

CLERK OF THE COURT

1 **NOTC**

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3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

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13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

15 **COURT**

16 **CLARK COUNTY, NEVADA**

17 CASHMAN EQUIPMENT COMPANY, a
18 Nevada corporation,

19 Plaintiff,

20 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

NOTICE OF APPEAL

21 CAM CONSULTING INC., a Nevada
22 corporation; ANGELO CARVALHO, an
23 individual; JANEL RENNIE aka JANEL
24 CARVALHO, an individual; WEST EDNA
25 ASSOCIATES, LTD., dba MOJAVE
26 ELECTRIC, a Nevada corporation; WESTERN
27 SURETY COMPANY, a surety; THE
28 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;

PEZZILLO LLOYD
6725 VIA AUSTI PARKWAY, SUITE 290
LAS VEGAS, NEVADA 89119
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Defendants.

AND ALL RELATED MATTERS.

Comes Now, Plaintiff, CASHMAN EQUIPMENT COMPANY ("CASHMAN"), by and through its counsel of record, PEZZILLO LLOYD, and hereby gives notice that CASHMAN, pursuant to NRAP 3A(b)(3) and NRAP 4, files this Notice of Appeal, appealing to the Nevada Supreme Court from the Findings of Fact and Conclusions of Law, entered in this matter by the Honorable Judge Rob Bare on or about May 5, 2014 and noticed on May 6, 2014, a copy of which is attached hereto as Exhibit "1".

DATED: May 20, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.
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CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on May 30, 2014, a true and correct copy of the foregoing document, **NOTICE OF APPEAL**, was served by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschee, Esq.
COTTON, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101
Attorneys for Defendants

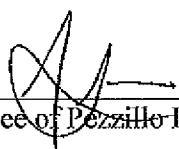


An Employee of Pezzillo-Lloyd

EXHIBIT 1



CLERK OF THE COURT

1 NOE
Brian J. Pezzillo, Esq.
2 Nevada Bar No. 7136
Jennifer R. Lloyd, Esq.
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7 Attorneys for Plaintiff,
Cashman Equipment Company
8

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

12 Plaintiff,

13 v.

14 CAM CONSULTING, INC., a Nevada
15 corporation; ANGELO CARVALHO, an
individual; JANEL RENNIE aka JANEL
16 CARVALHO, an individual; WEST BDNA
ASSOCIATES, LTD. dba MOJAVE
17 ELECTRIC, a Nevada corporation; WESTERN
SURETY COMPANY, a surety; THE WHITING
18 TURNER CONTRACTING COMPANY, a
Maryland corporation; FIDELITY AND
19 DEPOSIT COMPANY OF MARYLAND, a
surety; TRAVELERS CASUALTY AND
20 SURETY COMPANY OF AMERICA, a surety;
21 DOES 1-10, inclusive; and ROE
CORPORATIONS 1-10 inclusive;

22 Defendants,

23 AND RELATED MATTERS.

Case No.: A642583

Dept. No.: 32

(Consolidated with Case No. A653029)

NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSIONS OF LAW

Trial Dates: January 21-24, 2014

24 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25
26 ///

27 ///

28 ///

1 PLEASE TAKE NOTICE that the **FINDINGS OF FACT AND CONCLUSIONS OF**
2 **LAW** was entered in the above entitled matter and filed on May 5, 2014, a copy of which is
3 attached hereto.

4 DATED: May 6, 2014

PEZZILLO LLOYD

6 By: 

Brian J. Pezzillo, Esq.

Nevada Bar No. 7136

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

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Attorneys for Plaintiff,

Cashman Equipment Company

14 **CERTIFICATE OF SERVICE**

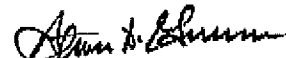
15 The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies
16 that on the 6th day of May, 2014, a true and correct copy of the foregoing document, **NOTICE**
17 **OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW** was served by
18 placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada,
19 said envelope(s) addressed to:

20 Brian Boschee, Esq.
21 COTTON, DRIGGS, ET AL.
22 400 S. 4th St., 3rd Fl.
23 Las Vegas, NV 89101
Attorneys for Defendants

24 
25 _____
26 An employee of PEZZILLO LLOYD
27
28

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CLERK OF THE COURT

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12 *Cashman Equipment Company*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **CASHMAN EQUIPMENT COMPANY, a**
16 Nevada corporation,

17 Plaintiff,

18 v.

19 **CAM CONSULTING, INC., a Nevada**
20 **corporation; ANGELO CARVALHO, an**
21 **individual; JANEL RENNIE aka JANEL**
22 **CARVALHO, an individual; WEST EDNA**
23 **ASSOCIATES, LTD, dba MOJAVE**
24 **ELECTRIC, a Nevada corporation; WESTERN**
25 **SURETY COMPANY, a surety; THE WHITING**
26 **TURNER CONTRACTING COMPANY, a**
27 **Maryland corporation; FIDELITY AND**
28 **DEPOSIT COMPANY OF MARYLAND, a**
surety; TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA, a surety;
DOES 1-10, inclusive; and ROE
CORPORATIONS 1-10 inclusive;

Defendants.

Case No.: A642583
Dept. No.: 32

(Consolidated with Case No. A653029)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Trial Dates: January 21-24, 2014

AND RELATED MATTERS.

1 This case having come on for trial on January 21-24, 2014 before this Court,
2 Plaintiff/Counterdefendant CASHMAN EQUIPMENT COMPANY ("Plaintiff" or "Cashman")
3 was represented by and through its counsel, Brian J. Pezzillo, Esq. and Jennifer R. Lloyd, Esq. of
4 the law firm of Pezzillo Lloyd and Defendants/Counterclaimants WESTERN SURETY
5 COMPANY ("Western"), THE WHITING TURNER CONTRACTING COMPANY ("Whiting

Turner"), FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity"), TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"), WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC ("Mojave"), QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and PC/LW Vegas (collectively "Defendants") were represented by and through their counsel, Brian W. Boschee, Esq. and William N. Miller, Esq. of the law firm of Cotton, Driggs, Walsh, Holley, Woloson, & Thompson. The Court, having fully heard the testimony of the witnesses, reviewed the evidence during the trial, having considered the oral and written arguments set forth by appearing counsel at the trial, and also having read and considered the other papers and pleadings on file herein, and good cause appearing, enters the following findings of fact and conclusions of law as follows:

FINDINGS OF FACT

1. Cashman and CAM Consulting, Inc. ("CAM") entered into a contract whereby Cashman was to supply materials comprised of generators, switchgear, and associated items (the "Materials") to the New Las Vegas City Hall Project (the "Project").

2. The Project was privately owned at the time of construction, by Forest City Enterprises through a conglomerate of private entities which include PQ Las Vegas, QH Las Vegas, PC/LW Las Vegas LLC and LWTIC Successor LLC o/o Forest City Enterprises which will hereinafter be collectively referred to as "Owner" from December 2009 until February 17, 2012, when the building was transferred after construction to the City of Las Vegas, Nevada.

3. The Owner contracted with Whiting Turner to serve as the general contractor on the Project.

4. Whiting Turner contracted with Mojave to be the electrical subcontractor on the Project. Mojave's subcontract with Whiting Turner, dated February 11, 2010, is identified as Subcontract No. 12600-26A. (Exhibit 40) (the "Mojave Subcontract"). The Mojave Subcontract required Mojave to perform all electrical work (Exhibit B to the Contract, J40-012 thru 027), which included the Materials supplied to the Project by Cashman.

5. The Mojave Subcontract also required Mojave to obtain a payment bond (J40-007, para. (p)). *Id.* Mojave obtained this payment bond on dated March 2, 2010 from Western

1 in the amount of \$10,969,669.00 ("the Mojave Payment Bond").(Exhibit 49) The Mojave
2 Payment Bond states that Mojave, as Principal, and Western, as surety, are bound unto Whiting
3 Turner, as Obligee, in the amount of \$10,996,669.00, and that the bond is for the benefit of all
4 persons supplying labor, material, rental equipment, supplies or services in the performance of
5 the Mojave's Subcontract.

6 6. Cashman initially provided bids for the Materials directly to Mojave and Mojave
7 selected Cashman to supply the Materials to the Project.

8 7. Mojave accepted Cashman's bid on or about January 11, 2010, and Cashman
9 began work shortly thereafter on the submittals required for approval of the Materials.

10 8. Mojave then informed Cashman that the Materials needed to be supplied through
11 a disadvantaged business entity ("DBE"), as Mojave's Subcontract suggested that Mojave utilize
12 MBE/WBE/DBE vendors and suppliers to fulfill the Project's diversity goals.

13 9. Mojave issued two purchase orders to to purchase the Materials that would be
14 supplied by Cashman for the Project on April 23, 2010. The purchase orders were issued to
15 CAM c/o Cashman Equipment. Cashman The City of Las Vegas and the owners of the Project
16 suggested that subcontractors use a disadvantaged business entity ("DBE") on the Project. CAM
17 fulfilled this role for Mojave.

18 10. Mojave had contracted with CAM on two other projects to fulfill similar DBE
19 requirements, one of which was prior to this Project.

20 11. Cashman's scope of work on the Project included preparing submittals for
21 approval of the materials, as required by the Mojave purchase orders and responding to requests
22 for additional information.

23 12. On April 29, 2010 Cashman served a Notice of Right to Lien, pursuant to NRS
24 108.245.

25 13. After the submittals were approved, Mojave sent notice to Cashman on May 24,
26 2010 that the Materials as detailed were approved.

27 14. Mojave issued a Material Release Order on August 11, 2010 to Cashman and
28 Cashman began procuring the Materials.

1 15. Cashman served a second Notice of Right to Lien pursuant to NRS 108.245 on
2 December 7, 2010.

3 16. The Materials were delivered in a series of shipments beginning on November 18,
4 2010 with the delivery of the Mitsubishi uninterrupt power supply to Mojave. The Caterpillar
5 switchgear was delivered to Mojave on December 27, 2010. The three automatic transfer
6 switches and two batteries for the switchgear were provided to Mojave on January 5, 2011.
7 Cashman coordinated delivery of the two Caterpillar diesel generators to the Project on January
8 19-20, 2011 where they were set in place by crane

9 17. Cashman's work required some startup functions that could not be completed at
10 delivery but were to be scheduled later.

11 18. Cashman served a third Notice of Right to Lien pursuant to NRS 108.245 on
12 April 20, 2011.

13 19. Cashman served a fourth Notice of Right to Lien pursuant to NRS 108.245 on
14 April 28, 2011.

15 20. Cashman personnel were on site at the Project as needed to perform certain
16 startup and installation functions beginning January 20, 2011 and continuing until May 23, 2011.

17 21. Cashman supplied most, but not all, of the Materials through CAM after having
18 been selected to supply the Materials by Mojave, on the Project.

19 22. Prior to supplying the Materials to CAM, Cashman required CAM to sign a credit
20 agreement granting Cashman a security interest in the Materials.

21 23. Cashman caused a UCC Financing Statement to be filed with the Nevada
22 Secretary of State on February 16, 2011, identifying the Materials and all proceeds thereof.

23 24. Cashman did not file a release of the UCC Financing Statement.

24 25. After delivery of the Materials to the Project, Cashman issued two invoices to
25 CAM dated February 1, 2011 totaling \$755,893.89. On January 31, 2010, CAM issued an
26 invoice to Mojave for the Materials that had been supplied by Cashman

27 26. CAM did not pay Cashman as required by the terms of the invoice.

28 27. Cashman contacted Mojave due to CAM's failure to pay and requested that

1 Mojave issue payment for the Materials in the form of a joint check, made payable to CAM and
2 Cashman.

3 28. Mojave refused to issue a joint check as payment for the Materials.

4 29. Mojave contacted Cashman to request that Cashman provide an Unconditional
5 Waiver and Release Upon Final Payment for the Materials.

6 30. Cashman refused to provide the requested release as it had not been paid.

7 31. A meeting occurred at Mojave's offices on or about April 26, 2011 wherein
8 Mojave tendered payment to CAM for the Materials, despite the fact that CAM had not yet
9 completed all of its work on the Project.

10 32. At the same meeting, Mojave required CAM to issue payment back to Mojave
11 Systems, a division of Mojave in the amount of \$275,636.70, check no. 1032 dated April 27,
12 2011 in the amount of \$139,367.70 and check no. 1033 dated April 28, 2011 in the amount of
13 \$136,269.00 related to another project on which CAM and Mojave were contracted.

