

FAIRNESS AT PATRIOT

(Submitted by the United Mine Workers of America)

Since the 1970s, federal bankruptcy laws have been rewritten to benefit financiers and bankers at the expense of workers. When companies (and as we have seen recently, municipalities) declare they are bankrupt, workers and retirees are the last to be considered when any remaining assets are made available. The very men and women who came to work every day and played by the rules are seeing all that they toiled for being whisked away because the balance of justice has become weighed against them.

Our brothers and sisters in the airline industries, at Hostess Brands and in the city of Detroit are among the tens of thousands of workers wondering what happened to their job and retirement security. They had signed collectively bargained contracts; they met their obligations. Yet, their employers ran to the federal courts asking to be relieved of the obligations to which they had committed.

Add to this tragic list the plight of the Mine Workers caught up in the bankruptcy of Patriot Coal.

For decades, the UMWA negotiated not just wages and working conditions, but also health care security for retired miners. Union members would defer larger wage and pension packages, increased vacation time and other benefits in exchange for greater control over workplace health and safety, and the promise of guaranteed lifetime health care. They did this because they knew the toll their profession took from their bodies. Such health benefits would be provided to the member, the member's spouse, dependent children to the age of 22 and dependent children with a disability for life.

In 2005, Arch Coal joined with outside investors to create Magnum Coal. Arch moved its \$400 million obligation for retiree health care to Magnum. Then, in 2007, Peabody Coal – the world's largest coal producer – spun off Patriot. Peabody saddled Patriot with nearly \$600 million in obligations for retiree health care owed to its employees, retirees and their families. In

both instances, none of the retirees caught up in these transactions ever worked one day for either Magnum or Patriot.

Patriot purchased Magnum in 2008. At that point, the company had compiled more than \$1.3 billion in obligations. More than 90% of Patriot's retirement obligations were owed to retirees and their widows who never worked a single day for the company. On top of all this, Patriot was run, at first, by former Peabody executives.

Last year, Patriot Coal declared bankruptcy. It sought to rid itself of its retiree health and pension obligations, calling them "unsustainable labor-related liabilities." The UMWA fought this effort by pointing out that Peabody and Arch used this scheme to walk away from decades of contractual agreements to its workers.

The UMWA launched a series of protests outside Peabody's St. Louis headquarters and in the coal towns of West Virginia, Kentucky and Indiana to call public attention to the situation. Many MTD affiliates have taken part in these actions with some of their members going to jail in support of the Mine Workers. The MTD Executive Board approved a statement of support at its February meeting.

In May, a St. Louis-based U.S. Bankruptcy Court ruled Patriot had the authority to reject its collective bargaining agreement and modify its covenant regarding retiree health care. In the ruling, the judge stated, "Unions generally try to bargain for the best deal for their members, however, there is likely some responsibility to be absorbed for demanding benefits that the employer cannot realistically fund in perpetuity."

The Judge's ruling missed the fact that that the UMWA negotiated these benefits with companies that were not in bankruptcy – Peabody and Arch. Her ruling also reminds us that federal bankruptcy law allows companies like Patriot to cast aside legal collectively bargained agreements, AND the system places blame upon unions for bargaining well for their membership. The Patriot decision could affect as many as 22,000 active members, retirees, dependents and widows.

The UMWA continues to work with Patriot Coal as well as within the legal system to obtain what is fair and deserved for its members. As President Cecil Roberts has declared at the many rallies in support of those affected

by Patriot's actions: "If Peabody, Arch and Patriot can get away with this, then no retiree's collectively bargained health care or pension is safe in America!"

NOW, THEREFORE BE IT RESOLVED that Maritime Trades Department, AFL-CIO, its affiliates and its Port Maritime Councils continue to stand in solidarity with the United Mine Workers of America in support of the brothers and sisters affected by Patriot Coal's bankruptcy, and

BE IT FURTHER RESOLVED that the MTD, its affiliates and Port Maritime Councils work with elected officials to change the nation's bankruptcy laws to better protect the workers who through no fault of their own are left without promised pensions, health care and other contracted benefits.