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Standing to Challenge Bankruptcy Court's Approval of Retiree Benefits Settlement

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Introduction

Section 1114 of title 11 of the United States Code (the "Bankruptcy Code") provides in relevant part that: "the debtor in possession shall timely pay and shall not modify any retiree benefits" unless "the court, on the motion of the [debtor] or authorized representative [of the retirees,]" orders or the debtor and the authorized representative agree to the modification of such benefits.¹ A bankruptcy court may, after notice and hearing, approve a settlement, including a settlement of retiree benefit claims, under Federal Rule of Bankruptcy Procedure 9019.² Consequently, creditors and other parties in interest may voice their views on a proposed settlement.

Courts necessarily consider interests of the creditors before approving the settlement, and the retirees' collective interests are served by the authorized representative of retirees in crafting the settlement.³ Because debtors, unions, and authorized representatives of retirees usually

¹ 11 U.S.C. § 1114(e) (2018); *see also* 11 U.S.C. §§ 1114(c)(1), 1114(d) (2018).

² *See In re Murray Energy Holdings Co.*, 615 B.R. 461, 470 (Bankr. S.D. Ohio 2020); Fed. R. Bankr. P. 1019(a) (2019).

³ *See In re Murray Energy Holdings Co.*, 615 B.R. at 472.

negotiate settlements,⁴ the goals of such settlements are successful reorganization of the debtors and satisfying the collective interests of retirees and current employees. Therefore, parties objecting to retiree benefits settlements are often unsecured creditors, individual retirees, and other entities which may be adversely affected by the settlement. Upon bankruptcy courts' approval of settlement over objection, parties must have standing to appeal that decision. Part I discusses Article III standing and prudential standing requirements necessary for bankruptcy appeal. Part II examines how courts apply these standards to unsecured creditors, individual retirees, and parties in interest.

I. The Two Standing Requirements to Appeal Bankruptcy Court's Order

A. Constitutional Standing

Under Article III of the United States Constitution, a federal court may adjudicate only actual, ongoing cases or controversies.⁵ Therefore, courts have jurisdiction to hear a case only when appellants bring an Article III case or controversy.⁶ The Article III “case-or-controversy requirement” is met when a litigant has suffered an actual injury that can be redressed by a favorable judicial decision.⁷ This requirement must be met through all stages of federal judicial proceedings, trial and appellate.⁸

B. Prudential “Person Aggrieved” Standing

Any party appealing an order of the bankruptcy court must generally demonstrate in addition to Article III standing that it is a “person aggrieved.”⁹ Despite the Bankruptcy Code's silence on standing to appeal the bankruptcy court's order, the courts in different Circuits have

⁴ *See id.* at 463–64.

⁵ U.S.C.A. Const. Art. 3, § 1; *see* *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990).

⁶ *See In re GF Corp.*, 996 F.2d 1215 (6th Cir. 1993).

⁷ *Id.* (quoting *Iron Arrow Honor Society v. Heckler*, 464 U.S. 67, 70 (1983)).

⁸ *Id.*

⁹ *See In re Murray Energy Holdings Co.*, 624 B.R. 606, 611–12 (B.A.P. 6th Cir. 2021); *In re GF Corp.*, 996 F.2d 1215 (6th Cir. 1993).

held that “person aggrieved” doctrine is applicable for appellate standing.¹⁰ Under the “person aggrieved” doctrine, an entity that has appellate standing is one whose rights or interests are “directly and adversely affected pecuniarily by bankruptcy court’s order.”¹¹ This “person aggrieved” doctrine is more restrictive than standing in bankruptcy court, Article III case-or-controversy requirement, or other prudential requirements associated with federal standing generally.¹²

II. Parties’ Appellate Standings in the Retiree Benefits Settlement Context

A. Official Committees of Unsecured Creditors

Official Committees of Unsecured Creditors may have standing to appeal bankruptcy courts’ order approving retiree benefits settlements.¹³ In *In re Tower Automotive Inc.*, the Chapter 11 debtor moved the court to reject its collective bargaining agreements and modify the retiree benefits with support of the Official Committee of Unsecured Creditors (“Creditors Committee”).¹⁴ The debtor then reached a settlement with the authorized representative of retirees after five days of trial (“Retiree Committee”).¹⁵ The settlement terms allowed the debtor to cease payments of retiree benefits.¹⁶ In exchange, the debtor established trusts to provide future benefits for the retirees.¹⁷ Additionally, on the bankruptcy distribution date, the debtor has agreed to contribute to each trust created by the settlement, in either cash or equity, an

¹⁰ *In re Point Ctr. Fin., Inc.*, 890 F.3d 1188, 1191 (9th Cir. 2018) (noting that “[a]ll circuits, including this one, limit standing to appeal a bankruptcy court order to ‘person[s] aggrieved by the order’”).

¹¹ *In re Murray Energy Holdings Co.*, 624 B.R. at 612.

¹² *See id.* at 611; *In re Combustion Eng’g, Inc.*, 391 F.3d 190, 214 n. 21 (3d Cir. 2004); *see also In re Grason*, 486 B.R. 448, 457 (Bankr. C.D. Ill. 2013) (noting that “[t]he concept of prudential standing is grounded . . . in ‘matters of judicial self-governance’ designed to guarantee that courts only resolve disputes that are appropriate for judicial resolution”).

¹³ *See In re Tower Auto. Inc.*, 241 F.R.D. 162 (S.D.N.Y. 2006).

¹⁴ *Id.* at 163–64.

