

IN THE SUPREME COURT OF THE STATE OF NEVADA

APCO CONSTRUCTION, INC., A
NEVADA CORPORATION,

Appellant,

vs.

ZITTING BROTHERS CONSTRUCTION,
INC.,

Respondent.

Electronically Filed
Apr 15 2019 03:12 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 75197
Appeal from the Eighth Judicial
District Court, the Honorable Mark
Denton Presiding

APPELLANT'S APPENDIX
(Volume 28, Bates Nos. 6431–6679)

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MAC:05161-019 3698575_1

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11/06/2017	APCO's Supplemental Briefing in Opposition to Zitting Brothers Construction, Inc.'s Motion for Partial Summary Judgment Against APCO Construction. Inc.	12	AA 2628–2789
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<u>Date</u>	<u>DOCUMENT DESCRIPTION</u>	<u>Vol.</u>	<u>Bates Nos.</u>
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01/09/2018	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	19	AA 4351–4359
01/10/2018	APCO's 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	19	AA 4360–4372
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<u>Date</u>	<u>DOCUMENT DESCRIPTION</u>	<u>Vol.</u>	<u>Bates Nos.</u>
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06/19/2018	Zitting Brothers' Construction, Inc.'s Limited Opposition to APCO Construction, Inc.'s Motion for 54(b) Certification and for Stay Pending Appeal on Order Shortening Time	26	AA 6039–6046
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08/08/2018	Second Amended Notice of Appeal	26 27 28 29	AA 6064–6180 AA 6181–6430 AA 6431–6679 AA 6680–6854
	Docket of District Court Case No. 08A571228	30	AA 6855–6941

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228


	Matter Heard; <i>Matter Heard</i>
08/21/2012	 Telephonic Conference (10:00 AM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
08/29/2012	 Substitution of Attorney Filed by: Other Wiss, Janney, Elstner Associates, Inc. <i>Substitution of Attorneys</i>
08/29/2012	 Order Filed By: Plaintiff Apco Construction <i>Order for Mediation</i>
08/29/2012	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order for Mediation</i>
09/04/2012	 Receipt of Copy Filed by: Intervenor Plaintiff Las Vegas Pipeline LLC <i>Receipt of Copy</i>
09/26/2012	 Telephonic Conference (2:00 PM) (Judicial Officer: Scann, Susan) MINUTES  Hearing (10/09/2012 at 1:30 PM) (Judicial Officer: Scann, Susan) 10/09/2012, 10/16/2012 <i>Re: Order</i> <i>Matter Continued</i> Matter Heard; <i>Matter Heard</i> SCHEDULED HEARINGS  Hearing (10/09/2012 at 1:30 PM) (Judicial Officer: Scann, Susan) 10/09/2012, 10/16/2012 <i>Re: Order</i> <i>Matter Continued</i>
10/02/2012	 Order Vacating Filed By: Plaintiff Apco Construction <i>Order Vacating the Auction Set for October 9, 2012; and Order to Show Cause re: Sale of the Property</i>
10/04/2012	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order Vacating the Auction Set for October 9, 2012; and Order to Show Cause re: Sale of the Property</i>
10/09/2012	CANCELED Hearing (1:30 PM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i> HEARING: MANHATTAN WEST AUCTION SALE
10/09/2012	 Hearing (1:30 PM) (Judicial Officer: Scann, Susan) 10/09/2012, 10/16/2012 <i>Re: Order</i>

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228


Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued

10/16/2012  Change of Address
Filed By: Other Wiss, Janney, Elstner Associates, Inc.
Notice of Change of Address

10/16/2012	Change of Address Filed By: Interpleader Hydropressure Cleaning Inc <i>Notice of Change of Address</i>
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10/16/2012  Change of Address
Filed By: Plaintiff Apco Construction
Notice of Change of Address

10/17/2012 Consent to Service By Electronic Means
Filed By: Intervenor National Wood Products, Inc.'s
Consent to Service By Electronic Means

10/23/2012  **Status Check (1:30 PM)** (Judicial Officer: Scann, Susan)
10/23/2012, 11/06/2012, 12/06/2012, 02/07/2013, 03/01/2013, 03/07/2013
Status Check: Re: Sale of Property














