CLOSED

U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:19−cv−01211−CFC

Earth Pipeline Services, Inc. v. Columbia Gas Transmission, LLC
Assigned to: Judge Colm F. Connolly
Related Case: 1:19−cv−01210−CFC
Case in other court: West Virginia Northern, 5:19−cv−00171
Cause: 28:0157 Motion for Withdrawal of Reference

Date Filed: 06/26/2019
Date Terminated: 07/15/2019
Jury Demand: Defendant
Nature of Suit: 423 Bankruptcy Withdrawl
Jurisdiction: Federal Question

Debtor

Welded Construction, L.P.

Plaintiff

Earth Pipeline Services, Inc.

V.

Defendant

Columbia Gas Transmission, LLC

Counter Claimant

Columbia Gas Transmission, LLC

V.

Counter Defendant

Earth Pipeline Services, Inc.

Counter Claimant

Columbia Gas Transmission, LLC

V.

Counter Defendant

Earth Pipeline Services, Inc.

Date Filed	#	Docket Text
05/14/2019	1	NOTICE OF REMOVAL, filed by Columbia Gas Transmission, LLC.(soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	2	NOTICE from U. S. Bankruptcy Court, ND/WV, re 1 Notice of Removal (soa) Modified on 5/15/2019 to correct filing date and Regenerate NEF (soa). [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	3	NOTICE from U. S. Bankruptcy Court, ND/WV, re 1 Notice of Removal. (soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	4	ANSWER to Complaint and COUNTERCLAIM against Earth Pipeline Services, Inc. by Columbia Gas Transmission, LLC.(soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	5	PLAINTIFF'S FED.R.BANKR.P. 9027(e)(3) STATEMENT filed by Earth Pipeline Services, Inc. (soa) [Transferred from West V (Entered: 05/15/2019)

05/14/2019	6	MOTION For Remand or Abstention re 1 Notice of Removal, by Earth Pipeline Services, Inc. (soa) (Additional attachment(s) added on 5/15/2019: # 1 Text of Proposed Order) (soa). [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	7	DOCKET SHEET OF U. S. BANKRUPTY COURT. (soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/14/2019	8	ORDER WITHDRAWING REFERENCE: Withdrawing the Amended Order of Reference dated 4/2/13; Bankruptcy Court to transmit copies of this Order to all parties of interest. Signed by District Judge John Preston Bailey on 5/14/19. (copy to US Bankruptcy court)(soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/15/2019)
05/21/2019	9	ORDER −− FIRST ORDER AND NOTICE REGARDING DISCOVERY AND SCHEDULING: ******NOTICE TO ATTORNEYS*** :* Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, ALL Non−governmental CORPORATE parties must file a DISCLOSURE STATEMENT with the Court. Forms are available on the Court's Web Site at http://www.wvnd.uscourts.gov/forms.htm** Rule 26 Meeting to be held by 6/25/2019. Rule 26 Meeting Report due by 7/5/2019. Initial Discovery Disclosures due by 7/19/2019. Signed by District Judge John Preston Bailey on 5/21/19. (soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/21/2019)
05/21/2019	10	ORDER DENYING AS MOOT MOTION FOR REMAND OR ABSTENTION; Denying as moot 6 Motion For Abstention, and Denying as moot 6 Motion to Remand. Signed by District Judge John Preston Bailey on 5/21/19. (soa) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/21/2019)
05/23/2019	11	MOTION to Transfer Case *Venue* by Columbia Gas Transmission, LLC. (Attachments: # 1 Exhibit)(Meadows, John) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/23/2019)
05/24/2019	12	STIPULATION *to Extend Time to Answer Counterclaim* by Columbia Gas Transmission, LLC. (Meadows, John) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 05/24/2019)
06/04/2019	13	MOTION for Reconsideration re 10 Order on Public Motion, Order on Motion to Remand, *and/or Clarification of Order of Court* by Earth Pipeline Services, Inc.. (Zamosky, Arthur) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/04/2019)
06/04/2019	14	Proposed Order re 13 MOTION for Reconsideration re 10 Order on Public Motion, Order on Motion to Remand, *and/or Clarification of Order of Court* by Earth Pipeline Services, Inc.. (Zamosky, Arthur) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/04/2019)
06/06/2019	15	RESPONSE to Motion re 11 MOTION to Transfer Case *Venue* filed by Earth Pipeline Services, Inc.. (Zamosky, Arthur) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/06/2019)
06/13/2019	16	REPLY to Response to Motion re 11 MOTION to Transfer Case *Venue* filed by Columbia Gas Transmission, LLC. (Meadows, John) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/13/2019)
06/18/2019	17	RESPONSE in Opposition re 13 MOTION for Reconsideration re 10 Order on Public Motion, Order on Motion to Remand, *and/or Clarification of Order of Court* filed by Columbia Gas Transmission, LLC. (Attachments: # 1 Exhibit Discovery from EPS)(Meadows, John) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/18/2019)
06/24/2019	18	STIPULATION re 12 Stipulation, 4 Answer to Complaint, Counterclaim *Extending Time to Respond to Counterclaim* by Earth Pipeline Services, Inc.. (Zamosky, Arthur) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/24/2019)

