

1 **THE SUPREME COURT OF THE STATE OF NEVADA**

2 PROIMTU MMI LLC, a Nevada limited
3 liability company,

4 Appellant,

5 vs.

6 TRP INTERNATIONAL, INC., a foreign
7 corporation,

8 Respondent.
9
10

Case No. 68942

District Court Case No. CV-36431

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11 **APPELLANT PROIMTU MMI, LLC'S**
12 **OPENING BRIEF**

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1 **NRAP 26.1 DISCLOSURE**

2 The undersigned counsel of record certifies that the following are persons and
3 entities as described in NRAP 26.1(a) and must be disclosed:

4 Proyectos E Implantacion de Tuberias, S.L is the holder of 100% of the
5 membership interests of Proimtu MMI, LLC.

6 These representations are made in order that the judges of this court may
7 evaluate possible disqualification or recusal.

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1 **APPELLANT PROIMTU MMI, LLC'S OPENING BRIEF**

2 **I. JURISDICTIONAL STATEMENT**

3 This appeal arises from the expungement of a mechanics' lien. Respondent,
4 TRP International, Inc. ("TRP") filed a Motion to expunge Appellant, Proimtu MMI
5 LLC's ("Proimtu") mechanics' lien on December 12, 2014. Vol. 1, JA¹0001- 73.
6 On September 9, 2015, Judge Elliott entered Findings of Fact and Conclusions of
7 Law and Order on Petition to Expunge Lien ("Order"). Vol. 2, JA0409-415. The
8 Order expunged Proimtu's mechanics' lien, exonerated the surety bond and awarded
9 TRP its fees and costs, with the amount to be determined. Vol. 2, JA0414. Proimtu
10 served written notice of entry of the Order by mail on October 2, 2015. Vol. 2,
11 JA0416-424. Proimtu filed its timely notice of appeal on October 5, 2015.² Vol. 2,
12 JA0417-418.

13 **II. ROUTING STATEMENT**

14 This appeal should be decided by the Court of Appeals. NRAP 17(b)(3)
15 provides that appeals in statutory lien matters under Chapter 108 should be heard by
16 the Court of Appeals. The case does not present a question of first impression.
17 Established precedent, the owner's actual or imputed notice of Proimtu's work on
18 the project and TRP's own characterization of Proimtu's work as "labor" should
19 determine the outcome.

20 **III. STATEMENT OF ISSUES**

21 1. The owner had actual or imputed notice of Proimtu presence on the
22 project and the nature of Proimtu's work from the beginning. Did the district court

23 ¹ "JA" refers to Joint Appendix.

24 ² NRS 108.2275(8) allows appeals from interlocutory orders releasing a
25 mechanic's lien. This Court has held that an appeal of the release of a lien,
26 however, requires the district court to direct the lien's release and award attorney
27 fees and costs. *Yonker Const., Inc. v. Hulme*, 126 Nev. 590, 592, 248 P.3d 313,
28 314 (2010). Here, the district court did award fees and costs as part of the Order,
but required a motion to set the amount. Vol. 2, JA0414. The Court set the amount
of fees and costs before this appeal was filed; however, the order setting the
amount was not entered until November 12, 2015. Vol. 2, JA0427-428.

err by expunging Proimtu's lien, exonerating the posted surety bond and awarding fees and costs because Proimtu did not formally serve the owner with a notice of right to lien as required by NRS 108.245?

2. TRP advised the general contractor, Cobra Thermosolar, Inc. ("Cobra") that Proimtu was going to provide "assembly-related labor services" for the project. Was Proimtu's work under the contract with TRP "labor" as that term is used in NRS 108.245, so as to exempt Proimtu from having to serve the owner with a notice of right to lien?

IV STATEMENT OF THE CASE

On December 12, 2014, TRP filed a Petition to Expunge Lien ("Motion"). Vol. 1, JA0001-73. TRP argued that Proimtu could not perfect its lien because Proimtu had not served the owner with a notice of right to lien pursuant to NRS 108.245. On February 12, 2015, the parties argued the Motion before Judge Kimberly Wanker. Vol. 1, JA0205-250 and Vol. 2, JA0251-292. Before making a decision, Judge Wanker transferred the matter to Senior Judge, Steven Elliot. Vol. 2, JA0296-297. On June 18, 2015, the parties again argued the Motion before Judge Elliott. Vol. 2, JA0301-377.