Matter Continued;
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DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228

	Matter Continued; Matter Heard; <i>Matter Continued</i>
10/24/2012	 Calendar Call (10:30 AM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
10/25/2012	 Motion to Withdraw As Counsel Filed By: Third Party Plaintiff Dave Peterson Framing Inc <i>Motion to Withdraw as Counsel of Record for Dave Peterson Framing, Inc.; Notice of Attorneys' Lien; Motion to Foreclose Attorneys' Lien and Reduce Lien to Judgment Against Dave Peterson Framing, Inc.</i>
10/26/2012	 Pre-trial Memorandum Filed by: Counter Defendant Ready Mix Inc <i>Ready Mix, Inc.'s Pre-Trial Memorandum</i>
10/29/2012	 Pre-trial Memorandum Filed by: Plaintiff Apco Construction <i>APCO Construction's Pre-Trial Memorandum for the Ready Mix, Inc. Trial</i>
10/29/2012	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Scann, Susan) <i>Vacated</i>
10/30/2012	 Pre-trial Memorandum Filed by: Defendant Scott Financial Corporation <i>Scott Financial Corporation's Pre-Trial Memorandum</i>
10/30/2012	 Certificate of Service Filed by: Intervenor Dave Peterson Framing Inc <i>Certificate of Service of Motion to Withdraw as Counsel of Record for Dave Peterson Framing, Inc.; Notice of Attorneys' Lien; Motion to Foreclose Attorneys' Lien and Reduce Lien to Judgment Against Dave Peterson Framing, Inc.</i>
10/30/2012	 Bench Trial (1:30 PM) (Judicial Officer: Scann, Susan) <i>Bench Trial: Apco Construction and Ready Mix, Inc.</i> Matter Heard; <i>Matter Heard</i>
11/05/2012	 Stipulation and Order for Dismissal With Prejudice Filed By: Intervenor Granite Construction Company <i>Stipulation and Order to Dismiss With Prejudice</i>
11/05/2012	Order of Dismissal With Prejudice (Judicial Officer: Scann, Susan) Debtors: APCO Construction (Intervenor Defendant), APCO Construction (Intervenor Defendant) Creditors: Granite Construction Company (Intervenor) Judgment: 11/05/2012, Docketed: 11/15/2012
11/06/2012	 Notice of Entry of Order Filed By: Intervenor Granite Construction Company <i>Notice of Entry of Order</i>
11/29/2012	 Motion to Withdraw as Counsel (3:00 AM) (Judicial Officer: Scann, Susan) <i>T. James Truman, Esq.'s Motion to Withdraw as Counsel of Record for Dave Peterson</i>


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Framing, Inc.; Notice of Attorneys' Lien; Motion to Foreclose Attorneys' Lien and Reduce Lien to Judgment Against Dave Peterson Framing, Inc.
Granted in Part;
Granted in Part


11/29/2012	 Order Filed By: Plaintiff Apco Construction <i>Order Staying the Case, Except for the Sale of the Property, Pending Resolution of the Writ Petition Before the Nevada Supreme Court</i>
11/30/2012	 Notice of Entry of Order Filed By: Plaintiff Apco Construction <i>Notice of Entry of Order Staying the Case, Except for the Sale of the Property, Pending Resolution of the Writ Petition Before the Nevada Supreme Court</i>
12/14/2012	 Stipulation and Order for Dismissal With Prejudice Filed By: Defendant Edelstein, Alexander <i>(A577623) Stipulation and Order for Dismissal with Prejudice as to Defendant Alexander Edelstein Only</i>
12/17/2012	 Notice of Entry of Stipulation and Order Filed By: Intervenor Defendant Edelstein, Alex <i>Notice of Entry of Stipulation and Order for Dismissal With Prejudice as to Defendant Alexander Edelstein Only</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Status Hearing, May 9, 2012</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Status Hearing, August 16, 2012</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Apco Construction's Order to Show Cause Re: Summary Determination of Lien Amounts; Possible Sale of the Property, October 9, 2012</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Hearing Re: Sale of Property, October 16, 2012</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check Re: Sale of Property, November 6, 2012</i>
12/19/2012	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check Re: Sale of Property, December 6, 2012</i>
12/27/2012	 Motion Filed By: Intervenor Defendant Accuracy Glas & Mirror Company Inc <i>Motion to Set Hearing to Discuss Order Approving Private Sale, Purchase and Sale Agreement and Related Issues</i>
01/02/2013	 Order Granting Filed By: Intervenor Dave Peterson Framing Inc <i>Order Granting in Part Motion to Withdraw as Counsel of Record for Dave Peterson Framing, Inc.</i>
01/02/2013	 Joinder

