

CAUSE NO. 19-CV-2164

AHERN RENTALS, INC.	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	Galveston County - 405th District Court
	§	
v.	§	____ JUDICIAL DISTRICT
	§	
JEGON INDUSTRIAL SERVICES, LLC,	§	
REYNA RIOS, and TEXAS INTERNATIONAL	§	
TERMINALS, LTD.	§	
<i>Defendants.</i>	§	GALVESTON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Ahern Rentals, Inc. ("**Plaintiff**" or "**Ahern**") files this Original Petition and respectfully states the following:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169.

II. CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief of less than \$100,000 and non-monetary relief.

III. PARTIES

3. Plaintiff is a Nevada corporation registered to do business in Texas with its principal office at 1401 Mineral Avenue, Las Vegas, Nevada 89106.

4. Defendant Jegon Industrial Services, LLC ("**Jegon**"), a Texas limited liability company with its principal office located at 526 Kentucky St. South Houston, TX 77587, may be served with process by serving its registered agent, John Lloyd, at 4400 Post Oak Parkway, Suite 2360, Houston, TX 77027.

5. Status Conference set 2-13-20

6. Defendant Reyna Rios (“**Rios**”), an individual, may be served with process at her usual place of business at 526 Kentucky St. South Houston, TX 77587

7. Defendant Texas International Terminals, Ltd., a Texas limited partnership with its principal office located at 4800 Old Port Industrial, Galveston, Galveston County, TX 77550, may be served with process by serving its registered agent, Todd Sullivan, at 4800 Old Port Industrial, Galveston, Galveston County, TX 77550, or at 56702 Broadway, Galveston, TX 77554, or wherever else he may be found.

IV. JURISDICTION & VENUE

8. The Court has jurisdiction over this lawsuit because the amount in controversy exceeds this Court’s minimum jurisdictional requirements.

9. Venue is proper in Galveston County, Texas in that the real property upon which Plaintiff filed its mechanics’ lien is located in Galveston County, Texas.

V. FACTUAL BACKGROUND

10. Plaintiff Ahern. is an equipment rental company that rents construction equipment and related accessories to contractors for use on construction projects.

11. Ahern entered into a contract with Defendant Jegon to rent construction equipment to Jegon in accordance with a Credit Application and Customer Agreement (the “**Agreement**”). Pursuant to the Agreement, Jegon agreed to pay Ahern for the use of the equipment provided by Ahern. Ahern fully performed its obligations under the Agreement. Ahern provided numerous pieces of equipment to Jegon and provided Jegon with timely invoices for such rentals. Ahern has made numerous requests and demand upon Jegon for payment of the outstanding balance due and owing under the Agreement. Jegon has failed and refused to pay the invoices.

12. Defendant Rios executed the Agreement and personally guaranteed the obligations of Jegon. Ahern also made demand on Defendant Rios for payment of the outstanding balance due, but Rios has also failed and refused to pay the outstanding balance.

13. As of the date of this petition, the past due and unpaid balance on Jegon's account with Ahern totals \$22,330.99. Pursuant to the Agreement, all payments were due ten days from the date of invoice and Jegon agreed to pay a finance charge of 18% per annum or 1.5% per month on any balance that was not paid by the last day of the month in which the account became due. Interest continues to accrue each month on the outstanding and past due balance.

14. Upon information and belief, the equipment provided by Ahern to Jegon was used on a construction project referred to as the Pavillion @ Dominion project located at 4800 Old Port Industrial, Galveston, Galveston County, TX 77550 (the "**Project**"). Upon information and belief, Defendant Texas International Terminals, Ltd. is the owner of the Project. Ahern secured its rights and claims to the property and the Project by duly perfecting a mechanic's lien pursuant to Chapter 53 of the Texas Property Code in the amount of \$22,330.99 (the "**Lien**"). The Lien is filed in the Galveston County Property Records as instrument number 2019060086.