Judge Elliott granted the Motion on September 9, 2015. Vol. 2, JA0409-415. Judge Elliot expunged the lien, exonerated the surety bond posted to release the property from the lien and awarded TRP its fees and costs. Vol. 2, JA0414. This appeal followed. Vol. 2, JA0425-426.

V. STATEMENT OF THE FACTS

1. The Project. This case arises from the construction of a billion dollar solar plant in Tonopah Nevada ("Project"). TRP hired Proimtu to assemble and install 10,375 heliostats, which are billboard-sized, computer-controlled mirrors, used to direct the solar energy to the main tower. Vol. 1, JA0015, 0073 and 0157.

1 **2. Owner Group and its Management:** The Project had several owners.
2 The owner of the Project identified in the Proimtu contract was “TonopahSolar
3 Energy and its different (sic) authorized agents.” Vol. 1, JA0015. Another owner
4 was SolarReserve. SolarReserve was the majority owner of the Project. Vol. 1, JA
5 0073. (Tonopah Solar and SolarReserve collectively are referred to as the “Owner”).

6 Kevin Smith is SolarReserve’s CEO. Vol. 1, JA0073 and 0172. Stephen
7 Mullenix, is the Senior Vice President of Operations for SolarReserve. Vol. 1,
8 JA0172. Smith and Mullinex are also both managers of Tonopah Solar Energy.
9 Vol. 1, JA0169. Brian Painter worked for SolarReserve and was the “Site Manager”
10 during construction of the Project. Vol. 1, JA 0167³.

11 The general contractor for the project was Cobra Thermosolar, Inc. (“Cobra”).
12 Vol. 1, JA0001 and 0015. SolarReserve and Cobra’s parent were partners in the
13 Project. Vol. 1, JA0178. In addition, SolarReserve and Cobra’s parent had common
14 board members. Vol. 1, JA0176.

15 **3. Notice to the Owner and the Owner’s Construction Inspections.**
16 Solar Reserve knew of Proimtu’s involvement from the beginning of the project and
17 observed Proimtu’s work throughout construction. Vol. 1, JA0073, 0167 and Vol. 2,
18 JA0413. Wages for Proimtu’s workers had to conform to U.S. labor laws and were
19 approved by federal officials because Project funding was guaranteed by U.S.
20 Department of Energy. Vol. 1, JA0073. The Project’s Owner Kevin Smith,
21 approved the original job classification for wages for Proimtu’s workers. *Id.* The
22 Department of Energy officials also approved the classification. *Id.* As the Project
23 progressed, however, the U.S. Department of Labor contested the Proimtu job
24 classification resulting in additional wages being paid to the Proimtu employees. *Id.*
25 Nevertheless, the Owner’s CEO stuck up for Proimtu, indicating that it would be

26 ³ Vol. 1, JA0167 refers to the video disk attached as Exhibit “F” to Proimtu’s
27 Opposition. A Motion requesting the original disk from the clerk of the Fifth
28 Judicial District Court has been filed.

1 “unfair to imply Proimtu broke any labor laws.” *Id.* The Proimtu job classification
2 for the heliostat work did not exist anywhere for this type of work. *Id.*

3 During construction, Owner representatives were on site checking the work
4 and observed Proimtu employees installing the heliostats. Vol. 1, JA0167
5 SolarReserve documented these site inspections in videos posted on their website.
6 Vol. 1, JA0170. One video shows, Brian Painter, SolarReserve’s site representative,
7 is at the Project. Vol. 1, JA0167 Only the large concrete tower is complete. *Id.*
8 Painter describes what will happen to complete the Project, including the anticipated
9 timing for the installation of the heliostats. *Id.* In the second video, Kevin Smith
10 describes the job as SolarReserve’s “flagship project”. *Id.* Brian Painter then
11 discusses the technology, which starts with the heliostats. *Id.* Painter is shown in a
12 partially constructed heliostat field explaining how the heliostats operate. *Id.* The
13 video also shows heliostats being brought to the site and being installed. *Id.* At the
14 hearing, Proimtu showed a third SolarReserve video from the site. In that video a
15 Proimtu employee from Tonopah is interviewed. Vol. 2, JA338-339 TRP stipulated
16 that the video also showed Mr. Smith, the Owner’s CEO on site during the
17 installation of the heliostats. Vol. 2, JA0341-342 and 413. TRP agreed that
18 **“Kevin Smith, the owner’s representative and CEO, was physically present at**
19 **the Project at the time Proimtu was working on the Project and knew of**
20 **Proimtu’s work and involvement on the Project at the time Proimtu was**
21 **retained.”** Vol. 2, JA0413(emphasis added).