14 33. Within minutes of CAM's receipt of Mojave's payment and while still at
15 Mojave's offices, CAM provided a check to Cashman for the full amount due, \$755,893.89.

16 34. After Cashman received this check from CAM, and in exchange for this check,
17 Cashman executed an Unconditional Waiver and Release Upon Final Payment (Exhibit 4)¹
18 relating to the Materials and provided it to CAM.

19 35. Between April 26, 2011 and April 28, 2011, CAM received \$901,380.93 from
20 Mojave.

21 36. Very shortly thereafter, CAM stopped payment on the check issued to Cashman
22 and it was returned unpaid.

23 37. After receiving notice of the stop payment, Cashman attempted collection of the
24 amount owed from CAM.

25 38. CAM provided another check to Cashman, which was immediately presented at
26 the bank from which the check was drawn and the bank refused to cash the check as there were

27
28 ¹ All references to "Exhibit ___" refer to the exhibits that were admitted into evidence at the trial on January 21-24, 2014.

1 insufficient funds in the account.

2 39. Shortly thereafter CAM ceased operations and then failed to pay for Cashman for
3 the Materials provided to the Project.

4 40. Not all startup functions were completed due to CAM's stopping payment on the
5 check it issued to Cashman, notice of which was provided to Cashman on or about May 5, 2011.

6 41. On June 22, 2011, Cashman recorded a mechanic's lien in the amount of
7 \$755,893.89, the Notice of Lien, against the Project as it had not received payment for the
8 Materials supplied (Exhibit 11).

9 42. Thereafter, Mojave obtained a Lien Release Bond from Western on September 8,
10 2011 (Exhibit 39).

11 43. Cashman amended its complaint to seek recovery on its lien claim from this bond.

12 44. On January 22, 2014, Cashman recorded an Amended Notice of Lien in the
13 amount of \$683,726.89 against the Project (Exhibit 66).

14 45. Any of the foregoing findings of fact that are more properly conclusions of law
15 shall be so considered.

16 17 CONCLUSIONS OF LAW

18 Claims for Relief Asserted

19 1. At trial, before this Court were five causes of action asserted by Cashman: (1)
20 Claim on Payment Bond against Mojave and Western (Fourteenth Cause of Action); (2)
21 Enforcement of Mechanic's Lien Release Bond against Mojave and Western (Ninth Cause of
22 Action); (3) Foreclosure of Security Interest against Mojave (Third Cause of Action); (4)
23 Fraudulent Transfer (from Consolidate Case); and (5) Unjust Enrichment against the Owners
24 (Fifteenth Cause of Action).² All of these causes of action will be discussed in turn and in the
25

26 ² In its Fourth Amended Complaint, Plaintiff alleged additional causes of action. However, at trial, Plaintiff only
27 argued five causes of action and thus, abandoned each and every other cause of action against the Defendants
28 including the following: (1) Unjust Enrichment against Mojave (Tenth Cause of Action); (2) Contractor's Bond
Claim against Mojave and Western (Eleventh Cause of Action) (3) Unjust Enrichment against Whiting Turner
(Twelfth Cause of Action); and (4) Claim on Payment Bond against Whiting Turner, Fidelity, and Travelers
(Thirteenth Cause of Action). Thus, these four aforementioned causes of action are dismissed with prejudice.

1 order that the Court addressed in its ruling on January 24, 2014.

2 2. First, in its Fourteenth Cause of Action, Cashman alleges a cause of action for
3 Claim on Payment Bond against Mojave and Western. The Court rules in favor of Mojave and
4 Western on this cause of action. Regarding Cashman's Fourteenth Cause of Action for Claim on
5 Payment Bond, the operative document is Exhibit 49 entitled "Payment Bond", which identifies
6 Mojave as the Principal and Western as the Surety. In relevant part, the Payment Bond states
7 "NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such, that if the Principal
8 shall promptly make payments to all persons supplying labor, material, rental equipment,
9 supplies or services in the performance of said Contract and any and all modifications of said
10 Contract that may hereafter be made, then this obligation shall be null and void; otherwise it
11 shall remain in full force and effect."

12 3. Strict application of that paragraph would stand for the proposition that, all
13 payments to Cashman were not made, however, the Court finds that the defense of impossibility
14 is available to Mojave in this situation, as articulated in articulated in *Nebaco, Inc. v. Riverview*
15 *Realty Co., Inc.*, which states that "[g]enerally, the defense of impossibility is available to a
16 promisor where his performance is made impossible or highly impractical by the occurrence of
17 unforeseen contingencies . . . but if the unforeseen contingency is one which the promisor should
18 have foreseen, and for which he should have provided, this defense is unavailable to him," 87
19 Nev. 55, 57, 482 P.2d 305, 307 (1971). Here, Mojave tendered payment to the entity that it had
20 an agreement with to supply labor and materials, CAM and thus, because of the defense of
21 impossibility, the Court finds that Mojave was discharged of its duty to Cashman, even though
22 Cashman a material supplier to the Project under Mojave did not receive payment,

23 4. The defense of impossibility applies here, given that it was impossible or highly
24 impractical for Mojave to foresee that CAM and/or Mr. Carvalho would abscond with the funds
25 which made Mojave's performance impossible as to Cashman under the Payment Bond.

26 5. The Court likens the actions of Cam to an intervening cause.

27 6. The Court expressly finds that Cashman has standing to bring a claim on the
28 Payment Bond given the language of the Payment Bond, which states, on page 2, that the

principal and the surety agree the bond shall inure to the benefit of all persons supplying labor, materials, rental equipment, supplies, or services in the performance of Mojave's contract.

7. The Court finds it was simply impossible for Mojave to perform under the Payment Bond given what Mr. Carvalho did, therefore the Court rules in favor of Mojave and Western on Cashman's cause of action for Claim on Payment Bond (Fourteenth Cause of Action).

8. Second, in its Ninth Cause of Action, Cashman alleges a cause of action for Enforcement of Mechanic's Lien Release Bond against Mojave and Western. The Court rules in favor of Mojave and Western on this cause of action.

9. Regarding Cashman's Ninth Cause of Action for Enforcement of Mechanic's Lien Release Bond, the operative documents are Exhibits 11, 66, 4, and 13. Exhibits 11 and 66 are the Notice of Lien and the Amended Notice of Lien, respectively. These two documents stand for the proposition that Cashman had a lien in place relating to the Materials provided and the Court finds that Cashman did perfect its lien claim against the Project, pursuant to the requirements of NRS 108.221, et seq. and the amount of the amended lien is \$683,726.89.

10. The Court finds that Cashman complied with NRS 108.245 in the service of its preliminary notices, and therefore, as a matter of law, there was sufficient preliminary or legal notice to the owner.

11. However, Exhibit 4, the Unconditional Waiver and Release Upon Final Payment, stands for the proposition that Cashman released any notice of lien when it provided the Unconditional Waiver and Release Upon Final Payment in exchange for the check from Cam. This Release states as follows: "NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THESE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM."

12. Notwithstanding the language in the waiver and release, if the payment given in exchange for the waiver or release is made by check, draft or other such negotiable instrument

1 and the same fails to clear the bank on which it is drawn for any reason, then the waiver and
2 release shall be deemed null and void and of no legal effect

3 13. However, the Court finds that the check identified as Exhibit 13-004, that Mojave
4 furnished to CAM on April 26, 2011 in the amount of \$820,261.75 is the payment. Thus, once
5 Mojave made this payment (Exhibit 13-004) to CAM, then Cashman waived and released any
6 lien it had relating to the Materials provided.

7 14. In other words, the check Mojave provided to CAM constitutes payment to
8 Cashman for purposes of the enforceability of the Unconditional Waiver and Release Upon Final
9 Payment that Cashman provided in exchange for the payment Cashman received from CAM.

10 15. Thus, the Court rules in favor of Mojave and Western on Cashman's cause of
11 action for Enforcement of Mechanic's Lien Release Bond (Ninth Cause of Action).

12 16. Third, in its Third Cause of Action, Cashman alleges a cause of action for
13 Foreclosure of Security Interest against Mojave. The Court rules in favor of Cashman on this
14 cause of action.

15 17. Regarding Cashman's Third Cause of Action for Foreclosure of Security Interest,
16 the operative documents are Exhibits 1 and 5. Exhibit 1 is the Application for Credit that
17 Cashman involved itself with Mr. Carvalho. Section 8, page 2 of this Application for Credit
18 stands for the proposition that Cashman had a security interest in the Materials provided to the
19 Project at the time the Application for Credit was signed.

20 18. Cashman perfected its security interest with Exhibit 3, a UCC Financing
21 Statement. The UCC Financing Statement is sufficient and specific in identifying the Materials.

22 19. The Court finds this UCC Financing Statement is a legally binding security
23 instrument establishing a security interest inuring to the favor of Cashman in the Materials
24 provided hereto, or in this case, the value or proceeds derived from the Materials.

25 20. The value of the Materials is in Exhibit 40, the subcontract between Mojave and
26 Whiting Turner, which on page 23, identifies the value of the Materials, \$957,433 for the core
27 and shell emergency generator and \$297,559 for the UPS system.

28 21. As such, given that Cashman perfected its security interest in the Materials, the

1 Court rules in favor of Cashman on its cause of action for Foreclosure of Security Interest against
2 Mojave (Third Cause of Action) in the amount set forth below..

3 22. Fourth, in its cause of action from the consolidated case, Cashman alleges a
4 cause of action for Fraudulent Transfer. The Court rules in favor of Mojave on this cause of
5 action,

6 ...

7 Regarding Cashman's cause of action for Fraudulent Transfer, NRS 112.180 states:

8 1. A transfer made or obligation incurred by a debtor is fraudulent
9 as to a creditor, whether the creditor's claim arose before or after the
10 transfer was made or the obligation was incurred, if the debtor made
the transfer or incurred the obligation:

11 (a) With actual intent to hinder, delay or defraud any creditor
of the debtor, or

12 (b) Without receiving a reasonably equivalent value in
13 exchange for the transfer or obligation, and the debtor:

14 (1) Was engaged or was about to engage in a business
15 or a transaction for which the remaining assets of the
16 debtor were unreasonably small in relation to the
business or transaction; or

17 (2) Intended to incur, or believed or reasonably should
18 have believed that the debtor would incur, debts
beyond his or her ability to pay as they became due.

19 Further, NRS 112.190 states:

20 1. A transfer made or obligation incurred by a debtor is fraudulent
21 as to a creditor whose claim arose before the transfer was made or the
22 obligation was incurred if the debtor made the transfer or incurred the
23 obligation without receiving a reasonably equivalent value in
24 exchange for the transfer or obligation and the debtor was insolvent at
that time or the debtor became insolvent as a result of the transfer or
obligation.

25 2. A transfer made by a debtor is fraudulent as to a creditor whose
26 claim arose before the transfer was made if the transfer was made to
27 an insider for an antecedent debt, the debtor was insolvent at that
time, and the insider had reasonable cause to believe that the debtor
was insolvent.

28 23. Cashman's claim for fraudulent transfer fails because Mojave had no real inside

1 complicity with CAM.

2 24. The Court finds that there must be complicity between Mojave and CAM in order
3 for Cashman to prevail on its claim for Fraudulent Transfer.

4 25. As such, given that Mojave had no real inside complicity with CAM, the Court
5 rules in favor of Mojave on Cashman's cause of action for Fraudulent Transfer.

6 26. Fifth, in its Fifteenth Cause of Action, Cashman alleges a cause of action for
7 Unjust Enrichment against the Owners. The Court rules in favor of Cashman on this cause of
8 action, as long as Cashman puts the codes in (i.e. provides them and implements them).

9 27. "Unjust enrichment is the unjust retention . . . of money or property of another
10 against the fundamental principles of justice or equity and good conscience." *Topaz Mut. Co.*
11 *Inc. v. Marsh*, 108 Nev. 845, 856, 839 P.2d 606, 613 (1992) (citations omitted); *see also Coury v.*
12 *Robison*, 115 Nev. 84, 90, 976 P.2d 518, 521 (1999) (citations omitted) ("[u]njust enrichment
13 occurs whenever a person has and retains a benefit which in equity and good conscience belongs
14 to another. Unjust enrichment is the unjust retention of a benefit to the loss of another."). This
15 cause of action "exists when the Cashman confers a benefit on the defendant, the defendant
16 appreciates such benefit, and there is 'acceptance and retention by the defendant of such benefit
17 under circumstances such that it would be inequitable for him to retain the benefit without
18 payment of the value thereof.'" *Certified Fire Prot., Inc. v. Precision Constr., Inc.*, ___ Nev. ___,
19 283 P.3d 250, 257 (2012) (citations omitted).

