

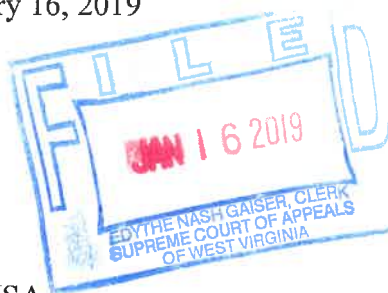


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January 16, 2019

Edythe Nash Gaiser, Clerk of Court  
State Capitol Rm E-317  
1900 Kanawha Blvd. East  
Charleston, WV 25305



Re: Directional One Services Inc., USA  
v. Antero Resources Corporation  
Tyler County Civil Action No. 18-C-14

Dear Ms. Gaiser:

Please find enclosed the original Defendant Antero Resources Corporation's Reply in Opposition to Plaintiff's Motion to Refer Case to the Business Court Division in the above-referenced civil action for presentation to the Chief Justice for further review and consideration.

Copies of Defendant Antero Resources Corporation's Reply in Opposition to Plaintiff's Motion to Refer Case to the Business Court Division have this day been sent via first class mail to the Central Office of the Business Court Division, the Honorable David W. Hummel, Jr., and other counsel of record, as well as delivered to the Tyler County Circuit Clerk for filing.

Thank you for your assistance. Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in blue ink that reads 'W. Henry Lawrence'.

W. Henry Lawrence

WHL/kad  
Enclosure

cc (w/encl.): Hon. David W. Hummel, Jr.  
Carol A. Miller, Executive Director  
Business Court Division  
Candy L. Warner, Clerk  
Circuit Court of Tyler County  
Sean P. McGinley, Esquire  
Christopher Kamper, Esquire

8292402.1

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**DIRECTIONAL ONE SERVICES INC. USA,  
a foreign corporation authorized to do business  
in the State of West Virginia,**

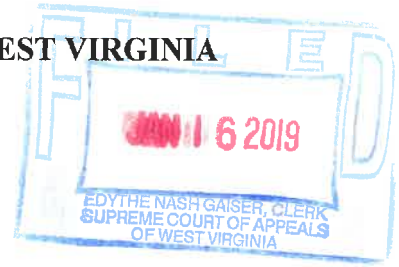
**Plaintiff,**

**v.**

**ANTERO RESOURCES CORPORATION,  
a foreign corporation authorized to do business  
in the State of West Virginia,**

**Defendant.**

**Tyler County Circuit Court  
Civil Action No.: 18-C-14**



**TO: THE HONORABLE CHIEF JUSTICE**

**DEFENDANT ANTERO RESOURCES CORPORATION'S  
REPLY IN OPPOSITION TO PLAINTIFF'S MOTION  
TO REFER CASE TO THE BUSINESS COURT DIVISION**

Pursuant to West Virginia Trial Court Rule 29.06(a)(4), Antero Resources Corporation ("Antero") submits its reply in opposition to Directional One Services Inc. USA's ("Plaintiff") Motion to Refer Case to the Business Court Division dated December 27, 2018. Plaintiff fails to offer any substantive support for now seeking a referral almost nine months into this litigation.

First, contrary to Plaintiff's contentions, this case does not involve "complex commercial or technological issues for which specialized treatment will be helpful." *See* Pl.'s Mot. to Refer at 2. Rule 29 limits referrals to the Business Court to cases for "which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable." W. Va. TCR

29.04(a)(2). This case, however, is a fairly straightforward breach of contract case involving the basic question of whether the contract's plain language provides for particular charges to be billed by the contractor. Although the directional drilling services supplied under the subject contract are technological in nature, that fact has virtually no bearing on the legal, contractual issues presented. Plaintiff offers no basis to support its contention that specialized treatment would be helpful. Moreover, the Circuit Court is fully capable of understanding and adjudicating the issues presented. In fact, to the extent that any knowledge about the directional drilling service or contracts involving such would be helpful, Judge Hummel is likely to know as much or more about the topic than any other judge by virtue of presiding over this case for almost nine months, including having ruled on a substantive motion to dismiss and reviewing multiple pending motions to compel.

Further, Plaintiff's motion runs counter to the stated purpose of the Business Court, that is, to expedite such litigation. See Judge Christopher Wilkes, *An Overview of the Development and Operation of Trial Court Rule 29*.<sup>1</sup> Indeed, Judge Wilkes, as the first Chair of the Business Court Division, recognized that "[t]he Business Court Division is designed as a 'rocket docket,' attempting to resolve cases within ten months." *Id.* (citing the statements of "Justice Robin Davis at the opening ceremony of the Business Court Division on October 10, 2012"). This is further evidenced by the language of Rule 29 itself:

The Business Litigation should proceed to final judgment in an expedited manner. The time standards for general civil cases set forth in Trial Court Rule 16.05 shall apply; provided, however, that the Presiding Judge shall make all reasonable efforts to conclude Business Litigation within ten (10) months from the date the case management order was entered.

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<sup>1</sup> Judge Wilkes's overview of the Business Court is available at <http://www.courtswv.gov/lower-courts/business-court-division/overview-TCR29.html>.

W. Va. TCR 29.08(g) (emphasis added). Pursuant to W. Va. TCR 29.08(c) and (d), the presiding judge shall conduct a case management and scheduling conference within thirty (30) days of the case being assigned to the business court, and shall issue a case management order within fifteen (15) days thereafter. Thus, the statutory goal of the Business Court is to resolve cases within eleven and one half months following this Court's assignment of the case to the Business Court.

Based on the current Scheduling Order, this matter should be resolved in a comparable overall time period of fourteen months, and six months from the filing of this reply. Plaintiff filed this action on April 6, 2018, nearly nine months prior to its motion to refer, despite the fact that any alleged complex commercial or technological issues were presumably clear at the outset of this case. Moreover, Judge Hummel entered a scheduling order on November 19, 2018. The parties have exchanged seven sets of discovery and conducted four depositions. This case is currently scheduled for a final pre-trial conference on June 19, 2019.

In conclusion, Plaintiff has failed to establish that "specialized treatment is likely to improve the expectation of a fair and reasonable resolution" of this matter. Based upon the foregoing, Antero Resources Corporation requests that the Court deny Plaintiff's motion and allow this matter to proceed pursuant to the current Scheduling Order.



W. Henry Lawrence (WV Bar #2156)  
John D. Pizzo (WV Bar #12680)  
Eric M. DiVito (WV Bar #12890)

STEPTOE & JOHNSON PLLC  
Of Counsel

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(304) 933-8000

Attorneys for Antero Resources Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of January 2019, I served the foregoing “Defendant Antero Resources Corporation’s Reply in Opposition to Plaintiff’s Motion to Refer Case to the Business Court Division” upon counsel of record by depositing true copies thereof in the United States mail, postage prepaid, in envelopes addressed as follows:

Sean P. McGinley, Esquire  
DiTrapano Barrett DiPiero  
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