

IN THE SUPREME COURT OF THE STATE OF NEVADA

**In Re Manhattan West Mechanic's Lien
Litigation**

APCO CONSTRUCTION, INC., a Nevada
corporation, *et al.*,

Petitioners,

vs.

The Honorable Susan W. Scann, Judge,
Eighth Judicial District Court, Clark County,
Nevada,

Respondent,

and

SCOTT FINANCIAL CORPORATION, a
North Dakota Corporation, *et al.*,

Real Parties in Interest.

No. 61131

Electronically Filed
Jun 26 2012 10:31 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

District Court No. 08A571228

Consolidated with:

08A574391	A-09-589195-C
08A574792	A-09-589677-C
08A577623	A-09-590319-C
09A579963	A-09-592826-C
09A580889	A-09-596924-C
09A583289	A-09-597089-C
09A584730	A-09-606730-C
09A587168	A-10-608717-C
	A-10-608718-C

JOINT MOTION TO LIMIT THE APPENDIX FOR THE WRIT PETITION

Petitioners, appearing jointly through their respective counsel, hereby move this Court for an order limiting the requirements of NRAP 21(a)(5) and NRAP 30 regarding the contents of the Appendix for the Writ Petition filed on June 25, 2012. NRAP 21(a)(5) requires that a petitioner submit an appendix with the petition that "complies with Rule 30." NRAP 30(b)(2) sets out requirements for the documents to be included in the appendix.

This Writ Petition is seeking a ruling by the Nevada Supreme Court on a matter of first impression, *i.e.* the affect of a subordination agreement on the relative priority between mechanic's liens and a deed of trust recorded after construction had commenced. At the District Court level, Department 25 ruled in favor of the mechanic's liens, adopting one line of case law. After the case was transferred, Department 29 reversed that ruling, and ruled in favor of the construction lenders, following a separate line of case law.

It appears that the reference in NRAP 21(a)(5) is intended to relate to the format of the appendix, and not as a requirement for the documents to be included. Therefore, in an abundance of caution, Petitioners request that they be relieved of any requirement to produce documents not necessary to the resolution of the writ petition.

In an effort to avoid unnecessary documentation and to ease the burden on the Court, the Court's staff and the parties, Petitioners' Appendix includes only the relevant pleadings, the substantive papers regarding the competing motions for summary judgment on priority, the transcripts, and the dispositive orders necessary for the Court's review. Petitioners have excluded the non-necessary pleadings and the non-substantive joinders filed during the District Court proceedings.

If the Court denies the Motion, or would like to see additional documents included in the Appendix, Petitioners would request an additional ten (10) business days to supplement the Appendix.

DATED this 25th day of June 2012



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DATED this 25th day of June 2012



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Supply Waterworks LP; Heinaman Contract Glazing; Helix Electric of Nevada

LLC; Interstate Plumbing & Air Conditioning; SWPPP Compliance Solutions

LLC; WRG Design Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this date, June 26, 2012, I submitted this motion for filing via the Court's eFlex electronic filing system.

I further certify that, on this date, I submitted the foregoing motion for service on all parties in the underlying district court action (a mandatory electronic filing case) through the Eighth Judicial District Court's electronic filing system.

I further certify that, on this date, I delivered a copy of the foregoing by email, facsimile transmission, and First Class United States Mail, postage prepaid, to the following:

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