

**UNITED STATES DISTRICT COURT**  
Northern District of New York

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American Underground Engineering, Inc.

vs.

**JUDGMENT  
IN A CIVIL CASE**

City of Syracuse

Case number: **5:00-cv-278** (lead)

Case number: 5:00-cv-1127 (member)

**X Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

**X Decision by Court.** This action came to a trial, hearing or motion before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

**On July 1, 2010** the jury rendered a verdict in favor of the Plaintiff for breach of contract by the Defendant awarding damages as follows:

Actual job costs for work on project up to time work ceased:	\$10,759,804.50
Percentage found to compensate for profits and overhead expenses:	15%
15% of actual job costs:	\$1,613,970.68
Final amount of damages after combining both figures above and then deducting all payments Plaintiff had already received for work under contract:	\$7, 306,021.64

**On October 7, 2011** the Court rendered a post-trial motion decision reducing the amount of damages awarded by the jury. The Court finds that the jury mistakenly awarded \$1,613,970.68, representing an additional 15% for profits and expenses not realizing that this percentage was already built into the expense figures. Therefore,

Reduced amount of damages:	\$5,692,050.96
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Further, Defendant's request to reduce the damages award by \$379,372.96, represented by Plaintiff to be home office overhead expenses as a result of the breach of contract is Granted.

<b>TOTAL Reduced amount of damages:</b>	<b>\$5,312,678.00</b>
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Prejudgment interest shall be calculated in accordance with New York State law.

Defendant's motion for judgment as a matter of law, pursuant to Rule 50(b) of the Federal Rules of Civil Procedure, is **Denied**.

Defendant's motion for separate findings of fact and conclusions of law pursuant to Rule 52(a)(1) of the Federal Rules of Civil Procedure, is **Denied**.

All of the above pursuant to a jury verdict rendered on July 1, 2010 before the Hon. Frederick J. Scullin, Jr. and a motion decision rendered on October 7, 2011 by the Hon. Frederick J. Scullin, Jr.

October 13, 2011

Lawrence K. Baerman, Clerk

s/

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Barbara J. Woodford

Deputy Clerk