

CIRCUIT CLERK  
IN THE CIRCUIT COURT OF NICHOLAS COUNTY, WEST VIRGINIA  
Business Court Division  
JUN 14 A 9 35

**MICHAEL D. HARLOW**  
**Plaintiff,**

**Civil Action No.: 17-C-149**

v.

**Presiding Judge: James H. Young, Jr.**

**Resolution Judge: Paul T. Farrell.**

**EASTERN ELECTRIC, LLC,**  
**Defendant.**

**ORDER**

This matter came before the Court before the Honorable James H. Young, Jr. to determine the distributive share of Plaintiff, Michael Harlow, after his dissociation from Eastern Electric, LLC. The Plaintiff, Michael Harlow, is represented by counsel, Robert P. Dunlap, II, Esq. and Leah-Ann Clay, Esq. The Defendant, Eastern Electric, LLC, is represented by counsel, John D. Hoblitzell, III, Esq., John R. Hoblitzell, Esq., and Lindsay M. Gainer, Esq.

At the Pretrial hearing conducted on April 26, 2019, the parties stipulated that the value of Plaintiff's one-third (1/3) distributional interest in Eastern Electric, LLC was \$100,000 plus one-third (1/3) of the net proceeds of any potential recovery arising out of the *Grim* matter pending before the West Virginia Court of Claims. At the pretrial, the parties also represented to the Court that they would attempt to reach an agreement on a payment schedule. On May 7, 2019, the Court conducted a bench trial to determine whether either party acted arbitrarily, vexatiously, or not in good faith so that the Court would award attorney fees and expenses as authorized under W.Va. Code § 31B-7-702. The Court found that neither party acted in bad faith and did not award either party fees and expenses.

Since the conclusion of the bench trial the parties have been unable to reach an agreement as to the payment schedule. On May 21, 2019, the Court received Defendant's proposed payment schedule as well as a letter stating that Plaintiff rejected Defendant's proposed payment schedule. Therefore the Court, as mandated under W.Va. Code § 31B-7-702, specifies the terms of purchase and sets a payment schedule as follows:

1. The Court finds, per the parties' stipulation, that the fair value of Plaintiff's distributive share of Eastern Electric, LLC is valued at \$100,000 plus one-third (1/3) of the net *Grim* recovery, if any.
2. Eastern shall pay Plaintiff, Michael Harlow, \$100,000 plus interest and one-third (1/3) of the net recovery, if any, resulting from the *Grim* matter which is currently pending before the West Virginia Court of Claims.
3. Eastern shall make an initial payment of \$25,000 within thirty (30) days of entry of this Order.
4. Eastern shall pay Plaintiff \$5,500 per month until the balance is paid in full. The first payment shall be made the month immediately following the initial payment and shall continue on a monthly basis until the balance is paid in full.
5. Interest on Plaintiff's distributional interest in Eastern (\$100,000) shall begin from the date of Plaintiff's dissociation, April 14, 2017, and shall be calculated at the judgement interest rate. *See Marrara v. Ripley Assoc., LLC*, 233 W.Va. 102, 755 S.E.2d 120 (2014).
6. Further, should Eastern receive a net recovery in the *Grim* matter, Eastern shall pay Plaintiff his one-third (1/3) share of *Grim* net recovery within fourteen (14) days of Eastern receiving payment.

7. Interest shall not run on any potential *Grim* recovery unless Eastern fails to make the required payment within fourteen (14) days of receiving payment due to the extremely speculative nature of any potential *Grim* recovery and the parties' agreement that payment is not due until receipt of payment by Eastern. *See* Transcript April 26, 2019 hearing at p. 14:17-23
8. Upon receipt of the first installment payment of the purchase price, Plaintiff shall deliver an assignment of interest to Eastern as required under W.V.A. Code § 31B-7-702 (a) (3).

Therefore, all issues in this matter now being resolved this matter shall be stricken from the docket of this Court. Thus, this being the final order of the Court, the parties are advised that the period for appeal to the Supreme Court of Appeals of West Virginia runs from the entry of this Order.

All accordingly which is **ORDERED** and **DECREED**.

Enter this 18<sup>th</sup> day of June, 2019.

ORDER  
ENTER: *James H. Young, Jr.*  
HONORABLE JAMES H. YOUNG, JR.

A true copy, certified this  
21 day of June, 2019  
*Debbie Facemire*  
DEBBIE FACEMIRE CIRCUIT CLERK  
Nicholas County Circuit Court  
Summersville, WV 26651  
By *CF*, Deputy