¹⁵ *Id.* at 164.

¹⁶ *Id.* at 165.

¹⁷ *Id.*

amount not less than 20 percent of the retirees’ outstanding claims for the value lost due to the modifications embodied in the settlement.¹⁸ Notably, the settlement guaranteed a minimum 20 percent recovery for retirees if unsecured creditors were to recover less than 20 percent of their claims.¹⁹ The bankruptcy court approved the settlement over the objections of the Creditors Committee.²⁰

On appeal, the United States District Court for the Southern District of New York held that the settlements were proper without discussing standing, indicating that the “person aggrieved” standard for prudential standing was met.²¹

B. Individual Retirees

Courts have held that individual retirees do not have standing to object a retiree benefits settlement.²² In *In re GF Corp.*, the Chapter 11 debtor employer, the authorized representative of retirees, and the unsecured creditors’ committee negotiated a settlement to avoid conversion to a Chapter 7 case.²³ The proposed agreement would have resulted in the rejection of retiree benefit obligations pursuant to § 1114.²⁴ Prior to approving the settlement, the bankruptcy court allowed counsel for the objecting retirees to speak at the hearing on the compromise and considered the individual retirees’ objections “despite the apparent lack of standing.”²⁵

On appeal, the United States District Court for the Northern District of Ohio held that individual retirees do not have standing to appeal.²⁶ The court reasoned that because the rights of individual retirees are represented by authorized representatives of retirees under § 1114(d),

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 166.

²¹ *See generally id.*

²² *See In re GF Corp.*, 996 F.2d. 1215, 1215 (6th Cir. 1993).

²³ *In re GF Corp.*, 120 B.R. 421, 422–23 (Bankr. N.D. Ohio 1990).

²⁴ *Id.* at 424.

²⁵ *Id.* at 422, 425.

²⁶ *Argeras v. GF Corp.*, 140 B.R. 884, 886 (N.D. Ohio 1992).

individual retirees do not have standing to object as other creditors do under 11 U.S.C. § 1109(b).²⁷ Appellant appealed the District Court’s decision, and the Sixth Circuit held that individual retirees did not have Article III standing because they did not show any injury suffered by the individual retirees.²⁸

C. Other Parties in Interest Affected by Settlements

Courts have also found that parties in interest who may be affected by the retiree benefits settlement do not have standing to oppose a settlement of retiree benefits.²⁹ In *In re Murray Energy Holdings Co.*, Murray Energy Holdings (“Murray”), a coal company, paid retiree benefits for retired coal miners and their spouses and dependents.³⁰ Facing financial distress, Murray filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.³¹ During the bankruptcy case, Murray negotiated a settlement with the Official Committee of Retirees and the United Mine Workers of America 1992 Benefit Plan (the “1992 Plan”).³² Pursuant to the settlement, Murray’s retiree benefit obligations would be transferred to the 1992 Plan.³³ CONSOL Energy, Inc. (“CONSOL”) objected to the settlement as a party in interest because it may be held liable for retiree benefits in the future because it was the last signatory operator under the Coal Industry Retiree Health Benefit Act of 1992.³⁴

On appeal, the Sixth Circuit held that CONSOL did not meet a “person aggrieved” standard.³⁵ To be a “person aggrieved” by a bankruptcy court's order because it impedes the person's interests in other litigation, those interests must be interests that the Bankruptcy Code

²⁷ *Id.*

²⁸ *In re GF Corp.*, 996 F.2d 1215, 1215 (6th Cir. 1993).

²⁹ *See In re Murray Energy Holdings Co.*, 624 B.R. at 611–14.

³⁰ *In re Murray Energy Holdings Co.*, 615 B.R. at 463–64.

³¹ *Id.* at 464.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 464, 472.

³⁵ *In re Murray Energy Holdings Co.*, 624 B.R. 613–14.

intends to protect.³⁶ Similarly, in *Stark v. Moran*, the court held that the appellant's interests as a shareholder in the corporation, as a state-court litigant defending against the debtor's claims, and as an unsuccessful bidder for the stock, “are not the sort of interests that support standing for the purpose of his bankruptcy appeal.”³⁷

Courts in other circuits have reached the same conclusion. The Eighth Circuit dismissed parties’ appeal under the “person aggrieved” doctrine notwithstanding a bankruptcy court’s order preventing them from asserting defenses in separate litigation.³⁸ The court noted that “even if a bankruptcy court order deprived a party of a defense that would have otherwise been available to him, it did not render the defendant a party aggrieved.”³⁹

Conclusion

Official Committees of Unsecured Creditors and parties in interest to the bankruptcy proceeding may be entitled to object to a proposed settlement agreement and a hearing upon such objection. Upon a bankruptcy judge’s approval of the settlement, however, it is more difficult for parties in interest to establish standing for appeal. It is especially so in the retiree benefits settlement context where consideration for creditors’ interests and retirees’ collective interests are required and emphasized. Thus, it may be crucial for the parties in interest to examine whether they can satisfy both Article III standing and the prudential “person aggrieved” standing to successfully appeal the substantive issues of the case.

³⁶ *Id.* at 614.

³⁷ *Stark v. Moran*, 566 F.3d 676, 680 (6th Cir. 2009).

³⁸ *Opportunity Fin., LLC v. Kelley*, 822 F.3d 451, 459 (8th Cir. 2016).

³⁹ *Id.* (quoting *In re Ernie Haire Ford, Inc.*, 764 F.3d 1321, 1325–27 (11th Cir. 2014)).