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

In re: WALTER ENERGY, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 15-02741-TOM11 Jointly Administered
DOMINION RESOURCES BLACK WARRIOR TRUST, by and through its TRUSTEE, SOUTHWEST BANK, Plaintiff, vs. WALTER BLACK WARRIOR BASIN LLC, Defendant.	Adversary Case No. 15-00102-TOM

DEBTOR'S EMERGENCY MOTION TO QUASH SUBPOENA DIRECTED TO CAROL FARRELL

Walter Black Warrior Basin, LLC ("WBWB"), one of the Debtors in the Chapter 11 Cases (defined below) and the defendant in this adversary proceeding, hereby moves on an emergency basis to quash the subpoena directed to Carol Farrell ("Ms. Farrell") purporting to require her to attend the hearing on Tuesday, August 18, 2015, on the Verified Application for

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors' corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

Temporary Restraining Order (the "TRO Application") filed by Dominion Resources Black Water Trust ("Dominion"). In support of this motion, WBWB states as follows:

1. Ms. Farrell is the President of Walker Coke, Inc. *See* Declaration of Carol Farrell, attached as Exhibit A, ¶ 2. Walter Coke, Inc. is not a party to this adversary proceeding.

2. At about 2:45 p.m. on Friday, August 14, 2015, Dominion attempted to serve a subpoena on Ms. Farrell requiring her to appear at the hearing on Dominion's TRO Application in this adversary proceeding, currently scheduled for Tuesday, August 18, 2015, at 10 a.m. Service was attempted by leaving the subpoena with the receptionist at the corporate headquarters of Debtor Walter Energy, Inc., 3000 Riverchase Galleria, Suite 1700, in Birmingham, Alabama. The receptionist was not empowered to accept service of a subpoena for Ms. Farrell. *See* Farrell Decl., ¶ 3.

3. The subpoena left with the receptionist did not include fees for Ms. Farrell's attendance or mileage.

4. Service of the subpoena was defective for two reasons. First, it was not delivered to Ms. Farrell. Second, it was not accompanied with the required fees for 1 day's attendance or mileage. Rule 45 of the Federal Rules of Civil Procedure requires both in order for service to be effective. *See* Fed. R. Civ. P. 45(b)(1). *See also Firefighter's Inst. For Racial Equality ex rel. Anderson v. City of St. Louis*, 220 F.3d 878, 903 (8th Circ. 2000) ("When a non-party is served, the method of service needs to be one that will ensure the subpoena is placed in the actual possession or control of the person to be served."); *F.T.C. v. Compagnie De Saint-Gobain-Pont-a-Mousson*, 636 F.2d 1300, 1313 (D.C. Cir. 1980) ("[U]nder the Federal Rules, compulsory process may be served upon an unwilling witness only in person.").

5. Defective service is sufficient reason to quash the subpoena and excuse Ms. Farrell from attendance at the August 18 hearing. *See Florida Media, Inc. v. World Publications, LLC*, 236 F.R.D. 693, 695 (M.D. Fla. 2006) (noting that courts will quash subpoenas for ineffective service).

6. In the alternative, WBWB moves to quash the subpoena on the alternative ground that it causes Ms. Farrell undue burden. *See* Fed. R. Civ. P. 45(d)(3)(A)(iv) ("On timely motion, the court for the district where compliance is required ***must*** quash or modify a subpoena that … subjects a person to undue burden") (emphasis added). Ms. Farrell has a previously-scheduled business trip that requires her to be in Pittsburgh, Pennsylvania on Tuesday morning, traveling from there to Ohio later on Tuesday and to Chicago on Wednesday. *See* Farrell Decl., ¶ 2. Canceling this business trip and attending the August 18 hearing instead would cause undue burden to Ms. Farrell given the importance of the business meetings and the extremely late effort to subpoena her attendance at the August 18 hearing. *Id.*

7. Ms. Farrell's attendance at the August 18 hearing would also cause undue burden because Ms. Farrell is unlikely to have any knowledge of facts that are pertinent to the issues to be decided in connection with the TRO Application. WBWB submits that Ms. Farrell was subpoenaed only because Walter Energy's Chief Financial Officer, William Harvey, testified in deposition earlier in the day on Friday, August 14, that he would go to Ms. Farrell if he wanted to find out information regarding WBWB. *See* Depo. Transcript of William Harvey, August 14, 2015, at p. 68 (referenced pages from Mr. Harvey's deposition are attached at Ex. B). This is because Mr. Harvey believes that WBWB's operating management reports to Ms. Farrell. *Id.* at p. 66.

