

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**STACY POWELL**

**Plaintiff,**

**v.**

**WALTER ENERGY,**

**Defendant.**

**CV-15-BE-214-S**

**ORDER REFERRING CASE TO BANKRUPTCY**

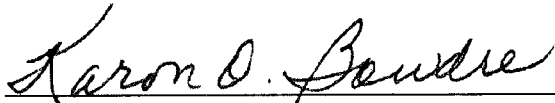
This matter is before the court on "Notice of Bankruptcy and Suggestion of Stay," stating that the Defendant filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division under Case No. 15-02741(TOM). (Doc. 21). The Plaintiff's claims are subject to the automatic stay provisions of Section 362(a) of the Bankruptcy Code.


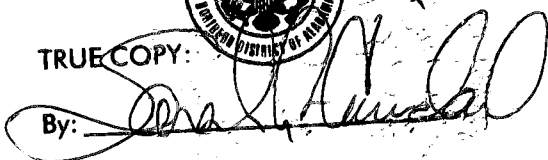
After a review of the submissions, the court *sua sponte* ORDERS that this case be REFERRED to the BANKRUPTCY COURT of the Northern District of Alabama pursuant to 28 U.S.C. § 157 and the court's General Orders of Reference dated July 16, 1984; July 17, 1984; and January 12, 1995. This reference is without prejudice to the right of Plaintiff to petition to reinstate this action to pursue any claim embraced in it that is not adjudicated in, or discharged by, the proceedings in the Bankruptcy Court, or that otherwise needs the approval of this Article III district court. Such reinstatement, when allowed, will cause the filing date of any claim or



action so reinstated to relate back to the original filing date of this action. Each party shall bear its own costs.

DONE and ORDERED this 4<sup>th</sup> day of August, 2015.

  
KARON OWEN BOWDRE  
CHIEF UNITED STATES DISTRICT JUDGE

  
TRUE COPY:  
By: 

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| <b>STACY POWELL,</b>        | ) |                               |
|                             | ) |                               |
| <b>PLAINTIFF,</b>           | ) |                               |
|                             | ) |                               |
| <b>v.</b>                   | ) | <b>CIVIL ACTION NO. _____</b> |
|                             | ) | <b>JURY TRIAL DEMAND</b>      |
|                             | ) |                               |
| <b>WALTER ENERGY, INC.,</b> | ) |                               |
|                             | ) |                               |
| <b>DEFENDANT.</b>           | ) |                               |

**COMPLAINT**

Plaintiff Stacy Powell alleges:

1. This action is brought on behalf of Stacy Powell ("Powell") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII"), the "Equal Pay Act" of the "Fair Labor Standards Act", 29 U.S.C. § 206 (d).
2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.
3. Defendant Walter Energy, Inc. ("Walter") maintains a place of business in this judicial district, and a substantial part of the events giving rise to this action took place in this judicial district.

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Page 1

4. Walter is a person within the meaning of 42 U.S.C. § 2000e(a), and employers within the meaning of 42 U.S.C. § 2000e(b).

### **PARTIES**

5. Walter is a corporation conducting business in the State of Alabama.

6. At all relevant times, Walter employed in excess of fifteen employees and was an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq. Walter is an entity subject to suit under the “Equal Pay Act”, 29 U.S.C. § 206 (d).

7. Powell currently resides at 574 Bristol Lane, Birmingham, Alabama 36226.

### **NATURE OF CASE**

8. After serving in a contract position for one year at Walter, Powell accepted a fulltime position and began working as a Human Resource Business Partner for Walter on or about August 1, 2012. Her starting salary was approximately \$70,000.00 a year.

9. As a Human Resource Business Partner, Powell was similarly situated with her male co-workers and was doing equal and often substantially greater work in the same establishment.

10. However, Powell’s male co-workers who were doing equal work were paid at a higher rate than she.

11. Powell was required to travel between the United States and Canada Operations and perform work that was greater in nature than her male co-workers.

12. After Powell learned that she was compensated at significantly lower levels than similarly situated male who performed substantially the same work, she complained to her immediate supervisor, Kelly Grant, alleging sex and race discrimination in compensation.

13. In and around June, 2013 and subsequent to Powell's initial complaint to her the immediate supervisor, Kelly Grant concerning the higher pay grades of her male co-workers; a re-evaluation of the Powell's position in addition to other employees was conducted; however, Powell was not offer a higher "Pay Grade Adjustment."

14. Upon learning that her pay grade was not changing, Powell informed her immediate supervisor, Kelly Grant that she would be filing a complaint with the Equal Employment Opportunity Commission (EEOC) concerning Walter's discriminatory pay practice.

15. Subsequently Powell's name was added the list of personnel that would be eliminated due to reduction in work force and on or about August 6, 2013 and August 15, 2013, Powell was informed of such. Typically employees are given the option to accept other positions prior to termination; however, Powell was not given such option.

*Powell v. Walter Energy*  
*Page 3*

16. Powell was discharged from her employment on or about August 27, 2013.

17. Walther's subsequent retaliation against Powell through its termination of her employment was an outgrowth of her claims of sex discrimination in compensation.

18. Walter willfully and maliciously discriminated against Powell in pay because of her sex.

19. Pursuant to Section 706 of Title VII, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination filed by Powell and issued a Dismissal and Notice of Rights on November 4, 2014, postmarked November 5, 2014 and received November 6, 2014.

### **STATEMENT OF CLAIMS**

20. Walter subjected Powell to discrimination in compensation on the basis of race, sex, as well retaliation, in violation of Sections 703(a) and 704(a) of Title VII, among other ways, by:

(a) compensating Powell at significantly lower levels than similarly situated white males performing substantially the same work in the Human Resource Division for the period of time between the commencement of the Powell's employment with Walter and the institution of the "Pay Grade Adjustment";

(b) failing to make Powell's salary equivalent to similarly situated whites and males performing substantially the same work following the "Pay Grade Adjustment";

(c) terminating Powell in retaliation for her opposition to and participation in activity protected by Title VII; and

(d) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment and retaliation.

**PRAYER FOR RELIEF**

**WHEREFORE**, Powell prays that the Court grant the following relief:

(a) Enjoin Walter from engaging in sex and race discrimination in compensation and retaliation, in violation of Title VII, for any employee or applicant for employment.

(b) Award backpay and all other appropriate monetary relief, including the value of lost employment benefits to Powell in an amount to be determined at trial to make them whole for the loss they suffered as a result of the discriminatory conduct alleged in this Complaint;

(c) Award Powell any prejudgment interest on the amount of lost wages and benefits determined to be due;

(d) Award compensatory damages to Powell to fully compensate them for the pain, suffering, and medical expenses caused by the discriminatory conduct

alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;

(e) Order Walter to institute policies, practices, and programs to ensure a non-discriminatory workplace, including but not limited to implementing appropriate policies to ensure equal employment opportunity for their employees, and providing adequate training to all employees and officials regarding discrimination and retaliation;

(f) Award such additional relief as justice may require, together with Powell's costs and disbursements in this action.

**JURY DEMAND**

Powell hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Respectfully submitted,

s/ Jameria Johnson Moore  
Jameria Johnson Moore (ASB-4311-A63M)  
[jjm@sperlingandmoore.com](mailto:jjm@sperlingandmoore.com)  
**Attorney for Plaintiff**

/s/ A. Jackson Sperling  
A. Jackson Sperling (ASB-8488-N72S)  
[ajs@spelingandmoore.com](mailto:ajs@spelingandmoore.com)  
**Attorney for Plaintiff**

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OF COUNSEL:

SPERLING & MOORE, P.C.

1129 Forestdale Blvd.

Birmingham, Alabama 35214

Telephone: 205.798.8900

Facsimile: 205.798.5590

**Plaintiff's Address**

574 Bristol Lane, Birmingham, Alabama 36226.

**Defendant's Address**

Walter Energy, Inc.

300 Riverchase Galleria, Suite 1700

Hoover, Alabama 35244

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

# UNOPPOSED

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE ANSWER**

COMES NOW Defendant, Walter Energy, Inc. (“Defendant”), and requests an extension of time to file its Answer and Affirmative Defenses to Plaintiff’s Complaint. (Doc. 1). Defendant requests that the Court extend the deadline for filing of Defendant’s Answer and Affirmative Defenses until Friday, March 6, 2015. Defendant has conferred with Plaintiff’s counsel regarding this motion and Plaintiff’s counsel has indicated that the motion is unopposed.

Respectfully submitted,

/s/ *Tiffany P. Rainbolt*

David M. Smith, Esq.

Stephanie H. Mays, Esq.

Tiffany P. Rainbolt, Esq.

Maynard Cooper & Gale, PC

1901 Sixth Avenue North

2400 Regions Harbert Plaza

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Telephone: (205) 254-1000  
Facsimile: (205) 254-1999  
Email: dsmith@maynardcooper.com  
Email: smays@maynardcooper.com  
Email: trainbolt@maynardcooper.com

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of March, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system which will send notification of such filing to the following:

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

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**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

**ANSWER AND AFFIRMATIVE DEFENSES**  
**TO PLAINTIFF'S COMPLAINT**

Defendant Walter, Energy Inc. (hereinafter “Walter” or “Defendant”) hereby answers Plaintiff’s Complaint and sets forth its defenses as follows. All matters are not expressly admitted herein are denied.

Plaintiff Stacy Powell alleges:

1. This action is brought on behalf of Stacy Powell ("Powell") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII"), the "Equal Pay Act" of the "Fair Labor Standards Act", 29 U.S.C. § 206 (d).

**ANSWER: Defendant admits that Plaintiff purports to assert claims pursuant to Title VII, 42 U.S.C. § 2000(e) et seq., as amended the Civil Rights Act of 1991, and the Equal Pay Act of 1963, as amended 39 U.S.C. § 206(d).**

**Defendant denies that it violated any of the foregoing statutes or laws with regard to Plaintiff. Defendant also denies that Plaintiff is entitled to any relief pursuant to the foregoing statutes or otherwise in this action.**

2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

**ANSWER: Defendant admits that this Court has jurisdiction over Plaintiff's claims. Defendant denies the remaining allegations contained in Paragraph Two (2) of Plaintiff's Complaint.**

3. Defendant Walter Energy, Inc. ("Walter") maintains a place of business in this judicial district, and a substantial part of the events giving rise to this action took place in this judicial district.

**ANSWER: Defendant admits the allegations contained in paragraph Three (3) of Plaintiff's Complaint.**

4. Walter is a person within the meaning of 42 U.S.C. § 2000e(a), and employers within the meaning of 42 U.S.C. § 2000e(b).

**ANSWER: Defendant admits the allegations contained in Paragraph Four (4) of Plaintiff's Complaint.**

### **PARTIES**

5. Walter is a corporation conducting business in the State of Alabama.

**ANSWER: Defendant admits the allegations contained in Paragraph Five (5) of Plaintiff's Complaint.**

6. At all relevant times, Walter employed in excess of fifteen employees and was an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq. Walter is an entity subject to suit under the "Equal Pay Act", 29 U.S.C. § 206 (d).

**ANSWER: Defendant admits the allegations contained in Paragraph Six (6) of Plaintiff's Complaint.**

7. Powell currently resides at 574 Bristol Lane, Birmingham, Alabama 36226.

**ANSWER: Upon information and belief, Defendant admits the allegations contained in Paragraph Seven (7) of Plaintiff's Complaint.**

#### **NATURE OF CASE**

8. After serving in a contract position for one year at Walter, Powell accepted a fulltime position and began working as a Human Resource Business Partner for Walter on or about August 1, 2012. Her starting salary was approximately \$70,000.00 a year.

**ANSWER: Defendant admits that after serving as a contract temporary worker at Walter for approximately a year, Plaintiff was hired into a full-time, salaried position with the title of Business Partner-Human Resources on**

or about August 1, 2012. Plaintiff's starting salary was \$72,000.00 annually. Defendant denies the remaining allegations contained in Paragraph Eight (8) of Plaintiff's Complaint.

9. As a Human Resource Business Partner, Powell was similarly situated with her male co-workers and was doing equal and often substantially greater work in the same establishment.

**ANSWER: Defendant denies the allegations contained in Paragraph Nine (9) of Plaintiff's Complaint.**

10. However, Powell's male co-workers who were doing equal work were paid at a higher rate than she.

**ANSWER: Defendant denies the allegations contained in Paragraph Ten (10) of Plaintiff's Complaint.**

11. Powell was required to travel between the United States and Canada Operations and perform work that was greater in nature than her male co-workers.

**ANSWER: Defendant denies the allegations contained in Paragraph Eleven (11) of Plaintiff's Complaint.**

12. After Powell learned that she was compensated at significantly lower levels than similarly situated male who performed substantially the same work, she complained to her immediate supervisor, Kelly Grant, alleging sex and race discrimination in compensation.



**ANSWER: Defendant admits that Plaintiff asked her supervisor, Kelli Gant, about her salary grade and that Gant explained Plaintiff's salary grade to her. Defendant denies the remaining allegations contained in Paragraph Twelve (12) of Plaintiff's Complaint.**

13. In and around June, 2013 and subsequent to Powell's initial complaint to her the immediate supervisor, Kelly Grant concerning the higher pay grades of her male co-workers; a re-evaluation of the Powell's position in addition to other employees was conducted; however, Powell was not offer a higher "Pay Grade Adjustment."

**ANSWER: Defendant denies the allegations contained in Paragraph Thirteen (13) of Plaintiff's Complaint.**

14. Upon learning that her pay grade was not changing, Powell informed her immediate supervisor, Kelly Grant that she would be filing a complaint with the Equal Employment Opportunity Commission (EEOC) concerning Walter's discriminatory pay practice.

**ANSWER: Defendant denies the allegations contained in Paragraph Fourteen (14) of Plaintiff's Complaint.**

15. Subsequently Powell's name was added the list of personnel that would be eliminated due to reduction in work force and on or about August 6,

2013 and August 15, 2013, Powell was informed of such. Typically employees are given the option to accept other positions prior to termination; however, Powell was not given such option.

**ANSWER: Defendant denies the allegations contained in Paragraph Fifteen (15) of Plaintiff's Complaint.**

16. Powell was discharged from her employment on or about August 27, 2013.

**ANSWER: Defendant admits that Plaintiff was laid off in or around August 2013.**

17. Walther's [sic] subsequent retaliation against Powell through its termination of her employment was an outgrowth of her claims of sex discrimination in compensation.

**ANSWER: Defendant denies the allegations contained in Paragraph Seventeen (17) of Plaintiff's Complaint.**

18. Walter willfully and maliciously discriminated against Powell in pay because of her sex.

**ANSWER: Defendant denies the allegations contained in Paragraph Eighteen (18) of Plaintiff's Complaint.**

19. Pursuant to Section 706 of Title VII, as amended, 42 U.S.C. § 2000e5, the EEOC investigated the charge of discrimination filed by Powell and issued a

Dismissal and Notice of Rights on November 4, 2014, postmarked November 5, 2014 and received November 6, 2014.

**ANSWER: Upon information and belief, Defendant admits that the EEOC issued a Dismissal and Notice of Rights dated November 4, 2014. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph Nineteen (19) of Plaintiff's Complaint and therefore denies the same.**

### **STATEMENT OF CLAIMS**

20. Walter subjected Powell to discrimination in compensation on the basis of race, sex, as well retaliation, in violation of Sections 703(a) and 704(a) of Title VII, among other ways, by:

(a) compensating Powell at significantly lower levels than similarly situated white males performing substantially the same work in the Human Resource Division for the period of time between the commencement of the Powell's employment with Walter and the institution of the "Pay Grade Adjustment";

(b) failing to make Powell's salary equivalent to similarly situated whites and males performing substantially the same work following the "Pay Grade Adjustment";

(c) terminating Powell in retaliation for her opposition to and participation in activity protected by Title VII; and

(d) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment and retaliation.

**ANSWER:** Defendant denies the allegations contained in Paragraph Twenty (20) of Plaintiff's Complaint and all of its Sub-Paragraphs.

**PRAYER FOR RELIEF**

Defendant denies that Plaintiff is entitled to the relief listed in the section entitled "Prayer for Relief" or that she is entitled to any other relief in this action.

**ADDITIONAL AND AFFIRMATIVE DEFENSES**

1. Except as expressly admitted hereinabove, Defendant denies the material allegations of the Complaint and demands strict proof thereof.

2. Any actions taken by Defendant toward Plaintiff were for legitimate, nondiscriminatory reasons in good faith and without regard to her gender or any protected characteristic.

3. To avoid waiver, Defendant states that Plaintiff's claims are barred by the applicable statutes of limitations or are otherwise untimely.