20 28. Regarding Cashman's cause of action for unjust enrichment against the owners,
21 this Court rules in favor of Cashman as long as Cashman provides, implements, and actually puts
22 in the codes at issue. Thus, as long as Cashman provides, implements, and actually puts in the
23 codes at issue, Cashman is entitled to the amount in the escrow account, which is \$86,600.00.

24 29. At trial, before this Court was one cause of action, a defense counterclaim,
25 asserted by Defendants: (1) Misrepresentation (Third Claim for Relief). The Court rules in favor
26 of Cashman on this cause of action.³

27
28 ³ In Defendants' Answer to Fourth Amended Complaint, Counterclaim against Cashman Equipment Company and
Crossclaim against CAM Consulting, Inc. and Angelo Carvalho, Defendants alleged two other causes of action

30. "Under Nevada law, the elements of the tort of negligent misrepresentation are: (a) a representation that is false; (b) this representation was made in the course of the defendant's business, or in any action in which he has a pecuniary interest; (c) the representation was for the guidance of others in their business transactions; (d) the representation was justifiably relied upon; (e) this reliance resulted in pecuniary loss to the relying party; and (f) the defendant failed to exercise reasonable care or competence in obtaining or communicating the information." *Ideal Elec. Co. v. Flowsave Corp.*, 357 F.Supp.2d 1248, 1255 (D. Nev. 2005). Here, even though this defense counterclaim is essentially moot, as this Court ruled in favor of Mojave and Western on the cause of action for Enforcement of Mechanic's Lien Release Bond (Ninth Cause of Action), this Court further holds that Cashman did not make a misrepresentation as to any matter including its notice of liens.

31. As such, given that Cashman did not make any misrepresentations as to any matter relating to its notice of liens, the Court rules in favor of Cashman on Defendants' cause of action for misrepresentation.

32. In summary, and relating to the claims for relief before this Court: (a) this Court finds in favor of Cashman on its claims for Foreclosure of Security Interest against Mojave (Third Cause of Action) and Unjust Enrichment against the Owners (Fifteenth Cause of Action); (b) this Court finds in favor of Mojave and/or Western on Cashman's claims for Claim on Payment Bond against Mojave and Western (Fourteenth Cause of Action), Enforcement of Mechanic's Lien Release Bond against Mojave and Western (Ninth Cause of Action), and Fraudulent Transfer (from Consolidated Case); (c) this Court finds in favor of Cashman on Mojave's defense counterclaim for Misrepresentation (Third Claim for Relief).

Equitable Fault Relating to Contracting with CAM

33. As the Court ruled in favor of Cashman on its Third Cause of Action, Cashman is in a position to collect the amount owed, as provided in its lien, \$683,726.89, less any amount

(continued)
against Plaintiff for: (1) Breach of Contract (First Claim for Relief); and (2) Breach of Implied Covenant of Good Faith and Fair Dealing (Second Claim for Relief). However, at trial, Defendants only argued one cause of action for misrepresentation and thus, abandoned these other two aforementioned causes of action. Thus, these two aforementioned causes of action are dismissed with prejudice.

Cashman would receive from the escrow account for finalizing the codes.

34. However, this Court has analyzed the evidence in front of it and makes a determination that both Cashman and Mojave bear some responsibility of fault for what CAM and/or Mr. Carvalho did in this action (i.e. absconded with the funds that Mojave provided, which were supposed to be paid to Cashman for the Materials Cashman provided to the Project). More specifically, as far as equitable fault here, and even though this Court notes that both Mojave and Cashman are innocent victims here, this Court finds that Cashman is sixty-seven percent (67%) responsible and Mojave is thirty-three percent (33%) responsible for Cam and Mr. Carvalho's actions.

35. As an initial note regarding equitable fault of the parties, this Court holds that both Mojave and Cashman had to use a DBE here, CAM, and thus, neither Mojave nor Cashman bears any fault regarding having to contract with a DBE for the Project.

36. Cashman is sixty-seven percent (67%) equitably at fault because: (1) Mr. Fergen, Mojave's vice president of project development, presented three options to Cashman of potential certified DBEs: CAM, Nedco, and Codale. Cashman, when presented with these three options, made the decision to go forward and contract with CAM on the Project. As such, there were options given by Mojave and Cashman made the decision to use CAM here; (2) months before CAM and/or Mr. Carvalho absconded with the funds, Cashman had an opportunity to identify credit problems with CAM; Cashman identified some of these credit problems and this is why Cashman did not want to extend credit to CAM which inures some responsibility here; (3) Mojave had dealt with CAM on a couple of other projects (i.e. the Las Vegas Metro Project and the Nevada Energy Project noted above), and Mojave should have reasonably concluded that CAM and/or Mr. Carvalho was doing what he was supposed to do in those sorts of scenarios; (4) Mojave, as a courtesy, arranged the meeting with Cashman and CAM to allow Cashman to figure him out because CAM would be in the middle of Mojave and Cashman.

37. Mojave is thirty-three percent (33%) responsible for CAM and Mr. Carvalho's actions here because, among other things: (1) Cashman requested that Mojave issue a joint check to both Cashman and CAM, and Mojave said no to that request; even though this Court is not

1 sure a joint check would not have necessarily solved the problem, but Cashman's request was a
2 good request and Mojave takes some responsibility for saying no, when they could have gone to
3 Whiting Turner and presented Cashman's request and given that Mojave had issued a joint check
4 to QED and CAM;; and (2) the payment made to CAM, that was not made to Cashman for the
5 Materials, initiated with Mojave, which gives Mojave some responsibility.

6 Damages

7 38. Since Cashman is the prevailing party on its claims for Foreclosure of Security
8 Interest against Mojave (Third Cause of Action) and Unjust Enrichment against the Owners
9 (Fifteenth Cause of Action), Cashman is entitled to a damages amount.

10 39. The formula for calculating this amount of damages is the following: (The amount
11 of the Amended Notice of Lien (Exhibit 66) minus the amount in escrow, which will be released
12 to Cashman after the codes are finalized) times the percentage of Mojave's fault that was set
13 forth in the equitable analysis above. Hence, this equates to the following formula:
14 $(\$683,726.89 - \$86,600.00) * .33 = \$197,051.87$.

15 40. Any proceeds from the criminal case of Mr. Carvalho (in the Eighth Judicial
16 District Court, in and for Clark County, Nevada, Case No: C-12-283210-1 (the "Criminal
17 Case"), which is effect any and all restitution that comes out of the Criminal Case, will be
18 equally split 50/50 between Cashman and Mojave.

19 41. In regards to the property located at 6321 Little Blm St. N. Las Vegas, Nevada,
20 APN #124-29-110-099 (the "Property"), this Court is confirming its prior holding in its Findings
21 of Fact and Conclusions of Law and Order on Cashman Equipment Company's Motion for
22 Summary Judgment against Janel Ronnie aka Janel Carvalho filed with this Court on June 14,
23 2013 (the "June 14, 2013 FFCL") that awarded the Property to Cashman.

24 42. At trial, the Defendants have requested a "setoff" calculation of approximately
25 \$62,710.53 (see Exhibit 65 minus the battery invoice for \$79,721.31 (Exhibit 65-015)), for
26 Mojave's costs Mojave alleges to have incurred on the Project after Cashman decided to stop
27 work on the Project due to not receiving payment for the Materials. The Court finds for the
28 Cashman on Defendant's claim for "setoff" pursuant to NRS §624.626(9) which states "[n]o

1 lower-tiered subcontractor or his or her lower-tiered subcontractors or suppliers, or their
2 respective sureties, may be held liable for any delays or damages that an owner or higher-tiered
3 contractor may suffer as a result of the lower-tiered subcontractor and his or her lower-tiered
4 subcontractors and suppliers stopping their work or the provision of materials or equipment or
5 terminating an agreement for a reasonable basis in law or fact and in accordance with this
6 section." This Court finds that Cashman had a reasonable basis in law or fact to stop working on
7 the Project, after not receiving payment for the Materials as required.

8 43. Any of the foregoing conclusions of law that are more properly findings of fact
9 shall be so considered.

10 ORDER

11 Based upon the foregoing, and other good cause appearing:

12 IT IS HEREBY ORDERED that, as to Cashman's Causes of Action for Foreclosure of
13 Security Interest against Mojave (Third Cause of Action) and Unjust Enrichment against the
14 Owners Cashman conditioned upon the installation of the codes(Fifteenth Cause of Action), this
15 Court finds in favor of Cashman.

16 IT IS HEREBY FURTHER ORDERED that, as to Cashman's Causes of Action for
17 Claim on Payment Bond against Mojave and Western (Fourteenth Cause of Action),
18 Enforcement of Mechanic's Lien Release Bond against Mojave and Western (Ninth Cause of
19 Action), and Fraudulent Transfer (from Consolidate Case), this Court finds in favor of Mojave
20 and Western.

21 IT IS HEREBY FURTHER ORDERED that, as to Mojave's defense counterclaim for
22 Misrepresentation (Third Claim for Relief), this Court finds in favor of Cashman.

23 IT IS HEREBY FURTHER ORDERED that, as to Mojave's request for a "setoff", this
24 Court finds in favor of Cashman.

25 IT IS HEREBY FURTHER ORDERED that this Court awards Cashman \$197,051.87,
26 on its Third Cause of Action, which is calculated as the following: (the amount of the Amended
27 Notice of Lien minus the amount in escrow, if Cashman finalizes the codes) times the percentage
28 of Mojave's fault that was set forth in the equitable analysis above.

1 IT IS HEREBY FURTHER ORDERED that this Court awards Cashman the entire
2 amount remaining in the escrow account, \$86,600, on its Fifteenth Cause of Action to be paid
3 after Cashman installs the codes;

4 IT IS HEREBY FURTHER ORDERED that any proceeds from the Criminal Case (i.e.
5 any and all restitution that comes out of the Criminal Case) will be equally split 50/50 between
6 Cashman and Mojave.

7 IT IS HEREBY FURTHER ORDERED that this Court will address any issues of
8 attorneys' fees, costs, and prejudgment interest through post decision motions that may be filed
9 with the Court.

10 IT IS HEREBY FURTHER ORDERED that after this Findings of Fact and Conclusions
11 of Law is filed, the parties will submit a judgment to this effect accordingly.

12 DATED this 5 day of May, 2014.


13 
14 DISTRICT COURT JUDGE

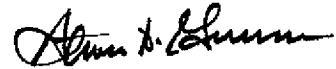
15 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

16 Respectfully submitted by:

17 Dated this 30 day of April, 2014.

18 PEZZILLO LLOYD

19
20 
21 BRIAN J. PEZZILLO, ESQ. (NBN 7136)
22 JENNIFER R. LLOYD, ESQ. (NBN 9617)
23 6725 Via Austi Parkway, Suite 290
24 Las Vegas, Nevada 89119
25 Attorneys for Plaintiff Cashman Equipment
26 Company
27
28



CLERK OF THE COURT

1 ASTA

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

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

17 CASHMAN EQUIPMENT COMPANY, a
18 Nevada corporation,

19 Plaintiff,

20 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

21 CAM CONSULTING INC., a Nevada
22 corporation; ANGELO CARVALHO, an
23 individual; JANEL RENNIE aka JANEL
24 CARVALHO, an individual; WEST EDNA
25 ASSOCIATES, LTD., dba MOJAVE
26 ELECTRIC, a Nevada corporation; WESTERN
27 SURETY COMPANY, a surety; THE
28 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.

CASE APPEAL STATEMENT

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

AND ALL RELATED MATTERS.