06/26/2019	19	ORDER TRANSFERRING CASE: the Motion to Transfer Venue filed by Columbia Gas Transmission, LLC ("Columbia") 11 is GRANTED IN PART and Plaintiff, Earth Pipeline Services, Inc.'s Motion for Reconsideration and/or Clarification of May 21, 2019 Order of Court 13 is GRANTED. As a result, this matter is hereby ORDERED TRANSFERRED to the District of Delaware. Signed by District Judge John Preston Bailey on 6/26/2019. (copy to counsel via CM/ECF) (nmm) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/26/2019)
06/26/2019		Case transferred to District of Delaware. Entire Case file electronically transmitted. (nmm) [Transferred from West Virginia Northern on 6/27/2019.] (Entered: 06/26/2019)
06/27/2019	20	Record of case transferred in from District of West Virginia Northern; Case Number in Other District: 5:19−cv−00171. Copy of Docket Sheet and original file (Entered: 06/27/2019)
06/27/2019	21	Local Counsel Letter sent. Notice of Compliance deadline set for 7/26/2019. (amf) (Entered: 06/27/2019)
07/03/2019		Case Assigned to Judge Colm F. Connolly. Please include the initials of the Judge (CFC) after the case number on all documents filed. Associated Cases: 1:19−cv−01210−CFC, 1:19−cv−01211−CFC (rjb) (Entered: 07/03/2019)
07/15/2019	22	ORDER Transferring Cases to the District of Delaware Bankruptcy Court, CASES CLOSED. Signed by Judge Colm F. Connolly on 7/15/2019. (nmf) (Entered: 07/15/2019)
07/15/2019		Remark: Copies of the Order Transferring the Cases to Bankruptcy Court mailed to counsel at the addresses listed on the local counsel letter. Associated Cases: 1:19−cv−01210−CFC, 1:19−cv−01211−CFC(nmf) (Entered: 07/15/2019)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

5:19-cv-171
Judge Bailey

In re:	)	
	)	**Chapter 11**
WELDED CONSTRUCTION, L.P.	)	
	)	**Case No. 18-12378 (KG) (Bankr. D. Del.)**
Debtor.	)	
	)	**(Jointly Administered)**
	)	
EARTH PIPELINE SERVICES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Adv. Proc. No. 19-_____**
	)	(Removal from Circuit Court of Marshall
COLUMBIA GAS TRANSMISSION, LLC,	)	County, Civil Action No. 19-C-38)
	)	
Defendant.	)	
	)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1334(b), 1452, 1332, 1367, 1441(b) and 1446, and Federal Rule of Bankruptcy Procedure 9027, the Defendant, Columbia Gas Transmission, LLC, by counsel, gives notice of removal of the above-captioned action from the Circuit Court of Marshall County, West Virginia, to the United States Bankruptcy Court for the Northern District of West Virginia. In support thereof, the Defendant states as follows:

I. NATURE OF REMOVED ACTION

1. On or about March 8, 2019, Plaintiff filed a Complaint in the Circuit Court of Marshall County, West Virginia, Civil Action No. 19-C-38, naming Columbia Gas Transmission, LLC as Defendant.