4. To avoid waiver, some or all of Plaintiff's claims are barred by Plaintiff's failure to timely pursue and/or exhaust all required administrative

remedies and/or to satisfy all necessary jurisdictional prerequisites to the filing of this suit.

5. Any damages suffered by Plaintiff were not caused by any action, conduct, or behavior or incidents for which Defendant is or could be liable.

6. Defendant denies that any unlawful acts were committed against Plaintiff. However, even assuming they occurred (which they did not), Defendant is not liable for actions which were neither authorized nor ratified by the Defendant or were committed outside the scope of employment.

7. Defendant denies that it is liable for any conduct constituting gender discrimination. Nevertheless, Defendant preserves all affirmative defenses under 42 U.S.C. § 2000 e-5(g)(2)(B)(I)-(ii).

8. Plaintiff's claims and/or damages may be limited by the after acquired evidence doctrine.

9. To avoid waiver, Defendant asserts the defenses of waiver, estoppel, unclean hands and res judicata.

10. Plaintiff has failed to mitigate her damages, if any, and to the extent of such failure to mitigate, any damages awarded to Plaintiff should be reduced accordingly.

11. Defendant denies that it was motivated by unlawful animus when Defendant took employment action with regard to Plaintiff. Defendant asserts,

however, that Defendant would have made the same employment decision(s) irrespective of any alleged unlawful motive. *See Price Waterhouse v. Hopkins*, 490 U.S. 228, 109 S.Ct. 1775 (1989).

12. Even if Plaintiff's gender was a factor in Defendant's employment decisions (which Defendant denies), other factors would have led to the same decisions, regardless of Plaintiff's gender. *Mt. Healthy School District Board of Education v. Doyle*, 429 U.S. 274 (1977).

13. Defendant may not be held liable for punitive damages as Defendant has undertaken a good faith effort to comply with state and federal laws and has never acted with malice or with reckless indifference to Plaintiff's federally protected or related personal/civil rights. *See Kolstad v. American Dental Ass'n*, 119 S.Ct. 2118, 2122 (1999).

14. Plaintiff is not entitled to punitive damages under federal law.

15. To the extent Plaintiff demands punitive damages, Defendant specifically incorporates by reference any and all standards or limitations regarding the determination and/or enforceability of punitive damage awards which arose in the decision of *BMW of No. America v. Gore*, 116 S.Ct. 1589 (1996).

16. Plaintiff's claims are barred, in whole or in part, by the employment "at-will" doctrine.

17. Plaintiff's claims are frivolous, vexatious and designed to harass, coerce and intimidate and Defendant is entitled to recover all attorney's fees, costs and other expenses incurred in defending against this case.

18. Defendant exercised reasonable care to prevent and correct promptly any unlawful behavior and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer and/or to avoid harm otherwise. *See Burlington Industries, Inc. v. Ellerth*, 118 S.Ct. 2257 (1998); *Faragher v. City of Boca Raton*, 118 S.Ct. 2275 (1998).

19. Plaintiff's claims are barred, in whole or in part, because, at all relevant times, Defendant had anti-discrimination policies in effect and Plaintiff failed to avail herself of those policies and failed to bring her complaints to the attention of Defendant, and Defendant responded promptly and appropriately to any complaints of discrimination or harassment that were brought to its attention in accordance with Defendant's policy.

20. Plaintiff's Equal Pay Act and other compensation discrimination claims are barred because Plaintiff's compensation was based on factors other than sex.

21. At the time of filing this Answer, Defendants have not completed discovery in this cause and respectfully reserves the right to amend this answer at a later date, up to and including time of trial.

Respectfully submitted,

/s/ Tiffany P. Rainbolt

David M. Smith, Esq.

Stephanie H. Mays, Esq.

Tiffany P. Rainbolt, Esq.

Maynard Cooper & Gale, PC

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Email: trainbolt@maynardcooper.com



**CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of March, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system which will send notification of such filing to the following:

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|                             |   |                          |
|-----------------------------|---|--------------------------|
| <b>STACY POWELL,</b>        | ) |                          |
| <b>Plaintiff,</b>           | ) |                          |
|                             | ) |                          |
| <b>vs.</b>                  | ) | <b>CIVIL ACTION NO.:</b> |
|                             | ) | <b>2:15-CV-214 KOB</b>   |
|                             | ) |                          |
| <b>WALTER ENERGY, INC.,</b> | ) |                          |
| <b>Defendant.</b>           | ) |                          |

**INITIAL ORDER  
GOVERNING ALL FURTHER PROCEEDINGS**

***PLEASE TAKE NOTICE:***

**All parties must thoroughly review the provisions of this order, which shall govern all proceedings in this action, unless subsequently modified by written order for good cause shown.<sup>1</sup>**

**I. DUTIES UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(f)  
AND LOCAL RULE LR26.1(d)**

The parties are reminded of their obligations under Federal Rule of Civil Procedure 26(f) and Local Rule LR26.1(d)<sup>2</sup> to confer, as soon as practicable, but in no event later than forty-five days from the first appearance of a defendant, for the purposes of considering the nature and basis of their claims and defenses; the

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<sup>1</sup> By appearing in this case and practicing in this court, each attorney or pro se party certifies to this court that he or she has read and is prepared to fully comply with this court's local rules.

<sup>2</sup> The Local Rules of this court may be accessed at <http://www.alnd.uscourts.gov>.

possibilities for a prompt settlement or resolution of the case; to make or arrange for the disclosures required by Fed. R. Civ. P. 26(a)(1); to develop a proposed discovery plan that indicates the parties' views and proposals concerning all of the matters addressed in sub-paragraphs (1) through (4) of Fed. R. Civ. P. 26(f); and in appropriate cases, to consider whether to consent to the exercise of Magistrate Judge jurisdiction under 28 U.S.C. § 636(c).

If the parties are unable to agree upon a date, time, or place for such conference, the parties are hereby ORDERED to meet at 10:00 a.m. on the last Friday falling within the forty-five day period specified in LR 26.1(d)(2) in the chambers of the undersigned judge. If use of the court's chambers is required, counsel should telephone chambers at least seven days prior to the required meeting to advise the court. If a party is proceeding without counsel, the obligation to telephone chambers rests upon counsel for the opposing party.

**A. Form of Report**

The court expects a report of the parties' planning meeting, in the general format of Fed. R. Civ. P. Form 52 to be jointly filed with the Clerk of Court by the parties within fourteen days after the meeting. Should the parties disagree about an item, the positions of the parties as to that item should be clearly set forth in separate paragraphs.

**The report also should contain a synopsis of the case advising the court of the general claims and defenses of the parties.** When preparing the report, be aware that the case should be ready for trial within twelve months from the date of service of the complaint unless extraordinary circumstances exist. Note that the burden lies on the parties to explain why the case cannot be tried within that time frame.

Upon receipt of the report, the court may enter a scheduling order without conducting a separate Rule 16(b) scheduling conference. The parties should notify the court if they believe a Rule 16(b) conference is necessary.

**B. Compliance with HIPAA**

In accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191, 110 Stat. 1936 (1996), and regulations promulgated thereto, when “protected health information” is relevant to the claims or defenses presented in an action, the party seeking such “protected health information” shall present a valid authorization at the Rule 26 planning meeting to be executed by the party from whom such “protected health information” is sought. The parties shall include in their report a deadline (specific date) by which the authorization will be executed. The parties may file with the court a motion for a “qualified protective order,” to which all parties stipulate, and, contemporaneously

with that filing, e-mail to bowdre\_chambers@alnd.uscourts.gov, a proposed "qualified protective order," in substantially the form attached to this order as **Appendix I**, to be entered by stipulation of counsel for all parties.

**C. Suitability of Action for Alternative Dispute Resolution**

All parties should give early consideration to the possibility of settlement to avoid unnecessary costs and fees. The court requires that the attorneys for all parties make an early analysis of the case along with their clients and be prepared to discuss settlement at an early date. The parties shall also consider and discuss whether this action may be suitable for mediation, whether under the court's ADR plan or otherwise.

If any party thinks that a settlement conference with the court at any stage would be conducive to settlement, that party may make a written request that the court conduct such a conference. The results of all these discussions shall be included in the report of the parties' planning meeting to be filed with the court.

Each attorney is directed to immediately forward a copy of the Initial Order to his or her client. Plaintiff(s)' attorney(s) are **ORDERED** to immediately discuss the feasibility of settlement with Defendant(s)' attorney(s).

**D. Commencement of Discovery**

The parties are authorized to commence discovery pursuant to the terms of

Federal Rule of Civil Procedure 26 and Local Rule LR26.1 immediately after the required report has been filed. In cases removed from state court in which any discovery requests were filed before such removal, those discovery requests shall be deemed to have been filed on the date the report required by Fed. R. Civ. P. 26(f) and LR 26.1(d) is filed in this court.

The parties may elect, but are not required, to file discovery notices, requests and responses with the Clerk of Court. Even if the discovery notice or request is filed with the Clerk of Court, the discovery response does not have to be filed. Counsel are reminded to review the court's Administrative Procedures Manuals for electronic filing (on the court's website) for the importance of redacting or sealing personal identifiers (e.g., Social Security numbers, drivers' license numbers, birth dates, addresses, telephone numbers, bank account and credit card information) and other personal or sensitive information, in compliance with the E-Government Act.

**E. Dismissal of Non-Served Defendants**

***Take Notice:*** Any defendant who has not been served with a summons and complaint within 120 days after the filing of the complaint (or within 120 days after the party was added to the action) *may be dismissed without further order of the court unless* prior to such time the party on whose behalf such service is required shows good cause why service has not been perfected.

**F. Hand Deliveries**

If counsel wishes to provide the court with a courtesy copy of a motion or brief, or if an order of this court requires submission of a copy in addition to the original, such copy shall be clearly identified as a "courtesy copy" and left in the Clerk's Office for delivery to the court's chambers. **SUCH COPY SHOULD BE DOUBLE SIDED.** All hand deliveries, unless otherwise instructed, are to be made to the Clerk's Office. Fax copies are not accepted.

**G. Electronic Submissions**

Since January 3, 2005, the official record of the court has been the electronic docket maintained pursuant to CM/ECF. Except in extraordinary circumstances, all filings shall be consistent with the court's Administrative Procedures Manuals for civil and criminal cases. Attorneys are required to register for electronic filing and service through the "Attorney Registration" link on the court's website, [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov). Once an attorney has so registered, his or her registration becomes permanent, and he or she is not required to re-register in each individual case. Documents filed through CM/ECF must be in pdf (Portable Document Format).

As part of the CM/ECF system, the court has established a "chamber's email address" for each judicial officer. The address for the undersigned judge's chambers is [bowdre\\_chambers@alnd.uscourts.gov](mailto:bowdre_chambers@alnd.uscourts.gov). This chambers email address has been

established to enable counsel to submit proposed orders or other requested documents to the judge in Word or WordPerfect format, or otherwise to communicate with the judge on **matters directly related to a case. Non-case-related communications should NOT be sent to the chambers email address.** Ex parte communications are not acceptable; all communications to the chambers email address must show a copy to all opposing counsel or pro se parties. Counsel should send communications to the chambers email address only if the court is being requested to do something; counsel should not copy the chambers email address with communications, arguments, debates or other matters occurring solely between counsel.

## **II. ATTORNEY FEE SHIFTING CASES**

If a party anticipates that during or upon the completion of this action it may for any reason (other than as a sanction under the Federal Rules of Civil Procedure) seek an award of attorneys' fees from the opposing party pursuant to any statute or other law, the party must, with the exception of cases pending before Judge William M. Acker, Jr., comply with the following requirements as a precondition to any such award:

- (a) Counsel must maintain a separate record of time with a complete and accurate accounting of all time devoted to this particular action (to the nearest 1/10 of an hour), recorded contemporaneously with the time expended, for each attorney and with sufficient detail to disclose the nature of the work performed in the action (i.e., not just "research" but the specific matter being



researched; not just “conference” but identity of persons conferring and general subject matter of the conference).

(b) If a claim will be made for services performed by any person not a member of the bar, a separate time record shall be maintained for each such individual in accordance with (a) above.

(c) Counsel is **DIRECTED** to review and verify all attorney and non-attorney time records no less than once per month.

(d) Although the court does not require counsel to file a copy of the time records prior to a request for a fee, counsel may file with the clerk of the court either a copy of the time record referred to in (a) above, or a separately prepared document setting forth the information described in (a) above. If counsel elects to file reports, they should be filed by the 15th day of the month following the month in which the work was performed during the pendency of the case. If counsel elects to file time reports, the material filed may be filed under seal, subject to further court order, by placing the same in a sealed envelope with the case name and number along with "ATTORNEY TIME RECORDS - FILE UNDER SEAL" written thereon. However, if the material is filed under seal, then the filing party must, at the time of such filing, also file (and serve a copy on opposing parties or their counsel) a document stating the total of the hours represented by the sealed filing, allocated as to total attorney hours and total non-attorney hours included in the current filing under seal. Upon the conclusion of this case, without further order the seal will be lifted as to all attorney fee materials filed under seal.

(e) A Petition for Attorney Fees shall be accompanied by Counsel's Certification that all time records are accurate; that such records were prepared contemporaneously with the performance of the work for which the fees are claimed; and that Counsel reviewed and verified all attorney and non-attorney time records no less frequently than once per month.

|   |
|---|
| <p><b><i>Take Notice:</i> Failure to comply with the foregoing requirements will normally result in attorneys' fees being disallowed.</b></p> |
|---|

### III. CASES THAT REQUIRE EEOC CHARGES

If this case is one in which the filing of a charge of discrimination with the Equal Employment Opportunity Commission or similar agency is required as a prerequisite to suit, then the **PLAINTIFF(S) MUST** file with the Clerk of Court at the time of filing the disclosures required by Fed. R. Civ. P. 26(a)(1): **(A)** a copy of all charges of discrimination filed with the EEOC and which form the bases of the action; *and* **(B)** a copy of the EEOC's response to all such charges of discrimination filed with that agency, *including* the notice of right to sue.

### IV. MOTION PRACTICE

#### A. Summary Judgment Motions

Any motion(s) for summary judgment filed in this action *must comply* with *all* requirements of **Appendix II** to this order.

#### B. Motions (Other than Dispositive Motions and Motions to Remand)

Prior to filing any motion (other than a dispositive motion or a motion to remand) in this case, moving counsel shall contact the opposing counsel and determine if counsel will oppose the motion. All motions **SHALL** include, in the caption under the case number, a notation that the motion is either "Opposed" or "Unopposed." The first paragraph **SHALL** briefly summarize the parties' attempts to resolve the issue(s) and set forth areas of agreement and disagreement. Failure of

the parties to abide by these requirements can result in a *sua sponte* denial of the motions for failure to comply.

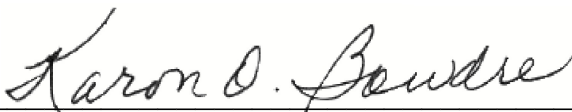
**C. Motion of Counsel to Withdraw**

Once an attorney has appeared as counsel for a party, *he or she may not withdraw from the action merely by filing a "notice of withdrawal,"* but must file a motion seeking permission of the court to do so, explicitly stating the grounds therefor. Any motion to withdraw which, if granted, would leave a party unrepresented by counsel **must** include a certification that the moving attorney has served a copy of the motion on his or her client and has informed the client of the right to promptly file an objection with the court. The motion **must** also include the notation, "Future notice to (name of party) is to be made at the following address: (state last known address of the party)."

**D. Type Size**

The court requires all documents created by counsel for submission to the court to be in 14 point type, except that footnotes may be in 12 point type.

**DONE** and **ORDERED** this 9th day of March, 2015.

  
KARON OWEN BOWDRE  
CHIEF UNITED STATES DISTRICT JUDGE

## APPENDIX I

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
\_\_\_\_\_ DIVISION

|               |   |                       |
|---------------|---|-----------------------|
| AAA,          | ) |                       |
|               | ) |                       |
| Plaintiff(s), | ) |                       |
|               | ) |                       |
| vs.           | ) | Civil Action No. ____ |
|               | ) |                       |
| BBB,          | ) |                       |
|               | ) |                       |
| Defendant(s). | ) |                       |

### QUALIFIED HIPAA PROTECTIVE ORDER

The court GRANTS the parties the right, upon compliance with the applicable discovery provisions of the Federal Rules of Civil Procedure and the orders of this court, to obtain from any health care provider, health plan, or other entity covered by the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) (“HIPAA”), any and all information relating to the past, present, or future medical condition of any individual who is a party to this action (or the decedent or ward of a party who sues in a representative capacity), as well as any and all information relating to the provision of health care to such individual and payment for the provision of such health care.

