

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

PEABODY ENERGY CORPORATION,

and

ARCH COAL, INC.,

Defendants.

Civil Action No. 4:20-cv-00317

**DEFENDANTS' UNOPPOSED MOTION TO
MODIFY THE PROTECTIVE ORDER**

Defendants Peabody Energy Corporation (“Peabody”) and Arch Coal, Inc. (“Arch”) (collectively, “Defendants”) respectfully submit this unopposed motion to modify the Protective Order (ECF No. 47) to grant access to Confidential Material, as defined in the Protective Order, to two individuals—one at Peabody and one at Arch—who do not participate in competitive decision-making: for Peabody, Carol Li, Director & Associate General Counsel – Litigation & Disputes; and for Arch, Rosemary Klein, Assistant General Counsel. *See* Exs. B-C.

To facilitate prompt access to unredacted versions of the pleadings filed to date and other Confidential Material, Defendants agreed to stipulate to the initial Protective Order. Thus, although Defendants did not oppose Plaintiff’s Motion for a Protective Order, the motion specifically recognized that Defendants intended to “seek modifications of the protective order requested in [Plaintiff’s] motion, including but not limited to modifications that would permit certain of Defendants’ employees to access ‘confidential material,’ as defined in the . . . Proposed Order” to assist in the defense of this litigation. Plaintiff’s Motion for a Protective Order (ECF

No. 5). Defendants therefore respectfully request that the Court modify the Protective Order to allow Ms. Li and Ms. Klein access to Confidential Material.¹ A copy of the proposed modified Protective Order, with proposed revisions shown in redline, is attached as Exhibit A.

Defendants met and conferred with Plaintiff Federal Trade Commission (“Plaintiff”), which does not oppose this motion.²

Dated: March 12, 2020

Respectfully submitted,

/s/ Edward D. Hassi

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Counsel for Defendant Peabody Energy Corporation.

/s/ Stephen Weissman

Stephen Weissman
Michael Perry
William Lavery

¹ By agreement, the FTC will give notice to the third parties that produced Confidential Information, including a copy of this motion, the proposed modified Protective Order (Ex. A), and accompanying declarations (Exs. B-C), and provide the third parties with an opportunity to object by March 18, 2020. Absent any objection from third parties, Defendants respectfully request that the Court enter the proposed modified Protective Order on March 19, 2020.

² Plaintiff does oppose Defendants’ request to modify the Protective Order to grant access to Confidential Material to four other individuals employed by Defendants: Robert Jones (Arch), Kenneth Cochran (Arch), Scott Jarboe (Peabody), and Alice Tharenos (Peabody). Defendants will separately file a joint letter regarding this dispute pursuant to ¶ 19 of the Case Management Order (ECF No. 49).

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Counsel for Defendant Arch Coal, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of March, 2020, I served the foregoing on all counsel of record via the Court's ECF filing system.

/s/ William Lavery

William Lavery

Counsel for Defendant Arch Coal, Inc.