2. In accordance with 28 U.S.C. § 1446(a) and Federal Rule of Bankruptcy Procedure 9027(a)(1), a copy of the docket sheet and a copy of all process, pleadings, and orders served upon the Defendants in the state court action are attached hereto as **Exhibit A**.

II. TIMELINESS OF REMOVAL

3. This civil action was filed on March 8, 2019, served on Defendant's agent for service of process by appointment, Corporation Service Company, on March 11, 2019. In accordance with the requirements of 28 U.S.C. § 1446(b) and Federal Rule of Bankrupty Procedure 9027(a)(3), this Notice of Removal is timely filed within thirty (30) days after receipt of service of Plaintiffs' Complaint. *See Elliott v. Am. States Ins. Co.*, 883 F.3d 384, 391 (4th Cir. 2018) ("The general rule, as established by the Supreme Court in *Murphy Brothers*[*, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999)], is that the time for counting the days for filing notice of removal under § 1446(b) starts when the defendant is formally served with the summons and complaint making the defendant an official party to the action and requiring the defendant to appear.").

III. PROPRIETY OF VENUE

4. Venue is proper in this district and division under 28 U.S.C. §§ 1441(a) and 1452(a), because the state court where the suit has been pending is located in this district and this division.

IV. BASIS OF REMOVAL

5. Removal in this case is proper pursuant to 28 U.S.C. § 1441(a), which provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is

pending," as well as 28 U.S.C. § 1452, which provides that "[a] party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit . . . to the district court for the district where such civil action is pending . . . ."

6. In this case, federal jurisdiction is founded upon bankruptcy court jurisdiction, pursuant to 28 U.S.C. § 1334(b), because this civil action arises in and/or is related to a pending case filed under Title 11, *In re: Welded Construction, L.P.*, Case No. 18-12378 (KG) (Bankr. D. Del.) (Jointly Administered).

7. In addition, federal jurisdiction in this case is founded upon diversity of citizenship, pursuant to 28 U.S.C. § 1332(a), as this civil action is a matter between citizens of different states and the amount in controversy exceeds the sum or value of $75,000.00, exclusive of interest and costs.

A. Bankruptcy Court Jurisdiction

8. Welded Construction, L.P. (the "Debtor"), filed a Voluntary Petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") on October 22, 2018. *See In re: Welded Construction, L.P.*, Case No. 18-12378 (KG) (Bankr. D. Del.) (Jointly Administered) (the "Bankruptcy Case").

9. This civil action seeks to enforce a mechanic's lien against Defendant arising from unpaid obligations of the Debtor to Plaintiff. Furthermore, upon information and belief, Plaintiff's mechanic's lien may attach to property of the Debtor's bankruptcy estate, including fixtures, appurtenances, and personal property of the Debtor situate in Marshall County.

10. Plaintiff has filed a proof of claim in the Bankruptcy Case for the obligation of the Debtor underpinning the mechanic's lien asserted against Defendant. *See* Claim No. 592. Upon

information and belief, the amount of Plaintiff's claim is in dispute. Determination of the amount of Plaintiff's claim against the Debtor—and the amount of the claim that will be allowed and paid from the Debtor's estate—is necessary to determine what amount, if any, Plaintiff can seek to recover from Defendant through enforcement of its purported mechanic's lien.