This order authorizes any third-party who is provided with a subpoena requesting the production of documents or commanding attendance at deposition or trial to disclose the Protected Health Information in response to such request or subpoena. This order is intended to authorize such disclosures under the privacy regulations issued pursuant to HIPAA. 45 C.F.R. § 164.512(e)(1)(i).

The court expressly prohibits the parties from using or disclosing the protected health information obtained pursuant to this order for any purpose other than this action. Further, the court orders the parties either to return to the covered entity from whom or which such protected health information was obtained, or to destroy the protected health information (including all copies made), immediately upon conclusion of this action. See 45 C. F. R. §§ 163.502(b); 164.512(e)(1)(v).

DONE and ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Karon Owen Bowdre  
Chief, United States District Judge

## APPENDIX II

### SUMMARY JUDGMENT REQUIREMENTS

#### NOTICE

This exhibit contains specific, mandatory instructions regarding the preparation and submission of briefs and evidentiary materials in support of and in opposition to potentially dispositive motions. **These instructions *must* be followed explicitly.**

**Except for good cause shown, briefs and evidentiary materials that do not conform to the following requirements may be stricken.**

#### SUBMISSION DATES

The parties to the above-styled action have been or will be given a deadline for the filing of dispositive motions. Any motion for summary judgment and supporting brief and evidentiary materials will be due on or before that deadline. The court normally will promptly issue a briefing schedule on the motion. However, if the court does not issue a briefing schedule, the responsive submission of the party opposing the motion for summary judgment shall be filed not later than 21 days after the motion for summary judgment is filed. The movant's reply submission shall be filed no later than 11 days after the date on which the opponent's responsive submission was due.

To ensure that each party is afforded a full and fair opportunity to be heard, the parties *must* cause copies of briefs and evidentiary materials to be delivered to opposing parties without undue delay and, generally, on the same date such materials are submitted to the court.

## **SUBMISSIONS**

The parties' submissions in support of and opposition to summary judgment motions must consist of: (1) a brief containing, in separately identified sections, (i) a statement of allegedly undisputed relevant material facts and (ii) a discussion of relevant legal authorities; and (2) copies of any evidentiary materials upon which the party relies. More detailed requirements for these submissions are explained in the following sections.

## **REQUIREMENTS FOR BRIEFS**

### **A. Format**

Initial and response briefs are limited to thirty pages. Reply briefs are limited to ten pages. Briefs that exceed twenty pages must include a table of contents that accurately reflects the organization of the document. The table of contents is not included in the page limit. The text of briefs must be double-spaced (except for quotations exceeding fifty words, which may be block indented from the left and right margins and single spaced) using fourteen point typeface, preferably Times New

Roman.

**B. Number Submitted**

The parties must **file** the original brief with the Clerk of Court. The parties must simultaneously **submit** to the Clerk's Office, for delivery to the court's chambers by the Clerk, an exact copy of the original, clearly identified as a "courtesy copy." The parties also shall e-mail to the court's chambers (Bowdre\_chambers@alnd.uscourts.gov) such brief **in Word or WordPerfect format**, contemporaneously with the filing of the brief. For requirements about the submission of courtesy copies of evidentiary materials see the subsequent section.

**C. Binding**

The Clerk *will not accept bound materials* for filing, but the court's "courtesy copy" of the brief *must be securely bound* (e.g. by three-ring binder or large clip) for ease of use, *and*, to prevent inadvertent loss of pages. In addition, all pages submitted in the court's "courtesy copy" shall be three-hole punched.

**D. Manner of Stating Facts**

All briefs submitted either in support of or opposition to a motion must begin with a statement of allegedly undisputed relevant material facts set out in *separately numbered paragraphs*. Counsel must state facts in clear, unambiguous, simple, declarative sentences. All statements of fact must be supported by specific reference



to evidentiary submissions. All facts argued in the argument section of the brief should be included in statement of facts or the failure to do so may mean that the court disregards that argument.

**1. Moving Party's Initial Statement of Facts**

The moving party shall list in *separately numbered paragraphs* each material fact the movant contends is true and not in genuine dispute, and upon which the moving party relies to demonstrate that it is entitled to summary judgment. Each such statement must be followed by a specific reference to those portions of the evidentiary record that the movant claims supports it.<sup>3</sup>

**2. Opposing Party's Statement of Facts**

Each party opposing a summary judgment motion also must submit a statement of facts divided as follows.

**a. Response to Movant's Statement of Facts**

The first section must consist of only the non-moving party's disputes, if any, with the moving party's claimed undisputed facts. The non-moving party's response to the moving party's claimed undisputed facts shall be in *separately numbered paragraphs* that coincide with those of the moving party's claimed undisputed facts.

---

<sup>3</sup> Each statement of fact should be supported by its own evidentiary citation, regardless of the fact that more than one statement of fact allegedly is supported by the same specific reference to the evidentiary record or more than one statement of fact is contained in the same numbered paragraph.

Any statements of fact that are disputed by the non-moving party must be followed by a specific reference to those portions of the evidentiary record upon which the dispute is based. *All material facts set forth in the statement required of the moving party will be deemed to be admitted for summary judgment purposes unless controverted by the response of the party opposing summary judgment.*

**b. Additional Undisputed Facts**

The second section may contain additional, allegedly undisputed facts set out in *separately numbered paragraphs* that the opposing party contends require the denial of summary judgment. The second section of the opposing party's statement of facts, if any, shall be clearly designated as such.<sup>4</sup> The opposing party should include only facts which the opposing party contends are true and not in genuine dispute.

**c. Additional Disputed Facts**

The third section may contain additional, allegedly disputed facts set out in *separately numbered paragraphs* that the opposing party contends require the denial of summary judgment. The third section of the opposing party's statement of facts, if any, shall be clearly designated as such. Each statement of allegedly disputed facts

---

<sup>4</sup>Each statement of fact should be supported by its own evidentiary citation, regardless of the fact that more than one statement of fact allegedly is supported by the same specific reference to the evidentiary record or more than one statement of fact is contained in the same numbered paragraph..

must be followed by specific reference to those portions of the evidentiary record which both support and contradict the alleged fact.<sup>5</sup>

### **3. Moving Party's Reply**

The reply submission, if any, shall consist of only the moving party's disputes, if any, with the non-moving party's additional claimed undisputed facts. The moving party's response to the non-moving party's additional claimed undisputed facts shall be in *separately numbered paragraphs* that coincide with those of the non-moving party's additional claimed undisputed facts. Any statements of fact that are disputed by the moving party must be followed by a specific reference to those portions of the evidentiary record upon which the disputation is based. *All additional material facts set forth in the statement required of the opposing parties will be deemed to be admitted for summary judgment purposes unless controverted by the statement of the movant.*

**The court reserves the right *sua sponte* to STRIKE any statements of fact or responsive statements that fail to comply with these requirements.**

---

<sup>5</sup> The court recognizes that, in some circumstances, a party opposing a motion for summary judgment may want to set out facts which that party claims are true and supported by evidence, but cannot, in good conscience and consistent with Rule 11, say are undisputed. In such case, the party should include a separate section of fact statements, set out in short declarative sentences and individually numbered paragraphs, which are supported by some evidence but, nevertheless, are in dispute. When doing so, however, the party should include record citations which both support and contradict the alleged fact.

## **REQUIREMENTS FOR EVIDENTIARY MATERIALS**

The parties must file with the Clerk of Court, simultaneously with their briefs, all evidentiary materials (*e.g.*, affidavits, exhibits, depositions, or other products of discovery) relied upon in support of or opposition to summary judgment motions, except those materials included in the moving party's initial evidentiary submission may be referenced by any party opposing the motion, without re-submitting additional copies of the same documents.

While the court reserves the right to consider evidentiary materials that are not specifically referenced in the brief, no party has a right to assume the court will consider such materials. A specific reference must include the exhibit number, page, and, when appropriate, the line number.

### **A. Organization**

Each volume of evidentiary materials must include a table of contents that includes a brief narrative description of each document included: *e.g.*, "Plaintiff's Exhibit 1, the Deposition of John Jones." For ease of citation, each affidavit, exhibit, deposition, or other product of discovery must be separately identified by a capital letter or numeral (*i.e.*, "Exhibit A" or "Exhibit 1"); and, if the exhibit contains more

than one page, each page must be separately numbered.<sup>6</sup> **Counsel are directed to submit entire depositions, even if relying only on excerpts, including all exhibits to the depositions.**

Deposition travel transcripts that are submitted as part of the evidentiary record should include no more than four pages of deposition text per 8½” by 11” page.

**B. Number of Sets Submitted**

The parties must **file** one set of evidentiary materials with the Clerk of Court. The parties must simultaneously **submit** to the Clerk of Court, for delivery to the court’s chambers by the Clerk, an exact copy of the filed set of evidentiary materials, clearly identified as a "courtesy copy." Except for the binding, there must be *no differences* between the filed materials and the "courtesy copy." The courtesy copy of the evidentiary material must be a copy of the **filed** motion and must include a document number and corresponding page number on each filed page. Additionally, the evidentiary material should include a tab corresponding to each document. Regarding courtesy copies of depositions, parties shall include all exhibits to the depositions with sub-tabs, clearly labeled.

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<sup>6</sup> A reference to that exhibit in the statement of facts or brief might be, “Plaintiff’s Ex. 1, p. 41.” The court does not, however, require any specific form as long as specific page references are used.

**C. Binding**

The Clerk *will not accept bound materials* for filing, but the court's copy of the evidentiary submission *must be securely bound* — in separately numbered volumes, if necessary — for ease of use and to prevent inadvertent loss of pages.



Email: smays@maynardcooper.com

Email: trainbolt@maynardcooper.com



**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of April, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system which will send notification of such filing to the following:

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

# STACY POWELL,

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

**RULE 26(f) JOINT REPORT OF PARTIES' PLANNING MEETING**

Pursuant to Local Rule 26.1(d), Rule 26(f) of the Federal Rules of Civil Procedure and this Court’s Initial Order (Doc. No. 8), Stacy Powell (“Plaintiff”) and the Walter Energy, Inc. (“Walter” or “Defendant”), by and through the undersigned counsel, hereby submit the following report of the parties’ Rule 26(f) conference.

1. The following persons participate in the Rule 26(f) conference on April 15th, 2015 by telephone:

Jameria Johnson Moore and A. Jackson Sperling for Plaintiff and

Stephanie H. Mays and Tiffany P. Rainbolt for Defendant.

### Plaintiff's Position:

The Defendant subjected the Plaintiff to discrimination in compensation on the basis of race and/or sex by paying her at a significantly lower rate than

similarly situated male and/or white employees who performed substantially the same or similar work. Defendant perpetuated this discrimination during Plaintiff's employment by failing to increase her wages after learning of the disparity in wages and compounded the harm by paying her at a lower rate than that of her predecessors and successors. Defendant also discriminated against Plaintiff with regard to her terms and conditions of employment by failing to process the equity adjustment recommended for her while processing the same adjustments for other employees. Plaintiff notified the Defendant internally that she objected to the above practices and other practices which were discriminatory as to other employees. She also informed Defendant that she intended to file a charge of discrimination with the Equal Employment Opportunity Commission (EEOC). Soon thereafter she was added to the list of personnel that would be terminated as a result of a reduction in force. Plaintiff contends that she was added to this list in retaliation for having opposed practices made unlawful by Title VII and because she asserted her rights to file charges of discrimination with the EEOC.

**Defendant's Position:**

Defendant denies that it took any adverse employment action against Plaintiff on the basis of her race, gender and/or any protected characteristic or activity. Any actions taken by Defendant toward Plaintiff were for legitimate, nondiscriminatory reasons motivated by good faith and without regard to her race,

gender and/or her alleged participation in protected activity. Defendant also asserts various affirmative defenses to Plaintiff's claims that are reflected in its Answer.

2. **Pre-Discovery Disclosures.** The parties will exchange the information required by Local Rule 26.1(a)(1) by **May 12, 2015**.

3. **Discovery Plan.** The parties jointly propose to the court the following plan:

a. Discovery will be needed on the following subjects:

- (1) the factual and legal issues and claims made by Plaintiff in this action;
- (2) any and all damages claimed by Plaintiff;
- (3) factual and legal issues related to Defendant's defenses.

b. At this point, the Parties do not anticipate the discovery of electronically stored information other than pertinent e-mails, personnel records, and/or electronically stored or transmitted correspondence. Disclosure or discovery of electronically stored information should be handled as follows: To the extent it exists, relevant, non-privileged electronic information will be produced by the parties in either PDF or hardcopy format, to enable the parties to exchange discoverable information without undue burden or costs. A requesting party may obtain relevant, non-privileged electronic information in a format other than PDF

or hard copy only upon agreement by the parties or a showing of substantial need to the Court for such information in that format.

c. The Parties have agreed to the following regarding claims of privilege or protection as trial preparation material asserted after production: A party who produces any privileged document or ESI without intending to waive the privilege associated with such document or ESI may, within ten (10) days after the producing party actually discovers that such inadvertent production occurred, amend its discovery response and notify the other party that such document or ESI was inadvertently produced and should have been withheld as privileged. Once the producing party provides such notice to the requesting party, the requesting party must promptly return the specified document or ESI and any copies thereof and may not use information contained therein until the assertion of privilege has been resolved. By complying with this obligation, the requesting party does not waive any right it has to challenge the assertion of privilege. The Parties agree that ESI produced should be provided in PDF format.

d. Acceptance of Electronic Service: Pursuant to FRCP 5(b)(2)(E) and 5(b)(3), the parties consent to service of pleadings and other papers covered by Rule 5 electronically.

e. All discovery commenced in time to be completed by **January 18, 2016.**

f. Interrogatories: Maximum of **30** interrogatories by each party to any other party. Objections and responses to all Interrogatories are due 30 days after service.

g. Requests for Admission: Maximum of **30** Requests for Admission by each party to any other party. Objections and responses to all Requests for Admission are due 30 days after service.

h. Requests for Production of Documents: Maximum of **30** Requests for Production of Documents by each party to any other party. Objections and responses to all Requests for Production of Documents are due 30 days after service.

i. Depositions: The parties propose **7** depositions by each party. Each deposition limited to maximum of 7 hours unless extended by agreement of parties or by Order of the Court. The Plaintiff may also conduct depositions outside of the U.S. Defendant reserves the right to object to any discovery that is not in accordance with the Federal Rules of Civil Procedure.

j. Reports from retained experts under Rule 29(a)(2) due:

From the plaintiff by **August 19, 2015**

From the defendant by **September 19, 2015**

k. Supplementations under Rule 26(e) due upon discovery of additional information but no later than 30 days before discovery cutoff. Final

supplementation is due no later than 30 days prior to the discovery deadline.

**4. Other Items.**

a. **Scheduling Order Conference.** The parties do not request a conference with the court before entry of a scheduling order.

b. **Pretrial Conference.** The parties request a pretrial conference in or after **May 2016**.

c. **Additional Parties:**

(1) The plaintiff should be allowed until **September 2, 2015**, to join additional parties and to amend the pleadings.

(2) The defendant should be allowed until **October 2, 2015**, to join additional parties and to add defenses and amend the pleadings.

d. All potentially dispositive motions should be filed by **February 18, 2016**.

e. Defendant believes that neither settlement nor the possibility for Alternative Dispute Resolution can be realistically evaluated prior to at least some discovery. Plaintiff believes this case may be suitable for mediation under the Court's ADR plan.

f. Final lists of trial evidence under Rule 26(a)(3) should be submitted in accordance with the pretrial order issued by the Court. Parties should have 14 days after service of final lists of trial evidence to list objections under Rule 26(a)(3).

g. The case should be ready for trial by **June 2016** and, at this time, is expected to take approximately 3 days.

Respectfully submitted,

/s/ Tiffany P. Rainbolt

David M. Smith, Esq.

Stephanie H. Mays, Esq.

Tiffany P. Rainbolt, Esq.

Maynard Cooper & Gale, PC

1901 Sixth Avenue North

2400 Regions Harbert Plaza

Birmingham, AL 35203

Telephone: (205) 254-1000

Facsimile: (205) 254-1999

Email: dsmith@maynardcooper.com

Email: smays@maynardcooper.com

Email: trainbolt@maynardcooper.com

/s/ A. Jackson Sperling

Jameria Johnson Moore

A. Jackson Sperling

SPERLING & MOORE, P.C.

