IN THE

# Indiana Supreme Court

Supreme Court Case No. 21S-CC-408

Service Steel Warehouse Co., L.P.,
*Appellant (Plaintiff below),*

–v–

United States Steel Corp.,
*Appellee (Defendant below).*

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Argued: October 28, 2021 | Decided: March 10, 2022

Appeal from the Lake Superior Court
No. 45D02-1311-CC-828
The Honorable Calvin D. Hawkins, Judge

On Petition to Transfer from the Indiana Court of Appeals
No. 20A-CC-1643

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**Opinion by Justice Massa**

Chief Justice Rush and Justices David, Slaughter, and Goff concur.

**Massa, Justice.**

A supplier sold steel for a project to a fabricator who did not perform any work on the project site. The supplier later sued to foreclose on its mechanic's lien against the site. The trial court granted summary judgment for the site's owner because the fabricator's lack of on-site work meant it was also a supplier, and case law barred supplier-to-supplier-based liens. An appellate panel reversed, because it found the fabricator was a subcontractor, even if it did not perform on-site work, so the supplier could have a lien.

We now conclude the supplier can have a lien, because it furnished materials for the project, which is all the mechanic's lien statute required. Accordingly, we reverse and remand.

# Facts and Procedural History

United States Steel Corp. contracted with Carbonyx, Inc. to design and build two facilities in Gary. Carbonyx contracted with Steven Pounds, who did business as Troll Supply, to fabricate steel for the project. Service Steel Warehouse Co., L.P. sold steel for the project to Troll Supply, and it even identified the project on its invoices. The fabrication involved significant labor—cutting, welding, drilling, painting, and connecting thousands of pieces of steel to the exact specifications necessary for the project. Troll Supply did not perform any work at the project site, which would have been impossible. The fabricated steel ultimately ended up at the site.

Troll Supply did not pay all its bills and ultimately owed Service Steel $452,825.03. Service Steel recorded a mechanic's lien against the project site and sued U.S. Steel to foreclose on it. Both parties moved for summary judgment. Relevant here, U.S. Steel argued that because Troll Supply did not perform on-site work, it was a material supplier of fabricated steel, not a subcontractor. And that meant Service Steel, also a material supplier, could not have a lien. The trial court granted summary judgment for U.S. Steel on the mechanic's lien claim. Although the court did not provide a

basis for its ruling, the parties agree it was based on the prohibition against supplier-to-supplier-based liens. Service Steel appealed.

Our Court of Appeals reversed. It found the mechanic's lien statute does not require subcontractors to perform on-site work. *Serv. Steel Warehouse Co., L.P. v. U.S. Steel Corp.*, 171 N.E.3d 115, 122 (Ind. Ct. App. 2021), *vacated*. It then defined a "subcontractor" under the statute "as one who performs a definite, substantial portion of the prime contract." *Id.* at 123. Under that test, "Troll Supply was a subcontractor, not a material supplier," so the prohibition against supplier-to-supplier-based liens did not bar Service Steel's lien. *Id.* at 123–24.

U.S. Steel petitioned for transfer, which we granted. *Serv. Steel Warehouse Co., L.P. v. U.S. Steel Corp.*, 173 N.E.3d 1021 (Ind. 2021).

## Standard of Review

We review summary judgment decisions de novo and apply the same standard as the trial court. *City of Marion v. London Witte Grp., LLC*, 169 N.E.3d 382, 390 (Ind. 2021). Summary judgment is proper only "if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Ind. Trial Rule 56(C). We draw all reasonable inferences in the non-moving party's favor. *Williams v. Tharp*, 914 N.E.2d 756, 761 (Ind. 2009). The interpretation of a statute is a question of law, which we review de novo. *ESPN, Inc. v. Univ. of Notre Dame Police Dep't*, 62 N.E.3d 1192, 1195 (Ind. 2016).

