

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AMERICAN STAINLESS & SUPPLY, LLC,)	
MECHANICAL SUPPLY CO., & SUPERIOR)	
CRANES, INC.)	
)	
Appellants,)	
)	1:08CV692
v.)	
)	
ALL POINTS CAPITAL CORP.,)	
)	
Appellee.)	
_____)	

MEMORANDUM OPINION

TILLEY, Senior District Judge

This matter is before the Court on Appellant the Official Committee of Unsecured Creditors' ("the Committee") Motion for Leave to Cross-Appeal. [Doc. # 2.] The appeal arises out of an adversary proceeding, All Points Capital, Corp. v. Laurel Hill Paper Co., A.P. No. 07-2040, related to bankruptcy proceedings in In re Laurel Hill Paper Co., Case No. 07-10187. The Committee seeks leave to file a cross-appeal of the Bankruptcy Court's interlocutory order of July 22, 2008. [Doc. # 2.] For the reasons stated below, the Motion for Leave to Cross-Appeal is denied.

I.

The debtor in the underlying bankruptcy proceedings, Laurel Hill Paper Company, filed a petition for relief under Chapter 11 of the Bankruptcy Code on February 13, 2007. [In re Laurel Hill Paper Co., Doc. # 11.] The Debtor's assets

included a recycled paper manufacturing facility located in Cordova, North Carolina. Multiple creditors claim liens against the real and personal property at the facility. This facility, along with its inventory and equipment, was sold on May 29, 2007, and all creditors' liens were transferred to the sale proceeds. The sale of the facility netted \$21,965,868.27. The Debtor allocated approximately \$4.2 million to pay creditor liens on real property and approximately \$17.8 million to pay creditor liens on personal property. Three companies claiming liens against the proceeds allocated to the real property, American Stainless & Supply, LLC, Mechanical Supply Company, and Superior Cranes, Incorporated ("44A Claimants"), objected to the allocation of proceeds.

On August 8, 2007, the Debtor filed an adversary proceeding seeking, among other things, approval of its allocation of proceeds and a denial of the 44A Claimants' claims. On August 13, 2007, All Points Capital Corporation filed an adversary proceeding seeking similar relief. The two adversary actions were consolidated, and on October 29, 2007, the Bankruptcy Court suspended all pleadings until the validity of the 44A Claimants' objections could be determined. A trial was held before the Bankruptcy Court on March 31, 2008. On July 22, 2008, the Bankruptcy Court issued a memorandum opinion and order holding that the proceeds from the sale of the facility are properly allocated between real and personal property and that none of the 44A Claimants has an enforceable lien against the facility proceeds. [Doc. # 2, ex. 1, 2.] As part of its ruling, the Bankruptcy Court determined that American

Stainless & Supply, LLC, and Mechanical Supply Company timely filed notices of claim of lien.

II.

On August 20, 2008, the 44A Claimants filed a Motion for Leave to Appeal the Bankruptcy Court's Order of July 22, 2008. [1:08CV680, Doc. # 2.] The Committee filed a cross-appeal seeking review of the Bankruptcy Court's holding that American Stainless & Supply, LLC, and Mechanical Supply Company timely filed notices of claim of lien. As the issue of whether notices of lien were timely filed is inexorably intertwined with the determination of the 44A Claimants' appeal, the Committee seeks leave to file a cross-appeal only in the event that the 44A Claimants' Motion for Leave to Appeal is granted. This Court has denied the 44A Claimants' Motion for Leave to Appeal¹, and thus, will also deny the Committee's Motion for Leave to Cross-Appeal. [Doc. # 2.] Because the rulings in the July 22, 2008, Order are all related, they will most efficiently be dealt with at one time, after the entry of final judgment.

III.

For the foregoing reasons, the Motion for Leave to Cross-Appeal [Doc. # 2] will be DENIED.

¹For the judgment and accompanying memorandum opinion denying the 44A Claimants' Motion for Leave to Appeal, see this Court's judgment entered on January 7, 2008, in 1:08CV680.

This the 30th day of January, 2009.

 /s/ N. Carlton Tilley, Jr.
Senior United States District Judge