

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

APCO CONSTRUCTION, INC., a Nevada
corporation,

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.

[Full Caption on Next Page]

Case No. **Electronically Filed**
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A574391	A587168
A574792	A597089
A577623	A589195
A583289	A580889
A584730	A579963
A589677	A590319
A592826	A596924
A606730	A608717
A608718	

EMERGENCY MOTION PURSUANT TO NRAP 27(e)

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SCOTT FINANCIAL CORPORATION,
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IN THE SUPREME COURT OF THE STATE OF NEVADA

In Re Manhattan West Mechanic's Lien
Litigation

No. _61131

APCO CONSTRUCTION, INC., a Nevada
corporation; ACCURACY GLASS &
MIRROR COMPANY INC; BUCHELE
INC.; BRUIN PAINTING
CORPORATION; CACTUS ROSE
CONSTRUCTION; FAST GLASS INC.;
HD SUPPLY WATERWORKS LP;
HEINAMAN CONTRACT GLAZING;
HELIX ELECTRIC OF NEVADA LLC;
INTERSTATE PLUMBING & AIR
CONDITIONING; SWPPP COMPLIANCE
SOLUTIONS LLC; WRG DESIGN INC.,

Petitioners,

vs.

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

Respondent,

and

SCOTT FINANCIAL CORPORATION, a
North Dakota Corporation; AHERN
RENTALS, INC.; ARCH ALUMINUM
AND GLASS CO.; ATLAS
CONSTRUCTION SUPPLY, INC.;
BRADLEY J. SCOTT; CABINETEC, INC.;
CELLCRETE FIREPROOFING OF
NEVADA, INC.; CAMCO PACIFIC
CONSTRUCTION CO., INC.; CLUB
VISTA FINANCIAL SERVICES, LLC.;

District Court No. 08A571228
Consolidated with:

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

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CONCRETE VISIONS, INC.; CREATIVE HOME THEATRE, LLC; CUSTOM SELECT BILLING INC.; DAVE PETERSON FRAMING, INC.; E&E FIRE PROTECTION, LLC; EZA, P.C.; FERGUSON FIRE AND FABRICATION, INC.; GEMSTONE DEVELOPMENT WEST, INC.; GRANITE CONSTRUCTION COMPANY; HARSCO CORPORATION; HD SUPPLY WATERWORKS, LP; HYDROPRESSURE CLEANING; INQUIPCO; INSULPRO PROJECTS, INC.; JEFF HEIT PLUMBING, CO., LLC; JOHN DEERE LANDSCAPE, INC.; LAS VEGAS PIPELINE, LLC; NEVADA PREFAB ENGINEERS; NOORDA SHEET METAL COMPANY; NORTHSTAR CONCRETE, INC.; PAPE MATERIALS HANDLING; PATENT CONSTRUCTION SYSTEM; PROFESSIONAL DOOR AND MILL WORKS, LLC; READY MIX, INC.; RENAISSANCE POOLS & SPA, INC.; REPUBLIC CRANE SERVICE, LLC; STEEL ENGINEERS, INC.; SUPPLY NETWORK, INC.; SUNSTATE COMPANIES, INC.; THARALDSON MOTELS II, INC.; THE PRESSURE GROUT COMPANY; TRI CITY DRYWALL, INC.; UINTAH INVESTMENTS, LLC; ZITTING BROTHERS CONSTRUCTION, INC.,

Real Parties in Interest.

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I. INTRODUCTION

This Emergency Motion seeks to extend the time for Real Party in Interest, Scott Financial Corporation (“SFC”) to file its Answer to Petitioners’ Writ, and Supplement (“Answer”), which is currently due on February 14, 2013.

II. THE REQUIREMENTS OF NRAP 31(b)(3)(A)

As set forth in the attached NRAP 27(e) Certificate of Counsel, SFC seeks a thirty (30) day extension to file its Answer pursuant to NRAP 26(b)(1)(B) and NRAP 31(b).

- (i) The date when the Answer is due:

The Answer is currently due February 14, 2013.

- (ii) The number of extensions of time previously granted (including a five-day (5) telephonic extension), and if extensions were granted, the original day when the Answer was due:

Originally, SFC’s Answer was due on October 17, 2012, pursuant to this Court’s September 17, 2012 Order Directing Answer. Thereafter, Petitioners and SFC submitted a stipulation to this Court extending the time for SFC to file its Answer until November 19, 2012.

