



ORIGINAL

FILED

2015 DEC -4 P 1: 08

Electronically Filed  
Dec 10 2015 08:45 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

Christopher H. Byrd, Esq. (No. 1633)  
Brenoch R. Wirthlin, Esq. (No. 10282)  
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*Attorneys for Proimtu MMI LLC*

**FIFTH DISTRICT COURT**

**NYE COUNTY, NEVADA**

TRP INTERNATIONAL, INC., a foreign  
corporation,

Petitioner,

vs.

PROIMTU MMI LLC, a Nevada limited  
liability company,

Respondent.

CASE NO.: CV-36431

DEPT. NO.: I

**NOTICE OF APPEAL**

Notice is hereby given that Proimtu MMI LLC ("Proimtu"), Respondent above named,  
appeals to the Supreme Court of Nevada from the Order Granting Motion for Attorney Fees  
entered in this action on the 12th day of November, 2015.

DATED this 3rd day of December, 2015.

**FENNEMORE CRAIG, P.C.**

By: 

Christopher H. Byrd, Esq. (No. 1633)

Brenoch Wirthlin (No. 10282)

300 S. Fourth Street, Suite 1400

Las Vegas, Nevada 89101

*Attorneys for Respondent Proimtu MMI LLC*

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Becky A. Pintar, Esq.  
Bryan L. Albiston, Esq.  
Pintar Albiston LLP  
6053 S. Fort Apache Road, Suite 120  
Las Vegas, NV 89148  
*Attorneys for Petitioner*

Adrian Harris  
An employee of Fennemore Craig, P.C.



ORIGINAL



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bwirthlin@fclaw.com  
Attorneys for Proimtu MMI LLC

FILED

2015 DEC -4 P 1:08

*DM*  
CLERK  
DEPUTY

FIFTH DISTRICT COURT

NYE COUNTY, NEVADA

TRP INTERNATIONAL, INC., a foreign  
corporation,

Petitioner,

vs.

PROIMTU MMI LLC, a Nevada limited  
liability company,

Respondent.

CASE NO.: CV-36431

DEPT. NO.: I

**CASE APPEAL STATEMENT**

Appellant Proimtu MMI LLC ("Proimtu"), Respondent above named, pursuant to NRAP 3(f), hereby submits its Case Appeal Statement as follows:

1. **Name of appellant filing this case appeal statement:** Proimtu MMI, LLC, a Nevada limited liability company.

2. **Identify the judge issuing the decision, judgment, or order appealed from:**  
Judge Steven Elliott; Order Granting Motion for Attorney Fees entered in this action on the 12th day of November, 2015 ("Order").

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1           **3. Identify each appellant and the name and address of counsel for each**  
2 **appellant:**

3           Proimtu MMI, LLC - Appellant  
4           Christopher H. Byrd, Esq. (No. 1633)  
5           Brenoch R. Wirthlin, Esq. (No. 10282)  
6           FENNEMORE CRAIG, P.C.  
7           300 S. Fourth Street, Suite 1400  
8           Las Vegas, Nevada 89101  
9           Telephone: (702) 692-8000  
10          Facsimile: (702) 692-8099  
11          e-mail: [cbvrd@fclaw.com](mailto:cbvrd@fclaw.com)  
12                 [bwirthlin@fclaw.com](mailto:bwirthlin@fclaw.com)

13           **4. Identify each respondent and the name and address of appellate counsel, if**  
14 **known, for each respondent (if the name of a respondent's appellate counsel is unknown,**  
15 **indicate as much and provide the name and address of that respondent's trial counsel):**

16           TRP International, Inc. ("TRP")  
17           Becky A. Pintar, Esq.  
18           Nevada State Bar No. 7867  
19           Bryan L. Albiston, Esq.  
20           Nevada State Bar No. 12679  
21           PINTAR ALBISTON LLP  
22           6053 S. Fort Apache Road, Suite 120  
23           Las Vegas, NV 89148  
24           702-685-5255 - phone  
25           702-202-6329 - fax  
26           [Becky@PintarAlbiston.com](mailto:Becky@PintarAlbiston.com)