VI. CONDITIONS PRECEDENT

15. All conditions precedent to Ahern's claims for relief occurred, or were performed, excused or waived.

VII. CAUSES OF ACTION

A. Breach of Contract v. Jegon

16. Ahern incorporates paragraphs 1-15 as if entirely set forth herein.

17. Ahern and Jegon entered into a valid, enforceable contract, and Ahern fully performed its obligations under the contract. Ahern rented equipment to Jegon and provided Jegon with timely invoices for such rentals.

18. Jegon breached the Agreement by failing to pay for the equipment rented from Ahern and failing to return the equipment. As a direct result of Jegon's failure and refusal to pay Ahern outstanding and unpaid invoices, Ahern has suffered damages in the amount of at least \$22,330.99. Ahern seeks all damages caused by Jegon's breach of contract, plus interest and attorney's fees as allowed by law.

B. Quantum Meruit v. Jegon

19. Ahern incorporates paragraphs 1-15 as if entirely set forth herein

20. Alternatively, at the insistence and request of Defendant Jegon, Ahern provided equipment for the use and benefit of Jegon under such circumstances that Jegon knew, or should have known, that Ahern expected to be paid for the use of the equipment. The reasonable value of the labor, material, equipment and services furnished by Ahern for the benefit of Jegon, for which payment has not been made, is at least \$22,330.99.

21. Ahern seeks all damages, plus interest and attorney's fees as allowed by law.

C. Breach of Personal Guaranty v. Rios

22. Ahern incorporate paragraphs 1-15 as if entirely set forth herein.

23. Defendant Rios personally guaranteed the obligations of Jegon to Ahern. Ahern made demand upon Rios for the past due balance. Rios has breached his obligations as personal guarantor to make payment for the past due balance. AS a result, Ahern has suffered damages in the amount of at least \$22,330.99.

24. Ahern seeks all damages caused by Rios's breach, plus interest and attorneys' fees as allowed by law.

D. Foreclosure of Mechanic's Lien

25. Ahern incorporates paragraphs 1-15 as if entirely set forth herein.

26. Ahern properly perfected its mechanic's lien pursuant to Chapter 53 of the Texas Property Code in the amount of \$22,330.99. Ahern seeks foreclosure of the Lien against the Project and a personal judgment against Jegon and Texas International Terminals, Ltd.

27. All conditions precedent to Ahern's right to foreclose the Lien against the Project and property have been performed, occurred, excused or waived.

28. Ahern is entitled under this theory of recovery to its reasonable and necessary attorneys' fees and interest.

VIII. ATTORNEYS' FEES

29. Ahern incorporates the foregoing as if entirely set forth herein.

30. Ahern presented its claim to the Defendants more than thirty (30) days prior to the trial of this matter. As a result of the Defendants' failure to pay the amounts owed, Ahern retained legal counsel to prepare and prosecute this case and has agreed to pay reasonable attorney's fees. Ahern is entitled to recover its reasonable attorney's fees from and against Defendants pursuant to the Agreement, Texas Civil Practice & Remedies Code chapter 38, and/or Texas Property Code chapter 53.

IX. PRAYER FOR RELIEF

31. Plaintiff Ahern Rentals, Inc. prays that Defendants Jegon Industrial Services, LLC, Reyna Rios, and Texas International Terminals, Ltd., be cited to appear and answer herein and that Plaintiff recovers the following:

- a) Judgment against Jegon Industrial Services, LLC, Reyna Rios, and Texas International Terminals, Ltd., in the amount of at least \$22,330.99;
- b) An order of foreclosure of Ahern's Lien against the Project with an order of sale and such further orders as may be necessary to satisfy Defendants' debt to Ahern;
- c) Prejudgment and post-judgment interest at the maximum rate allowed by law;
- d) Reasonable attorneys' fees;
- e) All court costs incurred herein; and
- f) All other relief to which Plaintiff is entitled.

Respectfully submitted,

VOGE ROHE PLLC

/s/ Josh Rohe

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ATTORNEYS FOR PLAINTIFF

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