1129 Forestdale Blvd.

Birmingham, AL 35214

Telephone: 205.798.8900

Facsimile: 205.798.5590



**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of April, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system which will send notification of such filing to the following:

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

**JOINT MOTION FOR CONSENT PROTECTIVE ORDER**

Plaintiff Stacy Powell and Defendant Walter Energy, Inc. by and through the undersigned counsel, hereby move the Court to approve and enter the attached Consent Protective Order which has been agreed upon by the parties. This Motion seeks to protect the parties' interests in the confidentiality of certain proprietary, confidential and sensitive documents as set forth in the parties' Consent Protective Order ("Consent Protective Order"), which is attached to this Joint Motion For Consent Protective Order as Exhibit A. The parties have agreed to the terms of the Consent Protective Order in order to maintain the confidentiality of information produced or obtained in this action and respectfully request the Court to approve and enter the Order.

**Consent Statement:**

Defendant's counsel has permission to file this Joint Motion for Consent Protective Order on behalf of Plaintiff's counsel.

Respectfully submitted,

/s/ A. Jackson Sperling

Jameria Johnson Moore  
A. Jackson Sperling, Esq.  
Attorney for Plaintiff

OF COUNSEL

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, AL 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

David M. Smith, Esq.  
Stephanie H. Mays, Esq.  
Tiffany P. Rainbolt, Esq.  
Attorneys for Defendant

OF COUNSEL:

MAYNARD, COOPER & GALE, P.C.  
2400 Regions/Harbert Plaza  
1901 Sixth Avenue North  
Birmingham, Alabama 35203  
(205) 254-1000

**CERTIFICATE OF SERVICE**

I hereby certify that on April 20th, 2015 a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt  
OF COUNSEL

# Exhibit A

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

# CONSENT PROTECTIVE ORDER

The parties hereto having consented through their respective attorneys to the entry of this Protective Order in order to protect the confidentiality of certain information and to facilitate discovery, IT IS HEREBY ORDERED THAT:

1. This Order shall govern all documents produced by Plaintiff and Defendant in this action. Furthermore, this Order shall govern all information derived from such documents and copies, excerpts or summaries thereof.

2. The following documents shall be designated as confidential:

- (a) Plaintiff's federal and state income tax returns;
- (b) Plaintiff's medical records;
- (c) any document from the personnel, employment, medical or payroll file of any employee or former employee of Defendant, including, but not limited to, wage and salary information and other compensation documents;
- (d) confidential and/or proprietary business/employer information;

- (e) any other documents which a party in good faith designates as “confidential.”

3. Such confidential documents shall be used solely for the purpose of this action, shall not be used for any other business, competitive or other purpose and shall not be disclosed to any other person or third party other than:

- (a) Counsel for the parties in the above-styled action, including employees of such counsel to the extent necessary to render professional services in the above-entitled action;
- (b) Plaintiff, but only as set out in paragraph 4 below;
- (c) The Court, persons employed by the Court working on this litigation, and jurors or prospective jurors;
- (d) Court reporters at the proceedings in this action;
- (e) Experts or consultants retained or consulted by the parties, but only as set out in paragraph 4 below; and
- (f) Deponents, trial witnesses, potential fact witnesses, and potential deposition witnesses, but only as set out in paragraph 4 below.

4. Prior to making such disclosure of any confidential documents or information pursuant to paragraph 3, counsel for the parties in this action shall inform any person to whom disclosure is being made that the information or documents, or any portions thereof, may only be used for the purpose set forth in this Protective Order. Additionally, each person to whom disclosure of confidential documents and information is permitted shall be shown a copy of this Order and shall be specifically advised by counsel that this Order applies to, and is binding upon such individual.

5. After the conclusion of this matter as to all parties, each confidential document shall be maintained by counsel as confidential and shall not be disclosed

to any other person or third party other than as is necessary for any issue arising from and concerning this litigation.

6. Nothing in this Order shall prevent a party from any use of his or her own confidential documents.

7. The inadvertent or unintentional disclosure of any confidential information shall not be construed to be a waiver, in whole or part, of Plaintiff's or Defendant's claims of confidentiality, either as to the specific confidential information disclosed or as to other related information.

8. Before seeking relief from the Court due to an alleged violation of this Order, the party seeking relief will attempt to resolve the matter by agreement with the other party.

9. The terms of this Order are subject to modification, extension, or limitation as may be hereinafter agreed to by all parties, or by order of the Court.

AGREED AND ACCEPTED:  
BY:

/s/ A. Jackson Sperling  
Jameria Johnson Moore  
A. Jackson Sperling, Esq.  
Attorney for Plaintiff

OF COUNSEL  
Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, AL 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590



/s/ Tiffany P. Rainbolt

David M. Smith, Esq.

Stephanie H. Mays, Esq.

Tiffany P. Rainbolt, Esq.

Attorneys for Defendant

OF COUNSEL:

MAYNARD, COOPER & GALE, P.C.

2400 Regions/Harbert Plaza

1901 Sixth Avenue North

Birmingham, Alabama 35203

(205) 254-1000

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

## CONSENT PROTECTIVE ORDER

The parties hereto having consented through their respective attorneys to the entry of this Protective Order in order to protect the confidentiality of certain information and to facilitate discovery, IT IS HEREBY ORDERED THAT:

1. This Order shall govern all documents produced by Plaintiff and Defendant in this action. Furthermore, this Order shall govern all information derived from such documents and copies, excerpts or summaries thereof.
2. The following documents shall be designated as confidential:
  - (a) Plaintiff's federal and state income tax returns;
  - (b) Plaintiff's medical records;
  - (c) any document from the personnel, employment, medical or payroll file of any employee or former employee of Defendant, including, but not limited to, wage and salary information and other compensation documents;
  - (d) confidential and/or proprietary business/employer information;and

- (e) any other documents which a party in good faith designates as “confidential.”

3. Such confidential documents shall be used solely for the purpose of this action, shall not be used for any other business, competitive or other purpose and shall not be disclosed to any other person or third party other than:

- (a) Counsel for the parties in the above-styled action, including employees of such counsel to the extent necessary to render professional services in the above-entitled action;
- (b) Plaintiff, but only as set out in paragraph 4 below;
- (c) The court, persons employed by the court working on this litigation, and jurors or prospective jurors;
- (d) Court reporters at the proceedings in this action;
- (e) Experts or consultants retained or consulted by the parties, but only as set out in paragraph 4 below; and
- (f) Deponents, trial witnesses, potential fact witnesses, and potential deposition witnesses, but only as set out in paragraph 4 below.

4. Prior to making such disclosure of any confidential documents or information pursuant to paragraph 3, counsel for the parties in this action shall inform any person to whom disclosure is being made that the information or documents, or any portions thereof, may only be used for the purpose set forth in this Protective Order. Additionally, each person to whom disclosure of confidential documents and information is permitted shall be shown a copy of this Order and shall be specifically advised by counsel that this Order applies to, and is binding upon such individual.

5. After the conclusion of this matter as to all parties, each confidential document shall be maintained by counsel as confidential and shall not be disclosed

to any other person or third party other than as is necessary for any issue arising from and concerning this litigation.

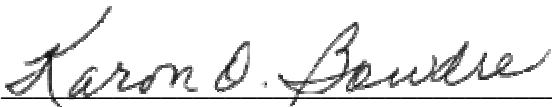
6. Nothing in this Order shall prevent a party from any use of his or her own confidential documents.

7. The inadvertent or unintentional disclosure of any confidential information shall not be construed to be a waiver, in whole or part, of Plaintiff's or Defendant's claims of confidentiality, either as to the specific confidential information disclosed or as to other related information.

8. Before seeking relief from the court due to an alleged violation of this Order, the party seeking relief will attempt to resolve the matter by agreement with the other party.

9. The terms of this Order are subject to modification, extension, or limitation as may be hereinafter agreed to by all parties, or by order of the court.

**DONE** and **ORDERED** this the 20<sup>th</sup> day of April, 2015.

  
**KARON OWEN BOWDRE**  
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**v.**

**WALTER ENERGY, INC.,**

**Defendant.**

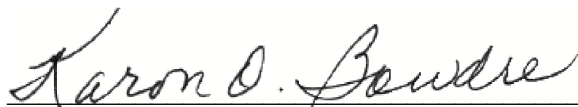
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**CIVIL ACTION NO.:  
2:15-CV-214 KOB**

**ORDER SETTING SCHEDULING CONFERENCE**

The court received the Report of the Parties' Planning Meeting (doc. 7). This case is set for a Scheduling Conference on **Monday, April 27, 2015 at 2:30 PM**, fifth floor chambers of the undersigned. Before the conference, the parties SHALL discuss the possibility of an early settlement and shall identify the specific minimum discovery necessary before the case can be evaluated for settlement and shall be prepared to discuss these matters at the scheduling conference.

**DONE and ORDERED** this 21st day of April, 2015.



KARON OWEN BOWDRE  
CHIEF UNITED STATES DISTRICT JUDGE



2015 Apr-23 PM 02:15

U.S. DISTRICT COURT  
N.D. OF ALABAMA

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies)

☐ FEPA☒ EEOC

420-2013-02814

and EEOC

Name (indicate Mr., Ms., Mrs.)

Ms. Stacy Powell

Home Phone (Incl. Area Code)

(205) 401-4583

Date of Birth

05-31-1979

Street Address

City, State and ZIP Code

574 Bristol Ln, Birmingham, AL 35226

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WALTER ENERGY, INC.

No. Employees, Members

201 - 500

Phone No. (Include Area Code)

(205) 745-2000

Street Address

City, State and ZIP Code

3000 Riverchase Galleria Suite 1700, Hoover, AL 35244

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE☐ COLOR☒ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ RETALIATION☐ AGE☐ DISABILITY☐ GENETIC INFORMATION☒ OTHER (Specify)

Equal Pay

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

08-01-2012

08-08-2013

☒

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a Black female. I was hired as the Human Resources Business Partner in August of 2012 after working through a temporary service. I am the only Human Resources Business Partner working for the company in the United States. I have performed my job in an exemplary manner and have never received any verbal or written reprimand. At the time that I was made a permanent employee of the company, my resume was not reviewed. I was offered a salary based on the company's evaluation of my job title. I accepted the pay; however it was a pay cut from the temporary position that I held. I believe that my current job duties are equivalent to those of the Managers of Employment, Keith Martinez and Katrina Cohrs. Their salaries are considerable higher than mine. A re-evaluation of current jobs was done, however my position was not one of those which was offered a higher pay grade. A higher pay grade would have at least put me in line for company bonuses. The only persons whose pay grades were changed were those of White males. About two months ago, I made another complaint about the difference in pay of the White male employees as compared with mine. My immediate supervisor, Kelly Gant said that after review, they decided not to change my pay. I informed Kelly Gant that I would be filing an EEOC charge about the salary discrepancies. On August 6, 2013 and August 15, 2013, I was told that there would be a reduction in force (RIF) and my job would be eliminated. Typically in a RIF, employees are given the option to take other positions prior to termination. I was not given that option. Severance packages were not equal in benefits to those of similarly situated White employees.

I believe that I have been discriminated against and denied equal pay because of my sex, female and my race, Black and terminated from my job in retaliation for engaging in a protected activity in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Aug 08, 2013

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

(month, day, year)

E.E.O.C.  
BIRMINGHAM DISTRICT



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**v.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:  
2:15-CV-214 KOB**

**SCHEDULING ORDER**

The court held a scheduling conference on May 6, 2015 and set the following deadlines:

**I. Pretrial Deadlines**

**A. Discovery Deadlines**

All discovery must be commenced in time to be completed by **November 9, 2015**. The court has revised the prior standard time for discovery to allow an additional thirty days. However, no extension of the discovery deadline will be granted unless the party requesting the extension affirmatively shows actual efforts taken to obtain all needed discovery within the allocated time frame (i.e., no extensions will be granted when counsel has not taken full advantage of the allocated discovery time).

Disclosure of expert witnesses – including a complete report under Rule 26(a)(2)(B) from any specially retained or employed expert – is due from plaintiff(s) by **September 9, 2015**, and from defendant(s) by **October 9, 2015**. Disclosure of the final lists of trial witnesses and exhibits under Rule 26(a)(3) must be filed and served by plaintiff(s) **thirty days prior to trial** and by the

defendant(s) **thirty days prior to trial**. The 14-day period for objections set forth in Rule 26(a)(3) shall apply, except the list of objections should be served but not filed. The parties must meet and confer in an effort to resolve the objections before filing any objections to the evidence. (See Section IV).

Any requests for extension of any deadlines must be filed at least **two business days prior to that deadline** to be considered. Good cause must be shown for the extension of any deadline. Good cause includes a showing of what discovery, etc., has already been completed and precisely why the deadlines cannot be met.

The court expects that all critical discovery (i.e., discovery necessary to determine whether the case should be settled such as parties' depositions) will take place before the date set for the filing of the joint status report.

#### **B. Deadlines to Amend Pleadings**

Plaintiff(s) may amend pleadings and/or join additional parties, in accordance with Fed. R. Civ. P. 15, until **July 2, 2015**. Defendant(s) may amend pleadings and/or join additional parties, in accordance with Fed. R. Civ. P. 15, until **July 17, 2015**. These deadlines do not mean that parties may automatically file unlimited amendments as long as they file them within the dates provided above; the parties shall consult Rule 15(a) and comply with its provisions regarding when amending within these deadlines nevertheless requires court leave or the written consent of the opposing party.

#### **C. Joint Status Report**

Counsel shall file with the court a Joint Status Report on **October 15, 2015**. The status report should include enough information to allow the court to understand the nature of the case, its current status, including any pending motions, and any current or anticipated problems in preparing



the case for trial. Specifically, the court should be advised of the pertinent issues and the parties' positions as to those issues. The status report should not be used to argue the party's case, or to present all possible legal theories. Instead, the report should apprise the court of the case and current issues affecting trial preparation.

As part of the status report, parties should consider the prospects for settlement of this matter and shall report their efforts to do so. If any party is of the opinion that a court-conducted settlement conference would be helpful, that party may request by separate writing that the court conduct such a conference as a part of or separate from the scheduled status conference. Such party should be prepared to suggest a reasonable basis for consideration of settlement and should be prepared to make a reasonable offer or acceptance.

Also as part of the status report, parties shall notify the court whether they are agreeable to submitting this case to mediation conducted by a mediator from the panel of neutrals.

#### **D. Status Conference**

This case is set for a **Status Conference** on **Thursday, October 22, 2015 at 3:30 PM**, eighth floor chambers of the undersigned, Hugo L. Black U.S. Courthouse, Birmingham, AL. By notifying chambers not less than two working days prior to the scheduled conference, attorneys located outside the division or district may request to participate by telephone and the court will consider such request based on the particular circumstances of the case. The court may, in its discretion, convene other status conferences.

As stated above, the court expects that all critical discovery (i.e., discovery necessary to determine whether the case should be settled such as parties' depositions) will take place before the date set for the filing of the joint status report.

## **E. Pretrial**

This case shall be set for a **Pretrial Conference** in **April, 2016**. An order setting the pretrial conference will be entered separately, setting out the specific date and time for the pretrial conference and the date to provide the court the **joint proposed pretrial order**. The pretrial order instructions are available on the court's website at [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov) under the court information for Judge Bowdre.

By notifying chambers not less than two working days prior to the pretrial conference, attorneys located outside the division or district may request to participate by telephone as long as one attorney per side is present for the conference. Counsel of record are requested to notify any attorneys subsequently making appearances in this case of the scheduled conference.

The case should be ready for trial by **June, 2016**. A trial date will be set at the pretrial conference.

Note: Cases in which no dispositive motion is filed by the deadline may be set for an earlier pretrial conference.

## **II. Discovery Disputes**

No motions concerning discovery matters should be filed until counsel have met their obligations to discuss the anticipated filing of such motions directly with opposing counsel and have exhausted all efforts to resolve the dispute among themselves before involving the court. The court notes that to "discuss" requires actual discussion with suggestions for genuine compromise, as opposed to mere e-mail wars of words between opposing counsel. Every discovery motion must affirmatively state all efforts to resolve the disputed matter; failure to attempt to resolve the dispute without court intervention or to affirmatively so state will result in the automatic denial of the

motion.

Every discovery motion must include a proposed resolution of the dispute. Within **three days** of receiving notice of the motion, the non-moving party(ies) must file a response that also includes a proposed resolution of the dispute. Failure to respond within **three days** will result in the granting of the motion. If a response is filed, the court will accept the most reasonable of the parties' proposals, and discovery will proceed pursuant to the terms described in the accepted proposal.

Discovery disputes will occasionally be referred to a magistrate judge for handling. Because decisions concerning discovery rest largely within the discretion of the judge, objections to a magistrate's ruling on a discovery matter should rarely be made and will rarely be granted absent a clear showing that the decision was clearly erroneous or contrary to law. See 28 USC § 636.