27           **5. Indicate whether any attorney identified above in response to question 3 or 4**  
28 **is not licensed to practice law in Nevada and, if so, whether the district court granted that**  
29 **attorney permission to appear under SCR 42 (attach a copy of any district court order**  
30 **granting such permission): All attorneys are licensed to practice law in Nevada.**

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33 ///

1           **6.       Indicate whether appellant was represented by appointed or retained counsel**  
2 **in the district court:** Appellant was represented by retained counsel in the district court,  
3 Fennemore Craig, P.C.

4           **7.       Indicate whether appellant is represented by appointed or retained counsel on**  
5 **appeal:** Appellant is represented by retained counsel on appeal, Fennemore Craig, P.C.

6           **8.       Indicate whether appellant was granted leave to proceed in forma pauperis,**  
7 **and the date of entry of the district court order granting such leave:** Appellant did not apply  
8 for and was not granted leave to proceed in forma pauperis.

9           **9.       Indicate the date the proceedings commenced in the district court (e.g., date**  
10 **complaint, indictment, information, or petition was filed):** TRP's Motion for Attorney Fees  
11 ("Motion") was filed on July 6, 2015.

12           **10.      Provide a brief description of the nature of the action and result in the district**  
13 **court, including the type of judgment or order being appealed and the relief granted by the**  
14 **district court:** In or around October 16, 2012, Proimtu entered into that certain contract  
15 ("Contract") with Petitioner for the erection of heliostats for the Crescent Dunes Thermosolar  
16 Power Plant ("Project"). Pursuant to the Contract, Proimtu agreed to perform "[h]eliostat  
17 assembly and field erection of heliostats." TRP was the contractor on the Project. TRP filed its  
18 Petition ("Petition") to expunge Proimtu's lien on certain real property arising out of TRP's  
19 failure to pay Proimtu for Proimtu's work on the Project. After the Petition was improperly  
20 granted, TRP sought and was awarded attorneys' fees, which forms the basis of this appeal.

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

1 to or writ proceeding in the Supreme Court. The caption of the previous appeal is *Proimtu MMI*  
2 *LLC vs. TRP International, Inc.*, case no.: 68942.

3 **12. Indicate whether this appeal involves child custody or visitation:** This appeal  
4 does not involve child custody or visitation.

5 **13. If this is a civil case, indicate whether this appeal involves the possibility of**  
6 **settlement:** This is a civil case and Proimtu is not opposed to the possibility of settlement.  
7

8 DATED this 3rd day of December, 2015.

9 **FENNEMORE CRAIG, P.C.**

10  
11 By: 

12 Christopher H. Byrd, Esq. (No. 1633)

13 Brenoch Wirtlin (No. 10282)

14 300 S. Fourth Street, Suite 1400

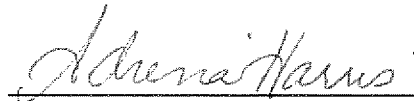
15 Las Vegas, Nevada 89101

16 *Attorneys for Respondent Proimtu MMI LLC*  
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of December, 2015, I served a copy of the **CASE APPEAL STATEMENT** upon the parties to this action by mailing a copy thereof, postage prepaid, via regular U.S. Mail, addressed as follows:

Becky A. Pintar, Esq.  
Bryan L. Albiston, Esq.  
Pintar Albiston LLP  
6053 S. Fort Apache Road, Suite 120  
Las Vegas, NV 89148  
*Attorneys for Petitioner*



An employee of Fennemore Craig, P.C.

Case #: CV-0036431

Judge: WANKER, KIMBERLY A.

Date Filed: 12/12/14 Department: 01

Case Type: CAJOTH CONT/ACCT/JUDG/OTHER

Title/Caption: TRP INTERNATIONAL, INC. a foreign corp.  
vs  
PROIMTU MMI LLC, a Nevada Limited  
Liability Company

Comments: FILE IN TONOPAH

Defendant(s)  
PROIMTU MMI LLC

Attorney(s)  
BYRD, CHRISTOPHER H.