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Filed By: Counter Defendant Zitting Brothers Construction Inc
Joinder to Motion to Set Hearing to Discuss Order Approving Private Sale Agreement and Related Issues

01/03/2013  Notice of Entry of Order
Filed By: Defendant Nevada Construction Services
Notice of Entry of Order Granting in Part Motion to Withdraw As Counsel of Record for Dave Peterson Framing, Inc.


01/03/2013  Request
Filed by: Intervenor Cell Crete Fireproofing Of NV Inc
Lien Claimant/Plaintiff Cellcrete Fireproofing of Nevada Inc's Request and Notice for CourtCall Telephonic Appearance


01/03/2013  **Motion** (1:30 PM) (Judicial Officer: Scann, Susan)
01/03/2013, 01/16/2013
Intervenor's Motion to Set Hearing to Discuss Order Approving Private Sale, Purchase and Sale Agreement and Related Issues


MINUTES

 **Evidentiary Hearing** (02/07/2013 at 10:00 AM) (Judicial Officer: Scann, Susan)
02/07/2013, 03/01/2013, 03/07/2013, 03/12/2013
EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE
Matter Continued
Per temporary JEA.
Matter Continued;
Matter Heard;
Per temporary JEA.
Matter Continued;
Matter Heard;
Matter Continued


SCHEDULED HEARINGS

 **Evidentiary Hearing** (02/07/2013 at 10:00 AM) (Judicial Officer: Scann, Susan)
02/07/2013, 03/01/2013, 03/07/2013, 03/12/2013
EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE
Matter Continued

01/23/2013  Order
Filed By: Defendant Scott Financial Corporation
Order









01/24/2013  Stipulation and Order for Dismissal With Prejudice
Filed By: Defendant Edelstein, Alexander
Stipulation and Order for Dismissal with Prejudice as to Defendant Alexander Edelstein Only

01/24/2013 **Order of Dismissal With Prejudice** (Judicial Officer: Scann, Susan)
Debtors: Ahern Rental Inc (Intervenor Plaintiff)
Creditors: Alex Edelstein (Intervenor Defendant)
Judgment: 01/24/2013, Docketed: 02/01/2013

01/25/2013  Notice of Entry of Stipulation & Order for Dismissal
Filed By: Defendant Edelstein, Alexander
Notice of Entry of Stipulation and Order for Dismissal With Prejudice as to Defendant Alexander Edelstein Only











01/28/2013  Notice of Entry of Order

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	Filed By: Defendant Scott Financial Corporation <i>Notice of Entry of Order</i>
01/29/2013	 Application Filed By: Defendant Scott Financial Corporation <i>Defendant Scott Financial Corporation's Ex Parte Application For Order To Show Cause On Order Shortening Time</i>
01/29/2013	 Order to Show Cause Filed by: Defendant Scott Financial Corporation <i>Order to Show Cause</i>
01/29/2013	 Order to Show Cause Filed by: Defendant Scott Financial Corporation <i>Order To Show Cause Regarding Possible Sale Of The Property</i>
01/30/2013	 Errata Filed By: Defendant Scott Financial Corporation <i>Errata to Defendant Scott Financial Corporation's Ex Parte Application for Order to Show Cause on Order Shortening Time</i>
01/30/2013	 Notice of Entry Filed By: Defendant Scott Financial Corporation <i>Notice of Entry of Order Shortening Time</i>
01/31/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice of Entry of Order to Show Cause</i>
01/31/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice Of Entry Of Order To Show Cause Regarding Possible Sale Of Property</i>
02/05/2013	 Notice of Hearing Filed By: Defendant Scott Financial Corporation <i>Notice Of Hearing On Defendant Scott Financial Corporation's Motion To Dismiss And Expunge Liens On Order Shortening Time</i>
02/05/2013	 Show Cause Hearing (10:00 AM) (Judicial Officer: Scann, Susan) <i>Defendant Scott Financial Corporation's Ex Parte Application for Order to Show Cause on OST</i> Motion Granted; <i>Motion Granted</i>
02/05/2013	 Motion to Dismiss Filed By: Defendant Scott Financial Corporation <i>Defendant Scott Financial Corporation's Motion To Dismiss And Expunge Liens On Order Shortening Time</i>
02/06/2013	 Declaration Filed By: Defendant Scott Financial Corporation <i>Declaration Of Bradley J. Scott, In Anticipation Of Evidentiary Hearing</i>
02/07/2013	 Order to Show Cause Filed by: Defendant Scott Financial Corporation