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

1. Name of appellant filing this case appeal statement: CASHMAN EQUIPMENT COMPANY.
2. Identify the judge issuing the decision, judgment, or order appealed from: Hon. Rob Bare
3. Identify each appellant and the name and address of counsel for each appellant: CASHMAN EQUIPMENT COMPANY c/o Jennifer R. Lloyd, Esq., Pezzillo Lloyd, 6725 Via Austi Pkwy., Suite 290, Las Vegas, NV 89119.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel): WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave"); WESTERN SURETY COMPANY ("Western"); THE WHITING TURNER CONTRACTING COMPANY ("Whiting Turner"); FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity"); TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"); QH LAS VEGAS LLC ("QH"); PQ LAS VEGAS, LLC ("PQ"); L W T I C SUCCESSOR LLC ("LWTIC"); and FC/LW VEGAS, c/o Brian Boschee, Esq., Cotton, Driggs, et al., 400 S. 4th St., 3rd Fl., Las Vegas, NV 89101.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission): Not applicable in this matter.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: Retained counsel.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Retained counsel.
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.

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 is appealing this judgment. 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.
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: 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. The appeal is currently stayed pending final judgment of this matter per Order filed on April 15, 2014.
12. Indicate whether this appeal involves child custody or visitation: Not applicable in this matter.

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

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

DATED: June 5, 2014

PEZZILLO LLOYD

By:

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

PEZZILLO LLOYD

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jlloyd@pezzillolloyd.com

mmaskas@pezzillolloyd.com

Attorneys for Plaintiff,

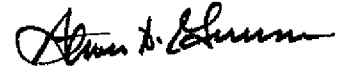
Cashman Equipment Company

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on
June 5, 2014, a true and correct copy of the foregoing document, **CASE APPEAL**
STATEMENT, was served by placing said copy in an envelope, postage fully prepaid, in the U.S.
Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschce, Esq.
COTTON, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101
Attorneys for Respondents

An Employee of Pezzillo Lloyd



CLERK OF THE COURT

1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6
7 CASHMAN EQUIPMENT
8 COMAPANY, a Nevada
corporation,

9 Plaintiff,

10 vs.

CASE NO.: A-11-642583-C

DEPT. NO. 32

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

Defendant.

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CLERK OF THE COURT

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DECISION AND ORDER

I. Findings of Fact

At the previous hearing on April 16, 2013, the Court granted Defendants' Motion to Expunge or Reduce Mechanics' Lien and the order denying the motion was filed on May 3, 2013. The Court found in a May 3, 2013 order that the Plaintiff's Notice of Lien for \$755,893.89 was not frivolous, was made with reasonable cause and the amount was not excessive. Based on our finding in the May 3, 2013 order, Plaintiff filed a Motion for Attorney Fees and Costs Pursuant to NRS 108.2275, which the Court granted on July 11, 2013. Plaintiff was awarded \$9,513.25 for attorneys' fees and \$651.91 in costs. The Order pursuant to that hearing was filed on September 20, 2013.

Subsequently, this case came on for a bench trial on January 24, 2014. During the trial Plaintiff filed an Amended Lien for \$683,726.89. After the commencement of the trial, this Court found in favor of the Defendants regarding the first, second and fourth causes of action. Further, the Court found in favor of the Plaintiff regarding the third and fifth causes of action. Accordingly, the court distributed the financial award based on equitable fault, finding Plaintiff 67% responsible and Defendant Mojave 33% responsible.

On March 20, 2014, Defendants/Counterclaimants filed a Motion for Relief Pursuant to NRCP 60(b) and a Motion for Attorneys' Fees and Costs Pursuant to NRS Chapter 108. The motion for relief requested that this court vacate the September 20, 2013 Order Granting Chashman Equipment Company's Motion for Award of Attorney's Fees and Costs Pursuant to NRS 108.2275. In response, Defendant filed its own countermotion for Attorneys' Fees on April 15, 2014 and the Court heard oral arguments on the various motions.

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1 **II. Conclusions of Law**

2 a. Defendants' Motion for Relief Pursuant to NRCP 60(b)

3
4 First, Defendants argued that the July 11, 2013 order granting fees and costs
5 must be vacated because Defendant was the prevailing party and the Lien was
6 excessive and Plaintiff knew that at the time of the April 16, 2013 hearing. Under
7 NRS 108.2275, a Court may award attorneys' fees and costs if it is found that a
8 lien is not excessive. Under NRCP 60(b), relief from a judgment may be granted if
9 there is newly discovered evidence. Based on the evidence presented at the time of
10 the April 16, 2013 hearing, this Court concluded the \$755,893.89 lien by Plaintiff
11 was not excessive, but different evidence came to light at the trial due to the
12 Amended Lien for \$683,726.89. The relief granted at the April 16, 2013 hearing
13 was interim relief, not final relief. The combination of the reduction of the lien
14 before trial and the Court finding in favor of Defendant on the lien issue during
15 trial leads the court to grant NRCP 60(b) relief in this instance.

16
17 b. Defendants' Motion and Plaintiff's Countermotion for Fees and Costs

18
19 Next, Defendants filed a motion for fees and costs pursuant to the following
20 statutes: NRS 18.010, NRS 18.020, NRS 108.2275 and NRS 108.237(3).
21 Under NRS 18.010(2)(b), a court is allowed to award attorneys' fees "when the
22 court finds that the claim counterclaim, cross-claim or third-party complaint or
23 defense of the opposing party was brought or maintained without reasonable
24 ground or to harass the prevailing party." NRS 18.020 allows for a court to award
25 costs to the prevailing party in certain situations. NRS 108.2275 allows a court to
26 award costs and reasonable attorneys' fees if it is determined that a notice of lien is
27 excessive or frivolous. Lastly, NRS 180.237 gives the Court authority to award
28 fees and costs if a lien claim is not upheld and the lien was pursued without

1 reasonable basis. To counter these claims for fees and costs, Plaintiff filed a
2 countermotion for fees under NRS 104.9607, arguing they prevailed in the
3 enforcement of a security interest. This Court concludes that based on the outcome
4 of the trial, there is no obvious prevailing party and none of the claims at trial were
5 unreasonable. Therefore, an award for attorneys' fees and costs to either side based
6 on the outcome of the trial is not warranted.

7 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND
8 DECREED that Defendants' Motion for Relief Pursuant to NRCP 60(b) is
9 GRANTED. As such, the September 20, 2013 Order Granting Chashman
10 Equipment Company's Motion for Award of Attorney's Fees and Costs
11 Pursuant is VACATED, each side to bear their own costs and fees.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
13 Defendants' Motion for Attorneys' Fees and Costs is DENIED.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's
15 Countermotion for Attorneys' Fees is DENIED.

16
17 Dated this 1 day of August, 2014.

18
19 
20 Rob Bare
21 Judge, District Court, Department 32

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Brian Boschee, Esq.
Holley, Driggs, Walch, Puzey & Thompson
400 S. Fourth Street, Third Floor
Las Vegas, NV 89101
Fax: (702) 791.1912
Email: bboschee@nevadafirm.com

Dated this 1st day of August, 2014.

Sanam

Tara Duenas
Judicial Executive Assistant, Dept. 32

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Las Vegas, Nevada 89119
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Nevada Bar No. 9617

Marisa L. Maskas, Esq.

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mmaskas@pezzillolloyd.com

Attorneys for Plaintiff,

Cashman Equipment Company

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CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada
corporation; ANGELO CARVALHO, an
individual; JANEL RIENNIE 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.

AND ALL RELATED MATTERS.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

**NOTICE OF ENTRY OF DECISION AND
ORDER**

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NOTICE OF ENTRY OF DECISION AND ORDER

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a Decision and Order was entered in the above entitled on August 1, 2014, a copy of which is attached hereto.

DATED: August 13, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

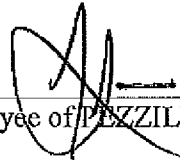
Attorneys for Plaintiff,

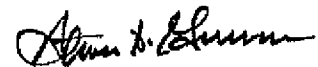
Cushman Equipment Company

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 13 day of August, 2014, a true and correct copy of the NOTICE OF ENTRY OF DECISION AND ORDER was served by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101


An employee of PEZZILLO LLOYD



CLERK OF THE COURT

1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6
7 CASHMAN EQUIPMENT
8 COMAPANY, a Nevada
corporation,

9 Plaintiff,

10 vs.

CASE NO.: A-11-642583-C

DEPT. NO. 32

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

Defendant.

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CLERK OF THE COURT

JA 00007784

DECISION AND ORDER

I. Findings of Fact

At the previous hearing on April 16, 2013, the Court granted Defendants' Motion to Expunge or Reduce Mechanics' Lien and the order denying the motion was filed on May 3, 2013. The Court found in a May 3, 2013 order that the Plaintiff's Notice of Lien for \$755,893.89 was not frivolous, was made with reasonable cause and the amount was not excessive. Based on our finding in the May 3, 2013 order, Plaintiff filed a Motion for Attorney Fees and Costs Pursuant to NRS 108.2275, which the Court granted on July 11, 2013. Plaintiff was awarded \$9,513.25 for attorneys' fees and \$651.91 in costs. The Order pursuant to that hearing was filed on September 20, 2013.

Subsequently, this case came on for a bench trial on January 24, 2014. During the trial Plaintiff filed an Amended Lien for \$683,726.89. After the commencement of the trial, this Court found in favor of the Defendants regarding the first, second and fourth causes of action. Further, the Court found in favor of the Plaintiff regarding the third and fifth causes of action. Accordingly, the court distributed the financial award based on equitable fault, finding Plaintiff 67% responsible and Defendant Mojave 33% responsible.

On March 20, 2014, Defendants/Counterclaimants filed a Motion for Relief Pursuant to NRCP 60(b) and a Motion for Attorneys' Fees and Costs Pursuant to NRS Chapter 108. The motion for relief requested that this court vacate the September 20, 2013 Order Granting Chashman Equipment Company's Motion for Award of Attorney's Fees and Costs Pursuant to NRS 108.2275. In response, Defendant filed its own countermotion for Attorneys' Fees on April 15, 2014 and the Court heard oral arguments on the various motions.

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1 **II. Conclusions of Law**

2 a. Defendants' Motion for Relief Pursuant to NRCP 60(b)

3
4 First, Defendants argued that the July 11, 2013 order granting fees and costs
5 must be vacated because Defendant was the prevailing party and the Lien was
6 excessive and Plaintiff knew that at the time of the April 16, 2013 hearing. Under
7 NRS 108.2275, a Court may award attorneys' fees and costs if it is found that a
8 lien is not excessive. Under NRCP 60(b), relief from a judgment may be granted if
9 there is newly discovered evidence. Based on the evidence presented at the time of
10 the April 16, 2013 hearing, this Court concluded the \$755,893.89 lien by Plaintiff
11 was not excessive, but different evidence came to light at the trial due to the
12 Amended Lien for \$683,726.89. The relief granted at the April 16, 2013 hearing
13 was interim relief, not final relief. The combination of the reduction of the lien
14 before trial and the Court finding in favor of Defendant on the lien issue during
15 trial leads the court to grant NRCP 60(b) relief in this instance.

16
17 b. Defendants' Motion and Plaintiff's Countermotion for Fees and Costs

18
19 Next, Defendants filed a motion for fees and costs pursuant to the following
20 statutes: NRS 18.010, NRS 18.020, NRS 108.2275 and NRS 108.237(3).
21 Under NRS 18.010(2)(b), a court is allowed to award attorneys' fees "when the
22 court finds that the claim counterclaim, cross-claim or third-party complaint or
23 defense of the opposing party was brought or maintained without reasonable
24 ground or to harass the prevailing party." NRS 18.020 allows for a court to award
25 costs to the prevailing party in certain situations. NRS 108.2275 allows a court to
26 award costs and reasonable attorneys' fees if it is determined that a notice of lien is
27 excessive or frivolous. Lastly, NRS 180.237 gives the Court authority to award
28 fees and costs if a lien claim is not upheld and the lien was pursued without

1 reasonable basis. To counter these claims for fees and costs, Plaintiff filed a
2 countermotion for fees under NRS 104.9607, arguing they prevailed in the
3 enforcement of a security interest. This Court concludes that based on the outcome
4 of the trial, there is no obvious prevailing party and none of the claims at trial were
5 unreasonable. Therefore, an award for attorneys' fees and costs to either side based
6 on the outcome of the trial is not warranted.

7 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND
8 DECREED that Defendants' Motion for Relief Pursuant to NRCP 60(b) is
9 GRANTED. As such, the September 20, 2013 Order Granting Chashman
10 Equipment Company's Motion for Award of Attorney's Fees and Costs
11 Pursuant is VACATED, each side to bear their own costs and fees.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
13 Defendants' Motion for Attorneys' Fees and Costs is DENIED.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's
15 Countermotion for Attorneys' Fees is DENIED.

