

**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.

FINAL JUDGMENT ORDER

This action came on for jury trial before the Honorable H. Charles Carl, Judge, Business Court Division, with trial commencing August 26, 2020, in the Tyler County Courthouse, Middlebourne, West Virginia. 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. All issues having been so tried or disposed of by prior orders of this Court, the jury returned its verdict on August 29, 2020 in favor of the Plaintiff (referred to as the Defendant for the purposes of trial), Directional One Services, USA, Inc. A copy of the fully executed jury verdict form was entered in the Court file on August 29, 2020. The Court would further note that Plaintiff submitted a proposed Order, that Defendant filed objections thereto, and that the parties have attempted to resolve these issues through post-trial mediation, to no avail. The Court finds that the taking of any additional evidence would not be necessary as a full record has been made.

Based on the foregoing, and upon the oral post-trial motions of the parties, made on the record, this Court's prior orders on the summary judgment motions made by the parties entered

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Candy L. Warner
Tyler Co. Circuit Clerk

August 19, 2019, as well as the proposed Judgment Order, objections, and reply from the parties, it is hereby ORDERED and ADJUDGED that judgment be entered in the favor of Plaintiff (referred to as the Defendant for the purposes of trial), Directional One Services, USA, Inc. as follows:

1. Pursuant to Rule 58 of the West Virginia Rules of Civil Procedure, final judgment is hereby entered in favor of Plaintiff in the amount of \$1,481,510.30, in addition to pre and post judgment interest. Pursuant to prior order of this Court, the pre-judgment interest shall accrue at a rate of 5.5% per annum from March 22, 2018, the date the contract terminated, through the date of the entry of this Order. The post-judgment interest shall accrue thereafter at a rate of 4.75% per annum.

2. As to Count II of the Plaintiff's claims for relief seeking a Declaratory Judgment, the Court would note that no action was taken during the trial as to this issue and the jury was not asked to make findings on this issue. However, pursuant to the Court's prior Order for Partial Summary Judgment in favor of Plaintiff as to the two lost -in-hole properties, the Court finds that this issue is essential and appurtenant to that ruling, and that it is proper to consider this issue now. Further, the Court would note that this issue was not raised by either party until after the jury had reached its verdict and been excused. The Court has reviewed a transcript of the proceedings after the jury was excused, and would note that Plaintiff moved for the Court's final judgment order to include a judgment on Plaintiff's declaratory judgment regarding the validity of the liens that were filed. In response to the motion, Counsel for Defendant acknowledged he understood that Plaintiff was seeking a final judgment as to the liens since all claims are in relation to the summary judgment motion.

3. After considering all of which, it is the order of this Court that Plaintiff has a valid Mechanic's Lien against the assets of Defendant, but the Court notes this is limited solely to the two lost-in-hole properties at issue in this litigation, and the subject of the Partial Summary Judgment Order, heretofore referred to as the Jamison 1H Well and the Jack Unit 2H Well, attached at Tyler County Mechanic's Lien Book 5, Page 167, and Tyler County Mechanic's Lien Book 5, Page 169, respectively, pursuant to West Virginia Code §§ 38-2-2, 38-2-3, 38-2-4, 38-2-5, and 38-2-6.

4. The Court notes that although no evidence was submitted at the trial as to the issue of Mechanic's Liens against the Defendant for Work or Labor as provided by West Virginia Code § 38-2-31, also known as the "Laborers Lien", the Court finds that Plaintiff does not have a valid Mechanic's Lien. *See* Syl. Pt. 2, *Sturgill v. Lovell Lumber Co.*, 136, W. Va. 239, 67 S.E.2d 321 (1951). The Court finds and concludes that such lien is improper and invalid as Plaintiff is not an individual worker and West Virginia Code §§ 38-2-31 provides that *individual workers* may record a lien on a property owner's property if they worked for a contractor or subcontractor on that owner's property but were not paid by *their employer*. The Court finds this type of lien is not applicable to the case at bar.

5. The valid liens (as described in Paragraph 3) shall be prioritized in accordance with West Virginia Code §§ 38-2-17 and 38-2-18.

6. Plaintiff shall recover its costs in this litigation. Plaintiff shall file and serve a bill of costs within ten (10) days of the entry of this Order, and Defendant shall have ten (10) days after receipt thereof to respond or file a motion seeking the Court's review of the bill of costs, if it wishes, in accordance with West Virginia Rule of Civil Procedure 54(d).

7. That this is a Final Order, and any party aggrieved by this Final Order may take an appeal directly to the Supreme Court of Appeals of West Virginia; and pursuant to Rule 5 of the West Virginia Rules of Appellate Procedure must file a Notice of Appeal within thirty (30) days and complete and perfect their appeal within four (4) months after entry of this Final Order.

Accordingly, it is hereby ADJUDGED and ORDERED that this is a FINAL ORDER, and this matter is DISMISSED with prejudice. The Clerk shall retire this matter from the active docket. The Court notes the objections and exceptions of the parties to any adverse ruling herein. 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 4th day of November, 2020.



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