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Order To Show Cause















02/07/2013	 Evidentiary Hearing (10:00 AM) (Judicial Officer: Scann, Susan) 02/07/2013, 03/01/2013, 03/07/2013, 03/12/2013 <i>EVIDENTIARY HEARING: REAL ESTATE COMMISSION FOR THE PRIVATE SALE</i> Matter Continued; Matter Continued; Matter Continued; Matter Heard; Matter Continued; Matter Continued; Matter Continued; Matter Heard; Matter Continued; Matter Continued; Matter Continued; Matter Heard; Matter Continued; Matter Continued; Matter Continued; Matter Heard; <i>Matter Continued</i>
02/07/2013	 All Pending Motions (10:00 AM) (Judicial Officer: Scann, Susan) Matter Heard; <i>Matter Heard</i>
02/08/2013	 Notice of Entry of Order Filed By: Defendant Scott Financial Corporation <i>Notice of Entry Of Order To Show Cause</i>
02/12/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt of Copy</i>
02/12/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt of Copy</i>
02/12/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt of Copy</i>
02/12/2013	 Receipt of Copy Filed by: Defendant Scott Financial Corporation <i>Receipt Of Copy</i>
02/13/2013	 Affidavit of Service Filed By: Defendant Scott Financial Corporation <i>Affidavit of Service</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Show Cause Hearing Re: Summary Determination of Lien Amounts; and The Possible Sale of Property</i>
02/13/2013	 Transcript of Proceedings

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


02/13/2013	 Transcript of Proceedings <i>Transcript Re: Telephonic Conference, August 21, 2012</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Telephonic Conference, September 26, 2012</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Hearing Re: Sale of Property, October 23, 2012</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Intervenor's Motion to Set Hearing to Discuss Order Approving Private Sale, Purchase and Sale Agreement and Related Issues, January 3, 2013</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Intervenor's Motion to Set Hearing to Discuss Order Approving Private Sale, Purchase and Sale Agreement and Related Issues, January 16, 2013</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Defendant Scott Financial Corporation's Ex Parte Application for Order to Show Cause, February 5, 2013</i>
02/13/2013	 Transcript of Proceedings <i>Transcript Re: Evidentiary Hearing: Real Estate Commission for the Private Sale, February 7, 2013</i>
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>
02/14/2013	Motion to Dismiss (9:00 AM) (Judicial Officer: Scann, Susan) <i>Defendant Scott Financial Corporation's Motion to Dismiss and Expunge Liens on Order Shortening Time</i> Granted; <i>Granted</i>
02/14/2013	Show Cause Hearing (9:00 AM) (Judicial Officer: Scann, Susan) <i>Order To Show Cause</i> Granted; <i>Granted</i>
02/14/2013	 All Pending Motions (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>

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02/14/2013	 Order Filed By: Defendant Scott Financial Corporation <i>Order Expunging Lien</i>
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

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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	 All Pending Motions (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	 All Pending Motions (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>