16
17 Dated this 1 day of August, 2014.

18
19 
20 Rob Bare
21 Judge, District Court, Department 32

22 ///

23 ///

24 ///

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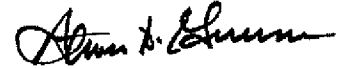
Brian Boschee, Esq.
Holley, Driggs, Walch, Puzey & Thompson
400 S. Fourth Street, Third Floor
Las Vegas, NV 89101
Fax: (702) 791.1912
Email: bboschee@nevadafirm.com

**Jennifer R. Lloyd, Esq.
Marisa L. Maskas, Esq.
PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119**

Amador

Tara Ducnas
Judicial Executive Assistant, Dept. 32

ORIGINAL



CLERK OF THE COURT

JUDGE

Jennifer R. Lloyd, Esq.
Nevada State Bar No. 9617
PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225
Fax: 702 233-4252
jlloyd@pezzillolloyd.com
Attorneys for Plaintiff,
Cashman Equipment Company

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.

AND ALL RELATED MATTERS.

Case No.: A642583
Dept. No.: 32

Consolidated with Case No.: A653029

JUDGMENT

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

PEZZILLO LLOYD
6725 Via Austri Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

JUDGMENT

This case having come on for trial on January 21 - 24, 2014 before this Court, Plaintiff/Counterdefendant CASHMAN EQUIPMENT COMPANY ("Plaintiff" or "Cashman") was represented by and through its counsel, Brian J. Pezzillo, Esq. and Jennifer R. Lloyd, Esq. of the law firm of Pezzillo Lloyd and Defendants/Counterclaimants WESTERN SURETY COMPANY ("Western"), THE WHITING TURNER CONTRACTING COMPANY ("Whiting Turner"), FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity"), TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"), WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC ("Mojave"); and QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas (collectively "Owners"), were represented by and through their counsel, Brian W. Boschee, Esq. and William N. Miller, Esq. of the law firm of Holley, Driggs, Walch, Puzey & Thompson. The Court, having fully heard the testimony of the witnesses, reviewed the evidence during the trial, having considered the oral and written arguments set forth by appearing counsel at the trial, and also having read and considered the other papers and pleadings on file herein, and good cause appearing, enters the following judgment:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Judgment is hereby entered against Defendant Mojave and in favor of Plaintiff Cashman as to Cashman's Third Cause of Action (Foreclosure of Security Interest) in the principal amount of \$197,051.87.

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///

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

1 IT IS HEREBY FURTHER ORDERED that Judgment is hereby entered against
2 Defendant Owners and in favor of Plaintiff Cashman as to Cashman's Fifteenth Cause of Action
3 (Unjust Enrichment) in the entire amount remaining in the escrow account, \$86,600, to be paid
4 after Cashman installs the codes.

5 DATED THIS 14 DAY OF Aug, 2014.


6
7 
8 DISTRICT COURT JUDGE

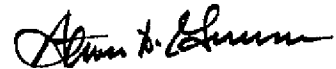
9 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

10 Respectfully submitted by:

11 Dated this 12 day of August, 2014.

12 PEZZILLO LLOYD

13 
14 Jennifer R. Lloyd, Esq.
15 Nevada State Bar No. 9617
16 PEZZILLO LLOYD
17 6725 Via Austi Parkway, Suite 290
18 Las Vegas, Nevada 89119
19 Attorneys for Plaintiff,
20 Cashman Equipment Company
21
22
23
24
25
26
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28



CLERK OF THE COURT

1 **NOE**

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 **CASHMAN EQUIPMENT COMPANY, a**
12 **Nevada corporation,**

13 **Plaintiff,**

14 **vs.**

CASE NO.: A642583
DEPT.: 32

Consolidated with Case No.: A653029

NOTICE OF ENTRY OF JUDGMENT

15 **CAM CONSULTING INC., a Nevada**
16 **corporation; ANGELO CARVALHO, an**
17 **individual; JANEL RENNIE aka JANEL**
18 **CARVALHO, an individual; WEST EDNA**
19 **ASSOCIATES, LTD., dba MOJAVE ELECTRIC,**
20 **a Nevada corporation; WESTERN SURETY**
21 **COMPANY, a surety; THE WHITING TURNER**
22 **CONTRACTING COMPANY, a Maryland**
23 **corporation; FIDELITY AND DEPOSIT**
24 **COMPANY OF MARYLAND, a surety;**
25 **TRAVELERS CASUALTY AND SURETY**
26 **COMPANY OF AMERICA, a surety; QH LAS**
27 **VEGAS LLC, a foreign limited liability company;**
28 **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.

AND ALL RELATED MATTERS.

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

NOTICE OF ENTRY OF JUDGMENT

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a Judgment was entered in the above entitled on August 14, 2014, a copy of which is attached hereto.

DATED: August 21, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

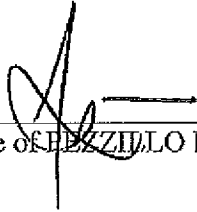
Attorneys for Plaintiff,

Cashman Equipment Company

CERTIFICATE OF SERVICE

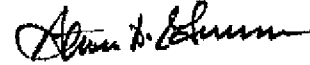
The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 21 day of August, 2014, a true and correct copy of the NOTICE OF ENTRY OF JUDGMENT was served by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101


An employee of PEZZILLO LLOYD

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CLERK OF THE COURT

JUDGE

Jennifer R. Lloyd, Esq.
Nevada State Bar No. 9617
PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225
Fax: 702 233-4252
jlloyd@pezzillolloyd.com
Attorneys for Plaintiff,
Cashman Equipment Company

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada
corporation; ANGELO CARVALHO, an
individual; JANIEL RENNIE aka JANIEL
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 ROB
CORPORATIONS 1 - 10, inclusive;

Defendants,

AND ALL RELATED MATTERS.

Case No.: A642583
Dept. No.: 32

Consolidated with Case No.: A653029

JUDGMENT

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

PEZZILLO LLOYD
4725 Via Austri Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4223

JUDGMENT

This case having come on for trial on January 21 - 24, 2014 before this Court, Plaintiff/Counterdefendant CASHMAN EQUIPMENT COMPANY ("Plaintiff" or "Cashman") was represented by and through its counsel, Brian J. Pezzillo, Esq. and Jennifer R. Lloyd, Esq. of the law firm of Pezzillo Lloyd and Defendants/Counterclaimants WESTERN SURETY COMPANY ("Western"), THE WHITING TURNER CONTRACTING COMPANY ("Whiting Turner"), FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity"), TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"), WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC ("Mojave"); and QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas (collectively "Owners"), were represented by and through their counsel, Brian W. Boschee, Esq. and William N. Miller, Esq. of the law firm of Holley, Driggs, Walsh, Puzey & Thompson. The Court, having fully heard the testimony of the witnesses, reviewed the evidence during the trial, having considered the oral and written arguments set forth by appearing counsel at the trial, and also having read and considered the other papers and pleadings on file herein, and good cause appearing, enters the following judgment:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Judgment is hereby entered against Defendant Mojave and in favor of Plaintiff Cashman as to Cashman's Third Cause of Action (Foreclosure of Security Interest) in the principal amount of \$197,051.87.

///

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///

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 239-4235

1 IT IS HEREBY FURTHER ORDERED that Judgment is hereby entered against
2 Defendant Owners and in favor of Plaintiff Cashman as to Cashman's Fifteenth Cause of Action
3 (Unjust Enrichment) in the entire amount remaining in the escrow account, \$86,600, to be paid
4 after Cashman installs the codes,

5 DATED THIS 14 DAY OF Aug, 2014.


6
7 
8 DISTRICT COURT JUDGE

9 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

10 Respectfully submitted by:

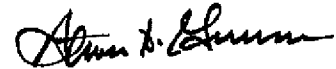
11 Dated this 12 day of August, 2014.

12 PEZZILLO LLOYD

13 
14 Jennifer R. Lloyd, Esq.
15 Nevada State Bar No. 9617
16 PEZZILLO LLOYD
17 6725 Via Austi Parkway, Suite 290
18 Las Vegas, Nevada 89119
19 Attorneys for Plaintiff,
20 Cashman Equipment Company
21
22
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CLERK OF THE COURT

ORDER

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

Tel: (702) 233-4225

Fax: (702) 233-4252

Attorneys for Plaintiff,

Cashman Equipment Company

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

v. 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.

CASE NO.: A642583

DEPT. NO.: 32

**ORDER DENYING CASHMAN
EQUIPMENT COMPANY'S REQUEST
FOR COSTS PURSUANT TO NRS 18.020**

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

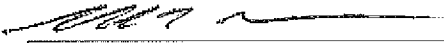
1 AND ALL RELATED MATTERS.

2 **ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS**
3 **PURSUANT TO NRS 18.020**

4 CASHMAN EQUIPMENT COMPANY filed its Memorandum of Costs with the
5 Court on or about May 13, 2014 pursuant to NRS 18.020. Defendants, having failed to file a
6 Motion to Retax Pursuant to NRS 18.110(4); and the Court having reviewed Cashman's
7 request for an award of costs and being fully advised finds as follows:

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that CASHMAN
9 EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020 is
10 DENIED.

11 DATED this 28 day of Aug, 2014.

12 
13 District Court Judge

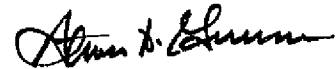
14 Submitted by:

15 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

16 PEZZILLO LLOYD

17 By:  10928/

18 Jennifer R. Lloyd, Esq.
19 Nevada Bar No. 9617
20 6725 Via Austi Parkway, Suite 290
21 Las Vegas, Nevada 89119
22 *Attorneys for Plaintiff,*
23 *Cashman Equipment Company*
24
25
26
27
28



CLERK OF THE COURT

1 NOE

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

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

17 CASHMAN EQUIPMENT COMPANY, a
18 Nevada corporation,

19 Plaintiff,

20 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

21 CAM CONSULTING INC., a Nevada
22 corporation; ANGELO CARVALHO, an
23 individual; JANEL RENNIE aka JANEL
24 CARVALHO, an individual; WEST EDNA
25 ASSOCIATES, LTD., dba MOJAVE ELECTRIC,
26 a Nevada corporation; WESTERN SURETY
27 COMPANY, a surety; THE WHITING TURNER
28 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.

AND ALL RELATED MATTERS.

**NOTICE OF ENTRY OF ORDER DENYING
CASHMAN EQUIPMENT COMPANY'S
REQUEST FOR COSTS PURSUANT TO
NRS 108.020**

NOTICE OF ENTRY OF JUDGMENT

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020 was entered in the above entitled on August 28, 2014, a copy of which is attached hereto.

DATED: September 2, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

Attorneys for Plaintiff,

Cashman Equipment Company

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 2nd day of Sept., 2014, a true and correct copy of the **NOTICE OF ENTRY OF ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020** was served via the Court's Odyssey E-Filing system to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101



An employee of PEZZILLO LLOYD

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

ORIGINAL

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09/02/2014 09:25:38 AM

Ann L. Shuman

CLERK OF THE COURT

ORDR

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
Tel: (702) 233-4225
Fax: (702) 233-4252
Attorneys for Plaintiff,
Cashman Equipment Company

DISTRICT COURT
CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada
corporation; ANGELO CARVALHO, an
individual; JANIEL RENNIE aka JANEL
CARVALHO, an individual; WEST EDNA
ASSOCIATES, LTD., dba MOJAVE
ELECTRIC, a Nevada corporation;
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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; FCLW
VEGAS, a foreign limited liability company;
DOES 1 - 10, inclusive; and ROE
CORPORATIONS 1 - 10, inclusive;

Defendants.

CASE NO.: A642583
DEPT. NO.: 32

ORDER DENYING CASHMAN
EQUIPMENT COMPANY'S REQUEST
FOR COSTS PURSUANT TO NRS 18,020

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: (702) 233-4225

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225


1 AND ALL RELATED MATTERS.

2 **ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS**
3 **PURSUANT TO NRS 18.020**

4 CASHMAN EQUIPMENT COMPANY filed its Memorandum of Costs with the
5 Court on or about May 13, 2014 pursuant to NRS 18.020. Defendants, having failed to file a
6 Motion to Retax Pursuant to NRS 18.110(4); and the Court having reviewed Cashman's
7 request for an award of costs and being fully advised finds as follows:

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that CASHMAN
9 EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020 is
10 DENIED.