### **III. Submission of Motions**

All potentially dispositive motions must be filed by **November 30, 2015**, and must comply with this court's requirements as stated in "Appendix II" available on the court's website at [www.alnd.uscourts.gov](http://www.alnd.uscourts.gov) under the court information for Judge Bowdre. In its discretion, the court may enter a separate submission order. Counsel shall refrain from filing any motion for summary judgment where a reasonable person would recognize that genuine issues of material fact exist.

All other pre-trial motions, including challenges to expert witnesses but not including other motions in limine, must be filed by the same date. All other motions must be filed promptly after the movant becomes aware of facts indicating the need to file a motion, but only after consultation with opposing counsel in a good faith effort to resolve the issue. All briefs as well as pleadings should be filed with the Clerk of the Court. No courtesy copies of pleadings will be accepted, but the court **requires courtesy copies of briefs and evidentiary submissions to be delivered to the**

**clerk's office (not to chambers) marked as judge's courtesy copy. COURTESY COPIES SHOULD BE DOUBLE SIDED TO CONSERVE PAPER.**

The court shall promptly dispose of nondispositive motions. Without prior notice, it may summarily dispose of perfunctory and/or other motions where the facts and law appear to be clear. Therefore, **when served with a motion, any party who wishes to oppose it should immediately telephone the court's chambers and so advise.** Opposing briefs and documents shall follow within **three days** after the motion is filed if notice is first given to the court of an intent to file opposition.

If the court enters a briefing schedule, the court will generally decide such motions within thirty days of the submission date. The court encourages counsel to contact the judge's chambers to verify that a motion is scheduled for a determination if counsel has not received a decision on the motion within **forty-five days** of its submission date.

ALL briefs, whether on pretrial or post trial motions, must comply with the requirements of "Appendix II" as far as practicable given the nature of the particular motion, including page limitations, unless the court grants specific permission to deviate. Unless the motion is dispositive, parties are not required to comply with Section D.

All motions, responses, briefs, and memoranda relating to any matter set for hearing before **the court NOT OTHERWISE GOVERNED BY A SUBMISSION ORDER must be filed electronically no** later than 4:30 p.m., the day before the date of the hearing. Papers filed after that time will not be considered at the hearing.

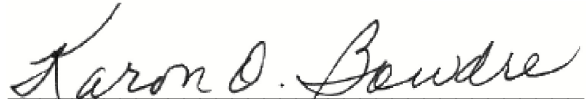
#### **IV. Trial Exhibits**

Each party that anticipates offering as substantive evidence six exhibits or more shall premark such exhibits in advance of trial, using exhibit labels and exhibit lists available from the Clerk of Court. At least **thirty days prior to trial**, all counsel shall serve and file a copy of the

exhibit list under Rule 26(a)(3), with the exhibits being made available for inspection by opposing counsel; the presentation of evidence at trial shall not ordinarily be interrupted for opposing counsel to examine a document that has been so identified and made available for inspection. Exhibits not listed will not be admitted in the case-in-chief unless good cause is shown. Within **fourteen days** of receipt of the exhibit list, counsel shall serve but not file a list of any objections to the exhibits, and shall meet and confer in an effort to resolve the objections. Any unresolved objections regarding the admissibility of any evidence should be submitted by motion in limine at least **five business days** prior to trial.

**Except as expressly modified by the above, the stipulations, limitations, deadlines and other agreements set forth in the report of the parties shall apply in this case.**

**DONE and ORDERED** this 8th day of May, 2015.

A handwritten signature in black ink, reading "Karon O. Bowdre", written over a horizontal line.

KARON OWEN BOWDRE  
CHIEF UNITED STATES DISTRICT JUDGE



**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of July, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

David M. Smith  
Stephanie H. Mays  
Tiffany P. Rainbolt  
**Maynard Cooper & Gale, P.C.**  
1901 Sixth Avenue North  
2400 Regions Harbert Plaza  
Birmingham, Alabama 35203  
Telephone: 205-254-1000  
Facsimile: 205-254-1999  
Email: [dsmith@maynardcooper.com](mailto:dsmith@maynardcooper.com)  
Email: [smays@maynardcooper.com](mailto:smays@maynardcooper.com)  
Email: [trainbolt@maynardcooper.com](mailto:trainbolt@maynardcooper.com)

Jameria Johnson Moore  
A. Jackson Sperling  
**SPERLING & MOORE, P.C.**  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205-798-8900  
Facsimile: 205-798-5590

/s/ Alicia K. Haynes  
OF COUNSEL

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**STACY POWELL**

**Plaintiff,**

**V.**

**WALTER ENERGY, INC.,**

**Defendant.**

**CIVIL ACTION NO.:**

**2:15-CV-214 KOB**

## UNKNOWN OPPOSITION

**PLAINTIFF’S MOTION FOR SEVEN (7) DAY EXTENSION  
TO AMEND COMPLAINT**

Comes now the Plaintiff, by and through the undersigned, and moves the Honorable Court for a seven (7) day extension to amend her complaint. Pursuant to the Scheduling Order (Doc. 14) Plaintiff has until July 2, 2015 to amend her complaint and add additional parties. Defendant has until July 17, 2015 to amend or join additional parties.

The undersigned has recently been contacted to represent Plaintiff as additional counsel in this matter. Attorneys Moore and Sperling will continue to represent the plaintiff on a limited basis. As such, amendment to the complaint may be necessary, but additional time is needed to evaluate. Due to the upcoming holiday there has not been sufficient time to finalize any such amendment.



The undersigned attempted to separately contact via telephone Tiffany Rainbolt, Stephanie Mays, and David Smith to obtain their agreement for this extension, but at the time of this filing had not had a return call.

Wherefore, Plaintiff respectfully moves this Honorable Court for a Seven (7) day extension to amend her complaint and that further, the time for Defendant to amend and join additional parties be also extended should Defendant so require additional time.

Respectfully submitted,

/s/ Alicia K. Haynes  
Alicia K. Haynes (ASB-8327-e23a)  
Attorney for Plaintiff

**OF COUNSEL:**  
**HAYNES & HAYNES, P.C.**  
1600 Woodmere Drive  
Birmingham, Alabama 35226  
Tel: 205-879-0377  
Fax: 205-879-3572  
Email: [AKHaynes@Haynes-Haynes.com](mailto:AKHaynes@Haynes-Haynes.com)

/s/ A. Jackson Sperling  
A. Jackson Sperling  
Attorney for Plaintiff

**OF COUNSEL:**

**SPERLING & MOORE, P.C.**

1129 Forestdale Blvd.

Birmingham, Alabama 35214

Tel: 205-798-8900

Fax: 205-798-5590

Email: [AJS@SperlingandMoore.com](mailto:AJS@SperlingandMoore.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of July, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Tiffany P. Rainbolt, Esq.

Stephanie H. Mays, Esq

David M. Smith, Esq.

**Maynard Cooper & Gale, P.C.**

1901 Sixth Avenue North

2400 Regions Harbert Plaza

Birmingham, AL 35203

/s/ Alicia K. Haynes

OF COUNSEL

## JURY DEMAND

1. This is a complaint for legal and equitable relief to redress violations by the Defendant of the Plaintiff's rights secured by:
  - a. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*;
  - b. The "Equal Pay Act" of the "Fair Labor Standards Act," 29 U.S.C. § 206 (d); and
  - c. 42 U.S.C. § 1981; and
  - d. The laws of the State of Alabama.
2. Federal subject matter jurisdiction exists pursuant to:
  - a. 28 U.S.C. §§ 1331, 1367, 1345;

- b. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*; and
- c. 42 U.S.C. § 1981 (a).

### **PARTIES**

3. Plaintiff, Stacy Powell (hereinafter “Plaintiff” or “Powell”), is a resident of Jefferson County, Alabama.

4. Defendant, Walter Energy, Inc. (hereinafter “Defendant” or “Walter Energy”), is a foreign corporation organized in the state of Delaware, maintaining a place of business in this judicial district, and conducting business in the State of Alabama. At all times relevant to this Complaint, Defendant was doing business in Alabama.

5. Walter Energy is an employer within the meaning of Title VII, 42 U.S.C. § 2000e (a) *et seq.*.

6. Walter Energy is an entity subject to suit under the "Equal Pay Act", 29 U.S.C. § 206 (d).

7. Walter Energy was in a contractual relationship with Plaintiff Powell within the meaning of 42 U.S.C. § 1981.

### **NATURE OF ACTION**

8. Plaintiff brings this action against Defendant for unlawful employment

practices, acts of intentional sex discrimination, race discrimination, retaliation, invasion of privacy, intentional infliction of emotional distress and wanton and negligent hiring, training, supervision and retention that occurred during her employment with Defendant. Jurisdiction over Plaintiff's claims under Alabama state law exists under the doctrine of supplemental jurisdiction, 28 U.S.C. § 1367.

9. Plaintiff seeks compensatory and punitive damages, as well as all other legal and equitable relief to which she is entitled, including, but not limited to, injunctive relief, reinstatement or front pay, and attorneys' fees and costs.

#### **ADMINISTRATIVE PROCEDURES**

10. On August 8, 2013, Powell filed a Charge of Discrimination with the Equal Employment Opportunity Commission, ("EEOC"). (**Attached as Exhibit A**).

11. Plaintiff received a Right to Sue letter from the EEOC on or about November 4, 2014. (**Attached as Exhibit B**).

12. All conditions prerequisite for bringing this action have been met.

#### **STATEMENT OF FACTS**

13. Plaintiff, Stacy Powell, is an African American female.

14. Plaintiff holds a bachelor of science degree in social work and business. Plaintiff also has an MBA degree.

15. Defendant hired Plaintiff on or about August 2011, as a contract

employee in the human resource department. Defendant classified Plaintiff as a temporary employee.

16. Defendant hired Plaintiff as a full time employee on or about August 1, 2012. Plaintiff's job title was Human Resource Business Partner and her starting salary was \$72,000.00 a year. Plaintiff met or exceeded the minimum qualifications for the position establish by Defendant for the position. At all times Plaintiff was qualified to perform the human resource position she held with Defendant. Defendant classified Plaintiff as a Grade 7 employee on Defendant's pay scale. Plaintiff was entitled to bonuses, incentives, benefits and raises as a full time employee. Defendant always considered Plaintiff's job performance to be satisfactory, whether while working as a temporary or full time employee. As a full time employee, Plaintiff received pay increases and, by August 2013, Plaintiff salary was approximately \$74,000.

17. When Defendant offered full time employment to Plaintiff, the salary offered by Defendant to her was less than what Defendant had paid Plaintiff as a temporary worker. Plaintiff complained to Defendant that the salary offered was less than what she was earning as a temporary employee and less than what Plaintiff had earned at her prior full time position as a human resource professional. The minimum qualifications for the position was a bachelor's degree and eight (8) years

of experience. Plaintiff exceeded these requirements as she had an MBA degree and fifteen (15) years experience. Defendant ignored Plaintiff's resume' and qualifications in setting her salary, and told Plaintiff she could either take the pay of \$72,000 or leave it. Plaintiff reluctantly accepted Defendant's offer.

18. After Plaintiff began her job as a full time employee, she learned that she was performing work equal to or greater than work formed by similarly situated white male co-workers. For instance, Defendant required Plaintiff to perform numerous out-of-the-office tasks and required her to travel to Canada and parts of the United States while her male co-worker, Keith Martinez, was not required to perform those same tasks. Defendant paid Mr. Martinez a higher salary than it paid to Plaintiff despite the fact that Plaintiff's duties and responsibilities were equal to or greater than Mr. Martinez's. At one point, Plaintiff suggested to Defendant's Vice President that Martinez should start traveling and handling some of the Canadian human resource issues for Defendant. Plaintiff's suggestion was accepted. Martinez, however, proved unsuccessful in performing these duties and Plaintiff, along with others, were assigned part of Martinez' duties as their own. Nevertheless, Defendant did not reduce Martinez's pay nor increase the pay of the employees who were required to perform Martinez's duties. Martinez did not have any direct reports and had a temporary worker assigned to assist him. Plaintiff had no assistance in her

position. There are numerous other examples and comparators demonstrating the unequal treatment of Plaintiff by Defendant.

19. Defendant hired Katrina Cohrs, white female, to handle the Canadian human resource operations after Martinez failed. Defendant paid Ms. Cohrs a higher starting salary and a higher pay grade than it paid to Plaintiff.

20. As part of the duties of her position as Human Resource Business Partner, Plaintiff had access to the pay records of all employees. Defendant paid Plaintiff considerably less than Plaintiff's male co-workers who were similarly situated to Plaintiff. Defendant paid Plaintiff considerably less than it paid to Plaintiff's white co-workers who were similarly situated to Plaintiff.

21. When Powell learned that she was compensated at significantly lower levels than similarly situated male and white co-workers, performing substantially the same work, she complained to her immediate supervisor, Kelli Gant. Plaintiff complained that Defendant was discriminating against her on the basis of her race and sex in violation of the law. Specifically, Plaintiff complained that she was paid less than her male co-workers as well as her co-workers who were white. Plaintiff also complained about Defendant's discriminatory pay practices to Thomas Lynch, Vice President of Human Resources and Guy Hensley, corporate legal counsel for Defendant.



22. Plaintiff also complained about Defendant's pay discrepancies across the board as they applied to other African-American employees. Specifically, Defendant had a practice of paying African-American employees below the minimum rate established by Defendant for the assigned pay grade, but paid white employees above the medium and maximum pay for their assigned pay grade. For example, Defendant would hire African-Americans in at grade 7 but pay them at a grade 6 or lower while white employees in grade 7 were being paid at a grade 8 or 9 rate. Plaintiff showed this pattern of discriminatory pay practices to Kelli Gant and Thomas Lynch. Plaintiff identified other African-American individuals other than herself who were also adversely affected by Defendant's discriminatory pay practices. Plaintiff specifically identified the compensation director, Laquita Moore, who had complained in confidence to Plaintiff about her pay and being passed over for a promotion. Dolores Moore, Benefits Director, and Kelli Gant questioned Plaintiff as to why she would bring up Laquita Moore's situation, since Ms. Moore had never complained to them. Plaintiff informed Dolores Moore and Kelli Gant that the complaint was voiced to her in confidence by Laquita Moore. Laquita Moore had complained that she was passed over for advancement to grade 9 despite being next in line for that promotion. Defendant took no action in response to this complaint.

23. Over the next year, Plaintiff complained numerous times about the

inequities in her compensation and treatment in Defendant's workplace. Plaintiff also identified in her complaint that Keith Martinez and Katrina Cohrs had similar responsibilities, title and duties similar to her own but were being paid considerably more than Plaintiff.

24. In April 2013, Defendant finally conducted an evaluation of the complaints of discrimination lodged by Plaintiff and her co-workers. If Defendant concluded that these complaints had merit, Plaintiff would have been awarded a higher pay grade. A higher pay grade would have placed Plaintiff in line for bonuses that were being awarded to whites and males, in addition to an equitable salary for Plaintiff.

25. Aware that Plaintiff would benefit from any corrective action taken by Defendant, Kelli Gant intentionally removed Plaintiff's name from the evaluation process for consideration of an automatic increase and refused to consider increasing Plaintiff's salary.

26. As a result of the salary evaluation, Defendant, on recommendation of Kelli Gant, raised the salaries of white males, effective June 2013, and placed white males in higher pay grades than before. This entitled those men to higher bonuses and incentives, in addition to higher salaries. Kelli Gant told Plaintiff that Defendant decided not to raise her pay after evaluation, even though there had been no

evaluation of her pay.

27. After Defendant denied Plaintiff an increase following her repeated internal complaints, Plaintiff again complained to Guy Hensley. Mr. Hensley was already investigating Ms. Gant following an anonymous complaint was lodged against Ms. Gant claiming that she had offensively used the word “Redneck” during a meeting. Plaintiff did not lodge this complaint about Ms. Gant, but was accused by Ms. Gant of voicing the complaint. Gant quizzed Plaintiff about the anonymous tip and accused Plaintiff of lodging the complaint since Plaintiff was known to have complained about other work issues in the workplace. During Defendant’s investigation of Ms. Gant, Plaintiff met with Mr. Hensley and complained that her failed attempts for Defendant to rectify the pay inequities internally, had left her with no recourse but to seek the assistance of the Equal Employment Opportunity Commission (E.E.O.C.) and file a charge of discrimination. Mr. Hensley responded Plaintiff, “go for it.”

28. Plaintiff contacted the E.E.O.C. and filed her charge of discrimination in late July 2013. Plaintiff informed her supervisor, Kelli Gant, that she filed the charge with the E.E.O.C. concerning Defendant’s discriminatory pay practices and treatment after she was left with no other recourse. Ms. Gant looked coldly at Plaintiff and made no comment. Plaintiff verified her E.E.O.C. charge on August 8,

2013.