22 **4. Notice to the Owner from the General Contractor.** Cobra, as the
23 general contractor, approved the hiring of Proimtu for installation of the heliostats.
24 Vol. 1, JA0138. TRP emailed Cobra to obtain permission to hire Proimtu for the
25 heliostat installation. Vol. 1, JA0138-139. SolarReserve and Cobra’s parent
26 company, the Cobra Group, are business partners on the Project. Vol. 1, JA0073 and
27 0178. In a press release dated December 1, 2014, from SolarReserve’s website,
28

1 SolarReserve admits that it is the owner of the Project and ACS Cobra is an investor
2 on the Project. Vol. 1, JA0178. In the press release, SolarReserve also admits that
3 **“ACS Cobra’s Nevada-based affiliate, Cobra Thermosolar Plants Inc., is**
4 **constructing the facility** as the general contractor while utilizing Nevada and
5 regional subcontractors to perform the work.” *Id.* (Emphasis added).

6 **5. Proimtu’s work consisted of labor to assemble and install the**
7 **heliostats.** TRP contracted with Cobra to provide a “turn-key” assembly line and
8 erection of the heliostats (mirrors) for the project. Vol. 1, JA0015. In turn, TRP
9 hired Proimtu to perform “[h]eliostat assembly and field erection of heliostats.” *Id.*
10 The TRP/Proimtu contract was defined as a “supply” contract. *Id.* Proimtu did not
11 manufacture the parts for the heliostats, but only assembled and installed them as
12 required under the Contract. Vol. 1, JA0016-18. In an email sent by TRP to Cobra,
13 dated November 30, 2012 (“November 2012 Email”), TRP asks for “authorization
14 for contracting the company Proimtu to provide **assembly-related labor services** at
15 the Tonopah plant.” Vol. 1, JA0138-140 (Emphasis added). Thus, in the November
16 2012 Email, TRP defines Proimtu’s services as labor, which is exempt from the
17 notice of right to lien obligations of NRS 108.245.

18 **6. Expungement of the Lien and Exoneration of the Bond.** Due to
19 TRP’s refusal to pay Proimtu for all of its labor costs to assemble and erect the
20 heliostats, Proimtu recorded its mechanic’s lien (“Lien”) on November 12, 2014.
21 Vol. 2, JA0412. On December 12, 2014, TRP filed its Petition to Expunge Lien
22 (“Petition”). Vol. 1, JA0001-73. While the Petition was pending, a surety bond to
23 release the Lien from the Property was posted and recorded on January 2, 2015.
24 Vol. 2, JA0412.

25 The district court expunged the lien, exonerated the surety bond and awarded
26 attorneys’ fees and costs. Vol. 2, JA0414. The district court referenced the cases
27 that hold no notice of right to lien is required when an owner has actual knowledge.
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1 Vol. 2, JA0357-359. However, the court incorrectly interpreted those cases by
2 holding that an Owner had to have knowledge of the scope of the work and the price
3 of the contract. Vol. 2, JA0359.

4 The district court also overlooked the evidence of Owner's actual and
5 imputed knowledge of Proimtu's work. Vol. 2, JA0358-359. There was
6 uncontroverted evidence of the Owner's presence during construction observing
7 Proimtu's work. Vol. 1, JA0167 and Vol. 2, JA0336-339. Similarly, there was
8 evidence of imputed knowledge to the owner based upon Cobra's knowledge of
9 Proimtu's work and the partnership in the project between Cobra's parent and
10 SolarReserve, the owner of the Project. Vol. 1, JA0138-139 and 0178.

11 Finally, the district court concluded that Proimtu's work was more than
12 "labor", despite the plain language of the contract and TRP's own description of
13 Proimtu's work, as labor, to the general contractor, Cobra. Vol. 2, JA0355-356.

14 **VI. ARGUMENT AND AUTHORITIES**

15 **1. SUMMARY OF LEGAL ARGUMENT**

16 Proimtu is entitled to perfect its lien, even without service of a notice of right
17 to lien, for two reasons. First, the owner had actual notice of Proimtu's work. At the
18 hearing, TRP played several videos from the Owner's website. The videos show the
19 Owner's site representative standing in the middle of the on-going installation of the
20 heliostats and talking about the technology of the heliostats. The videos also show
21 the heliostats being brought to the site and being installed. TRP agrees that the
22 Owner had actual notice of Proimtu's work from the beginning of the project. The
23 district court, however, ignored TRP's concession of notice, as well as the evidence
24 of the Owner's notice, and misapplied the controlling precedent from this Court,
25 which holds that service of a notice of lien is unnecessary when the Owner has
26 actual notice of the contractor and the work.