11. Pursuant to 28 U.S.C. §1334(b), the civil action "arises in" the Debtor's Bankruptcy Case and is, thus, a "core proceeding." *See In re Mid-Atlantic Resources Corp.*, 283 B.R. 176, 186–89 (S.D. W. Va. 2002) (upholding the bankruptcy court's decision denying a motion to remand in a removed case involving a mechanic's lien asserted against non-debtor entities arising from obligations of the debtor and finding that the action was a core proceeding).

12. The Bankruptcy Court has jurisdiction to hear and decide disputes arising in or related to the Bankruptcy Case. Thus, the civil action may be removed to United States District Court for the Northern District of West Virginia (the "District Court") under 28 U.S.C. §1452(a).

13. Pursuant to 28 U.S.C. §157 and the Amended Standing Order of Reference entered in the District Court miscellaneous proceeding no. 5:13-MC-12 on April 2, 2013, the District Court has referred all matters arising in or related to a case under Title 11 to the bankruptcy judges for the District Court. This includes this civil action.

14. This civil action is a "core proceeding" that arises in the Bankruptcy Case within the meaning of 28 U.S.C. §§ 157(b) and 1334(b) and, to the extent that this Court finds that this civil action is not a "core proceeding," the civil action is at least a "non-core proceeding" that invokes the "related to" jurisdiction of the bankruptcy courts pursuant to 28 U.S.C. §§ 157, 1334, and 1452.

15. Defendant consents to entry of final orders or judgment by the bankruptcy courts.

B. Diversity of Citizenship

16. As stated in the Complaint, Plaintiff is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with a place of business located at 135 Technology Drive, Suite 400, Canonsburg, Washington County, Pennsylvania 15317.

17. A corporation is deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

18. Therefore, Plaintiff is a citizen of Pennsylvania for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

19. As stated in the Complaint, Defendant is a limited liability company, organized and existing under the laws of the State of Delaware, and having a place of business at 700 Louisiana Street, Suite 700, Houston, TX 77002.

20. A limited liability company is a citizen of the state or states of which its members are citizens. *Gen. Tech. Applications, Inc. v. Exro Ltda*, 388 F.3d 114, 120 (4th Cir. 2004). Furthermore, where the member of a limited liability company is itself a limited liability company, the members of that entity must be considered as well. *Boggs v. Fola Coal Co., LLC*, Case No. 2:10-cv-0608, 2010 U.S. Dist. LEXIS 93288, at *5 (S.D. W. Va. Sept. 7, 2010).

22. The sole member of Columbia Gas Transmission, LLC is Columbia Pipeline Group Operating Company LP ("OpCo"), a Delaware limited partnership, with its principal place of business in Texas. OpCo has one general partner and three limited partners. All of OpCo's limited partners, its general partner, and all entities related to OpCo's general partner and limited partners are citizens of Delaware and Texas for purposes of diversity jurisdiction.

23. Therefore, Columbia Gas Transmission, LLC is not a Pennsylvania or West Virginia citizen for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

24. Based upon the foregoing, there is complete diversity of citizenship between Plaintiff, a citizen of Pennsylvania, and Defendant, which is not a citizen of Pennsylvania or West Virginia.

C. Amount in Controversy

25. The matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars ($75,000.00), exclusive of interests and costs.

26. Specifically, according to the Complaint, Plaintiff is seeking to enforce a statutory mechanic's lien pursuant to W. Va. Code § 38-2-2 in the amount of $3,650,300.42. *See Compl.* ¶¶ 4–10, Ex. 1.

27. Inasmuch as the value of the statutory mechanic's lien exceeds $75,000.00, the amount in controversy requirement is satisfied.

V. OTHER REMOVAL ISSUES

28. Pursuant to 28 U.S.C. § 1446(a) and Federal Rule of Bankruptcy Procedure 9027(a)(1), a copy of all process, pleadings, and orders served upon the Defendant is attached hereto as "Exhibit A" along with a copy of the docket sheet from the Circuit Court of Wetzel County, West Virginia.

29. A Notice of Filing of Notice of Removal will be filed this day with the Circuit Clerk of Wetzel County, West Virginia and served on the Plaintiff.