29. On August 14, 2013, Defendant terminated Plaintiff and told her she had been selected for termination as part of a “reduction in force.” Plaintiff was informed of her termination less than one month after complaining to her supervisor of race and sex discrimination and filing a charge of discrimination with the E.E.O.C.

30. Defendant has a policy and practice to reassign employees selected for reduction in force to other open and available positions prior to termination. Defendant refused to allow Plaintiff to move to other available positions. Defendant offered Plaintiff no options but termination. Defendant did not place Plaintiff on the termination list as part of its reduction in force until after it learned Plaintiff had filed a charge of discrimination with the E.E.O.C.

31. Defendant’s employees that were knowledgeable about the reduction in force plan informed Plaintiff that her name was not on the original list for termination and only added at the last minute. Plaintiff was the only employee from the human resource department selected for the reduction in force.

32. Defendant terminated Powell on August 14, 2013.

33. Defendant did not terminate Plaintiff’s white male counterparts. Instead, white males, similarly situated, were either reassigned or promoted. Other individuals who had not complained of discrimination were not terminated.

**COUNT ONE**

**RACE DISCRIMINATION**

34. Plaintiff re-alleges and incorporates by reference paragraphs 3 through 33 with the same force and effect as if fully set out in specific detail herein.

35. This is a claim against Defendant to redress the unlawful employment practices of racial discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended and 42 U.S.C. §1981, as amended, the Civil Rights Act of 1991.

36. This is a claim against Defendant for the intentional and illegal discrimination against Plaintiff because of her race.

37. Plaintiff is African American and a member of a protected minority class.

38. Defendant did not pay Plaintiff a salary that was equivalent to the salary paid to similarly situated whites performing substantially the same work.

39. Defendant treated Plaintiff adversely and paid Plaintiff less in comparison to her white co-workers due to her race. Defendant treats its African American workers less favorably than its white employees. Defendant engaged in a pattern and practice to pay African American workers less and to further place them below the pay grade level than white employees. Defendant treated white employees more advantageous and paid them at a higher grade, above the mid-point and at a

higher salary (including incentives, bonuses and benefits) than non-white employees. Defendant subjected Plaintiff to different terms and conditions of employment due to her race.

40. Defendant subjected Plaintiff to differing terms and conditions of employment than those granted to similarly situated white employees.

41. Defendant subjected Plaintiff to different terms and conditions of employment to set Plaintiff up for failure and termination. Defendant terminated Plaintiff because of her race.

42. As a proximate result of Defendant's unlawful intentional discrimination, Plaintiff has suffered loss of pay and benefits, financial loss, economic loss, loss of employment, shame, humiliation, emotional distress and trauma.

43. Plaintiff seeks damages pursuant to Title VII, 42 U.S.C. 1981 and 42 U.S.C. 1981a.

44. Plaintiff seeks declaratory and injunctive relief, reinstatement, back pay, front pay, award of compensatory and punitive damages for embarrassment, mental distress, anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

**COUNT TWO**

**SEX DISCRIMINATION**

45. Plaintiff re-alleges and incorporates by reference paragraphs 9 through 33 with the same force and effect as if fully set out in specific detail herein.

46. Plaintiff is an African American female and was qualified for Human Resources positions at Walter Energy. There existed an employer-employee relationship between Plaintiff and Defendant.

47. This is a claim against Defendant to redress unlawful employment practices of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended.

48. Defendant treated Plaintiff adversely and less favorably than it treated male employees in Defendant's workplace. Defendant denied Plaintiff promotional opportunities and the option to apply for other open positions in lieu of termination because of Plaintiff's sex. Defendant paid Plaintiff less than her male counterparts because of her sex.

49. Defendant subjected Plaintiff to different terms and conditions in her employment than were granted to similarly situated male employees.

50. Defendant compensated Plaintiff at significantly lower levels than similarly situated males performing substantially the same or similar work in the

Human Resources Division.

51. Defendant failed to make Plaintiff's salary equivalent to that of similarly situated males performing substantially the same or similar work following Plaintiff's complaints and request for evaluation of her pay.

52. Defendant terminated Plaintiff as part of alleged reduction-in-force and did not reassign or promote her to other available positions, an opportunity which Defendant routinely offered to its male employees adversely affected by reductions-in-force.

53. Defendant's intentional conduct proximately caused the Plaintiff to suffer loss of pay and benefits, embarrassment, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which she claims damages as set out below.

54. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

### **COUNT THREE**

#### **EQUAL PAY ACT**

55. Plaintiff re-alleges and incorporates by reference paragraphs 9 through 32 with the same force and effect as if fully set out in specific detail herein.



56. Plaintiff alleges that Defendant paid her wages at a rate less than the rate at which Defendant paid wages to male employees in its establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions as the work performed by Plaintiff.

57. Defendant's decision to compensate Plaintiff at a rate lower than the rate at which if compensated male employees performing equal work within the meaning of the Equal Pay Act was purposeful, willful, or intentional.

58. As a proximate result of Defendant's intentional wage discrimination, Plaintiff has been deprived of her "minimum wage" as defined within the meaning of the Fair Labor Standards Act.

59. Plaintiff seeks compensation for her lost wages, liquidated damages, costs and attorney's fees as well as all other legal and equitable relief available under the Fair Labor Standards Act for violations of the Equal Pay Act.

#### **COUNT FOUR**

#### **RETALIATION**

60. Plaintiff re-alleges and incorporates by reference paragraphs 18 through 33 with the same force and effect as if fully set out in specific detail herein

61. There existed an employer-employee relationship between Plaintiff and

Defendant, Walter Energy.

62. Plaintiff exercised her statutory rights under Title VII and 42 U.S.C. 1981 by complaining to Defendant and the E.E.O.C. about Defendant's discrimination and discriminatory pay practices. Because of this protected activity, Defendant subjected Plaintiff to intentional retaliation up to and including unfair discipline, denying Plaintiff a pay increase, and terminating Plaintiff's employment under the guise of a reduction-in-force.

63. Defendant failed and refused to take appropriate action to remedy the effects of the discriminatory treatment and retaliation.

64. The Defendant's conduct proximately caused the Plaintiff to suffer embarrassment, physical injury, pain and suffering, loss of pay and benefits, financial distress, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which she claims damages as set out below.

65. Plaintiff seeks declaratory and injunctive relief, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

**COUNT FIVE**

**NEGLIGENT AND WANTON HIRING, TRAINING, SUPERVISION AND RETENTION**

66. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 with the same force and effect as if fully set out in specific detail herein below.

67. Defendant had a duty to provide Plaintiff with a reasonably safe work environment and to follow its own policies and procedures prohibiting race and sex discrimination and retaliation in the workplace, as well as to follow its own policies and procedures that prevent such violations in the workplace. Further, Defendant had a duty to follow the law.

68. Kelli Gant, manager, intentionally removed Plaintiff's name from the pay evaluation process, accused Plaintiff of complaining about Gant's racist comments at work, and placed Plaintiff's name on the reduction in force list after learning of Plaintiff's complaint to the E.E.O.C.

69. Defendant failed to establish adequate policies prohibiting Kelli Gant and other managers from engaging in racial and sex discrimination and retaliation; failed to implement such policies consistently; failed to clearly communicate such policies on a routine basis to its agents and employees; and failed to train and enforce its own policies to the detriment of Plaintiff and other female and minority

employees.

70. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

### **COUNT SIX**

#### **INVASION OF PRIVACY**

71. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 with the same force and effect as if fully set out in specific detail herein below.

72. This is a claim against Defendant for the invasion of Plaintiff's right to privacy based on the laws of the State of Alabama.

73. Defendant invaded Plaintiff's personal and emotional sanctum by harassing and discriminating against Plaintiff, casting Plaintiff in a false and inflammatory light, and giving publicity to private matters of the Plaintiff.

74. The Defendant's conduct proximately caused the Plaintiff to suffer loss of pay and benefits, embarrassment, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which she claims damages as set out below.

75. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

**COUNT SEVEN**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

76. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 with the same force and effect as if fully set out in specific detail herein below.

77. This is a claim against Defendant arising under the laws of the State of Alabama prohibiting the intentional infliction of emotional distress.

78. Defendant's conduct, as enumerated above, was beyond the bounds of decency.

79. Such conduct is not condoned by society and should not go unpunished.

80. The conduct of the Defendant, as aforesaid, created a discriminatory work environment that was unwelcomed by the Plaintiff. Plaintiff was harassed and discriminated against by Defendant.

81. The repeated harassment by Defendant's agents and the subsequent ratification by Defendant altered the Plaintiff's work environment.

82. The Defendant's conduct proximately caused the Plaintiff to suffer loss of pay, benefits, embarrassment, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which she claims damages as set out below.

83. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any

and all such other relief the trier of fact may assess.

**WHEREFORE**, Plaintiff respectfully requests this Court:

A. Permanently enjoin Defendant from engaging further in their discriminatory treatment of females and African-American employees similarly situated;

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for minorities which eradicates the effects of its past and present unlawful employment practices, including implementing consistent policies against sex and racial discrimination in the work place;

C. Order Defendant to make Plaintiff whole by providing appropriate front pay, back pay, loss of employment benefits and other monetary relief as may be available to her, including damages for her physical, mental and emotional distress, embarrassment, humiliation and trauma;

D. Award Plaintiff compensatory and punitive damages under the laws of the United States, the State of Alabama and the Constitution of the United States;

E. Award Plaintiff injunctive relief including reinstatement and training in the workplace;

F. Award Plaintiff any prejudgment interest on the amount of lost wages

and benefits determined to be due;

G. Award Plaintiff her costs and expenses herein, including reasonable attorney's fees, where applicable; and

H. Award such other and further relief which this Court deems appropriate under the circumstances.

**PLAINTIFF DEMANDS TRIAL BY STRUCK JURY**

Respectfully submitted,

/s/ Alicia K. Haynes  
Alicia K. Haynes (ASB-8327-e23a)  
Attorney for Plaintiff

**OF COUNSEL:**  
**HAYNES & HAYNES, P.C.**  
1600 Woodmere Drive  
Birmingham, Alabama 35226  
Tel: 205-879-0377  
Fax: 205-879-3572  
Email: [AKHaynes@Haynes-Haynes.com](mailto:AKHaynes@Haynes-Haynes.com)

/s/ A. Jackson Sperling  
A. Jackson Sperling (ASB-8488-N72S)  
Attorney for Plaintiff

**OF COUNSEL:**  
**SPERLING & MOORE, P.C.**  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Tel: 205-798-8900  
Fax: 205-798-5590  
Email: [AJS@SperlingandMoore.com](mailto:AJS@SperlingandMoore.com)

# **EXHIBIT A**



09/30/2013 14:38

2054976556

ALABAMA ADVENTURE

PAGE 01/02

EEOC Form 5 (11/09)

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

420-2013-02814

and EEOC

Name (Indicate Mr., Ms., Mrs.)

Ms. Stacy Powell

Home Phone (Incl. Area Code)

(205) 401-4583

Date of Birth

05-31-1979

Street Address

City, State and ZIP Code

574 Bristol Ln, Birmingham, AL 35226

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WALTER ENERGY, INC.

No. Employees, Members

201 - 500

Phone No. (Include Area Code)

(205) 745-2000

Street Address

City, State and ZIP Code

3000 Riverchase Galleria Suite 1700, Hoover, AL 35244

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE

☐ COLOR

SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



GENETIC INFORMATION



OTHER (Specify)

Equal Pay

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

08-01-2012

08-08-2013



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a Black female. I was hired as the Human Resources Business Partner in August of 2012 after working through a temporary service. I am the only Human Resources Business Partner working for the company in the United States. I have performed my job in an exemplary manner and have never received any verbal or written reprimand. At the time that I was made a permanent employee of the company, my resume was not reviewed. I was offered a salary based on the company's evaluation of my job title. I accepted the pay; however it was a pay cut from the temporary position that I held. I believe that my current job duties are equivalent to those of the Managers of Employment, Keith Martinez and Katrina Cohrs. Their salaries are considerable higher than mine. A re-evaluation of current jobs was done, however my position was not one of those which was offered a higher pay grade. A higher pay grade would have at least put me in line for company bonuses. The only persons whose pay grades were changed were those of White males. About two months ago, I made another complaint about the difference in pay of the White male employees as compared with mine. My immediate supervisor, Kelly Gant said that after review, they decided not to change my pay. I informed Kelly Gant that I would be filing an EEOC charge about the salary discrepancies. On August 6, 2013 and August 15, 2013, I was told that there would be a reduction in force (RIF) and my job would be eliminated. Typically in a RIF, employees are given the option to take other positions prior to termination. I was not given that option. Severance packages were not equal in benefits to those of similarly situated White employees.

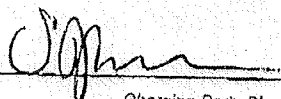
I believe that I have been discriminated against and denied equal pay because of my sex, female and my race, Black and terminated from my job in retaliation for engaging in a protected activity in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Aug 08, 2013

Date



Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

SEP 30 2013  
E.E.O.C.  
BIRMINGHAM DISTRICT

# **EXHIBIT B**

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Stacy Powell  
574 Bristol Ln  
Birmingham, AL 35226

From: Birmingham District Office  
Ridge Park Place  
1130 22nd Street  
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2013-02814

THOMAS D. ROE,  
Investigator

(205) 212-2141

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

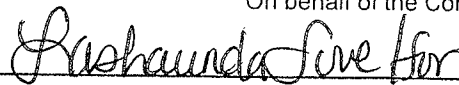
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Delner Franklin-Thomas,  
District Director

NOV - 4 2014

(Date Mailed)

Enclosures(s)

c: WALTER ENERGY, INC.  
c/o David M. Smith, Esq.  
Maynard, Cooper & Gale, P.C.  
1901 Sixth Avenue North  
2400 Regions Harbert Plaza  
Birmingham, AL 35203

Ms. Stacy Powell  
c/o A. Jackson Sperling, Esq.  
Sperling & Moore, P.C.  
1129 Forestdale Blvd.  
Birmingham, AL 35214

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA,  
SOUTHERN DIVISION**

**STACY POWELL,**

**Plaintiff,**

**v.**

**WALTER ENERGY, INC.,**

**Defendant.**

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)

**CIVIL ACTION NO.:  
2:15-CV-00214-KOB**

**NOTICE OF BANKRUPTCY AND SUGGESTION OF STAY**

Please take notice that on July 15, 2015, Defendant Walter Energy, Inc., (the “Debtor”), filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§101, et seq. (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division (the “Bankruptcy Court”). A copy of the Debtor’s voluntary petition is attached as Exhibit “A” and incorporated by reference. The Debtor’s bankruptcy case currently is pending before the Bankruptcy Court under case number Case No. 15-02741 (TOM).

The claims asserted in the action arose before the commencement of the Debtor’s bankruptcy case. Accordingly, the Plaintiff’s claims are subject to the automatic stay provisions of Section 362(a) of the Bankruptcy Code.

WHEREFORE, premises considered, the Debtor respectfully submits that the instant lawsuit and collection efforts related thereto are stayed with respect to the Debtor by operation of the automatic stay provisions of Section 362(a) of the Bankruptcy Code.



Dated this 17<sup>th</sup> day of July, 2015.

