

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

DOMINION RESOURCES	)	
BLACK WARRIOR TRUST,	)	
	)	
Appellant,	)	
	)	
vs.	)	2:15-cv-01531-LSC
	)	
WALTER ENERGY INC,	)	
	)	
Appellee.	)	
	)	

ORDER

The Court has the Amended Steering Committee's Notice of Appearance and Request for Service or, in the Alternative, Motion to Intervene in Appeal. For the reasons stated below, that Motion is GRANTED.

Intervention in a bankruptcy appeal is governed by Federal Rule of Bankruptcy Procedure 8013(g), which states:

Unless a statute provides otherwise, an entity that seeks to intervene in an appeal pending in the district court or BAP must move for leave to intervene . . . . It must concisely state the movant's interest, the grounds for intervention, whether intervention was sought in the bankruptcy court, why intervention is being sought at this stage of the proceeding, and why participating as an amicus curiae would not be adequate.

The Steering Committee argues that it has a statutory right pursuant to 11 U.S.C. § 1109 ("§ 1109") to appear and be heard in this case. Although §



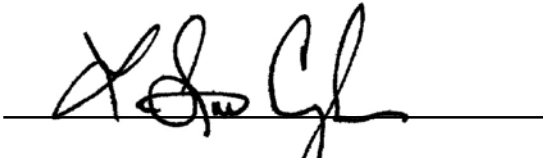
1109 provides creditors committees the right to appear and be heard in Bankruptcy Court, it does provide a right to appeal. *See In re Westwood Cmty. Two Ass'n, Inc.*, 293 F.3d 1332, 1336–1337 (11th Cir. 2002). Because § 1109 does not provide a right to appeal, it potentially does not provide a right to intervene in an appeal. However, this Court need not decide whether § 1109 gives the Steering Committee a right to be heard because it has satisfied the requirements for intervention in Rule 8013.

The Steering Committee intervened in the Bankruptcy Court, and the members of the Steering Committee are the first-lien creditors of the Debtor. Thus, they have an interest in the Debtor's bankruptcy estate, potentially including the proceeds at issue in this appeal, and the Steering Committee claims that its interests in the estate could be adversely affected by the outcome of this appeal. Moreover, Bankruptcy Rule 8017 does not grant the same rights to reply and participate in oral argument to an amicus curiae as an intervening party.

Dominion Resources Black Warrior Trust (the "Trust") argues that the Steering Committee's interests as an intervenor are basically identical to the interests of the Debtor. Although both the Steering Committee and the Debtor seek the same outcome, the Court does not foreclose the possibility

that the Steering Committee may have a unique interest in the outcome of the appeal because of its members' roles as first-lien creditors. However, to avoid duplicative briefing, the Court orders the Steering Committee to collaborate with the Debtor and join in its brief insofar as their interests overlap. If the Steering Committee has a unique interest not represented by the Debtor's brief, it may submit a brief that is no more than one-half the maximum length allowed for the parties. If the Steering Committee finds it cannot adequately represent its interests in this manner, it may seek relief from the Court.

Done this 8th day of October 2015.



L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE  
182185