## Discussion and Decision

Indiana's broad mechanic's lien statute has long been interpreted to only confer lien rights on suppliers who furnished materials to a recipient who performed on-site work, which meant a contractor or subcontractor. The status of the recipient—here, Troll Supply—determined a supplier's ability to acquire a lien. That interpretation, however, is incorrect.

Because a mechanic's lien is purely a creation of statute, the General Assembly determines who can have one. And it has broadly conferred lien rights on suppliers, regardless of whether they furnish materials to a contractor, subcontractor, or another supplier. If a supplier, like Service Steel, furnishes materials for the erection of a building, it can have a lien.

## I. Under the mechanic's lien statute, a supplier can have a lien by furnishing materials, regardless of the recipient, for the erection of a building.

A mechanic's lien is a statutory tool to help collect payment for labor and materials that improve real property. *Premier Invs. v. Suites of Am., Inc.*, 644 N.E.2d 124, 130 (Ind. 1994). It prevents landowners from enjoying their improved property while those who provided the labor and materials get the shaft. *See id.* A mechanic's lien statute has long been part of Indiana law. Although its precise language has differed, it has continually conferred broad rights on suppliers. *See, e.g.*, Act of Feb. 3, 1834, ch. 87, 1834 Ind. Acts 165, 165 (allowing "all others . . . furnishing materials for the construction or repair of any building" in a town or within a half-mile of a town to have a lien); Act of Mar. 9, 1889, ch. 123, 1889 Ind. Acts 257, 257 (allowing "all persons . . . furnishing material or machinery for erecting . . . any house, mill, manufactory or other building" to have a lien). The statute currently allows "[a] contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, . . . a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery . . . for the erection . . . of a house, mill, manufactory, or other building" to have a lien on that building and the accompanying land. Ind. Code § 32-28-3-1(a)(1)(A), (b) (2013). A party seeking a lien must prove it falls within the statute. *Premier Invs.*, 644 N.E.2d at 127.

Although Indiana's statute is broad, at times it has been interpreted to not support supplier-to-supplier-based liens. *See, e.g.*, *Caulfield v. Polk*, 17 Ind. App. 429, 436–37, 46 N.E. 932, 934 (1897). In other words, a supplier who furnished materials to another supplier could not have a lien. *City of*

*Evansville v. Verplank Concrete & Supply, Inc.*, 400 N.E.2d 812, 819 (Ind. Ct. App. 1980). A supplier had to furnish materials to someone who performed work on the project site, which meant a contractor or subcontractor (or the owner, of course). *Id.* at 819–20. The prohibition against supplier-to-supplier-based liens protected landowners, because "[i]f one material man furnishing material to another material man ha[d] a right to a lien, then any material man, no matter how far removed, ha[d] the same right." *Caulfield*, 17 Ind. App. at 437, 46 N.E. at 934.

That prohibition conflicts with the statute's plain language, which unambiguously allows any person who furnishes materials for the erection of a building to have a lien "without any limitation in respect to the person to whom the materials are furnished." *Colter v. Frese*, 45 Ind. 96, 100 (1873); I.C. § 32-28-3-1(a)(1)(A). And when "a statute is clear and unambiguous on its face, no room exists for judicial construction." *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825, 828 (Ind. 2011).

In *Barker v. Buell*, an early lien case, the governing statute allowed "all persons performing labor, or furnishing materials for the construction . . . of any building" to have a lien. 35 Ind. 297, 299 (1871) (citation and internal quotation marks omitted). Under that statute, we found it "was not necessary" for a supplier to furnish materials to a landowner or contractor to have a lien. *Id.* at 302. Rather, the supplier there had a lien because his bricks "were furnished to a sub-contractor, and used in the erection of a new building, and this is all that was necessary, according to [the governing statute], to give the party furnishing them a right to acquire a lien." *Id.* We recognized the supplier's rights did not depend on whom he supplied, because that was irrelevant under the statute.