WHEREFORE, the Defendants, by counsel, respectfully advise that this civil action has been removed from the Circuit Court of Marshall County, West Virginia, to the United States

Bankruptcy Court for the Northern District of West Virginia, and that this Court shall assume jurisdiction over this action.

COLUMBIA GAS TRANSMISSION, LLC,

By Counsel

/s/ John J. Meadows

John J. Meadows (WV State Bar ID No. 9442)
Devon J. Stewart (WV State Bar ID No. 11712)
Chase Tower, Seventeenth Floor
707 Virginia Street, East
Post Office Box 1588
Charleston, WV 25326-1588
Telephone: (304) 353-8154
Facsimile: (304) 353-8180
John.Meadows@steptoe-johnson.com
Devon.Stewart@steptoe-johnson.com

STEPTOE & JOHNSON PLLC
Of Counsel

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION

In re:	)	
	)	**Chapter 11**
WELDED CONSTRUCTION, L.P.	)	
	)	**Case No. 18-12378 (KG) (Bankr. D. Del.)**
Debtor.	)	
	)	**(Jointly Administered)**
	)	
EARTH PIPELINE SERVICES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Adv. Proc. No. 19-_____**
	)	(Removal from Circuit Court of Marshall
COLUMBIA GAS TRANSMISSION, LLC,	)	County, Civil Action No. 19-C-38)
	)	
Defendant.	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2019, I electronically filed the foregoing ***"Notice of Removal"*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record, provided they are CM/ECF participants. In addition, I have further mailed complete copies of these filings to counsel below via First Class US Mail:

Arthur W. Zamosky,, Esq.
Suite 2200 Gulf Tower, 707 Grant Street
Pittsburgh, PA 15219
(412) 456-8100 (phone)
(412) 456-8135 (fax)
azamosky@bernsteinlaw.com

Arch W. Riley, Esq.
BERNSTEIN-BURKLEY, P.C.
48 14th Street, Suite 301

Wheeling, WV 26003-0009
(304) 215-1177 (phone)
(412) 456-8135 (fax)
ariley@bernsteinlaw.com
Counsel for Plaintiff

/s/ John J. Meadows

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)

PLAINTIFFS	DEFENDANTS
Earth Pipeline Services, Inc.	Columbia Gas Transmission, LLC
ATTORNEYS (Firm Name, Address, and Telephone No.) Arthur W. Zamosky, Arch W. Riley, Bernstein-Burkley, P.C., 48 14th St, Suite 301, Wheeling, WV 26003-0009 (304) 215-1177	**ATTORNEYS** (If Known) John J. Meadows, Devon J. Stewart, Steptoe & Johnson PLLC 707 Virginia St E., 17th Floor, P.O. Box 1588,Charleston, WV 25326 (304) 353-8000
PARTY (Check One Box Only) □ Debtor □ U.S. Trustee/Bankruptcy Admin ☒ Creditor □ Other □ Trustee	**PARTY** (Check One Box Only) □ Debtor □ U.S. Trustee/Bankruptcy Admin □ Creditor ☒ Other □ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Removal by Defendant Columbia Gas Transmission, LLC of state court action to enforce mechanic's lien asserted by Plaintiff against Defendant that arises from an obligation owed by the Detbor Welded Construction, L.P. to Plaintiff.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☒ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☒ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☒ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☒ Check if this case involves a substantive issue of state law	□ Check if this is asserted to be a class action under FRCP 23
□ Check if a jury trial is demanded in complaint	Demand $3,650,300.42

Other Relief Sought

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Welded Construction, L.P.	BANKRUPTCY CASE NO. 18-12378 (KG)	
DISTRICT IN WHICH CASE IS PENDING District of Delaware	DIVISION OFFICE	NAME OF JUDGE Judge Kevin Gross
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE April 10, 2019	PRINT NAME OF ATTORNEY (OR PLAINTIFF) /s/ John J. Meadows	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

