

IN THE CIRCUIT COURT OF NICHOLAS COUNTY, WEST VIRGINIA  
MICHAEL D. HARLOW

CIRCUIT CLERK  
NICHOLAS COUNTY, WV  
2017 DEC -8 P 3:24

*Plaintiff,*

v.

CIVIL ACTION NO. 17-C-149  
JUDGE James Rowe

EASTERN ELECTRIC, LLC,

*Defendant.*

### COMPLAINT

The Plaintiff, Michael D. Harlow, by and through the undersigned counsel, hereby files this Complaint against the Defendant, Eastern Electric, LLC, and asserts the following:

#### **I. PARTIES**

1. The Plaintiff is a resident of Nicholas County, West Virginia.
2. The Defendant, Eastern Electric, LLC, is a West Virginia limited liability company with its principal place of business located in Nicholas County, West Virginia, at 330 Riviera Road, Mount Nebo, West Virginia 26679.

#### **II. JURISDICTION AND VENUE**

3. The Plaintiff repeats and incorporates herein by reference the allegations contained in paragraphs 1 through 2 of this Complaint as if set forth herein verbatim.
4. This Honorable Court has jurisdiction over the subject matter of this action pursuant to West Virginia Code §§ 31B-7-701 and 51-2-2.
5. Venue is proper in this Court in accordance with West Virginia Code §§ 31B-7-701 and 56-1-1.

### **III. BACKGROUND FACTS**

6. The Plaintiff repeats and incorporates herein by reference the allegations contained in paragraphs 1 through 5 of this Complaint as if set forth herein verbatim.

7. The Plaintiff is a former member of the Defendant.

8. The Plaintiff dissociated from the Defendant on April 14, 2017 (“the Dissociation Date”).

9. As of the Dissociation Date, the Plaintiff owned a one-third distributional interest in the Defendant (“the Distributional Interest”).

10. There is no operating agreement between the members of the Defendant that dictates the purchase price and terms of sale upon a member’s dissociation from the Defendant.

11. Since dissociating from the Defendant, the parties have been unable to agree on a fair value for the distributional interest pursuant to W. Va. Code § 31B-7-701.

### **IV. ACTION TO DETERMINE PURCHASE PRICE**

12. The Plaintiff repeats and incorporates herein by reference the allegations contained in paragraphs 1 through 11 of this Complaint as if set forth herein verbatim.

13. This action is brought to establish the fair value for the Distributional Interest in Defendant pursuant to W. Va. Code § 31B-7-701.

14. W. Va. Code § 31B-7-701(a) requires a limited liability company to purchase the distributional interest of its member upon dissociation by such member for the fair value of the distributional interest as of the dissociation date.

15. Pursuant to W. Va. Code § 31B-7-701(d), if an agreement to purchase the distributional interest is not made within one hundred twenty (120) days after the dissociation

date, the dissociated member, within another one hundred twenty (120) days, may commence a proceeding against the company to enforce the purchase.

16. The first one hundred twenty (120) day period referenced in W. Va. Code § 31B-7-701(d) has expired.

17. The Plaintiff is entitled to fair value for the Distributional Interest.

18. The Plaintiff has not received fair value for the Distributional Interest.

19. Pursuant to W. Va. Code § 31B-7-701(e), if the parties are unable to reach an agreement on the purchase price, this Honorable Court may determine the fair value of the Distributional Interest pursuant to the standards set forth in W. Va. Code § 31B-7-702 and order the Defendant to purchase the Distributional Interest.

20. W. Va. Code § 31B-7-702(d) provides that, if the Court finds that a party to the proceeding acted arbitrarily, vexatiously, or not in good faith, it may award the other party his reasonable attorneys' fees and the expenses of appraisers or other experts.

21. To the extent warranted by the Defendant's actions, the Plaintiff is entitled to his reasonable expenses pursuant to W. Va. Code § 31B-7-702(d).

#### **V: PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff requests the following relief:

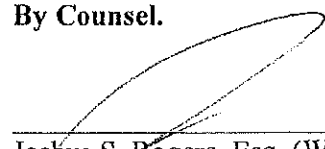
1. That this Court determine the fair value of the Distributional Interest in accordance with the standards set forth in W. Va. Code § 31B-7-702 and all other applicable law;

2. That this Court order the Defendant to purchase the Distributional Interest the fair value, as determined by the Court, pursuant to W. Va. Code § 31B-7-701;

3. That this Court award the Plaintiff his costs and expenses, including attorney and expert fees, associated with this action including those merited under W. Va. Code § 31B-7-702(d); and

4. That this Court grant the Plaintiff such other and further relief as this Court deems just and equitable in these circumstances.

**MICHAEL D. HARLOW,**  
**By Counsel.**



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