Plaintiff(s)  
TRP INTERNATIONAL, INC.

Attorney(s)  
PINTAR, BECKY A.

Filings:

Date	Pty	Filing	Fees
12/12/14	P	PETITION TO EXPUNGE LIEN - ARBITRATION EXEMPT: AFFECTS TITLE TO REAL PROPERT	245.00
1/08/15	C	ORDER FOR HEARING ON PETITION TO EXPUNGE LIEN	
1/20/15	P	CERTIFICATE OF SERVICE	
2/02/15	R	RESPONDENT PROIMTU MMI LLC'S OPPOSITION TO PETITION TO EXPUNGE LIEN	198.00
2/09/15	P	REPLY TO OPPOSITION TO PETITION TO EXPUNGE LIEN	
2/13/15	C	ORDER OF RECUSAL AND REQUEST FOR SENIOR JUDGE	
2/25/15	R	RESPONDENT PROIMTU MMI LLC'S OBJECTION TO UNTIMELY DISCLOSURE OF SUPPLEMENTAL DOCUMENTS TO SUPPORT THE PETITION TO EXPUNGE	
3/03/15	C	ORDER	
4/16/15	P	REQUEST FOR RULING ON PETITION TO EXPUNGE LIEN,OR IN THE ALTERNATIVE, TO PLACE ON CALENDAR	
7/06/15	P	MOTION FOR ATTORNEY FEES	
7/06/15	P	MEMORANDUM OF COSTS AND DISBURSEMENTS	
7/20/15	D	OPPOSITION TO PETITIONERS MOTION FOR ATTORNEY'S FEES	
7/23/15	P	RESPONDENT PROIMTU MMI, LLC'S EMERGENCY MOTION TO STAY	
7/27/15	P	REPLY TO OPPOSITION TO MOTION FOR ATTORNEY FEES	
8/12/15	P	RE-NOTICE OF HEARING ON RESPONDENT PROIMTU MMI, LLC'S EMERGENCY MOTION TO STAY	
8/20/15	P	OPPOSITION TO RESPONDENT PROIMTU'S EMERGENCY MOTION TO STAY	
8/27/15	P	DISCLOSURE OF SUPPLEMENTAL DOCUMENTS TO SUPPORT THE PETITION TO EXPUNGE	
9/02/15	D	RESPONDENT PROIMTU MMI, LLC'S REPLY IN SUPPORT OF EMERGENCY MOTION TO STAY	
9/09/15	P	SUPPLEMENT TO MOTION FOR ATTORNEY FEES	
9/09/15	C	FINDINGS OF FACT, CONCLUSIONA OF LAW AND ORDER ON PETITION EXPUNGE LIEN	
10/05/15	D	NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON PETITION TO EXPUNGE LIEN	
10/05/15	D	NOTICE OF APPEAL	
10/05/15	D	CASE APPEAL STATEMENT	
10/16/15	S	RECEIPT FOR DOCUMENTS	



Run: 12/04/15  
14:04:51

Case Summary

Page 2  
DC2100

11/12/15	P	SUPPLEMENT TO REPLY TO OPPOSITION TO MOTION TO DISMISS COMPLAINT	
11/12/15	C	ORDER DENYING MOTION FOR EMERGENCY STAY	
11/12/15	P	NOTICE OF ENTRY ORDER DENYING MOTION FOR EMERGENCY STAY	
11/12/15	C	ORDER GRANTING MOTION FOR ATTORNEY FEES	
11/12/15	P	NOTICE OF ENTRY ORDER GRANTING MOTION FOR ATTORNEY FEES	
12/04/15	D	NOTICE OF APPEAL	500.00
12/04/15	D	CASE APPEAL STATEMENT	24.00

Case #: CV-0036431

Judge: WANKER, KIMBERLY A.