8. The day-to-day operations of WBWB and any information Ms. Farrell might have received from her direct reports at WBWB are not relevant to the issues presented by Dominion's TRO Application. The TRO Application seeks an order requiring WBWB to segregate funds attributable to the proceeds of gas production in which Dominion claims an interest, to defend against efforts to place a lien on such proceeds, and to pay such proceeds to Dominion. Without limitation, the relief sought implicates the manner in which WBWB invoices Alabama Gas Corporation ("Alagasco") for the gas produced, the manner in which Alagasco pays for the production, the bank account these commingled funds go into, and the bank accounts the commingled funds migrate to after that. These facts regarding the proceeds of gas sales are undisputed and should be the subject of stipulation, while the question of whether WBWB is entitled to a TRO requiring WBWB to pay gas proceeds to it turns on the nature of Dominion's interest in the payments, which is a question of law. Further, WBWB anticipates that other witnesses who will be present in the courtroom on August 18 can testify to the facts regarding invoicing, payment, and migration of funds if those are not established by stipulation. Requiring Ms. Farrell to attend the August 18 hearing under these circumstances imposes an undue burden on her.

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Dated: August 17, 2015
Birmingham, Alabama

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/s/ Patrick Darby

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Proposed Counsel to the Debtors and
Debtors-in-Possession

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of August, 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:

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Patrick Darby

EXHIBIT A

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

In re: WALTER ENERGY, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 15-02741-TOM11 Jointly Administered
DOMINION RESOURCES BLACK WARRIOR TRUST, by and through its TRUSTEE, SOUTHWEST BANK, Plaintiff, vs. WALTER BLACK WARRIOR BASIN LLC, Defendant.	Adversary Case No. 15-00102-TOM

DECLARATION OF CAROL FARRELL

I, Carol Farrell, make this declaration under 28 U.S.C. § 1746 and hereby state:

1. My name is Carol Farrell. I am over 19 years of age and have personal knowledge of the matters set forth herein.

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors' corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

2. I am the President of Walter Coke, Inc. In that capacity, I am scheduled to travel on business during the week of August 17, 2015, leaving Birmingham that morning and traveling to Pittsburgh, Pennsylvania for meetings on Tuesday morning, August 18. From Pittsburgh, I am scheduled to travel to Ohio and to Chicago for other business meetings, returning to Birmingham on Thursday, August 20, 2015. These business meetings have been difficult to schedule and are time-sensitive. Canceling them at this late juncture would be quite burdensome and potentially detrimental to the business purposes of the meetings.

3. I understand that a subpoena stating that I must appear at a hearing in Birmingham on August 18, 2015, at 10 a.m. was left with the receptionist at Walter Energy in the afternoon of Friday, August 14, 2015. Nobody personally delivered a copy of this subpoena to me. I have never authorized any other person, including the receptionist, to accept delivery of a subpoena on my behalf.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed this 17th day of August, 2015.

Carol Farrell

Carol Farrell

EXHIBIT B

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

In re:	Chapter 11
WALTER ENERGY, INC.,	Case No.
et al.	15-02741-TOM11
Debtors.	Jointly
	Administered

DEPOSITION OF
WILLIAM G. HARVEY
August 14, 2015

S T I P U L A T I O N

IT IS STIPULATED AND AGREED, by and between the parties through their respective counsel, that the deposition of WILLIAM G. HARVEY may be taken before Kerry K. Thames, Commissioner, at One Federal Place, 1819 5th Avenue North, Birmingham, Alabama, on August 14, 2015, commencing at 9:11 A.M.

Case 15-00102-TOM Doc 22 Filed 08/17/15 Entered 08/17/15 09:42:32 Desc Main Document Page 11 of 13

anyone, any individual that's employed by the debtors that you would go to to get that information, or anyone else?

MR. BLACK: Objection to the statement. You can answer the question.

A. I did not say Walter Black. I said I don't know who I would go to in Walter Energy, and in the debtors, I would have to -- we sent notices out, I believe, the day of filing.

Q. (BY MR. HANCOCK) Who besides the HR department would have knowledge regarding the business activities, the employees, the positions of the people exercising day-to-day control over Walter Black?

MR. BLACK: Object to the form.

A. Walter Black reports through Carol Farrell, I believe.

Q. (BY MR. HANCOCK) Can you explain what you mean by reports through?

A. The main operating -- the operating management of Walter Black reports to Carol Farrell.

Case 15-00102-TOM Doc 22 Filed 08/17/15 Entered 08/17/15 09:42:32 Desc Main Document Page 12 of 13

Farrell the person that you believe as you sit here today has the most knowledge regarding the activities of Walter Black?

MR. BLACK: Object to the form.

A. I don't know that. Carol Farrell -- they report through Carol Farrell.

Q. (BY MR. HANCOCK) Yes, sir, and I'm just -- I'm asking you if she is the person with the most knowledge. You haven't been able to tell me any employees or managers of Walter Black who currently exist.

A. Uh-huh (Nodding head).

Q. So I'm asking you who you would go to if you needed information regarding Walter Black?

A. I would go to Carol Farrell.

Q. And anybody else besides Ms. Farrell?

A. No. Mr. Singleton has left the company. I don't know who his replacement is.

Q. And Ms. Farrell's position was senior vice president of which entity?

A. Walter Coke.

Case 15-00102-TOM Doc 22 Filed 08/17/15 Entered 08/17/15 09:42:32 Desc Main Document Page 13 of 13