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Scheduling Conference
Peabody Energy and Arch Coal

7/10/2020

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1 P R O C E E D I N G S

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3 JUDGE CHAPPELL: Okay. Let's go on the record.

4 This is an initial prehearing conference in the

5 matter of Peabody Energy and Arch Coal, Docket Number

6 9391.

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1 Lasken, counsel for the complaint. With me on the
2 phone for the litigation team are Amy Dobrzynski and
3 Martin Sicilian, Your Honor.

4 JUDGE CHAPPELL: Thank you.
5 Respondents?

6 MR. HASSI: Good afternoon, Your Honor. This
7 is Ted Hassi of Debevoise & Plimpton on behalf of
8 Respondent Peabody. I believe I'm the only person on
9 the line from Peabody.

10 JUDGE CHAPPELL: Mr. Hassi, welcome back.

11 MR. HASSI: Thank you, sir. It's good to be
12 here.

13 MR. PERRY: Good afternoon, Your Honor. This
14 is Michael Perry from Baker Botts on behalf of
15 Respondent Arch Coal. I believe I am the only person
16 on the phone for Respondent Arch as well.

17 JUDGE CHAPPELL: Okay. Is that everyone?

18 My attorney-advisors are also on the line. At
19 the request of the court reporter, which is a very good
20 idea, I need everyone to mute your phones when you are
21 not speaking. And until the court reporter learns who
22 we are by voice, before anyone makes a statement, I
23 need you to identify yourself for the court reporter.

24 Susanne, do we need to do that for everyone or
25 do you think you'll recognize the voices?

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1 THE REPORTER: I don't need you to do it, but
2 I'd appreciate it if the others could.

3 THE COURT: All right. Everyone adhere to
4 that, please.

5 Let's begin. The transcript of this conference
6 may be made available to the public, so you're

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1 the afternoon of August the 10th, and we hope to get a
2 decision relatively soon thereafter.

3 JUDGE CHAPPELL: All right.

4 Do Complaint Counsel concur?

5 MR. LASKEN: Yes, Your Honor, Jonathan Lasken.
6 We concur.

7 JUDGE CHAPPELL: All right. The parties were
8 provided a draft scheduling order and provided joint
9 proposed changes to the dates to be consistent with the
10 new trial date. The parties' proposed changes are
11 acceptable, and I will incorporate them in an order I
12 will be issuing shortly.

13 I trust the parties have attempted to settle
14 this matter. Who wants to provide the Court with a
15 status of settlement discussions?

16 MR. LASKEN: Your Honor, this is Jonathan
17 Lasken, counsel for the complaint. I'm happy to
18 provide that update, which is to say that there is no
19 settlement discussion ongoing, and I'm not aware of any
20 past offers that are still on the table or that merit
21 discussion.

22 JUDGE CHAPPELL: Well, that doesn't sound very
23 encouraging.

24 Mr. Hassi, have you got anything to say there?

25 MR. HASSI: Your Honor, I concur. We expect

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1 this decision to be -- this matter to be decided here
2 in St. Louis by the judge, and we don't see any
3 prospect of a settlement short of that.

4 JUDGE CHAPPELL: So it's locked horns all the
5 way?

6 MR. HASSI: Yes, sir.

7 JUDGE CHAPPELL: All right.

8 At this time I'll allow each side to make a
9 presentation limited to ten minutes. The Government
10 goes first.

11 MR. LASKEN: Thank you, Your Honor. This is
12 Jonathan Lasken, counsel for the complaint.

13 This case is about a joint venture between the
14 largest and second largest suppliers of coal from the
15 Southern Powder River Basin. Peabody is the largest
16 coal supplier in the Southern Powder River Basin and in
17 the United States. Arch --

18 JUDGE CHAPPELL: Hang on a second. The way you
19 worded that, the largest provider just in the Powder
20 River Basin or to the United States?

21 MR. LASKEN: Both. Both, Your Honor. So they
22 are both the largest in the Southern Powder River Basin
23 and the largest in the United States overall.

24 JUDGE CHAPPELL: All right.

25 MR. LASKEN: Arch is the second largest coal

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CERTIFICATE OF REPORTER

I, Susanne Bergling, do hereby certify that the foregoing proceedings were recorded by me via stenotype and reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were transcribed; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

SUSANNE BERGLING, RMR-CRR-CLR