11 DATED this 28 day of Aug, 2014.

12 
13 District Court Judge

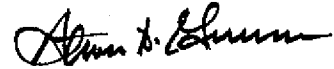
14 Submitted by:

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

15 PEZZILLO LLOYD

16 By: 
17

18 Jennifer R. Lloyd, Esq.
19 Nevada Bar No. 9617
20 6725 Via Austi Parkway, Suite 290
21 Las Vegas, Nevada 89119
22 Attorneys for Plaintiff,
23 Cashman Equipment Company
24
25
26
27
28



CLERK OF THE COURT

1 ERR

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 CASHMAN EQUIPMENT COMPANY, a
12 Nevada corporation,

13 Plaintiff,

14 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

15 CAM CONSULTING INC., a Nevada
16 corporation; ANGELO CARVALHO, an
17 individual; JANEL RENNIE aka JANEL
18 CARVALHO, an individual; WEST EDNA
19 ASSOCIATES, LTD., dba MOJAVE ELECTRIC,
20 a Nevada corporation; WESTERN SURETY
21 COMPANY, a surety; THE WHITING TURNER
22 CONTRACTING COMPANY, a Maryland
23 corporation; FIDELITY AND DEPOSIT
24 COMPANY OF MARYLAND, a surety;
25 TRAVELERS CASUALTY AND SURETY
26 COMPANY OF AMERICA, a surety; QH LAS
27 VEGAS LLC, a foreign limited liability company;
28 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.

AND ALL RELATED MATTERS.

**ERRATA TO NOTICE OF ENTRY OF
ORDER DENYING CASHMAN
EQUIPMENT COMPANY'S REQUEST FOR
COSTS PURSUANT TO NRS 18.020**

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

1 **ERRATA TO NOTICE OF ENTRY OF ORDER DENYING CASHMAN EQUIPMENT**
2 **COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020**

3 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

4 Please take notice that Plaintiff, CASHMAN EQUIPMENT COMPANY, inadvertently and
5 incorrectly identified the Notice of Entry of Order, filed September 2, 2014 and attached hereto as
6 Exhibit "1." The title of said notice should read: "NOTICE OF ENTRY OF ORDER DENYING
7 CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020."

8 DATED: September 2, 2014

9 PEZZILLO LLOYD

10 By: 

11 Jennifer R. Lloyd, Esq.

12 Nevada Bar No. 9617

13 Matisa L. Maskas, Esq.

14 Nevada Bar No. 10928

15 6725 Via Austi Parkway, Suite 290

16 Las Vegas, Nevada 89119

17 Attorneys for Plaintiff,

18 Cashman Equipment Company

19
20
21
22
23
24
25
26
27
28
PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702.233-4225

CERTIFICATE OF SERVICE

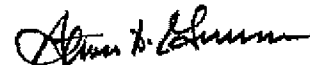
The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 2 day of Sept., 2014, a true and correct copy of the **ERRATA TO NOTICE OF ENTRY OF ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020** was served via the Court's Odyssey E-Filing system to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101


An employee of PEZZILLO LLOYD

PEZZILLO LLOYD
6725 Via Austri Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 239-4225

EXHIBIT 1



CLERK OF THE COURT

1 NOE

Jennifer R. Lloyd, Esq.

2 Nevada Bar No. 9617

Marisa L. Maskas, Esq.

3 Nevada Bar No. 10928

PEZZILLO LLOYD

4 6725 Via Austi Parkway, Suite 290

5 Las Vegas, Nevada 89119

Tel: 702 233-4225

6 Fax: 702 233-4252

7 jlloyd@pezzillolloyd.com

mmaskas@pezzillolloyd.com

8 *Attorneys for Plaintiff,*

Cashman Equipment Company

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 CASHMAN EQUIPMENT COMPANY, a
12 Nevada corporation,

13 Plaintiff,

14 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

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

26 Defendants.

27
28 **AND ALL RELATED MATTERS.**

**NOTICE OF ENTRY OF ORDER DENYING
CASHMAN EQUIPMENT COMPANY'S
REQUEST FOR COSTS PURSUANT TO
NRS 108.020**

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

NOTICE OF ENTRY OF JUDGMENT

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD;

PLEASE TAKE NOTICE that the ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020 was entered in the above entitled on August 28, 2014, a copy of which is attached hereto.

DATED: September 2, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

Attorneys for Plaintiff,

Cashman Equipment Company

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702.239-4225

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 2nd day of Sept., 2014, a true and correct copy of the NOTICE OF ENTRY OF ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020 was served via the Court's Odyssey E-filing system to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101



An employee of PEZZILLO LLOYD

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 250
Las Vegas, Nevada 89119
Tel. 702.233-4225

ORIGINAL

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09/02/2014 09:25:38 AM

Alvin D. Johnson

CLERK OF THE COURT

ORDER

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
Tel: (702) 233-4225
Fax: (702) 233-4252
Attorneys for Plaintiff,
Cashman Equipment Company

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.

CASE NO.: A642583
DEPT. NO.: 32

ORDER DENYING CASHMAN
EQUIPMENT COMPANY'S REQUEST
FOR COSTS PURSUANT TO NRS 18.020

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: (702) 233-4225

PEZZILLO LLOYD

6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702.233-4225


1 AND ALL RELATED MATTERS.

2 **ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS**
3 **PURSUANT TO NRS 18.020**

4 CASHMAN EQUIPMENT COMPANY filed its Memorandum of Costs with the
5 Court on or about May 13, 2014 pursuant to NRS 18.020. Defendants, having failed to file a
6 Motion to Retax Pursuant to NRS 18.110(4); and the Court having reviewed Cashman's
7 request for an award of costs and being fully advised finds as follows:

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that CASHMAN
9 EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020 is
10 DENIED.

11 DATED this 28 day of Aug, 2014.

12 
13 District Court Judge

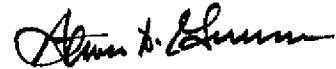
14 ROB EARE
15 JUDGE, DISTRICT COURT, DEPARTMENT 32

16 Submitted by:

17 PEZZILLO LLOYD

18 By:  10/28/14

19 Jennifer R. Lloyd, Esq.
20 Nevada Bar No. 9617
21 6725 Via Austi Parkway, Suite 290
22 Las Vegas, Nevada 89119
23 Attorneys for Plaintiff
24 Cashman Equipment Company
25
26
27
28



CLERK OF THE COURT

1 **NOTICE**

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 *Attorneys for Plaintiff,*

14 *Cashman Equipment Company*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 CASHMAN EQUIPMENT COMPANY, a Nevada
18 corporation,

19 Plaintiff,

20 vs.

21 CAM CONSULTING INC., a Nevada corporation;
22 ANGELO CARVALHO, an individual; JANEL
23 RENNIE aka JANEL CARVALHO, an individual;
24 WEST EDNA ASSOCIATES, LTD., dba MOJAVE
25 ELECTRIC, a Nevada corporation; WESTERN
26 SURETY COMPANY, a surety; THE WHITING
27 TURNER CONTRACTING COMPANY, a
28 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.

AND ALL RELATED MATTERS.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

NOTICE OF APPEAL

PEZZILLO LLOYD
6725 VIA AUSTI PARKWAY, SUITE 290
LAS VEGAS, NEVADA 89119
TEL. 702.233-4225

NOTICE OF APPEAL

Comes Now, Plaintiff, CASHMAN EQUIPMENT COMPANY ("CASHMAN"), by and through its counsel of record, PEZZILLO LLOYD, and hereby gives notice that CASHMAN, pursuant to NRAP 3A(b)(3) and NRAP 4, files this Notice of Appeal, appealing to the Nevada Supreme Court from:

- (1) Decision and Order, filed in this matter on August 4, 2014 and noticed on August 13, 2014, a copy of which is attached hereto as Exhibit "1"; and
- (2) Order Denying Cashman Equipment Company's Request for Costs Pursuant to NRS 18.020, filed in this matter on September 2, 2014 and noticed on September 2, 2014, a copy of which is attached hereto as Exhibit "2."

DATED: September 2, 2014

PEZZILLO LLOYD

By: 

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

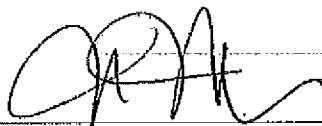
*Attorneys for Plaintiff,
Cashman Equipment Company*

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

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on September 2, 2014, a true and correct copy of the foregoing document, **NOTICE OF APPEAL**, was served by was served via the Court's Odyssey E-Filing system to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101
Attorneys for Defendants



An Employee of Pezzillo Lloyd

EXHIBIT 1

PEZZILLO LLOYD
6725 Via Ansti Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

NOE

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

PEZZILLO LLOYD

6725 Via Ansti Parkway, Suite 290

Las Vegas, Nevada 89119

Tel: 702 233-4225

Fax: 702 233-4252

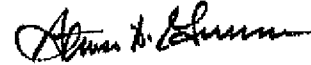
jlloyd@pezzillolloyd.com

mmaskas@pezzillolloyd.com

Attorneys for Plaintiff,

Cashman Equipment Company

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CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

vs.

CASE NO.: A642583
DEPT.: 32

Consolidated with Case No.: A653029

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 WHITTING 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.

AND ALL RELATED MATTERS.

**NOTICE OF ENTRY OF DECISION AND
ORDER**

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NOTICE OF ENTRY OF DECISION AND ORDER

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a Decision and Order was entered in the above entitled on August 1, 2014, a copy of which is attached hereto.

DATED: August 13, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

Attorneys for Plaintiff,

Cashman Equipment Company

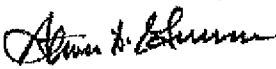
CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 13 day of August, 2014, a true and correct copy of the NOTICE OF ENTRY OF DECISION AND ORDER was served by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschee, Esq.
HOLLEY, DRIGGS, ET AL.,
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101


An employee of PEZZILLO LLOYD

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225


CLERK OF THE COURT

1 **ORDER**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6
7 CASHMAN EQUIPMENT
8 COMAPANY, a Nevada
corporation,

9 Plaintiff,

10 vs.

CASE NO.: A-11-642583-C

DEPT. NO. 32

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

Defendant.

RECEIVED

AUG 04 2014

CLERK OF THE COURT

1 DECISION AND ORDER

2
3 **I. Findings of Fact**

4 At the previous hearing on April 16, 2013, the Court granted Defendants'
5 Motion to Expunge or Reduce Mechanics' Lien and the order denying the motion
6 was filed on May 3, 2013. The Court found in a May 3, 2013 order that the
7 Plaintiff's Notice of Lien for \$755,893.89 was not frivolous, was made with
8 reasonable cause and the amount was not excessive. Based on our finding in the
9 May 3, 2013 order, Plaintiff filed a Motion for Attorney Fees and Costs Pursuant
10 to NRS 108.2275, which the Court granted on July 11, 2013. Plaintiff was awarded
11 \$9,513.25 for attorneys' fees and \$651.91 in costs. The Order pursuant to that
12 hearing was filed on September 20, 2013.

13 Subsequently, this case came on for a bench trial on January 24, 2014. During
14 the trial Plaintiff filed an Amended Lien for \$683,726.89. After the
15 commencement of the trial, this Court found in favor of the Defendants regarding
16 the first, second and fourth causes of action. Further, the Court found in favor of
17 the Plaintiff regarding the third and fifth causes of action. Accordingly, the court
18 distributed the financial award based on equitable fault, finding Plaintiff 67%
19 responsible and Defendant Mojave 33% responsible.

20 On March 20, 2014, Defendants/Counterclaimants filed a Motion for Relief
21 Pursuant to NRCP 60(b) and a Motion for Attorneys' Fees and Costs Pursuant to
22 NRS Chapter 108. The motion for relief requested that this court vacate the
23 September 20, 2013 Order Granting Chashman Equipment Company's Motion for
24 Award of Attorney's Fees and Costs Pursuant to NRS 108.2275. In response,
25 Defendant filed its own countermotion for Attorneys' Fees on April 15, 2014 and
26 the Court heard oral arguments on the various motions.