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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	 Decision (10:00 AM) (Judicial Officer: Scann, Susan) 03/26/2013, 04/03/2013 Continued; <i>Continued</i>
04/03/2013	CANCELED Calendar Call (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&E Fire Protection, LLC Only Pursuant to the Terms Stated Below</i>
04/08/2013	CANCELED Bench Trial (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	 Motion to Withdraw as Counsel (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
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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	CANCELED Pre Trial Conference (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	CANCELED Show Cause Hearing (10:00 AM) (Judicial Officer: Scann, Susan) <i>Vacated - per Judge</i> <i>Show Cause Hearing</i>
05/15/2013	CANCELED Calendar Call (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	CANCELED Jury Trial (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	CANCELED Show Cause Hearing (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	 Motion to Set Aside (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

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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	 Opposition to Motion 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	 Motion (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	 Stipulation Filed by: Intervenor Defendant Club Vista Financial Services LLC <i>Stipulation Regarding Reconveyance of Deeds of Trust Encumbering Property</i>
01/09/2014	 Miscellaneous Filing Filed by: Plaintiff Apco Construction <i>Notice of Screening Device</i>
03/18/2014	 Consent to Service By Electronic Means Filed By: Plaintiff Apco Construction <i>Consent to Service By Electronic Means</i>
03/18/2014	 Notice Filed By: Counter Defendant Uintah Investments LLC <i>Notice of Change of Handling Attorney</i>
04/22/2014	 Notice of Substitution of Parties Filed By: Intervenor Plaintiff S R Bray Corp <i>Substitution of Real Party in Interest</i>
04/30/2014	 Transcript of Proceedings <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	 Transcript of Proceedings <i>Transcript of Proceedings: Evidentiary Hearing, July 9, 2012</i>
04/30/2014	 Transcript of Proceedings <i>Transcript of Proceedings: Evidentiary Hearing, July 10, 2012</i>
05/28/2014	 Motion Filed By: Intervenor Insulpro Projects Inc <i>Insulpro Projects, Inc.'s Motion to Lift Stay</i>
06/16/2014	 Opposition to Motion 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	 Motion (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	 Motion to Withdraw as Counsel (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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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	 Status Check (9:30 AM) (Judicial Officer: Denton, Mark R.) 10/21/2015, 04/21/2016 <i>Status Check: Disbursement of Sale Proceeds & 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	 Motion to Release Funds (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>

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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	Status Check (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
06/02/2016	Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Smith & Shapiro, PLLC's Motion to Withdraw</i> Granted; <i>Granted</i>
06/02/2016	 All Pending Motions (9:00 AM) (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

DISTRICT COURT
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Filed By: Plaintiff Apco Construction
Initial Appearance Fee Disclosure













06/09/2016	 Motion (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	Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Renewed Motion for Partial Summary Judgment</i> Referred; <i>Referred</i>
06/20/2016	Joinder (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	Opposition and Countermotion (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	 All Pending Motions (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&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

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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 & 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 Seviles 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 & Ellis, now known as Newmark Grubb, Should not be Held in Contempt of Court</i>
03/06/2017	Motion for Order (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 & Ellis, Now Known As Newmark Grubb, Should Not be Held in Contempt of Court</i> MINUTES Denied; <i>Denied</i>
03/06/2017	Motion to Associate Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Associate Counsel - Jonathan S. Dabbieri, Esq.</i> MINUTES CANCELED Status Check (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












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04/03/2017	CANCELED Status Check (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	 Reply in Support 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	 Stipulation and Order 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	 Notice of Entry of Order 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	 Minute Order (2:00 PM) (Judicial Officer: Denton, Mark R.) Decision Made; <i>Decision Made</i>
04/20/2017	 Notice of Bankruptcy Filed By: Intervenor Defendant Accuracy Glas & Mirror Company Inc <i>Notice of Bankruptcy of Accuracy Glass & Mirror Co.</i>
04/27/2017	 Notice of Deposition 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	 Notice of Deposition 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	 Motion to Associate Counsel Filed By: Intervenor National Wood Products, Inc.'s <i>Motion to Associate Counsel</i>
04/28/2017	 Motion for Withdrawal Filed By: Adverse Party Accuracy Glass & Mirror Co. <i>Motion to Withdraw as Counsel for Accuracy Glass & Mirror Co. and for Order Shortening Time</i>
05/01/2017	 Notice of Deposition 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	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Order</i>