West Virginia Circuit Express (/DEFAULT.ASPX)

Civil
Case Information
Second Judicial Circuit of Marshall County

19-C-38
Judge: JEFFREY D. CRAMER
EARTH PIPELINE SERVICES, INC. VS. COLUMBIA GAS TRANSMISSION, LLC

Plaintiff(s)

Plaintiff Attorney(s)
EARTH PIPELINE SERVI
N/A

Defendant(s)

Defendant Attorney(s)
LLC, COLUMBIA GAS TR
N/A

Date Filed: 03/08/2019
Case Type: MISCELLANEOUS CIVIL
Appealed: 0
Final Order Date: N/A
Statistical Close Date: N/A

Line	Date	Action / Result
0001	03/08/2019	COMPLAINT TO FORECLOSE MECHANIC'S LIEN & CCIS FORM FILED;
0002		SUMMONS & COMP ISSUED TO DEF BY CERT MAIL (SLM)
0003	03/13/2019	GREEN CARD RETURNED FROM COLUMBIA GAS TRANSMISSION, SIGNATURE
0004		NOT LEGIBLE, NO DATE./MHM

These materials have been prepared by the Office of the Clerk of the various Circuit Courts from original sources and data believed to be reliable. The information contained herein, however, has not been independently verified by the Office of the Clerk or Software Computer Group, Incorporated. The Office of the Clerk of the Circuit Courts and Software Computer Group, Inc. assume no liability for the accuracy, completeness, or timeliness of the information contained herein.

Software Computer Group | PO Box 27 | Fraziers Bottom WV 25082

SUMMONS

CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

EARTH PIPELINE SERVICES, INC.
PLAINTIFF,

VS. CIVIL ACTION NO. 19-C-38
JUDGE: JEFFREY D. CRAMER

COLUMBIA GAS TRANSMISSION, LLC
DEFENDANT.

To the above named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon ARTHUR W. ZAMOSKY, ESQ., plaintiff's attorney, whose address is BERNSTEIN-BURKLEY, P.C., SUITE 2200 GULF TOWER, 707 GRANT STREET, PITTSBURGH, PA 15219, an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.

Joseph Rucki
CLERK OF COURT

Dated: March 08, 2019

BY: Shelly McLaughlin
DEPUTY CLERK

Please Serve:
COLUMBIA GAS TRANSMISSION, LLC
C/O CORPORATION SERVICE CO
209 W. WASHINGTON STREET
CHARLESTON, WV 25302

CIRCUIT COURT, MARSHALL COUNTY, WEST VIRGINIA

FILED
2019 MAR -8 AM 10: 50
JOSEPH M. RUCKI

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

EARTH PIPELINE SERVICES, INC.,

Claimant/Plaintiff

vs.

COLUMBIA GAS TRANSMISSION, LLC,

Owner/Defendant

Civil Action No. 19-C-38(C)

COMPLAINT TO FORECLOSE MECHANIC'S LIEN

AND NOW comes Claimant/Plaintiff Earth Pipeline Services, Inc., by counsel, Bernstein-Burkley, P.C., and files the following Complaint to Foreclose the Mechanic's Lien which was filed on September 12, 2018, with the Clerk of the Marshall County Commission, at Instrument No. 1445514, Mechanic's Lien Book 11 at page 574, in the amount of $3,650,300.42, averring in support thereof the following:

1. Plaintiff, Earth Pipeline Services, Inc. ("Claimant"), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with a place of business located at 135 Technology Drive, Suite 400, Canonsburg, Washington County, Pennsylvania 15317.

