

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

JAMES E. GRAHAM II; DENNIS ADKINS;
ROGER WRISTON; AND DAVID B. POLK;
On behalf of themselves and
Others similarly situated; and
UNITED MINE WORKERS OF AMERICA,
INTERNATIONAL UNION

Plaintiffs,

v.

Civil Action No. 1:19-cv-00597

JUSTICE ENERGY CO. INC.;
KEYSTONE SERVICE INDUSTRIES, INC.
BLUESTONE COAL CORPORATION;
DOUBLE-BONUS COAL CO.; and
SOUTHERN COAL CORPORATION,

Defendants.

CONSENT ORDER

Plaintiffs James E. Graham II; Dennis Adkins; Roger Wriston; David B. Polk, on behalf of themselves and others similarly situated; and the United Mine Workers of America, International Union (“Plaintiffs”) and Defendants Justice Energy Co. Inc.; Keystone Service Industries, Inc., Bluestone Coal Corporation; Double-Bonus Coal Co.; and Southern Coal Corporation (“Defendants”), have reached an agreement to resolve Plaintiff’s Motion for Preliminary Injunction (Doc. No. 12). Pursuant to that agreement, the parties agree to be bound as follows:

- 1.) Defendants will comply with the National Bituminous Coal Wage Agreement of 2016 (“2016 NBCWA”) and the Defendants’ related, individual Memoranda of Understanding with the United Mine Workers of America (“MOUs”). In particular, Defendants will comply with the requirements of Article XX of the 2016 NBCWA (and related portions

of the MOUs) which require Defendants to provide uninterrupted healthcare and prescription drug coverage to eligible retirees and their eligible dependents. Defendants will not terminate or modify retiree healthcare and prescription drug coverage in a manner inconsistent with the 2016 NBCWA or the MOUs.

2.) Defendants will submit to the Third-Party Administrator the Plaintiffs' healthcare and prescription drug bills they contend are unpaid and eligible for payment under the terms of the applicable Plan Document, Summary Plan Description and related documents. The Defendants agree to pay any covered claims that are unpaid, consistent with the coverages and terms provided in the Health Plan and the MOUs. To facilitate that review, on or before January 22, 2020 Defendants will issue a letter to all beneficiaries asking them to submit any unpaid bills as set forth in the letter by March 2, 2020. A copy of that letter is included with the parties' submission as Attachment 1. The UMWA will provide any unpaid bills, invoices, or collection notices that are currently in its possession by January 24, 2020 and later as it receives them. Defendants will review and pay any outstanding covered medical and prescription drug bills, consistent with the coverages and terms provided in the Health Plan. This payment, if any, will be made by March 20, 2020. Defendants will provide to the UMWA an accounting of all claims paid or rejected by the Third-Party Administrator (and the basis for such rejection) by March 27, 2020. Parties will provide an update to the Court on the status of this case by April 3, 2020.


This agreement does not constitute an admission by any party and is an agreement among the parties to resolve Plaintiffs' Motion for Preliminary Injunction without Court intervention.

Finally, this agreement does not affect any party's right to assert any claim or defense raised in any pending motion or which can or will be raised in the underlying litigation.

The parties' request for a Consent Order is hereby **GRANTED**. As a result of this Order, the hearing on Plaintiff's Motion for Preliminary Injunction scheduled for January 22, 2020 in Bluefield, West Virginia is hereby **CANCELLED**.

IT IS SO ORDERED this 21st day of January 2020

ENTER:



David A. Faber
Senior United States District Judge

Jointly Submitted By:

/s/ Charles F. Donnelly

Charles F. Donnelly – WWSB No. 1039
General Counsel
United Mine Workers of America
1300 Kanawha Boulevard East
Charleston, West Virginia 25301
(304) 346-0341
(304) 346-1186 (fax)
cdonnelly@umwa.org

/s/ Keven F. Fagan

Kevin F. Fagan, Esquire - WWSB No. 5216
United Mine Workers of America
18354 Quantico Gateway Drive, Suite 200
Triangle, Virginia 22172
(703) 291-2425
(703) 291-2448 (fax)
Email: kfagan@umwa.org

/s/ Timothy J. Baker – Pro Hac Vice

United Mine Workers of America
18354 Quantico Gateway Drive
Triangle, VA 22172
(703) 291-2418
(703) 291-2448 (fax)
tjbaker@umwa.org

Counsel for Plaintiffs

/s/ Christopher D. Pence

James P. McHugh– WWSB No. 6008
Christopher D. Pence – WWSB No. 9095
10 Hale Street, 4th Floor (25301)
P.O. Box 2548
Charleston, WV 25329
Phone: (304) 345-7250
Fax: (304) 553-7227

Counsel for Defendants