Order

Rule 9.1

|  |  |
| --- | --- |
| COURT FILE NO.: |   |
| COURT | Court of Queen's Bench of Alberta |
| JUDICIAL CENTRE | [JUDICIAL CENTRE] |
| APPLICANT(S) / PLAINTIFF(S) |   |
| RESPONDENT(S)/ DEFENDANT(S) |   |
| DOCUMENT | CONSENT ORDER/ORDER**(LIEN BOND)** |
| ADDRESS FORSERVICE ANDCONTACTINFORMATIONOF PARTYFILING THISDOCUMENT | Telephone Facsimile File No.  |
|  | Attention: [Name of Lawyer] |

|  |  |
| --- | --- |
| DATE ON WHICH ORDER WAS PRONOUNCED: | [Date of Order] |
| LOCATION AT WHICH ORDER WAS MADE: | [Location where order was made] |
| NAME OF APPLICATIONS JUDGE WHO MADE THIS ORDER: | [Name of Applications Judge] |
|  |

**UPON THE APPLICATION** of counsel for the **[APPLICANT/DEFENDANT]** (the "Applicant"); **AND UPON HEARING** counsel for the Applicant; **AND UPON** reviewing the Affidavit of **[NAME]; AND UPON [NOTING** the consent of / **HEARING FROM**] counsel for the **[RESPONDENT/PLAINTIFF]** (the "Lien Claimant");

IT IS HEREBY ORDERED THAT:

1. The notice period respecting service of the **[ORIGINATING APPLICATION/APPLICATION]** and supporting Affidavit is hereby abridged to the notice provided and service is accordingly deemed good and sufficient.
2. Pursuant to Section 48 of the *Prompt Payment and Construction Lien Act,* RSA 2000 c P-26.4, (the "*Prompt Payment and Construction Lien Act*"), the Applicantmay deliver to the Clerk of the Court a lien bond in the form attached as **Schedule "A"** or as agreed by counsel or approved by further Order of this Court in the amount of **[AMOUNT OF LIEN CLAIMED]** plus **[AMOUNT OF SECURITY FOR INTEREST AND COSTS]** as security for interest (if any) and costs for a total of $ **[DOLLARS]** (the “Security”).
3. Upon being provided with a Form 50 (Money Paid Into Court) filed with the Clerk of the Court evidencing the provision of Security in accordance with this Order, together with a certified copy of this Order, the **[REGISTRAR OF LAND TITLES and/or MINISTER OF ENERGY]** shall, pursuant to section 191(3)(a) of the *Land Titles Act*, R.S.A. 2000, c. L-4, forthwith remove the registration of the lien(s) of the Lien Claimant(s), registered as Instrument/Registration No. **[INSTRUMENT/ REGISTRATION NUMBER OF THE STATEMENT OF LIEN]** (the “Lien”) **[AND CERTIFICATE OF LIS PENDENS, INSTRUMENT/REGISTRATION NO.]**,from the title to the following [**LANDS and/or MINERAL LEASE AGREEMENTS]** described [as follows: / in the attached **Schedule "B"**.]
4. The provisions of Section 48(2) of the *Prompt Payment and Construction Lien Act* shall apply to the Security.
5. The Security shall be held by the Clerk of the Court pending further Order of this Court respecting the enforcement of the Lien or the handling of the Security.
6. Without prejudice to any party’s right to seek other applicable remedies under the *Prompt Payment and Construction Lien Act*, any Lien Claimant (or Lien Claimants) shall, not later than 180 days following the date of the registration of the applicable Lien with the [**REGISTRAR OF LAND TITLES and/or MINISTER OF ENERGY]**, either:
	1. commence a separate court action to enforce the Lien;
	2. commence a separate court action to preserve remedies under the *Builders’ Lien Act* and commence arbitration proceedings where the agreement between the parties authorizes or requires such proceedings; or
	3. if authorized by separate Court Order, file a “statement of the plaintiff’s claim” in these proceedings,

(collectively, the “**Lien Enforcement Proceedings**”), failing which the Lien shall cease to exist.

1. Any party to this Order is at liberty to make further application to the Court of Queen’s Bench in the applicable Lien Enforcement Proceedings, including an application under Section 53 of the *Prompt Payment and Construction Lien Act*, for further directions respecting any matter pertaining to the Lien, the Security, or the issues in dispute, including but not limited to:
	1. the validity of the Lien;
	2. the adjustment of the type or amount of the Security or the extent of its application;
	3. the discharge of any further liens registered that are related to or duplicative of the Lien;
	4. the establishment and calculation of a lien fund; or
	5. the enforcement of an award made in any related arbitration proceedings.
2. The posting of Security in accordance with this Order shall not constitute an admission as to the validity of the registration, or the amount, of the Lien.
3. Nothing in this Order shall in any way restrict the rights or obligations of the parties under the *Prompt Payment and Construction Lien Act* except as expressly stated herein.
4. Costs of this application shall be in the cause.
5. Where this Order proceeds by way of consent, it may be consented to in counterpart by facsimile or electronic transmission.

|  |
| --- |
| Applications Judge of the Court of Queen’s Bench of Alberta |

|  |  |  |
| --- | --- | --- |
| CONSENTED TO this \_\_\_\_\_ day of [Date] |  | CONSENTED TO this \_\_\_\_\_ day of [Date] |
| Legal Counsel for [Name of Party], Respondent/Plaintiff |  | Legal Counsel for [Name of Party], Applicant/Defendant |
|  |  |  |
| [Name of Individual Lawyer][Name of Law Firm] |  | [Name of Individual Lawyer][Name of Law Firm] |

Schedule “A”

**[FORM OF BOND]**

Schedule “B”

**[LEGAL DESCRIPTION and/or DETAILS OF MINERAL LEASE]**