2. Defendant, Columbia Gas Transmission, LLC ("Owner"), is a limited liability company, organized and existing under the laws of the State of Delaware, and having a place of business at 700 Louisiana Street, Suite 700, Houston, TX 77002, having its registered agent in West Virginia as Corporation Service Company, 209 W. Washington Street, Charleston, Kanawha County, West Virginia 25302, and is record owner and/or has a real property interest in approximately 99,436 linear feet of pipeline right-of-way, temporary workspaces, access roads, laydown yards and other areas located from Station Number 0+00 to Station Number 994+36 for

Spread 1 of the Mountaineer Express Pipeline Project (the "Project"), situate from Mile Post 0.00 to Mile Post 18.83 in Marshall and Wetzel Counties, West Virginia (the "Liened Property").

3. Contractor, Welded Construction, L.P. ("Contractor"), is a corporation organized and existing under the laws of the State of Delaware that has offices at 26933 Eckel Road, Perrysburg, Ohio 43551, who contracted with Owner to perform furnishing of materials and labor necessary for the clearing and grubbing of all timber, brush and vegetation on the Liened Property for the Project.

4. Contractor subcontracted the foregoing described work on the Project to Claimant and the contract price and value of work and material provided by Claimant was $7,342,519.62, of which only $3,692,219.20 has been paid to Claimant, leaving a balance due Claimant in the amount of $3,650,300.42.

5. Claimant's Mechanics' Lien relates to labor and materials provided by Claimant as a Subcontractor to Owner, as defined by W. Va. Code § 38-2-2, to the Contractor upon the Liened Property, being more fully described as aforesaid in paragraph 2, *supra*.

6. On or about June 20, 2018, Claimant last supplied labor and/or materials to Owner for construction upon the Liened Property.

7. Claimant filed its Notice of Mechanic's Lien pursuant to W. Va. Code § 38-2-7, with the Clerk of the Marshall County Commission on September 12, 2018, at Instrument No. 1445514, Book 11 at page 574. A true and correct copy of Claimant's Mechanic's Lien is attached hereto, marked Exhibit "1," and made a part hereof.

8. Claimant served notice of the filing of its Mechanic's Lien, and a copy of its Mechanic's Lien, upon Owner's registered agent Corporation Service Company, on or about September 25, 2018. A true and correct copy of the Affidavit of Service of the Claimant's

Mechanic's Lien upon Columbia Gas Transmission, LLC c/o Corporation Service Company is attached hereto as Exhibit "2" and made a part hereof.

9. Despite the performance of all conditions precedent by Claimant, the aforesaid Mechanic's Lien remains unsatisfied, and Claimant brings this action in accordance with W. Va. Code § 38-2-34 to enforce its Mechanic's Lien.

10. The unpaid principal amount due and owing to Plaintiff on account of the aforesaid Statement of Mechanics' Lien Claim is $3,650,300.42.

WHEREFORE, Claimant/Plaintiff, Earth Pipeline Services, Inc., demands Judgment on this Complaint to enforce its Mechanic's Lien against Defendant's title and interest in the Liened Property, and requests this Honorable Court to order a sale of Defendant's title and interest in the Liened Property on which Claimant/Plaintiff's lien is established pursuant to W. Va. Code § 38-2-35, or so much thereof as may be sufficient to satisfy said Mechanic's Lien.

BERNSTEIN-BURKLEY, P.C.

By: _____

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EMILY LANE
525 WILLIAM PENN PLACE
SUITE 3005
PITTSBURGH PA 15219

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Prepared by, recorded at the request of,
and returned to:
Brian A. Lawton, Esquire
Cohen Seglias Pallas Greenhall & Furman, PC
525 William Penn Place, Suite 3005
Pittsburgh, PA 15219

NOTICE OF MECHANIC'S LIEN

TO: Columbia Gas Transmission, LLC, owner or reputed owner as its interests may appear.