In *Colter v. Frese*, we were "earnestly pressed to reconsider" *Barker*, only to "again reach[] the same conclusion" under the same broad statute. 45 Ind. at 98. We emphasized that the statute provided that "all persons . . . furnishing materials for the construction or repair of any building, shall have a lien, without any limitation in respect to the person to whom the materials are furnished." *Id.* at 100. That conclusion—faithful to the statute's plain language—remains true while the statute continues to unambiguously confer broad lien rights on suppliers.

And in *Smith v. Newbaur*, we cited *Barker* to acknowledge that "[i]f the materials are furnished for the building to one who has authority to place them in it, and they are so placed in the building, the right to a material man's lien is thereby acquired." 144 Ind. 95, 101, 42 N.E. 40, 42 (1895). And that was true: a supplier could have a lien in that situation. But that acknowledgment was made while concluding there was "no difference in the rights of those who furnish materials to contractors and those who furnish them to subcontractors," which was the issue before this Court. *Id.* Like *Barker* and *Colter*, *Smith* affirmed that suppliers' lien rights are determined by statute, not arbitrary, nonstatutory limits based on the recipient of the materials.

Subsequent intermediate appellate court decisions misconstrued and departed from *Barker*, *Colter*, and *Smith* by not staying faithful to the statute's plain language. Instead, they formulated a rule that limited suppliers' lien rights: A supplier can only have a lien by furnishing materials to a party who performs on-site work, i.e., a contractor or subcontractor. *See Caulfield*, 17 Ind. App. at 434, 437, 46 N.E. at 933–34 (citing *Smith* and *Colter* and concluding the statute "makes no provision for a lien in favor of one who simply sells materials to another who is himself but a material man"); *Rudolph Hegener Co. v. Frost*, 60 Ind. App. 108, 112, 108 N.E. 16, 17 (1915) (concluding there was "no reason to depart from the holding in *Caulfield* . . . that a materialman furnishing material to another materialman has no right to a mechanic's lien"); *Verplank*, 400 N.E.2d at 819–20 (citing *Barker*, *Colter*, *Caulfield*, and *Frost* before affirming that a supplier to a supplier has no lien rights). We now disapprove of that demonstrably erroneous, though longstanding, rule. *See Gamble v. United States*, 139 S. Ct. 1960, 1984–85 (2019) (Thomas, J., concurring).

The mechanic's lien statute unambiguously confers broad lien rights on suppliers and does not require them to furnish materials to one who performs on-site work. I.C. § 32-28-3-1(a); *Colter*, 45 Ind. at 100. *Barker*, *Colter*, and *Smith* affirmed that suppliers did not have to furnish materials to a specific party to have a lien. Today, we follow those decisions and again affirm that, under the statute, a supplier's lien rights do not depend on whom it supplies. While there may be valid reasons to prohibit supplier-to-supplier-based liens, that decision rests with the legislature,

not the courts. *See* Ind. Const. art. 3, § 1; *WTHR-TV v. Hamilton Se. Schs.*, 178 N.E.3d 1187, 1192 (Ind. 2022); *Premier Invs.*, 644 N.E.2d at 127.

Under Indiana's mechanic's lien statute, a supplier that furnished materials **for** the erection of a building, regardless of the recipient, can have a lien on that building and the accompanying land. Of course, the supplier must have furnished the materials "for the particular building upon which" it bases its lien. *Talbott v. Goddard*, 55 Ind. 496, 502 (1876); I.C. § 32-28-3-1(b). Here, the evidence—including Service Steel's invoices—establishes that Service Steel furnished steel for the erection of U.S. Steel's facilities. Accordingly, it can have a lien on the project site.

# Conclusion

We reverse the trial court's entry of summary judgment for U.S. Steel and remand for reconsideration of Service Steel's summary judgment motion in light of this opinion.

Rush, C.J., and David, Slaughter, and Goff, JJ., concur.

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