

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Directional ONE Services, Inc. USA,

Plaintiff(s),

vs.

Tyler County Circuit Court

Civil Action No. 18-C-14

Antero Resources Corporation,

(Hon. David W. Hummel, Jr., Judge)

Defendant(s).

TO: THE HONORABLE CHIEF JUSTICE

MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION

Pursuant to Rule 29.06 of the West Virginia Trial Court Rules, the Plaintiff herein, by counsel, Christopher Kamper, Esq., respectfully requests the above-styled case be referred to the Business Court Division.

In regard to additional related actions:

☒ There are no known related actions.

☐ The following related actions could be the subject of consolidation, and are

☐ now pending

or

☐ may be filed in the future. (Please list case style, number, and Court if any)

This action involves: (Please check all that apply)

☒ Breach of Contract;

☐ Commercial Non-consumer debts;

☐ Sale or Purchase of Commercial Entity;

☐ Internal Affairs of a Commercial Entity;

☐ Sale or Purchase of Commercial Real Estate;

☐ Trade Secrets and Trademark Infringement;

☒ Sale or Purchase of Commercial Products

☐ Non-compete Agreements;

Covered by the Uniform Commercial Code;

☐ Intellectual Property, Securities,
Technology Disputes;

☐ Terms of a Commercial Lease;

☒ Commercial Torts;

(continued on next)

☐ Insurance Coverage Disputes in Commercial Insurance Policies;
☐ Professional Liability Claims in Connection with the Rendering of Professional Services to a Commercial Entity;
☐ Anti-trust Actions between Commercial Entities;
☐ Injunctive and Declaratory Relief Between Commercial Entities;
☐ Liability of Shareholders, Directors, Officers, Partners, etc.;

☐ Mergers, Consolidations, Sale of Assets, Issuance of Debt, Equity and Like Interest;
☐ Shareholders Derivative Claims;
☐ Commercial Bank Transactions;
☐ Franchisees/Franchisors;
☐ Internet, Electronic Commerce and Biotechnology
☒ Disputes involving Commercial Entities; or
☐ Other (Describe) _____

In support of this motion, this matter contains issues significant to businesses, and presents novel and/or complex commercial or technological issues for which specialized treatment will be helpful, as more fully described here. This case involves a dispute concerning directional drilling services and equipment that were provided to Defendant by Plaintiff for horizontal drilling projects in Ohio and West Virginia. The technology is cutting edge and complex, and an understanding of the specialized pricing and contract arrangements surrounding use of the technology, the risk of loss while the technology is in use, the division of responsibility among the personnel involved, could be helpful to reaching a fair and equitable resolution of the parties' dispute.

In further support of this Motion, please find attached hereto an accurate copy of the operative Amended Complaint (Ex. A), the operative Answer and Counterclaims (Ex. B), Reply to Counterclaims (Ex. C), the docket sheet (Ex. D), and the Order Denying Motion to Dismiss (Ex. E).

In regard to expedited review, the Movant:

- ☒ DOES NOT request an expedited review under W.Va. Trial Court Rule 29.06(a)(4), and gives notice that all affected parties may file a memorandum stating their position, in accordance with W.Va. Trial Court Rule 29.
- ☐ hereby REQUESTS that the Chief Justice grant this Motion to Refer without responses, pursuant to W.Va. Trial Court Rule 29.06(a)(4), and contends that the following constitutes good cause to do so: N/A.

WHEREFORE, the undersigned hereby MOVES, pursuant to W.Va. Trial Court Rule 29, the Chief Justice of the West Virginia Supreme Court of Appeals to refer this case to the Business Court Division.

Respectfully submitted December 27, 2018.

Carver Schwarz McNab Kamper & Forbes, LLC



By: _____

Christopher Kamper, pro hac vice
1888 Sherman Street, Suite 400
Denver, Colorado 80203
303-893-1815 (tel.)
303-893-1829 (fax)
ckamper@csmkf.com

DiPiero Simmons McGinley & Bastress, PLLC



By: _____

Sean P. McGinley
P.O. Box 1631
Charleston, WV 25326-1631
304-342-0133 (tel.)
304-342-4605 (fax)
Sean.McGinley@dbdlawfirm.com

Attorneys for Directional ONE Services Inc. USA

RUDOLPH L. Di TRAPANO*
JOSHUA I. BARRETT †
J. TIMOTHY DiPIERO
LONNIE C. SIMMONS
SEAN P. McGINLEY
ROBERT M. BASTRESS III

**DiPIERO SIMMONS
McGINLEY & BASTRESS, PLLC**

ATTORNEYS AT LAW
P.O. Box 1631
CHARLESTON, WEST VIRGINIA 25326-1631
TELEPHONE 304-342-0133
FACSIMILE 304-342-4605
www.dbdlawfirm.com

*1928-2017
†Of Counsel

sean.mcginley@dbdlawfirm.com

December 27, 2018

Edythe Nash Gaiser, Clerk
West Virginia Supreme Court Clerk's Office
State Capitol, Room E-317
1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0831

Re: Motion to Refer to Business Court
Directional ONE Services, Inc. USA vs. Antero Resources Corporation
Tyler County Civil Action No. 18-C-14

Dear Mrs. Gaiser:

Enclosed please find the Motion of Directional ONE Services, Inc. USA to Refer the above-referenced matter pending the Circuit Court of Tyler County, West Virginia, to the Business Court Division. A copy of this Motion has been served to the Business Court Division Central Office, the Clerk of the Circuit Court of Tyler County, presiding Chief Judge Hummel, and counsel of record. Please advise if you have any questions.

Very truly yours,


Sean McGinley, Esq.

Spm/s
Enclosure

cc: Business Court Division Central Office
Hon. David W. Hummel, Chief Judge
Candy Warner, Clerk of the Circuit Court of Tyler County
Chris Kamper, Esq.
W. Henry Lawrence, Esq.
John D. Pizzo, Esq.
Eric M. DiVito, Esq.