27 Second, NRS 108.245(3) does not require service of a notice of right to lien if
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1 the claim is only for labor. Proimtu provided only labor to assemble and install the
2 heliostats for the Project. TRP itself described Proimtu's work to the general
3 contractor as "assembly related labor services". Again, TRP's own description of
4 Proimtu's work brings Proimtu's claim within the statutory exception for labor,
5 eliminating the need for serving the Owner with a notice of right to lien. Taking
6 TRP's characterization of Proimtu's work at face value, the district court ignored
7 the statutory exception of NRS 108.245(3) for Proimtu's labor claims.

8 **2. LAW AND ARGUMENT**

9 **A. Disputes over the interpretation of NRS 108.245 and the court's** 10 **legal conclusions are reviewed *de novo*.**

11 If the Owner knew about Proimtu on the Project, then Proimtu is entitled to
12 perfect its lien, even if Proimtu did not serve the Owner a notice of right to lien
13 pursuant to NRS 108Error! Bookmark not defined..245. Lien claims are statutory
14 and a dispute over the interpretation of a lien statute is one of statutory construction.
15 *J.D. Constr. v. IBEX Int'l Grp.*, 126 Nev. 366, 375, 240 P.3d 1033, 1039 (2010).
16 Statutory construction presents a question of law subject to *de novo* review. *Id.* A
17 district court's factual determinations will be set aside if they are clearly erroneous
18 and not supported by substantial evidence. *Dewey v. Redevelopment Agency of City*
19 *of Reno*, 119 Nev. 87, 93, 64 P.3d 1070, 1075 (2003). A district court's conclusions
20 of law are reviewed *de novo*. *Id.*

21 **B. The Owner had actual notice of Proimtu's work and therefore** 22 **Proimtu was not required to serve notice of its right to lien in order** 23 **to perfect its lien**

24 Actual knowledge by the Owner of Proimtu's work eliminates any need for
25 Proimtu to serve the Owner with a notice of right to lien under NRS 108.245.
26 *Hardy Companies, Inc. v. SNMARK, LLC*, 126 Nev. 528, 539, 245 P.3d 1149, 1157
27 (2010). Where there is no direct contract with the owner, the owner must only have
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1 “actual or constructive knowledge as to the existence of the third party and the third
2 party’s identity.” *Id.* at 542, 245 P. 3d at 1158. “An Owner who witnesses the
3 construction, either first hand or through an agent, cannot later claim lack of
4 knowledge regarding future lien claims.” *Id.* at 540, 245 P. 3d at 1157.

5 An owner’s actual knowledge of construction work by a third party also
6 satisfies NRS 108.245. *Fondren v. K/L Complex, Ltd.*, 106 Nev. 705, 710, 800 P.2d
7 719, 721-722 (1990). Actual knowledge satisfies NRS 108.245 because “[t]he
8 purpose underlying the notice requirement is to provide the owner with knowledge
9 that work and materials are being incorporated into the property.” *Id.* Where the
10 owner has actual knowledge “[d]elivery of any pre-lien notice would have
11 accomplished little or nothing and, therefore, was not required.” *Id.*

12 In this case, the undisputed evidence of the Owner’s actual knowledge of
13 Proimtu and its work comes from statements by the Owner’s CEO, Kevin Smith, to
14 the press, the Owner’s own website videos, as well as TRP’s concession at the
15 hearing that the Owner had notice of Proimtu’s work. Further, at the beginning of
16 the Project, the Owner’s CEO and manager, Kevin Smith, approved Proimtu’s job
17 classification for its workers to comply with federal labor laws. Vol. 1, JA0073.

18 In addition, the Owner’s own videos during construction show inspection of
19 the Project by the Owner’s representative, Brian Painter, who was in the heliostat
20 field as it was being built, explaining what was going on. Vol. 1, JA00167. The
21 Owner’s videos also show Mr. Smith at the construction site and a Proimtu worker
22 being interviewed. This evidence is uncontroverted and is summarized in the
23 district court’s findings of fact: **“At the hearing on this matter, TRP stipulated
24 that Kevin Smith, the owner’s representative and CEO, was physically present
25 at the Project at the time Proimtu was working on the Project and knew of
26 Proimtu’s work and involvement on the Project at the time Proimtu was
27 retained.”** Vol. 2, JA0413(emphasis added).