Date Filed: 12/12/14 Department: 01

Case Type: CAJOTH CONT/ACCT/JUDG/OTHER

Title/Caption: TRP INTERNATIONAL, INC. a foreign corp.  
vs  
PROIMTU MMI LLC, a Nevada Limited  
Liability Company

Comments: FILE IN TONOPAH

Defendant(s)  
PROIMTU MMI LLC

Attorney(s)  
BYRD, CHRISTOPHER H.

Plaintiff(s)  
TRP INTERNATIONAL, INC.

Attorney(s)  
PINTAR, BECKY A.

Hearings:

Date Time Hearing  
2/12/15 10:00 PETITION TO EXPUNGE LIEN  
JUDGE: KIMBERLY A WANKER  
CLERK: AMY DOWERS

Reference  
TONOPAH

APP: BECKY PINTAR FOR TRP INTERNATIONAL, INC; BRENOCK WIRTHLIN FOR PROIMTU MMI LLC;

THE COURT ADVISES THE PARTIES THAT SENIOR JUDGE STEVEN ELLIOT HAS BEEN ASSIGNED TO THE CASE AND THAT HE IS AWARE OF THE PENDING TRIAL DATES INVOLVING CV36431, CV36323, AND CV35217. THE COURT QUESTIONS COUNSEL CONCERNING A CLAUSE IN PARAGRAPH 34 WHICH STATES THAT ANY DISPUTES BETWEEN THE PARTIES WILL BE SUBMITTED TO ARBITRATION IN MADRID, SPAIN AND THAT THE CONTRACT SHALL BE INTERPRETTED SUBJECT TO SPANISH LAW AND WAIVE ANY OTHER LEGAL REMEDY. MS. PINTAR STATES THAT ONCE THE LIEN WAS RECORDED THEN THE LIEN HAD TO BE ARGUED UNDER NEVADA LAW. MS. PINTAR STATES THAT THE LIEN ATTACHES TO THE PROPERTY AND SO NOW THE OWNER OF THE PROPERTY AND THE GENERAL CONTRACTOR INVOLVED. MR. WIRTHLIN STATES THAT HE DOES NOT BELIEVE THAT THE ARBITRATION CLAUSE PROHIBITS HIS CLIENT FROM AVAILING ITSELF OF NEVADA LAW IN ORDER TO PROCURE PAYMENT. MR. WIRTHLIN REFERS TO NRS 108.2457 WHICH STATES THAT ANY TERM OF A CONTRACT THAT ATTEMPTS TO LIMIT THE LIEN RIGHTS IS VOID. MS. PINTAR STATES THAT THE LIEN HAS BEEN BONDED AROUND AND BECAUSE OF THE LIEN THE GENERAL CONTRACTOR, COBRA, HAS WITHHELD PAYMENT FROM TRP. MS. PINTAR STATES THAT BECAUSE OF THAT ACTION THEY WERE FORCED TO FILE THE PETITION UNDER NEVADA LAW TO EXPUNGE THE LIEN SO THAT THE DISPUTE CAN BE HANDLED AS SET FORTH IN THE CONTRACT. MR. WIRTHLIN POINTS OUT THAT THE ISSUE OF JURISDICITN WAS NOT RAISED PRIOR TO TODAY. THE COURT CONFIRMS THAT SHE IS THE ONE THAT RAISED THE ISSUE OF JURISDICTION. MR. WIRTHLIN REQUEST THAT PROIMTU HAVE THE OPPORTUNITY TO BRIEF THE ISSUE. MR. WIRTHLIN POINTS OUT THAT IF THE ISSUE IS NOT WORKED OUT WITHIN 30 DAYS THEN YOU SUBMIT TO SPANISH ARBITRATION BUT THE LIEN IS NOT AFFECTED BECAUSE OF NEVADA LAW AND NEEDS TO BE DECIDED ON THE MERRIT. MS. PINTAR ADDRESSES THE COURT CONCERNING MECHANICS LIENS. MS. PINTAR SPEAKS TO THE DEFENDANT'S FIRST AGRUEMENT WHICH STATES THEY PROVIDED LABOR ONLY. MS. PINTAR DISPUTES THAT PROIMTU ONLY SUPPLIES LABOR. MS. PINTAR PROVIDES A SUPPLEMENTAL DISCLOSURE FOR THE COURT THAT CONTAINS INVOICES SHOWING PROIMTU RENTED CRANES AND CHARGE FOR SUPPLIES. MS. PINTAR ARGUES THAT PROIMTU PROVIDE MORE THAT LABOR AND THAT THEY ACTED AS A SUBCONTRACT