/s/ Tiffany P. Rainbolt

David M. Smith

Stephanie H. Mays

Tiffany P. Rainbolt

Attorneys for Defendant

**OF COUNSEL:**

**MAYNARD, COOPER & GALE, P.C.**

1901 6<sup>th</sup> Avenue North

2400 Regions/Harbert Plaza

Birmingham, Alabama 35203

Phone: (205) 254-1000

Fax: (205) 254-1999

E-mail: dsmith@maynardcooper.com

smays@maynardcooper.com

trainbolt@maynardcooper.com

**CERTIFICATE OF SERVICE:**

I hereby certify that on July 17, 2015, I electronically filed the foregoing with the Clerk of Court and served a copy of the same via electronic notification to the following:

Alicia K. Haynes  
HAYNES & HAYNES, P.C.  
1600 Woodmere Drive  
Birmingham, Alabama 35226  
Telephone: (205) 879-0377  
Facsimile: (205) 879-3572

Jameria Johnson Moore  
A. Jackson Sperling  
SPERLING & MOORE, P.C.  
1129 Forestdale Blvd.  
Birmingham, Alabama 35214  
Telephone: 205.798.8900  
Facsimile: 205.798.5590

/s/ Tiffany P. Rainbolt

# Exhibit A



B1 (Official Form 1) (04/13)

| UNITED STATES BANKRUPTCY COURT<br>Northern District of Alabama   |  |   |  | VOLUNTARY PETITION  |                                  |
|--|--|---|--|---|----------------------------------|
| Name of Debtor (if individual, enter Last, First, Middle):<br><b>Walter Energy, Inc.</b>   |  |   | Name of Joint Debtor (Spouse) (Last, First, Middle):   |   |                                  |
| All Other Names used by the Debtor in the last 8 years<br>(include married, maiden, and trade names):<br><b>Walter Industries, Inc.</b>  |  |   | All Other Names used by the Joint Debtor in the last 8 years<br>(include married, maiden, and trade names):  |   |                                  |
| Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN<br>(if more than one, state all):<br><b>13-3429953</b>   |  |   | Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN<br>(if more than one, state all):  |   |                                  |
| Street Address of Debtor (No. and Street, City, and State):<br><b>3000 Riverchase Galleria, Ste.1700<br/>Birmingham, AL</b><br><div style="text-align: right;">ZIP CODE <b>35244</b></div>   |  |   | Street Address of Joint Debtor (No. and Street, City, and State):<br><div style="text-align: right;">ZIP CODE</div>  |   |                                  |
| County of Residence or of the Principal Place of Business:<br><b>Jefferson County, Alabama</b>   |  |   | County of Residence or of the Principal Place of Business:   |   |                                  |
| Mailing Address of Debtor (if different from street address):<br><div style="text-align: right;">ZIP CODE</div>  |  |   | Mailing Address of Joint Debtor (if different from street address):<br><div style="text-align: right;">ZIP CODE</div>  |   |                                  |
| Location of Principal Assets of Business Debtor (if different from street address above):<br><b>Jefferson County, Alabama</b><br><div style="text-align: right;">ZIP CODE</div>  |  |   |  |   |                                  |
| <b>Type of Debtor</b><br>(Form of Organization)<br>(Check one box.)<br><br><input type="checkbox"/> Individual (includes Joint Debtors)<br><i>See Exhibit D on page 2 of this form.</i><br><input checked="" type="checkbox"/> Corporation (includes LLC and LLP)<br><input type="checkbox"/> Partnership<br><input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)   |  | <b>Nature of Business</b><br>(Check one box.)<br><br><input type="checkbox"/> Health Care Business<br><input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B)<br><input type="checkbox"/> Railroad<br><input type="checkbox"/> Stockbroker<br><input type="checkbox"/> Commodity Broker<br><input type="checkbox"/> Clearing Bank<br><input checked="" type="checkbox"/> Other |  | <b>Chapter of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box.)<br><br><input type="checkbox"/> Chapter 7<br><input type="checkbox"/> Chapter 9<br><input checked="" type="checkbox"/> Chapter 11<br><input type="checkbox"/> Chapter 12<br><input type="checkbox"/> Chapter 13<br><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding<br><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding |                                  |
| <b>Chapter 15 Debtors</b><br>Country of debtor's center of main interests:<br><br>Each country in which a foreign proceeding by, regarding, or against debtor is pending:  |  | <b>Tax-Exempt Entity</b><br>(Check box, if applicable.)<br><br><input type="checkbox"/> Debtor is a tax-exempt organization under title 26 of the United States Code (the Internal Revenue Code).   |  | <b>Nature of Debts</b><br>(Check one box.)<br><br><input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."<br><input checked="" type="checkbox"/> Debts are primarily business debts.  |                                  |
| <b>Filing Fee</b> (Check one box.)<br><br><input checked="" type="checkbox"/> Full Filing Fee attached.<br><br><input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.<br><br><input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B. |  |   | <b>Chapter 11 Debtors</b><br><br><b>Check one box:</b><br><input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).<br><input checked="" type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).<br><br><b>Check if:</b><br><input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every three years thereafter).<br><hr/> <b>Check all applicable boxes:</b><br><input type="checkbox"/> A plan is being filed with this petition.<br><input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b). |   |                                  |
| <b>Statistical/Administrative Information</b><br><br><input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors.<br><input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.  |  |   |  |   | THIS SPACE IS FOR COURT USE ONLY |
| <b>Estimated Number of Creditors *</b><br><input type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input checked="" type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000   |  |   |  |   |                                  |
| <b>Estimated Assets *</b><br><input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input checked="" type="checkbox"/> More than \$1 billion                     |  |   |  |   |                                  |
| <b>Estimated Liabilities *</b><br><input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input checked="" type="checkbox"/> More than \$1 billion                |  |   |  |   |                                  |

\* Estimated Creditors, Assets and Liabilities are on a consolidated basis.

B1 (Official Form 1) (04/13)

|  |                                      |   |  |
|--|--------------------------------------|---|--|
| <b>Voluntary Petition</b><br><i>(This page must be completed and filed in every case.)</i>   |                                      | Name of Debtor(s):<br><b>Walter Energy, Inc.</b>  |  |
| <b>All Prior Bankruptcy Cases Filed Within Last 8 Years</b> (If more than two, attach additional sheet.)   |                                      |   |  |
| Location Where Filed: <b>N/A</b>   | Case Number:                         | Date Filed:   |  |
| Location Where Filed: <b>N/A</b>   | Case Number:                         | Date Filed:   |  |
| <b>Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor</b> (If more than one, attach additional sheet.)  |                                      |   |  |
| Name of Debtor: <b>See Attachment 1</b>  | Case Number: <b>Not yet assigned</b> | Date Filed:   |  |
| District: <b>Northern District of Alabama</b>  | Relationship: <b>Affiliates</b>      | Judge: <b>Not yet assigned</b>  |  |
| <b>Exhibit A</b><br>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)<br><br><input checked="" type="checkbox"/> Exhibit A is attached and made a part of this petition.  |                                      | <b>Exhibit B</b><br>(To be completed if debtor is an individual whose debts are primarily consumer debts.)<br><br>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I have delivered to the debtor the notice required by 11 U.S.C. § 342(b).<br><br>X _____<br>Signature of Attorney for Debtor(s) (Date) |  |
| <b>Exhibit C</b><br>Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?<br><br><input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition.<br><input checked="" type="checkbox"/> No.   |                                      |   |  |
| <b>Exhibit D</b><br>(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)<br><br><input type="checkbox"/> Exhibit D, completed and signed by the debtor, is attached and made a part of this petition.<br><br>If this is a joint petition:<br><input type="checkbox"/> Exhibit D, also completed and signed by the joint debtor, is attached and made a part of this petition.  |                                      |   |  |
| <b>Information Regarding the Debtor - Venue</b><br>(Check any applicable box.)<br><br><input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.<br><br><input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.<br><br><input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.  |                                      |   |  |
| <b>Certification by a Debtor Who Resides as a Tenant of Residential Property</b><br>(Check all applicable boxes.)<br><br><input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)<br><br><div style="text-align: right; margin-right: 100px;">         _____<br/>         (Name of landlord that obtained judgment)       </div> <div style="text-align: right; margin-right: 100px;">         _____<br/>         (Address of landlord)       </div> <input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and<br><br><input type="checkbox"/> Debtor has included with this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.<br><br><input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)). |                                      |   |  |

B1 (Official Form 1) (04/13)

|   |  |
|---|--|
| <p><b>Voluntary Petition</b><br/>(This page must be completed and filed in every case.)</p>   | <p>Name of Debtor(s):<br/>Walter Energy, Inc.</p>  |
| Signatures  |  |
| <p style="text-align: center;"><b>Signature(s) of Debtor(s) (Individual/Joint)</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct.<br/>[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.<br/>[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).</p> <p>I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X _____<br/>Signature of Debtor</p> <p>X _____<br/>Signature of Joint Debtor</p> <p>_____<br/>Telephone Number (if not represented by attorney)</p> <p>_____<br/>Date</p> | <p style="text-align: center;"><b>Signature of a Foreign Representative</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.</p> <p>(Check only <b>one</b> box.)</p> <p><input type="checkbox"/> I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.</p> <p><input type="checkbox"/> Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.</p> <p>X _____<br/>(Signature of Foreign Representative)</p> <p>_____<br/>(Printed Name of Foreign Representative)</p> <p>_____<br/>Date</p>   |
| <p>X _____<br/>Signature of Attorney for Debtor(s)<br/>Patrick Darby<br/>Printed Name of Attorney for Debtor(s)<br/>Bradley Arant Boult Cummings LLP<br/>Firm Name<br/>1819 Fifth Avenue North<br/>Birmingham, Alabama 35203<br/>Address<br/>205-521-8000<br/>Telephone Number<br/>715/15<br/>Date</p> <p style="font-size: small;">*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.</p>   | <p style="text-align: center;"><b>Signature of Non-Attorney Bankruptcy Petition Preparer</b></p> <p>I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.</p> <p>_____<br/>Printed Name and title, if any, of Bankruptcy Petition Preparer</p> <p>_____<br/>Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social-Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)</p> <p>_____<br/>Address</p> <p>X _____<br/>Signature</p> <p>_____<br/>Date</p> <p>Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social-Security number is provided above.</p> <p>Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual.</p> <p>If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p style="font-size: small;">A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.</p> |
| <p style="text-align: center;"><b>Signature of Debtor (Corporation/Partnership)</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.</p> <p>The debtor requests the relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X _____<br/>Signature of Authorized Individual<br/>William G. Harvey<br/>Printed Name of Authorized Individual<br/>Executive Vice President and Chief Financial Officer<br/>Title of Authorized Individual<br/>7/15/15<br/>Date</p>   |  |

**ATTACHMENT 1****PENDING OR CONCURRENT BANKRUPTCY CASES FILED BY AFFILIATES**

On the date hereof, each of the affiliated entities listed below (including the debtor in this chapter 11 case) filed a voluntary petition for relief under title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Alabama. A motion has been filed with the Court requesting that the chapter 11 cases of these entities be jointly administered.

| <b>Entity Name</b>                       | <b>Case Number</b> | <b>Judge</b>     |
|--|--------------------|------------------|
| Atlantic Development and Capital, LLC    | Not Yet Assigned   | Not Yet Assigned |
| Atlantic Leaseco, LLC                    | Not Yet Assigned   | Not Yet Assigned |
| Blue Creek Coal Sales, Inc.              | Not Yet Assigned   | Not Yet Assigned |
| Blue Creek Energy, Inc.                  | Not Yet Assigned   | Not Yet Assigned |
| J.W. Walter, Inc.                        | Not Yet Assigned   | Not Yet Assigned |
| Jefferson Warrior Railroad Company, Inc. | Not Yet Assigned   | Not Yet Assigned |
| Jim Walter Homes, LLC                    | Not Yet Assigned   | Not Yet Assigned |
| Jim Walter Resources, Inc.               | Not Yet Assigned   | Not Yet Assigned |
| Maple Coal Co., LLC                      | Not Yet Assigned   | Not Yet Assigned |
| Sloss-Sheffield Steel & Iron Company     | Not Yet Assigned   | Not Yet Assigned |
| SP Machine, Inc.                         | Not Yet Assigned   | Not Yet Assigned |
| Taft Coal Sales & Associates, Inc.       | Not Yet Assigned   | Not Yet Assigned |
| Tuscaloosa Resources, Inc.               | Not Yet Assigned   | Not Yet Assigned |
| V Manufacturing Company                  | Not Yet Assigned   | Not Yet Assigned |
| Walter Black Warrior Basin LLC           | Not Yet Assigned   | Not Yet Assigned |
| Walter Coke, Inc.                        | Not Yet Assigned   | Not Yet Assigned |
| Walter Energy Holdings, LLC              | Not Yet Assigned   | Not Yet Assigned |
| Walter Energy, Inc.                      | Not Yet Assigned   | Not Yet Assigned |
| Walter Exploration & Production LLC      | Not Yet Assigned   | Not Yet Assigned |
| Walter Home Improvement, Inc.            | Not Yet Assigned   | Not Yet Assigned |
| Walter Land Company                      | Not Yet Assigned   | Not Yet Assigned |
| Walter Minerals, Inc.                    | Not Yet Assigned   | Not Yet Assigned |
| Walter Natural Gas, LLC                  | Not Yet Assigned   | Not Yet Assigned |



B 1A (Official Form 1, Exhibit A) (9/97)

*[If debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11 of the Bankruptcy Code, this Exhibit "A" shall be completed and attached to the petition.]*

## UNITED STATES BANKRUPTCY COURT

Northern District of Alabama

Southern Division

In re Walter Energy, Inc., ) Case No. \_\_\_\_\_  
 Debtor )  
 )  
 ) Chapter 11

**EXHIBIT "A" TO VOLUNTARY PETITION**

1. If any of the debtor's securities are registered under Section 12 of the Securities Exchange Act of 1934, the SEC file number is 001-13711.

2. The following financial data is the latest available information and refers to the debtor's condition on March 31, 2015.

|   |                   |                                |
|---|-------------------|--------------------------------|
| a. Total assets   | \$                | <u>5,202,437.00</u>            |
| b. Total debts (including debts listed in 2.c., below)  | \$                | <u>5,005,288.00</u>            |
| c. Debt securities held by more than 500 holders:   |                   |                                |
|   |                   | Approximate number of holders: |
| secured <input type="checkbox"/> unsecured <input type="checkbox"/> subordinated <input type="checkbox"/> | \$                | _____                          |
| secured <input type="checkbox"/> unsecured <input type="checkbox"/> subordinated <input type="checkbox"/> | \$                | _____                          |
| secured <input type="checkbox"/> unsecured <input type="checkbox"/> subordinated <input type="checkbox"/> | \$                | _____                          |
| secured <input type="checkbox"/> unsecured <input type="checkbox"/> subordinated <input type="checkbox"/> | \$                | _____                          |
| secured <input type="checkbox"/> unsecured <input type="checkbox"/> subordinated <input type="checkbox"/> | \$                | _____                          |
| d. Number of shares of preferred stock  | _____             | _____                          |
| e. Number of shares common stock  | <u>80,746,088</u> | <u>36,000</u>                  |

Comments, if any: \_\_\_\_\_

Information regarding number of shares of common stock, the approximate number of holders of such common stock, and the persons identified in the response to Question 4 below is based on information known to the Debtor as of close of business on March 3, 2015, the record date for the Company's 2015 annual meeting of shareholders. Number of shares common stock is as of April 30, 2015. Approximate number of holders refers to the number of beneficial holders.

## 3. Brief description of debtor's business:

The debtor, through its subsidiary companies, is a leading producer and exporter of metallurgical coal for the global steel industry from underground and surface mines with mineral reserves located in the United States, Canada and the United Kingdom. The debtor, through its subsidiary companies, also extracts, processes, markets and possesses mineral reserves of thermal coal and anthracite coal, as well as produces metallurgical coke and coal bed methane gas.

+

4. List the names of any person who directly or indirectly owns, controls, or holds, with power to vote, 5% or more of the voting securities of debtor: \_\_\_\_\_

**WALTER ENERGY, INC.**

**Certificate of Secretary**

The undersigned, Earl H. Doppelt, hereby certifies that he is the duly elected, qualified and acting Secretary of Walter Energy, Inc., a Delaware corporation (the “Company”), and further certifies, solely in such capacity and not in his individual capacity, as follows:

1. Attached hereto as Exhibit A is a true, complete, and correct copy of the resolutions of the board of directors of the Company (the “Board of Directors”) duly adopted at a properly convened meeting of the Board of Directors on July 14, 2015, in accordance with the bylaws of the Company.
2. Such resolutions have not been amended or revoked and are in full force and effect on the date hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand in my capacity as said officer of the Company as of the 14 day of July, 2015.