1 There was also evidence of constructive knowledge of Proimtu's presence
2 and work on the project from Cobra, the general contractor. Cobra gave TRP
3 permission to hire Proimtu for the assembly and installation of the heliostats. Vol. 1,
4 JAA0138-139. Cobra was closely tied to the Owner group. Owner, SolarReserve
5 and Cobra's parent are all partners in the Project; likewise, SolarReserve and
6 Cobra's parent have common board members. Vol. 1, JA0073 and 0178.

7 The district court failed to consider the nexus between SolarReserve and
8 Cobra. Instead, the court mistakenly interpreted the contact to be only between
9 subcontractors. Vol. 2, JA0359. Given the importance of the heliostats to the
10 function of the Project and the relationship between Cobra's parent and the Owner,
11 however, knowledge of Proimtu's work from Cobra should also have been imputed
12 to the Owner. This imputed knowledge further supports the conclusion that the
13 Owner knew about Proimtu and its work, making formal notice to the Owner
14 unnecessary for Proimtu to perfect its lien.

15 Besides failing to properly consider the evidence of notice to the Owner, the
16 district court applied an incorrect legal standard to determine whether the Owner
17 had sufficient knowledge of Proimtu's work. The district court concluded that
18 actual knowledge required the owner to know not only the identity of the contractor,
19 but, also the scope of work and the amount of the contract. Vol. 2, JA0359. The
20 district court's position is contrary to the notice provisions of NRS 108.245. The
21 statute contains a form for notice to the owner. The statutory form only requires a
22 general description of the work provided and does not require any description of the
23 scope of work or the amount of the contract. There is no dispute that the Owner
24 knew about that Proimtu was hired to assemble and install the heliostats from the
25 beginning of the Project.

26 Furthermore, the district court's conclusion about the extent of notice
27 required is also contrary to the holding in *Hardy Companies* and *Fondren*. The
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1 district court failed to properly consider the legal effect of the Owner's knowledge
2 concerning Proimtu's work from the beginning of the Project and throughout
3 construction. With undisputed evidence that the Owner knew of Proimtu and knew
4 of Proimtu's work from the beginning of the Project, the district court should have
5 found compliance with NRS 108.245 and not expunged the lien.

6 **C. Because Proimtu was hired only to perform labor on the Project,**
7 **the notice requirements of NRS 108.245 are not applicable to**
8 **Proimtu.**

9 NRS 108.245 makes clear that the notice provisions of that statute **do not**
10 **apply to entities performing only labor:**

11 1. Except as otherwise provided in subsection 5[contracts directly with the
12 owner], every lien claimant, **other than one who performs only labor**, who
13 claims the benefit of NRS 108.221 to NRS 108.246, inclusive, shall, at any
time after the first delivery of material or performance of work or services
under a contract, deliver in person or by certified mail to the owner of the
property a notice of right to lien in substantially the following form...

14 NRS 108.245 (emphasis added). The term "labor" is not defined in Chapter 108.
15 Black's Law Dictionary defines "labor" as "[w]ork of any type, including mental
16 exertion." *Black's Law Dictionary*, 9th Ed. at 952 (2009). Thus, labor includes
17 only work as opposed to the sale of goods. The fact that Proimtu's work required a
18 high degree of skill does not change the analysis.

19 It is undisputed that Proimtu was hired for the Project to perform labor only,
20 *i.e.*, the assembly and installation of the heliostats. Vol. 1, JA0015-16. TRP
21 described Proimtu's scope of work in the contract as "Erection of heliostat (sic) on
22 site". Vol. 1, JA0016. Proimtu did not manufacture the parts for the heliostats, but
23 only assembled and installed them as required under the contract. *Id.* Further, TRP
24 has already acknowledged that Proimtu only provided labor. In the November 2012
25 Email, TRP reiterates that Proimtu will only be performing "assembly-related labor
26 services" for the Project. Vol. 1, JA0138-140. Thus, the language of the contract as
27 well as TRP's description of the language confirms that Proimtu only provided
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1 labor. Proimtu is exempted from the formal notice requirements of NRS 108.245
2 because notice to an owner is not required for a party providing only "labor".

3 **VII. CONCLUSION**

4 The district court ignored the undisputed evidence and TRP's concession that
5 the Owner had actual notice of Proimtu's work from the outset. Nevada law clearly
6 holds that an owner's actual notice of a contractor's work takes the place of serving
7 a notice of right to lien pursuant to NRS 108.245. Proimtu is also exempt from
8 having to serve the owner with a notice of right to lien under NRS 108.245 because
9 it performed only labor, as evidenced by TRP's own description of Proimtu's work.