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05/08/2017	 Special Master Order Filed by: Special Master Hale, Floyd, ESQ <i>Special Master Report Regarding Discovery Status</i>
05/11/2017	 Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Eric B. Zimbelman, Esq.'s Motion to Withdraw as Counsel for Accuracy Glass & 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 & 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	Motion for Summary Judgment (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	Summary Judgment (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	 Motion to Associate Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Intervenor, National Wood Products INC's Motion to Associate Counsel</i> MINUTES  Status Check (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> SCHEDULED HEARINGS  Status Check (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>

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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	Order of Dismissal With Prejudice (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	Order of Dismissal With Prejudice (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>

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Lien on Order Shortening Time (First Request)

07/24/2017	 Motion to Continue (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	 Minute Order (5:35 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
07/26/2017	 Opposition to Motion For Summary Judgment <i>Peel Brimley Lien Claimants' Opposition to APCO's Motion for Summary Judgment Re: Lien Claims</i>
07/26/2017	 Joinder to Opposition to Motion <i>1. Joinder of Interstate Plumbing & 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	 Opposition 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	CANCELED Motion (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	 Status Check (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	 Motion for Partial Summary Judgment 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	 Order Granting Motion Filed By: Counter Defendant Uintah Investments LLC <i>Order Granting Gerdau Reinforcing Steel's Motion to Substitute</i>
08/01/2017	 Reply in Support 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	 Notice of Entry Filed By: Counter Defendant Gerdau Reinforcing Steel <i>Notice of Entry of Order Granting Gerdau Reinforcing Steel's Motion to Substitute</i>

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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 & 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>

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08/08/2017	 Joinder Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>E & 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	 Motion to Dismiss (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 & 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 & 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: Intervenor 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


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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	 Motion to Associate Counsel (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> MINUTES <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 SCHEDULED HEARINGS <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	 Calendar Call (2:00 PM) (Judicial Officer: Denton, Mark R.) MINUTES Status Check (10/05/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)

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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	CANCELED Motion to Associate Counsel (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	 Hearing (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Oral Motion to Dismiss</i> <i>Granted;</i> <i>Granted</i>
09/12/2017	CANCELED Bench Trial (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>

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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	 Settlement Conference (9:00 AM) 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	Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <i>Zitting Brothers Construction Inc's Motion for Partial Summary Judgement Against APCO Construction</i> MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <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> MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <i>Zitting Brothers Construction, Inc.'s Joinder to Peel Brimley Lien Claimants' Motion for</i>

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	<i>Partial Summary Judgment Precluding Defenses Based on Pay-If-Paid Agreements</i>
	MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Opposition and Countermotion (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <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>
	MINUTES Continued; Under Advisement; Continued; Under Advisement; <i>Continued</i>
10/05/2017	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <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>
	MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <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>
	MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017 <i>E & 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>
	MINUTES Continued; Granted; Continued; Granted; <i>Continued</i>
10/05/2017	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) 10/05/2017, 11/16/2017

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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












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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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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

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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

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11/16/2017	<p>Motion in Limine (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>MINUTES no Notice of Motion provided by filer Granted; <i>Granted</i></p>
11/16/2017	<p>Motion in Limine (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> All Pending Motions (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> Calendar Call (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>CANCELED Bench Trial (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Judge</i></p>
11/29/2017	<p>CANCELED Motion to Compel (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> Minute Order (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> Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held;</p>

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Minute Order - No Hearing Held

12/05/2017	 Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	 Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	 Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
12/05/2017	CANCELED Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) <i>Vacated - Duplicate Entry</i>
12/06/2017	 Motion 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	CANCELED Minute Order (5:03 PM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i>
12/18/2017	 Certificate of Service Filed by: Plaintiff Apco Construction <i>Certificate of Service</i>
12/21/2017	 Motion (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	 Order Granting 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>Order Granting Peel Brimley Lien Claimants' Motions in Limine Nos. 1-6 (Against Camco Pacific Construction, Inc.)</i>
12/28/2017	 Order 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	 Order 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	 Notice of Entry of Order 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	Partial Summary Judgment (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	 Calendar Call (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>

