


CLERK OF THE COURT

FILED

OCT 20 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada
corporation; ANGELO CARVALHO, an
individual; JANEL RENNIE aka JANEL
CARVALHO, an individual; WEST EDNA
ASSOCIATES, LTD., dba MOJAVE
ELECTRIC, a Nevada corporation; WESTERN
SURETY COMPANY, a surety; THE
WHITING TURNER CONTRACTING
COMPANY, a Maryland corporation;
FIDELITY AND DEPOSIT COMPANY OF
MARYLAND, a surety; TRAVELERS
CASUALTY AND SURETY COMPANY OF
AMERICA, a surety; QH LAS VEGAS LLC, a
foreign limited liability company; PQ LAS
VEGAS, LLC, a foreign limited liability
company; L W T I C SUCCESSOR LLC, an
unknown limited liability company; FC/LW
VEGAS, a foreign limited liability company;
DOES 1 - 10, inclusive; and ROE
CORPORATIONS 1 - 10, inclusive;

Defendants.

NO. 66452

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

CASE APPEAL STATEMENT

DETACHED FROM MOTION FILED ON 10/01/14 IN DOCKET NO. 66452
AND FILED SEPARATELY PER ORDER OF 10/20/14.

14-34914

PEZZILLO LLOYD
6725 VIA AUSTI PARKWAY, SUITE 290
LAS VEGAS, NEVADA 89119
TEL. 702 233-4225

1 AND ALL RELATED MATTERS.

2
3 Plaintiff, CASHMAN EQUIPMENT COMPANY ("Cashman"), by and through its counsel of
4 record, PEZZILLO LLOYD, hereby submits the following Case Appeal Statement:

- 5 1. Name of appellant filing this case appeal statement: CASHMAN EQUIPMENT COMPANY.
- 6 2. Identify the judge issuing the decision, judgment, or order appealed from: Hon. Rob Bare
- 7 3. Identify each appellant and the name and address of counsel for each appellant: CASHMAN
8 EQUIPMENT COMPANY c/o Jennifer R. Lloyd, Esq., Pezzillo Lloyd, 6725 Via Austi
9 Pkwy., Suite 290, Las Vegas, NV 89119.
- 10 4. Identify each respondent and the name and address of appellate counsel, if known, for each
11 respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and
12 provide the name and address of that respondent's trial counsel): WEST EDNA
13 ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave"); WESTERN SURETY
14 COMPANY ("Western"); THE WHITING TURNER CONTRACTING COMPANY
15 ("Whiting Turner"); FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity");
16 TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"); QH
17 LAS VEGAS LLC ("QH"); PQ LAS VEGAS, LLC ("PQ"); L W T I C SUCCESSOR LLC
18 ("LWTIC"); and FC/LW VEGAS, c/o Brian Boschee, Esq., Holley, Driggs, et al., 400 S. 4th
19 St., 3rd Fl., Las Vegas, NV 89101.
- 20 5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to
21 practice law in Nevada and, if so, whether the district court granted that attorney permission to
22 appear under SCR 42 (attach a copy of any district court order granting such permission): Not
23 applicable in this matter.
- 24 6. Indicate whether appellant was represented by appointed or retained counsel in the district
25 court: Retained counsel.
- 26 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
27 Retained counsel.
- 28 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of
entry of the district court order granting such leave: Not appearing in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
indictment, information, or petition was filed): The initial complaint was filed on June 3,
2011.

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10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court: Cashman filed the matter in district court seeking payment for materials supplied to the New Las Vegas City Hall project (the "Project") in Clark County, Nevada. Cashman supplied these materials, which consisted of generators, switchgear and associated items and the materials were incorporated into the Project, but Cashman did not receive payment. Certain claims were resolved before trial. The matter proceeded to trial January 21, 2014 on the following claims: Cashman's mechanic's lien claim against Mojave and the surety that issued the lien release bond, Western, on the lien release bond; Cashman's payment bond claim against Mojave and the surety that issued the bond, Western; Cashman's security interest in the materials against Mojave, Cashman's claim for Fraudulent Transfer against Mojave, Cashman's claim for unjust enrichment against the owners of the Project at the time of construction and Mojave's claim of misrepresentation against Cashman. The district court's Findings of Fact and Conclusions of Law were entered on May 5, 2014. Cashman filed a Notice of Appeal as to this judgment on May 30, 2014.

Thereafter, Mojave filed a Motion for Attorneys' Fees and Costs Pursuant to NRS Chapter 108 on March 20, 2014. Cashman filed a Countermotion for Attorney's Fees and Interest on April 15, 2014. The Court denied both requests and issued a Decision and Order on August 4, 2014, with the Notice of Entry of Decision and Order entered on August 13, 2014. Cashman also requested an award of Costs Pursuant to NRS 18.020, filing its Memorandum of Costs on May 13, 2014. The Court issued an Order Denying Cashman Equipment Company's Request for Costs Pursuant to NRS 18.020, filed and noticed on September 2, 2014. Cashman hereby appeals these two orders.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

- a. On July 18, 2012, Defendants filed a Motion to Procure Codes seeking a preliminary injunction from the Court requiring Cashman to start up the equipment even though Cashman has not received payment for the equipment from the party with which it contracted. The Court granted the Motion and issued the preliminary injunction without making the required findings in support. Cashman filed a Notice of Appeal on September 13, 2012. (Supreme Court Case 61715).
- b. On May 5, 2014, the district court's Findings of Fact and Conclusions of Law were entered. The district court erred in denying recovery to Cashman on its mechanic's lien claim, its payment bond claim and its fraudulent transfer claim. The district court erred in reducing Cashman's award on its security interest claim using an equitable fault analysis and the district court erred in conditioning payment of the amount awarded on Cashman's unjust enrichment claim on performance of work by Cashman at the Project. The district court erred in ruling that any proceeds from the criminal case be split between Cashman and Mojave equally. Cashman filed a Notice of

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1 Appeal on May 30, 2014. (Supreme Court Case 65819). On July 24, 2014, this Court
2 issued an Order Consolidating Appeals.

3 12. Indicate whether this appeal involves child custody or visitation: Not applicable in this matter.

4 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
5 Appellant believes settlement is a possibility.

6 DATED: September 11, 2014

PEZZILLO LLOYD

7
8 By: /s/ Jennifer Lloyd, Esq.

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

Attorneys for Plaintiff,

Cashman Equipment Company

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16 **CERTIFICATE OF SERVICE**

17 The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on
18 September 11, 2014, a true and correct copy of the foregoing document, **CASE APPEAL**
19 **STATEMENT**, was served via the Court's Odyssey E-Filing system to:

20
21 Brian Boschee, Esq.
22 HOLLEY, DRIGGS, ET AL.
23 400 S. 4th St., 3rd FL
24 Las Vegas, NV 89101
Attorneys for Respondents

25 /s/ John Lloyd
26 An Employee of Pezzillo Lloyd
27
28