

# Patriot Bankruptcy Plan 'Destined to Fail,' Bailey Glasser Attorneys Argue on Behalf of West Virginia Department of Environmental Protection

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A filing by Bailey Glasser attorneys representing the West Virginia Department of Environmental Protection argues that Patriot Coal's bankruptcy plan is "destined to fail" – a failure that threatens West Virginians with "serious public health and safety risks."

The reorganization plan would leave Patriot unable to fund all of its obligations under the plan, and Patriot admits that in its disclosure statement, the filing argued. "Although it immediately thereafter claims to have a laundry list of actions that it 'believe[s] will be more than sufficient to satisfy [those] obligations,' even a cursory examination of those actions reveals Patriot's assertion as little more than pie in the sky that will not close the funding gap."

Especially concerning is a proposed sale of Patriot assets to the Virginia Conservation Legacy Fund. An article in SNL Financial summarized the filing's argument against the sale:

*West Virginia continued, calling the proposal to sell part of the company to VCLF a "Hail Mary pass" lobbing Patriot's troubled assets and issues to a company with "no experience in operating a coal company or performing boots-on-the-ground reclamation and water treatment." The proposed transaction to VCLF, West Virginia claims, "suffers from the same fatal flaw" as Patriot's reorganization plan, which is that the proceeds of the transaction are going to banks and hedge funds, "leaving a carcass consisting of Patriot's orphaned assets."*

This filing was also mentioned in a Wall Street Journal article. Other state regulatory agencies have also objected to the bankruptcy plan, along with a coalition of environmental groups led by the Sierra Club.

## PATRIOT BANKRUPTCY PLAN 'DESTINED TO FAIL,' BAILEY GLASSER ATTORNEYS ARGUE ON BEHALF OF WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

In addition, a September 9 article in The Wall Street Journal discussed Bailey Glasser's successful effort on behalf of DEP to require Patriot Chief Executive Robert Bennett and Chief Operating Officer Michael Day to submit to depositions about Patriot's proposed sales and chapter 11 plan.

### **Practice Areas**

Bankruptcy & Business Reorganization