THEREFORE THEY ARE REQUIRED TO PROVIDE A PRELIMINARY NOTICE TO THE OWNER OF THE LIEN. MS. PINTAR STATES THAT PROIMTU DID NOT NOTIFY THE OWNER THAT THEY ARE ON THE PROPERTY. MS. PINTAR STATES THAT CLEARLY THERE IS PREJUDICE TO THE OWNER. MR. WIRTHLIN STATES LIBERAL INTERPRETATION AND SUBSTANTIAL COMPLIANCE ARE REQUIRED WHEN DEALING WITH MECHANICS LIENS. MR. WIRTHLIN STATES THAT THE WORK WAS DONE AND PROIMTU HAS NOT BEEN PAID.

6/18/15 9:00 PETITION TO EXPUNGE LIEN (JUDGE ELLIOT)

9/09/15 9:00 PROIMTU'S EMERGENCY MOTION TO STAY

JUDGE: STEVEN P ELLIOT

CLERK: AMY DOWERS

APP: BECKY PINTAR FOR TRP INTERNATIONAL WITH GUSTAVO CALZADO; BRENOCK WIRTHLIN FOR PRIOMTU LLC; DONNA DI MAGGIO FOR COBRA THERMOSOLAR PLANTS AND TONOPAH SOLAR RESERVE;

\*\*\*\*\*SEE FILE FOR MINUTES\*\*\*\*\*

9/09/15 9:00 MOTION FOR ATTORNEY'S FEES (TRP INTERNATIONAL

\*\*\*\*\*SEE FILE FOR MINUTES\*\*\*\*\*

**FILED**  
FIFTH JUDICIAL DISTRICT

NOV 12 2015

Nye County Clerk

Amo Deputy

1 Becky A. Pinta, Esq.  
2 Nevada State Bar # 7867  
3 PINTAR ALBISTON LLP  
4 6053 S. Fort Apache Road, Suite 120  
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6 (702) 685-5255  
7 (702) 202-6329 fax  
8 Becky@PintarAlbiston.com

9 Attorneys for Plaintiff  
10 TRP INTERNATIONAL, INC.

11 **FIFTH DISTRICT COURT**  
12 **NYE COUNTY, NEVADA**

13 TRP INTERNATIONAL, INC., a foreign  
14 corporation,

Case No.: CV-36431  
Dept.: I

15 Petitioner,

**NOTICE OF ENTRY ORDER GRANTING  
MOTION FOR ATTORNEY FEES**

16 v.

17 PROIMTU MMI LLC, a Nevada limited liability  
18 company,

19 Respondent.

20 PLEASE TAKE NOTICE that on November 12, 2015, an Order granting Motion for  
21 Attorney Fees was entered in the above-referenced matter. A true and correct copy is attached  
22 hereto.

23 DATED: November 12, 2015 PINTAR ALBISTON LLP

24 By: Becky A. Pinta

25 Becky A. Pinta, Esq.  
26 Nevada State Bar # 7867  
27 Bryan L. Albiston, Esq.  
28 Nevada State Bar #12679  
6053 S. Fort Apache Rd., Ste. 120  
Las Vegas, Nevada 89148  
Attorneys for Plaintiff TRP INTERNATIONAL, INC.

Becky A. Pinar, Esq.  
 Nevada State Bar # 7867  
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 Becky@PintarAlbiston.com

Attorneys for Plaintiff  
 TRP INTERNATIONAL, INC.

