

**IN THE CIRCUIT COURT OF TYLER COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

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

Plaintiff,

v.

**Civil Action No. 18-C-14
Presiding Judge: H. Charles Carl, III
Resolution Judge: Christopher C. Wilkes**

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

Defendant.

DAY ORDER FROM MARCH 19, 2020 PRETRIAL CONFERENCE

CAME the parties, in a Pretrial Conference held pursuant to this Court's prior Order setting Trial and Pretrial Conference dates entered December 10, 2019, on March 19, 2020, commencing at 1:00 p.m. telephonically¹.

1. Sean McGinley, Esq. and Christopher Kamper, Esq. appeared for the Plaintiff, and W. Henry Lawrence, Esq. and John D. Pizzo, Esq. appeared for the Defendant.

2. The undersigned suggested, and the parties agreed, to referring to Plaintiff, Directional ONE Services, Inc., as "Defendant", and Defendant, Antero Resources Corporation, as "Plaintiff" at trial to reduce juror confusion in light of the fact that the only claim remaining in this civil action is Count IV of the Counterclaim, wherein Antero Resources Corporation is the Counterclaim-Plaintiff and Directional ONE Services, Inc. is the Counterclaim-Defendant.

¹ The Court notes the Order entered December 10, 2019 scheduled the Pretrial Conference to be held before the undersigned in the Hampshire County Judicial Center. *See* Ord., 12/10/19, p. 1. However, in light of the COVID-19 pandemic, the Supreme Court of Appeals entered two administrative orders directing scheduled in-person court hearings to be conducted remotely, if possible. *See* Admin. Ord. In light of this and by the parties' agreement, the Pretrial Conference was held with all counsel appearing by phone.

3. The Court heard oral argument by counsel for both parties regarding the following previously filed motions:

- a. Antero Resource Corporation's Motion *in Limine* No. 1;
- b. Antero Resource Corporation's Motion *in Limine* No. 2;
- c. Directional One's Motion *in Limine* Concerning Sporting Event Entertainment Expenditures;
- d. Antero Resource Corporation's Motion *in Limine* No. 3;
- e. Antero Resource Corporation's Motion *in Limine* No. 4;
- f. Antero Resource Corporation's Motion *in Limine* No. 5;
- g. Antero Resource Corporation's Motion *in Limine* No. 6;
- h. Antero Resource Corporation's Motion *in Limine* No. 7;
- i. Directional One's Motion *in Limine* and/or to Compel Concerning the Testimony of Kevin Kilstrom;
- j. Directional One's Motion *in Limine* regarding the testimony of Kevin Kilstrom contained within Plaintiff's Response Defendants' Motion to Continue Combined With Plaintiff's Affirmative Motion *in Limine* filed on or about October 15, 2019²; and
- k. Directional One's Motion *in Limine* Regarding Evidence Proffered to Vary Unambiguous Contract Terms.

4. The foregoing Motions, with the exception of Directional One's Motion *in Limine* and/or to Compel Concerning the Testimony of Kevin Kilstrom and Directional One's Motion *in*

² The Court notes by Order granting Defendant's Motion to Continue the Court granted Plaintiff's oral motion to re-depose Mr. Kilstrom, including re-deposing him as to personal knowledge he may have had as to field tickets and invoices. *See Ord.*, 10/21/19, p. 3.

Limine regarding the testimony of Kevin Kilstrom contained within Plaintiff's Response Defendants' Motion to Continue Combined With Plaintiff's Affirmative Motion *in Limine* filed on or about October 15, 2019, were ruled upon from the bench. Separate Orders ruling upon each of said motions will be entered, after proposed orders are received from counsel.

5. Regarding Directional One's Motion *in Limine* and/or to Compel Concerning the Testimony of Kevin Kilstrom and Directional One's Motion *in Limine* regarding the testimony of Kevin Kilstrom contained within Plaintiff's Response Defendants' Motion to Continue Combined With Plaintiff's Affirmative Motion *in Limine* filed on or about October 15, 2019, the Court took the matter under advisement. The Court ordered the parties to provide the Court with supplemental briefing and a proposed order on the issue by April 24, 2020.

6. Conference was had regarding the stipulated exhibit list provided to the Court via email on March 18, 2020, the proposed *voir dire* questions submitted to the Court, and the proposed jury instructions.

7. Conference was had regarding the trial dates in this matter. In consideration of the Administrative Order issued by the Supreme Court of Appeals on March 16, 2020, ordering "[a]ll civil...trials...that are scheduled during this time [Monday, March 16, 2020 through Friday, April 10, 2020] shall be continued...", the jury trial set in this matter for April 1, 2020 in Tyler County, West Virginia was CONTINUED. See Admin. Ord. 3/16/20, ¶1.

8. Further, the matter was set for a two to three day jury trial commencing on August 26, 2020 at 9:00 a.m. at the Tyler County Courthouse, 121 Main Street, Middlebourne, West Virginia, 26149.

9. Conference was had regarding the parties mediating the case again with Resolution Judge Wilkes.

10. The Pretrial Conference was then adjourned.

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 23rd day of March 2020.



JUDGE H. CHARLES CARL, III
JUDGE OF THE WEST VIRGINIA
BUSINESS COURT DIVISION