---

Earl H. Doppelt  
Secretary of the Company





**RESOLUTIONS OF THE BOARD OF DIRECTORS OF  
WALTER ENERGY, INC.**

WHEREAS, the Board of Directors of Walter Energy, Inc., a Delaware corporation has reviewed and considered the materials prepared and presented by the Company's management team and its financial and legal advisors regarding the Company's liabilities and liquidity, the strategic alternatives available to it, and the impact of the foregoing on the Company's business; and

WHEREAS, the Board has consulted with the Company's management team and its financial and legal advisors, and fully considered each of the Company's strategic alternatives available to it;

NOW, THEREFORE, BE IT RESOLVED, by the Board that in the judgment of the Board, it is desirable and in the best interests of the Company, its creditors and other interested parties for the Company to file a voluntary petition (the "Petition") for relief under the provisions of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Alabama (the "Bankruptcy Court"); and be it further

RESOLVED, that the Company shall be, and it hereby is, authorized, directed and empowered (i) to file the Petition, and (ii) to perform any and all such acts as are reasonable, advisable, expedient, convenient, proper or necessary to effect any of the foregoing; and be it further

RESOLVED, that each of the Chief Executive Officer, Chief Financial Officer, Chief Commercial Officer, Chief Audit Officer, Chief Accounting Officer, General Counsel, Secretary, Treasurer, and Vice Presidents (each individually a "Designated Officer" and collectively, the "Designated Officers") be, and each of them hereby is, authorized, directed and empowered, on behalf of and in the name of the Company (i) to execute and verify the Petition as well as all other ancillary documents and to cause the Petition to be filed with the Bankruptcy Court and to make or cause to be made prior to the execution thereof any modifications to the Petition or ancillary documents as such Designated Officers, in their sole discretion, deem necessary or desirable, and (ii) to execute, verify and file or cause to be filed all petitions, schedules, lists, motions, applications, pleadings, and other papers or documents necessary or desirable in connection with the foregoing; and be it further

RESOLVED, that each of the Designated Officers be, and each of them hereby is, authorized, directed and empowered, on behalf of and in the name of the Company in its capacity as sole member of each of the limited liability companies listed on Schedule 1 to these resolutions (collectively, the "Subsidiary LLCs") to take any and all actions as may be reasonable, advisable, expedient,

convenient, proper or necessary to cause each of the Subsidiary LLCs to file a voluntary petition for relief under the provisions of chapter 11 of the Bankruptcy Code in the Bankruptcy Court, including but not limited to (i) the filing of any petitions, schedules, lists, motions, applications, pleadings, and other papers or documents necessary or desirable in connection with the foregoing, and (ii) the employment of counsel, financial advisors, investment bankers, accountants, and other professionals in connection with the foregoing, and in furtherance of such filings, to authorize and consent to, on behalf of the Company in its capacity as sole member of each of such Subsidiary LLCs, the filing of such voluntary petitions for relief under the provisions of chapter 11 of the Bankruptcy Code in the Bankruptcy Court and ratifying, approving and confirming the actions of the managers of each of such Subsidiary LLCs in authorizing the same; and be it further

RESOLVED, that each of the Designated Officers be, and each of them hereby is, authorized, directed and empowered, on behalf of and in the name of the Company in its capacity as sole shareholder of each of the corporations listed on Schedule 2 to these resolutions (collectively, the “Subsidiary Corporations”) to take any and all actions as may be reasonable, advisable, expedient, convenient, proper or necessary to cause each of the Subsidiary Corporations to file a voluntary petition for relief under the provisions of chapter 11 of the Bankruptcy Code in the Bankruptcy Court, including but not limited to (i) the filing of any petitions, schedules, lists, motions, applications, pleadings, and other papers or documents necessary or desirable in connection with the foregoing, and (ii) the employment of counsel, financial advisors, investment bankers, accountants, and other professionals in connection with the foregoing, and in furtherance of such filings, to authorize and consent to, on behalf of the Company in its capacity as sole shareholder of each of such Subsidiary Corporations, the filing of such voluntary petitions for relief under the provisions of chapter 11 of the Bankruptcy Code in the Bankruptcy Court and ratifying, approving and confirming the actions of the directors of each of such Subsidiary Corporations in authorizing the same; and be it further

RESOLVED, that the law firm of Paul, Weiss, Rifkind, Wharton & Garrison (“Paul Weiss”) be, and hereby is, retained, authorized, empowered and directed to represent the Company as its counsel in connection with any case commenced by the Company under the Bankruptcy Code and all related matters; and be it further

RESOLVED, that the law firm of Bradley Arant Boult Cummings LLP be, and hereby is, retained, authorized, empowered and directed to represent the Company, as co-counsel with Paul Weiss, in connection with any case commenced by the Company under the Bankruptcy Code; and be it further

RESOLVED, that the law firm of Ogletree Deakins LLP be, and hereby is retained, authorized, empowered and directed to represent the Company as its

special counsel with respect to any labor and employment matters; and be it further

RESOLVED, that the law firm of Maynard, Cooper & Gale, P.C. be, and hereby is retained, authorized, empowered and directed to represent the Company as its special counsel; and be it further

RESOLVED, that Blackstone Advisory Services, L.P. be, and hereby is, retained, authorized, empowered and directed to represent the Company as its investment banker and financial advisor in connection with any case commenced by the Company under the Bankruptcy Code; and be it further

RESOLVED, that AlixPartners, LLP be, and hereby is, retained, authorized, empowered and directed to represent the Company as its financial advisor and consultant in connection with any case commenced by the Company under the Bankruptcy Code; and be it further

RESOLVED, that Kurtzman Carson Consultants LLC be, and hereby is, retained, authorized, empowered and directed to serve as the notice, claims, solicitation and balloting agent in connection with any case commenced by the Company under the Bankruptcy Code; and be it further

RESOLVED, that the Designated Officers be, and they each hereby are, authorized to cause the Company to employ other special counsel, financial advisors, investment bankers, accountants and other professionals as such Designated Officers deem appropriate in connection with any case commenced by the Company under the Bankruptcy Code; and be it further

RESOLVED, that in addition to the specific authorizations heretofore conferred upon the Designated Officers, each of the officers of the Company be, and each of them acting alone hereby is, authorized, directed and empowered, in the name and on behalf of the Company, to do or cause to be done any and all such further acts and things, including the payment of all fees and expenses and other amounts payable by the Company with respect to the foregoing, and to execute and deliver any and all such other instruments, certificates, agreements and documents as they or any of them may consider necessary or appropriate to enable the Company to carry out the intent and to accomplish the purpose of the foregoing resolutions; and be it further

RESOLVED, that each and every officer of the Company be, and each of them acting alone, hereby is, authorized, directed and empowered from time to time in the name and on behalf of the Company, to (i) take all such further actions and execute and deliver all such certificates, instruments, guaranties, notices, agreements and other documents as may be required or as such officer may deem necessary, advisable or proper to carry out the intent and purpose of the foregoing resolutions, including, without limitation, the execution and delivery of any credit

or security agreements, pledges, financing statements and the like, and (ii) perform the obligations of the Company under the Bankruptcy Code, with all such actions to be performed in such manner, and all such certificates, instruments, guaranties, notices and documents to be executed and delivered in such form as the officer performing or executing the same shall approve, and the performance or execution thereof by such officer shall be conclusive evidence of the approval thereof by such officer and by the Company; and be it further

RESOLVED, that all actions heretofore taken or performed by any officer, director, employee or agent of the Company in connection with the foregoing resolutions be, and they hereby are, confirmed, ratified and approved in all respects.

**SCHEDULE 1**

**Subsidiary LLCs**

Walter Energy Holdings, LLC

Walter Natural Gas, LLC

Jim Walter Homes, LLC

**SCHEDULE 2**

**Subsidiary Corporations**

Walter Coke, Inc.

Walter Minerals, Inc.

Jim Walter Resources, Inc.

Blue Creek Energy, Inc.

Blue Creek Coal Sales, Inc.

J.W. Walter, Inc.

Walter Land Company

Jefferson Warrior Railroad Company, Inc.

SP Machine, Inc.

V Manufacturing Company

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

In re:

WALTER ENERGY, INC.,

Debtor.

Chapter 11

Case No. 15-\_\_\_\_\_

Joint Administration Requested

**CORPORATE OWNERSHIP STATEMENT**

In accordance with rule 1007(a)(1) of the Federal Rules of Bankruptcy Procedure, Walter Energy, Inc. ("Walter Energy"), the debtor and debtor-in-possession in the above-styled case, hereby states that no corporation directly or indirectly owns 10% or more of Walter Energy's equity interests.

I, the undersigned authorized officer of Walter Energy, named as the debtor in this case, declare under penalty of perjury that I have reviewed the foregoing and that it is true and correct to the best of my knowledge, information and belief, with reliance on appropriate corporate officers.

Date: Birmingham, Alabama  
July 15, 2015

By: \_\_\_\_\_

Authorized Officer

CLOSED, PROTECTIVE ORDER

**U.S. District Court  
Northern District of Alabama (Southern)  
CIVIL DOCKET FOR CASE #: 2:15-cv-00214-KOB**

Powell v. Walter Energy Inc  
Assigned to: Chief Judge Karon O Bowdre  
Cause: 42:2000 Job Discrimination (Sex)

Date Filed: 02/04/2015  
Date Terminated: 08/04/2015  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: Federal Question

**Plaintiff****Stacy Powell**

represented by **Angeline Jackson Sperling**  
SPERLING & MOORE PC  
1129 Forestdale Boulevard  
Birmingham, AL 35214  
205-798-8900  
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Email: ajs@sperlingandmoore.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jameria Johnson Moore**  
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Email: akhaynes@haynes-haynes.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant****Walter Energy Inc**

represented by **David M Smith**  
MAYNARD COOPER & GALE PC



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 Fax: 205-254-1999  
 Email: trainbolt@maynardcooper.com  
**ATTORNEY TO BE NOTICED**

| Date Filed | #                        | Docket Text  |
|------------|--------------------------|--|
| 02/04/2015 | <u><a href="#">1</a></u> | COMPLAINT against Walter Energy Inc, filed by Stacy Powell.(SAC ) (Entered: 02/04/2015)  |
| 02/05/2015 |                          | Filing Fee: Filing fee \$ 400, ALND receipt#: B4601059666/ receipt_number 1126-2335309. related document <u><a href="#">1</a></u> COMPLAINT against Walter Energy Inc, filed by Stacy Powell.(SAC ). (Sperling, Angeline) Modified on 2/11/2015 (SAC, ). (Entered: 02/05/2015) |
| 03/03/2015 | <u><a href="#">2</a></u> | MOTION for Extension of Time to File Answer by Walter Energy Inc. (Rainbolt, Tiffany) (Entered: 03/03/2015)  |
| 03/03/2015 | 3                        | ORDER granting <u><a href="#">2</a></u> Unopposed Motion for Extension of Time to Answer. Defendant Walter Energy Inc.'s responsive pleading is now due on or before 3/6/2015. Signed by Chief Judge Karon O Bowdre on 3/3/15. (MMW) (Entered: 03/03/2015)                     |
| 03/06/2015 | <u><a href="#">4</a></u> | ANSWER to <u><a href="#">1</a></u> Complaint by Walter Energy Inc.(Rainbolt, Tiffany) (Entered: 03/06/2015)  |
| 03/09/2015 | <u><a href="#">5</a></u> |  |

|            |                           |   |
|------------|---------------------------|---|
|            |                           | INITIAL ORDER Governing All Further Proceedings - with appendices attached. The report also should contain a synopsis of the case advising the court of the general claims and defenses of the parties. Signed by Chief Judge Karon O Bowdre on 3/9/2015. (FNC) (Entered: 03/09/2015)   |
| 04/15/2015 | <a href="#"><u>6</u></a>  | NOTICE of Corporate Disclosure by Walter Energy Inc (Rainbolt, Tiffany) (Entered: 04/15/2015)   |
| 04/20/2015 | <a href="#"><u>7</u></a>  | REPORT of Rule 26(f) Planning Meeting. (Rainbolt, Tiffany) (Entered: 04/20/2015)  |
| 04/20/2015 | <a href="#"><u>8</u></a>  | Joint MOTION for Protective Order by Walter Energy Inc. (Rainbolt, Tiffany) (Entered: 04/20/2015)   |
| 04/20/2015 | <a href="#"><u>9</u></a>  | CONSENT PROTECTIVE ORDER. Signed by Chief Judge Karon O Bowdre on 4/20/2015. (FNC) (Entered: 04/20/2015)  |
| 04/21/2015 | <a href="#"><u>10</u></a> | ORDER Setting Scheduling Conference for Monday, April 27, 2015 at 02:30 PM, fifth floor chambers, Hugo L Black US Courthouse, Birmingham, AL before Chief Judge Karon O Bowdre. Signed by Chief Judge Karon O Bowdre on 4/21/2015. (FNC) (Entered: 04/21/2015)  |
| 04/23/2015 | <a href="#"><u>11</u></a> | NOTICE by Stacy Powell <i>PLAINTIFFS DISCLSoure STATEMENT (Rule 26 (a)(1) )</i> (Attachments: # <a href="#"><u>1</u></a> Exhibit EEOC Discrimination Charges, # <a href="#"><u>2</u></a> Exhibit EEOC Response to Charges, # <a href="#"><u>3</u></a> Exhibit EEOC Private Suit Rights)(Sperling, Angeline) (Entered: 04/23/2015)   |
| 04/24/2015 | 12                        | NOTICE of Hearing: Because of a court conflict, the Scheduling Conference set for Monday, April 27, 2015 at 2:30 has been RESET for Tuesday, May 5, 2015 at 11:00 AM, fifth floor chambers, Hugo L Black US Courthouse, Birmingham, AL before Chief Judge Karon O Bowdre. (FNC) (Entered: 04/24/2015)   |
| 05/03/2015 | 13                        | TEXT ORDER. Due to a court scheduling conflict, the Scheduling Conference set for Tuesday, May 5, 2015 is RESET for Wednesday, May 6, 2015 at 03:30 PM, fifth floor chambers, Hugo L Black US Courthouse, Birmingham, AL before Chief Judge Karon O Bowdre. Signed by Chief Judge Karon O Bowdre on 5/3/2015. (FNC) (Entered: 05/03/2015)   |
| 05/06/2015 |                           | Minute Entry for proceedings held before Chief Judge Karon O Bowdre: Scheduling Conference held on 5/6/2015. Written order to follow. (FNC) (Entered: 05/06/2015)   |
| 05/08/2015 | <a href="#"><u>14</u></a> | SCHEDULING ORDER. Certain deadlines and time limits apply, as set out herein. Discovery due by 11/9/2015; Dispositive Motions due by 11/30/2015; Joint Status Report due by 10/15/2015; Status Conference set for 10/22/2015 at 03:30 PM, eighth floor chambers, Hugo L Black US Courthouse, Birmingham, AL before Chief Judge Karon O Bowdre. This case should be ready for trial by June, 2016. Signed by Chief Judge Karon O Bowdre on 5/8/2015. (FNC) (Entered: 05/08/2015) |
| 07/02/2015 | <a href="#"><u>15</u></a> | NOTICE of Appearance by Alicia Kay Haynes on behalf of Stacy Powell (Haynes, Alicia) (Entered: 07/02/2015)  |
| 07/02/2015 | <a href="#"><u>16</u></a> |   |

|            |                    |  |
|------------|--------------------|--|
|            |                    | First MOTION for Extension of Time to <i>Amend Complaint</i> by Stacy Powell. (Haynes, Alicia) (Entered: 07/02/2015)   |
| 07/07/2015 | 17                 | TEXT ORDER granting <a href="#">16</a> Plaintiff's Motion for Seven Day Extension of Time to Amend Complaint in light of the information provided to the court that the motion is unopposed; Defendant SHALL also have a corresponding seven day extension of time to amend its pleading and join additional parties. Signed by Chief Judge Karon O Bowdre on 7-7-15. (AMW, ) (Entered: 07/07/2015)  |
| 07/09/2015 | <a href="#">18</a> | First MOTION to Amend/Correct <i>Complaint</i> by Stacy Powell. (Attachments: # <a href="#">1</a> Exhibit)(Haynes, Alicia) (Entered: 07/09/2015)   |
| 07/09/2015 | 19                 | ORDER granting <a href="#">18</a> Plaintiff's Motion for Leave to Amend Complaint. Although the motion does not state whether it is opposed, the court notes that counsel for the Plaintiff previously advised the court that the motion for extension of time to amend complaint was not opposed. The court REMINDS the Plaintiff to FILE the First Amended Complaint by July 16, 2015. Signed by Chief Judge Karon O Bowdre on 7-9-15. (AMW, ) (Entered: 07/09/2015) |
| 07/15/2015 | <a href="#">20</a> | FIRST AMENDED COMPLAINT against Walter Energy Inc, filed by Stacy Powell. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Haynes, Alicia) (Entered: 07/15/2015)  |
| 07/17/2015 | <a href="#">21</a> | NOTICE of Bankruptcy and Suggestion of Stay by Walter Energy Inc (Rainbolt, Tiffany) (Entered: 07/17/2015)   |
| 08/04/2015 | <a href="#">22</a> | ORDER REFERRING CASE TO BANKRUPTCY For the reasons noted within, the court sua sponte ORDERS that this case be REFERRED to the BANKRUPTCY COURT of the Northern District of Alabama; Each party shall bear its own costs. Signed by Chief Judge Karon O Bowdre on 8/4/15. (SAC ) (Entered: 08/04/2015)   |

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| PACER Login:         | ux4882:4260683:0 | Client Code:     |                   |
| Description:         | Docket Report    | Search Criteria: | 2:15-cv-00214-KOB |
| Billable Pages:      | 3                | Cost:            | 0.30              |