



IT IS ORDERED as set forth below:

Date: December 28, 2016

**W. Homer Drake
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

IN THE MATTER OF:	:	CASE NUMBER
	:	
T. LEIGH SANDERS, JR.,	:	16-11125-WHD
	:	
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 11 OF THE
DEBTOR.	:	BANKRUPTCY CODE

ORDER

Before the Court is the Motion to Intervene filed by Gomel, Davis & Watson, LLP (hereinafter “GDW”) in the above-styled bankruptcy case. This matter came on for hearing on December 13, 2016, at 10:00 AM.

GDW requests to intervene in an action for relief from the automatic stay filed by Fidelity Bank. (See Motion for Relief from Stay, Doc. No. 19). GDW asserts that it

holds a superior lien on the real property Fidelity Bank claims as its collateral (hereinafter the “Property”), and therefore it should be entitled to intervene in the matter.

Section 1109 of the Bankruptcy Code allows “[a] party in interest, including the debtor, the trustee, a creditors’ committee,...a creditor,...or any indenture trustee” to “appear and be heard on any issue in a case under this chapter.” 11 U.S.C. § 1109(b). The procedure for intervening is governed by Federal Rule of Bankruptcy Procedure 2018. *See Resolution Trust Corp. v. Russell Corp. (In re Russell Corp.)*, 156 B.R. 347, 349 (Bankr. N.D. Ga. 1993) (Kahn, J.) (“The appropriate authority for seeking to intervene in a contested matter is Fed. R. Bankr. P. 2018.”); *see also* Fed. R. Bankr. P. 2018. That rule provides, “In a case under the Code, after hearing on such notice as the court directs and for cause shown, the court may permit any interested entity to intervene generally or with respect to any specified matter.” Fed. R. Bankr. P. 2018(a). “In order to establish cause under [the Rule], a party must establish that it has an economic or similar interest in the matter which is not adequately represented and that intervention would not result in undue delay or prejudice.” *In re Russell Corp.*, 156 B.R. at 349.

In the instant case, GDW claims an interest in the Property pursuant to an attorney’s lien. Section 15-19-14 of the Georgia Code states, “Upon all actions for the recovery of real...property and upon all judgments or decrees for the recovery of the same, attorneys at law shall have a lien for their fees on the property recovered superior to all liens except liens for taxes....” O.C.G.A. § 15-19-14(c).

At the hearing, Fidelity Bank objected to GDW's motion, asserting that GDW had not established that its lien attaches to the Property. Fidelity Bank, citing an opinion of the Georgia Court of Appeals, argued that attorney's liens authorized by the statute only attach to real property actually recovered by the attorney. *See Carragher v. Potts*, 686 S.E.2d 348, 350 (Ga. Ct. App. 2009) ("Our state appellate courts have further held that 'the attorney's lien created under O.C.G.A. § 15-19-14(c) attaches to the fruits of the labor and skill of the attorney...'" (quoting *Smith, Bassett, Purcell & Koenig v. Word of God Ministries*, 506 S.E.2d 427, 428 (Ga. Ct. App. 1998))). Fidelity Bank maintained that GDW had failed to show that it had "recovered" the Property as required by the statute.

When pressed on what evidence GDW had to show that its lien attached to the Property, GDW offered only the billing records it had attached to its proof of claim. These records suggest that the Debtor owes GDW \$32,621.15 for services rendered. However, either as a consequence of redaction or omission, the records contain no description of the services provided. As GDW had no other evidence of its interest in the Property, the Court finds that GDW has failed to show its entitlement to intervene.

Therefore, in accordance with the foregoing, it is hereby **ORDERED** that GDW's Motion to Intervene is **DENIED**.

The Clerk is **DIRECTED** to serve a copy of this Order on the Debtor, GDW, Fidelity Bank, their respective counsel, and the United States Trustee.

END OF DOCUMENT