10 Therefore, this Court should reverse the district court's Order on Petition to
11 Expunge Lien and remand this matter with instructions to (i) reinstate Proimtu's lien
12 and the surety bond that released the property from the lien; (ii) vacate the award of
13 fees and costs to TRP; and (iii) consider an award fees and costs to Proimtu upon
14 motion to determine the proper amount.

15 Dated this 1st day of February, 2016.

16 **FENNEMORE CRAIG, P.C.**

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1 **VIII. CERTIFICATE OF COMPLIANCE**

2 1. I hereby certify that this Brief complies with the formatting
3 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and
4 the type style requirements of NRAP 32 (a)(6) because:

5 [X] This Brief has been prepared in a proportionally spaced typeface
6 using Microsoft Word version 2010 in Times New Roman with a font size of 14; or

7 [] This brief has been prepared in a monospaced typeface using [state
8 name and version of word-processing program] with [state number of characters per
9 inch and name of type style].

10 2. I further certify that this Brief complies with the page- or type-volume
11 limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by
12 NRAP 32(a)(7)(C), it is either:

13 [] Proportionately spaced, has a typeface of 14 points or more, and
14 contains _____ words; or

15 [] Monospaced, has 10.5 or fewer characters per inch, and contains
16 _____ words or _____ lines of text; or

17 [X] Does not exceed 30 pages.

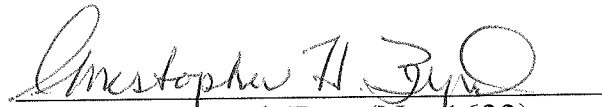
18 3. I hereby certify that I am counsel of record for Defendant and
19 Appellant, Proimtu MMI, LLC in this matter, that I have read the foregoing
20 Opening Brief and that to the best of my knowledge, information and belief, it is not
21 frivolous or imposed for any improper purpose. I further certify that this Brief
22 complies with all applicable Nevada Rules of Appellate Procedure, in particular
23 N.R.A.P 28(e), which requires every assertion in the Brief regarding matters in the
24 record to be supported by a reference to the page of the transcript or appendix where
25 the matter relied on is

26 ///

1 to be found. I understand that I may be subject to sanctions in the event that the
2 accompanying Brief is not in conformity with the requirements of the Nevada Rules
3 of Appellate Procedure.

4 Dated this 1st day of February, 2016.

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APPENDIX

	DOCUMENTS
1.	NRS 108.245

NRS 108.245 Notice of right to lien: Form; service; effect.

1. Except as otherwise provided in subsection 5, every lien claimant, other than one who performs only labor, who claims the benefit of NRS 108.221 to 108.246, inclusive, shall, at any time after the first delivery of material or performance of work or services under a contract, deliver in person or by certified mail to the owner of the property a notice of right to lien in substantially the following form:

NOTICE OF RIGHT TO LIEN

To:
(Owner's name and address)

The undersigned notifies you that he or she has supplied materials or equipment or performed work or services as follows:

(General description of materials, equipment, work or services)
for improvement of property identified as (property description or street address) under contract with (general contractor or subcontractor). This is not a notice that the undersigned has not been or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, record a notice of lien as provided by law against the property if the undersigned is not paid.

(Claimant)

A subcontractor or equipment or material supplier who gives such a notice must also deliver in person or send by certified mail a copy of the notice to the prime contractor for information only. The failure by a subcontractor to deliver the notice to the prime contractor is a ground for disciplinary proceedings against the subcontractor under chapter 624 of NRS but does not invalidate the notice to the owner.

2. Such a notice does not constitute a lien or give actual or constructive notice of a lien for any purpose.

3. No lien for materials or equipment furnished or for work or services performed, except labor, may be perfected or enforced pursuant to NRS 108.221 to 108.246, inclusive, unless the notice has been given.

4. The notice need not be verified, sworn to or acknowledged.

5. A prime contractor or other person who contracts directly with an owner or sells materials directly to an owner is not required to give notice pursuant to this section.

6. A lien claimant who is required by this section to give a notice of right to lien to an owner and who gives such a notice has a right to lien for materials or equipment furnished or for work or services performed in the 31 days before the date the notice of right to lien is given and for the materials or equipment furnished or for work or services performed anytime thereafter until the completion of the work of improvement.

(Added to NRS by 1965, 1169; A 1967, 1104; 1969, 730; 1979, 1091; 1997, 2695; 2003, 2616; 2005, 1912)