

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In Re: )  
)  
PATRIOT COAL CORPORATION, et. al. ) Case No. 12-51502-659  
) Judge Kathy A. Surratt-States  
) Chapter 11  
Debtors. )  
)  
EASTERN ROYALTY LLC, F/K/A ) **Adversary No. 12-4353--659**  
EASTERN ROYALTY CORP., )  
) **PUBLISHED**  
Plaintiff, )  
)  
-v- )  
)  
BOONE EAST DEVELOPMENT CO., )  
PERFORMANCE COAL CO., AND NEW )  
RIVER ENERGY CORP., et. al. )  
)  
Defendants. )

**ORDER**

Upon consideration of the record as a whole, consistent with the Findings of Fact and Conclusions of Law entered separately in this matter,

**IT IS ORDERED THAT** Plaintiff's Motion for Judgment on the Pleadings is **GRANTED** and the judgement on Plaintiff's Complaint is entered in favor of Plaintiff and against Defendants in that the Payment Agreement is not an executory contract for purposes of Section 365 of the Bankruptcy Code, and the Payment Agreement is not integrated with or is severable from the Settlement Agreement and the attached agreements, the Partial Assignments and the Boone-ERC Lease; and

**IT IS FURTHER ORDERED THAT** Defendants' Counterclaim for Post-Petition Breach of Contract is **DISMISSED** for failure to state a claim upon which relief can be granted in that any claim

that arises under the Payment Agreement is a pre-petition claim and is not allowable as an administrative expense; and all other requests of Defendants are **DENIED**; and this is the final judgment and Order of the Bankruptcy Court in this case.



KATHY A. SURRETT-STATES  
Chief United States Bankruptcy Judge

DATED: November 13, 2013  
St. Louis, Missouri

Copies to:

Office of the United States Trustee  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Suite 6.353  
St. Louis, MO 63102

Darren S. Klein  
Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

Brian M. Resnick  
Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

David A. Sosne  
Summers Compton Wells LLC  
8909 Ladue Rd.  
St. Louis, MO 63124

Timothy E. Graulich  
Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

Michelle M. McGreal  
Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017

James L. Bromley  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006

Marshall Huebner  
Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017