You will please take notice that the undersigned, Earth Pipeline Services, Inc., with a place of business located at 135 Technology Drive, Suite 400, Canonsburg, PA 15317, was and is subcontractor with Welded Construction, L.P., who was and is general contractor for the furnishing of materials and doing of the work and labor necessary for the clearing and grubbing all timber, brush and vegetation of approximately 99,436 linear feet of pipeline right-of-way, temporary workspaces, access roads, laydown yards and other areas, from Station Number 0+00 to Station Number 994+36 for Spread 1 of the Mountaineer Express Pipeline Project, owned by you and situate from Mile Post 0.00 to Mile Post 18.83 in Marshall and Wetzel Counties, West Virginia and that the contract price and value of said work and material is $7,342,519.62. You are further notified that the undersigned has been paid only $3,692,219.20 thereof and that it claims and will claim a lien, in the amount of $3,650,300.42, upon your interest in the said tract of land and upon the buildings, structures and improvements thereon to secure the payment of said sum.

Given under my hand this 10th day of September, 2018.

Claimant,

EARTH PIPELINE SERVICES, INC.

By:_____
Joshua Roberts, President

EXHIBIT
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"J"

BOOK 004 1 PAGE 0575

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF WASHINGTON)

Joshua Roberts, being first duly sworn, upon his oath says that the statements contained in the foregoing notice of mechanic's lien are true, as he verily believes.

Taken, subscribed and sworn to before me this 10 day of September, 2018.

Lauren Hrvatin
Notary Public

My commission expires: 4/27/22

COMMONWEALTH OF PENNSYLVANIA - NOTARY SEAL
Lauren Hrvatin, Notary Public
Washington County
My Commission Expires 04/27/2022
Commission Number 1331000

Marshall County
Jan Pest, Clerk
Instrument 1445514
09/12/2018 @ 10:50:32 AM
MECHANICS LIEN
Book 11 @ Page 574
Pages Recorded 2
Recording Cost $ 11.00

5075038.1 53781-0010
9/9/2018
Marshall County

STATE OF WEST VIRGINIA, MARSHALL COUNTY, SCT.:

I, JAN PEST, Clerk of the County Commission of said County, do hereby certify that the annexed writing, bearing date on the 10th day of September 2018, was presented for and by me, admitted to record in my office upon the above certificate as to the parties therein named this 12th day of September 2018 at 10:50 o'clock A. M.

TESTE: Jan Pest Clerk

Affidavit of Service

RE: Notice of Mechanic's Lien
Marshall County Clerk of County Commission
Filed 9-12-18 /Instrument No. 1445514

Service of Process on: Columbia Gas Transmission, LLC c/o Corporation Service Co.
(Name of Entity Served)

Date of Service: On the 25th Day of September 2018 at 9:15O'Clock A.M.
Place of Service: 209 W. Washington Street
In the City of Charleston County of Kanawha State of West Virginia 25302
Documents Served: Notice of Mechanic's Lien and Cover Letter

Method of Service: X By delivering them to an officer or registered agent whose name and title is Fred Halroyd - Attorney and registered agent

X I informed said person of the contents therein, in compliance with State Statutes.

Description of Person Receiving: Balding/
Sex: Male Age: 65+ Height: 5'7" Weight: 150 lbs. Race: White Hair: Gray Other:

Military: X To the best of my knowledge and belief, said person was Not Engaged in the United States Military at the time of service.

Subscribed and Sworn to me this
27th day of Sept. 2018

Notary Signature

James Shearer 05/02/23
Name of Notary Commission Expires

I, Darren Brown
was at the time of service a competent adult over 18 and not having direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Officer or Server

09/27/18
Date

Official Seal
Notary Public, State of West Virginia
James Shearer
City National Bank
308 Golf Mountain Rd
Cross Lanes WV 25313
My Commission Expires May 2, 2023

EXHIBIT
tabbies
"2"

CERTIFIED MAIL®

Joseph M. Rucki
CLERK OF CIRCUIT COURT
MARSHALL COUNTY COURTHOUSE
600 SEVENTH STREET ROOM 127
MOUNDSVILLE, WV 26041

7018 0360 0000 9049 9897

US POSTAGE $06.95
MAR 08

Columbia Gas Transmission, LLC
c/o Corporation Service Co
209 W. Washington Street
Charleston, WV 25302

25302#2348 C009