**FIFTH DISTRICT COURT  
 NYE COUNTY, NEVADA**

TRP INTERNATIONAL, INC., a foreign  
 corporation,

Petitioner,

v.

PROIMTU MMI LLC, a Nevada limited liability  
 company,

Respondent.

Case No.: CV-36431  
 Dept.: I

**ORDER GRANTING MOTION FOR  
 ATTORNEY FEES**

**FILED**

FIFTH JUDICIAL DISTRICT

NOV 12 2015

Nye County Clerk

Deputy

The Court having considered Petitioner's TRP INTERNATIONAL, INC. ("TRP") Motion for Attorney Fees, as against Respondent PROIMTU MMI LLC ("Proimtu") and all pleadings on file, and after hearing oral argument, the Court makes the following findings and order:

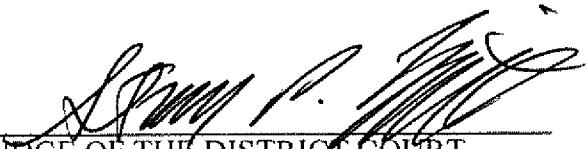
1. NRS 108.2275 provides the provisions for the release of frivolous or excessive liens.
2. The Court previously found that the lien recorded by Proimtu was not valid and ordered it expunged in an order filed on July 6, 2015.
3. The Court also found that TRP was also entitled to its costs and reasonable attorney's fees for bringing the Petition the amount to be determined upon briefing with the Court.
4. TRP submitted documentation of fees incurred in the amount of \$16,240.00.
5. Proimtu argued certain fees were not reasonable, including those incurred for travel.
6. However, the Court found that all fees incurred by TRP were valid and reasonable and the *Brunzell* factors were satisfied.

IT IS THEREFORE ORDERED that the Motion for Attorney Fees is granted.

1 IT IS FURTHER ORDERED that the \$16,240.00 in attorney fees is awarded to TRP and the  
2 amount is hereby reduced to judgment.

3  
4 **IT IS SO ORDERED.**

5 Dated: Nov 12, 2015

6   
7 JUDGE OF THE DISTRICT COURT

8 Respectfully submitted by:  
9 PINTAR ALBISTON LLP

10 By: Becky A. Pinta  
11 Becky A. Pinta, Esq., NSB # 7867  
12 Attorney for Petitioner TRP INTERNATIONAL, INC.

13 Reviewed by:  
14 FENNEMORE CRAIG, P.C.

15 By:   
16 Brenoch R. Wirthlin, Esq.  
17 Attorney for Petitioner PROIMTU MMI LLC  
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PINTAR ALBISTON LLP

**OFFICE OF THE NYE COUNTY CLERK  
SANDRA L. MERLINO**

**Tonopah Office**  
Nye County Courthouse  
P.O. Box 1031  
101 Radar Road  
Tonopah, Nevada 89049  
Phone (775) 482-8127  
Fax (775) 482-8133



**Pahrump Office**  
Government Complex  
1520 East Basin Avenue  
Pahrump, Nevada 89060  
Phone (775) 751-7040  
Fax (775) 751-7047

December 4, 2015

NOTICE OF  
DEFICIENCY:

VIA E-FILE

Supreme Court Clerk  
201 S. Carson Street, #201  
Carson City, NV 89701-4702

Re: CV 36431

TRP INTERNATIONAL, INC.  
VS  
PROIMTU MMI LLC

Dear Ms. Lindeman:

I am enclosing the documentation required to submit the above-referenced matter on appeal.

This is a civil case. I will be forwarding the fee of \$250.00 via US Mail.

If I can be of any assistance, please feel free to contact me at our Tonopah office.

Sincerely,

SANDRA L. MERLINO  
NYE COUNTY CLERK

By:

A handwritten signature in cursive script, appearing to read "Amy Dowers", is written over a horizontal line.

AMY DOWERS, Deputy Clerk / Tonopah