a complete description of the tasks performed.
- b) *The novelty and difficulty of the questions.* Thompson Coburn's services on behalf of the Debtors involve many issues peculiar to the Debtors' operations and the coal industry in general. By virtue of its experience with the Debtors and in the coal industry, Thompson Coburn is well-suited to represent the Debtors in these matters.

- c) The skill required to perform legal services properly. While the Court is certainly the best judge of the skill demonstrated by Thompson Coburn lawyers in this engagement, Thompson Coburn believes that its lawyers have demonstrated consistently the skill levels necessary for the vigorous representation of the Debtors' interests.
- d) The preclusion of employment due to acceptance of the case. Acceptance of this case did not preclude other employment.
- e) The customary fee. The rates charged by Thompson Coburn in this case are commensurate with rates it charges similar clients in similar matters, except that Thompson Coburn has provided the Debtors with a ten percent discount off its normal hourly rate.
- f) Whether the fee is fixed or contingent. The fees requested herein are based on neither a fixed nor contingent fee basis.
- g) Time limitations imposed by the client or the circumstances. This case poses the normal time pressures inherent in any Chapter 11 case.
- h) The amount involved and the results obtained. Thompson Coburn submits that the fees requested are appropriate in light of the work performed and results obtained.
- i) The experience, reputation and ability of the attorneys. Thompson Coburn is a full-service law firm well known in the St.Louis and Midwestern legal markets.
- j) The undesirability of the case. These are not undesirable cases.
- k) The nature and length of the professional relationship with the client. Thompson Coburn has represented the Debtors for several years on matters similar to the ones for which it has been engaged in these cases.

- l) Awards in similar cases. The fees requested are similar to other cases in this District.

**THE REQUESTED COMPENSATION AND EXPENSE  
REIMBURSEMENT SHOULD BE ALLOWED**

25. Section 331 of the Bankruptcy Code provides for compensation of professionals and incorporates the substantive standards of Section 330 to govern the Court's award of such compensation. 11 U.S.C. § 331 . Section 330 provides that a court may award a professional employed under Section 327 of the Bankruptcy Code "reasonable compensation for actual, necessary services rendered ... and reimbursement for actual, necessary expenses." *Id.* § 330(a)(1). Section 330 also sets forth the criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded . . . , the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

*Id.* § 330(a)(3).

26. In the instant case, Thompson Coburn respectfully submits that the services for which it seeks compensation and the expenditures for which it seeks reimbursement in this Application were necessary for, beneficial to and in the best interests of the Debtors, their estates and their creditors. Such services and expenditures were necessary to, *inter alia*, prosecute two ongoing litigation matters in which customers breached their contractual and other obligations as well as to assist Debtors in obtaining favorable resolutions in other customer disputes. Thompson Coburn further submits that the compensation requested herein is reasonable in light of the nature, extent and value of such services to the Debtors, their estates and all parties in interest.

27. Wherever possible, Thompson Coburn sought to minimize the costs of its services to the Debtors by utilizing a core group of attorneys who are familiar with both the Debtors' business and the industry as a whole. This approach provides many benefits, such as increasing team expertise while minimizing the costs of intra-firm communications. A core group of two attorneys provided 96% of the attorney hours worked and only five other attorneys and paraprofessionals have worked on matters for which Thompson Coburn seeks reimbursement during the Compensation Period. In sum, approval of the compensation for professional services and reimbursement of expenses sought herein is warranted.

28. The undersigned certifies that (a) this Application has been prepared in accordance with the Guidelines, (b) although the Debtors have not reviewed this Application, they have reviewed the Monthly Fee Statements, and have approved the amounts requested, (c) Thompson Coburn is unaware of any objections interposed to any of its Monthly Fee Statements by any other party in interest, and (d) to the best of Thompson Coburn's knowledge, information and belief formed after reasonable inquiry, the fees and expense reimbursements sought fall within the Guidelines.

WHEREFORE, Thompson Coburn respectfully requests this Court:

- a. Allow on an interim basis attorneys' fees of \$155,173.95 and expenses of \$2,876.53;
- b. Authorize and direct the Debtors to make payment to Thompson Coburn for all allowed fees and expenses that have not been paid to date; and
- c. Grant Thompson Coburn such other and further relief as is just and proper.

Respectfully Submitted,

THOMPSON COBURN LLP

Dated: April 15, 2012  
St. Louis, Missouri

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*Special Counsel to the Debtors  
and Debtors in Possession*

**INDEX OF EXHIBITS**

Exhibit A	Schedule of Expenses
Exhibit B	Summary of Hours and Amounts Billed by Matter Name

**EXHIBIT A**

**ACTUAL AND NECESSARY EXPENSES INCURRED BY THOMPSON COBURN LLP ON  
BEHALF OF THE DEBTORS DURING THE COMPENSATION PERIOD**

<b>CATEGORY OF EXPENSES</b>	<b>AMOUNTS</b>
Pro Hac Fees	\$1,400.00
Reproduction (copying)	\$499.04
Postage, courier & freight	\$637.69
Database Review	\$200.00
Data Processing	\$6.00
Document Management	\$105.00
File Conversion	\$28.80
<b>TOTAL</b>	<b>\$2,876.53</b>

**EXHIBIT B**

**SUMMARY OF HOURS AND AMOUNTS BILLED DURING  
THE COMPENSATION PERIOD BY THOMPSON COBURN LLP,  
ORGANIZED BY INTERNAL MATTER NAME**

<b>Matter Name</b>	<b>Hours</b>	<b>Amount<sup>5</sup></b>
Bankruptcy	63.8	\$20,384.55
Bridgehouse	316.3	\$104,053.50
Keystone	33.9	\$11,010.15
Mountain State	46.9	15,866.55
Price Reopener	11.5	3,859.20
<b>Totals Hours and Compensation Requested</b>	<b>472.4</b>	<b>\$155,173.95</b>

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<sup>5</sup> The "Amount" column reflects the 10% discount from Thompson Coburn's standard rates provided to Debtors.