27 ///

28 ///

1 **II. Conclusions of Law**

2 a. Defendants' Motion for Relief Pursuant to NRCP 60(b)

3
4 First, Defendants argued that the July 11, 2013 order granting fees and costs
5 must be vacated because Defendant was the prevailing party and the Lien was
6 excessive and Plaintiff knew that at the time of the April 16, 2013 hearing. Under
7 NRS 108.2275, a Court may award attorneys' fees and costs if it is found that a
8 lien is not excessive. Under NRCP 60(b), relief from a judgment may be granted if
9 there is newly discovered evidence. Based on the evidence presented at the time of
10 the April 16, 2013 hearing, this Court concluded the \$755,893.89 lien by Plaintiff
11 was not excessive, but different evidence came to light at the trial due to the
12 Amended Lien for \$683,726.89. The relief granted at the April 16, 2013 hearing
13 was interim relief, not final relief. The combination of the reduction of the lien
14 before trial and the Court finding in favor of Defendant on the lien issue during
15 trial leads the court to grant NRCP 60(b) relief in this instance.

16
17 b. Defendants' Motion and Plaintiff's Countermotion for Fees and Costs

18
19 Next, Defendants filed a motion for fees and costs pursuant to the following
20 statutes: NRS 18.010, NRS 18.020, NRS 108.2275 and NRS 108.237(3).
21 Under NRS 18.010(2)(b), a court is allowed to award attorneys' fees "when the
22 court finds that the claim counterclaim, cross-claim or third-party complaint or
23 defense of the opposing party was brought or maintained without reasonable
24 ground or to harass the prevailing party." NRS 18.020 allows for a court to award
25 costs to the prevailing party in certain situations. NRS 108.2275 allows a court to
26 award costs and reasonable attorneys' fees if it is determined that a notice of lien is
27 excessive or frivolous. Lastly, NRS 180.237 gives the Court authority to award
28 fees and costs if a lien claim is not upheld and the lien was pursued without

1 reasonable basis. To counter these claims for fees and costs, Plaintiff filed a
2 countermotion for fees under NRS 104.9607, arguing they prevailed in the
3 enforcement of a security interest. This Court concludes that based on the outcome
4 of the trial, there is no obvious prevailing party and none of the claims at trial were
5 unreasonable. Therefore, an award for attorneys' fees and costs to either side based
6 on the outcome of the trial is not warranted.

7 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND
8 DECREED that Defendants' Motion for Relief Pursuant to NRCP 60(b) is
9 GRANTED. As such, the September 20, 2013 Order Granting Chashman
10 Equipment Company's Motion for Award of Attorney's Fees and Costs
11 Pursuant is VACATED, each side to bear their own costs and fees.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
13 Defendants' Motion for Attorneys' Fees and Costs is DENIED.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's
15 Countermotion for Attorneys' Fees is DENIED.

16
17 Dated this 7 day of August, 2014.

18
19 
20 Rob Bare
21 Judge, District Court, Department 32

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date filed, I placed a copy of this Order in the
3 attorney's folder in the Clerk's Office, or mailed or faxed a copy to:

4
5 Brian Boschee, Esq.
6 Holley, Driggs, Walsh, Puzey & Thompson
7 400 S. Fourth Street, Third Floor
8 Las Vegas, NV 89101
9 Fax: (702) 791.1912
Email: bboschee@nevadafirm.com

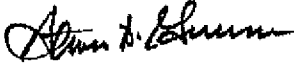
10 Jennifer R. Lloyd, Esq.
11 Marisa L. Maskas, Esq.
12 PEZZILLO LLOYD
13 6725 Via Austl Parkway, Suite 290
Las Vegas, Nevada 89119

14
15 Dated this 1st day of August, 2014.

16
17 

18 Tara Duonas
19 Judicial Executive Assistant, Dept. 32
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28

EXHIBIT 2



CLERK OF THE COURT

1 NOE

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 Attorneys for Plaintiff,

14 Cashman Equipment Company

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

17 CASHMAN EQUIPMENT COMPANY, a
18 Nevada corporation,

19 Plaintiff,

20 vs.

21 CAM CONSULTING INC., a Nevada
22 corporation; ANGELO CARVALHO, an
23 individual; JANEL RENNIE aka JANEL
24 CARVALHO, an individual; WEST EDNA
25 ASSOCIATES, LTD., dba MOJAVE ELECTRIC,
26 a Nevada corporation; WESTERN SURETY
27 COMPANY, a surety; THE WHITING TURNER
28 CONTRACTING COMPANY, a Maryland
corporation; FIDELITY AND DEPOSIT
COMPANY OF MARYLAND, a surety;
TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA, a surety; QII 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.

AND ALL RELATED MATTERS.

CASE NO.: A642583
DEPT.: 32

Consolidated with Case No.: A653029

**NOTICE OF ENTRY OF ORDER DENYING
CASHMAN EQUIPMENT COMPANY'S
REQUEST FOR COSTS PURSUANT TO
NRS 108.020**

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: 702 233-4225

NOTICE OF ENTRY OF JUDGMENT

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020 was entered in the above entitled on August 28, 2014, a copy of which is attached hereto.

DATED: September 2, 2014

PEZZILLO LLOYD

By: 

Jennifer R. Lloyd, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

6725 Via Austi Parkway, Suite 290

Las Vegas, Nevada 89119

Attorneys for Plaintiff,

Cashman Equipment Company

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702 233-4225

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of PEZZILLO LLOYD, hereby certifies that on the 2nd day of Sept., 2014, a true and correct copy of the NOTICE OF ENTRY OF ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 108.020 was served via the Court's Odyssey E-Filing system to:

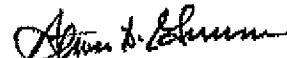
Brian Boschee, Esq,
HOLLEY, DRIGGS, ET AL.
400 S. 4th St., 3rd Fl.
Las Vegas, NV 89101



An employee of PEZZILLO LLOYD

PEZZILLO LLOYD
6725 S. Las Vegas Blvd., Suite 250
Las Vegas, Nevada 89119
Tel. 702 233-4225

☒ ORIGINAL


CLERK OF THE COURT

ORDER

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
Tel: (702) 233-4225
Fax: (702) 233-4252
Attorneys for Plaintiff,
Cashman Equipment Company

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

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; **I W T I C SUCCESSOR LLC, an**
unknown limited liability company; **FC/LW**
VEGAS, a foreign limited liability company;
DOES 1 - 10, inclusive; and ROB
CORPORATIONS 1 - 10, inclusive;

Defendants.

CASE NO.: A642583
DEPT. NO.: 32

ORDER DENYING CASHMAN
EQUIPMENT COMPANY'S REQUEST
FOR COSTS PURSUANT TO NRS 18.020

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel: (702) 233-4225

PEZZILLO LLOYD
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Tel. 702.228-4225

1 AND ALL RELATED MATTERS.

2 ORDER DENYING CASHMAN EQUIPMENT COMPANY'S REQUEST FOR COSTS
3 PURSUANT TO NRS 18.020

4 CASEMAN EQUIPMENT COMPANY filed its Memorandum of Costs with the
5 Court on or about May 13, 2014 pursuant to NRS 18.020. Defendants, having failed to file a
6 Motion to Retax Pursuant to NRS 18.110(4); and the Court having reviewed Cashman's
7 request for an award of costs and being fully advised finds as follows:

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that CASHMAN
9 EQUIPMENT COMPANY'S REQUEST FOR COSTS PURSUANT TO NRS 18.020 is
10 DENIED.

11 DATED this 28 day of Aug, 2014.

12
13 Rob Bare
District Court Judge

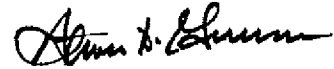
14 ROBB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

15 Submitted by:

16 PEZZILLO LLOYD

17 By:

18 Jennifer R. Lloyd 10/28/14
Jennifer R. Lloyd, Esq.
Nevada Bar No. 9617
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Attorneys for Plaintiff,
Cashman Equipment Company



CLERK OF THE COURT

1 ASTA

2 Jennifer R. Lloyd, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO LLOYD**

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 Fax: 702 233-4252

11 jlloyd@pezzillolloyd.com

12 mmaskas@pezzillolloyd.com

13 Attorneys for Plaintiff,

14 Cashman Equipment Company

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

17 CASHMAN EQUIPMENT COMPANY, a
18 Nevada corporation,

19 Plaintiff,

20 vs.

CASE NO.: A642583

DEPT.: 32

Consolidated with Case No.: A653029

21 CAM CONSULTING INC., a Nevada
22 corporation; ANGELO CARVALHO, an
23 individual; JANEL RENNIE aka JANEL
24 CARVALHO, an individual; WEST EDNA
25 ASSOCIATES, LTD., dba MOJAVE
26 ELECTRIC, a Nevada corporation; WESTERN
27 SURETY COMPANY, a surety; THE
28 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.

CASE APPEAL STATEMENT

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

AND ALL RELATED MATTERS.

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

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

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

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.

9 Jennifer R. Lloyd, Esq.

10 Nevada Bar No. 9617

Marisa L. Maskas, Esq.

11 Nevada Bar No. 10928

PEZZILLO LLOYD

12 6725 Via Austi Parkway, Suite 290

13 Las Vegas, Nevada 89119

14 Attorneys for Plaintiff,

Cashman Equipment Company

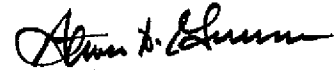
15
16 **CERTIFICATE OF SERVICE**

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



CLERK OF THE COURT

1 **SODW**
2 BRIAN W. BOSCHKEE, ESQ.
3 Nevada Bar No. 7612
4 E-mail: bboschkee@nevadafirm.com
5 WILLIAM N. MILLER, ESQ.
6 Nevada Bar No. 11658
7 E-mail: wmiller@nevadafirm.com
8 HOLLEY, DRIGGS, WALCH,
9 PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Defendants/Counterclaimant/Crossclaimant West Edna, Ltd., dba Mojave Electric, and Defendants Western Surety Company, The Whiting Turner Contracting Company, Fidelity and Deposit Company of Maryland, Travelers Casualty and Surety Company of America, QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

v.

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;
DOES 1-10, inclusive; and ROE
CORPORATIONS 1-10 inclusive;

Defendants.

Case No.: A642583

Dept. No.: 32

(Consolidated with Case No. A653029)

AND RELATED MATTERS.

**STIPULATION AND ORDER FOR DISMISSAL OF DEFENDANTS FIDELITY AND
DEPOSIT COMPANY OF MARYLAND AND TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA WITH PREJUDICE**

COMES NOW, Plaintiff/Counterdefendant CASHMAN EQUIPMENT COMPANY
("Cashman"), by and through its undersigned counsel of record, and Defendants FIDELITY

1 AND DEPOSIT COMPANY OF MARYLAND and TRAVELERS CASUALTY AND
2 SURETY COMPANY OF AMERICA (collectively, "Defendants Fidelity and Travelers")
3 (Cashman and Defendants Fidelity and Travelers will be collectively referred to as the "Parties"),
4 by and through their undersigned counsel of record, pursuant to Rule 41 of the Nevada Rules of
5 Civil Procedure, hereby stipulate and agree as follows:

- 6 1. The Parties agree to dismiss all claims asserted against the Parties in the
7 above-captioned litigation *with prejudice*,¹
8 2. Cashman and Defendants Fidelity and Travelers shall each pay their own
9 fees and costs incurred in this action.


10 Currently, there are no upcoming hearings in this matter, as Cashman filed a Notice of
11 Appeal in this action on or about September 2, 2014.


12 Dated this 7 day of May, 2015.

Dated this 7 day of May, 2015.

13 **HOLLEY, DRIGGS, WALCH,**
14 **PUZEY & THOMPSON**

PEZZILLO LLOYD

15 
16 BRIAN W. BOSCH, ESQ. (NBN 7612)
17 WILLIAM N. MILLER, ESQ. (NBN 11658)
18 400 South Fourth Street, Third Floor
19 Las Vegas, Nevada 89101
20 Attorneys for
21 Defendants/Counterclaimant/Crossclaimant
22 West Edna, Ltd., dba Mojave Electric, and
Defendants Western Surety Company, The
Whiting Turner Contracting Company,
Fidelity and Deposit Company of Maryland,
Travelers Casualty and Surety Company of
America, QH Las Vegas, LLC, PQ Las Vegas,
LLC, LWTIC Successor LLC, and FC/LW
Vegas

15 
16 JENNIFER R. LLOYD, ESQ. (NBN 9617)
17 6725 Via Austi Parkway, Ste. 290
18 Las Vegas, Nevada 89119
19 Attorneys for Plaintiff Cashman Equipment
20 Company

23 **ORDER**

24 UPON STIPULATION OF THE PARTIES, and good cause appearing therefore, it is
25 HEREBY ORDERED, ADJUDGED and DECREED that:

26
27 ¹ This dismissal does not affect Cashman's or any of the other parties' (including, but not limited to, Western Surety
28 Company, The Whiting Turner Contracting Company, West Edna Associates, LTD, dba Mojave Electric, QH Las
Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas) claims or rights asserted in this
action.

