

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

In re MASSEY ENERGY CO. SECURITIES)	Civil Action No. 5:10-cv-00689-ICB
LITIGATION)	
_____)	<u>CLASS ACTION</u>
This Document Relates To:)	The Honorable Irene C. Berger
ALL ACTIONS.)	
_____)	

""ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

On June 4, 2014, a hearing having been held before this Court to determine, among other things, whether and in what amount to award Co-Lead Counsel in the above-captioned consolidated securities class action (the “Action”) fees and litigation expenses relating to its representation of the Settlement Class. All capitalized terms used herein having the meanings as set forth and defined in the Stipulation and Agreement of Settlement (the “Stipulation”), dated as of February 5, 2014. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was mailed to all reasonably identified Persons who purchased or otherwise acquired shares of the common stock of Massey Energy Company during the period between February 1, 2008 and July 27, 2010, inclusive, and who were damaged thereby; and that a summary notice of the hearing, substantially in the form approved by the Court, was published in *The Wall Street Journal* and transmitted over *PR Newswire*; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and litigation expenses requested;

NOW, THEREFORE, IT IS HEREBY ORDERED, this 4th day of June, 2014 that:

1. The Court has jurisdiction over the subject matter of this Action and over all Settling Parties to the Action, including all Settlement Class Members and the Claims Administrator.

2. Notice of Co-Lead Counsel’s application for attorneys’ fees and payment of expenses was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the application for attorneys’ fees and expenses met the requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7),

as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), due process, and constituted the best notice practicable under the circumstances and due and sufficient notice to all persons and entities entitled thereto.

3. Co-Lead Counsel is hereby awarded attorneys’ fees in the amount of \$31,838,168 (or approximately 12% of the Settlement Fund, less the litigation expenses sought by Co-Lead Counsel) and payment of litigation expenses in the amount of \$592,549.85, plus interest at the same rate earned by the Settlement Fund, which sums the Court finds to be fair and reasonable.

4. The award of attorneys’ fees and litigation expenses may be paid to Co-Lead Counsel from the Settlement Fund immediately upon entry of this Order, subject to the terms, conditions, and obligations of the Stipulation, which terms, conditions, and obligations are incorporated herein.

5. In making this award of attorneys’ fees and payment of litigation expenses to be paid from the Settlement Fund, the Court has analyzed the factors considered within the Fourth Circuit and found that:

(a) Through the efforts of Co-Lead Counsel, the Settlement has created a fund of \$265,000,000 in cash that returns a significant percentage of the potentially recoverable damages and that numerous Settlement Class Members, who submit eligible Proofs of Claim, will benefit from;

(b) Co-Lead Counsel and Liaison Counsel have devoted more than 21,800 hours to the Action, with a lodestar value of \$11,085,145.50, to achieve the Settlement;

(c) The Action involves complex and difficult factual and legal issues, and, in the absence of settlement, would involve further lengthy proceedings with uncertain resolution if the case were to proceed to trial;

(d) Co-Lead Counsel conducted the Action and achieved the Settlement with skillful and diligent advocacy;

(e) Co-Lead Counsel pursued the Action on a contingent basis, having received no compensation during the Action, and any fee award has been contingent on the result achieved;

(f) The amount of attorneys' fees awarded are fair and reasonable and lower than fee awards approved in cases with similar recoveries;

(g) Public policy considerations support the requested fee award;

(h) The requested attorneys' fees were the subject of informed negotiation prior to the Settlement being reached between Labaton Sucharow, on behalf of Co-Lead Counsel, and Lead Plaintiff, a sophisticated institutional investor that was directly involved in the prosecution and resolution of the Action and who has a substantial interest in ensuring that any fees paid to Co-Lead Counsel are duly earned and not excessive; and

(i) Notice was disseminated to putative Settlement Class Members stating that Co-Lead Counsel would seek an award of attorneys' fees in an amount not to exceed 12.2% of the Settlement Fund, and payment of litigation expenses incurred in connection with the prosecution of the Action in an amount not to exceed \$950,000, plus interest, and no Settlement Class Member has filed an objection to the fees and expenses requested by Co-Lead Counsel.


6. In accordance with the PSLRA, the Court hereby awards Lead Plaintiff reimbursement of the Massachusetts Pension Reserve Investment Management Board's reasonable lost wages and expenses directly related to Lead Plaintiff's representation of the Settlement Class in the amount of \$33,889.18.

7. Any appeal or any challenge affecting this Court's approval of any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

8. Exclusive jurisdiction is hereby retained over the subject matter of this Action and over all Parties to the Action, including the attorneys' fee award, its payment, and the administration and distribution of the Settlement proceeds to Settlement Class Members.

9. In the event that the Settlement is terminated or does not become Final or the Effective Date does not occur in accordance with the terms of the Stipulation, this order shall be rendered null and void to the extent provided by the Stipulation and shall be vacated in accordance with the Stipulation.

Dated: June 4, 2014


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA