

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

APCO CONSTRUCTION, INC., A  
NEVADA CORPORATION,

Appellant,

vs.

ZITTING BROTHERS CONSTRUCTION,  
INC.,

Respondent.

Electronically Filed  
Case No.: 75197 Apr 15 2019 03:07 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from the Eighth Judicial  
District Court, the Honorable Mark  
Denton Presiding

**APPELLANT'S APPENDIX**  
**(Volume 24, Bates Nos. 5477-5724)**

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MAC:05161-019 3698575\_1

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DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

*Order To Show Cause*















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02/12/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt of Copy</i>
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02/13/2013	 Transcript of Proceedings

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

*Transcript Re: Hearing Re: Sale of Property, July 31, 2012*





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02/13/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt Of Copy Of The Notice Of Hearing On Defendant Scott Financial Corporation's Motion To Dismiss And Expunge Liens On Order Shortening Time</i>
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02/14/2013	<b>Show Cause Hearing</b> (9:00 AM) (Judicial Officer: Scann, Susan) <i>Order To Show Cause</i> Granted; <i>Granted</i>
02/14/2013	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
02/14/2013	 Order Filed By: Defendant Scott Financial Corporation <i>Order On Defendant Scott Financial Company's Motion To Dismiss And Expunge Liens</i>
02/14/2013	 Order Filed By: Defendant Scott Financial Corporation <i>Order Regarding Show Cause Hearing</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

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02/15/2013	 Order Filed By: Defendant Scott Financial Corporation <i>Order Expunging Liens</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Defendant Scott Financial Corporation <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Defendant Scott Financial Corporation <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Affidavit of Service Filed By: Plaintiff Apco Construction <i>Affidavit of Service</i>
02/15/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice Of Entry Of Order Expunging Lien</i>
02/15/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice Of Entry Of Order Regarding Show Cause Hearing</i>
02/15/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice Of Entry Of Order On Defendant Scott Financial Company's Motion To Dismiss And Expunge Liens</i>
02/15/2013	 Affidavit of Service

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

Filed By: Defendant Scott Financial Corporation  
*Affidavit of Service*










02/19/2013	 Transcript of Proceedings <i>Partial Transcript: (Testimony of Bradley Scott and Doug Schuster) Hearing Re: Scott Defendants' Motion to Lift Stay, Allow Sale to Proceed with Deposit of Funds Pending Further Court Order and for Posting of Bond, July 2, 2012</i>
02/20/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice Of Entry Of Order Expunging Liens</i>
02/25/2013	 Brief Filed By: Defendant Scott Financial Corporation <i>Scott Financial Corporation And Bradley J. Scott's Evidentiary Hearing Brief</i>
02/25/2013	 Brief Filed By: Intervenor Defendant Gemstone Development West Inc <i>Peel Brimley Lien Claimants' Pre-Hearing Brief and Disclosures</i>
02/25/2013	 Brief Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Tharaldson Parties' Evidentiary Hearing Brief and Limited Joinder to Peel Brimley Lien Claimants' Pre-hearing Brief and Disclosures</i>
02/26/2013	 Joinder Filed By: Plaintiff Apco Construction <i>APCO Construction's Joinder to Peel Brimley Lien Claimants' Pre-Hearing Brief and Disclosures</i>
02/26/2013	 Errata Filed By: Defendant Scott Financial Corporation <i>Errata To Scott Financial Corporation And Bradley J. Scott's Evidentiary Hearing Brief</i>
03/01/2013	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
03/05/2013	 Motion to Withdraw As Counsel Filed By: Intervenor Plaintiff Harsco Corporation <i>Motion to Withdraw as Attorney of Record for Harsco Corporation</i>
03/07/2013	 Transcript of Proceedings <i>Transcript of Proceedings: Excerpt of Status Check: RE: Sale of Property, Evidentiary Hearing: Real Estate Commission for the Private Sale (Testimony of Bradley Scott) March 1, 2013</i>
03/07/2013	 <b>All Pending Motions</b> (1:00 PM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
03/12/2013	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check: RE: Sale of Property, Evidentiary Hearing: Real Estate Commission for the Private Sale, March 1, 2013</i>

DISTRICT COURT  
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03/12/2013	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check: RE: Sale of Property, Evidentiary Hearing: Real Estate Commission for the Private Sale, March 7, 2013</i>
03/26/2013	 <b>Decision</b> (10:00 AM) (Judicial Officer: Scann, Susan) <b>03/26/2013, 04/03/2013</b> Continued; <i>Continued</i>
04/03/2013	<b>CANCELED Calendar Call</b> (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated - Superseding Order</i>
04/03/2013	 Notice of Entry of Decision and Order Filed By: Intervenor Defendant Accuracy Glas & Mirror Company Inc <i>Notice of Entry of Decision and Order on Motion to Set Hearing</i>
04/03/2013	 Decision and Order <i>Decision and Order</i>
04/04/2013	 Amended Notice Filed By: Intervenor Defendant Gemstone Development West Inc <i>Amended Notice of Entry of Decision and Order on Motion to Set Hearing</i>
04/04/2013	 Stipulation and Order for Dismissal Filed by: Consolidated Case Party HD Supply Waterworks LP <i>A587168 Stipulation and Order to Dismiss E&amp;E Fire Protection, LLC Only Pursuant to the Terms Stated Below</i>
04/08/2013	<b>CANCELED Bench Trial</b> (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated - Superseding Order</i>
04/08/2013	 Notice of Entry of Stipulation and Order Filed By: Intervenor Defendant Accuracy Glas & Mirror Company Inc <i>A587168</i>
04/10/2013	 <b>Motion to Withdraw as Counsel</b> (3:00 AM) (Judicial Officer: Scann, Susan) <i>Donald H. Williams, Esq's Motion to Withdraw as Attorney of Record for Harsco Corporation</i> Granted; <i>Granted</i>
04/23/2013	 Order Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Order Approving Sale of Property</i>
04/25/2013	 Notice of Entry of Order Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Notice of Entry of Order Approving Sale of Property</i>
04/25/2013	 Motion to Set Aside Filed By: Consolidated Case Party Cisneros, Selina <i>Notice Of Motion And Motion To Set Aside Order Or Judgment</i>
04/25/2013	 Release Filed By: Defendant Scott Financial Corporation













DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

*Ahern Rentals, Inc.'s Partial Release of Judgment Lien*







04/30/2013	 Ex Parte Application Party: Defendant Scott Financial Corporation <i>Defendant Scott Financial Corporation's Ex Parte Application for Order To Show Cause on Order Shortening Time</i>
05/02/2013	 Order to Show Cause Filed by: Defendant Scott Financial Corporation <i>Order to Show Cause</i>
05/07/2013	 Order Granting Motion Filed By: Intervenor Plaintiff Harsco Corporation <i>Order Granting Donald H. Williams, Esq.'s Motion to Withdraw as Attorney of Record for Harsco Corporation</i>
05/08/2013	 Affidavit of Service Filed By: Consolidated Case Party Cisneros, Selina <i>Affidavit of Service</i>
05/08/2013	<b>CANCELED Pre Trial Conference</b> (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i>
05/09/2013	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order</i>
05/09/2013	<b>CANCELED Show Cause Hearing</b> (10:00 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i> <i>Show Cause Hearing</i>
05/15/2013	<b>CANCELED Calendar Call</b> (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i>
05/17/2013	 Release Filed By: Defendant Scott Financial Corporation <i>PCI Group, LLC's Partial Release of Judgment Lien</i>
05/20/2013	<b>CANCELED Jury Trial</b> (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i>
05/22/2013	 Release Filed By: Defendant Scott Financial Corporation <i>PCI Group LLC's Partial Release of Judgment Lien</i>
05/23/2013	<b>CANCELED Show Cause Hearing</b> (10:00 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i> <i>Defendant Scott Financial Corporation's Ex Parte Application for Order to Show Cause on Order Shortening Time</i>
05/30/2013	 <b>Motion to Set Aside</b> (9:00 AM) (Judicial Officer: Scann, Susan) <i>Defendant Selina Cisneros' Motion To Set Aside Order or Judgment Off Calendar;</i> <i>Off Calendar</i>
06/06/2013	 Motion for Judgment

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

Filed By: Plaintiff Apco Construction  
*(1) APCO's Limited Motion to Lift Stay for Purposes of this Motion Only; (2) APCO's Motion for Judgment Against Gemstone Only; and (2) Request for Order Shortening Time*












06/12/2013	 <b>Opposition to Motion</b> Filed By: Defendant Scott Financial Corporation <i>Scott Financial Corporation's Opposition to (1) Apco Construction, Inc's Limited Motion to Lift Stay (2) Motion for Judgment Against Gemstone only; and (3) Request for Order Shortening Time</i>
06/13/2013	 <b>Motion</b> (10:00 AM) (Judicial Officer: Scann, Susan) <i>(1) APCO's Limited Motion to Lift Stay for Purposes of this Motion Only; (2) APCO's Motion for Judgment Against GEMSTONE Only; and (3) Request for Order Shortening Time</i> Granted; <i>Granted</i>
06/13/2013	 <b>Stipulation</b> Filed by: Intervenor Defendant Club Vista Financial Services LLC <i>Stipulation Regarding Reconveyance of Deeds of Trust Encumbering Property</i>
01/09/2014	 <b>Miscellaneous Filing</b> Filed by: Plaintiff Apco Construction <i>Notice of Screening Device</i>
03/18/2014	 <b>Consent to Service By Electronic Means</b> Filed By: Plaintiff Apco Construction <i>Consent to Service By Electronic Means</i>
03/18/2014	 <b>Notice</b> Filed By: Counter Defendant Uintah Investments LLC <i>Notice of Change of Handling Attorney</i>
04/22/2014	 <b>Notice of Substitution of Parties</b> Filed By: Intervenor Plaintiff S R Bray Corp <i>Substitution of Real Party in Interest</i>
04/30/2014	 <b>Transcript of Proceedings</b> <i>Portion of Transcript: Scott Defendants' Motion to Lift Stay, Allow Sale to Proceed with Deposit of Funds Pending Further Court Order, and for Posting of Bond, July 2, 2012</i>
04/30/2014	 <b>Transcript of Proceedings</b> <i>Transcript of Proceedings: Evidentiary Hearing, July 9, 2012</i>
04/30/2014	 <b>Transcript of Proceedings</b> <i>Transcript of Proceedings: Evidentiary Hearing, July 10, 2012</i>
05/28/2014	 <b>Motion</b> Filed By: Intervenor Insulpro Projects Inc <i>Insulpro Projects, Inc.'s Motion to Lift Stay</i>
06/16/2014	 <b>Opposition to Motion</b> Filed By: Plaintiff Apco Construction <i>APCO Construction's Opposition to Insulpro Project, Inc.'s Motion to Lift Stay</i>

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06/18/2014	 Stipulation and Order Filed by: Plaintiff Apco Construction <i>Stipulation and Order to Continue the Hearing on Insulpro Projects Inc.'s Motion to Lift Stay</i>
06/19/2014	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order to Continue Hearing on Insulpro Projects Inc.'s Motion to Lift Stay</i>
06/20/2014	 Opposition Filed By: Defendant Scott Financial Corporation <i>Opposition of Scott Financial Corporation to Insulpro Project, Inc.'s Motion to Lift Stay</i>
06/20/2014	 Reply to Opposition Filed by: Intervenor Plaintiff Inquipco <i>Insulpro Projects, Inc.'s Reply to Apco Construction's Opposition to Motion to Lift Stay</i>
06/23/2014	 Opposition Filed By: Counter Claimant Camco Pacific Construction Co Inc <i>Camco Pacific Construction Company, Inc.'s Opposition to Insulpro Projects, Inc.'s Motion to Lift Stay</i>
07/02/2014	 Reply to Opposition Filed by: Intervenor Insulpro Projects Inc <i>Insulpro Projects, Inc.'s Reply to Camco Pacific Construction Company, Inc.'s Opposition to Motion to Lift Stay</i>
07/15/2014	 <b>Motion</b> (9:00 AM) (Judicial Officer: Scann, Susan) <i>Insulpro Projects, Inc.'s Motion to Lift Stay</i> Denied; <i>Denied</i>
07/28/2014	 Order Denying Filed By: Plaintiff Apco Construction <i>Order Denying Insulpro Projects Inc.'s Motion to Lift Stay</i>
07/29/2014	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order Denying Insulpro Projects Inc.'s Motion to Lift Stay</i>
03/11/2015	 Opposition Filed By: Consolidated Case Party Cisneros, Selina <i>Opposition to Affidavit of Renewal of Judgment</i>
07/13/2015	 Motion to Withdraw As Counsel Filed By: Intervenor Plaintiff Northstar Concrete, Inc. <i>Motion to Withdraw as Counsel of Record For Northstar Concrete, Inc.</i>
08/19/2015	 <b>Motion to Withdraw as Counsel</b> (3:00 AM) (Judicial Officer: Scann, Susan) <i>The Law Firm of Pezzillo Lloyd's Motion to Withdraw as Counsel of Record For Northstar Concrete, Inc.</i> Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>



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**CASE SUMMARY**  
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08/31/2015	 Order Granting Motion Filed By: Counter Defendant Northstar Concrete Inc <i>Order Granting Motion to Withdraw as Counsel of Record For Northstar Concrete, Inc.</i>
08/31/2015	 Notice of Entry of Order <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel of Record for Northstar Concrete Inc.</i>
10/07/2015	 Notice of Hearing <i>Notice of Hearing for Status Check</i>
10/21/2015	 <b>Status Check</b> (9:30 AM) (Judicial Officer: Denton, Mark R.) <b>10/21/2015, 04/21/2016</b> <i>Status Check: Disbursement of Sale Proceeds &amp; any other Matters Remaining following the S. CT. Decision 131Nev., Adv. Op. 70</i> Matter Continued; Attorney /Judge Conflict -Dept.15 Matter Heard; Matter Continued; Attorney /Judge Conflict -Dept.15 Matter Heard; <i>Matter Continued</i>
11/05/2015	 Substitution of Attorney Filed by: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Substitution of Attorney</i>
03/14/2016	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
03/14/2016	Case Reassigned to Department 15 <i>Reassigned From Judge Susan Scann - Dept 29</i>
03/28/2016	 Motion Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Motion for Order Shortening Time for Hearing on Joint Motion to Release Sale Proceeds from Court-Controlled Escrow Account</i>
03/28/2016	 Motion Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Joint Motion to Release Sale Proceeds from Court Controlled Escrow Account on Order Shortening Time</i>
04/05/2016	 Notice of Appearance Party: Plaintiff Apco Construction <i>Notice of Appearance</i>
04/14/2016	 Notice of Entry of Order Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Notice of Entry of Order Releasing Sale Proceeds from Court-Controlled Escrow Account</i>
04/14/2016	 <b>Motion to Release Funds</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Club Vista Financial Services, LLC. and Tharaldson Motels II, Inc.'s Motion for Order Shortening Time for Hearing on Joint Motion to Release Sale Proceeds from Court-Controlled Escrow Account</i> Matter Resolved;

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*Matter Resolved*

04/14/2016	 Order Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Order Releasing Sale Proceeds from Court-Controlled Escrow Account</i>
05/06/2016	 Order <i>Order RE: Status Check</i>
05/09/2016	 Motion Filed By: Plaintiff Apco Construction <i>Motion to Appoint Special Master</i>
05/18/2016	 Opposition to Motion Filed By: Third Party Plaintiff Insulpro Projects Inc <i>Insulpro Project's Limited Opposition to Apco Construction's Motion to Appoint Special Master</i>
05/18/2016	 Motion for Summary Judgment Filed By: Third Party Plaintiff Insulpro Projects Inc <i>Renewed Motion for Partial Summary Judgment</i>
05/18/2016	 Application Filed By: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Application for Order Shortening Time Re: Motion to Withdraw</i>
05/18/2016	 Motion to Withdraw As Counsel Filed By: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Motion to Withdraw</i>
05/20/2016	 Order Shortening Time Filed By: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Order Granting Movant's Application for Order Shortening Time on its Motion to Withdraw</i>
05/23/2016	 Notice of Entry of Order Filed By: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Notice of Entry of Order Granting Movant's Application for Order Shortening Time on its Motion to Withdraw</i>
05/24/2016	 Certificate of Service Filed by: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Certificate of Service - Notice of Entry of Order Granting Movant's Application for Order Shortening Time on its Motion to Withdraw</i>
05/25/2016	 Opposition to Motion Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Peel Brimley Lien Claimants' Limited Opposition to APCO's Motion to Appoint Special Master</i>
05/31/2016	 Joinder Filed By: Intervenor Steel Structures Inc <i>Joinder to Peel Brimley Lien Claimants' Limited Opposition to APCO's Motion to Appoint Special Master</i>














DISTRICT COURT  
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05/31/2016	 Opposition to Motion Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Joinder to Peel Brimley Lien Claimants' Limited Opposition to APCO's Motion to Appoint Special Master</i>
05/31/2016	 Reply in Support Filed By: Plaintiff Apco Construction <i>APCO Construction's Reply in Support of Motion to Appoint Special Master</i>
05/31/2016	 Joinder to Motion For Partial Summary Judgment Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Joinder to Insulpro Projects, Inc.'s Renewed Motion for Partial Summary Judgment</i>
06/01/2016	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Fee Disclosure for Zitting Brothers Construction, Inc.'s Joinder to Insulpro Projects, Inc.'s Renewed Motion for Partial Summary Judgment</i>
06/02/2016	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order Granting Movant's Motion to Withdraw</i>
06/02/2016	 Opposition to Motion For Summary Judgment Filed By: Defendant Scott Financial Corporation <i>Scott Financial Corporation's Limited Opposition to Lien Claimant Insulpro's Projects, Inc.'s Renewed Motion for Partial Summary Judgment</i>
06/02/2016	<b>Status Check (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
06/02/2016	<b>Motion to Withdraw as Counsel (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) <i>Smith &amp; Shapiro, PLLC's Motion to Withdraw</i> Granted; <i>Granted</i>
06/02/2016	 <b>All Pending Motions (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
06/02/2016	 Order to Withdraw as Attorney of Record Filed by: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Order Granting Movant's Motion to Withdraw</i>
06/06/2016	 Opposition and Countermotion Filed By: Plaintiff Apco Construction <i>APCO's Opposition to Renewed Motion for Partial Summary Judgment and Joinder thereto; and Countermotion to Dismiss and/or for Summary Judgment Against Insulpro</i>
06/06/2016	 Opposition Filed By: Counter Claimant Camco Pacific Construction Co Inc <i>Camco's Opposition to Insulpro's Renewed Motion for Partial Summary Judgment</i>
06/07/2016	 Initial Appearance Fee Disclosure

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	Filed By: Plaintiff Apco Construction <i>Initial Appearance Fee Disclosure</i>
06/09/2016	 <b>Motion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Appoint Special Master</i> Motion Granted; <i>Motion Granted</i>
06/09/2016	 Order Appointing Special Master Filed By: Plaintiff Apco Construction <i>Order: Appointing Special Master</i>
06/13/2016	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order</i>
06/15/2016	 Reply in Support Filed By: Intervenor Insulpro Projects Inc <i>Reply in Support of Renewed Motion for Partial Summary Judgment Re: Apco Opposition</i>
06/15/2016	 Reply in Support Filed By: Intervenor Insulpro Projects Inc <i>Reply in Support of Renewed Motion for Partial Summary Judgment re: Camco Opposition</i>
06/20/2016	<b>Motion for Partial Summary Judgment</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Renewed Motion for Partial Summary Judgment</i> Referred; <i>Referred</i>
06/20/2016	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Zitting Brothers Construction, Inc.'s Joinder to Insulpro Projects, Inc.'s Renewed Motion for Partial Summary Judgment</i> Referred; <i>Referred</i>
06/20/2016	<b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>APCO's Opposition to Renewed Motion for Partial Summary Judgment and Joinder Thereto; and Countermotion to Dismiss and/or for Summary Judgment Against Insulpro</i> Referred; <i>Referred</i>
06/20/2016	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
06/22/2016	 Notice of Special Master Hearing Filed By: Special Master Hale, Floyd, ESQ <i>Notice of Special Master Hearing</i>
06/28/2016	 Notice of Special Master Hearing Filed By: Special Master Hale, Floyd, ESQ <i>Notice of Rescheduled Special Master Hearing</i>
07/01/2016	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order</i>

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07/01/2016	 Order Denying Motion Filed By: Plaintiff Apco Construction
07/11/2016	 Recorders Transcript of Hearing <i>Recorder's Trancript of Proceedings Bench Trial: APCO Construction and Ready Mix, Inc., October 30, 2012</i>
08/02/2016	 Notice of Special Master Hearing Filed By: Special Master Hale, Floyd, ESQ <i>Notice of Special Master Hearing</i>
08/08/2016	 Special Master Recommendation and District Court Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Report, Recommendation, and District Court Order</i>
08/23/2016	 Notice of Appearance Party: Counter Defendant Uintah Investments LLC <i>Notice of Appearance of Counsel for Plaintiff Uintah Investments, LLC dba Sierra Reinforcing</i>
08/31/2016	 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Counter Claimant Camco Pacific Construction Co Inc <i>Camco's 16.1 Disclosure</i>
09/01/2016	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Order Requiring Completion of Questionnaire</i>
09/22/2016	 Notice of Compliance Party: Intervenor E & E Fire Protectiong LLC <i>E&amp;E Fire Protection, LLC's Notice of Compliance</i>
09/23/2016	 Response Filed by: Intervenor National Wood Products, Inc.'s <i>National Wood Products Incs Response to Special Master Questionnaire</i>
09/26/2016	 Response Filed by: Other United Subcontractors Inc <i>United Subcontractors, Inc. DBA Skyline Insulation's Special Master Questionnaire Response</i>
09/27/2016	 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. DBA Skyline Insulation's Consolidated Disclosure Pursuant to NRCP 16.1 and Special Master Order</i>
09/30/2016	 Request Filed by: Intervenor National Wood Products, Inc.'s <i>Request for Leave to Special Master for Approval of Late Filing and Service of Rule 16.1 Disclosures by National Wood Products, Inc., Judgment Creditor and Intervenor of Claimant Cabinetec, Inc.</i>
10/03/2016	 Special Master Order





DISTRICT COURT  
**CASE SUMMARY**  
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Filed by: Special Master Hale, Floyd, ESQ  
*Special Master Order authorizing NATIONAL WOOD PRODUCTS, INC., Intervenor of Cabinetec, Inc. to File and Serve its NRCP 16.1 Disclosures within Ten Days*

10/07/2016	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Order Authorizing United Subcontractors, Inc. dba Skyline Insulation to File and Serve NRCP 16.1 Disclosures</i>
10/07/2016	 Special Master Recommendation and District Court Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Report Regarding Remaining Parties to the Litigation, Special Master Recommendation and District Court Order Amending Case Agenda</i>
10/12/2016	 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. DBA Skyline Insulation's Re-filed, Supplemented and Consolidated Disclosure Pursuant to NRCP 16.1 and Special Master Order</i>
01/06/2017	 Substitution of Attorney Filed by: Intervenor Plaintiff Interstate Plumbing & Air Conditioning Inc <i>Substitution of Attorney</i>
01/09/2017	 Proof of Service Filed by: Plaintiff Apco Construction <i>Proof of Service</i>
01/13/2017	 Motion for Order to Show Cause Filed By: Intervenor Defendant Club Vista Financial Services LLC <i>Motion for Order to Show Cause Why Grubb &amp; Ellis, Now Known As Newmark Grubb, Should Not be Held in Contempt of Court</i>
01/24/2017	 Certificate of Service Filed by: Other United Subcontractors Inc <i>Certificate of Service (United Subcontractors, Inc. dba Skyline Insulation's Responses to APCO Construction's First Request for Production of Documents)</i>
01/30/2017	 Certificate of Service Filed by: Other United Subcontractors Inc <i>Certificate of Service (United Subcontractors, Inc. dba Skyline Insulation's Responses to APCO Construction's First Set of Interrogatories)</i>
01/30/2017	 Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial And Calendar Call</i>
02/02/2017	 Motion to Associate Counsel <i>Motion to Associate Counsel</i>
02/03/2017	 Proof of Service by Mail Filed by: Other Chaper 7 Trustee <i>Certificate of Service</i>
02/14/2017	 Stipulation and Order Filed by: Counter Claimant Club Vista Financial Sevices LLC <i>Stipulation and Order for Amended Briefing Schedule and to Continue Hearing on Motion</i>

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*for Order to Show Cause*


02/15/2017	 Motion to Withdraw As Counsel Filed By: Intervenor Defendant Gemstone Development West Inc <i>Motion to Withdraw</i>
02/16/2017	 Notice of Special Master Hearing Filed By: Special Master Hale, Floyd, ESQ <i>Notice of Special Master Hearing</i>
02/16/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order for Amended Briefing Schedule and to Continue Hearing on Motion for Order to Show Cause</i>
02/21/2017	 Certificate of Service Filed by: Plaintiff Apco Construction <i>Certificate of Service</i>
02/23/2017	 Opposition Filed By: Consolidated Case Party Newmark Grubb Knight Frank <i>Opposition to Motion for Order to Show Cause</i>
02/27/2017	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Report Regarding Remaining Parties to the Litigation and Discovery Status</i>
02/28/2017	 Notice of Motion Filed By: Consolidated Case Party Cisneros, Selina <i>Notice of Motion for Hearing</i>
02/28/2017	 Motion Filed By: Consolidated Case Party Cisneros, Selina <i>Plaintiff Motion to Set Aside Judgment</i>
03/01/2017	 Reply in Support Filed By: Counter Claimant Tharaldson Motels II Inc <i>Reply in Support of Motion for Order to Show Cause why Grubb &amp; Ellis, now known as Newmark Grubb, Should not be Held in Contempt of Court</i>
03/06/2017	<b>Motion for Order</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Club Vista Financial Services, LLC and Tharaldson Motels II, Inc.'s Motion for Order to Show Cause Why Grubb &amp; Ellis, Now Known As Newmark Grubb, Should Not be Held in Contempt of Court</i>  <b>MINUTES</b> Denied; <i>Denied</i>
03/06/2017	<b>Motion to Associate Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Associate Counsel - Jonathan S. Dabbieri, Esq.</i>  <b>MINUTES</b> <b>CANCELED Status Check</b> (04/03/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i> <i>Status Check Re: SCR 42 Compliance (Jonathan S. Dabbieri, Esq.)</i>

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Granted;  
*Granted*


**SCHEDULED HEARINGS**


**CANCELED Status Check** (04/03/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)  
*Vacated*  
*Status Check Re: SCR 42 Compliance (Jonathan S. Dabbieri, Esq.)*


03/06/2017  **All Pending Motions** (9:00 AM) (Judicial Officer: Denton, Mark R.)  
Matter Heard;  
*Matter Heard*


03/15/2017  Decision and Order  
*Decision and Order*


03/15/2017  **Decision** (11:45 AM) (Judicial Officer: Denton, Mark R.)  
Decision Made;  
*Decision Made*


03/17/2017  Motion for Summary Judgment  
Filed By: Plaintiff Apco Construction  
*Plaintiff APCO Construction's Motion for Summary Judgment Against Uintah Investments LLC dba Sierra Reinforcing*


03/20/2017  **Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer: Denton, Mark R.)  
*Monica J. Caffaratti, Esq.'s Motion to Withdraw*  
Granted;  
*Granted*


03/29/2017  Order Admitting to Practice  
Filed By: Other Chapter 7 Trustee  
*Order admitting to Practice*

03/29/2017  Request  
Filed by: Intervenor Defendant Gemstone Development West Inc  
*Request to Submit proposed Order*

03/29/2017  Notice of Entry  
Filed By: Consolidated Case Party Newmark Grubb Knight Frank  
*Notice of Entry of Decision and Order*

03/30/2017  Notice of Entry of Order  
Filed By: Other Chapter 7 Trustee  
*Notice of Entry of Order Approving Motion to Associate Counsel*

04/03/2017  Opposition to Motion For Summary Judgment  
Filed By: Counter Defendant Uintah Investments LLC  
*Uintah Investments LLC dba Sierra Reinforcing's Opposition to APCO Construction's Motion for Summary Judgment*




04/03/2017  **Motion** (9:00 AM) (Judicial Officer: Denton, Mark R.)  
*Notice of Motion for Hearing on Motion to Set Aside*

**MINUTES**











Denied;  
*Denied*














DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

04/03/2017	<b>CANCELED Status Check</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i> <i>Status Check Re: SCR 42 Compliance (Jonathan S. Dabbieri, Esq.)</i>
04/07/2017	 <b>Reply in Support</b> Filed By: Plaintiff Apco Construction <i>Plaintiff APCO Construction's Reply In Support of its Motion for Summary Judgment Against Uintah Investments LLC dba Sierra Reinforcing</i>
04/14/2017	 <b>Stipulation and Order</b> Filed by: Intervenor Steel Structures Inc <i>Stipulation and Order to Continue Hearing on APCO Construction's Motion for Summary Judgment Against Uintah Investments, LLC dba Sierra Reinforcing</i>
04/17/2017	 <b>Notice of Entry of Order</b> Filed By: Intervenor Steel Structures Inc <i>Notice of Entry of Stipulation and Order to Continue Hearing on APCO Construction's Motion for Summary Judgment Against Uintah Investments, LLC dba Sierra Roofing</i>
04/18/2017	 <b>Minute Order</b> (2:00 PM) (Judicial Officer: Denton, Mark R.) Decision Made; <i>Decision Made</i>
04/20/2017	 <b>Notice of Bankruptcy</b> Filed By: Intervenor Defendant Accuracy Glas & Mirror Company Inc <i>Notice of Bankruptcy of Accuracy Glass &amp; Mirror Co.</i>
04/27/2017	 <b>Notice of Deposition</b> Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. d/b/a Skyline Insulation's Notice of 30(b)(6) Deposition of APCO Construction</i>
04/27/2017	 <b>Notice of Deposition</b> Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. d/b/a Skyline Insulation's Notice of 30(b)(6) Deposition of CAMCO Pacific Construction Co. Inc.</i>
04/27/2017	 <b>Motion to Associate Counsel</b> Filed By: Intervenor National Wood Products, Inc.'s <i>Motion to Associate Counsel</i>
04/28/2017	 <b>Motion for Withdrawal</b> Filed By: Adverse Party Accuracy Glass & Mirror Co. <i>Motion to Withdraw as Counsel for Accuracy Glass &amp; Mirror Co. and for Order Shortening Time</i>
05/01/2017	 <b>Notice of Deposition</b> Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. d/b/a Skyline Insulation's Amended Notice of 30(b)(6) Deposition of APCO Construction</i>
05/08/2017	 <b>Special Master Order</b> Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Order</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**











05/08/2017	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Report Regarding Discovery Status</i>
05/11/2017	 <b>Motion to Withdraw as Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Eric B. Zimbelman, Esq.'s Motion to Withdraw as Counsel for Accuracy Glass &amp; Mirror Co and for order Shortening Time</i> Granted; <i>Granted</i>
05/11/2017	 Order to Withdraw as Attorney of Record Filed by: Adverse Party Accuracy Glass & Mirror Co. <i>Order Granting Motion to Withdraw as Counsel for Accuracy Glass &amp; Mirror Co. and for Order Shortening Time</i>
05/12/2017	 Notice of Entry of Order Filed By: Adverse Party Accuracy Glass & Mirror Co. <i>Notice of Entry of Order</i>
05/15/2017	<b>Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff APCO Construction's Motion for Summary Judgment Against Uintah Investments LLC dba Sierra Reinforcing</i> Granted; <i>Granted</i>
05/25/2017	 Order Filed By: Plaintiff Apco Construction <i>Order</i>
05/25/2017	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order</i>
05/25/2017	<b>Summary Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Uintah Investments LLC (Counter Defendant) Creditors: APCO Construction (Counter Claimant) Judgment: 05/25/2017, Docketed: 06/01/2017
05/30/2017	 <b>Motion to Associate Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Intervenor, National Wood Products INC's Motion to Associate Counsel</i>  <b>MINUTES</b>  <b>Status Check</b> (07/31/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Status Check Re: SCR 42 Complaine (S. Judy Hirahara, Esq.)</i> <i>Matter Heard</i> Granted; <i>Granted</i>  <b>SCHEDULED HEARINGS</b>  <b>Status Check</b> (07/31/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Status Check Re: SCR 42 Complaine (S. Judy Hirahara, Esq.)</i> <i>Matter Heard</i>
06/09/2017	 Substitution of Attorney Filed by: Plaintiff Apco Construction <i>Substitution of Attorneys</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

06/14/2017	 Order Denying <i>Order Denying Defendant's Motion to Set Aside Judgment</i>
06/16/2017	 Order Admitting to Practice Filed By: Intervenor National Wood Products, Inc.'s <i>Order Admitting to Practice</i>
06/19/2017	 Stipulation and Order for Dismissal With Prejudice Filed By: Plaintiff Apco Construction <i>Stipulation and Order for Dismissal With Prejudice of Insulpro Projects, Inc.</i>
06/19/2017	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Denton, Mark R.) Debtors: Insulpro Projects Inc (Counter Defendant) Creditors: APCO Construction (Counter Claimant) Judgment: 06/19/2017, Docketed: 06/20/2017
06/20/2017	 Notice of Entry of Stipulation & Order for Dismissal Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order</i>
06/21/2017	 Order Denying Motion Filed By: Counter Defendant APCO Construction <i>Order Denying Defendant's Motion to set aside Judgment</i>
06/26/2017	 Notice of Entry of Order Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of ORder</i>
06/26/2017	 Motion To Dismiss - Alternative Motion For Summary Judgment Filed By: Plaintiff Apco Construction <i>APCO Construction's Motion to Dismiss or for Summary Judgment on Lien Claimants' NRS Ch 108 Claim for Foreclosure of Mechanic's Lien</i>
06/26/2017	 Motion Filed By: Intervenor Nevada Prefab Engineers Inc; Intervenor Steel Structures Inc; Counter Defendant Uintah Investments LLC <i>Motion to Substitute</i>
06/28/2017	 Order to Withdraw as Attorney of Record <i>Order Granting Monica Caffaratti's Motion to Withdraw at Attorney</i>
07/05/2017	 Stipulation and Order for Dismissal With Prejudice Filed By: Intervenor Insulpro Projects Inc <i>Stippulation and Order for Dismissal With Prejudice of Insulpro Projects, Inc.</i>
07/05/2017	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Third Party Defendant) Creditors: Insulpro Projects Inc (Third Party Plaintiff) Judgment: 07/05/2017, Docketed: 07/12/2017
07/14/2017	 Motion to Continue Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Joint Motion to Continue Hearing on APCO Construction's Motion to Dismiss or for Summary Judgment on Lien Claimant's NRS CH 108 Claim for Foreclosure of Mechanics</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**









*Lien on Order Shortening Time (First Request)*

07/24/2017	 <b>Motion to Continue</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Joint Motion to Continue Hearing on APCO Cosntructions Motion to Dismiss or for Summary Judgment on Lien Claimants NRS Ch 108 Claim for Foreclosure of Mechanics's Lien on Order Shortening Time</i> Granted; <i>Granted</i>
07/25/2017	 <b>Minute Order</b> (5:35 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
07/26/2017	 <b>Opposition to Motion For Summary Judgment</b> <i>Peel Brimley Lien Claimants' Opposition to APCO's Motion for Summary Judgment Re: Lien Claims</i>
07/26/2017	 <b>Joinder to Opposition to Motion</b> <i>1. Joinder of Interstate Plumbing &amp; Air Conditioning, LLC to Opposition of Helix Electrical of Nevada, LLC to APCO Construction s Motion to Dismiss or for Summary Judgment on Lien Claimants NRS CH 108 Claim for Foreclosure of Mechanic s Lien</i>
07/26/2017	 <b>Opposition</b> Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Opposition to APCO Construction's Motion to Dismiss or For Summary Judgment on Lien Claimant's NRS CH 108 Claim For Foreclosure of Mechanic's Lien</i>
07/27/2017	<b>CANCELED Motion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Judge</i> <i>Gerdau Reinforcing Steel's Motion to Substitute</i>
07/31/2017	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Status Check Re: SCR 42 Complaince (S. Judy Hirahara, Esq.)</i> Matter Heard; Notice of Compliance filed 8/7/17 <i>Matter Heard</i>
07/31/2017	 <b>Motion for Partial Summary Judgment</b> Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc. s Motion For Partial Summary Judgment Against APCO Construction</i>
08/01/2017	 <b>Order Granting Motion</b> Filed By: Counter Defendant Uintah Investments LLC <i>Order Granting Gerdau Reinforcing Steel's Motion to Substitute</i>
08/01/2017	 <b>Reply in Support</b> Filed By: Plaintiff Apco Construction <i>Apco Construction's Reply in Support of Motion to Dismiss or for Summary Judgment on Lien Claimants' NRS Ch. 108 Claim for Foreclosure of Mechanic's Lien</i>
08/01/2017	 <b>Notice of Entry</b> Filed By: Counter Defendant Gerdau Reinforcing Steel <i>Notice of Entry of Order Granting Gerdau Reinforcing Steel's Motion to Substitute</i>

DISTRICT COURT  
**CASE SUMMARY**  
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





08/02/2017	 Motion for Partial Summary Judgment <i>Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-if-Paid Agreements and Ex-Parte Application for Order Shortening Time</i>
08/03/2017	 Joinder to Motion For Partial Summary Judgment Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
08/03/2017	 Joinder Filed By: Intervenor Nevada Prefab Engineers Inc; Intervenor Steel Structures Inc; Counter Defendant Gerdau Reinforcing Steel <i>Joinder to Peel Brimley Lien Claimants' Opposition to Apco's Motion for Summary Judgment Re: Lien Claims</i>
08/03/2017	 Joinder Filed By: Intervenor Nevada Prefab Engineers Inc; Intervenor Steel Structures Inc; Counter Defendant Gerdau Reinforcing Steel <i>Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If_Paid Agreements and Ex Parte Application for Order Shortening Time</i>
08/04/2017	 Initial Appearance Fee Disclosure Filed By: Intervenor Nevada Prefab Engineers Inc; Intervenor Steel Structures Inc; Counter Defendant Gerdau Reinforcing Steel <i>Initial Appearance Fee Disclosure</i>
08/04/2017	 Joinder to Motion For Partial Summary Judgment Filed By: Other Chapter 7 Trustee <i>Joinder of Interstate Plumbing &amp; Air Conditioning, LLC to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
08/07/2017	 Notice Filed By: Intervenor National Wood Products, Inc.'s <i>Pro Hac Vice Applicant S. Judy Hirahara's Notice of Compliance with SCR 42</i>
08/07/2017	 Notice of Entry of Order <i>Notice of Entry of Order</i>
08/07/2017	 Joinder to Motion For Partial Summary Judgment Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.' Joinder to Peel Brimley Lien Claimants' Opposition to APCO's Motion for Summary Judgment</i>
08/07/2017	 Motion to Associate Counsel Filed By: Intervenor National Wood Products, Inc.'s <i>Motion to Associate Counsel</i>
08/07/2017	 Joinder Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements and Ex Parte Application Shortening Time; and Memorandum of Points and Authorities in Support Thereof</i>

DISTRICT COURT  
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08/08/2017	 Joinder Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>E &amp; E Fire Protection, LLC's Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-if-Paid Agreements</i>
08/09/2017	 Initial Appearance Fee Disclosure Filed By: Intervenor National Wood Products, Inc.'s <i>Initial Appearance Fee Disclosure</i>
08/09/2017	 Initial Appearance Fee Disclosure Filed By: Intervenor National Wood Products, Inc.'s <i>Initial Appearance Fee Disclosure to Join Motion for Partial Summary Judgment</i>
08/10/2017	 <b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>APCO Construction's Motion to Dismiss or for Summary Judgment on Lien Claimants' NRS Ch 108 Claim for Foreclosure of Mechanic's Lien</i> Denied Without Prejudice; <i>Denied Without Prejudice</i>
08/10/2017	 Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
08/11/2017	 Pre-Trial Disclosure <i>Pre-Trial Disclosures of Interstate Plumbing &amp; Air Conditioning, LLC Pursuant to Rule 16(a)(3) of the Nevada Rules of Civil Procedure</i>
08/11/2017	 Pre-Trial Disclosure Party: Other Chapter 7 Trustee <i>Amended Pre-Trial Disclosures of Interstate Plumbing &amp; Air Conditioning, LLC Pursuant to Rule 16(a)(3) of the Nevada Rules of Civil Procedure</i>
08/11/2017	 Joinder to Motion For Partial Summary Judgment Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. dba Skyline Insulation's Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
08/11/2017	 Joinder to Motion For Partial Summary Judgment Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. dba Skyline Insulation's Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
08/11/2017	 Pre-Trial Disclosure Party: Intervenor National Wood Products, Inc.'s <i>Plaintiff in Intervention National Wood Products, Inc.'s Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)</i>
08/17/2017	 Opposition Filed By: Other Defendant Fidelity & Deposit Company Of Maryland; Third Party Defendant Camco Pacific Construction Co Inc <i>Camco's Opposition to Lien Claimants' Motion for Partial Summary Judgment</i>
08/21/2017	 Notice

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

*Notice of Scheduling Settlement Conference*

08/21/2017	 Opposition Filed By: Plaintiff Apco Construction <i>APCO Construction's Opposition to Peel Brimley Lien Claimants' Partial Motion for Summary Judgment Precluding Defenses Based on Pay if Paid Agreements</i>
08/21/2017	 Opposition to Motion Filed By: Plaintiff Apco Construction <i>APCO Construction's Opposition to Zitting Brothers Construction Inc.'s Partial Motion for Summary Judgment</i>
08/22/2017	 Ex Parte Application Party: Intervenor National Wood Products, Inc.'s <i>Ex Parte Application for Order Shortening Time on Motion to Associate Counsel</i>
08/30/2017	 Order Denying Motion <i>Order Denying APCO Construction's Motion for Partial Summary Judgment re: Lien Foreclosure Claims</i>
08/30/2017	 Notice of Entry of Order <i>Notice of Entry of Order</i>
08/31/2017	 Order Shortening Time Filed By: Intervenor National Wood Products, Inc.'s <i>Order Shortening Time on Hearing for Motion to Associate Counsel</i>
08/31/2017	 Stipulation and Order Filed by: Counter Defendant Zitting Brothers Construction Inc <i>Stipulation and Order to Continue September 5, 2017 Hearing on Motions for Partial Summary Judgment</i>
09/01/2017	 Notice of Entry of Stipulation and Order Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Notice of Entry of Stipulation and Order to Continue September 5, 2017 Hearing on Motions for Partial Summary Judgment</i>
09/05/2017	 <b>Motion to Associate Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Intervening Plaintiff, National Wood Products, Inc.'s Order Shortening Time on Hearing for Motion to Associate Counsel (John B. Taylor)</i> <b>MINUTES</b> <i>CANCELED Status Check (10/05/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)</i> <i>Vacated</i> <i>Status Check Re: SCR 42 Compliance (John B. Taylor, Esq.)</i> Granted; Granted <b>SCHEDULED HEARINGS</b> <i>CANCELED Status Check (10/05/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)</i> <i>Vacated</i> <i>Status Check Re: SCR 42 Compliance (John B. Taylor, Esq.)</i>
09/05/2017	 <b>Calendar Call</b> (2:00 PM) (Judicial Officer: Denton, Mark R.) <b>MINUTES</b> <b>Status Check</b> (10/05/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)

DISTRICT COURT  
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**CASE NO. 08A571228**

*Status Check Re: Resetting Trial*  
*Matter Heard*

 **Hearing** (09/11/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)


*Oral Motion to Dismiss*  
*Granted*

Vacate;  
*Vacate*









**SCHEDULED HEARINGS**

**Status Check** (10/05/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)

*Status Check Re: Resetting Trial*  
*Matter Heard*









 **Hearing** (09/11/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)

*Oral Motion to Dismiss*  
*Granted*

09/06/2017	 Notice of Entry of Order Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of Order</i>
09/06/2017	 Order Admitting to Practice Filed By: Intervenor National Wood Products, Inc.'s <i>Order Admitting to Practice</i>
09/06/2017	 Notice of Entry of Order Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of Order Shortening Time on Hearing for Motion to Associate Counsel</i>
09/06/2017	 Notice of Entry of Order Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of Order Admitting to Practice</i>
09/07/2017	 Pre-trial Memorandum Filed by: Other United Subcontractors Inc <i>United Subcontractors, Inc. d/b/a Skyline Insulation's Pre-Trial Statement/Memorandum</i>
09/11/2017	<b>CANCELED Motion to Associate Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - Duplicate Entry</i> <i>National Wood Products Inc Motion to Associate Counsel</i>
09/11/2017	 <b>Hearing</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Oral Motion to Dismiss</i> <i>Granted;</i> <i>Granted</i>
09/12/2017	<b>CANCELED Bench Trial</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Judge</i>
09/20/2017	 Order Granting Motion Filed By: Plaintiff Apco Construction <i>Order Granting Plaintiff's Motion to Dismiss</i>
09/20/2017	 Notice of Compliance Party: Intervenor National Wood Products, Inc.'s <i>Pro Hac Vice Applicant John B. Taylor's Notice of Compliance with SCR 42</i>



DISTRICT COURT  
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09/20/2017	 Stipulation and Order for Dismissal <i>Stipulation and Order of Dismissal of All Claims Relating to Cardno WRG, Inc.</i>
09/21/2017	 <b>Settlement Conference (9:00 AM)</b> Not Settled; <i>Not Settled</i>
09/21/2017	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order</i>
09/21/2017	 Notice of Entry of Stipulation & Order for Dismissal <i>Notice of Entry of Stipulation and Order for Dismissal</i>
09/28/2017	 Reply to Opposition <i>Peel Brimley Lien Claimants' Reply to Oppositions to Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
09/29/2017	 Notice of Association of Counsel Filed By: Plaintiff Apco Construction <i>Notice of Association of Counsel</i>
09/29/2017	 Notice of Appearance Party: Plaintiff Apco Construction <i>Notice of Appearance and Request for Notice</i>
09/29/2017	 Reply in Support Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Reply In Support of Motion for Partial Summary Judgment Against APCO Construction</i>
10/05/2017	<b>Motion for Partial Summary Judgment (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>Zitting Brothers Construction Inc's Motion for Partial Summary Judgement Against APCO Construction</i>  <b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Motion for Summary Judgment (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements and Ex Parte Application for Order Shortening time</i>  <b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Joinder (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>Zitting Brothers Construction, Inc.'s Joinder to Peel Brimley Lien Claimants' Motion for</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

	<i>Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
	<b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>Steel Structures, Inc., Nevada Prefab Engineering, and Gerdau Reinforcing Steel's Joinder to Peel Brimley Lien Claimants' Opposition to Apco's Motion for Summary Judgment Re: Lien Claims</i>
	<b>MINUTES</b> Continued; Under Advisement; Continued; Under Advisement; <i>Continued</i>
10/05/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>William A. Leonard, Jr.'s Joinder of Interstate Plumbing and Air Conditioning LLC to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
	<b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>National Wood Products Inc's Joinder to Peel Brimley Lien Claimants Motion for Partial Summary Judgment Precluding Defenses Based on Pay If Paid Agreements and Ex Parte Application Shortening Time; and Memorandum of Point and Authorities in Support Thereof</i>
	<b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b> <i>E &amp; E Fire Protection, LLC's Joinder to Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-if-Paid Agreements</i>
	<b>MINUTES</b> Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>10/05/2017, 11/16/2017</b>

DISTRICT COURT  
**CASE SUMMARY**  
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*United Subcontractors, Inc. dba Skyline Insulation's Joinder to Peel Brimley Lien  
Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-  
Paid Agreements*

**MINUTES**

Continued;  
Granted;  
Continued;  
Granted;  
*Continued*

10/05/2017 **Joinder** (9:00 AM) (Judicial Officer: Denton, Mark R.)

**10/05/2017, 11/16/2017**

*United Subcontractors, Inc. dba Skyline Insulation's Joinder to Peel Brimley Lien  
Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-  
Paid Agreements*

**MINUTES**


Continued;  
Granted;  
Continued;  
Granted;  
*Continued*

10/05/2017 **Status Check** (9:00 AM) (Judicial Officer: Denton, Mark R.)

*Status Check Re: Resetting Trial*  
Matter Heard;  
*Matter Heard*

10/05/2017 **CANCELED Status Check** (9:00 AM) (Judicial Officer: Denton, Mark R.)


*Vacated*  
*Status Check Re: SCR 42 Compliance (John B. Taylor, Esq.)*

10/05/2017  **All Pending Motions** (9:00 AM) (Judicial Officer: Denton, Mark R.)


Matter Heard;  
*Matter Heard*

10/13/2017  Order Setting Civil Non-Jury Trial and Calendar Call

*Order Setting Civil Non- Jury Trial and Calendar Call*

10/26/2017  Motion to Withdraw As Counsel

Filed By: Counter Defendant Buchele Inc  
*Motion to Withdraw as Counsel for Buchele, Inc. and for Order Shortening Time*

10/26/2017  Order

Filed By: Plaintiff Apco Construction  
*Order*

10/30/2017  Notice of Entry of Order

Filed By: Plaintiff Apco Construction  
*Notice of Entry of Order*

11/06/2017  Supplement to Opposition

Filed By: Plaintiff Apco Construction  
*Supplemental Briefing in Opposition to Zitting Brothers Construction, Inc.'s Motion for  
Partial Summary Judgment Against Apco Construction, Inc.*

11/06/2017  Motion in Limine












DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

Filed By: Counter Defendant Helix Electric of Nevada LLC  
*Helix Electric of Nevada's Motions in Limine Nos. 1-4 (Against APCO Construction)*

11/06/2017	 Motion in Limine Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Motion In Limine To Limit The Defenses of APCO Construction To The Enforceability of Pay-If-Paid Provision</i>
11/06/2017	 Omnibus Motion In Limine Filed by: Plaintiff Apco Construction <i>APCO Construction Inc.'s Omnibus Motion in Limine</i>
11/06/2017	 Notice of Hearing Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Hearing on Helix Electric of Nevada's Motions in Limine Nos. 1-4 (Against APCO Construction)</i>
11/06/2017	 Notice of Hearing Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc <i>Notice of Hearing on Peel Brimley Lien Claimants' Motions in Limine Nos. 1-6 (Against Camco Pacific Construction, Inc.)</i>
11/06/2017	 Motion in Limine Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc <i>Peel Brimley Lien Claimants' Motions in Limine Nos. 1-6 (Against Camco Pacific Construction, Inc.)</i>
11/06/2017	 Motion in Limine Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention, National Wood Products, Inc.'s Motion in Limine to Exclude Evidence Testimony, Documents and Things not Properly Produced by Defendant APCO Construction in Discovery; Declaration of S.Judy Hirahara; and Memorandum of Points and Authorities in Support Thereof</i>
11/07/2017	 Notice of Hearing Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Hearing on Plaintiff-In-Intervention, National Wood Products, Inc.'s Motion In Limine to Exclude Evidence, Testimony, Documents and Things Not Properly Produced by Defendant APCO Construction in Discovery; Declaration of S. Judy Hirahara; and Memorandum of Points and Authorities in Support Thereof</i>
11/13/2017	 Notice of Deposition Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention National Wood Products, Inc.'s Notice of Deposition of Deposition of Nicholas Cox, Cabinetec's Representative</i>
11/13/2017	 Notice of Deposition Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Deposition of Kurt Micek, National Wood Products, Inc.'s Person Most Knowledgeable</i>
11/14/2017	 Objection Filed By: Plaintiff Apco Construction

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**CASE SUMMARY**  
**CASE NO. 08A571228**

*Apco Construction's Objections to National Wood Products, Inc.'s November 13, 2017 Notices of Depositions*

11/14/2017	 Notice of Change of Address Filed By: Plaintiff Apco Construction <i>Notice of Change of Address</i>
11/14/2017	 Opposition to Motion in Limine Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Opposition to APCO Construction's Omnibus Motion In Limine Nos. 3, 6 and 7A</i>
11/14/2017	 Opposition Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Opposition to Helix Electric of Nevada, LLC's Motions in Limine Nos. 1-4 (Against Apco Construction)</i>
11/14/2017	 Opposition Filed By: Plaintiff Apco Construction <i>Apco Construction's Opposition to Zitting Brothers Construction, Inc.'s Motion in Limine to Limit the Defenses of Apco Construction to the Enforceability of a Pay-If-Paid Provision</i>
11/14/2017	 Opposition Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Opposition to Plaintiff-In-Intervention, National Wood Products, Inc.'s Motion in Limine to Exclude Evidence, Testimony, Documents and things not Properly Produced by Defendant Apco Construction in Discovery</i>
11/14/2017	 Opposition to Motion Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Opposition to APCO Construction's Omnibus Motion in Limine</i>
11/14/2017	 Joinder Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Counter Defendant Buchele Inc; Intervenor Plaintiff Cactus Rose Construction Inc; Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Peel Brimley Lien Claimants' Joinder to Oppositions to APCO Construction's Omnibus Motion in Limine</i>
11/14/2017	 Opposition to Motion in Limine Filed By: Counter Defendant Buchele Inc <i>Buchele, Inc.'s Opposition to APCO Construction's Omnibus Motion in Limine</i>
11/14/2017	 Opposition to Motion in Limine Filed By: Doing Business As Helix Electric <i>Helix Electric of Nevada's Opposition to APCO Construction's Omnibus Motion in Limine</i>
11/14/2017	 Joinder Filed By: Counter Claimant Camco Pacific Construction Co Inc <i>Camco's Joinder to Apco's Objections t National Wood Products, Inc.'s Notices of Deposition</i>
11/14/2017	 Opposition to Motion in Limine

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

Filed By: Counter Claimant Camco Pacific Construction Co Inc  
*Camco's Opposition to Lien CLaimants' Motions in Limine Nos. 1-6*

11/15/2017



Reply in Support

Filed By: Plaintiff Apco Construction  
*Apco Construction, Inc.'s Reply in Support of its Omnibus Motion in Limine*

11/15/2017



Joinder

Filed By: Counter Defendant Zitting Brothers Construction Inc  
*Zitting Brothers Construction, Inc.'s Joinder To Other Lien Claimants' Opposition To APCO Construction's Omnibus Motion in Limine*

11/15/2017



Joinder

Filed By: Counter Defendant Zitting Brothers Construction Inc  
*Zitting Brothers Construction, Inc.'s Joinder To Other Lien Claimants' Motions In Limine Against APCO Construction*

11/16/2017

**Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer: Denton, Mark R.)

Events: 10/26/2017 Motion to Withdraw As Counsel  
*Eric B. Zimbelman, Esq.'s Motion to Withdraw as Counsel for Buchele, Inc. and for Order Shortening Time*  
Granted;  
*Granted*

11/16/2017

**Motion in Limine** (9:00 AM) (Judicial Officer: Denton, Mark R.)

Events: 11/06/2017 Motion in Limine  
*Zitting Brothers Construction, Inc.'s Motion in Limine to Limit the Defenses of Apco Construction to the Enforceability of Pay-If-Paid Provision*

**MINUTES**

Granted;  
*Granted*

11/16/2017

**Omnibus Motion in Limine** (9:00 AM) (Judicial Officer: Denton, Mark R.)

Events: 11/06/2017 Omnibus Motion In Limine  
*Apco Construction, Inc.'s Omnibus Motion in Limine*

**MINUTES**



Omnibus Motion In Limine  
Filed by: Plaintiff Apco Construction  
*APCO Construction Inc.'s Omnibus Motion in Limine*  
Granted in Part;  
*Granted in Part*

11/16/2017

**Motion in Limine** (9:00 AM) (Judicial Officer: Denton, Mark R.)

Events: 11/06/2017 Notice of Hearing  
*Helix Electric of Nevada's Motions in Limine Nos. 1-4 (Against APCO Construction)*

**MINUTES**

Granted in Part;  
*Granted in Part*

11/16/2017



**Motion in Limine** (9:00 AM) (Judicial Officer: Denton, Mark R.)

Events: 11/06/2017 Notice of Hearing  
*Peel Brimley Lien Claimants' Motions in Limine Nos. 1-6 (Against Camco Pacific Construction, Inc.)*

**MINUTES**











Granted;  
*Granted*

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

11/16/2017	<p><b>Motion in Limine</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff In Intervention, Natonial Wood Products, Inc's Motion in Limine to Exclude Evidence Testimony, Documents and Things not Properly Produced by Defendant APCO Construction in Discovery; Declaration of S.Judy Hirahara; and Memorandum of Points and Authorities in Support Thereof</i></p> <p><b>MINUTES</b> no Notice of Motion provided by filer Granted; <i>Granted</i></p>
11/16/2017	<p><b>Motion in Limine</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) Events: 11/06/2017 Motion in Limine <i>Helix Electric of Nevada's Motion in Limine Nos. 1-4 Against APCO Construction</i></p>
11/16/2017	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i></p>
11/16/2017	<p> Supplement to Response and Opposition Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc. s Response To APCO Construction s Supplemental Opposition To Zitting Brothers Construction, Inc. s Motion For Partial Summary Judgment</i></p>
11/16/2017	<p> Reply in Support Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc s Reply In Support Of Motion In Limine To Limit The Defenses Of APCO Construction ( APCO ) To The Enforceability Of Pay-If-Paid Provision</i></p>
11/20/2017	<p> <b>Calendar Call</b> (2:00 PM) (Judicial Officer: Denton, Mark R.) Vacated and Reset; <i>Vacated and Reset</i></p>
11/27/2017	<p> Decision <i>Decision</i></p>
11/27/2017	<p> Decision <i>Decision</i></p>
11/28/2017	<p><b>CANCELED Bench Trial</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Judge</i></p>
11/29/2017	<p><b>CANCELED Motion to Compel</b> (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - On in Error</i> <i>Plaintiff's Second Motion to Compel Discovery</i></p>
11/30/2017	<p> Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial and Calendar Call</i></p>
12/05/2017	<p> <b>Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i></p>
12/05/2017	<p> <b>Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held;</p>












DISTRICT COURT  
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**CASE NO. 08A571228**

*Minute Order - No Hearing Held*

12/05/2017	 <b>Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	 <b>Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	 <b>Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	<b>CANCELED Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) <i>Vacated - Duplicate Entry</i>
12/06/2017	 <b>Motion</b> Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Motion to Request Buchele, Inc. Comply with EDCR 7.42 on Order Shortening Time</i>
12/07/2017	<b>CANCELED Minute Order</b> (5:03 PM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i>
12/18/2017	 <b>Certificate of Service</b> Filed by: Plaintiff Apco Construction <i>Certificate of Service</i>
12/21/2017	 <b>Motion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Apco Construction, Inc.'s Motion to Request Buchele, Inc. Comply with EDCR 7.42 on Order Shortening Time</i> Granted; <i>Granted</i>
12/28/2017	 <b>Order Granting Motion</b> Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc; Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Order Granting Peel Brimley Lien Claimants' Motions in Limine Nos. 1-6 (Against Camco Pacific Construction, Inc.)</i>
12/28/2017	 <b>Order</b> Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Order Granting in Part and Denying in Part Helix Electric of Nevada, LLC's Motions in Limine (Against APCO Construction)</i>
12/28/2017	 <b>Order</b> Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Order Granting in Part and Denying in Part APCO Constructions's Omnibus Motion in Limine</i>
12/29/2017	 <b>Notice of Entry of Order</b> Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Order</i>



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12/29/2017	 Notice of Entry of Order Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Order</i>
12/29/2017	 Notice of Entry of Order Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc; Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Notice of Entry of Order</i>
12/29/2017	 Findings of Fact, Conclusions of Law and Order Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Findings of Fact, Conclusion of Law, and Order Granting Zitting Brothers Construction, Inc.'s Motion for Partial Summary Judgment Against Apco</i>
12/29/2017	<b>Partial Summary Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: APCO Construction (Counter Claimant) Creditors: Zitting Brothers Construction Inc (Counter Defendant) Judgment: 12/29/2017, Docketed: 01/18/2018 Total Judgment: 750,807.16 Comment: Certain Cause
01/02/2018	 <b>Calendar Call</b> (2:00 PM) (Judicial Officer: Denton, Mark R.) Trial Date Set; <i>Trial Date Set</i>
01/02/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: All Pending Motions, October 5, 2017</i>
01/02/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re: All Pending Motions, November 16, 2017</i>
01/02/2018	 Order Granting Motion <i>Order Granting Peel Brimley Lien Claimants' Motion for Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
01/02/2018	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusion of Law, and ORder Granting Zitting Brothers Construction, Inc.'s Motion for Partial Summary Judgment Against Apco Construction</i>
01/03/2018	 Notice of Entry of Order Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc; Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Notice of Entry of Order</i>
01/04/2018	 Amended Order Filed By: Intervenor National Wood Products, Inc.'s <i>Amended Nunc Pro Tunc Order Regarding Apco Construction, Inc.'s Omnibus Motion in Limine - Motion in Limine No. 7</i>
01/04/2018	 Motion <i>Motion for Reconsideration of Court's Order Granting Peel Brimley Lien Claimants' Partial Motion for Summary Judgment to Preclude Defenses Based on Pay if Paid Provisions on an Order Shrotening Time</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**






01/04/2018	 Notice of Entry of Order Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of Order on Amended Nunc Pro Tunc Order Regarding Apco Construction, Inc's Omnibus Motion in Limine - Motion in Limine No. 7</i>
01/08/2018	 Joinder To Motion Filed By: Counter Claimant Camco Pacific Construction Co Inc; Other Defendant Fidelity & Deposit Company Of Maryland <i>Camco's Joinder in Apco's Motion for Reconsideration</i>
01/08/2018	 Notice of Attorney Lien Filed By: Counter Claimant Camco Pacific Construction Co Inc; Other Defendant Fidelity & Deposit Company Of Maryland <i>Notice of Attorney's Lien</i>
01/08/2018	 Motion Filed By: Plaintiff Apco Construction <i>Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment and Ex Parte Application for Order Shortening Time and to Exceed Page Limit</i>
01/09/2018	<b>CANCELED Non-Jury Trial (9:00 AM)</b> (Judicial Officer: Denton, Mark R.) <i>Vacated - per Judge</i>
01/09/2018	 Opposition to Motion Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff in Intervention, National Wood Products, Inc.s Opposition to APCO Construction's Motion for Reconsideration of the Court's Order Granting Peel Brimley Lien Claimants' Motion for Partial Summary Judgment to Preclude Defenses of Pay if Paid Provisions</i>
01/09/2018	 Opposition to Motion Filed By: Counter Defendant Fast Glass Inc; Counter Defendant Helix Electric of Nevada LLC; Counter Defendant Heinaman Contract Glazing; Intervenor Plaintiff Cactus Rose Construction Inc; Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Peel Brimley Lien Claimants' Opposition to APCO Construction's Motion for Reconsideration of Order Granting Partial Summary Judgment Precluding Defenses Based on Pay-if-Paid Agreements</i>
01/09/2018	 Order Granting Motion Filed By: Intervenor National Wood Products, Inc.'s <i>Order Granting Plaintiff In Intervention, National Wood Products, Inc.'s Motion In Limine</i>
01/10/2018	 Reply in Support Filed By: Plaintiff Apco Construction <i>Reply in Support of Motion for Reconsideration of Court's Order Granting Peel Brimley Lien Claimants' Partial Motion for Summary Judgment to Preclude Defenses Based on Pay-If-Paid Provisions on an Order Shortening Time</i>
01/10/2018	 Opposition to Motion <i>Zitting Brothers Construction, Inc.'s Opposition to APCO Construction, Inc.'s Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction's Partial Motion for Summary Judgment</i>
01/10/2018	 Notice of Entry of Order

DISTRICT COURT  
**CASE SUMMARY**  
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Filed By: Intervenor National Wood Products, Inc.'s  
*Notice of Entry of Order Granting Plaintiff In Intervention National Wood Products, Inc.'s Motion In Limine*

01/11/2018	<b>Motion For Reconsideration</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion for Reconsideration of Courts Order Granting Peel Brimley Lien Claimants Partial Motion for Summary Judgment to Preclude Defenses Based on Pay if Paid Provisions on and Order Shortening Time</i> Denied; <i>Denied</i>
01/11/2018	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Camco's Joinder to APCO's Motion for Reconsideration of Court's Order Granting Peel Brimley Lien Claimant's Partial Motion for Summary Judgment to Preclude Defenses Based on Pay if Paid Provisions</i> Denied; <i>Denied</i>
01/11/2018	<b>Motion For Reconsideration</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment and Ex Parte Application for Order Shortening Time and to Exceed Page Limit</i> Denied; <i>Denied</i>
01/11/2018	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
01/11/2018	 Motion to Stay Filed By: Plaintiff Apco Construction <i>Plaintiff's Motion to Stay Pending Entry of Final Judgment Pursuant to NRCP 62(B) and (62(H) on Order Shortening Time</i>
01/11/2018	 Pre-trial Memorandum Filed by: Third Party Plaintiff E & E Fire Protection LLC <i>E&amp;E Fire Protection, LLC's Pretrial Memorandum</i>
01/12/2018	 Joint Pre-Trial Memorandum Filed By: Plaintiff Apco Construction <i>Joint Pre-Trial Memorandum (for APCO Construction, Inc., the Peel Brimley Lien Claimants, and National Wood Products, LLC Only)</i>
01/16/2018	 <b>Motion to Stay</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <b>01/16/2018, 01/19/2018</b> <i>Plaintiff's Motion to Stay Pending Entry of Final Judgment Pursuant to NRCP 62(B) and (62(H) on Order Shortening Time</i> Continued; Denied Without Prejudice; Continued; Denied Without Prejudice; <i>Continued</i>
01/16/2018	 Order Granting Filed By: Plaintiff Apco Construction <i>Order Granting Apco Construction, Inc.'s Motion to Request Buchele, Inc. Comply with EDCR 7.42 on Order Shortening Time</i>
01/16/2018	

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	 Notice of Entry Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order Granting Apco Construction, Inc.'s Motion to Request Buchele, Inc. Comply with EDCR 7.42 on Order Shortening Time</i>
01/16/2018	 Trial Brief Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Trial Brief</i>
01/17/2018	 <b>Bench Trial</b> (10:00 AM) (Judicial Officer: Denton, Mark R.) <b>01/17/2018-01/19/2018, 01/23/2018-01/24/2018, 02/06/2018</b> Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 Trial Continues; Day 1 Trial Continues; Day 2 Trial Continues; Day 3 Trial Continues; Day 4 Trial Continues; Day 5 Trial Continues; Day 6 <i>Trial Continues</i>
01/17/2018	 Trial Brief Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention National Wood Products, Inc.'s Trial Brief</i>
01/18/2018	 Opposition Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Opposition To Motion To Stay Pending Entry Of Final Judgment Pursuant To NRCP 62(B) and 62(H)</i>

DISTRICT COURT  
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01/18/2018	 Stipulation and Order <i>Stipulation and Order Regarding Trial Exhibits Admitted into Evidence</i>
01/18/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order Regarding Trial Exhibits Admitted into Evidence</i>
01/19/2018	<b>Minute Order</b> (3:00 AM) (Judicial Officer: Williams, Timothy C.)
01/19/2018	 Order Denying Motion Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Order Denying APCO Construction's Motion for Reconsideration of Order Granting Partial Summary Judgment Precluding Defenses Based on Pay-if-Paid Agreements</i>
01/19/2018	 Notice of Entry of Order Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Order</i>
01/25/2018	 Notice of Change Filed By: Other United Subcontractors Inc <i>Notice of Change of Firm Affiliation and Address</i>
01/25/2018	 Order Denying Motion <i>Oder Denying APCO Construction, Inc.'s Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment</i>
01/29/2018	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Verified Memorandum of Costs</i>
01/29/2018	 Memorandum Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Memorandum In Support of APCO Construction, Inc.'s Payment of Attorneys' Fees, Costs, and Interest to Zitting Brothers Construction, Inc.</i>
01/31/2018	 Notice of Entry of Order <i>Notice of Entry of Order Denying APCO Construction, Inc.'s Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment</i>
01/31/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Bench Trial - Day One, January 17, 2018</i>
01/31/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Bench Trial - Day Two, January 18, 2018</i>
01/31/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Bench Trial - Day Three, January 19, 2018</i>
01/31/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Bench Trial - Day Five, January 24, 2018</i>
02/05/2018	 Stipulation and Order for Dismissal Filed by: Plaintiff Apco Construction



DISTRICT COURT  
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*Stipulation and Order to Dismiss Third Party Complaint of Interstate Plumbing & Air Conditioning, LLC Against Apco Construction, Inc. with Prejudice*













02/15/2018	 <b>Recorders Transcript of Hearing</b> <i>Recorders Transcript of Hearing Re: Bench Trial - Day Six, February 6, 2018</i>
02/16/2018	 <b>Notice of Appeal</b> Filed By: Plaintiff Apco Construction <i>Notice of Appeal</i>
02/16/2018	 <b>Case Appeal Statement</b> Filed By: Plaintiff Apco Construction <i>Case Appeal Statement</i>
02/16/2018	 <b>Opposition</b> Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Opposition to Zitting Brothers, Inc.'s Memorandum In Support of Apco Construction, Inc.'s Payment of Attorneys' Fees, Costs and Interest to Zitting Construction Brothers, Inc.</i>
02/26/2018	 <b>Reply in Support</b> Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers Construction, Inc.'s Reply in Support of Its Memorandum in Support of APCO Construction, Inc.'s Payment of Attorneys' Fees, Costs, and Interest</i>
02/28/2018	 <b>Stipulation and Order</b> Filed by: Plaintiff Apco Construction <i>Stipulation and Order to Extend Deadline to file Proposed Findings of Fact, Conclusions of Law and Post-Trial Briefs</i>
02/28/2018	 <b>Finding of Fact and Conclusions of Law</b> Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>(Proposed) E&amp;E Fire Protections, LLC's Findings of Facts and Conclusions of Law - Proposed</i>
02/28/2018	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order to Extend Deadline to File Proposed Findings of Fact, Conclusions of Law and Post-Trial Briefs</i>
03/01/2018	 <b>Hearing (9:00 AM) (Judicial Officer: Denton, Mark R.)</b> <i>Hearing Re: ZBCI Attorney's Fees and Costs</i> Under Advisement; <i>Under Advisement</i>
03/08/2018	 <b>Trial Brief</b> Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention, National Wood Products, Inc.'s Post Trial Brief</i>
03/08/2018	 <b>Trial Brief</b> Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Post-Trial Brief</i>
03/08/2018	 <b>Trial Brief</b> Filed By: Counter Claimant Camco Pacific Construction Co Inc; Other Defendant

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Fidelity & Deposit Company Of Maryland  
*Camco's Post Trial Brief*








03/23/2018	 Respondent's Answering Brief Filed by: Intervenor National Wood Products, Inc.'s <i>Plaintiff in Intervention, National Wood Products, Inc.'s Response to CAMCO Pacific Construction Company, Inc.'s Post-Trial Brief</i>
03/23/2018	 Respondent's Answering Brief Filed by: Intervenor National Wood Products, Inc.'s <i>Plaintiff in Intervention, National Wood Products, Inc.'s Response to APCO Construction, Inc.'s Post-Trial Brief</i>
03/23/2018	 Response Filed by: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Response to APCO Construction's Post-Trial Brief</i>
03/23/2018	 Response <i>Peel Brimley Lien Claimants' Response to Camco's Post-Trial Brief</i>
03/23/2018	 Opposition to Motion Filed By: Plaintiff Apco Construction <i>APCO Construction, Inc.'s Opposition to Camco Pacific Construction Company's Post-Trial Brief</i>
03/27/2018	 Decision <i>Decision</i>
04/25/2018	 Findings of Fact, Conclusions of Law and Order <i>Findings of Fact and Conclusions of Law as to the Claims of Helix Electric and Cabenetec Against APCO</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusion of Law Re Camco</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusions of Law as to the Claims of Fast Glass, INC.</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusions of Law as to the Claims of Cactus Rose Construction CO.,INC.</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusions of Law as to the Claims of Heinaman Contract Glazing</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusions of Law as to the Claims of Helix Electric of Nevada, LLC Against Camco Pacific Construction Inc.</i>
04/26/2018	

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**










	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>E&amp;E Fire Protection, LLC'S Findings of Fact and Conclusions of Law</i>
04/26/2018	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>Findings of Fact and Conclusions of Law as to the Claims of SWPPP Compliance Solutions Inc.</i>
04/26/2018	 Order Filed By: Plaintiff Apco Construction <i>Order Re Submission of Proposed Judgments</i>
05/01/2018	 Memorandum of Costs and Disbursements Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>E&amp;E Fire Protection's Memorandum of Costs and Disbursements</i>
05/03/2018	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Memorandum of Costs and Disbursements (Helix Electric of Nevada, LLC)</i>
05/03/2018	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Heinaman Contract Glazing <i>Memorandum of Costs and Disbursements (Heinaman Contract Glazing)</i>
05/03/2018	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Fast Glass Inc <i>Memorandum of Costs and Disbursements (Fast Glass, Inc.)</i>
05/03/2018	 Memorandum of Costs and Disbursements Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Memorandum of Costs and Disbursements (Cactus Rose Construction, Inc.)</i>
05/03/2018	 Memorandum of Costs and Disbursements Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Memorandum of Costs and Disbursements (SWPPP Compliance Solutions, LLC)</i>
05/03/2018	 Memorandum of Costs and Disbursements <i>Apco Construction, Inc.'s Memorandum of Costs and Disbursements (Against Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, LLC)</i>
05/04/2018	 Order <i>Order Regarding Plaintiff's Motion to Stay Pending Entry of Final Judgment Pursuant to NRCP 62(B) and 62(H) on Order Shortening Time</i>
05/04/2018	 Motion for Attorney Fees Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>E&amp;E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i>
05/08/2018	<b>Order</b> (Judicial Officer: Denton, Mark R.) Debtors: APCO Construction (Counter Claimant) Creditors: Zitting Brothers Construction Inc (Counter Defendant) Judgment: 05/08/2018, Docketed: 05/08/2018 Total Judgment: 185,443.95



DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**







05/08/2018	 Order <i>Order Determining Amount of Zitting Brothers Construction, Inc's Attorney's Fees, Costs, and Prejudgment Interest</i>
05/08/2018	 Motion to Retax Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention, National Wood Products, Inc.'s Notice of Motion and Motion to Retax Costs Re: Defendant APCO Construction's Memorandum of Costs and Disbursements Against Plaintiff In Intervention National Wood Products, Inc.</i>
05/08/2018	 Joinder To Motion Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention National Wood Products, Inc.'s, Joinder to Helix Electric of Nevada, LLC's Motion to Retax Costs Re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
05/08/2018	 Motion to Retax Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Motion to Retax Costs re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
05/08/2018	 Joinder To Motion Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Joinder to National Wood's Motion to Retax Costs re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
05/08/2018	 Motion for Attorney Fees and Costs Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Motion for Attorney's Fees and Costs against Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, Inc.</i>
05/11/2018	 Notice of Entry of Order <i>Notice of Entry of Order Determining Amount of Zitting Brothers Construction, Inc.'s Attorney's Fees, Costs, and Prejudgment Interest</i>
05/16/2018	<b>Judgment Plus Interest</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Third Party Defendant) Creditors: E & E Fire Protection LLC (Third Party Plaintiff) Judgment: 05/16/2018, Docketed: 05/16/2018 Total Judgment: 6,481,088.31
05/16/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Fidelity & Deposit Co Of Maryland (Third Party Defendant) Creditors: E & E Fire Protection LLC (Third Party Plaintiff) Judgment: 05/16/2018, Docketed: 05/16/2018 Total Judgment: 50,000.00
05/16/2018	 Judgment Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Judgment in Favor of E&amp;E Fire Protection and Against CAMCO Pacific Construction Company, Inc. and Fidelity and Deposit Company of Maryland</i>
05/17/2018	 Notice of Entry of Judgment Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Notice of Entry of Judgment in Favor of E&amp;E Fire Protection and Against Camco Pacific Construction Company, Inc. and Fidelity and Deposit Company of Maryland</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**














05/21/2018	 Notice of Appearance Party: Other Defendant Fidelity & Deposit Company Of Maryland <i>Notice of Appearance</i>
05/23/2018	<b>Judgment Plus Interest</b> (Judicial Officer: Denton, Mark R.) Debtors: APCO Construction (Counter Claimant) Creditors: Zitting Brothers Construction Inc (Counter Defendant) Judgment: 05/23/2018, Docketed: 05/24/2018 Total Judgment: 2,623,309.38
05/23/2018	 Judgment <i>Judgment in Favor of Zitting Brothers Construction, Inc.</i>
05/24/2018	 Notice of Entry of Judgment <i>Notice of Entry of Judgment in Favor of Zitting Brothers Construction, Inc.</i>
05/25/2018	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Denton, Mark R.) Debtors: Nevada Prefab Engineers Inc (Intervenor), Steel Structures Inc (Intervenor), Gerdau Reinforcing Steel (Counter Defendant) Creditors: Apco Construction (Plaintiff) Judgment: 05/25/2018, Docketed: 05/25/2018
05/25/2018	 Stipulation and Order for Dismissal With Prejudice Filed By: Plaintiff Apco Construction <i>Stipulation and Order for Dismissal with Prejudice</i>
05/25/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Stipulation and Order</i>
05/25/2018	 Motion to Withdraw As Counsel Filed By: Counter Claimant Camco Pacific Construction Co Inc; Third Party Defendant Fidelity & Deposit Co Of Maryland <i>Motion to Withdraw as Counsel of Record And For Entry of Final Judgment for Fees and Costs</i>
05/26/2018	 Supplemental Points and Authorities <i>APCO Construction, Inc.'s Supplement to its Motion for Attorneys Fees and Costs Against Helix Electric of Nevada, LLC and National Wood Products, Inc.</i>
05/29/2018	 Substitution of Attorney Filed by: Other Defendant Fidelity & Deposit Company Of Maryland <i>Substitution of Attorneys</i>
05/30/2018	 Stipulation and Order Filed by: Counter Defendant Helix Electric of Nevada LLC <i>Stipulation and Order to Continue Hearings and Extend Briefing Deadlines</i>
05/30/2018	 Notice of Entry of Stipulation and Order Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Stipulation and Order</i>
05/30/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Intervenor Defendant) Creditors: SWPPP Compliance Solutions LLC (Intervenor Plaintiff)

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

Judgment: 05/30/2018, Docketed: 05/31/2018

05/30/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Counter Claimant) Creditors: Fast Glass Inc (Counter Defendant) Judgment: 05/30/2018, Docketed: 05/31/2018
05/30/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Company Inc (Counter Claimant) Creditors: Helix Electric of Nevada LLC (Counter Defendant), Helix Electric (Doing Business As) Judgment: 05/30/2018, Docketed: 05/31/2018
05/30/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Inc (Counter Defendant) Creditors: Cactus Rose Construction (Counter Claimant) Judgment: 05/30/2018, Docketed: 05/31/2018
05/30/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Company Inc (Counter Claimant) Creditors: Heinaman Contract Glazing (Counter Defendant) Judgment: 05/30/2018, Docketed: 05/31/2018
05/30/2018	 Judgment Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Judgment [As to the Claims of SWPPP Compliance Solutions, Inc. Against Camco Construction Co., Inc.]</i>
05/30/2018	 Judgment Filed By: Counter Defendant Fast Glass Inc <i>Judgment [As to the Claims of Fast Glass, Inc. Against Camco Construction Co., Inc.]</i>
05/30/2018	 Judgment Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Judgment [As to the Claims of Helix Electric of Nevada Against Camco Construction Co., Inc.]</i>
05/30/2018	 Judgment Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Judgment [As to the Claims of Cactus Rose Construction Co., Inc. Against Camco Construction Co., Inc.]</i>
05/30/2018	 Judgment Filed By: Counter Defendant Heinaman Contract Glazing <i>Judgment [As to the Claims of Heinaman Contract Glazing Against Camco Construction Co., Inc.]</i>
05/30/2018	 Order Shortening Time Filed By: Counter Claimant Camco Pacific Construction Co Inc; Other Defendant Fidelity & Deposit Company Of Maryland <i>Order Shortening Time for Hearing on Motion to Withdraw</i>
05/31/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Helix Electric of Nevada LLC (Counter Defendant), National Wood Products, Inc.'s (Intervenor) Creditors: APCO Construction (Counter Claimant) Judgment: 05/31/2018, Docketed: 05/31/2018


DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

05/31/2018	 Judgment Filed By: Plaintiff Apco Construction <i>Judgment</i>
05/31/2018	 Notice of Entry of Judgment Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Notice of Entry of Judgment</i>
05/31/2018	 Notice of Entry of Judgment Filed By: Counter Defendant Fast Glass Inc <i>Notice of Entry of Judgment</i>
05/31/2018	 Notice of Entry of Judgment Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Judgment</i>
05/31/2018	 Notice of Entry of Judgment Filed By: Counter Defendant Heinaman Contract Glazing <i>Notice of Entry of Judgment</i>
05/31/2018	 Notice of Entry of Judgment Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Notice of Entry of Judgment</i>
05/31/2018	 Opposition to Motion Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Peel Brimley Lien Claimants' Limited Opposition to Motion of Camco Counsel to Withdraw and for Judgment on Attorney's Lien</i>
05/31/2018	 Motion to Enforce Filed By: Other United Subcontractors Inc <i>United Subcontractors, Inc. dba Skyline Insulation's Motion to Enforce Settlement Agreement and Enter Judgment</i>
05/31/2018	 Opposition and Countermotion Filed By: Third Party Defendant Fidelity & Deposit Co Of Maryland <i>Fidelity and Deposit Company of Maryland's Opposition to Motion to Withdraw as Counsel of Record and for Entry of Final Judgment For Fees &amp; Costs and Countermotion for Sanctions</i>
06/01/2018	 Notice of Entry of Judgment Filed By: Plaintiff Apco Construction <i>Notice of Entry of Judgment</i>
06/01/2018	 Motion for Attorney Fees and Costs Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Motion for Attorney's Fees, Interest and Costs</i>
06/01/2018	 Motion for Attorney Fees and Costs Filed By: Counter Defendant Heinaman Contract Glazing <i>Heinaman Contract Glazing's Motion for Attorney's Fees, Interest and Costs</i>
06/01/2018	 Motion for Attorney Fees and Costs

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

	Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>SWPPP Compliance Solution Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
06/01/2018	 Motion for Attorney Fees and Costs Filed By: Counter Defendant Fast Glass Inc <i>Fast Glass, Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
06/01/2018	 Motion for Attorney Fees and Costs Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Cactus Rose Construction Co., Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
06/04/2018	<b>Motion for Attorney Fees</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>E&amp;E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i> Granted; <i>Granted</i>
06/04/2018	<b>Motion to Withdraw as Counsel</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Motion to Withdraw as Counsel of Record And For Entry of Final Judgment for Fees and Costs</i> Granted in Part; <i>Granted in Part</i>
06/04/2018	<b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Fidelity and Deposit Company of Maryland's Opposition to Motion to Withdraw as Counsel of Record and for Entry of Final Judgment For Fees &amp; Costs and Countermotion for Sanctions</i> Denied; <i>Denied</i>
06/04/2018	<b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Denton, Mark R.)
06/04/2018	 Order Granting Motion Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Order Granting E&amp;E Fire Protection's Motion for Attorney Fees Against CAMCO Pacific Construction Company, Inc.</i>
06/04/2018	 Notice of Entry of Order Filed By: Counter Defendant E & E Fire Protection LLC <i>Notice of Entry of Order Granting E&amp;E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i>
06/04/2018	<b>Judgment</b> (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Third Party Defendant) Creditors: E & E Fire Protection LLC (Third Party Plaintiff) Judgment: 06/04/2018, Docketed: 06/06/2018 Total Judgment: 66,421.16
06/07/2018	 Motion Filed By: Intervenor Defendant Fidelity and Deposit Company of Maryland <i>Fidelity and Deposit Company of Maryland's Motion to Deposit Bond Penal Sum with Court, Exoneration of Bond, and Dismissal</i>
06/08/2018	 Amended Notice of Appeal <i>Amended Notice of Appeal</i>
06/08/2018	 Amended Case Appeal Statement <i>Amended Case Appeal Statement</i>

DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. 08A571228**

06/08/2018	 <b>Motion</b> Filed By: Plaintiff Apco Construction <i>Plaintiff's Motion for 54(b) Certification and for Stay Pending Appeal on Order Shortening Time</i>
06/21/2018	<b>Motion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion for 54(b) Certification and for Stay Pending Appeal on Order Shortening Time</i>
07/02/2018	<b>Motion to Enforce</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>United Subcontractors, Inc. dba Skyline Insulation's Motion to Enforce Settlement Agreement and Enter Judgment</i>
07/02/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Helix Electric of Nevada, LLC's Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Heinaman Contract Glazing's Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Swapp Compliance Solution Inc's Motion for Attorney's Fees and Costs</i>
07/02/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Fast Glass, Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Cactus Rose Construction Co., Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
07/05/2018	<b>CANCELED Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - On in Error</i> <i>Helix Electric of Nevada, LLC's Motion for Attorney's Fees, Interest and Costs</i>
07/19/2018	<b>Motion to Retax</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff In Intervention, National Wood Products, Inc.'s Notice of Motion and Motion to Retax Costs Re: Defendant APCO Construction's Memorandum of Costs and Disbursements Against Plaintiff In Intervention National Wood Products, Inc.</i>
07/19/2018	<b>Motion to Retax</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Helix Electric of Nevada, LLC's Motion to Retax Costs re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
07/19/2018	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Helix Electric of Nevada, LLC's Joinder to National Wood's Motion to Retax Costs re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
07/19/2018	<b>Joinder</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff In Intervention National Wood Products, Inc.'s, Joinder to Helix Electric of Nevada, LLC's Motion to Retax Costs Re: Defendant APCO Construction's Memorandum of Costs and Disbursements</i>
07/19/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Apco Construction, Inc.'s Motion for Attorney's Fees and Costs against Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, Inc.</i>
07/19/2018	<b>Motion</b> (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Fidelity and Deposit Company of Maryland's Motion to Deposit Bond Penal Sum with Court, Exoneration of Bond, and Dismissal</i>

DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. 08A571228

# CIVIL COVER SHEET

Clark County, Nevada

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

A571 228  
XVI

## I. Party Information

Plaintiff(s) (name/address/phone):

APCO Construction

Attorney (name/address/phone):

Gwen Rutar Mullins

3800 Howard Hughes Pkwy., Suite 1400

Las Vegas, NV 89169

Defendant(s) (name/address/phone):

Gemstone Development West, Inc.

Attorney (name/address/phone):

## II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

### Civil Cases

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence</b> <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition

### Probate

### Other Civil Filing Types

- ☐ Summary Administration
- ☐ General Administration
- ☐ Special Administration
- ☐ Set Aside Estates
- ☐ Trust/Conservatorships
  - ☐ Individual Trustee
  - ☐ Corporate Trustee
- ☐ Other Probate

- ☐ **Construction Defect**
  - ☐ Chapter 40
  - ☐ General
- ☒ **Breach of Contract**
  - ☒ Building & Construction
  - ☐ Insurance Carrier
  - ☐ Commercial Instrument
  - ☐ Other Contracts/Acct/Judgment
  - ☐ Collection of Actions
  - ☐ Employment Contract
  - ☐ Guarantee
  - ☐ Sale Contract
  - ☐ Uniform Commercial Code
- ☐ **Civil Petition for Judicial Review**
  - ☐ Other Administrative Law
  - ☐ Department of Motor Vehicles
  - ☐ Worker's Compensation Appeal

- ☐ **Appeal from Lower Court** (also check applicable civil case box)
  - ☐ Transfer from Justice Court
  - ☐ Justice Court Civil Appeal
- ☐ **Civil Writ**
  - ☐ Other Special Proceeding
- ☐ **Other Civil Filing**
  - ☐ Compromise of Minor's Claim
  - ☐ Conversion of Property
  - ☐ Damage to Property
  - ☐ Employment Security
  - ☐ Enforcement of Judgment
  - ☐ Foreign Judgment – Civil
  - ☐ Other Personal Property
  - ☐ Recovery of Property
  - ☐ Stockholder Suit
  - ☐ Other Civil Matters

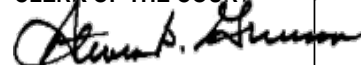
## III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- |                                               |                                                              |                                                       |
|-----------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business  |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |                                                       |

9-9-08  
Date

Signature of initiating party or representative





1 **FFCO**  
2 JORGE A. RAMIREZ, ESQ.  
3 Nevada Bar No. 6787  
4 I-CHE LAI, ESQ.  
5 Nevada Bar No. 12247  
6 WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP  
7 300 South 4<sup>th</sup> Street, 11<sup>th</sup> Floor  
8 Las Vegas, NV 89101-6014  
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10 Facsimile: (702) 727-1401  
11 Jorge.Ramirez@wilsonelser.com  
12 I-Che.Lai@wilsonelser.com  
13 Attorneys for Lien Clamant,  
14 Zitting Brothers Construction, Inc.

9  
10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 APCO CONSTRUCTION, a Nevada  
13 corporation,

14 Plaintiff,

15 vs.

16 GEMSTONE DEVELOPMENT WEST, INC.,  
17 a Nevada corporation,

18 Defendant.

19 AND ALL RELATED MATTERS

CASE NO. A571228  
DEPT. NO. XIII

Consolidated with:

A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

Hearing Date: November 16, 2017  
Hearing Time: 9:00 a.m.

20 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING ZITTING**

21 **BROTHERS CONSTRUCTION, INC.'S MOTION FOR PARTIAL SUMMARY**

22 **JUDGMENT AGAINST APCO CONSTRUCTION**

23 On November 16, 2017, this Court heard Zitting Brothers Construction, Inc.'s Motion for  
Partial Summary Judgment Against APCO Construction. Jorge A. Ramirez and I-Che Lai of Wilson  
Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction,  
Inc. ("ZBCI"). John Randall Jefferies of Spencer Fane LLP and Cody S. Munteer of Marquis  
Aurbach Coffing appeared for APCO Construction, Inc. ("APCO"). Having considered ZBCI's  
motion, the pleadings and papers filed in this case, and oral arguments of counsel, this Court makes  
the following findings of fact and conclusions of law.

//

AA 005525

RECEIVED

DEC 22 2017

DISTRICT COURT DEPT#13

1 **FINDINGS OF FACT**

2 **A. APCO's Subcontract with ZBCI**

3 1. Around September 6, 2007, Gemstone Development West, Inc. ("Gemstone") and  
4 APCO entered into the ManhattanWest – General Construction Agreement for GMP ("Prime  
5 Contract"). Under the Prime Contract, APCO would serve as the general contractor for the  
6 ManhattanWest mixed-use development project located at the following Assessor's Parcel Numbers  
7 in Clark County, Nevada: 163-32-101-003, 163-32-101-004, 163-32-101-005, 163-32-101-010, and  
8 162-32-101-014 (the "Project").

9 2. Around November 17, 2007, APCO and ZBCI entered into a Subcontract Agreement  
10 ("Subcontract"). Under the Subcontract, ZBCI would provide framing materials and labor for the  
11 Project.

12 3. The Subcontract requires APCO to pay ZBCI 100% of the value of the work  
13 completed on a periodic basis—less 10% retention of the value (the "Retention")—only after APCO  
14 receives actual payments from Gemstone.

15 4. The Subcontract requires APCO to pay ZBCI the Retention amount for each building  
16 of the Project upon (a) the completion of each building; (b) Gemstone's approval of ZBCI's work on  
17 the completed building; (c) APCO's receipt of final payment from Gemstone; (d) ZBCI's delivery to  
18 APCO all "as-built drawings for [ZBCI]'s scope of work and other close out documents"; and (e)  
19 ZBCI's delivery to APCO a release and waiver of claims from ZBCI's "labor, materials and  
20 equipment suppliers, and subcontractors providing labor, materials[,] or services to the Project...."  
21 The Subcontract deems work on a building to be "complete" as soon as "drywall is completed" for  
22 the building.

23 5. Alternatively, if the Prime Contract is terminated, the Subcontract requires APCO to  
24 pay ZBCI the amount due for ZBCI's completed work after receipt of payment from Gemstone.

25 6. The conditions precedent of the Subcontract requiring APCO's payment only upon  
26 receipt of payment from Gemstone are colloquially known as "pay-if-paid provisions."

27 7. The Subcontract only allows APCO to terminate—with written notice to ZBCI and  
28 with cause—the Subcontract for non-performance.

1           8.     If any party to the Subcontract "institute[s] a lawsuit ... for any cause arising out of  
2 the Subcontract..." the Subcontract expressly authorizes the prevailing party to recover "all costs,  
3 attorney's fees[,] and any other reasonable expenses incurred" in connection with the lawsuit. The  
4 Subcontract does not provide a rate of interest that would accrue on the amount owed under the  
5 Subcontract.

6           9.     If any term of the Subcontract is void under Nevada law, the Subcontract expressly  
7 provides that the void term would not affect the enforceability of the remainder of the contract.

8     **B.     ZBCI's Work under the Subcontract**

9           10.    Around November 19, 2007, ZBCI began its scope of work under the Subcontract.

10          11.    The Prime Contract was terminated in August 2008, and the Project had shut down on  
11 December 15, 2008. APCO never provided ZBCI with a written notice of termination with cause for  
12 non-performance.

13          12.    Prior to the Project's shutdown, ZBCI submitted written requests to APCO for change  
14 orders valued at \$423,654.85. APCO did not provide written disapproval of those change orders to  
15 ZBCI within 30 days of each request.

16          13.    Also prior to the Project's shutdown, ZBCI had completed its scope of work on  
17 Buildings 8 and 9 of the Project, including work on the change orders, without any complaints on the  
18 timing or quality of the work. ZBCI had submitted close-out documents for its work, including  
19 release of claims for ZBCI's vendors. The value of ZBCI's completed work amounted to  
20 \$4,033,654.85.

21          14.    At the time of the Project's shutdown, the drywall was completed for Buildings 8 and  
22 9.

23          15.    To date, ZBCI had only received \$3,282,849.00 for its work on the Project. ZBCI had  
24 completed work in the amount of \$347,441.67 on the change orders and \$403,365.49 of the  
25 Retention—totaling \$750,807.16—which remains unpaid.

26          16.    ZBCI demanded APCO pay the \$750,807.16 still owed on the contract. However,  
27 APCO refused to do so, causing ZBCI to initiate proceedings to recover the requested amount.

28

1 **C. Procedural History**

2 17. On January 14, 2008, ZBCI served its Notice of Right to Lien to APCO and  
3 Gemstone via certified mail.

4 18. On December 5, 2008, ZBCI served its Notice of Intent to Lien to APCO and  
5 Gemstone via certified mail.

6 19. On December 23, 2008, ZBCI recorded its Notice of Lien on the Project with a lien  
7 amount of \$788,405.41 and served this document on APCO and Gemstone via certified mail on  
8 December 24, 2008.

9 20. On April 30, 2009, ZBCI filed a complaint against Gemstone and APCO and a Notice  
10 of Lis Pendens. The complaint alleged 6 claims: (a) breach of contract, (b) breach of implied  
11 covenant of good faith and fair dealing, (c) unjust enrichment, (d) violation of Chapter 108 of the  
12 Nevada Revised Statutes, (e) claim for priority, and (f) violation of Chapter 624 of the Nevada  
13 Revised Statutes.

14 21. On June 10, 2009, APCO answered ZBCI's complaint. APCO's answer alleged 20  
15 affirmative defenses, including the tenth affirmative defense alleging that APCO's obligation to  
16 ZBCI had been satisfied or excused and the twelfth affirmative defense alleging that ZBCI's failure  
17 to satisfy conditions precedent barred ZBCI's breach of contract claim.

18 22. Around June 16, 2009, ZBCI provided a Notice of Foreclosure of Mechanic's Lien,  
19 and this notice was published in accordance with Nev. Rev. Stat. 108.239.

20 23. On April 7, 2010, ZBCI recorded its Amended Notice of Lien with a lien amount of  
21 \$750,807.16 and served this document on APCO and Gemstone via certified mail around the same  
22 date.

23 24. APCO does not dispute that ZBCI complied with all requirements to create, perfect,  
24 and foreclose on its lien under Chapter 108.

25 25. On April 29, 2010, APCO responded to ZBCI's interrogatories that requested, *inter*  
26 *alia*, APCO's explanation for refusing payment to ZBCI and APCO's grounds for the tenth and  
27 twelfth affirmative defenses. ZBCI had sent those interrogatories to obtain more details about  
28 APCO's defenses against ZBCI's complaint and to narrow the issues for discovery and trial.

1 APCO's interrogatory responses indicated that APCO would rely solely on the enforceability of the  
2 pay-if-paid provision in the Subcontract to excuse payment to ZBCI.

3 26. On April 23, 2013, this Court authorized the sale of the Project free and clear of all  
4 liens, including liens arising under Chapter 108 of the Nevada Revised Statutes. The sale resulted in  
5 the distribution of the entire net proceeds from the sale to Scott Financial Corporation (the "Lender")  
6 upon the Nevada Supreme Court's determination that the Lender's claim to the net proceeds is  
7 superior to the Chapter 108 lien claimants' claim.

8 27. On April 12, 2017, ZBCI served APCO with a set of interrogatories that are similar to  
9 the ones served in 2010. This set of interrogatories again requested, *inter alia*, APCO's explanation  
10 for refusing payment to ZBCI and APCO's grounds for the tenth and twelfth affirmative defenses.  
11 ZBCI sent those interrogatories to confirm APCO's prior discovery responses on APCO's defenses  
12 against ZBCI's complaint.

13 28. On May 12, 2017, APCO responded to ZBCI's interrogatories that again indicated  
14 APCO's sole reliance on the enforceability of the pay-if-paid provision in the Subcontract to excuse  
15 payment to ZBCI.

16 29. On June 5, 2017, ZBCI deposed APCO's Nev. R. Civ. P. 30(b)(6) witness regarding  
17 APCO's affirmative defenses. At the deposition, APCO's Nev. R. Civ. P. 30(b)(6) witness declined  
18 to update APCO's interrogatory responses and re-affirmed APCO's sole reliance on the  
19 enforceability of the pay-if-paid provision to excuse payment.

20 30. On July 19, 2017, ZBCI deposed APCO's Nev. R. Civ. P. 30(b)(6) witness regarding  
21 topics pertaining to APCO's accounting for the Project. At the deposition, APCO's Nev. R. Civ. P.  
22 30(b)(6) witness again declined to update APCO's interrogatory responses.

23 31. APCO did not supplement its discovery responses prior to the June 30, 2017  
24 discovery cutoff.

25 32. On July 31, 2017 and after the close of discovery, ZBCI moved for summary  
26 judgment against APCO on ZBCI's breach of contract and Nev. Rev. Stat. 108 claim—setting forth  
27 ZBCI's prima facie case for those claims and addressing the enforceability of the pay-if-paid  
28 provision in the Subcontract.

33. On August 21, 2017, APCO filed its opposition to ZBCI's motion, arguing—for the first time—other grounds for refusing payment of the amount owed to ZBCI. ZBCI objected to the admissibility of the evidence in support of APCO's opposition.

34. APCO's refusal to pay ZBCI the amount owed under the Subcontract had compelled ZBCI to incur attorney's fees and costs to collect the amount owed.

## CONCLUSIONS OF LAW

### A. Burden of Proof

1. Summary judgment is appropriate “when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

2. As the party moving for summary judgment, ZBCI bears the initial burden of production to show the absence of a genuine issue of material fact. *Id.* ZBCI also bears the burden of persuasion at trial on its breach of contract and Chapter 108 claims and therefore must present evidence that would entitle it to a judgment as a matter of law on those two claims in the absence of contrary evidence. *See id.*

### B. APCO's Breach of the Subcontract

3. To establish a breach of contract under Nevada law, ZBCI must provide admissible evidence of (1) the existence of a valid contract, (2) a breach by APCO, and (3) damage as a result of the breach. *See Richardson v. Jones*, 1 Nev. 405, 408 (1865). In this case, this Court concludes that ZBCI has presented sufficient admissible evidence on all elements of a breach of contract.

4. The Subcontract between the respective parties is a valid contract. However, as discussed in this Court's separate decision regarding the enforceability of the Subcontract's "pay-if-paid provisions," the pay-if-paid provisions are against public policy and are void and unenforceable under Nev. Rev. Stat. 624.628(c). The remaining terms of the Subcontract remain enforceable.

5. Nev. Rev. Stat. 624.626(3) automatically approves written requests for change orders unless the higher-tiered contractor denies the requests in writing within 30 days after the lower-tiered contractor submits the requests. Here, this Court concludes that because ZBCI did not receive any

1 written denials of its change order requests within 30 days of request, ZBCI's change order requests  
2 amounting to \$347,441.67 were approved by operation of law. ZBCI is therefore entitled to payment  
3 in the amount of \$347,411.67 for all of the change orders submitted.

4 6. Under Nevada law, compliance with a valid condition precedent requires only  
5 substantial performance. *See, e.g., Laughlin Recreational Enterprises, Inc. v. Zab Dev. Co., Inc.*, 98  
6 Nev. 285, 287, 646 P.2d 555, 556-57 (1982). ZBCI proved at least substantial compliance with the  
7 conditions precedent for payment of the Retention, entitling ZBCI to payment of \$403,365.49 for the  
8 Retention.

9 7. Alternatively, by the very terms of the Subcontract itself, the termination of the Prime  
10 Contract automatically entitles ZBCI to payment of \$403,365.49 for the Retention and \$347,441.67  
11 for the completed work on the change orders. This Subcontract language—exclusive of the void pay-  
12 if-paid provisions—coincides with a prime contractor's obligations to pay its subcontractors  
13 pursuant to Nev. Rev. Stat. 624.626(6).

14 8. APCO breached the Subcontract by refusing to pay ZBCI all of the amount owed for  
15 the Retention and the change orders, and as a result ZBCI is entitled to judgment on its Complaint as  
16 a matter of law. This gives rise to \$750,807.16 in damages, exclusive of attorney's fees, costs, and  
17 interest.

18 **C. ZBCI's Nev. Rev. Stat. 108 Claim**

19 9. There is no dispute that ZBCI complied with the requirements for enforcing its lien  
20 rights under Chapter 108 of the Nevada Revised Statutes.

21 10. Nev. Rev. Stat. 108.239(12) entitles ZBCI to a "personal judgment for the residue  
22 against" APCO.

23 11. Because ZBCI did not receive any of the proceeds from the Nev. Rev. Stat. 108 sale  
24 of the Project, there is no genuine issue that ZBCI is entitled to a personal judgment under Nev. Rev.  
25 Stat. 108.239 against APCO for \$750,807.16 as the lienable amount, plus any reasonable attorney's  
26 fees, costs, and statutory interest that the Court may award.

1 **D. Preclusion of APCO's Defenses**

2 12. This Court has considered APCO's arguments in response to ZBCI's motion for  
3 summary judgment and concluded that the arguments have no merit.

4 13. As discussed above, the pay-if-paid provisions in the Subcontract is unenforceable  
5 and therefore cannot excuse APCO's payment of the amount owed to ZBCI.

6 14. If APCO wanted to assert other grounds for refusing payment to ZBCI, Nev. R. Civ.  
7 P. 26(e)(2) required APCO to seasonably amend its prior interrogatory responses to include grounds  
8 for refusal other than the enforceability of the pay-if-paid provision. Pursuant to Nev. Rev. Stat.  
9 37(c)(1) and *Pizarro-Ortega v. Cervantes-Lopez*, 133 Nev. Adv. Op. 37, 396 P.3d 783, 787 (2017),  
10 APCO's failure to seasonably amend precludes APCO from asserting any other defenses "at a trial,  
11 at a hearing, or on a motion" unless APCO substantially justifies this failure or such failure is  
12 harmless to ZBCI.

13 15. The facts of this case are clear and uncontested. APCO was aware of its alleged  
14 grounds for refusing payment of the \$750,807.16 owed to ZBCI before ZBCI filed its complaint  
15 against APCO. APCO could have asserted its other defenses, other than its belief in the  
16 enforceability of the pay-if-paid provision, at the time it served its April 29, 2010 responses to  
17 ZBCI's interrogatories. In any event, several extensions to discovery were granted in this case even  
18 up to a few weeks before dispositive motions were filed. APCO had ample opportunities to  
19 seasonably amend or supplement its discovery responses to assert additional defenses against paying  
20 ZBCI the amount owed under the Subcontract.

21 16. Yet, APCO failed to explain why during the seven years of litigation between APCO  
22 and ZBCI, it did not disclose any defenses other than its belief in the enforceability of the pay-if-paid  
23 provision. For example, APCO did not explain its decision to omit the other defenses in its April 29,  
24 2010 responses to ZBCI's interrogatories and May 12, 2017 responses to ZBCI's interrogatories.  
25 APCO also did not explain why it did not amend or supplement its discovery responses with the  
26 other defenses during discovery.

27 17. ZBCI reasonably relied on APCO's interrogatory responses to formulate its litigation  
28 plan, which included decisions to avoid certain discovery. For example, ZBCI limited its discovery



1 to taking APCO's Nev. R. Civ. P. 30(b)(6) depositions with truncated questioning. ZBCI also filed  
2 its motion for summary judgment that focused on the enforceability of the pay-if-paid provisions.

3 18. By raising defenses other than the enforceability of the pay-if-paid provisions for the  
4 first time in its opposition to ZBCI's motion for summary judgment, APCO has prejudiced ZBCI.  
5 The late defenses have prevented ZBCI from conducting discovery at a time when relevant  
6 information is available and fresh in witnesses' mind. APCO's prejudicial actions also forced ZBCI  
7 to incur time and costs to conduct discovery based on incomplete information.

8 19. APCO's late defenses are not justified and are extremely prejudicial to ZBCI. Those  
9 defenses are now too little, too late. Under Nev. R. Civ. P. 37(c)(1), APCO cannot introduce any  
10 evidence to support any defenses against ZBCI's claims because its prejudicial discovery responses  
11 only claimed that it relied on the void pay-if-paid provisions.

12 20. Due to the preclusion of the other defenses, ZBCI's evidentiary objections regarding  
13 those defenses are moot.

14 21. ZBCI is entitled to judgment on its breach of contract claim and its Nev. Rev. Stat.  
15 108 claims as a matter of law.

16 **E. Attorney's Fees, Costs, and Interest**

17 22. ZBCI is the prevailing party under the Subcontract and the prevailing lien claimant  
18 under Nev. Rev. Stat. 108.237(1).

19 23. Under the Subcontract, ZBCI is entitled to an award of interest, reasonable attorney's  
20 fees, and costs incurred to collect the amount owed to ZBCI.

21 24. Under Nev. Rev. Stat. 108.237(1), ZBCI is also entitled to the cost of preparing and  
22 recording the notice of lien, the costs of the proceedings, the costs for representation of the lien  
23 claimant in the proceedings, and any other costs related to ZBCI's efforts to collect the amount owed  
24 against APCO. This includes, without limitation, attorney's fees and interest.

25 25. Nev. Rev. Stat. 108.237(2)(b) provides the calculation of the interest that accrues  
26 under the amount awarded under Nev. Rev. Stat. 108.237(1). This interest is equal to the prime rate  
27 at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on  
28 January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 4 percent,

1 on the amount of the lien found payable. The rate of interest must be adjusted accordingly on each  
2 January 1 and July 1 thereafter until the amount of the lien is paid.

3 26. Interest is payable from the date on which the payment is found to have been due,  
4 which would be December 15, 2008 in this case. Interest will accrue on the lienable amount,  
5 attorney's fees, and costs until the entire amount is paid.

6 **ORDER**

7 **THEREFORE, IT IS HEREBY ORDERED** that ZBCI's Motion for Partial Summary  
8 Judgment Against APCO Construction is **GRANTED** in its entirety.

9 **IT IS FURTHER ORDERED** that ZBCI is awarded \$750,807.16 (the "Award") on its First  
10 Cause of Action (Breach of Contract) and Fourth Cause of Action (Foreclosure of Mechanic's Lien).

11 **IT IS FURTHER ORDERED** that ZBCI's remaining claims—Second Cause of Action  
12 (Breach of Implied Covenant of Good Faith & Fair Dealing), Third Cause of Action (Unjust  
13 Enrichment or in the Alternative Quantum Meruit), and Seventh Cause of Action (Violation of NRS  
14 624)—are moot.

15 **IT IS FURTHER ORDERED** that ZBCI is awarded attorneys' fees and costs incurred in  
16 connection with this litigation.

17 **IT IS FURTHER ORDERED** that interest shall accrue on the unpaid amount of the Award  
18 from ZBCI's complaint was filed, which was April 30, 2009, to the date the entire amount is paid.

19 **IT IS FURTHER ORDERED** that ZBCI has 30 days from the date of this order to submit a  
20 memorandum setting forth its attorney's fees and costs.

21 **IT IS FURTHER ORDERED** that APCO has 30 days after service of the memorandum to  
22 submit a response.

23 **IT IS FURTHER ORDERED** that ZBCI has 10 days after APCO's response to submit a  
24 reply to the response.

25 **IT IS FURTHER ORDERED** that this Court will address the sole issue of whether ZBCI is  
26 entitled to attorney's fees and costs set forth in the memorandum at a hearing before this Court on

27 January 18, 2018 at 9:00 a.m.  
28

**IT IS FURTHER ORDERED** that this Court will enter final judgment on ZBCI claims upon a decision on the fees and costs—consistent with this Findings of Fact, Conclusions of Law, and Order

**IT IS FURTHER ORDERED** that the trial on ZBCI's complaint and all pending hearings associated with ZBCI's complaint are vacated.

**IT IS SO ORDERED.**

Dated this 26 day of December, 2017.

DISTRICT COURT JUDGE

Respectfully submitted by:

Jorge A. Ramirez, Esq.

I-Che Lai, Esq.

**WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

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Las Vegas, Nevada 89101

*Attorneys for Lien Clamant,*

*Zitting Brothers Construction, Inc.*

Approved as to form and content by:

*declined to sign*

John H. Mowbray, Esq.

John Randall Jefferies, Esq.

Mary E. Bacon, Esq.

**SPENCER FANE LLP**

300 South Fourth Street, Suite 700

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and

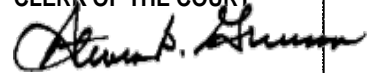
Cody S. Mounter, Esq.

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14 Zitting Brothers Construction, Inc.

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 APCO CONSTRUCTION, a Nevada  
12 corporation,

13 Plaintiff,

14 vs.

15 GEMSTONE DEVELOPMENT WEST, INC.,  
16 a Nevada corporation,

17 Defendant.

18 AND ALL RELATED MATTERS

CASE NO. A571228  
DEPT. NO. XIII

Consolidated with:

A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

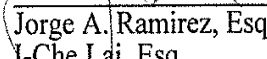
Hearing Date: November 16, 2017  
Hearing Time: 9:00 a.m.

18 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**  
19 **GRANTING ZITTING BROTHERS CONSTRUCTION, INC.'S MOTION FOR PARTIAL**  
20 **SUMMARY JUDGMENT AGAINST APCO CONSTRUCTION**

21 PLEASE TAKE NOTICE that an Order was entered in the above entitled action on the 29<sup>th</sup>  
22 day of December, 2017, a true and correct copy of which is attached hereto.

23 Dated this 2nd day of January, 2018.

24 **WILSON, ELSER, MOSKOWITZ,**  
25 **EDELMAN & DICKER LLP**

26   
27 Jorge A. Ramirez, Esq.  
28 I-Che Lai, Esq.  
300 South Fourth Street, 11th Floor  
Las Vegas, Nevada 89101  
Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ  
EDELMAN & DICKER LLP, and that on this 2nd day of January, 2017, I served a true  
and correct copy of the foregoing document as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk; and pursuant to Rule 9 of the N.E.F.C.R.
- ☐ via hand-delivery to the addressees listed below;
- ☐ via facsimile;
- ☐ by transmitting via email the document listed above to the email address set forth below on this date before 5:00 p.m.



An Employee of  
WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP

*Steven D. Grierson*

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14 Zitting Brothers Construction, Inc.

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

17 APCO CONSTRUCTION, a Nevada  
18 corporation,

19 Plaintiff,

20 vs.

21 GEMSTONE DEVELOPMENT WEST, INC.,  
22 a Nevada corporation,

23 Defendant.

24 AND ALL RELATED MATTERS

CASE NO. A571228  
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Consolidated with:  
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A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

Hearing Date: November 16, 2017  
Hearing Time: 9:00 a.m.

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING ZITTING**

26 **BROTHERS CONSTRUCTION, INC.'S MOTION FOR PARTIAL SUMMARY**

27 **JUDGMENT AGAINST APCO CONSTRUCTION**

28 On November 16, 2017, this Court heard Zitting Brothers Construction, Inc.'s Motion for  
29 Partial Summary Judgment Against APCO Construction. Jorge A. Ramirez and I-Che Lai of Wilson  
30 Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction,  
31 Inc. ("ZBCI"). John Randall Jefferies of Spencer Fane LLP and Cody S. Munteer of Marquis  
32 Aurbach Coffing appeared for APCO Construction, Inc. ("APCO"). Having considered ZBCI's  
33 motion, the pleadings and papers filed in this case, and oral arguments of counsel, this Court makes  
34 the following findings of fact and conclusions of law.

35 //

1 **FINDINGS OF FACT**

2 **A. APCO's Subcontract with ZBCI**

3 1. Around September 6, 2007, Gemstone Development West, Inc. ("Gemstone") and  
4 APCO entered into the ManhattanWest – General Construction Agreement for GMP ("Prime  
5 Contract"). Under the Prime Contract, APCO would serve as the general contractor for the  
6 ManhattanWest mixed-use development project located at the following Assessor's Parcel Numbers  
7 in Clark County, Nevada: 163-32-101-003, 163-32-101-004, 163-32-101-005, 163-32-101-010, and  
8 162-32-101-014 (the "Project").

9 2. Around November 17, 2007, APCO and ZBCI entered into a Subcontract Agreement  
10 ("Subcontract"). Under the Subcontract, ZBCI would provide framing materials and labor for the  
11 Project.

12 3. The Subcontract requires APCO to pay ZBCI 100% of the value of the work  
13 completed on a periodic basis—less 10% retention of the value (the "Retention")—only after APCO  
14 receives actual payments from Gemstone.

15 4. The Subcontract requires APCO to pay ZBCI the Retention amount for each building  
16 of the Project upon (a) the completion of each building; (b) Gemstone's approval of ZBCI's work on  
17 the completed building; (c) APCO's receipt of final payment from Gemstone; (d) ZBCI's delivery to  
18 APCO all "as-built drawings for [ZBCI]'s scope of work and other close out documents"; and (e)  
19 ZBCI's delivery to APCO a release and waiver of claims from ZBCI's "labor, materials and  
20 equipment suppliers, and subcontractors providing labor, materials[,] or services to the Project...."  
21 The Subcontract deems work on a building to be "complete" as soon as "drywall is completed" for  
22 the building.

23 5. Alternatively, if the Prime Contract is terminated, the Subcontract requires APCO to  
24 pay ZBCI the amount due for ZBCI's completed work after receipt of payment from Gemstone.

25 6. The conditions precedent of the Subcontract requiring APCO's payment only upon  
26 receipt of payment from Gemstone are colloquially known as "pay-if-paid provisions."

27 7. The Subcontract only allows APCO to terminate—with written notice to ZBCI and  
28 with cause—the Subcontract for non-performance.

1           8.     If any party to the Subcontract "institute[s] a lawsuit ... for any cause arising out of  
2 the Subcontract..." the Subcontract expressly authorizes the prevailing party to recover "all costs,  
3 attorney's fees[,] and any other reasonable expenses incurred" in connection with the lawsuit. The  
4 Subcontract does not provide a rate of interest that would accrue on the amount owed under the  
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7 provides that the void term would not affect the enforceability of the remainder of the contract.

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12 non-performance.

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15 ZBCI within 30 days of each request.

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23          15.    To date, ZBCI had only received \$3,282,849.00 for its work on the Project. ZBCI had  
24 completed work in the amount of \$347,441.67 on the change orders and \$403,365.49 of the  
25 Retention—totaling \$750,807.16— which remains unpaid.

26          16.    ZBCI demanded APCO pay the \$750,807.16 still owed on the contract. However,  
27 APCO refused to do so, causing ZBCI to initiate proceedings to recover the requested amount.



1 **C. Procedural History**

2 17. On January 14, 2008, ZBCI served its Notice of Right to Lien to APCO and  
3 Gemstone via certified mail.

4 18. On December 5, 2008, ZBCI served its Notice of Intent to Lien to APCO and  
5 Gemstone via certified mail.

6 19. On December 23, 2008, ZBCI recorded its Notice of Lien on the Project with a lien  
7 amount of \$788,405.41 and served this document on APCO and Gemstone via certified mail on  
8 December 24, 2008.

9 20. On April 30, 2009, ZBCI filed a complaint against Gemstone and APCO and a Notice  
10 of Lis Pendens. The complaint alleged 6 claims: (a) breach of contract, (b) breach of implied  
11 covenant of good faith and fair dealing, (c) unjust enrichment, (d) violation of Chapter 108 of the  
12 Nevada Revised Statutes, (e) claim for priority, and (f) violation of Chapter 624 of the Nevada  
13 Revised Statutes.

14 21. On June 10, 2009, APCO answered ZBCI's complaint. APCO's answer alleged 20  
15 affirmative defenses, including the tenth affirmative defense alleging that APCO's obligation to  
16 ZBCI had been satisfied or excused and the twelfth affirmative defense alleging that ZBCI's failure  
17 to satisfy conditions precedent barred ZBCI's breach of contract claim.

18 22. Around June 16, 2009, ZBCI provided a Notice of Foreclosure of Mechanic's Lien,  
19 and this notice was published in accordance with Nev. Rev. Stat. 108.239.

20 23. On April 7, 2010, ZBCI recorded its Amended Notice of Lien with a lien amount of  
21 \$750,807.16 and served this document on APCO and Gemstone via certified mail around the same  
22 date.

23 24. APCO does not dispute that ZBCI complied with all requirements to create, perfect,  
24 and foreclose on its lien under Chapter 108.

25 25. On April 29, 2010, APCO responded to ZBCI's interrogatories that requested, *inter*  
26 *alia*, APCO's explanation for refusing payment to ZBCI and APCO's grounds for the tenth and  
27 twelfth affirmative defenses. ZBCI had sent those interrogatories to obtain more details about  
28 APCO's defenses against ZBCI's complaint and to narrow the issues for discovery and trial.

1 APCO's interrogatory responses indicated that APCO would rely solely on the enforceability of the  
2 pay-if-paid provision in the Subcontract to excuse payment to ZBCI.

3 26. On April 23, 2013, this Court authorized the sale of the Project free and clear of all  
4 liens, including liens arising under Chapter 108 of the Nevada Revised Statutes. The sale resulted in  
5 the distribution of the entire net proceeds from the sale to Scott Financial Corporation (the "Lender")  
6 upon the Nevada Supreme Court's determination that the Lender's claim to the net proceeds is  
7 superior to the Chapter 108 lien claimants' claim.

8 27. On April 12, 2017, ZBCI served APCO with a set of interrogatories that are similar to  
9 the ones served in 2010. This set of interrogatories again requested, *inter alia*, APCO's explanation  
10 for refusing payment to ZBCI and APCO's grounds for the tenth and twelfth affirmative defenses.  
11 ZBCI sent those interrogatories to confirm APCO's prior discovery responses on APCO's defenses  
12 against ZBCI's complaint.

13 28. On May 12, 2017, APCO responded to ZBCI's interrogatories that again indicated  
14 APCO's sole reliance on the enforceability of the pay-if-paid provision in the Subcontract to excuse  
15 payment to ZBCI.

16 29. On June 5, 2017, ZBCI deposed APCO's Nev. R. Civ. P. 30(b)(6) witness regarding  
17 APCO's affirmative defenses. At the deposition, APCO's Nev. R. Civ. P. 30(b)(6) witness declined  
18 to update APCO's interrogatory responses and re-affirmed APCO's sole reliance on the  
19 enforceability of the pay-if-paid provision to excuse payment.

20 30. On July 19, 2017, ZBCI deposed APCO's Nev. R. Civ. P. 30(b)(6) witness regarding  
21 topics pertaining to APCO's accounting for the Project. At the deposition, APCO's Nev. R. Civ. P.  
22 30(b)(6) witness again declined to update APCO's interrogatory responses.

23 31. APCO did not supplement its discovery responses prior to the June 30, 2017  
24 discovery cutoff.

25 32. On July 31, 2017 and after the close of discovery, ZBCI moved for summary  
26 judgment against APCO on ZBCI's breach of contract and Nev. Rev. Stat. 108 claim—setting forth  
27 ZBCI's prima facie case for those claims and addressing the enforceability of the pay-if-paid  
28 provision in the Subcontract.

1           33.     On August 21, 2017, APCO filed its opposition to ZBCI's motion, arguing—for the  
2 first time—other grounds for refusing payment of the amount owed to ZBCI. ZBCI objected to the  
3 admissibility of the evidence in support of APCO's opposition.

4           34.     APCO's refusal to pay ZBCI the amount owed under the Subcontract had compelled  
5 ZBCI to incur attorney's fees and costs to collect the amount owed.

#### 6                                   **CONCLUSIONS OF LAW**

##### 7     **A.     Burden of Proof**

8           1.     Summary judgment is appropriate “when the pleadings, depositions, answers to  
9 interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that  
10 no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of  
11 law.” *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

12          2.     As the party moving for summary judgment, ZBCI bears the initial burden of  
13 production to show the absence of a genuine issue of material fact. *Id.* ZBCI also bears the burden of  
14 persuasion at trial on its breach of contract and Chapter 108 claims and therefore must present  
15 evidence that would entitle it to a judgment as a matter of law on those two claims in the absence of  
16 contrary evidence. *See id.*

##### 17     **B.     APCO's Breach of the Subcontract**

18          3.     To establish a breach of contract under Nevada law, ZBCI must provide admissible  
19 evidence of (1) the existence of a valid contract, (2) a breach by APCO, and (3) damage as a result of  
20 the breach. *See Richardson v. Jones*, 1 Nev. 405, 408 (1865). In this case, this Court concludes that  
21 ZBCI has presented sufficient admissible evidence on all elements of a breach of contract.

22          4.     The Subcontract between the respective parties is a valid contract. However, as  
23 discussed in this Court's separate decision regarding the enforceability of the Subcontract's “pay-if-  
24 paid provisions,” the pay-if-paid provisions are against public policy and are void and unenforceable  
25 under Nev. Rev. Stat. 624.628(e). The remaining terms of the Subcontract remain enforceable.

26          5.     Nev. Rev. Stat. 624.626(3) automatically approves written requests for change orders  
27 unless the higher-tiered contractor denies the requests in writing within 30 days after the lower-tiered  
28 contractor submits the requests. Here, this Court concludes that because ZBCI did not receive any

1 written denials of its change order requests within 30 days of request, ZBCI's change order requests  
2 amounting to \$347,441.67 were approved by operation of law. ZBCI is therefore entitled to payment  
3 in the amount of \$347,411.67 for all of the change orders submitted.

4 6. Under Nevada law, compliance with a valid condition precedent requires only  
5 substantial performance. *See, e.g., Laughlin Recreational Enterprises, Inc. v. Zab Dev. Co., Inc.*, 98  
6 Nev. 285, 287, 646 P.2d 555, 556-57 (1982). ZBCI proved at least substantial compliance with the  
7 conditions precedent for payment of the Retention, entitling ZBCI to payment of \$403,365.49 for the  
8 Retention.

9 7. Alternatively, by the very terms of the Subcontract itself, the termination of the Prime  
10 Contract automatically entitles ZBCI to payment of \$403,365.49 for the Retention and \$347,441.67  
11 for the completed work on the change orders. This Subcontract language—exclusive of the void pay-  
12 if-paid provisions—coincides with a prime contractor's obligations to pay its subcontractors  
13 pursuant to Nev. Rev. Stat. 624.626(6).

14 8. APCO breached the Subcontract by refusing to pay ZBCI all of the amount owed for  
15 the Retention and the change orders, and as a result ZBCI is entitled to judgment on its Complaint as  
16 a matter of law. This gives rise to \$750,807.16 in damages, exclusive of attorney's fees, costs, and  
17 interest.

18 **C. ZBCI's Nev. Rev. Stat. 108 Claim**

19 9. There is no dispute that ZBCI complied with the requirements for enforcing its lien  
20 rights under Chapter 108 of the Nevada Revised Statutes.

21 10. Nev. Rev. Stat. 108.239(12) entitles ZBCI to a "personal judgment for the residue  
22 against" APCO.

23 11. Because ZBCI did not receive any of the proceeds from the Nev. Rev. Stat. 108 sale  
24 of the Project, there is no genuine issue that ZBCI is entitled to a personal judgment under Nev. Rev.  
25 Stat. 108.239 against APCO for \$750,807.16 as the lienable amount, plus any reasonable attorney's  
26 fees, costs, and statutory interest that the Court may award.

1 **D. Preclusion of APCO's Defenses**

2 12. This Court has considered APCO's arguments in response to ZBCI's motion for  
3 summary judgment and concluded that the arguments have no merit.

4 13. As discussed above, the pay-if-paid provisions in the Subcontract is unenforceable  
5 and therefore cannot excuse APCO's payment of the amount owed to ZBCI.

6 14. If APCO wanted to assert other grounds for refusing payment to ZBCI, Nev. R. Civ.  
7 P. 26(e)(2) required APCO to seasonably amend its prior interrogatory responses to include grounds  
8 for refusal other than the enforceability of the pay-if-paid provision. Pursuant to Nev. Rev. Stat.  
9 37(c)(1) and *Pizarro-Ortega v. Cervantes-Lopez*, 133 Nev. Adv. Op. 37, 396 P.3d 783, 787 (2017),  
10 APCO's failure to seasonably amend precludes APCO from asserting any other defenses "at a trial,  
11 at a hearing, or on a motion" unless APCO substantially justifies this failure or such failure is  
12 harmless to ZBCI.

13 15. The facts of this case are clear and uncontested. APCO was aware of its alleged  
14 grounds for refusing payment of the \$750,807.16 owed to ZBCI before ZBCI filed its complaint  
15 against APCO. APCO could have asserted its other defenses, other than its belief in the  
16 enforceability of the pay-if-paid provision, at the time it served its April 29, 2010 responses to  
17 ZBCI's interrogatories. In any event, several extensions to discovery were granted in this case even  
18 up to a few weeks before dispositive motions were filed. APCO had ample opportunities to  
19 seasonably amend or supplement its discovery responses to assert additional defenses against paying  
20 ZBCI the amount owed under the Subcontract.

21 16. Yet, APCO failed to explain why during the seven years of litigation between APCO  
22 and ZBCI, it did not disclose any defenses other than its belief in the enforceability of the pay-if-paid  
23 provision. For example, APCO did not explain its decision to omit the other defenses in its April 29,  
24 2010 responses to ZBCI's interrogatories and May 12, 2017 responses to ZBCI's interrogatories.  
25 APCO also did not explain why it did not amend or supplement its discovery responses with the  
26 other defenses during discovery.

27 17. ZBCI reasonably relied on APCO's interrogatory responses to formulate its litigation  
28 plan, which included decisions to avoid certain discovery. For example, ZBCI limited its discovery

1 to taking APCO's Nev. R. Civ. P. 30(b)(6) depositions with truncated questioning. ZBCI also filed  
2 its motion for summary judgment that focused on the enforceability of the pay-if-paid provisions.

3 18. By raising defenses other than the enforceability of the pay-if-paid provisions for the  
4 first time in its opposition to ZBCI's motion for summary judgment, APCO has prejudiced ZBCI.  
5 The late defenses have prevented ZBCI from conducting discovery at a time when relevant  
6 information is available and fresh in witnesses' mind. APCO's prejudicial actions also forced ZBCI  
7 to incur time and costs to conduct discovery based on incomplete information.

8 19. APCO's late defenses are not justified and are extremely prejudicial to ZBCI. Those  
9 defenses are now too little, too late. Under Nev. R. Civ. P. 37(c)(1), APCO cannot introduce any  
10 evidence to support any defenses against ZBCI's claims because its prejudicial discovery responses  
11 only claimed that it relied on the void pay-if-paid provisions.

12 20. Due to the preclusion of the other defenses, ZBCI's evidentiary objections regarding  
13 those defenses are moot.

14 21. ZBCI is entitled to judgment on its breach of contract claim and its Nev. Rev. Stat.  
15 108 claims as a matter of law.

16 **E. Attorney's Fees, Costs, and Interest**

17 22. ZBCI is the prevailing party under the Subcontract and the prevailing lien claimant  
18 under Nev. Rev. Stat. 108.237(1).

19 23. Under the Subcontract, ZBCI is entitled to an award of interest, reasonable attorney's  
20 fees, and costs incurred to collect the amount owed to ZBCI.

21 24. Under Nev. Rev. Stat. 108.237(1), ZBCI is also entitled to the cost of preparing and  
22 recording the notice of lien, the costs of the proceedings, the costs for representation of the lien  
23 claimant in the proceedings, and any other costs related to ZBCI's efforts to collect the amount owed  
24 against APCO. This includes, without limitation, attorney's fees and interest.

25 25. Nev. Rev. Stat. 108.237(2)(b) provides the calculation of the interest that accrues  
26 under the amount awarded under Nev. Rev. Stat. 108.237(1). This interest is equal to the prime rate  
27 at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on  
28 January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 4 percent,

1 on the amount of the lien found payable. The rate of interest must be adjusted accordingly on each  
2 January 1 and July 1 thereafter until the amount of the lien is paid.

3 26. Interest is payable from the date on which the payment is found to have been due,  
4 which would be December 15, 2008 in this case. Interest will accrue on the lienable amount,  
5 attorney's fees, and costs until the entire amount is paid.

6 **ORDER**

7 **THEREFORE, IT IS HEREBY ORDERED** that ZBCI's Motion for Partial Summary  
8 Judgment Against APCO Construction is **GRANTED** in its entirety.

9 **IT IS FURTHER ORDERED** that ZBCI is awarded \$750,807.16 (the "Award") on its First  
10 Cause of Action (Breach of Contract) and Fourth Cause of Action (Foreclosure of Mechanic's Lien).

11 **IT IS FURTHER ORDERED** that ZBCI's remaining claims—Second Cause of Action  
12 (Breach of Implied Covenant of Good Faith & Fair Dealing), Third Cause of Action (Unjust  
13 Enrichment or in the Alternative Quantum Meruit), and Seventh Cause of Action (Violation of NRS  
14 624)—are moot.

15 **IT IS FURTHER ORDERED** that ZBCI is awarded attorneys' fees and costs incurred in  
16 connection with this litigation.

17 **IT IS FURTHER ORDERED** that interest shall accrue on the unpaid amount of the Award  
18 from ZBCI's complaint was filed, which was April 30, 2009, to the date the entire amount is paid.

19 **IT IS FURTHER ORDERED** that ZBCI has 30 days from the date of this order to submit a  
20 memorandum setting forth its attorney's fees and costs.

21 **IT IS FURTHER ORDERED** that APCO has 30 days after service of the memorandum to  
22 submit a response.

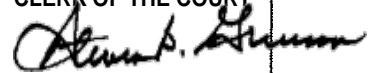
23 **IT IS FURTHER ORDERED** that ZBCI has 10 days after APCO's response to submit a  
24 reply to the response.

25 **IT IS FURTHER ORDERED** that this Court will address the sole issue of whether ZBCI is  
26 entitled to attorney's fees and costs set forth in the memorandum at a hearing before this Court on

27 January 18, 2018 at 9:00 a.m.

AA 005548





**ORDER**

JORGE A. RAMIREZ, ESQ.  
Nevada Bar No. 6787  
I-CHE LAI, ESQ.  
Nevada Bar No. 12247  
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*Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

APCO CONSTRUCTION, a Nevada  
corporation,

Plaintiff,

vs.

GEMSTONE DEVELOPMENT WEST, INC., a  
Nevada corporation,

Defendant.

CASE NO. 08A571228  
DEPT. NO. XIII

Consolidated with:

A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

AND ALL RELATED MATTERS

Date of Hearing: January 11, 2018  
Time of Hearing: 9:00 a.m.

**ORDER DENYING APCO CONSTRUCTION, INC.'S MOTION FOR  
RECONSIDERATION OF COURT'S ORDER GRANTING ZITTING BROTHERS  
CONSTRUCTION, INC.'S PARTIAL MOTION FOR SUMMARY JUDGMENT**

On January 11, 2018, this Court heard APCO Construction, Inc.'s Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment. I-Che Lai of Wilson Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction, Inc. ("ZBCI"). Mary E. Bacon of Spencer Fane LLP and Cody S. Munteer of Marquis Aurbach Coffing appeared for APCO Construction, Inc. ("APCO"). Having considered APCO's motion, the pleadings and papers filed in this case, and oral arguments of counsel and finding good cause,

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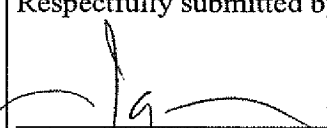
DISTRICT COURT DEPT. XIII

1           **IT IS HEREBY ORDERED** that APCO's Motion for Reconsideration of Court's Order  
2 Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment is denied.

3           Dated this 24<sup>th</sup> day of January, 2018.

4  
5  
6             
DISTRICT COURT JUDGE RA

7 Respectfully submitted by:

8  
9             
Jorge A. Ramirez, Esq.

10 I-Che Lai, Esq.

**WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

11 300 South Fourth Street, 11th Floor

12 Las Vegas, Nevada 89101

*Attorneys for Lien Clamant,*

13 *Zitting Brothers Construction, Inc.*

14 Approved as to form and content by:

15             
John H. Mowbray, Esq.

16 John Randall Jefferies, Esq.

17 Mary E. Bacon, Esq.

**SPENCER FANE LLP**

18 300 South Fourth Street, Suite 700

19 Las Vegas, Nevada 89101

20 and

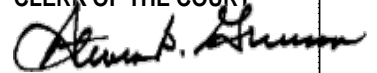
21 Cody S. Mounteer, Esq.

**MARQUIS AURBACH COFFING**

10001 Park Run Drive

22 Las Vegas, Nevada 89145

23 *Attorneys for APCO Construction, Inc.*



1 **NEOJ**  
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13 Attorneys for Lien Clamant,  
14 Zitting Brothers Construction, Inc.

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 APCO CONSTRUCTION, a Nevada  
11 corporation,

12 Plaintiff,

13 vs.

14 GEMSTONE DEVELOPMENT WEST, INC., a  
15 Nevada corporation,

16 Defendant.

17 AND ALL RELATED MATTERS

CASE NO. 08A571228  
DEPT. NO. XIII

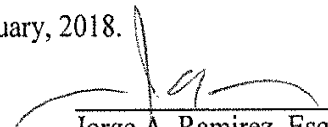
**NOTICE OF ENTRY OF ORDER  
DENYING APCO CONSTRUCTION,  
INC.'S MOTION FOR  
RECONSIDERATION OF COURT'S  
ORDER GRANTING ZITTING  
BROTHERS CONSTRUCTION, INC.'S  
PARTIAL MOTION FOR SUMMARY  
JUDGMENT**

Consolidated with:

A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

20  
21 PLEASE TAKE NOTICE that an Order was entered in the above entitled action on the 25<sup>th</sup>  
22 day of January, 2018, a true and correct copy of which is attached hereto.

23 Dated this 30<sup>th</sup> day of January, 2018.

24   
25 Jorge A. Ramirez, Esq.  
26 I-Che Lai, Esq.

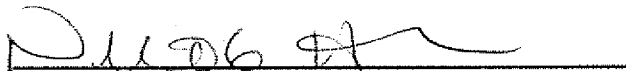
**WILSON, ELSE, MOSKOWITZ, EDELMAN  
& DICKER LLP**

27 300 South Fourth Street, 11th Floor  
28 Las Vegas, Nevada 89101  
Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ  
EDELMAN & DICKER LLP, and that on this 30<sup>th</sup> day of January, 2018, I served a true  
and correct copy of the foregoing document as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk; and pursuant to Rule 9 of the N.E.F.C.R.
- ☐ via hand-delivery to the addressees listed below;
- ☐ via facsimile;
- ☐ by transmitting via email the document listed above to the email address set forth below on this date before 5:00 p.m.



An Employee of  
WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP

*Steven D. Grierson*

1 **ORDR**

2 JORGE A. RAMIREZ, ESQ.

3 Nevada Bar No. 6787

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13 Attorneys for Lien Clamant,

14 Zitting Brothers Construction, Inc.

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 APCO CONSTRUCTION, a Nevada  
18 corporation,

19 Plaintiff,

20 vs.

21 GEMSTONE DEVELOPMENT WEST, INC., a  
22 Nevada corporation,

23 Defendant.

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A596924; A584960; A608717; A608718; and  
A590319

Date of Hearing: January 11, 2018  
Time of Hearing: 9:00 a.m.

24 AND ALL RELATED MATTERS

25 **ORDER DENYING APCO CONSTRUCTION, INC.'S MOTION FOR**  
26 **RECONSIDERATION OF COURT'S ORDER GRANTING ZITTING BROTHERS**  
27 **CONSTRUCTION, INC.'S PARTIAL MOTION FOR SUMMARY JUDGMENT**

28 On January 11, 2018, this Court heard APCO Construction, Inc.'s Motion for  
29 Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for  
30 Summary Judgment. I-Che Lai of Wilson Elser Moskowitz Edelman & Dicker, LLP appeared at the  
31 hearing for Zitting Brothers Construction, Inc. ("ZBCI"). Mary E. Bacon of Spencer Fane LLP and  
32 Cody S. Mounter of Marquis Aurbach Coffing appeared for APCO Construction, Inc. ("APCO").  
33 Having considered APCO's motion, the pleadings and papers filed in this case, and oral arguments  
34 of counsel and finding good cause,

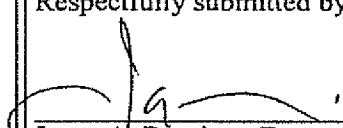
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1       **IT IS HEREBY ORDERED** that APCO's Motion for Reconsideration of Court's Order  
2 Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment is denied.

3       Dated this 24<sup>th</sup> day of January, 2018.

4  
5  
6         
DISTRICT COURT JUDGE       AA

7       Respectfully submitted by:

8  
9         
Jorge A. Ramirez, Esq.

10       I-Che Lai, Esq.

11       **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

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13       Las Vegas, Nevada 89101

14       Attorneys for Lien Clamant,

15       Zitting Brothers Construction, Inc.

16       Approved as to form and content by:

17         
John H. Mowbray, Esq.

18       John Randall Jefferies, Esq.

19       Mary E. Bacon, Esq.

20       **SPENCER FANE LLP**

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22       Las Vegas, Nevada 89101

23       and

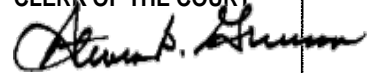
24       Cody S. Mounteer, Esq.

25       **MARQUIS AURBACH COFFING**

26       10001 Park Run Drive

27       Las Vegas, Nevada 89145

28       Attorneys for APCO Construction, Inc.



**ORDR**

JORGE A. RAMIREZ, ESQ.  
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I-CHE LAI, ESQ.  
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Jorge.Ramirez@wilsonelser.com  
I-Che.Lai@wilsonelser.com  
*Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

APCO CONSTRUCTION, a Nevada  
corporation,

Plaintiff,

vs.

GEMSTONE DEVELOPMENT WEST, INC.,  
a Nevada corporation,

Defendant.

CASE NO. A571228  
DEPT. NO. XIII

Consolidated with:

A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

AND ALL RELATED MATTERS

Hearing Date: March 1, 2018  
Hearing Time: 9:00 a.m.

**ORDER DETERMINING AMOUNT OF ZITTING BROTHERS CONSTRUCTION, INC.'S  
ATTORNEY'S FEES, COSTS, AND PREJUDGMENT INTEREST**

On March 1, 2018, this Court conducted further proceedings on Zitting Brothers Construction, Inc.'s application for payment of attorney's fees, costs, and interest. I-Che Lai of Wilson Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction, Inc. ("ZBCI"). John Randall Jefferies of Spencer Fane LLP appeared for APCO Construction, Inc. ("APCO"). Having heard oral arguments of counsel and examined the records of this case, this Court makes the following findings of fact and conclusions of law:

1. An attorney affidavit in support of ZBCI's request for attorney's fees is not required. Nev. R. Civ. P. 54(d)(2)(C) exempts ZBCI from Nev. R. Civ. P. 54(d)(2)(B)'s requirement for an attorney affidavit to support an attorney's fees request because the substantive law at issue in this

1 case provides for the recovery of attorney fees. Nevertheless, the evidence submitted with ZBCI's  
2 memorandum in support of APCO's payment of attorney's fees, costs, and interest is an adequate  
3 substitute for the attorney affidavit.

4 2. The four factors set forth in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349,  
5 455 P.2d 31, 33 (1969) governs this Court's determination of a reasonable amount of attorney's fees  
6 for ZBCI:

7 (1) the qualities of the advocate: his ability, his training,  
8 education, experience, professional standing and skill; (2) the  
9 character of the work to be done: its difficulty, its intricacy, its  
10 importance, time and skill required, the responsibility imposed  
11 and the prominence and character of the parties where they  
affect the importance of the litigation; (3) the work actually  
performed by the lawyer: the skill, time and attention given to  
the work; (4) the result: whether the attorney was successful  
and what benefits were derived.

12 3. These four factors support an award of \$176,968.00 in reasonable attorney's fees.

13 4. APCO concedes that the first factor favors the award of attorney's fees.

14 5. The work of APCO's counsel for APCO in this case likely benefits ZBCI in its  
15 pursuit of its claims against Gemstone Development West, Inc. and APCO. Under the second and  
16 third *Brunzell* factors, this favors a reduction of ZBCI's \$213,376.00 attorney's fees request by  
17 \$36,408.00.

18 6. Given this Court's full award of ZBCI's requested prejudgment interest, as discussed  
19 further below, the fourth factor also supports this reduction.

20 7. APCO does not dispute ZBCI's request for \$8,475.95 in costs. Therefore, the  
21 requested costs are reasonable.

22 8. Nev. Rev. Stat. 108.237(1) and other statutes governing prejudgment interest does not  
23 contain an exception for abatement of prejudgment interest during a stay of the case. Additionally,  
24 this Court has not previously issued any orders that would stay the accrual of prejudgment interest.  
25 Instead, authorities from other jurisdictions support the accrual of prejudgment interest during a stay.  
26 Therefore, prejudgment interest on the amount owed to ZBCI continue to accrue during a stay in this  
27 case.  
28



1       **THEREFORE, IT IS HEREBY ORDERED** that ZBCI is awarded \$176,968.00 in  
2 attorney's fees.

3       **IT IS FURTHER ORDERED** that ZBCI is awarded \$8,475.95 in costs.


4       **IT IS FURTHER ORDERED** that ZBCI is awarded interest under Nev. Rev. Stat.  
5 108.237(2)(b), which began accruing on April 30, 2009.

6       **IT IS SO ORDERED.**

7       Dated this 3<sup>rd</sup> day of May, 2018.

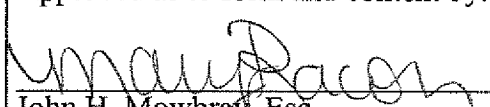
8  
9  
10   
DISTRICT COURT JUDGE

11 Respectfully submitted by:

12   
13 \_\_\_\_\_  
14 Jorge A. Ramirez, Esq.  
I-Che Lai, Esq.

15 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**  
16 300 South Fourth Street, 11th Floor  
Las Vegas, Nevada 89101  
Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.

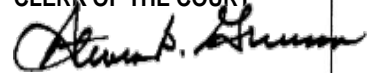
17  
18 Approved as to form and content by:

19   
20 \_\_\_\_\_  
21 John H. Mowbray, Esq.  
John Randall Jefferies, Esq.  
Mary E. Bacon, Esq.

22 **SPENCER FANE LLP**  
23 300 South Fourth Street, Suite 700  
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24 and

25 Cody S. Mounteer, Esq.  
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Las Vegas, Nevada 89145  
27 Attorneys for APCO Construction, Inc.  
28



1 **NEOJ**  
2 JORGE A. RAMIREZ, ESQ.  
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13 Attorneys for Lien Clamant,  
14 Zitting Brothers Construction, Inc.

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 APCO CONSTRUCTION, a Nevada  
12 corporation,

13 Plaintiff,

14 vs.

15 GEMSTONE DEVELOPMENT WEST, INC.,  
16 a Nevada corporation,

17 Defendant.

18 AND ALL RELATED MATTERS

CASE NO. A571228  
DEPT. NO. XIII

Consolidated with:

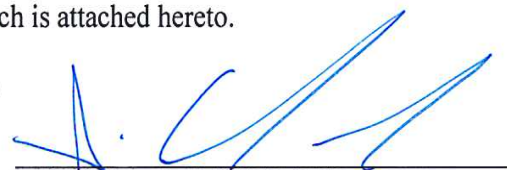
A574391; A574792; A577623; A583289;  
A587168; A580889; A584730; A589195;  
A595552; A597089; A592826; A589677;  
A596924; A584960; A608717; A608718; and  
A590319

Hearing Date: March 1, 2018  
Hearing Time: 9:00 a.m.

19 **NOTICE OF ENTRY OF ORDER DETERMINING AMOUNT OF ZITTING BROTHERS**  
20 **CONSTRUCTION, INC.'S ATTORNEY'S FEES, COSTS, AND PREJUDGMENT**  
21 **INTEREST**

22 PLEASE TAKE NOTICE that an Order was entered in the above entitled action on the 8<sup>th</sup>  
23 day of May, 2018, a true and correct copy of which is attached hereto.

24 Dated this 10<sup>th</sup> day of May, 2018.



25 JORGE A. RAMIREZ, ESQ.  
26 Nevada Bar No. 6787  
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28 Nevada Bar No. 12247  
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Attorneys for Lien Clamant,  
Zitting Brothers Construction, Inc.

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*Steven D. Grierson*

**ORDR**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

APCO CONSTRUCTION, a Nevada  
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Plaintiff,

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GEMSTONE DEVELOPMENT WEST, INC.,  
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Defendant.

AND ALL RELATED MATTERS

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A596924; A584960; A608717; A608718; and  
A590319

Hearing Date: March 1, 2018  
Hearing Time: 9:00 a.m.

**ORDER DETERMINING AMOUNT OF ZITTING BROTHERS CONSTRUCTION, INC.'S**

**ATTORNEY'S FEES, COSTS, AND PREJUDGMENT INTEREST**

On March 1, 2018, this Court conducted further proceedings on Zitting Brothers Construction, Inc.'s application for payment of attorney's fees, costs, and interest. I-Che Lai of Wilson Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction, Inc. ("ZBCI"). John Randall Jefferies of Spencer Fane LLP appeared for APCO Construction, Inc. ("APCO"). Having heard oral arguments of counsel and examined the records of this case, this Court makes the following findings of fact and conclusions of law:

1. An attorney affidavit in support of ZBCI's request for attorney's fees is not required. Nev. R. Civ. P. 54(d)(2)(C) exempts ZBCI from Nev. R. Civ. P. 54(d)(2)(B)'s requirement for an attorney affidavit to support an attorney's fees request because the substantive law at issue in this

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5 455 P.2d 31, 33 (1969) governs this Court's determination of a reasonable amount of attorney's fees  
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7 (1) the qualities of the advocate: his ability, his training,  
8 education, experience, professional standing and skill; (2) the  
9 character of the work to be done: its difficulty, its intricacy, its  
10 importance, time and skill required, the responsibility imposed  
11 and the prominence and character of the parties where they  
12 affect the importance of the litigation; (3) the work actually  
13 performed by the lawyer: the skill, time and attention given to  
14 the work; (4) the result: whether the attorney was successful  
15 and what benefits were derived.

16 3. These four factors support an award of \$176,968.00 in reasonable attorney's fees.

17 4. APCO concedes that the first factor favors the award of attorney's fees.

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19 pursuit of its claims against Gemstone Development West, Inc. and APCO. Under the second and  
20 third *Brunzell* factors, this favors a reduction of ZBCI's \$213,376.00 attorney's fees request by  
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24 7. APCO does not dispute ZBCI's request for \$8,475.95 in costs. Therefore, the  
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Therefore, prejudgment interest on the amount owed to ZBCI continue to accrue during a stay in this  
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4       **IT IS FURTHER ORDERED** that ZBCI is awarded interest under Nev. Rev. Stat.  
5 108.237(2)(b), which began accruing on April 30, 2009.

6       **IT IS SO ORDERED.**

7       Dated this 3<sup>rd</sup> day of May, 2018.

8  
9   
DISTRICT COURT JUDGE

10  
11 Respectfully submitted by:

12   
13 \_\_\_\_\_  
14 Jorge A. Ramirez, Esq.

I-Che Lai, Esq.

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Attorneys for Lien Clamant,

Zitting Brothers Construction, Inc.

18 Approved as to form and content by:

19   
20 \_\_\_\_\_  
21 John H. Mowbray, Esq.

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24 and

25 Cody S. Mounteer, Esq.

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Las Vegas, Nevada 89145

Attorneys for APCO Construction, Inc.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**May 12, 2009**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**May 12, 2009                      9:00 AM                      Motion to Amend**

**HEARD BY:** Walsh, Jessie                                              **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Teri Berkshire

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- There being no opposition, COURT ORDERED motion GRANTED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**May 20, 2009**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**May 20, 2009                      3:00 AM                      Motion to Intervene**

**HEARD BY:** Walsh, Jessie                                              **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Teri Berkshire

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- There being no opposition, COURT ORDERED, motion GRANTED.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 03, 2009**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**June 03, 2009                      9:00 AM                      All Pending Motions**

**HEARD BY:** Walsh, Jessie                                              **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Susan Todd

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Craft, Christopher	Attorney
	Gochmour, Wade B.	Attorney
	Jones, Mark Merrill	Attorney
	Meier, Glenn F	Attorney
	Pintar, Becky	Attorney
	Woods, Anjuli	Attorney

**JOURNAL ENTRIES**

- Mr. Gochmour argued the case needs to be consolidated to determine the appropriate lien priority among the lien claimants and to ensure all parties and entities are in the case. Mr. Jones argued consolidating the cases is premature and will only complicate issues with the sub-contractors and their mechanics liens, although this case would be appropriate for Business Court. Further, Mr. Jones argued the issue of trial is another complex issue, as his client has a clause in the contract stating matters to be handled by a non-jury trial and if the other parties demand a jury in the consolidation of the cases now, this would only increase the complexity. Mr. Meier argued the oppositions filed are by those companies who issues are not complex; however, these are complex issues and should all stay together. Ms. Woods and Mr. Dachelet opposed the consolidation of their cases. Further arguments by counsel. COURT ORDERED, Motion GRANTED IN PART as follows, the following cases shall be CONSOLIDATED; A574391, A574792, A577623, A583289, A584730, and A587168 and DENIED as to case A579963. FURTHER ORDERED, all cases TRANSFERRED to Business Court.

**08A571228**

CLERK'S NOTE: Corrected case # from A571792 to A574792, Susan C. Todd/06/24/09.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 06, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**July 06, 2009****9:00 AM****All Pending Motions****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Susan Burdette**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES****PRESENT:**

Maskas, Marisa

Attorney

Morris, Steven L.

Attorney

Attorney

Perkins, Robin E.

Attorney

**JOURNAL ENTRIES**

- Hydropressure Cleaning's Motion to Intervene ... Tri-City Drywall's Joinder in Hydropressure Cleaning's Motion to Intervene and Tri-City Drywall's Request to Intervene ... The Masonry Group Nevada's Motion to Intervene ... Defts Camco Pacific Construction and Fidelity and Deposit Co of Maryland's Motion to Dismiss the Third Party Complaint of David Peterson Framing

Becky Pintar, Esq., also present on behalf of Masonry Group.

Court stated he has a note that counsel for Fennemore Craig called and stated this would be continued.

As to Hydropressure Cleaning's Motion to Intervene and Tri-City Drywall's Joinder in Hydropressure Cleaning's Motion to Intervene and Tri-City Drywall's Request to Intervene: Ms. Maskas noted that Tri-City Drywall filed a joinder in the Motion to Intervene and has not received an Opposition; noted Tri-City Drywall filed their Statement of Facts in February, and joined the Motion to Intervene. Ms. Perkins stated she does not have any information to be heard. COURT ORDERED,

Joinder Motion GRANTED.

As to The Masonry Group Nevada's Motion to Intervene: Ms. Pintar referred to the Motions to Intervene; noted that on June 29, Department X issued an Order as to filing a Complaint for Intervention; and stated her Motion to Intervene can be taken off calendar as it appears that Department X granted that as to all parties. COURT ORDERED, motion MOOT.

As to Defts Camco Pacific Construction and Fidelity and Deposit Co of Maryland's Motion to Dismiss the Third Party Complaint of David Peterson Framing: Court noted no one is here from Fennemore Craig. Arguments by counsel as to there being no contract; letter dated December 8, 2008, by Janet Griffith; Affidavit from Peter Smith; and no claims against the project nor against Gemstone themselves. COURT ORDERED, matter taken UNDER ADVISEMENT to review the briefs.

Mr. Morris stated he renoticed the motion after the consolidation; noted there were other motions that were filed; and referred to the calendar. Following further colloquy, COURT ORDERED ruling RESCINDED; motion CONTINUED given the circumstances as to someone calling that this would be continued; and noted that if the Court decides to give it a special time, counsel will be notified by fax. Upon Court's inquiry, Mr. Morris stated it should not take long to argue. COURT ORDERED, rulings on the other motions to STAND.

07-27-09 9:00 AM Defts Camco Pacific Construction and Fidelity and Deposit Co of Maryland's Motion to Dismiss the Third Party Complaint of David Peterson Framing

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 20, 2009**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

<b>July 20, 2009</b>	<b>9:00 AM</b>	<b>Motion for Default Judgment</b>	<b>Harsco Corporation's Motion for Default Judgment</b>
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**HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Carol Donahoo**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES**

<b>PRESENT:</b>	Meier, Glenn F	Attorney
	Williams, Donald H	Attorney
		Attorney

**JOURNAL ENTRIES**

- Mr. Williams advised he would like to WITHDRAW his Motion for Default Judgment. There being no opposition, COURT ORDERED, matter OFF CALENDAR.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 27, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**July 27, 2009****9:00 AM****Motion to Dismiss**

**Third Party Defts  
Camco Pacific  
Construction and  
Fidelity and Deposit  
Co of Maryland's  
Motion to Dismiss  
the Third Party  
Complaint of David  
Peterson Framing**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Susan Todd  
Lorraine Williams**RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	Dixon, Stephen M.	Attorney
	Meier, Glenn F	Attorney
	Morris, Steven L.	Attorney
		Attorney

**JOURNAL ENTRIES**

- Mr. Sheryl T. Parker, Esq., Attorney for Plaintiff. Zittig Brothers Construction, Inc.

Colloquy regarding motions to intervene. Arguments by counsel regarding alleged contract between Camco and Gemstone. There being questions of fact whether contract existed, COURT ORDERED, motion DENIED WITHOUT PREJUDICE; summary judgment will not be considered at this time.

PRINT DATE: 06/11/2018

Page 8 of 194

Minutes Date: May 12, 2009

Mr. Dixon requested a Rule 16 Conference. COURT FURTHER ORDERED, this department to SET Rule 16 Conference at a later time. Mr. Meier to prepare order, and opposing counsel to approve as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 12, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 12, 2009****9:00 AM****All Pending Motions**

**DEFT SCOTT  
FINANCIAL  
CORPORATION'S  
MOTION TO  
DISMISS CLUB  
VISTA FINANCIAL  
SERVICES AND  
THARALDSON  
MOTELS II'S  
COUNTERCLAIM...  
DEFT SCOTT  
FINANCIAL CORP'S  
MOTION TO  
DESIGNATE THIS  
ACTION AS  
COMPLEX  
PURSUANT TO  
NRCP 16.1(f), AND  
MOTION TO SET A  
DISCOVERY  
CONFERENCE  
PURSUANT TO  
NRCP 16**

**HEARD BY:** Bonaventure, Joseph T.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES**

PRINT DATE: 06/11/2018

Page 10 of 194

Minutes Date: May 12, 2009



PRESENT:	Carter, Matthew S.	Attorney
	CAWLEY, REUBEN	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Koch, Richard Allen	Attorney
	Meier, Glenn F	Attorney
	Morris, Steven L.	Attorney
		Attorney
	Perkins, Robin E.	Attorney
	Williams, Donald H	Attorney
		Attorney
		Attorney

### JOURNAL ENTRIES

- Brian K. Berman, Esq., present on behalf of Pltf. Ready Mix Inc.

As there were no objections and there being good cause, COURT ORDERED, Motion to Deem Case as Complex GRANTED; matter SET for Rule 16 Conference.

COURT FURTHER ORDERED, Motion to Dismiss CONTINUED.

Mr. Meier to prepare Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 19, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 19, 2009****9:00 AM****Motion for Sanctions**

**DEFT NEVADA  
CONSTRUCTION  
SERVICES MOTION  
FOR SANCTIONS  
PURSUANT TO  
NRCP 11**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:**

Morris, Steven L.

Attorney

Attorney

Vlastic, Charles

Attorney

Williams, Donald H

Attorney

Attorney

**JOURNAL ENTRIES**

- Arguments by counsel regarding number of allegations that are "wrong-doing," lack of written findings, and number of requests to look at Nevada Construction Services' books.

As Rule 11 was NOT violated, COURT ORDERED, motion DENIED.

Mr. Morris to prepare Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

October 26, 2009

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**October 26, 2009      9:00 AM      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Lorraine Williams  
Melissa Benson

**RECORDER:**

**REPORTER:** Brenda Schroeder

## PARTIES

<b>PRESENT:</b>	Blake, David	Attorney
	Carter, Matthew S.	Attorney
	CAWLEY, REUBEN	Attorney
	Craft, Christopher	Attorney
	Dixon, Stephen M.	Attorney
	Dobberstein, Eric	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Gutke, John H.	Attorney
	Meier, Glenn F	Attorney
	Muckleroy, Martin A.	Attorney
	Perkins, Robin E.	Attorney

## JOURNAL ENTRIES

- Christine Taradash, Esq., present Pro Hac Vice on behalf of Counter Claimants Gary Tharaldson, Tharaldson Motels II and Club Vista Financial Services.

Ms. Taradash advised she is waiting only on Order to appear pro hac vice and requested he be allowed to proceed as such; COURT SO ORDERED. As to Deft. Scott Financial's Motion to Dismiss

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AA 005575

and all related: Arguments by counsel regarding compulsory counter claim and priority of liens. COURT ORDERED, Motion to Dismiss and all joinders GRANTED.

As to Deft. Camco's renewed Motion for Clarification: Arguments by counsel regarding contractual and procedural issues, bond requirements and need for evidentiary hearing. COURT FURTHER ORDERED, Motion for Clarification/Reconsideration CONTINUED. Fraud claims will not be undone; anything relating to counterclaim is STRICKEN.

Mr. Meier to prepare detailed Order so there will be no room for confusion.

11/03/09 9:00 AM DEFT CAMCO'S RENEWED MTN FOR CLAIFICATION OR RECONSIDERATION OF 4/66/09 RULING RE: EXEC PLASTERIN'S APPLICATION FOR ORDER TO SHOW CAUSE WHY PREJUDGEMENT WRIT OF ATTACHMENT & WRIT OF GARNISHMENT SHOULD NOT ISSUE AFTER NOTICE...ALL JOINDERS...CONTINUED

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 03, 2009**

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08A571228      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

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<b>November 03, 2009</b>	<b>9:00 AM</b>	<b>Motion to Reconsider</b>	<b>DEFT CAMCO'S RENEWED MTN FOR CLARIFICATION OR RECONSIDERATIO N OF ARIL 6, 2009 RULING RE: EXECUTIVE PLASTERING'S APPLICATION FOR ORDER TO SHOW CAUSE WHY PREJUDGMENT WRIT OF ATTACHMENT &amp; WRIT OF GARNISHMENT SHOULD NOT ISSUE AFTER NOTICE (CONSOLIDATED CASE)</b>
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**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams  
Melissa Benson**RECORDER:****REPORTER:**

**PARTIES**

**PRESENT:** Blake, David Attorney

**JOURNAL ENTRIES**

- Mr. Blake advised he sent a letter and has had no response.

As there are concerns of how this case was handled, COURT ORDERED, motion GRANTED;  
Prejudgment Writ of Attachment STRICKEN.

COURT NOTED, there was no bond filed. Mr. Blake to prepare Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 19, 2009**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**November 19, 2009      10:00 AM              Mandatory Rule 16  
                                          Conference**

**HEARD BY:** Delaney, Kathleen E.                      **COURTROOM:** Phoenix Building Courtroom -  
                                          11th Floor

**COURT CLERK:** Lorraine Williams

**RECORDER:**

**REPORTER:** Brenda Schroeder

**PARTIES**

<b>PRESENT:</b>	Craft, Christopher	Attorney
	Dobberstein, Eric	Attorney
	Gemstone Development West Inc	Defendant
		Intervenor Defendant
	Gochmour, Wade B.	Attorney
		Attorney
	Gutke, John H.	Attorney
	Meier, Glenn F	Attorney
	Muckleroy, Martin A.	Attorney
	Pawlowski, Matthew P.	Attorney
	Perkins, Robin E.	Attorney
	Pintar, Becky	Attorney
	Rycraft Jr., Dale R.	Attorney
	Vlastic, Charles	Attorney
	Walters, Brian K.	Attorney

**JOURNAL ENTRIES**

- Colloquy regarding missing consolidated cases and 06/29/09 consolidation Order. COURT NOTED the following cases were missed from consolidation into this case: A584960, A590319,

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A596924, A597089, and A592826. Further colloquy regarding discovery.

COURT ORDERED Mr. Meier to amend his proposed Order in section 4 to also require that all lenders produce all documents by deadline; trial will be set for sometime during January, 2012; Court will fill in all discovery deadlines upon receipt of Order.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 23, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**November 23, 2009****9:00 AM****Motion to Withdraw as  
Counsel****KOCH'S MOTION  
TO WITHDRAW AS  
COUNSEL OF  
RECORD FOR  
REPUBLIC CRANE  
SERVICES LLC****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:** Koch, Richard Allen Attorney**JOURNAL ENTRIES**

- Mr. Koch advised he will submit a file stamped copy of Errata that has Affidavit with last known address and phone number of Republic Crane Services.

COURT ORDERED, motion CONDITIONALLY GRANTED; Mr. Koch to submit proposed order with file stamped copy of Errata.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 07, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**December 07, 2009****9:00 AM****Motion to Withdraw as  
Counsel**

**WATKINS'  
MOTION TO  
WITHDRAW AS  
ATTORNEY OF  
RECORD FOR  
INTERVENOR/LIEN  
CLAIMANT  
CABINETEC, INC**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:** Watkins, Justin L.

Attorney  
Attorney

**JOURNAL ENTRIES**

- As Mr. Watkins' client failed to pay fees owed and failed to communicate, COURT ORDERED, motion GRANTED; Mr. Watkins to prepare Order and submit within 10 days.

Mr. Watkins advised an amended Affidavit with his client's last known telephone number was e-Filed this day.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 08, 2009**

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08A571228      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

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<b>December 08, 2009</b>	<b>9:00 AM</b>	<b>Motion to Amend Complaint</b>	<b>HARSCO CORP'S MOTION FOR SECOND AMENDED COMPLAINT IN INTERVENTION</b>
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**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES**

**PRESENT:** Williams, Donald H      Attorney  
Attorney

**JOURNAL ENTRIES**

- As there was no Opposition, COURT ORDERED, motion GRANTED; Selina Cisneros to be added to Complaint.

Mr. Williams to prepare Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 23, 2009**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**December 23, 2009****9:00 AM****Motion to Withdraw as  
Counsel**

**CALLISTER'S  
MOTION TO  
WITHDRAW AS  
COUNSEL OF  
RECORD FOR PLTF  
EXECUTIVE  
PLASTERING INC**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:** Pawlowski, Matthew P. Attorney**JOURNAL ENTRIES**

- As there was no opposition, COURT ORDERED, motion CONDITIONALLY GRANTED; Mr. Pawlowski to submit with proposed Order a file stamped copy of Errata for the Affidavit that includes the last known telephone number of Executive Plastering.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****January 25, 2010**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**January 25, 2010                      9:00 AM                      Motion to Withdraw as  
                                          Counsel**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Susan Botzenhart**RECORDER:****REPORTER:****PARTIES**

<b>PRESENT:</b>	CAWLEY, REUBEN	Attorney
	Dixon, Stephen M.	Attorney
	Oblad, John T.	Attorney
	Routheaux, Jenny	Attorney

**JOURNAL ENTRIES**

- Additional appearance made by counsel: Brian Berman, Esq.: for Pltf. Ready Mix Inc. in case 08A577623.

There being no opposition, COURT ORDERED, Motion GRANTED. Mr. Berman advised he is appearing on behalf of Southwest, and to also monitor on the aspect of this matter as a business entity cannot represent itself in proper person. Colloquy. COURT ORDERED, matter SET for status check on confirmation of counsel.

2/22/10 9:00 AM STATUS CHECK: CONFIRMATION OF COUNSEL FOR DEFTS. GEMSTONE DEVELOPMENT WEST INC, GEMSTONE DEVELOPMENT LLC, AND EDELSTEIN

\*\*\*\*\*THIS IS A LEAD CASE CONSOLIDATED WITH 08A574391, 08A574792, 08A577623, 09A580889, 09A583289, 09A584730, 09A584960, 09A587168, 09A589195, 09A590319, 09A592826, 09A596924, AND

**08A571228**

09A597089\*\*\*\*\*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****February 22, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**February 22, 2010****9:00 AM****Status Check**

**STATUS CHECK:  
CONFIRMATION  
OF COUNSEL FOR  
DEFTS GEMSTONE  
DEVELOPMENT  
WEST INC,  
GEMSTONE  
DEVELOPMENT  
LLC, AND  
EDELSTEIN**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams  
Dawn Jackson**RECORDER:****REPORTER:****PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Brian K. Berman, Esq., present on behalf of Pltf. Ready Mix Inc. Reuben Cawley, Esq., present on behalf of Pltf. Zitting Brothers Construction Inc.

Colloquy regarding possible Order to Show Cause. Counsel advised Deft. Gemstone Development faxed a letter to all parties stating they do not have money to hire counsel.

COURT NOTED it will not issue Default against Deft. Gemstone at this time, but counsel may take

appropriate measures as Deft. Gemstone fails to participate.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 09, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**March 09, 2010****9:00 AM****Show Cause Hearing**

**HEARING RE:  
SHOW CAUSE WHY  
LIENHOLDERS  
NOT  
PARTICIPATING IN  
CONSOLIDATED  
ACTION SHOULD  
NOT BE HELD IN  
CONTEMPT**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:** Brenda Schroeder**PARTIES****PRESENT:**

CAWLEY, REUBEN

Attorney

Meier, Glenn F

Attorney

Muckleroy, Martin A.

Attorney

**JOURNAL ENTRIES**

- John Gruel, owner of Freedom Fire Prevention, also present.

Mr. Meir advised Proofs were filed. Counsel all submitted on pleadings.

As 25 parties did not comply with Court's Order and submit necessary pleadings by 03/01/10,  
COURT FINDS those 25 parties in contempt; therefore, COURT ORDERED Motion GRANTED; 25  
Liens of non-responsive parties EXPUNGED.

Colloquy regarding Mr. Gruel's presence. Mr. Meir further advised he will work with Mr. Gruel regarding this issue.

COURT'S PREVIOUS RULING STRICKEN. COURT FINDS 24 parties in contempt; therefore COURT ORDERED Motion GRANTED as to 24 parties; 24 Liens of non-responsive parties EXPUNGED (Freedom Fire now excluded as well).

Colloquy regarding counsel for Freedom Fire.

COURT FURTHER ORDERED Freedom Fire to have 10 DAYS to file into this case.

Mr. Meier to prepare Order.

CLERK'S NOTE: Pursuant to Order Granting Deft. Scott Financial Corp's Application for Order to Show Cause (signed 03/25/10), COURT ORDERED THIS MINUTE ORDER VACATED in its ENTIRETY. LMW 03/25/10

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 30, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**March 30, 2010****9:00 AM****Motion for Partial  
Summary Judgment****Pltf. Ahern Rentals  
Inc.'s Motion for  
Partial Summary  
Judgment Against  
Deft. Edelstein Only****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:**

Caffaratti, Monica

Attorney

Meier, Glenn F

Attorney

Muckleroy, Martin A.

Attorney

Perkins, Robin E.

Attorney

**JOURNAL ENTRIES**

- Martin I. Melendrez, Esq., present on behalf of Pltf. HD Supply Construction Supply Inc.

Ms. Perkins advised Counter-Deft. Ahern Rentals is NOT attempting to foreclose on lien and that her motion is limited to Intervenor Deft. Edelstein ONLY. Colloquy. Ms. Caffaratti advised Intervenor Deft. Edelstein does NOT deny liability, only amounts owed. Arguments by counsel regarding what Counter-Deft. Ahern Rentals provided as proof and the Intervenor Deft. Edelstein s failure to provide any contradictory evidence to amounts owed.

COURT ORDERED motion GRANTED IN PART as to liability ONLY; DENIED WITHOUT PREJUDICE as to damages.

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Ms. Perkins to prepare Order, and present counsel to approve as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 05, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**April 05, 2010****9:00 AM****Motion for Partial  
Summary Judgment****Pltf. Atlas  
Construction Supply,  
Inc.'s Motion for  
Partial Summary  
Judgment Against  
Gemstone  
Development West,  
Inc.****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:**

CAWLEY, REUBEN

Attorney

Dachelet, David W

Attorney

Dobberstein, Eric

Attorney

Gebhart, Michael T.

Attorney

Meier, Glenn F

Attorney

Williams, Donald H

Attorney

Attorney

**JOURNAL ENTRIES**

- Dana Howell, Esq., present on behalf of Intervenor Cell-Crete Fireproofing of Nevada Inc. and PCI Group LLC.

Mr. Dachelet advised Discovery ends this day. Arguments by counsel regarding lien claimants,

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**08A571228**

Gemstone's failures to appear and obtain counsel, priority, and unjust enrichment claims.

COURT ORDERED matter CONTINUED for further discussion.

CONTINUED TO: 04/13/10 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 13, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**April 13, 2010****9:00 AM****All Pending Motions**

**Hearing Re: Show Cause Why Liens Should Not Be Expunged (Jensen Enterprises Inc., Paramount Scaffold Inc., Carpets-N-More, Nedco Supply, Anthony Vizl/SWPPP Compliance Solutions LLC, Sacramento Insulation Contractors Inc., Eastridge Personnel of Las Vegas, Westward Ho LLC, Larry Methvin Installation Inc., Interstate Plumbing & Air Conditioning, S R Bray Corp Power Plus, Sunstate Equipment Company LLC, Sunstate Companies Inc., Towey Equipment Company Inc., Geotek Inc., Superior Traffic Services, Summit Sand & Gravel Inc., K & G Construction Inc., Tiberti Company,**

and Design Space  
Modular Buildings  
Inc.)...Pltf. Atlas  
Construction Supply,  
Inc.'s Motion for  
Partial Summary  
Judgment Against  
Gemstone  
Development West,  
Inc.

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Lorraine Williams

**RECORDER:**

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	CAWLEY, REUBEN	Attorney
	Clifford, David S	Attorney
		Attorney
	Dachelet, David W	Attorney
	Dobberstein, Eric	Attorney
	Gebhart, Michael T.	Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Reade, Robert C.	Attorney
	Williams, Donald H	Attorney
		Attorney

**JOURNAL ENTRIES**

- Gary Hayes, Esq., present on behalf of Lien Claimant Sunstate Companies Inc. Anthony Vizl, President, present as representative of Lien Claimant Anthony Vizl/SWPPP Compliance Solutions LLC. Dennis Kersee, Credit Manager, present as representative of Lien Claimant S R Bray Corp Power Plus. Brian Keith Berman, Esq., present on behalf of Pltf. Ready Mix Inc.

Colloquy regarding both lien claimants now present who were not present at last hearing and those that were present last hearing who are not present this time. Mr. Hayes advised he will E-file a Notice of Appearance for his client in this matter. COURT NOTED to all present in Proper Person



that it cannot give legal advice of any kind or answer any legal questions. Colloquy regarding length of time needed for lien claimants to file any necessary documents.

COURT ORDERED lien claimants present on this matter have until 04/23/10 by 5:00 p.m. to file Statement of Claims and take any other appropriate action, otherwise claims will be DISMISSED; ALL liens from lien claimants named that were not present this day are EXPUNGED for failure to appear.

Mr. Meier to prepare Order with all affected entities listed.

COURT FURTHER ORDERED lien claimants present are responsible for preparing case management order. MATTER TRAILED.

MATTER RECALLED: Mr. Reade advised A584960 was not properly consolidated into the lead case (A571228) as it is not a lien claim and requested matter be deconsolidated. Colloquy.

As A584960 was consolidated into A571228 in ERROR, COURT ORDERED, A584960 DECONSOLIDATED and REMANDED back to its original department. MATTER TRAILED.

MATTER RECALLED: Mr. Dachelet now present. Arguments by counsel as to whether Pltf. Atlas Construction possesses the correct set of circumstances to not follow case management order because they were just the equipment renter. Mr. Berman requested Court order Gemstone to appear for issue of Summary Judgment as they are necessary. Further arguments by counsel regarding lien perfection, whether evidence exists to challenge amounts owed, and discovery.

COURT ORDERED Motion for Partial Summary Judgment GRANTED IN PART as to issues of lien perfection, unjust enrichment, and amounts ONLY; DENIED as to priority; Order to Show Cause to ISSUE against Gemstone Development Inc.

COURT NOTED it does not believe all lien claimants will have good reason for Summary Judgment as Atlas Construction did here, but depending on what happens next in this matter, the Case Management Order may need to be amended.

Mr. Dachelet to prepare Findings of Fact and Conclusions of Law for Summary Judgment. Colloquy regarding N.R.C.P. 60.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 03, 2010**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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<b>May 03, 2010</b>	<b>9:00 AM</b>	<b>Motion for Substitution</b>	<b>LIEN CLAIMANT ARCH ALUMINUM AND GLASS COMPANY'S MOTION TO SUBSTITUTE PROPER PARTY PURSUANT TO NRCP 25</b>
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**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:****PARTIES****PRESENT:**              Wittig, Donna                                      Attorney

**JOURNAL ENTRIES**

- As Court was absent during the scheduled time for hearing and as matter was unopposed, COURT ORDERED, motion GRANTED.

Ms. Wittig to submit Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 05, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**May 05, 2010****9:00 AM****Show Cause Hearing**

**Hearing Re: Show Cause Why Default Judgment Should Not be Entered Against Gemstone Development West Inc. Pursuant to EDCR 7.60, for Failure to Give Reasonable Attention to Matters, and for Failure to Obtain New Counsel Pursuant to EDCR 7.42(b)**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom - 11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:** Brenda Schroeder**PARTIES****PRESENT:**

Caffaratti, Monica

Attorney

Gebhart, Michael T.

Attorney

Smith, P. Kyle

Attorney

**JOURNAL ENTRIES**

- Kyle Smith, Esq., was present on behalf of Intervenor Deft. Alex Edelstein.

Ms. Caffaratti Advised she will be withdrawing as counsel for Gemstone Development. COURT NOTED Ms. Caffaratti never formally appeared for either Defts. Gemstone Development or Alex Edelstein. Mr. Smith advised Deft. Gemstone Development has no intent on obtaining new counsel for this matter.

COURT ORDERED matter CONTINUED; counsel to prepare Order to move all outstanding Motions for Summary Judgment and related Joinders with this Show Cause Hearing.

COURT FURTHER NOTED if no Opposition is received from Deft. Gemstone Development, it is likely any and all Motions for Summary Judgment against them will be granted at next hearing.

CONTINUED TO: 05/17/10 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 17, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**May 17, 2010****9:00 AM****All Pending Motions**

**Lien Claimant Fast  
Glass Inc.'s Motion  
for Summary  
Judgment Against  
Gemstone  
Development West  
Inc Interstate  
Plumbing & Air  
Conditioning LLC's  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Development West  
Inc Buchele Inc.'s  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Development West  
Inc Accuracy Glass &  
Mirror Company  
Inc.'s Motion for  
Partial Summary  
Judgment Against  
Gemstone  
Development West  
Inc SWPP  
Compliance  
Solutions' Motion for  
Partial Summary  
Judgment against  
Gemstone  
Development West  
Inc Bruin Painting  
Corporation's Motion**

for Partial Summary  
Judgment Against  
Gemstone  
Development West  
Inc Cactus Rose  
Construction Inc.'s  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Development West  
Inc HD Supply  
Waterworks LP's  
Motion for Summary  
Judgment Against  
Gemstone  
Development West  
Inc Heinaman  
Contract Glazing's  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Development West  
Inc S.R. Bray Corp's  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Develop

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Lorraine Williams

**RECORDER:**

**REPORTER:** Brenda Schroeder

**PARTIES**

<b>PRESENT:</b>	CAWLEY, REUBEN	Attorney
	Gebhart, Michael T.	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Koch, David	Attorney
	Meier, Glenn F	Attorney

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Parry, Zachariah	Attorney
Peel, Richard L.	Attorney
Reade, Robert C.	Attorney
Williams, Donald H	Attorney
	Attorney
Wittig, Donna	Attorney

### JOURNAL ENTRIES

- Kyle Smith, Esq., present on behalf of Deft. Alex Edelstein.

Colloquy regarding previous hearing on new counsel for Gemstone Development. COURT NOTED no appearance on behalf of Gemstone Development and no indication there would be representation for Gemstone Development.

As Gemstone Development failed to obtain counsel and failed to proceed, COURT ORDERED, Gemstone Development's Answer STRICKEN and DEFAULT entered. Court will prepare Order.

Colloquy regarding perfection of liens and Erratas to be filed by SWPPP Compliance Solutions and Cactus Rose Construction. Mr. Peel advised the Notice of Lien did not record fast enough for it to be included with filing.

COURT ORDERED Mr. Peel to file Supplement with actual recorded document.

Mr. Meier argued that parties should have opportunity to litigate as evidence shows instead of just turning over bills. Further arguments by counsel regarding discovery and claim amounts. COURT NOTED priority does NOT have to be done first.

As there was NO issue as to perfection, COURT ORDERED, Motions and Joinders for Summary Judgment GRANTED IN PART; GRANTED as to Perfection; DENIED WITHOUT PREJUDICE as to Amounts; Matter SET for Status Check to set a date certain for Mr. Meier to challenge amounts pursuant to NRS 108.2275.

COURT NOTED Motions for Summary Judgment and any related Joinders will be considered as Oppositions should Deft. Scott Financial proceed with challenging amounts. Colloquy regarding Status Check setting.

Mr. Peel to prepare Joint Order for all Motions that includes Status Check setting.

06/16/10 9:00 AM STATUS CHECK: SET DATE CERTAIN (AMOUNT CHALLENGES)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 14, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**June 14, 2010****9:00 AM****Motion for Partial  
Summary Judgment****Pltf. Selectbuild  
Nevada Inc.'s Motion  
for Partial Summary  
Judgment Against  
Defendant Gemstone  
Development West  
Inc.****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****REPORTER:** Brenda Schroeder**PARTIES****PRESENT:**Meier, Glenn F  
Walters, Brian K.  
Wittig, DonnaAttorney  
Attorney  
Attorney**JOURNAL ENTRIES**

- COURT NOTED it did not receive Opposition until this morning. Ms. Wittig advised she was prepared to proceed, however, if certain issues were to arise, the she would request time to file Reply Brief. Colloquy regarding continuing matter.

COURT ORDERED Motion CONTINUED to Wednesday, 06/16/10; future date to be determined at that time.

CONTINUED TO: 06/16/10 9:00 AM



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 16, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**June 16, 2010****9:00 AM****All Pending Motions**

**Pltf. APCO  
Construction's  
Motion to  
Consolidate A608717  
Into  
A571228...Defendant/  
Counterclaimant  
Camco Pacific  
Construction Inc. and  
Fidelity and Deposit  
Company of  
Maryland's Motion to  
Consolidate Case No.  
A09-606730 and Case  
No. A10-608718 With  
Pending  
Action...Status Check:  
Set Date  
Certain...Pltf.  
Selectbuild Nevada  
Inc.'s Motion for  
Partial Summary  
Judgment Against  
Defendant Gemstone  
Development West  
Inc.**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Lorraine Williams**RECORDER:****PRINT DATE:** 06/11/2018**Page 43 of 194****Minutes Date:** May 12, 2009

**REPORTER:** Brenda Schroeder

**PARTIES**

<b>PRESENT:</b>	Albregts, Jeffrey Richard	Attorney
	CAWLEY, REUBEN	Attorney
	Gebhart, Michael T.	Attorney
	Gochnour, Wade B.	Attorney
		Attorney
	Haze, Airene	Attorney
	Howell, Dana Lee	Attorney
	Meier, Glenn F	Attorney
	Perkins, Robin E.	Attorney
	Shapiro, James E.	Attorney
	Walters, Brian K.	Attorney
	Wittig, Donna	Attorney

**JOURNAL ENTRIES**

- Martin I. Melendrez, Esq., was present on behalf of Pltf. HD Supply Construction Supply Inc. Robert B. Ziems, Esq., was present on behalf of Pltf. Wiss Janney Elstner Associates Inc. Michael D. Rawlins, Esq., present on behalf of Pltf. United Subcontractors Inc. Zachariah Parry, Esq., present telephonically on behalf of Counter-claimant Camco Pacific Construction Company Inc.

Mr. Gochnour advised Pltf. Apco Construction had no opposition to the Motion to Consolidate. Mr. Rawlins noted his limited Opposition. Colloquy regarding extending discovery for Pltf. United Subcontractors Inc.

COURT ORDERED both Motions to Consolidate GRANTED; A606730, A608717, and A608718 CONSOLIDATED into lead case A571228.

Mr. Gochnour to prepare Order.

Zachariah Parry, Esq., now present telephonically. Mr. Parry apologized for being late as he thought the matter was at 11:00 a.m. Court informed Mr. Parry of its earlier decision granting the Motions to Consolidate. Mr. Walters advised he had not received documents from Mr. Meier. Colloquy regarding documents, whether there will be any challenges to the Notice or amounts, and materials being moved from the site. Arguments by counsel regarding how soon case will be ready for trial and whether summary judgment was appropriate.

COURT ORDERED Motion for Summary Judgment CONTINUED; briefing schedule SET: all Supplemental Briefs DUE 07/06/10.

COURT FURTHER ORDERED ALL Summary Judgment Motions RESET to 07/12/10 at 10:00 a.m.;

**08A571228**

any forthcoming Motions for Summary Judgment may be filed with Orders Shortening Time.

CONTINUED TO: 07/12/10 10:00 AM

CLERK S NOTE: All future minutes will be entered into lead case A571228 ONLY. LMW

July 27, 2010

AA 005608

Walters, Brian K.  
Williams, Donald H

Attorney  
Attorney  
Attorney  
Attorney

## JOURNAL ENTRIES

- CUSTOM SELECT BILLINGS, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT GEMSTONE DEVELOPMENT WEST, INC. OR, ALTERNATIVELY, MOTION FOR PERMANENT WRIT OF POSSESSION AND FOR CERTIFICATION OF FINAL JUDGMENT PURSUANT TO NRCP 54(B)...HYDROPRESSURE CLEANING, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT GEMSTONE DEVELOPMENT WEST, INC. AND FOR CERTIFICATION OF FINAL JUDGMENT PURSUANT TO NRCP 54(B)... ZITTING BROTHERS CONSTRUCTION, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST GEMSTONE DEVELOPMENT WEST, INC. AND FOR CERTIFICATION OF FINAL JUDGMENT PURSUANT TO NRCP 54(B)...ATLAS CONSTRUCTION SUPPLY, INC.'S MOTION FOR SUMMARY JUDGMENT REGARDING THE COMMENCEMENT OF WORK AND PRIORITY OF ITS MECHANIC'S LIEN...FERGUSON FIRE & FABRICATION, INC'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING PERFECTION, VALIDITY, AND PRIORITY OF ITS MECHANIC'S LIEN... INSULPRO PROJECTS, INC.'S MOTION FOR PARTIAL SUMMARY AGAINST GEMSTONE DEVELOPMENT, INC., APCO CONSTRUCTION AND CAMCO PACIFIC CONSTRUCTION CO., INC...LIEN CLAIMANT/PLAINTIFF CELL CRETE FIREPROOFING OF NEVADA, INC'S MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST GEMSTONE DEVELOPMENT WEST INC., ON ISSUE OF LIEN PERFECTION...SCOTT FINANCIAL CORPORATION'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO PRIORITY OF LIENS...PLAINTIFF-IN-INTERVENTION, TRI-CITY DRYWALL, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST GEMSTONE DEVELOPMENT WEST, INC...LAS VEGAS PIPELINE'S MOTION FOR SUMMARY JUDGMENT AGAINST GEMSTONE DEVELOPMENT WEST, INC...ARCH ALUMINUM AND GLASS LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING PRIORITY AMONG LIEN CLAIMANTS ORDER SHORTENING TIME...HARSCO CORPORATION, EZA, P.C., DBA OZ ARCHITECTURE OF NEVADA, AND PATENT CONSTRUCTION SYSTEMS, A DIVISION OF HARSCO CORPORATION'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...ATLAS CONSTRUCTION SUPPLY, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...GRANITE CONSTRUCTION COMPANY'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...FERGUSON FIRE AND FABRICATION, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...PLAINTIFF/LIEN CLAIMANT SELECTBUILD NEVADA, INC.'S JOINDER TO APCO CONSTRUCTION'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...PLAINTIFF/LIEN CLAIMANT HD SUPPLY CONSTRUCTION SUPPLY, L.P. D/B/A WHITE CAP CONSTRUCTION SUPPLY, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...FAST GLASS, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...LAS VEGAS PIPELINE'S JOINDER IN APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...CAMCO'S JOINDER

TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...LIEN CLAIMANT/PLAINTIFF CELLCRETE FIREPROOFING OF NEVADA INC.'S JOINDER TO PLAINTIFF APCO CONSTRUCTION INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON LIEN PRIORITY AS AGAINST ALL LENDER PARTIES...PLAINTIFF, WISS, JANNEY, ELSTNER ASSOCIATES, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...GRAYBAR ELECTRIC COMPANY'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...NORTHSTAR CONCRETE, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...DAVE PETERSON FRAMING, INC., E&E FIRE PROTECTION, LLC, NOORDA SHEET METAL COMPANY, THE PRESSURE GROUT COMPANY AND PROFESSIONAL DOORS AND MILLWORKS, LLC'S NOTICE OF JOINDER IN APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...PLTF. SELECTBUILD NEVADA INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANT GEMSTONE DEVELOPMENT WEST INC...RENAISSANCE POOLS AND SPAS S JOINDER TO APCO S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...ZITTING BROTHERS CONSTRUCTIN, INC.'S JOINDER TO APCO CONSTRUCTION'S MOTION FOR PARITAL SUMMARY JUDGMENT AS TO PRIORITY OF LIENS...INSULPRO PROJECTS, INC.'S JOINDER TO APCO'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...STEEL STRUCTURES, INC. AND NEVADA PREFAB ENGINEERS, INC.'S JOINDER TO APCO CONSTRUCTION'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY...APCO'S OPPOSITION TO INSULPRO PROJECTS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT...STATUS CHECK: PRIOR HEARINGS

John Moshier, Pro Hoc also present. Following arguments by counsel, Court stated it would like to review this matter further and ORDERED, matter TAKEN UNDER ADVISEMENT until 7/28/2010.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

August 30, 2010

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**August 30, 2010                      9:00 AM                      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E. **COURTROOM:** Phoenix Building Courtroom - 11th Floor

**COURT CLERK:** Sylvia Courtney

**RECORDER:**

**REPORTER:**

## PARTIES

**PRESENT:** Muckleroy, Martin A. Attorney  
Oblad, John T. Attorney

## JOURNAL ENTRIES

- CLUB VISTA FINANCIAL SERVICES, THARALDSON MOTELS II INC AND GARY D.  
THARALDSON'S MOTION TO ASSOCIATE COUNSEL ... MOTION TO ASSOCIATE COUNSEL

Court noted no opposition filed. Mr. Muckleroy appeared by telephone conference. Court stated rules have been complied with and therefore, COURT ORDERED, motions to associate counsel, Stephanie M. Samuels and K. Layne Morrill, GRANTED; Mr. Muckleroy to prepare order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****September 08, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**September 08, 2010****9:00 AM****All Pending Motions**

**E&E Fire Protection's  
Motion for Partial  
Summary Judgment  
Against Gemstone  
Development West,  
Inc...Professional  
Doors and  
Millworks' Motion  
for Partial Summary  
Judgment Against  
Gemstone  
Development West,  
Inc.**

**HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Billie Jo Craig**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- E&E FIRE PROTECTION'S MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST  
GEMSTONE DEVELOPMENT WEST, INC...PROFESSIONAL DOORS AND MILLWORKS'  
MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST GEMSTONE DEVELOPMENT WEST,  
INC

Mr. Truman and Mr. Oblad present.

PRINT DATE: 06/11/2018

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Minutes Date: May 12, 2009



Court noted its Law Clerk advised there was opposition. Colloquy regarding status of case. COURT ORDERED, matter UNDER ADVISEMENT.

November 02, 2010

AA 005614

IN THIS CASE UNTIL THE ISSUE OF PRIORITY ISSUE HAS BEEN RESOLVED

Court noted multiple joinders have been filed and all do not appear in Odyssey as yet; and it appears no one is opposed to stay in this case; the matters are well briefed. Court acknowledged there are still matters under advisement, and intends to issue a decision by 11/08/10; COURT ORDERED, motion and joinder GRANTED; status check set on pending matters.

12/09/10 09:00 AM STATUS CHECK: MATTERS UNDER ADVISEMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 22, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**November 22, 2010****9:00 AM****Motion to Withdraw as  
Counsel****Shumway, Van &  
Hansen, CHTD's  
Motion To Withdraw  
As Attorney Of  
Record for HA  
Fabricators, Inc.****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Susan Botzenhart**RECORDER:****REPORTER:****PARTIES  
PRESENT:****JOURNAL ENTRIES**

- Robert Ryan, Esq., appeared on behalf of Michael Van, Esq., (Shumway, Van & Hansen) (Movant) for HA Fabricators, Inc.

There being no opposition, COURT ORDERED, Motion GRANTED. Order SIGNED IN OPEN COURT.

\*\*\*\*\* THIS IS A LEAD CASE CONSOLIDATED WITH 08A574391, 08A574792, 08A577623, 09A580889, 09A583289, 09A584730, 09A587168, 09A589195, 09A589677, 09A590319, 09A592826, 09A596924, 09A597089, 09A606730, A-10-608717 and A-10-608718. \*\*\*\*\*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 09, 2010**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**December 09, 2010****9:00 AM****Status Conference****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Sylvia Courtney**RECORDER:****REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith	Attorney
Cawley, Reuben	Attorney
Dobberstein, Eric	Attorney
Gebhart, Michael T.	Attorney
Haze, Airene	Attorney
Lloyd-Robinson, Jennifer R.	Attorney
	Attorney
Meier, Glenn F	Attorney
Muckleroy, Martin A.	Attorney
Rutar Mullins, Gwen	Attorney
	Attorney
Sechrist, Jared M.	Attorney
Shapiro, James E.	Attorney
Williams, Donald H	Attorney
	Attorney

**JOURNAL ENTRIES**

- Court addressed matters under advisement, specifically for today, the outcome of the priority issue for Scott Financial. COURT FINDS, Scott Financial has standing to dispute mechanics' lien motions, amounts and priorities; its interests are adverse to lien claimants and all opposition has been taken

into account; as for the competing motions for summary judgment on priority, the decision in Bratcher v. Buckner, 90 Cal.App. 4th 1177 (2001) is not persuasive and Court does find Apco's argument persuasive that Mezzanine deeds of trust are behind the construction deeds; Court is not persuaded that partial subordination is operative. The lien claimants are in first priority and the basis will be spelled out in Court's written decision, which will also set forth amounts in detail. Mr. Meier requested the Court to set a status check after the Court's written decision has been issued. Mr. Gebhart raised the issue that there are motions which have been previously decided and other motions still pending; Court stated written decision will clarify those matters as they preceded the decision on Scott's standing to oppose; Court will include next status check date in the written order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 09, 2011**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**November 09, 2011 9:00 AM****All Pending Motions****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Carter, Matthew S.	Attorney
Cawley, Reuben	Attorney
Dachelet, David W	Attorney
Dobberstein, Eric	Attorney
Gebhart, Michael T.	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Jones, Jon Randall	Attorney
Kessler, Andrew J., ESQ	Attorney
Maskas, Marisa	Attorney
Meier, Glenn F	Attorney
Sechrist, Jared M.	Attorney
Shapiro, James E.	Attorney
Walters, Brian K.	Attorney
Williams, Donald H	Attorney
	Attorney

**JOURNAL ENTRIES**

- APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...APCO CONSTRUCTION'S RENEWED MOTION TO CONSOLIDATE CASE NO.

PRINT DATE: 06/11/2018

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Minutes Date: May 12, 2009

A579963...HYDRO PRESSURE CLEANING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...CUSTOM SELECT BILLING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...TRI-CITY DRYWALL, INC. AND NORTH STAR CONCRETE, INC.'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...LIEN CLAIMANT/ PLAINTIFF CELL-CRETE FIREPROOFING OF NEVADA, INC.'S JOINDER IN SUPPORT OF PLAINTIFF APCO CONSTRUCTION INC.'S MOTION FOR AN ORDER OF PRIORITY ON ORDER SHORTENING TIME...ARCH ALUMINUM AND GLASS, LLC JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...THE MASONRY GROUP NEVADA, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF ORDER ON PRIORITY...JOINDER TO APCO'S RENEWED MOTION TO CONSOLIDATE CASE NO. A579963...CUSTOM SELECT BILLING, INC.'S JOINDER TO APCO CONSTRUCTIONS' RENEWED MOTION TO CONSOLIDATE CASE NO. A579963...HYDRO PRESSURE CLEANING, INC.'S JOINDER TO APCO CONSTRUCTION'S RENEWED MOTION TO CONSOLIDATE CASE NO. A579963...ARCH ALUMINUM AND GLASS, LLC'S JOINDER IN APCO'S RENEWED MOTION TO CONSOLIDATE CASE NO. A579963...INSULPRO PROJECT, INC.'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME

Attorney Rachel Bickel-Stone, Bar No. 11057, appearing for Wiss, Janney, Elstner Associates, Inc.

Attorney David Merrill, Bar No. 6060, present for Alexander Edelstein.

Attorneys James Shapiro and Andrew Kessler participated telephonically through CourtCall.

Attorney Rachel Donn, Bar No. 10568, also appearing with Attorney Meier for the Defendant.

Court ADVISED, Judge Delaney is signing today the proposed original Findings and Order that APCO submitted, which was attached to the Motion. Attorney Gochnour stated he will deliver the Order to Judge Delaney's Chambers today. Judge Delaney will do some annotations and additional findings. COURT ORDERED, the issue of the priorities between the Lien Claimant and the lender's side of the traction will be CONSOLIDATED into this Department, but the cases will NOT BE Consolidated.

Statements by Attorney Jones questioning Defendant Tharaldson being a party in this case. Court STATED, Defendant Tharaldson is listed as a Counter Claimant in the Caption of this case. Counsel questioned if Judge Delaney would be addressing the perfection issues and the amounts of the liens. Court INFORMED Counsel that it was told Judge Delaney would be getting those Orders out. Attorney Gochnour advised that Scott financial Corporation is the lender for all of the loans. Attorney Meier requested a continuance until after the parties review Judge Delaney's Order. COURT ORDERED, Motions regarding Priority are CONTINUED. Court STATED, a new 16.1 Conference will need to be set next date. Attorney Reuben Cawley requested that his Motion For Summary Judgment also be set for next date, and the COURT SO ORDERED. Court SUGGESTED



that Counsel submit a list of any outstanding issues.

11/15/11 10:00 AM APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...HYDRO PRESSURE CLEANING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...CUSTOM SELECT BILLING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...TRI-CITY DRYWALL, INC. AND NORTH STAR CONCRETE, INC.'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...LIEN CLAIMANT/ PLAINTIFF CELL-CRETE FIREPROOFING OF NEVADA, INC.'S JOINDER IN SUPPORT OF PLAINTIFF APCO CONSTRUCTION INC.'S MOTION FOR AN ORDER OF PRIORITY ON ORDER SHORTENING TIME...ARCH ALUMINUM AND GLASS, LLC JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...THE MASONRY GROUP NEVADA, INC'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF ORDER ON PRIORITY... INSULPRO PROJECT, INC.'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...ZITTING BROTHERS CONSTRUCTION, INC'S MOTION FOR SUMMARY JUDGMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 15, 2011**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**November 15, 2011 10:00 AM****All Pending Motions****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Carol Foley**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Cawley, Reuben	Attorney
Dachelet, David W	Attorney
Dobberstein, Eric	Attorney
Dreitzer, Richard I	Attorney
Ferrario, Mark E., ESQ	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Jones, Jon Randall	Attorney
Maskas, Marisa	Attorney
Reade, Robert C.	Attorney
Sechrist, Jared M.	Attorney
Tharaldson Motels II Inc	Counter Claimant
Tharaldson, Gary D	Counter Claimant
Walters, Brian K.	Attorney

**JOURNAL ENTRIES**

- Counsel on speakerphone: James Shapiro for Las Vegas Pipeline, and Andrew Kessler for Uintah Investments.

Counsel also present: Morgan Shah for Alexander Edelstein.

APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ON ORDER SHORTENING TIME...THE MASONRY GROUP NEVADA, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF ORDER ON PRIORITY...ARCH ALUMINUM AND GLASS, LLC'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY... CELL-CRETE FIREPROOFING OF NEVADA, INC.'S JOINDER IN SUPPORT OF APCO CONSTRUCTION INC.'S MOTION FOR AN ORDER OF PRIORITY...TRI-CITY DRYWALL, INC. AND NORTHSTAR CONCRETE, INC.'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY. ..CUSTOM SELECT BILLING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY...HYDROPRESSURE CLEANING, INC.'S JOINDER TO APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY ...INSULPRO PROJECTS, INC'S JOINDER IN APCO'S MOTION FOR ISSUANCE OF AN ORDER ON PRIORITY...ZITTING BROTHERS CONSTRUCTION, INC'S MOTION FOR SUMMARY JUDGMENT

Court gave Mr. Gochnour Judge Delaney's Decision and Order regarding priority. Mr. Gochnour requested a Rule 16.1 conference to get discovery back on track. Mr. Gochnour noted there was a stay pending issuance of this order and that will have to be lifted.

Mr. Gochnour noted he has the order granting consolidation and it was submitted to counsel. Mr. Gochnour provided it to Court. Court reviewed it and returned it to Mr. Gochnour to resubmit after adding that the remainder of case stays in front of Judge Denton.

Court noted there are a number of summary judgment motions brought by lien claimants for perfection and amounts that it is her understanding Judge Delaney will be issuing orders granting: Custom Select Billings, Hydropressure Cleaning, Zitting Brothers, Insulpro Projects, CellCrete Fireproofing, Tri-City Drywall, Selectbuild Nevada, Las Vegas Paving, and Ferguson Fire and Fabrication. Mr. Shapiro asked if it is Las Vegas Pipeline instead of Las Vegas Paving. Mr. Gochnour noted Las Vegas Paving is not in this case. Court noted her list indicates Las Vegas Paving, but it probably should be Las Vegas Pipeline.

Court noted there are other outstanding motions regarding rank among lien claimants that may be re-filed in this department. COURT ORDERED, new 16.1 conference set. Deadlines will be coordinated then. Mr. Kessler asked if counsel is required to appear. Court noted it would be a good idea.

12/1/11 9:30 AM MANDATORY RULE 16 CONFERENCE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 01, 2011**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**December 01, 2011      9:30 AM                      Mandatory Rule 16  
                                          Conference**

**HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Cawley, Reuben	Attorney
	Dachelet, David W	Attorney
	Dobberstein, Eric	Attorney
	Dreitzer, Richard I	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Haze, Airene	Attorney
	Kessler, Andrew J., ESQ	Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Morris, Steven L.	Attorney
		Attorney
	Sechrist, Jared M.	Attorney
	Shapiro, James E.	Attorney
	Williams, Donald H	Attorney
		Attorney
	Wittig, Donna	Attorney

## JOURNAL ENTRIES

- Attorney David Merrill, Bar No 6060, present for Alexander Edelstein.

Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney Jon Carlston, Bar No. 10869, appearing for Cell Crete Fireproofing Of NV Inc.

Attorney Robert Domico, Bar No. 6272, present for Selectbuild Nevada Inc..

Attorney Michael Ernst, Bar No. 11957, present for Counter Defendant.

Colloquy regarding current case status including the previous Case Management Order of 1/28/10, the Stay that should be lifted, and Summary Judgments which are still Under Submission. COURT ORDERED, you now have a Priority Decision, and the STAY is hereby LIFTED. Attorney Dachelet explained that Summary Judgment has been Granted to some parties, and they should be allowed to limit future expenses, and only deal with the issue that was not resolved, the priorities amongst the Lien Claimants themselves. Discussion regarding Discovery, current condition of the property, possible sale of the property with the preference of a marketable sale. Attorney Ferrario suggested that what is needed is to figure out an orderly way for the Lien Claimants to prove their case, and set up a Discovery Schedule.

COURT FURTHER ORDERED, Statement Claims by anyone making a Counterclaim against the lender, that has not already filed in some form, has until 1/13/12 to do so, and the deadline for any responses is 2/17/12. Court and Counsel determined new Case Management dates. COURT ADDITIONALLY ORDERED, matter SET for Trial.

COURT ORDERED, a Status Check SET, only the parties that have Summary Judgments Under Submission need to attend. Lien Claimants may also submit a proposed Order. Attorney Gochnour to prepare the new Case Management Order.

1/11/12 10:00 AM STATUS CHECK: PARTIES WITH SUMMARY JUDGMENTS UNDER SUBMISSION

4/3/12 10:30 AM CALENDAR CALL

4/8/12 10:30 AM BENCH TRIAL

January 11, 2012

AA 005626

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****January 25, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**January 25, 2012****9:00 AM****All Pending Motions****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith	Attorney
Carter, Matthew S.	Attorney
Cawley, Reuben	Attorney
Dachelet, David W	Attorney
Dobberstein, Eric	Attorney
Ferrario, Mark E., ESQ	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Maskas, Marisa	Attorney
Meier, Glenn F	Attorney
Shapiro, James E.	Attorney
Truman, T. James	Attorney
	Attorney
Walters, Brian K.	Attorney

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR RECONSIDERATION OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING APCO CONSTRUCTION'S MOTION FOR SUMMARY JUDGMENT ON PRIORITY; AND DENYING SCOTT FINANCIAL CORPORATION'S MOTION FOR PRIORITY OR IN THE ALTERNATIVE MOTION FOR A RE-HEARING...BRAD J. SCOT'S

JOINDER TO SCOTT FINANCIAL CORPORATION'S MOTION FOR RECONSIDERATION OR IN  
THE ALTERNATIVE, MOTION FOR RE-HEARING

Attorney James Shapiro participated telephonically.

Attorney Rachel Donn, Bar No. 10568, appearing for the Defendant.

Attorney Michael Ernst, Bar No. 11957, present for Counter Defendant Steel Structures Inc.

Attorney Adam Graff, Bar No. 11806, present for Counter Defendant Cellcrete Fireproofing of Nevada Inc.

Attorney Morgan Shah, Bar No. 12490, present for Defendant Alexander Edelstein.

Attorney Rachel Bickle-Stone, Bar No. 11057, present for Wiss Janney Elstner Associates Inc.

Attorney Jennifer Hostetler, Bar No. 11994, appearing for Bank of Oklahoma.

Attorney Bradley Slighing, Bar No. 10225, present for United Subcontractors Inc.

Court read the "standard" for Reconsideration in Open Court. Statements by Attorney Meier in support of the relief requested, advising the Court could just start over. Statements by Attorney Carter in support of his Joinder to Defendant's Motion. Opposition by Attorney Gochnour and Attorney Berman. Attorney Meier cited NRS 54(b) which gives the Court discretion to start over. Further statements by Attorney Ferrario. Court FINDS, it will review NRS 54(b), and will issue a written Decision. COURT ORDERED, matter taken UNDER ADVISEMENT. COURT FURTHER ORDERED, matter SET for a Hearing regarding the Court's Decision, Counsel not to be present.

2/1/12 9:00 AM HEARING: DECISION

UNDER ADVISEMENT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

February 01, 2012

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**February 01, 2012      9:00 AM      Hearing**

**HEARD BY:** Scann, Susan                      **COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- No parties present.

COURT ORDERED, Motion To Reconsider is GRANTED pursuant to NRCP 54(b). COURT FURTHER ORDERED, the moving parties to combine and submit one package to the Court of any briefs that have been filed on behalf of the moving parties plus a summary of the Joinders, due by 2/15/12; Any parties opposing, to submit a combined brief by 2/29/12; a combined Reply is due 3/7/12. COURT ADDITIONALLY ORDERED, matter is SET for a Hearing on 3/14/12 for Argument. The Court is not directing anyone to file new points and authorities, just to organize what has been filed, to be provided as courtesy copies. Supplements may be filed by the dates set herein.

3/14/12 10:00 AM HEARING: ARGUMENT / MOTION FOR SUMMARY JUDGMENT

February 15, 2012

AA 005630

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

**March 07, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**March 07, 2012                      9:00 AM                      All Pending Motions**

**HEARD BY:** Scann, Susan

**COURTROOM:** Phoenix Building Courtroom - 11th Floor

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Cawley, Reuben	Attorney
	Dobberstein, Eric	Attorney
		Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Meier, Glenn F	Attorney
	Morris, Steven L.	Attorney
		Attorney

## JOURNAL ENTRIES

- DEFENDANT ALEXANDER EDELSTEIN'S MOTION TO DISMISS...APCO'S OBJECTION TO AND MOTION TO STRIKE SCOTT FINANCIAL CORPORATION'S SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT AS TO PRIORITY OF LIENS, FILED FEBRUARY 15, 2012...GRANITE CONSTRUCTION COMPANY'S JOINDER TO APCO'S OBJECTION TO AND MOTION TO STRIKE SCOTT FINANCIAL CORPORATION'S SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT AS TO PRIORITY OF LIENS, FILED FEBRUARY 15, 2012, AND REQUEST FOR ORDER SHORTENING TIME...JOINDER TO APCO'S OBJECTION TO AND MOTION TO STRIKE SCOTT FINANCIAL CORPORATION'S SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT AS TO PRIORITY OF LIENS, FILED FEBRUARY 15, 2012, AND REQUEST FOR ORDER SHORTENING

PRINT DATE: 06/11/2018

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Minutes Date: May 12, 2009

AA 005631

TIME

Attorney Bradley Slighting, Bar No. 10225, also present for United Subcontractors Inc.

Attorney David Merrill, Bar No. 6060, and Attorney Morgan Shah, Bar No. 12490, present for Defendant Alexander Edelstein.

COURT ORDERED, Defendant Alexander Edelstein's Motion To Dismiss is GRANTED WITHOUT PREJUDICE. Attorney Morris noted for the record he did file a Limited Opposition. Statements by Attorney Meier in support of the Supplement To Motion For Summary Judgment As To Priority Of Liens, Filed 2/15/12. Argument by Attorney Gochmour in opposition to the Supplement, and in support of his Motion To Strike. Attorney Gochmour stated the Defendant is now trying to put in an Affidavit that should have been done in 2010, and advised that this is not a time to be adding new facts.

COURT FURTHER ORDERED, APCO's Objection To And Motion To Strike Scott Financial Corporation's Supplement To Motion For Summary Judgment As To Priority Of Liens, filed February 15, 2012 is DENIED, along with the Joinders thereto. COURT ADDITIONALLY ORDERED, it will allow additionally briefing before the Hearing on the Motion For Summary Judgment. Additional briefs to be filed by 3/15/12, and any Reply due by 3/19/12. COURT ORDERED, matters currently set for 3/13/12 are CONTINUED until 3/21/12.

3/21/12 10:00 AM HEARING: ARGUMENT - MOTION FOR SUMMARY JUDGMENT...  
STEEL STRUCTURES, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT...  
NEVADA PREFAB ENGINEERS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT

**March 21, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**March 21, 2012                      10:00 AM                      All Pending Motions**

**HEARD BY:** Scann, Susan

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Carter, Matthew S.	Attorney
	Cawley, Reuben	Attorney
	Dobberstein, Eric	Attorney
		Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Jones, Jon Randall	Attorney
	Kessler, Andrew J., ESQ	Attorney
	Little, Martin A.	Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Pintar, Becky	Attorney
	Sechrist, Jared M.	Attorney
	Shapiro, James E.	Attorney
	Walters, Brian K.	Attorney
	Williams, Donald H	Attorney
		Attorney

## JOURNAL ENTRIES

Minutes Date: May 12, 2009

- NEVADA PREFAB ENGINEERS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT...  
STEEL STRUCTURES, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT... HEARING:  
ARGUMENT - MOTION FOR SUMMARY JUDGMENT

Attorney Bradley Slighting, Bar No. 10225, also present for United Subcontractors Inc.

Attorney Morgan Shah, Bar No. 12490, present for Defendant Alexander Edelstein.

Attorney Dana Kim, Bar No. 8826, appearing for National Wood Products, and participating telephonically.

Attorney Andrew Kessler also participated telephonically.

Attorney Rachel Donn, Bar No. 10568, also appearing for the Defendant.

Attorney Jennifer Hostetler, Bar No. 11994, present for the Bank of Oklahoma.

Attorney Jay Shafer, Bar No. 9184, present for Cell-Crete Fireproofing of Nevada Inc.

Attorney Anthony Ager, Bar No. 7969, appearing for Atlas Construction Supply Inc.

Attorney Ronald Thompson, Bar No. 5524, appearing for Tru Lite Illumination.

There being no opposition, COURT ORDERED, Nevada Prefab Engineers, Inc.'s Motion For Partial Summary Judgment is GRANTED. COURT FURTHER ORDERED, Steel Structures, Inc.'s Motion For Partial Summary Judgment is GRANTED.

Statements by Attorney Meier giving a history of the case, citing "Bratcher," noting nothing in the agreement was intended to benefit the lien claimants. Attorney Gochnour supplied the Court with a demonstrative document/time-line showing recording dates. Attorney Gochnour argued that there is no ambiguity in the Subordination Agreement, and stating the Defendants are trying to find a way around the Nevada Mechanic Lien Law. Attorney Carter advised the Notes were restructuring not refinancing. Statements by Attorney Berman citing NRS Chapter 108. Further argument by Counsel.

COURT FURTHER ORDERED, matter taken UNDER ADVISEMENT. COURT ADDITIONALLY ORDERED, matter SET for Decision.

4/4/12 11:00 AM DECISION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

**March 22, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**March 22, 2012                      3:00 AM                      Motion to Intervene**

**HEARD BY:** Scann, Susan                      **COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, National Wood Products, Inc.'s Notice Of Motion And Motion To Intervene; And Memorandum Of Points And Authorities In Support Thereof is GRANTED. Attorney Dana Kim, Bar No. 8826, to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter. The order must include last known addresses and all future scheduled court dates.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 04, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**April 04, 2012****11:00 AM****Decision****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Dobberstein, Eric

Attorney

Attorney

Gebhart, Michael T.

Attorney

Gochmour, Wade B.

Attorney

Attorney

Kessler, Andrew J., ESQ

Attorney

Meier, Glenn F

Attorney

Sechrist, Jared M.

Attorney

Shapiro, James E.

Attorney

**JOURNAL ENTRIES**

- Attorney Morgan Shah, Bar No. 12490, present for Defendant Alexander Edelstein.

Attorney Dana Y Kim, Bar No. 8826, appearing for National Wood Products. .

Attorney Jay Shafer, Bar No. 9148, present for Cellcrete Fireproofing of Nevada.

Attorney Robert Spear, Bar No. 8672, appearing for multiple Counter Defendants.

Attorney Dobberstein, Attorney Shapiro, Attorney Kim, and Attorney Kessler participated

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Minutes Date: May 12, 2009



telephonically per CourtCall.

## DECISION

As threshold, there are no genuine issues of material fact.

### Facts:

1. Original Senior, Junior and Third Trust Deeds were recorded before any work began on the property on 7/5/06.
2. Work commenced 4/07.
3. Junior Trust Deed and Third Trust Deed amended 5/22/07 & 10/24/07.
4. Senior and Jr. Trust Deeds amended and renamed Mezzanine Trust Deeds 2/7/08.
5. Participation agreement provided the new money, not a new loan, always same lender, Scott Financial Corporation ( SFC ).
6. Subordination agreement signed to accommodate \$110 million construction funding.
7. Original Trust Deeds never released or reconveyed.

In all amendments to the Trust Deeds, the effectiveness of the original Trust Deeds was affirmed.

All notes and Trust Deeds were amended, not replaced.

The Subordination agreement is made only by the one and only lender, SFC and references only the borrower, Gemstone Development. There is no mention of the lien claimants or any other entity; they are not parties to it. The express purpose of the Subordination Agreement is to place the \$110 million Trust Deeds above the Mezzanine Trust Deeds in priority. The in all respects language in paragraph 1, page 2 modifies and references the \$110 million Trust Deeds in reference to the Mezzanine Trust Deeds, nothing else. The sub agreement pays the \$110 million note before anything on the Mezzanine notes.

### Reasons:

Per NRS 108.225, priority of liens gives priority to mechanic's liens behind those recorded before commencement of construction. \$38 mil in TDs was so recorded-first.

The fact that SFC obtained title insurance is not significant, this is a normal part of transaction.

Construing the subordination agreement on its own terms reveals no intent to do anything other than prefer the \$110 million Trust Deeds to the Mezzanine Trust Deed, original, Trust Deeds for payment. That intent would be contradicted by placing mechanic's liens in higher priority than the Construction Trust Deed. No intent to benefit a third party is expressed. The Scott affidavit is not necessary to reach this conclusion, the language of the agreement and the fact that substantial

construction financing was being brought in leads to this conclusion.

The Court adopts the reasoning of Bratcher v. Buckner. The lien claimants' priority is unchanged by the sub. agreement. This is both logical and fair. They were behind \$38 million when started their work and still are. To interpret the agreement otherwise would be to provide them with a windfall. They are not parties to the subordination agreement. They received the benefit of the construction funding.

Amsouth relies on the definition of subordination, saying it does not contemplate raising a lien in priority. The Bratcher case more accurately describes the problem as a circuitry of liens in that, discussing A, B, and C in order of priority, subordinating A to C does not result in subordinating A to B. Rather, A and C have switched places in priority but only to the amount of A's lien. B is neither benefitted nor burdened by this result. This reasoning was adopted by neighboring AZ in 2002 in Price Waterhouse v. Decca. This appears to be the majority view.

COURT ORDERED, Scott Financial's Reconsidered Motion For Partial Summary Judgment as to Priority of Liens is GRANTED. COURT FURTHER ORDERED, accordingly, Scott Financial Corporation's \$110,000,000.00 is in first position in the amount of \$38,000,000.00 only, the mechanic's liens are in second position, the remainder of Scott Financial Corporation's \$110,000,000.00 Trust Deed is in third position, and the Mezzanine Deeds of Trust are in fourth position.

At the request of Counsel, COURT ADDITIONALLY ORDERED, a STAY is GRANTED pending a Writ Petition to the Supreme Court, no Bond is required. COURT ORDERED, matter SET for a Status Check.

5/9/12 10:00 AM STATUS CHECK: CURRENT CASE STATUS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 05, 2012**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**April 05, 2012                      3:00 AM                      Motion to Withdraw as  
                                                                                 Counsel**

**HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- There being no opposition, COURT ORDERED, Motion To Withdraw As Attorney Of Record For Atlas Construction Supply, Inc. And Order Shortening Time is GRANTED, Attorney Anthony Ager, Bar No. 7969, to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter. The order must include last known addresses and all future scheduled court dates.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 09, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**May 09, 2012****10:00 AM****Status Check: Status of  
Case****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith	Attorney
Carter, Matthew S.	Attorney
Cawley, Reuben	Attorney
Dobberstein, Eric	Attorney
	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Maskas, Marisa	Attorney
Meier, Glenn F	Attorney
Morris, Steven L.	Attorney
	Attorney
Reade, Robert C.	Attorney
Shapiro, James E.	Attorney
Walters, Brian K.	Attorney

**JOURNAL ENTRIES**

- Attorney Bradley Slighting, Bar No. 10225, also present for United Subcontractors Inc..

Attorney Dana Kim, Bar No. 8826, appearing for National Wood Products, and participating

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telephonically.

Attorney Rachel Donn, Bar No. 10568, also appearing for the Defendant.

Attorney David Merrill, Bar No. 6060, present for Intervenor Alex Edelstein.

Attorney Dobberstein participated telephonically through CourtCall.

Upon the Court's inquiry, Attorney Gouchnour advised everything is on track proceeding to Trial. Colloquy regarding pending Writ regarding the Decision of Priority Liens before the Supreme Court. COURT ORDERED, matter CONTINUED until 11/7/12, unless the Supreme Court comes back sooner, and Counsel wants to set something on Calendar.

11/7/12 9:00 AM STATUS CHECK: STATUS OF CASE

**June 06, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Carol Foley

**RECORDER:** Angie Calvillo

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Domina, Cary	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Jones, Jon Randall	Attorney
	Jones, Mark Merrill	Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Scott, Bradley J	Defendant
	Zimbelman, Eric B.	Attorney

## JOURNAL ENTRIES

- Counsel also present: Brian Berman for Ready Mix, Inc., and David Merrill for Alexander Edelstein.  
Counsel on speakerphone: Eric Dobberstein for Insulpro Projects, Inc.

Counsel specially appearing today: David Carroll present for WGH Acquisitions, Jeff Steffan for Bond Rok, and Daniel Polsenberg for writ issues of various lien claimants represented by Peel Brimley.

Mr. Zimbelman noted his concern regarding prejudice of hearing matter on shortened time. Argument by Mr. Jones regarding urgency. Arguments by counsel. Court noted it agrees more information and authority and an evidentiary hearing is necessary. Discussion regarding available dates. Counsel agreed on 7/2 and the afternoon of 7/3 if necessary. Mr. Gochnour requested two two-hour depositions. Court granted the request.

7/2/12 9:30 AM EVIDENTIARY HEARING: SCOTT DEFENDANTS' MOTION TO LIFT STAY, ALLOW SALE TO PROCEED WITH DEPOSIT OF FUNDS PENDING FURTHER COURT ORDER, AND FOR POSTING OF BOND

July 02, 2012

AA 005644



Attorney Rebecca Mastrangelo, Bar No. 5417, appearing for Grubb & Ellis Co.

Court convened for the scheduled Evidentiary Hearing. Opening arguments by Counsel. Testimony and exhibits presented (see worksheets). Due to time restraints, COURT ORDERED, matter CONTINUED.

7/3/12 1:00 PM EVIDENTIARY HEARING

July 09, 2012

AA 005646

**08A571228**

7/10/12 2:00 PM EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Business Court

# COURT MINUTES

July 10, 2012

08A571228                      Apco Construction, Plaintiff(s)  
vs.  
Gemstone Development West Inc, Defendant(s)

**July 10, 2012                      2:00 PM                      Evidentiary Hearing**

**HEARD BY:** Scann, Susan

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

## JOURNAL ENTRIES

- Attorney David Carroll, Bar No. 7643, present for WGH Acquisitions.

Attorney Rebecca Mastrangelo, Bar No. 5417, appearing for Grubb & Ellis Co.

Attorney Jeffrey Steffen, Bar No. 9912, present for Bond Rok.

Following closing arguments by Counsel, COURT ORDERED, the following:

An Order To Show Cause Hearing shall ISSUE, to have the lien claimants appear. Pursuant to NRS 108.239, a schedule shall be SET on how to proceed, and hear all claims in a summary way. Attorney Gochnour has agreed to prepare the Order, with a Court date of 7/18/12, and the time will be

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Minutes Date: May 12, 2009

AA 005648

determined later. Counsel, parties, and principles are to be present. COURT FURTHER ORDERED, any party not appearing for the Hearing, shall be deemed consenting to a sale.

Court needs the information from Counsel regarding what the lender's Deed of Trust says as to the appointment of a Receiver, and the selling of the property pursuant to the Deed of Trust. Attorney Meier to submit the information to Chambers. Court is contemplating entering an Order of Sale.

COURT ADDITIONALLY ORDERED, Motion To Sale is DENIED WITHOUT PREJUDICE at this point. Court FINDS, there is waste on this property. Attorney Peel, on behalf of his clients, may submit in camera their proposal regarding the sale.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 18, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**July 18, 2012****2:00 PM****Show Cause Hearing****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Phyllis Irby**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith

Attorney

Dobberstein, Eric

Attorney

Attorney

Dreitzer, Richard I

Attorney

Ferrario, Mark E., ESQ

Attorney

Gochnour, Wade B.

Attorney

Attorney

Hayes, Garry L.

Attorney

Haze, Airene

Attorney

Jones, Jon Randall

Attorney

Kessler, Andrew J., ESQ

Attorney

Little, Martin A.

Attorney

Maskas, Marisa

Attorney

Meier, Glenn F

Attorney

Morris, Steven L.

Attorney

Attorney

Peel, Richard L.

Attorney

Reade, Robert C.

Attorney

Shapiro, James E.

Attorney

Truman, T. James

Attorney

Attorney

Varricchio, Philip Thomas	Attorney
Walters, Brian K.	Attorney
Williams, Donald H	Attorney
	Attorney

### JOURNAL ENTRIES

- Attorney Mr. Andrew J. Kessler bar No. 10640 participated by Court Call.

COURT NOTED, last week at the evidentiary hearing the Court determined the property which is incomplete is suffering waste, the longer the time that goes on because its a incomplete property the worse it will get. Mr. Jones brought the motion because he had a buyer for the property that was willing to pay \$18,000,050.00 and we had testimony from another interested party he was willing to pay \$21,000,000.00 Various arguments have been made if its possible to sell the property until a judgment has been made in the case. Court stated if the property is sold all the liens the claims will attach to the property, there is a appeal before the Supreme Court to determine who has priority in this case, the lien claimants or the lenders. Pending the determination by the Supreme Court, the proceeds from the sale of the property will be distributed to the successful party. In the meantime to have the property sit there subject to weather, vandalism its accumulating property taxes there is over \$1 Million in unpaid property taxes, the lenders have determine that since this case has been going on now for 4 years, they don't want to spend the money anymore to preserve the property; the property is now in offense condition. The property taxes isn't being paid, the insurance isn't being paid the collateral will not improve in a physical sense. In terms of fair market value, the appraiser testified the property is worth less than the amount of \$16,000,000.00 conclusion of the appraiser was he indicated this property will not improve in value, therefore, COURT ORDERED, SALE OF THE PROPERTY. rather to allow the determination to continue its better to sell the property now.

Mr. Berman stated there are reasons his clients are opposed to the sale, there are some lien claimants that are ready to take over this project. We would condition the approval of the sale, that is to be sent to a mandatory settlement conference. Mr. Berman suggested Senior Judge Stewart Bell for the settlement conference proceedings.

Mr. Meier stated they would be willing to participate in a settlement conference, that in order to have people ready to participate he will need 60 days.

Mr. Jones stated his client (Mr. Scott) is in favor of a settlement conference with the condition of an order from the Court it is going to sell this property in the near future. Mr. Ferrario stated he would agree to the sale of the property with the sale that was offered in court prior to this hearing taking place quickly, there is a buyer confirmed at \$21,500,000.00, we would also agree in the settlement conference and agree to Judge Bell presiding over the settlement conference. Further, Mr. Ferrario stated the process that was outlined in Mr. Jones motion is we would create the fund of \$21,500,000.00 and the liens would transfer to that fund.

Mr. Peel stated Apco's opposition to the sale going forward, the Court requested us to present a in-

camera review a proposal to the Court. Mr. Peel submitted in open court a copy of the proposal to the court. Mr. Peel advised his clients object to the sale of the property going forward the concerns are the process and the Court needs to follow the laws that exist in the mechanic's lien statute, we will agree to the sale subject to what is in the proposal.

Mr. Jones stated he is entitled to a copy of the proposal. Further, he understands the concerns of Mr. Peel to not publish the letter but, we need a copy and will keep it strictly confidential and not publish it to another party.

MATTER TRAILED.

MATTER RECALLED.

Mr. Peel stated he has had time to speak with his lien claimants and they are in the same position as stated in the proposal.

Mr. Gochmour stated we do not believe the Court has the authority to proceed with the sale of the property but will propose a settlement to allow a sale to go forward.

Mr. Peel stated what he presented to the Court was a confidential settlement proposal.

Mr. Kessler stated he also agrees with the terms of the proposal from the lien claimants.

Mr. Peel requested to have a Protective Order in place. COURT SO ORDERED. Mr. Peel to prepare Order.

FURTHER ORDERED, SETTLEMENT CONFERENCE. Parties to contact Judge Bell to start the process.

COURT ORDERED, STAY LIFTED, MATTER SET FOR HEARING.

7-26-12 2:00 PM HEARING: SALE OF PROPERTY (DEPT. XXIX)



**July 31, 2012**

AA 005653

Attorney Moorea Katz, Bar No. 12007, also present for Counter Claimant Tharaldson.

Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney David Carroll, Bar No. 7643, present for WGH Acquisitions.

Attorney Andrew Kessler participated through CourtCall.

Attorney Jones provided the Court with an update, noting the parties have been working hard to get the matter resolved, advising principle parties met as late as last night. Attorney Ferrario stated he got a Bankruptcy Order and re-tooled it, has prepared a Sale Order, and it has been distributed for signatures. Attorney Gephart reiterated his ongoing objection, questioning the Court's authority to order a sale, and citing NRS 108. Attorney Peel concurred that the parties have been working together to get the matter resolved. Attorney Ferrario stated that within a week he will submit a Sale Agreement Order. Counsel questioned if forty-five days is the current status of the Court's Order. Court NOTED, it is inclined to keep the forty-five days, and if the time was extended, it would not be for ninety days, maybe just another fifteen. COURT ORDERED, parties to attend the Settlement Conference arranged by Attorney Gochnour. COURT FURTHER ORDERED, matter SET for a Status Check. COURT ADDITIONALLY ORDERED, any drafts of proposed orders to be presented before the Status Check.

8/10/12 3:00 PM STATUS CHECK: STATUS OF CASE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****August 16, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**August 16, 2012****3:00 PM****Status Check: Status of  
Case****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Cawley, Reuben

Attorney

Ferrario, Mark E., ESQ

Attorney

Jones, Jon Randall

Attorney

Kessler, Andrew J., ESQ

Attorney

Meier, Glenn F

Attorney

Morris, Steven L.

Attorney

Attorney

Peel, Richard L.

Attorney

Rutar Mullins, Gwen

Attorney

Attorney

**JOURNAL ENTRIES**

- Attorney John Langeveld, Bar No. 11628, appearing for Accuracy Glass &amp; Mirror Company Inc.

Attorney Michael Ernst, Bar No. 11957, present for Nevada Prefab Engineers Inc.

Attorney Moorea Katz, Bar No. 12007, also present for Counter Claimant Tharaldson.

Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

PRINT DATE: 06/11/2018

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Minutes Date: May 12, 2009

Attorney David Carroll, Bar No. 7643, present for WGH Acquisitions.

Attorney Mark Hawkins, Bar No. 5490, present for Bond Rok Partners.

Attorney Andrew Kessler participated through CourtCall.

Colloquy regarding pending Mediation before Judge Bell scheduled for 9/4/12. Counsel concurred they are willing proceed with the Mediation. Court NOTED, it received competing Orders for the sale. Discussion regarding paragraph 1, page 2, lines 5 and 22. Attorney Peel requested the language, "even though a majority of the line claimants have objected to the Court's authority to sell the property in the manner contemplated herein," be allowed, and the COURT SO ORDERED. Further discussion regarding page 3 line 6. Attorney Peel requested to strike the words, "involving lien priority," and the COURT FURTHER ORDERED. Court NOTED, some confusion with the wording on page 6 lines 11 and 12. Attorney Ferrario advised he would clean up the language. Court further CLARIFIED, a typo on page 7 line 14, should now be Courtroom 12B. Attorney Jones stated that on page 5 lines 9 through 11, it will now indicate Attorney Mark Hawkins' name. Attorney Ferrario advised he will make the changes to the Order and submit. COURT ADDITIONALLY ORDERED, sale date SET, approximately 45 days from the signing of the Order.

7/9/12 1:30 PM HEARING: MANHATTAN WEST AUCTION SALE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****August 21, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**August 21, 2012****10:00 AM****Telephonic Conference****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Carter, Matthew S.

Attorney

Cowden, Tami D., ESQ

Attorney

Gochmour, Wade B.

Attorney

Attorney

Meier, Glenn F

Attorney

Peel, Richard L.

Attorney

Rutar Mullins, Gwen

Attorney

Attorney

**JOURNAL ENTRIES**

- Attorney Moorea Katz, Bar No. 12007, also present for Counter Claimant Tharaldson.

Attorney Mark Hawkins, Bar No. 5490, present for Bond Rok Partners.

All parties participated telephonically. Court QUESTIONED, bidding requirements, page 5 of Exhibit 1 to the Order, sub part iv. Attorney Katz advised she believed that in the purchase agreement there would be a forfeiture clause of the deposit. Attorney Peel stated he would like to see it addressed in the Order, and the Court AGREED. Colloquy regarding the Listing Agreement and Purchasing Agreement. Attorney Katz stated she is working on the Purchase Agreement, and will be circulating it amongst the parties. Court NOTED, it wants to see the Purchase Agreement. Court

QUESTIONED, Attorney Peel, asking if the Lien Claimants would be willing to sell the property at 23.1 Million, and he concurred. Court SUGGESTED, that Bond Rok consider that before the Purchase Agreement is finalized. Further discussion regarding the upcoming Mediation on 9/4/12, and the possibility of people being on vacation. Counsel suggested that maybe at the initial Mediation Conference, clients/party representatives be allowed to participate telephonically, and the COURT SO ORDERED. COURT ADDITIONALLY ORDERED, Counsel to submit the revised Bidding Procedures and the Contract as well.

10/9/12 1:30 PM MANHATTAN WEST AUCTION SALE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****September 26, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**September 26, 2012      2:00 PM                      Telephonic Conference**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Tiffany Lawrence

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Carter, Matthew S.	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Katz, Morrea	Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Scott, Bradley J	Defendant

**JOURNAL ENTRIES**

- Court noted she received the Order but not the proposed Purchasing Agreement. Colloquy regarding inability to qualify Bond Rock. Mr. Peel stated desire of counsel to evaluate the possibility of sale of the property at an acceptable price; request to vacate the auction and set a hearing on an order to show cause to approve or disapprove the sale. Colloquy regarding present parties being in accord with the request. Upon inquiry of Mr. Scott, counsel stated reluctance to mention the potential buyer(s) and/or possible purchase price on the record. Upon request of counsel, COURT ORDERED, Auction VACATED and matter SET; Mr. Gochmour to prepare the Order to Show Cause ("OSC") including notice to all parties and language, similar to the last OSC, advising that failure to appear would be deemed as consent and agreement to the sale.

Colloquy regarding expected outcome of the hearing; court advised she couldn't provide a preliminary ruling without hearing the argument; however, if the parties are agreeable to the sale the

**08A571228**

Court would be inclined to grant the request.

10/09/12 1:30 PM - HEARING: ORDER TO SHOW CAUSE



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 09, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 09, 2012****1:30 PM****Hearing****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith	Attorney
Carter, Matthew S.	Attorney
Ferrario, Mark E., ESQ	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Haze, Airene	Attorney
Katz, Morrea	Attorney
Kessler, Andrew J., ESQ	Attorney
Maskas, Marisa	Attorney
Meier, Glenn F	Attorney
Morris, Steven L.	Attorney
	Attorney
Peel, Richard L.	Attorney
Reade, Robert C.	Attorney
Scott, Bradley J	Counter Defendant
Truman, T. James	Attorney
	Attorney
Walters, Brian K.	Attorney
Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

PRINT DATE: 06/11/2018

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Minutes Date: May 12, 2009

- Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney David Carroll, Bar No. 7643, present for WGH Acquisitions.

Attorney Andrew Kessler participated through CourtCall.

Attorney Jorge Rameriz, Bar No. 6787, appearing for Zitting Brothers Construction.

Attorney John Langeveld, Bar No. 11628, appearing for Las Vegas Pipeline LLC.

James Barker, representative of Las Vegas Paving Corp., present.

Stan Johnson, representative of Steel Structures Inc., also present.

Barbara Mendoza, office manager of Cellcrete Fireproofing of Nevada Inc., present.

Upon the Court's inquiry, Attorney Peel stated there was a Conference Call a couple of weeks ago that talked about having today be an Order To Show Cause Hearing in lieu of an auction. Attorney Peel advised WGH Acquisitions has offered to purchase the property for 20 Million Dollars, and it is an offer we should seriously look at. Attorney Peel further noted an Order To Show Cause was prepared which indicated that any Lien Claimant or person of interest should appear today to object or approve the sale. Attorney Peel advised an Order was circulated, and an amendment has been proposed between Scott Financial and WGH Acquisitions. Attorney Carter explained that difficulties were encountered with qualifying Bond Roc, document request were never followed up by Bond Roc. Attorney Carter stated the deal with WGH is a rock solid offer, and just waiting for a Court Order regarding the sale. Attorney Peel stated the basic terms are set, but there are few provisions that still need to be cleared up, noting the PSA was made void by the Court's prior Order, and the document will need to be reinstated by a new Court Order; the Amendment asks that a representative of the Lien Claimants sign the Amendment, and that is not going to happen; there is still contingency wording; and Scott Financial is signing as the First Priority Deed Of Trust Holder.

Attorney Meier further advised that it is the consensus of Counsel at the front tables, that there is not a reasonable likelihood that an auction would lead to a better offer. Attorney Ferrario indicated that the next step is to get in touch with the Title Company, and find out what they are going to require from the Court. Attorney Ferrario further advised they need to get a Title Commitment. Court ASKED of the parties present, if there were any objections to the sale proceeding. Attorney Berman and Stan Johnson stated they did not stipulate to the sale procedure, but want to go forward with the sale, and would not appeal a Court Order.

Attorney Peel addressed the Lien Claimants and parties off the record, and explained what has transpired,.

LATER: Hearing resumed. Attorney Gochmour requested a continuance to conduct more due

diligence, and make some direct inquiries.

Court CLARIFIED, it is not a question of are we going to sell the property, it is just "when" we are going to sell the property.

Attorney Meier stated that during the week, the Title issues could be addressed. Court ADVISED, it sees no need to put in the signature block Scott Financial being the first party lender. Court INVITED, anyone who had an objection to return next week, and anyone who sent a lawyer to speak on their behalf, does not need to be present next week. Colloquy regarding continuing the Mediation scheduled for Thursday. Attorney Meier advised there is a tentative replacement date of 11/28/12, and he will get Notice out to everyone about the Mediation not going forward on Thursday.

COURT ORDERED, matter CONTINUED.

10/16/12 1:30 PM HEARING: SALE OF THE PROPERTY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 16, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 16, 2012****1:30 PM****Hearing****HEARD BY:** Scann, Susan**COURTROOM:** Phoenix Building Courtroom -  
11th Floor**COURT CLERK:** Carol Foley**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith	Attorney
Carter, Matthew S.	Attorney
Cawley, Reuben	Attorney
Ferrario, Mark E., ESQ	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Haze, Airene	Attorney
Katz, Morrea	Attorney
Meier, Glenn F	Attorney
Peel, Richard L.	Attorney
Reade, Robert C.	Attorney
Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- Counsel also present: Bradley Slighting for United Subcontractors Inc., and Charles Michalek for Grubb and Ellis. Counsel on speakerphone: Dana Kim for National Wood Products.

Mr. Meier advised since they were last here parties exchanged copies of an amendment to the previous purchase and sale agreement, comments have gone back and forth, and they believe document is in status all of the parties in litigation agreed to. Mr. Meier noted the purchaser has

pushed back on a couple of those changes so they will have to work it out. Mr. Meier noted there has also been a form of order that was agreed to by all parties, and he spoke with the title officer and they need to have order to send to underwriters to have them comment, and he expects they will want some changes that will necessitate further conversation. Court noted it has a list of the four people with an objection last time: Mr. Berman, Mr. Gochmour, Mr. Stan Johnson and Mr. Kessler. Mr. Gochmour advised he had concerns but is fine with everything at this point and Court can remove him from that list. Mr. Zimbelman and Mr. Gochmour noted it was made clear at the last hearing that those who have objections could come back after additional seven days to express concerns, but if they didn't come back their objections would not be pursued. Court noted now that Mr. Gochmour removed his name from the list, Mr. Berman is the only one here from that list. Mr. Berman noted his objection. Court advised the trial can be set for Mr. Berman's client right away. Upon Court's inquiry, Mr. Berman advised his case should take half a day. Mr. Gochmour noted the trial should be two days at the most. COURT ORDERED, trial date set on the October stack only for Ready Mix, Inc. Mr. Gochmour requested expedited discovery schedule of 15 days for discovery responses and one calendar week for deposition notices. COURT SO ORDERED. Upon Court's inquiry, counsel requested another status hearing in one week. COURT ORDERED, status check set. Mr. Meir to present proposed order to title company and get feedback and go from there.

10/23/12 1:30 PM STATUS CHECK RE: SALE OF PROPERTY

10/24/12 10:30 AM CALENDAR CALL

10/29/12 10:30 AM TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 23, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 23, 2012****1:30 PM****Status Check****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith

Attorney

Carter, Matthew S.

Attorney

Ferrario, Mark E., ESQ

Attorney

Gochmour, Wade B.

Attorney

Katz, Morrea

Attorney

Kessler, Andrew J., ESQ

Attorney

Meier, Glenn F

Attorney

Peel, Richard L.

Attorney

Zimbelman, Eric B.

Attorney

**JOURNAL ENTRIES**

- Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney Andrew Kessler participated through CourtCall.

Attorney John Langeveld, Bar No. 11628, appearing for Las Vegas Pipeline LLC, and also participating through CourtCall.

Attorney Charles Michalek, Bar No. 5721, appearing for Grubb & Ellis.

Upon the Court's inquiry, Attorney Meier advised he made contact with the Title Company, noting they reviewed the proposed form Order, and got back to him with some changes, which should not be problematic. Attorney Meier advised they want a list of all the liens, and something stating all parties consent. Attorney Meier explained he is looking at different alternatives, but the position taken by Nevada Ready Mix, may cause the Underwriter to not right the policy. Statements by Attorney Peel. Upon the Court's further inquiry, Attorney Kessler stated he has no objection with Court's Order regarding the selling of the property, but expressed his concern regarding not having seen the terms of the proposed agreement, including price and other details. Attorney Carter advised people are still getting on board, and the property continues to deteriorate. Attorney Ferrario stated he cannot wait any longer, and suspects foreclosure will be initiated promptly. Court CLARIFIED, Attorney Berman is the only objection, and there is a Calendar Call scheduled for tomorrow. Court FINDS, we need to get a Title policy. At the request of Counsel, COURT ORDERED, Status Check CONTINUED.

10/24/12 10:30 AM CALENDAR CALL

11/6/12 10:00 AM STATUS CHECK: REGARDING SALE OF THE PROPERTY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 24, 2012**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**October 24, 2012            10:30 AM            Calendar Call**

**HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Larry Snyder  
Carol Foley**RECORDER:** Angie Calvillo**REPORTER:****PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Katz, Morrea	Attorney
	Meier, Glenn F	Attorney

**JOURNAL ENTRIES**

- Counsel announced ready for trial. Mr. Berman advised he has one witness and he believes his case will take half a day. Mr. Gochmour noted he does not anticipate bringing his own witness and he thinks trial can be done in less than one day. Discussion regarding availability next week. COURT ORDERED, trial reset 10/30 at 1:30 p.m. Pretrial memos due the morning of 10/30.

10/30/12 1:30 PM BENCH TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 30, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**October 30, 2012              1:30 PM              Bench Trial**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Meier, Glenn F	Attorney

**JOURNAL ENTRIES**

- Court convened for the scheduled Bench Trial.

Upon the Court's inquiry, Attorney Berman advised the matter is mostly resolved, but will still need to put some testimony and exhibits into the Record. Attorney Berman stated the Ten Causes of Action cited in his Complaint. Attorney Berman further advised that pursuant to negotiations, parties have agreed that Ready Mix will abandon their Tenth Cause of Action. Attorney Gochmour explained that based on negotiations, Scott Financial and APCO have agreed not to contest any points, either the amounts submitted or validity of the lien, in exchange for Ready Mix agreeing to the sale. Attorney Meier further clarified: the consenting of the sale to release the lien from the property, and the transfer of the lien to the sale proceeds, and the COURT SO ORDERED. Testimony and exhibits presented (see worksheets). COURT FURTHER ORDERED, the principal amount of the mechanics lien, \$683,771.68, plus reserving Interest and Attorney Fees under statute, are hereby AWARDED. Attorney Berman stated he will prepare an Order as to the Mechanics Lien, and a Judgment for the other Eight Causes of Action, COURT SO ORDERED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 06, 2012**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**November 06, 2012      10:00 AM              Status Check**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Carter, Matthew S.	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney Andrew Kessler participated through CourtCall.

Attorney John Langeveld, Bar No. 11628, appearing for Las Vegas Pipeline LLC, and also participating through CourtCall.

Attorney Charles Michalek, Bar No. 5721, appearing for Grubb & Ellis.

Attorney Jay Shafer, Bar No. 9184, also appearing for Cellcrete Fireproofing of Nevada.

Attorney Meier advised they have been focusing on Title, noting he talked with the Title Officer and Escrow Officer this morning. Attorney Meier advised progress is being made, and they asked for proof of service on the Order to Show Cause Orders, which have been provided. Mr. Meier stated that by the end of the day, he is suppose to get a list of the liens they are ok clearly off on based on the information they now have, and the ones they need additional information on. Attorney Meier reiterated that things are moving in the right direction.

Upon the Court's inquiry, Attorney Carter stated he estimates Escrow closing possibly in February. Attorney Gochmour advised the Fontainebleau Decision has come down, and he has been in discussions with Attorney Meier's office about the Writ proceedings going on before the Supreme Court, and they are going to jointly ask the Court for an updated Briefing Schedule, to allow them to supplement their original Writ, before they have to file their Answer and Reply Brief. Attorney Gochmour further explained that he believes the Ruling will substantially resolve a good portion of the case, if not all, and requested a Stay in this case pending a Decision on the Writ. Colloquy regarding the Five Year Rule running. Attorney Gochmour noted that technically with the Trial proceedings taking place last week with Nevada Ready Mix, the Trial has already commenced. Attorney Meier and Attorney Berman concurred. Attorney Berman advised he would also indicate such in his Order. COURT ORDERED, STAY is GRANTED except for any matters regarding the SALE. COURT FURTHER ORDERED, matter CONTINUED.

12/6/12 10:00 AM STATUS CHECK: RE: SALE OF PROPERTY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****November 29, 2012**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**November 29, 2012      3:00 AM                      Motion to Withdraw as  
                                         Counsel**

**HEARD BY:**   Scann, Susan                                              **COURTROOM:**   RJC Courtroom 12B

**COURT CLERK:**   Larry Snyder

**RECORDER:**   Angie Calvillo

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Having considered T. James Truman, Esq.'s Motion to Withdraw as Counsel of Record for Dave Petersen Framing, and noting no opposition thereto, this Court hereby GRANTS IN PART and DENIES IN PART said motion.

Specifically, the Motion is Granted as to allowing James T. Truman, Esq. to withdraw. The Order, to be prepared by Attorney Truman within 10 days, shall include the Name, Last Known Address, and Last Known Telephone Number of Dave Petersen Framing; and include future hearing dates.

The remainder of the motion, namely the 1) Notice of the Attorneys Lien, 2) Foreclosing on the Attorneys Lien, and 3) Reducing the Lien to Judgment, is hereby Denied Without Prejudice. NRS 18.015(4) allows this Court to adjudicate attorneys liens only after all interested parties have had 5 days notice. The submitted papers do not have any evidence showing perfection of the lien by certified mailing to Dave Petersen Framing, nor has T. James Truman, Esq. provided a detailed breakdown of the billings. Accordingly, this portion of the Motion is DENIED without Prejudice.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****December 06, 2012**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**December 06, 2012      10:00 AM              Status Check**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney John Langeveld, Bar No. 11628, appearing for Las Vegas Pipeline LLC, and also participating through CourtCall.

Attorney Jay Shafer, Bar No. 9184, also appearing for Cellcrete Fireproofing of Nevada.

Attorney Dana Kim also appearing for Intervenor, National Wood Products, also participating through CourtCall.

Attorney Nathanael R. Rulis, Bar No. 11259, appearing for Attorney Matthew Carter, on behalf of Defendant Bradley Scott.

Attorney Meier provided the Court with an update, and advised there is a signed agreement, with a 2/28/13 closing date. Attorney Meier stated he is still working with the Title Company, and is in the process of answering another series of questions. Attorney Meier noted he did not anticipate needing the Court's assistance unless there is someone out there that has not been expunged yet, then there might need to be another Show Cause Hearing set. Colloquy regarding an article in the Las Vegas Review Journal which contained false information, which stated this case was in Bankruptcy Court. Attorney Berman asked if there is another Order To Show Cause Hearing, that is be limited to just things that need to be cleared up, and the COURT SO ORDERED. COURT FURTHER ORDERED, matter CONTINUED for another Status Check, and everyone's presence is excused, but Attorney Meier.

2/7/13 10:00 AM STATUS CHECK: SALE OF PROPERTY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****January 03, 2013**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**January 03, 2013****1:30 PM****Motion****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Berman, Brian Keith

Attorney

Cawley, Reuben

Attorney

Gochmour, Wade B.

Attorney

Attorney

Katz, Morrea

Attorney

Long, Rhonda R.

Attorney

Maskas, Marisa

Attorney

Peel, Richard L.

Attorney

**JOURNAL ENTRIES**

- Attorney Bradley Slighting, Bar No. 10225, appearing for United Subcontractors Inc.

Attorney Rachel Donn, Bar No. 10568, appearing for Defendant Scott Financial Corp.

Statements by Attorney Peel in support of the relief requested, noting issues regarding the pending sale, including the commission being paid, an open-ended sale period, and not being able to review and state concerns about the two Amendments and Order. Attorney Carter advised the Title process has taken longer than expected, and stating there has been a bit of a disconnect. Attorney Carter requested a continuance in order to review the Motion, and speak with his client. COURT ORDERED, matter CONTINUED.

**08A571228**

1/16/13 10:30 AM HEARING TO DISCUSS ORDER APPROVING PRIVATE SALE, PURCHASE  
AND SALE AGREEMENT, AND RELATED ISSUES



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****January 16, 2013**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**January 16, 2013                      10:30 AM                      Motion**

**HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Dulce Romea  
                                  Ying Pan

**RECORDER:** Angie Calvillo**REPORTER:****PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Carter, Matthew S.	Attorney
	Cawley, Reuben	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Long, Rhonda R.	Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- Attorney Charles Michalek (Bar No. 5721) present on behalf of non-party, Grubb & Nellis.

Arguments by counsel regarding the Purchase and Sale Agreement (PSA). Issues raised as to the second amendment, closing date, permit, and commission. Plaintiff's counsel provided the Court the proposed Order with revisions. COURT ORDERED, Closing Date of the Private Sale is May 1, 2013. COURT FURTHER ORDERED, Pre-Trial Conference, Calendar Call, and Trial Date VACATED. Further discussions regarding other lien holders' responses and arguments regarding the

commission. Mr. Michalek advised his client has a different understanding about the commission and requested an Evidentiary Hearing be set. COURT SO ORDERED. Court DIRECTED Plaintiff's counsel to revise and submit proposed Order before the next Status Check.

2/7/13 10:00 AM STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****February 05, 2013**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**February 05, 2013      10:00 AM      Show Cause Hearing**

**HEARD BY:** Scann, Susan                                      **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Carter, Matthew S.	Attorney
	Hayes, Garry L.	Attorney
	Meier, Glenn F	Attorney

**JOURNAL ENTRIES**

- Attorney Marcus Risman (Bar No. 2455) present on behalf of Creative Home Theatre, LLC.

Mr. Hayes and Mr. Risman stated their appearances. After a discussion, counsel advised they have no objections to the sale going forward. Mr. Meier advised HD Supply and Whitecap Construction Supply has previously settled with Mr. Edelstein and requested its lien be expunged, COURT SO ORDERED. Following Status Report regarding Services on interested parties, COURT FURTHER ORDERED, all parties' claims RELEASED except Jordon & Skala Engineers, Inc. Mr. Meier to prepare proposed Order.

2/7/13 10:00 AM EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALW ... STATUS CHECK: RE: SALE OF PROPERTY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****February 07, 2013**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**February 07, 2013      10:00 AM      All Pending Motions**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Carter, Matthew S.	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

Attorney Charles Michalek (Bar No. 5721) present on behalf of Non-Party, Grubb & Ellis.

Representatives for Grubb & Ellis (G & E), Curt Allopp and Benjamin Millis, also present.

Court NOTED, it has reviewed the Declaration of Bradley J. Scott which was filed yesterday. Mr. Michalek advised the key witness, Bradley Scott, cannot appear today; however, Evidentiary Hearing can proceed as the Declaration is sufficient. Arguments between counsel regarding the validity of the

commission contract between Mr. Scott and G & E, binding parties of this case, and whether Mr. Scott should be present for the Evidentiary Hearing. Further discussions regarding how the hearing shall proceed, and whether it is appropriate for counsel to testify as witnesses. Court FINDS counsel will be allowed to testify as witnesses. COURT ORDERED, matters CONTINUED. COURT FURTHER ORDERED, simultaneous briefs will be due by 2/25/13, including witnesses and documents.

3/1/13 9:00 AM STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****February 14, 2013**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**February 14, 2013            9:00 AM                      All Pending Motions**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

**PRESENT:**            Gochmour, Wade B.                                              Attorney  
                                                                                                                                       Attorney  
                                          Meier, Glenn F                                                                                              Attorney

**JOURNAL ENTRIES**

- DEFENDANT SCOTT FINANCIAL CORPORATION'S MOTION TO DISMISS AND EXPUNGE LIENS ON ORDER SHORTENING TIME...ORDER TO SHOW CAUSE

Attorney Dana Y. Kim, participated telephonically through CourtCall, on behalf of Intervenor, National Wood Products.

Statements by Counsel. COURT ORDERED, Order To Show Cause is GRANTED. COURT FURTHER ORDERED, Jordan & Skala Engineers Inc. failed to appear,, and their Lien is hereby EXPUNGED. Order signed in Open Court this date, 2/14/13.

COURT ADDITIONALLY ORDERED, Defendant Scott Financial Corporation's Motion To Dismiss And Expunge Liens is GRANTED. COURT ORDERED, the liens held by Atlas Construction Supply, Republic Crane Services, HA Fabricators and Executive Plastering against the Manhattan West Project are hereby EXPUNGED.

Colloquy regarding case status. Attorney Meier advised things are currently on track. COURT

**08A571228**

FURTHER ORDERED, Evidentiary Hearing date STANDS.

3/1/13 9:00 AM EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 01, 2013**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**March 01, 2013                      9:00 AM                      All Pending Motions**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Ying Pan

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Carter, Matthew S.	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Katz, Morrea	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

Attorney Peter Dunkley (Bar No. 11110) present on behalf for Attorney Glenn Meier, on behalf of Defendant, Scott Financial Corporation.

Attorney Andrew Kessler (Bar No. 10640) present telephonically, on behalf of Plaintiff, Uintah Investments, LLC.

Attorney Reuben Cawley (Bar No. 9384) present on behalf of Plaintiff, Zitting Brothers Construction, Inc.



Attorney Charles Michalek (Bar No. 5721) present on behalf of Non-Party, Grubb & Ellis.

Representatives for Grubb & Ellis (G & E), Curt Allop and Benjamin Millis, also present.

Testimonies and exhibits presented (see worksheets). Colloquy as to Mr. Bradley Scott's potential additional testimony, and a continuance date. COURT ORDERED, matter CONTINUED.

3/7/13 1:00 PM STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 07, 2013**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**March 07, 2013****1:00 PM****All Pending Motions****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Carter, Matthew S.

Attorney

Cawley, Reuben

Attorney

Gochmour, Wade B.

Attorney

Attorney

Katz, Morrea

Attorney

Meier, Glenn F

Attorney

Peel, Richard L.

Attorney

Williams, Donald H

Attorney

Attorney

Zimbelman, Eric B.

Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: RE: SALE OF PROPERTY ... EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE

Attorney Peter Dunkley (Bar No. 11110), appearing on behalf of Defendant, Scott Financial Corporation.

Attorney Charles Michalek (Bar No. 5721) present on behalf of Non-Party, Grubb & Ellis.

Representatives for Grubb & Ellis (G & E), Curt Allsop and Benjamin Millis, also present.

PRINT DATE: 06/11/2018

Page 124 of 194

Minutes Date: May 12, 2009

Court convened for the continuation of the Evidentiary Hearing and Status Check. Testimony and exhibits presented (see worksheets). COURT ORDERED, Evidentiary Hearing CONTINUED for Closing Arguments.

3/12/13 2:00 PM EVIDENTIARY HEARING (CLOSING ARGUMENTS)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 12, 2013**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**March 12, 2013****2:00 PM****Evidentiary Hearing****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Larry Snyder**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Carter, Matthew S.

Attorney

Gochmour, Wade B.

Attorney

Attorney

Katz, Morrea

Attorney

Peel, Richard L.

Attorney

Zimbelman, Eric B.

Attorney

**JOURNAL ENTRIES**

- Attorney Charles Michalek (Bar No. 5721) present on behalf of Non-Party, Grubb & Ellis.

Representatives for Grubb & Ellis (G & E), Curtis Allsop and Benjamin Millis, also present.

Attorney Kade Baird (Bar No. 8362), also present for Grubb & Ellis, assisting in the Court's proceedings.

Attorney Rachel Donn (Bar No. 10568), appearing for Scott Financial Corporation.

Court convened for continuation of the Evidentiary Hearing. Closing arguments by Attorney Carter and Attorney Michalek on behalf of the Defendants. Closing argument by Attorney Zimbelman and Attorney Katz who joined in Attorney Zimbelman's argument.

Further rebuttal argument by Attorney Carter and Attorney Michalek.

08A571228

COURT ORDERED, matter taken UNDER ADVISEMENT.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**March 26, 2013**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**March 26, 2013                      10:00 AM                      Decision**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED matter CONTINUED.

CONTINUED TO 4/3/13 3:00 AM DECISION (CHAMBER CALENDAR)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 10, 2013**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**April 10, 2013                      3:00 AM                      Motion to Withdraw as  
Counsel**

**HEARD BY:** Scann, Susan**COURTROOM:****COURT CLERK:** Larry Snyder**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Having considered Donald H. Williams, Esq.'s Motion to Withdraw as Attorney of Record for Harsco Corp., and noting no opposition thereto, this Court hereby GRANTS said Motion. Attorney Williams to prepare the Order within 10 days. The Order shall include the Name, Last Known Address, and Last Known Telephone Number of Harsco Corp. and include future hearing dates.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 30, 2013**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**May 30, 2013                      9:00 AM                      Motion to Set Aside**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder  
                                         Dania Batiste

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

**PRESENT:**                      Weiland, Jason, ESQ                                              Attorney  
                                         Williams, Donald H                                              Attorney  
                                                                                      Attorney

**JOURNAL ENTRIES**

- Colloquy between the Court and counsel regarding proper service of the parties. Mr. Weiland advised Ahern Rentals is the party who has a Judgment against the Defendant. COURT ORDERED, matter OFF CALENDAR, noting Ahern Rentals has not been served.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 13, 2013**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**June 13, 2013                      10:00 AM                      Motion**

**HEARD BY:** Scann, Susan                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Larry Snyder  
                                         Dania Batiste

**RECORDER:** Sandra Pruchnic

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Berman, Brian Keith	Attorney
	Cawley, Reuben	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Katz, Morrea	Attorney

**JOURNAL ENTRIES**

- Rachel Donn, Esq., Bar Number 10568 also present.

Colloquy between Court counsel regarding the language of the Order. Mr. Gochmour stated he will send Defendant s counsel a revised Order to approve as to form and content. Ms. Donn advised the property has closed and a Notice of Sale will be filed. COURT ORDERED, Motion GRANTED with the qualifications made by counsel.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 15, 2014**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**July 15, 2014****9:00 AM****Motion****HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Katrina Hernandez**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**

Dobberstein, Eric

Attorney

Attorney

Gochmour, Wade B.

Attorney

Attorney

Morris, Steven L.

Attorney

Attorney

**JOURNAL ENTRIES**

- Jonathan Salls, Attorney for Insulpro Projects Inc, Taylor Waite on behalf of Accuracy Glass & Mirror Company Inc.

Arguments by Mr. Gochmour contending Insulpro's main objective is to lift the stay in order to file a Motion for Summary Judgment, further stated there are factual issues. Mr. Waite argued whether or not there are factual issues, the court can later determine. Further arguments by counsel as to lifting the Stay. Court stated its findings and ORDERED, Motion DENIED. Plaintiff to prepare the Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****August 19, 2015**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**August 19, 2015              3:00 AM              Motion to Withdraw as  
                                         Counsel**

**HEARD BY:** Scann, Susan**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Katrina Hernandez**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- This Court, having considered Pezzillo Lloyd s Motion to Withdraw as Counsel of Record for Northstar Concrete, Inc., and noting no opposition, GRANTS said Motion. Jennifer R. Lloyd, Esq. or George E. Robinson, Esq., to prepare the order. The Order shall include the Last Known Address and Last Known Telephone Number of Northstar Concrete, and include future hearing dates.

\*CLERK'S NOTE: The above minute order was distributed via electronic mail to: jl@h2law.com./kh  
8-20-15

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 21, 2015**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**October 21, 2015              9:30 AM              Status Check**

**HEARD BY:** Scann, Susan

**COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Katrina Hernandez

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Parties present: Michael Ernest, Esq., Wade Gochmour, Esq., Matthew Carter, Esq., Eric Doberstein, Esq., Reuben Cawley, Esq., Steven Morris, Esq., Mark Ferrario, Esq., and Eric Zimbelman, Esq. present via Court Call.

Mr. Gochmour advised of the status and upon Court's inquiry noted there is still a significant amount to do. Colloquy regarding how to proceed and whether to lift the stay on discovery. Arguments by Mr. Gochmour in supposition of lifting the stay and arguments by Mr. Dobberstein in support. COURT ORDERED, oral Motion to Lift Stay, DENIED and status check CONTINUED.

4/20/16 9:30 AM (CONTINUED STATUS CHECK)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 14, 2016**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**April 14, 2016                      9:00 AM                      Motion to Release Funds**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 12A

**COURT CLERK:**   Jennifer Kimmel

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Carter, Matthew S.	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Gochmour, Wade B.	Attorney
		Attorney
	Juan, Chen M.	Attorney

**JOURNAL ENTRIES**

- Mr. Ferrario, Esq. advised this matter is resolved and counsel have STIPULATED that the net proceeds from the sale, as defined in the Sale Order, shall be released from escrow and delivered to Scott Financial Corp., or its designee, within FIVE (5) business days from filed date of the Notice of Entry of the Order and the COURT SO ORDERED.

Court signed the Order and returned it to Mr. Ferrario.

CLERK'S NOTE: Correction made to include counsel's agreement to vacate the upcoming Status Check set for 4/21/16. jk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 21, 2016**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**April 21, 2016****9:00 AM****Status Check****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Marwanda Knight**RECORDER:** Martha Szramek**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Eric Dobberstein, Esq., appearing on behalf of Insulpro Projects Inc

Eric Zimbelman, Esq., appearing on behalf of SWPPP Compliance Solutions LLC, S R Bray Corp, Cactus Rose Construction, Inc., and Interstate Plumbing & Air Condition Inc.

At Status Check: Disbursement of Sale Proceeds and any other Matters Remaining following the S. CT. Decision 131Nev., Adv. Op. 70, Court noted the matter came before it on April 14, 2016 regarding the proceeds of the sale, today's proceedings should have been vacated, but remained on calendar. Mr. Zimbelman stated he did not receive any notice of the hearing being vacated, noting some parties feel the case is over and for some it's not because they continue to have contract claims that were stayed while the parties pursued the lien claims.

Mr. Dobberstein noted a stay issued by Judge Scann while the Supreme Court hearing was pending and requested this Court allow him to proceed with their lien claims.

After hearing from Mr. Zimbelman and Mr. Dobberstein, the Court stated it would issue an order setting a status check with notice to all counsel. Additional comments made by counsel as to preparing a motion to lift the stay and obtaining a trial date. COURT SO NOTED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 02, 2016**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**June 02, 2016****9:00 AM****All Pending Motions****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Marwanda Knight**RECORDER:** Martha Szramek**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Wade Gochmour, Esq., and Chen Jack Juan, Esq., appeared on behalf of Plaintiff  
 Andrew Blaylock, Esq., appeared on behalf of Las Vegas Pipeline  
 Eric Dobberstein, Esq., appeared on behalf of Counter Claimant, Insulpro Projects Inc  
 Steve Morris, Esq., appeared on behalf of Counter Claimant, Camco Pacific Construction Company Inc  
 Morrea Katz, Esq., appeared on behalf of the Tharalldson Entities  
 Ronald Cox, Esq., appeared on behalf of Counter Defendant, Accuracy Glass & Mirror Company Inc,  
 Buchele Inc, Bruin Painting Corp, Cactus Rose Construction Inc, Fast Glass Inc, HD Supply  
 Waterworks LP, Heinaman Contract Glazing, Helix Electric of Nevada LLC, Interstate Plumbing &  
 Air Conditioning, SWPPP Compliance Solutions LLC, and WRG Design Inc  
 I-che Lai, Esq., appeared on behalf of Counter Defendant, Zitting Brothers Constructions Inc  
 Michael Ernst, Esq., appeared on behalf of Steel Structures Inc and Nevada Prefab Engineers Inc

**STATUS CHECK** SMITH & SHAPIRO, PLLC s MOTION TO WITHDRAW

There being no opposition and cause appearing, COURT ORDERED, the Motion to Withdraw  
 GRANTED.

ORDER SIGNED IN OPEN COURT and returned to counsel for processing.

Thereafter, colloquy held regarding upcoming motion practice. If the Motion to Appoint Special Master currently set, June 9, 2016 is resolved, the Court will be notified or an order will be presented.

Court noted the status of the case reported.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 09, 2016**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**June 09, 2016                      9:00 AM                      Motion**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 12A

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Chen M. Juan, Esq., and Wade Gochmour, Esq., appearing on behalf of Plaintiff, Apco Construction  
 Ronald Cox, Esq., appearing on behalf of Counter Defendant  
 I-Che Lai, Esq., appearing on behalf of Counter Defendant Zitting Brothers Construction Inc  
 Eric Dobbertstein, Esq., appearing on behalf of Third Party Plaintiff

At Plaintiff's Motion to Appoint Special Master, Mr. Juan advised that counsel resolved their issue and provided the Court with an order that the parties had agreed on. COURT SO NOTED and ORDERED, Motion GRANTED.

Order SIGNED IN OPEN COURT and returned to counsel for processing.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****June 20, 2016**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**June 20, 2016****9:00 AM****All Pending Motions****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Marwanda Knight  
Olivia Black**RECORDER:** Martha Szramek**REPORTER:****PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Wade Gochmour, Esq., Cody Mounter, Esq., and Chen 'Jack' Juan, Esq., appearing on behalf of Plaintiff

Rachel Donn, Esq., appearing on behalf of Defendant, Scott Financial Corporation

Eric Dobberstein, Esq., appearing on behalf of Insulpro Projects Inc

Steven Morris, Esq., appearing on behalf of Camco Pacific Construction Company Inc

I-Che Lai, Esq., appearing on behalf of Zitting Brothers Construction Inc

RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT...ZITTING BROTHERS  
CONSTRUCTION, INC'S JOINDER TO INSULPRO PROJECTS, INC'S RENEWED MOTION FOR  
PARTIAL SUMMARY JUDGMENT...APCO'S OPPOSITION TO RENEWED MOTION FOR  
PARTIAL SUMMARY JUDGMENT AND JOINDER THERETO; AND COUNTERMOTION TO  
DISMISS AND/OR FOR SUMMARY JUDGMENT AGAINST INSULPRO

Court queried counsel whether the motions on today's calendar should be referred to the Special Master.

Mr. Dobberstein argued why he opposed the motions going before the Special Master, noting the only thing that should be decided by the Special Master would be as to the responsibilities of Apco or

Camco.

Mr. Mounteer argued it would be best the motions go before the Special Master to work out any additional discovery issues and then they would be able to decide if there are any lien claims. Mr. Morris added that to his knowledge the only matters that have been decided are the claims against Gemstone and not the contractors. Further, Mr. Morris noted no opposition to the motions being referred to the Special Master. Additional comments by Mr. Mounteer as to the amount Insulpro is claiming.

Court stated that in its preparation, it appeared that having appointed a Special Master and given the subject matter that's involved, given the fact that there has been a foreclosure that has wiped out the junior liens, and given the fact that claims are still being made, it's important that the right hand knows what the left hand is doing, and ORDERED, motions REFERRED to the Special Master.

Mr. Juan to submit a proposed order after passing the same by opposing counsel.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 06, 2017**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**March 06, 2017****9:00 AM****All Pending Motions****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Marwanda Knight**RECORDER:** Martha Szramek**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Wade Gochmour, Esq., appeared on behalf of Pltf  
 Mark Ferrario, Esq. and Kara Hendricks, Esq., appeared on behalf of the Tharaldson Parties  
 Patrick Sheehan, Esq., appeared on behalf of Non-Parties, Newmark Grub  
 Elizabeth Stephens, Esq., appeared on behalf of Intervnor Pltf, Interstate Plumbing

**PLAINTIFF'S MOTION TO ASSOCIATE COUNSEL - JONATHAN S. DABBIERI, ESQ.**

COURT stated everything appears to be in order, and ORDERED, Motion GRANTED. COURT FURTHER ORDERED, status check SET to show that the State Bar has been notified of the admission. Court noted if the record reflects that the State Bar has been notified, it will not be necessary for counsel to attend the next hearing. However, if the record does not show the State Bar has been notified counsel will have to appear to explain why.

**CLUB VISTA FINANCIAL SERVICES, LLC AND THARDLDSON MOTELS II, INC'S MOTION FOR ORDER TO SHOW CAUSE WHY GRUBB & ELLIS, NOW KNOWN AS NEWMARK GRUBB, SHOULD NOT BE HELD IN CONTEMPT OF COURT**

Counsel argued regarding the merits of the Motion. After hearing from counsel, COURT stated it would review the matter further before issuing its ruling, and ORDERED, matter taken UNDER ADVISEMENT.

08A571228

04/03/2017 9:00 A.M. | STATUS CHECK RE: SCR 42 COMPLIANCE (JONATHAN S. DABBIERI,  
ESQ.)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****March 15, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**March 15, 2017                      11:45 AM                      Decision**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- After review and consideration of the pleadings on file herein and the arguments of counsel at the time of the March 6, 2017 hearing, COURT ORDERS, Motion for Order to Show Cause Why Grubb & Ellis, Now Known as Newmark Grubb, Should Not be Held in Contempt DENIED.

Counsel for Grubb is directed to provide prompt written notice of entry hereof. Please see the Court's written Decision and Order filed March 15, 2017 for full context.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**March 20, 2017**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**March 20, 2017                      9:00 AM                      Motion to Withdraw as  
                                                                                 Counsel**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Monica Caffaratti, Esq., appeared on behalf of Deft., Gemstone Development West Inc.

Cause appearing and there being no opposition, COURT ORDER, Motion GRANTED and directed Ms. Caffaratti to submit a proposed order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**April 03, 2017**

---

08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

---

**April 03, 2017                      9:00 AM                      Motion**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Stephen Kopolow, Esq., appeared on behalf of Counter Deft, Ahern Rentals Inc  
Selina Cisneros, Esq., Pro Se Deft

Following representations made by Ms. Cisneros and Mr. Kopolow, COURT STATED it would  
revedi the matter further before issuing its ruling, and ORDERED, matter taken UNDER  
ADVISEMENT.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****April 18, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**April 18, 2017                      2:00 PM                      Minute Order**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- HAVING further reviewed the record pertaining to Plaintiff's (sic) Motion to Set Aside Judgment filed herein on February 28, 2017, and being now fully advised in the premises, the Court is not persuaded that the Motion has merit and it is DENIED.

Counsel for Plaintiff Ahern Rentals, Inc. (Consolidated Case No. A-08-574792) is directed to submit a proposed order consistent herewith.

IT IS SO ORDERED.

CLERK S NOTE - A copy of this minute order was distributed via E-Service Master List. / mk  
04/18/2017

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**May 11, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**May 11, 2017                      9:00 AM                      Motion to Withdraw as  
                                         Counsel**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Jennifer Gerold

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Eric B. Zimbelman, Esq., appeared on behalf of Pltf, Accuracy Glass and Mirror Co Inc (A587168)

There being no opposition, COURT ORDRED, Motion GRANTED.

Order SIGNED IN OPEN COURT and returned to counsel for processing.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 15, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**May 15, 2017                      9:00 AM                      Motion for Summary  
                                                                                 Judgment**

**HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Marwanda Knight**RECORDER:** Jennifer Gerold**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Chen "Jack" Juan, Esq., appeared on behalf of Pltf  
Martin Little, Esq., appeared on behalf of Counter Defendant, Unitah Investments LLC

Following argument, COURT STATED ITS FINDINGS, and ORDERED, Motion for Summary Judgment GRANTED as to the ability of Unitah Investments LLC being able to continue to pursue this action, or have the action pursued in its name WITHOUT PREJUDICE to a Motion to substitute Pacific Coast Steel.

Mr. Juan directed to submit a proposed order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****May 30, 2017**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**May 30, 2017                      9:00 AM                      Motion to Associate  
                                          Counsel**

**HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Marwanda Knight**RECORDER:** Jennifer Gerold**REPORTER:**

**PARTIES  
 PRESENT:**

**JOURNAL ENTRIES**

- Court stated that the Motion appeared to be in order, and with there being no oppositon ORDERED, Motion GRANTED.

COURT FURTHER ORDERED, status check SET to show that the State Bar has been notified of the admission. If the record reflects that the State Bar has been notified, it will not be necessary for counsel to attend the next status check. However, iff the record does not show the State Bar has been notified then counsel will have to appear to explain why.

Order SIGNED IN OPEN COURT and will be available for counsel to pickup; the Court's Law Clerk will notify counsel.

07/31/2017 9:00 AM | STATUS CHECK RE: SCR 42 COMPLIANCE (S. Judy Hirahara, Esq.)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**July 24, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**July 24, 2017                      9:00 AM                      Motion to Continue**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Jennifer Gerold

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES: Cody Munteer, Attorney for Pltf  
I-Che Lai, Attorney for Counter Defendant, Zitting Brothers Construction, Inc

Cause appearing and there being no opposition, COURT ORDERED, Motion GRANTED and directed counsel to submit a proposed order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**July 25, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**July 25, 2017                      5:35 PM                      Minute Order**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Martha Szramek

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Cause appearing, and pursuant to EDCR 2.20(e) and 2.23(c), the Court GRANTS Gerdau Reinforcing Steel's Motion to Substitute without oral argument and ORDERS such Motion removed from its civil motion calendar of July 27, 2017. Counsel for moving party to submit a proposed order.

IT IS SO ORDERED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****July 31, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**July 31, 2017                      9:00 AM                      Status Check**

**HEARD BY:** Denton, Mark R.                                              **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Marwanda Knight

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- No parties present.

At call of case, Court noted no appearances, and ORDERED, MATTER TRAILED.

MATTER RECALLED - Court stated that the matter was on for status check regarding SCR 42 Compliance to show that the State Bar has been notified of the pro hac vice admission of S. Judy Hirahara, Esq. Further, Court stated that the record does not show that the State Bar has been notified of such admission, and ORDERED, status check CONTINUED thirty (30) days. Counsel is directed to notify the State Bar of the pro hac vice admission.

CONTINUED TO: 08/31/17 9:00 a.m.

CLERK'S NOTE: The above minute order has been distributed to:

Richard Tobler, Esq.  
Fax: (702) 256-2248

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****August 10, 2017**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**August 10, 2017****9:00 AM****Motion to Dismiss****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Marwanda Knight**RECORDER:** Jennifer Gerold**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES: Juan Jack Chen, Attorney for Pltf

Joe Palin, Principal of Apco Construction

Steve Morris, Attorney for Deft, Camco Pacific Construction Company Inc

Elizabeth Stephens, Attorney for Trustee

Eric Zimbelman, Attorney for Defts Helix Electric of Nevada, Fast Glass Inc., and Cactus Rose Construction Inc

I-Che Lai, Attorney for Pltf, Zitting Brothers Construction Inc., A589195

Following argument by counsel, COURT stated its FINDINGS, noting there are some genuine issues that need to be further developed, and treating the Motion as a Motion for Summary Judgment ORDERED, Motion DENIED WITHOUT PREJUDICE to counsels' contentions.

As a housekeeping matter, counsel discussed moving the motions currently calendared for August 24, 2017 to September 5, 2017. COURT SO ORDERED. Additional colloquy regarding trial setting, parties not participating in the case, and the parties having a settlement conference.

Mr. Zimbelman indicated he would submit the proposed order after passing the same by opposing counsel.





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**September 05, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**September 05, 2017      9:00 AM                      Motion to Associate  
                                         Counsel**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Jennifer Gerold

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES: John B. Taylor and Rich Tobler, Attorneys for National Wood Products and Cabinetec

There being no opposition and with cause appearing, COURT ORDERED, Motion GRANTED and FURTHER ORDERED status check regarding SCR 42 compliance SET October 5, 2017 at 9:00 am.

10/05/2017 9:00 AM | STATUS CHECK RE: SCR 42 COMPLIANCE (JOHN B. TAYLOR, ESQ.)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****September 05, 2017**

08A571228                      Apco Construction, Plaintiff(s)  
                                          vs.  
                                          Gemstone Development West Inc, Defendant(s)

**September 05, 2017      2:00 PM                      Calendar Call**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Jennifer Gerold

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES: Jack Chen Min Juan and Cody Mounter, Attorney for Pltf  
 Elizabeth Stephens, Attorney for IPAC, Chapter 7 Trustee  
 John Taylor and Rich Tobler, Attorneys for National Wood Products  
 I-Che Lai, Attorney for Zitting Brothers  
 Eric Zimbelman, Attorney for Helix Electric of Nevada LLC, Heinaman Contract Glazing, Buchele Inc, Cactus Rose Construction Inc, Fast Glass Inc  
 Benjamin Johnson, Attorney for United Subcontractors Inc d/b/a Skyline  
 William Urga and Michael R. Ernst, Attorneys for Gerdau Reinforcing Steel, Steel Structures Inc, Nevada Prefab Engineers Inc, and Unitah  
 Tracy Truman, Attorney for E & E Fire  
 Steve Morris, Camco Pacific Construction Company Inc

Court noted the settlement conference scheduled September 21, 2017. Mr. Juan requested that the calendar call and trial be continued so the parties can proceed with settlement. Further, Mr. Juan stated that the only parties that should remain are those that have complied with the Special Master's questionnaire and have filed their pre-trial disclosures.

Mr. Johnson noted confusion with the number of parties in the case, knowing what's going on

procedurally, and the Motion for Summary Judgment and Joinders being moved to October. Further, Mr Johnson noted his objection to the striking of his client's claims. Colloquy regarding parties left in the case with claims and proceeding with negotiations.

COURT ORDERED deadline for parties who have not complied with the Special Master's questionnaire and have not filed their pretrial disclosures SET Friday, September 8, 2017 by 5:00 pm and FURTHER ORDERED hearing SET Monday, September 11, 2017 on Pltf's Oral Motion to Dismiss Pursuant to Rule 7(b).

COURT FURTHER ORDERED the current trial setting VACATED and status check SET October 5, 2017 at 9:00 am to discuss resetting the trial.

HEARING ON PLTF'S ORAL MOTION TO DISMISS PURSUANT TO RULE 7(b): 09/11/2017 9:00 AM

STATUS CHECK RE:RESETTING TRIAL: 10/05/2017 9:00 AM

CLERK'S NOTE: The above minute order has been distributed via the E-Service Master List.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**September 11, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**September 11, 2017      9:00 AM                      Hearing**

**HEARD BY:**   Denton, Mark R.                                              **COURTROOM:**   RJC Courtroom 03D

**COURT CLERK:**   Marwanda Knight

**RECORDER:**   Jennifer Gerold

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- APPEARANCES: Jack Juan, Attorney for Pltf  
Brad Slighting, Attorney for Deft, United Subcontractors  
Michael Ernst, Attorney for Deft, Gerdau Reinforcing Steel  
Elizabeth Stephens, Attorney for the Trustee  
I-Che Lai, Attorney for Deft Zitting Brothers Construction

Following representations made by counsel, COURT ORDERED case dismissed as to the parties that did not comply with the Court's ruling to make their filings. All of the other parties who have made a pre-trial filings will soon get a letter from Mr. Juan or a schedule from the settlement judge regarding the September 21, 2017 settlement conference.

Mr. Juan to submit the proposed order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**September 21, 2017**

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08A571228                      Apco Construction, Plaintiff(s)  
                                         vs.  
                                         Gemstone Development West Inc, Defendant(s)

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**September 21, 2017      9:00 AM                      Settlement Conference**

**HEARD BY:                                              COURTROOM:**

**COURT CLERK:**

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Judge David Barker met with the parties for the purpose of a settlement conference at Esquire Solutions, the case did not settle.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court****COURT MINUTES****October 05, 2017**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

**October 05, 2017****9:00 AM****All Pending Motions****HEARD BY:** Denton, Mark R.**COURTROOM:** RJC Courtroom 03D**COURT CLERK:** Marwanda Knight**RECORDER:** Jennifer Gerold**REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

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APPEARANCES: Jack Juan, Cody Munteer, John Mowbray, and Mary Bacon, Attorneys for Apco  
 Steven Morris, Attorney for Camco Pacific Construction Co Inc  
 Eric Zimbelman, Attorney for Defts Helix Electric of Nevada, SWPP Compliance Solution, Buchele  
 Inc, Cactus Rose Construction Inc, Fast Glass Inc, and Heinaman Contract Glazing  
 Benjamin Johnson, Attorney for United Subcontractors Inc  
 John Taylor and Rich Tobler, Attorneys for National Wood Products  
 Elizabeth Stephens, Attorney for Trustee  
 I-Che Lai, Attorney for Pltf, Zitting Brothers Construction Inc.  
 Tracy Truman, Attorney for E & E Fire  
 Michael Ernst, Attorney for Gerdau Reinforcing Steel, Steel Structures Inc, and Nevada Prefab  
 Engineers

CONFERENCE AT BENCH: Court disclosed that the wife of its current Law Clerk, Andrew Lajoie, is the niece of Steven Morris. Counsel acknowledged their agreement to proceed in light of the Court's disclosure. Further, Court advised that Mr. Lajoie would be screened from this case.

Mr. Juan advised that at the settlement conference no global settlement was reached; however, progress was made with some. Further, Mr. Juan requested discovery be extended another 45 days to finish up depositions, which resulted in colloquy as to deferring the hearing on the motions pending depositions. Mr. Zeimbelman noted his opposition. COURT ORDERED, matter TRAILED for counsel to discuss the matter further.

MATTER RECALLED - Court noted that there are some different points as to what should happen relative to scheduling of trial and/or hearing the motions that are before the Court today. Mr. Juan advised that the key concern is for those who are opposed to having their clients deposed and the trial being delayed. Court advised the case could be placed on the November 28, 2017 stack, which lead to further discussion as to that date changing any of the parties' position, the case having a date certain on the stack, the amount of time trial would require, and the specific depositions that would be taken. It was estimated that each subcontractor would take a day.

After hearing from counsel, COURT ORDERED trial date SET November 28, 2017 at 9:00 am; new trial order to issue and a calendar call date will be set as well.

COURT FURTHER ORDERED that the Motions on today's calendar CONTINUED to November 16, 2017 at 9:00 am.

COURT FURTHER ORDERED that the deadline for taking depositions is October 30, 2017.

COURT FURTHER ORDERED that any motions in limine be filed by November 5, 2017 will be SET for hearing on November 16, 2017 at 9:00 am; no more motions for summary judgment can be filed.

Additional colloquy.

Mr. Juan to prepare and circulate an order reflecting what has been done today.

CLERK'S NOTE: This Minute Order has been amended to reflect that motions in liminie will be SET for hearing on November 16, 2107 at 9:00 a.m.