

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 27 2012 02:35 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

*Original Petition*

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**APPENDIX**

**Volume 9 (Supplemental)**

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[ TAB 44 ]



CLERK OF THE COURT

1 **NEOJ**

2 Gwen Rutar Mullins, Esq.

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15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 In Re Manhattan Mechanic's Lien Litigation

18 CASE NO.: A571228

19 DEPT. NO.: XXIX

20 Consolidated with: 08A574391,  
21 08A574792, 08A577623, 09A580889,  
22 09A583289, 09A584730, 09A587168, A-09-  
23 589195-C, A-09-589677-C, A-09-590319-C,  
24 A-09-592826-C, A-09-596924-C, and A-09-  
25 597089-C

26 **NOTICE OF ENTRY OF ORDER**  
27 **GRANTING SCOTT FINANCIAL**  
28 **CORPORATION'S MOTION TO**  
**RECONSIDER**

29 **AND ALL RELATED CASES AND**  
30 **MATTERS**

1                   **NOTICE OF ENTRY OF ORDER GRANTING SCOTT FINANCIAL**  
2                   **CORPORATION'S MOTION TO RECONSIDER**

3                   PLEASE TAKE NOTICE that an ORDER GRANTING SCOTT FINANCIAL  
4 CORPORATION'S MOTION TO RECONSIDER was entered herein on the 26<sup>th</sup> day of June  
5 2012, a copy of which is attached hereto and incorporated herein by this reference.

6                   DATED this 27<sup>th</sup> day of June 2012.

7                   HOWARD & HOWARD ATTORNEYS PLLC

8  
9                   /s/ Gwen Rutar Mullins  
10                  Gwen Rutar Mullins, Esq.  
11                  Nevada Bar No. 3146  
12                  Wade B. Gochnour, Esq.  
13                  Nevada Bar No. 6314  
14                  3800 Howard Hughes Pkwy., Ste. 1400  
15                  Las Vegas, Nevada 89169-5914  
16                  Attorneys for APCO Construction

17  
18                   **CERTIFICATE OF SERVICE**

19  
20                  I do hereby certify that on the 27<sup>th</sup> day of June 2012, I served a copy of the NOTICE OF  
21 ENTRY OF ORDER GRANTING SCOTT FINANCIAL CORPORATION'S MOTION TO  
22 RECONSIDER on all parties listed in the Master Service List in accordance with the Electronic  
23 Filing Order entered in this matter.

24  
25                   /s/ Kellie Piet  
26                  An employee of Howard & Howard Attorneys PLLC

ORIGINAL

Electronically Filed  
06/26/2012 11:02:09 AM



CLERK OF THE COURT

**ORDER**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In Re Manhattan Mechanic's Lien Litigation

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09A583289, 09A584730, 09A587168, A-09-  
589195-C, A-09-589677-C, A-09-590319-C,  
A-09-592826-C, A-09-596924-C, and A-09-  
597089-C

**ORDER GRANTING SCOTT  
FINANCIAL CORPORATION'S  
MOTION TO RECONSIDER**

Hearing Date: 1/25/2012

Time of Hearing: 9:00 a.m.

Hearing on Court's Decision: 2/1/2012

Time of Hearing: 9:00 a.m.

**AND ALL RELATED CASES AND  
MATTERS**

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**ORDER GRANTING SCOTT FINANCIAL CORPORATION'S MOTION TO  
RECONSIDER**

The hearing on Scott Financial Corporation's Motion for Reconsideration of Findings of Fact, Conclusions of Law and Order Granting APCO Construction's Motion for Summary Judgment on Priority; and Denying Scott Financial Corporation's Motion for Priority or in the Alternative, Motion for a Re-Hearing (the "Motion for Rehearing") came on for a hearing on January 25, 2012, at 9:00 a.m. The Court having considered the Motion, Oppositions and Joinders, and hearing the arguments of counsel including argument by Scott Financial Corporation's counsel Glenn F. Meier, Esq., that NRCP 54(b) gives the Court discretion to start over and reconsider prior motions previously decided by Department 25 in this action, and the Court having taken the matter under advisement in order to review the applicability of NRCP 54(b); and the Court having set the hearing for the Court's Decision on the Motion for February 1, 2012, finds that under NRCP 54(b) the Court has the authority to rehear the motions and arguments previously made to Department 25, as reflected in the Findings of Fact, Conclusions of Law and Order Granting APCO Construction's Motion for Summary Judgment on Priority; and Denying Scott Financial Corporation's Motion for Priority. Accordingly,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that pursuant to NRCP 54(b), Scott Financial Corporation's Motion to Reconsider is GRANTED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the moving parties combine and submit one package of the briefs filed on behalf of the moving parties on the issue of priority, including joinders thereto, to the Court on or before February 15, 2012.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that any parties opposing the briefs on priority, are to submit a combined brief(s) to the Court on or before February 29, 2012.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that a combined reply brief(s) are to be submitted to the Court on or before March 7, 2012.

///

///

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Las Vegas, NV 89169  
(702) 257-1483

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court is not  
2 directing anyone to file new points and authorities, but just to organize what has been filed, and  
3 to be provided to the Court as courtesy copies.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that supplements may  
5 be filed by the dates set herein.

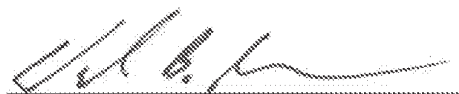
6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a re-hearing and  
7 argument on the competing Motions for Summary Judgment on the issue of priority shall be  
8 held on March 14, 2012 at 10:00 a.m.

9 DATED this 22<sup>nd</sup> day of June 2012.

10  
11   
12 DISTRICT COURT JUDGE

13  
14  
15 Submitted by:

16 HOWARD & HOWARD ATTORNEYS PLLC

17  
18   
19 Gwen Rutar Mullins, Esq.  
20 Nevada Bar No. 3146  
21 Wade B. Gochnour, Esq.  
22 Nevada Bar No. 6314  
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24 Las Vegas, NV 89169  
25 Attorneys for APCO Construction  
26  
27  
28

## CERTIFICATE OF SERVICE

### **1. Electronic Service:**

I hereby certify that on this date, June 27, 2012, I submitted the foregoing Appendix Volume 9 (Supplmental) via the Court's eFlex electronic filing system. According to the system, electronic notification will be sent to the following registered participants:

Beau Sterling  
Gwen Mullins  
Michael Gebhart  
Wade Gochmour  
J. Jones  
Glenn Meier

I further certify that on this date, I submitted the foregoing 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.

### **2. Traditional Means:**

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

None.

/s/ Kellie Piet