1 1. Any and all claims asserted in the above-captioned action by and between the Parties
2 are dismissed *with prejudice*.²

3 2. Cashman and Defendants Fidelity and Travelers will each bear their own fees and
4 costs incurred in this action.

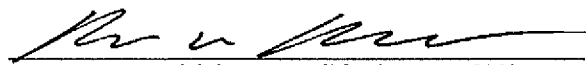
5 Dated this 8 day of May, 2015.

6
7 
DISTRICT COURT JUDGE

8 Submitted by:

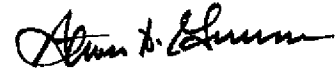
9 **HOLLEY, DRIGGS, WALCH,**
10 **PUZEY & THOMPSON**

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

11 
12 BRIAN W. BOSCH, ESQ. (NBN 7612)
13 WILLIAM N. MILLER, ESQ. (NBN 11658)
14 400 South Fourth Street, Third Floor
15 Las Vegas, Nevada 89101

16 *Attorneys for Defendants/Counterclaimant/Crossclaimant West Edna, Ltd., dba Mojave Electric,*
17 *and Defendants Western Surety Company, The Whiting Turner Contracting Company, Fidelity*
18 *and Deposit Company of Maryland, Travelers Casualty and Surety Company of America, QH*
19 *Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas*

20
21
22
23
24
25
26
27 ² Again, this dismissal does not affect Cashman's or any of the other parties' (including, but not limited to, Western
28 Surety Company, The Whiting Turner Contracting Company, West Edna Associates, LTD. dba Mojave Electric, QH
Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas) claims or rights asserted in this
action.



CLERK OF THE COURT

1 **NESO**
2 BRIAN W. BOSCHKEE, ESQ.
3 Nevada Bar No. 7612
4 E-mail: bboschkee@nevadafirm.com
5 WILLIAM N. MILLER, ESQ.
6 Nevada Bar No. 11658
7 E-mail: wmillerr@nevadafirm.com
8 HOLLEY DRIGGS WALCH
9 PUZEY & THOMPSON
10 400 South Fourth Street, Third Floor
11 Las Vegas, Nevada 89101
12 Telephone: 702/791-0308
13 Facsimile: 702/791-1912

14 *Attorneys for Defendants/Counterclaimant/Crossclaimant West Edna, Ltd., dba Mojave Electric,*
15 *and Defendants Western Surety Company, The Whiting Turner Contracting Company, Fidelity*
16 *and Deposit Company of Maryland, Travelers Casualty and Surety Company of America, QH*
17 *Las Vegas, LLC PQ Las Vegas, LLC LWTIC Successor LLC, and FD.LW Vegas*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CASHMAN EQUIPMENT COMPANY, a
14 Nevada corporation,

15 Plaintiff,

16 v.

17 CAM CONSULTING, INC., a Nevada
18 corporation; ANGELO CARVALHO, an
19 individual; JANEL RENNIE aka JANEL
20 CARVALHO, an individual; WEST EDNA
21 ASSOCIATES, LTD. dba MOJAVE
22 ELECTRIC, a Nevada corporation; WESTERN
23 SURETY COMPANY, a surety; THE WHITING
24 TURNER CONTRACTING COMPANY, a
25 Maryland corporation; FIDELITY AND
26 DEPOSIT COMPANY OF MARYLAND, a
27 surety; TRAVELERS CASUALTY AND
28 SURETY COMPANY OF AMERICA, a surety;
DOES 1-10, inclusive; and ROE
CORPORATIONS 1-10 inclusive;

Defendants.

AND RELATED MATTERS.

Case No: A642583

Dept. No.: 32

(Consolidated with Case No. A653029)

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

26 YOU, and each of you, will please take notice that a Stipulation and Order for Dismissal
27 of Defendants Fidelity and Deposit Company of Maryland and Travelers Casualty and Surety
28 Company of America With Prejudice in the above entitled matter was filed and entered by the

1 Clerk of the above-entitled Court on the 8th day of May, 2015, a copy of which is attached
2 hereto.

3 Dated this 11th day of May, 2015.

4 **HOLLEY DRIGGS WALCH**
5 **PUZEY & THOMPSON**

6 9
7 **BRIAN W. BOSCHEE, ESQ.**
8 Nevada Bar No. 7612
9 **WILLIAM N. MILLER, ESQ.**
10 Nevada Bar No. 11658
11 E-mail: wmiller@nevadafirm.com
12 **HOLLEY DRIGGS WALCH**
13 **PUZEY & THOMPSON**
14 400 South Fourth Street, Third Floor
15 Las Vegas, Nevada 89101
16 Telephone: 702/791-0308
17 Facsimile: 702/791-1912

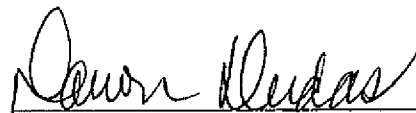
18 *Attorneys for*
19 *Defendants/Counterclaimant/Crossclaimant*
20 *West Edna, Ltd., dba Mojave Electric, and*
21 *Defendants Western Surety Company, The*
22 *Whiting Turner Contracting Company, Fidelity*
23 *and Deposit Company of Maryland, Travelers*
24 *Casualty and Surety Company of America, QH*
25 *Las Vegas, LLC PQ Las Vegas, LLC LWTIC*
26 *Successor LLC, and FD.LW Vegas*
27
28

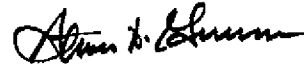
1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that the foregoing NOTICE OF ENTRY OF STIPULATION AND
3 ORDER FOR DISMISSAL OF DEFENDANTS FIDELITY AND DEPOSIT COMPANY OF
4 MARYLAND AND TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
5 WITH PREJUDICE, was submitted electronically for filing and/or service with the Eighth
6 Judicial District Court on the 11th day of May, 2015. Electronic service of the foregoing
7 document shall be made in accordance with the E-Service List as follows:

8 Jennifer R. Lloyd, Esq.
9 PEZZILLO LLOYD
10 6725 Via Austi Parkway, Ste. 290
Las Vegas, NV 89119

11 *Attorneys for Plaintiff Cashman*
12 *Equipment Company*

13 
14 An employee of Holley Driggs Walch
Puzey & Thompson


CLERK OF THE COURT

1 **SODW**
2 BRIAN W. BOSCHKEE, ESQ.
3 Nevada Bar No. 7612
4 E-mail: bboschkee@nevadafirm.com
5 WILLIAM N. MILLER, ESQ.
6 Nevada Bar No. 11658
7 E-mail: wmiller@nevadafirm.com
8 HOLLEY, DRIGGS, WALCH,
9 PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Defendants/Counterclaimant/Crossclaimant West Edna, Ltd., dba Mojave Electric, and Defendants Western Surety Company, The Whiting Turner Contracting Company, Fidelity and Deposit Company of Maryland, Travelers Casualty and Surety Company of America, QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a
Nevada corporation,

Plaintiff,

v.

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;
DOES 1-10, inclusive; and ROE
CORPORATIONS 1-10 inclusive;

Defendants.

Case No.: A642583
Dept. No.: 32

(Consolidated with Case No. A653029)

AND RELATED MATTERS.

**STIPULATION AND ORDER FOR DISMISSAL OF DEFENDANTS FIDELITY AND
DEPOSIT COMPANY OF MARYLAND AND TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA WITH PREJUDICE**

COMES NOW, Plaintiff/Counterdefendant CASHMAN EQUIPMENT COMPANY
("Cashman"), by and through its undersigned counsel of record, and Defendants FIDELITY

1 AND DEPOSIT COMPANY OF MARYLAND and TRAVELERS CASUALTY AND
2 SURETY COMPANY OF AMERICA (collectively, "Defendants Fidelity and Travelers")
3 (Cashman and Defendants Fidelity and Travelers will be collectively referred to as the "Parties"),
4 by and through their undersigned counsel of record, pursuant to Rule 41 of the Nevada Rules of
5 Civil Procedure, hereby stipulate and agree as follows:

- 6 1. The Parties agree to dismiss all claims asserted against the Parties in the
7 above-captioned litigation *with prejudice*,¹
8 2. Cashman and Defendants Fidelity and Travelers shall each pay their own
9 fees and costs incurred in this action.

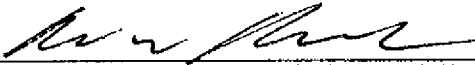
10 Currently, there are no upcoming hearings in this matter, as Cashman filed a Notice of
11 Appeal in this action on or about September 2, 2014.


12 Dated this 7 day of May, 2015.

Dated this 7 day of May, 2015.

13 **HOLLEY, DRIGGS, WALCH,**
14 **PUZEY & THOMPSON**

PEZZILLO LLOYD

15 
16 BRIAN W. BOSCH, ESQ. (NBN 7612)
17 WILLIAM N. MILLER, ESQ. (NBN 11658)
18 400 South Fourth Street, Third Floor
19 Las Vegas, Nevada 89101
20 *Attorneys for*
21 *Defendants/Counterclaimant/Crossclaimant*
22 *West Edna, Ltd., dba Mojave Electric, and*
Defendants Western Surety Company, The
Whiting Turner Contracting Company,
Fidelity and Deposit Company of Maryland,
Travelers Casualty and Surety Company of
America, QH Las Vegas, LLC, PQ Las Vegas,
LLC, LWTIC Successor LLC, and FC/LW
Vegas


JENNIFER R. LLOYD, ESQ. (NBN 9617)
6725 Via Austi Parkway, Ste. 290
Las Vegas, Nevada 89119
Attorneys for Plaintiff Cashman Equipment
Company

23 **ORDER**

24 UPON STIPULATION OF THE PARTIES, and good cause appearing therefore, it is
25 HEREBY ORDERED, ADJUDGED and DECREED that:

26
27 ¹ This dismissal does not affect Cashman's or any of the other parties' (including, but not limited to, Western Surety
28 Company, The Whiting Turner Contracting Company, West Edna Associates, LTD. dba Mojave Electric, QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas) claims or rights asserted in this action.

1 1. Any and all claims asserted in the above-captioned action by and between the Parties
2 are dismissed *with prejudice*.²

3 2. Cashman and Defendants Fidelity and Travelers will each bear their own fees and
4 costs incurred in this action.

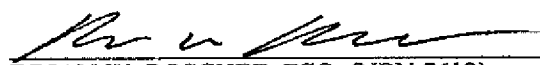
5 Dated this 8 day of May, 2015.

6
7 
DISTRICT COURT JUDGE

8 Submitted by:

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

9 **HOLLEY, DRIGGS, WALCH,**
10 **PUZEY & THOMPSON**

11 
12 BRIAN W. BOSCH, ESQ. (NBN 7612)
13 WILLIAM N. MILLER, ESQ. (NBN 11658)
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15 Las Vegas, Nevada 89101

16 *Attorneys for Defendants/Counterclaimant/Crossclaimant West Edna, Ltd., dba Mojave Electric,*
17 *and Defendants Western Surety Company, The Whiting Turner Contracting Company, Fidelity*
18 *and Deposit Company of Maryland, Travelers Casualty and Surety Company of America, QH*
19 *Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas*

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27 ² Again, this dismissal does not affect Cashman's or any of the other parties' (including, but not limited to, Western
28 Surety Company, The Whiting Turner Contracting Company, West Edna Associates, LTD. dba Mojave Electric, QH
Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas) claims or rights asserted in this
action.

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Electronically Filed
Case No: 66452 Jun 17 2015 01:09 p.m.
Case No: 61715 Tracie K. Lindeman
Case No: 65819 Clerk of Supreme Court

District Court Case Nos.: **A642583 &
A653029**

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