On or about October 25, 2012 this Court issued an Opinion in the case of In re Fountainbleau Las Vegas Holdings 128 Nev. Adv. Op .No. 53, which Petitioners claim may have an implication in the current Writ before the Court. Following the Fountainbleau decision Petitioners and SFC filed a Joint Motion to Allow the Petitioners to File a Supplement to the Writ and Amend the Briefing Schedule. This Joint Motion was granted, thus rendering the Petitioner’s Supplemental Brief due on September 31, 2012, SFC’s Answer due on February 14, 2013, and Petitioner’s Reply due on March 18, 2013.

- (iii) Whether any previous requests for extensions of time have been denied or denied in part:

No previous requests for extensions have been denied.

- (iv) The reason or grounds why an extension is necessary:

Good cause can be shown for an extension in this case. SFC, after receiving Petitioner's Supplemental Writ, elected to hire additional counsel to assist with the Answer, namely Hutchison & Steffen, LLC ("H&S"). Upon information and belief H&S will file a Notice of Association of Counsel contemporaneously with the filing of this Motion. In order to provide new counsel with sufficient time to become familiar with the issues involved in this case and to draft the Answer, an additional thirty (30) day extension is warranted. Furthermore, Petitioners are agreeable to allowing for such an extension.

(v) The length of the extension requested and the date on which the Brief will become due:

SFC requests a thirty (30) day extension which would make the Answer due on or before March 18, 2013. Petitioners would then have an additional thirty (30) days to file a Reply Brief should they elect to do so. The Reply Brief would be due on or before April 17, 2013.

SFC respectfully requests that this Motion be granted and it be allowed an additional thirty (30) days up to and including March 18, 2013, in which to file its Answer.

Dated: February 1, 2013

A handwritten signature in blue ink, appearing to read "Rachel E. Donn", is written over a horizontal line.

MEIER & FINE, LLC
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RACHEL E. DONN
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Counsel for Real Party in Interest
Scott Financial Corporation

NRAP 27(e) CERTIFICATE

I, RACHEL E. DONN, am an attorney at the law firm of MERIER & FINE, LLC, counsel of record for Scott Financial Corporation, real party in interest ("SFC"). Pursuant to NRAP 27(e)(3), I submit this certification in support of SFC's Emergency Motion to Extend Time to file an Answer. Except as otherwise stated, the matters set forth herein are based upon my personal knowledge, and I could and would, testify confidently thereto if called upon to do so.

Under penalty of perjury, I declare the following are true and correct to the best of my knowledge.

The telephone numbers and office addresses of the attorneys for all parties are:

MEIER & FINE, LLC GLENN F. MEIER Nevada Bar No. 6059 RACHEL E. DONN Nevada Bar No. 10568 2300 West Sahara Avenue, Suite 1150 Las Vegas, Nevada 89102 (702) 673-1000 Counsel for Real Party in Interest Scott Financial Corporation	PEEL BRIMLEY LLP RICHARD L. PEEL Nevada Bar No. 4359 MICHAEL T. GEBHART Nevada Bar No. 7718 3333 E. Serene Avenue, Suite 200 Henderson, Nevada 89074 (702) 990-7272 Counsel for Lien Claimant Petitioners Other Than APCO Construction
STERLING LAW, LLC BEAU STERLING Nevada Bar No. 6833 228 South 4 th Street, 1 st Floor Las Vegas, Nevada 89101 (702) 583-3333	HOWARD & HOWARD ATTORNEYS PPLC GWEN RUTAR MULLINS Nevada Bar No. 3146 WADE B. GOCHNOUR Nevada Bar No. 6314 3800 Howard Hughes Pkwy, Suite 1000 Las Vegas, Nevada 89169 (702) 257-1483 Counsel for Petitioner APCO Construction, Inc.

1. The facts showing the existence in nature of the emergency are:

On or about February 5, 2013, my office received confirmation that SFC wished to hire additional counsel, namely Hutchison & Steffen, LLC ("H&S") to assist in the appeal regarding this matter. My conversations with co-counsel indicate they feel an additional thirty (30) days is

needed in order for them to fully review the underlying litigation as well as the assistant producing the Answer.

2. Petitioners' counsel was advised of SFC's wish to obtain an extension prior to the filing of this Motion, and was agreeable to such. Additionally, I called the Supreme Court Clerk's Office on February 7, 2013 to let them know this Motion would be forthcoming, as required by NRAP 27(e)(1).

Executed in Las Vegas, Nevada on February 7, 2013.



RACHEL E. DONN, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2013, I emailed and mailed the EMERGENCY MOTION UNDER NRAP 27(e) on behalf of Petitioners, to the following:

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