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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; Intervenor 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; Intervenor 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	CANCELED Non-Jury Trial (9:00 AM) (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

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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	Motion For Reconsideration (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	Joinder (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	Motion For Reconsideration (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	 All Pending Motions (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&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	 Motion to Stay (9:00 AM) (Judicial Officer: Denton, Mark R.) 01/16/2018, 01/19/2018 <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	 Bench Trial (10:00 AM) (Judicial Officer: Denton, Mark R.) 01/17/2018-01/19/2018, 01/23/2018-01/24/2018, 02/06/2018 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 NRCF 62(B) and 62(H)</i>

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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	Minute Order (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	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Bench Trial - Day Six, February 6, 2018</i>
02/16/2018	 Notice of Appeal Filed By: Plaintiff Apco Construction <i>Notice of Appeal</i>
02/16/2018	 Case Appeal Statement Filed By: Plaintiff Apco Construction <i>Case Appeal Statement</i>
02/16/2018	 Opposition 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	 Reply in Support 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	 Stipulation and Order 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	 Finding of Fact and Conclusions of Law Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>(Proposed) E&E Fire Protections, LLC's Findings of Facts and Conclusions of Law - Proposed</i>
02/28/2018	 Notice of Entry of Stipulation and Order 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	 Hearing (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Hearing Re: ZBCI Attorney's Fees and Costs</i> Under Advisement; <i>Under Advisement</i>
03/08/2018	 Trial Brief Filed By: Intervenor National Wood Products, Inc.'s <i>Plaintiff In Intervention, National Wood Products, Inc.'s Post Trial Brief</i>
03/08/2018	 Trial Brief Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Post-Trial Brief</i>
03/08/2018	 Trial Brief Filed By: Counter Claimant Camco Pacific Construction Co Inc; Intervenor 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	











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	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Apco Construction <i>E&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&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&E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i>
05/08/2018	Order (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
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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	Judgment Plus Interest (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	Judgment (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&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&E Fire Protection and Against Camco Pacific Construction Company, Inc. and Fidelity and Deposit Company of Maryland</i>

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05/21/2018	 Notice of Appearance Party: Intervenor Defendant Fidelity & Deposit Company Of Maryland <i>Notice of Appearance</i>
05/23/2018	Judgment Plus Interest (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	Order of Dismissal With Prejudice (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: Intervenor 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	Judgment (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Intervenor Defendant) Creditors: SWPPP Compliance Solutions LLC (Intervenor Plaintiff)

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

05/30/2018	Judgment (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	Judgment (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	Judgment (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	Judgment (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; Intervenor Defendant Fidelity & Deposit Company Of Maryland <i>Order Shortening Time for Hearing on Motion to Withdraw</i>
05/31/2018	Judgment (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
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05/31/2018	 Judgment Filed By: Plaintiff Apco Construction <i>Judgment [As to the Claims of Helix Electric of Nevada LLC and Plaintiff in Intervention National Wood Products Inc's Against Apco Construction Inc]</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 & 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	

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	 Motion for Attorney Fees and Costs 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	Motion for Attorney Fees (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>E&E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i> Granted; <i>Granted</i>
06/04/2018	Motion to Withdraw as Counsel (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	Opposition and Countermotion (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 & Costs and Countermotion for Sanctions</i> Denied; <i>Denied</i>
06/04/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
06/04/2018	 Order Granting Motion Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Order Granting E&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&E Fire Protection's Motion for Attorney Fees Against Camco Pacific Construction Company</i>
06/04/2018	Judgment (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

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228




Amended Notice of Appeal

06/08/2018	 Amended Case Appeal Statement <i>Amended Case Appeal Statement</i>
06/08/2018	 Motion Filed By: Plaintiff Apco Construction <i>Plaintiff's Motion for 54(b) Certification and for Stay Pending Appeal on Order Shortening Time</i>
06/11/2018	 Response Filed by: Third Party Plaintiff E & E Fire Protection LLC <i>E&E Fire Protection's Response to Fidelity and Deposit Company of Maryland's Motion to Deposit Bond Penal Sum with Court, Exoneration of Bond and Dismissal; and E&E Fire Protection's Motion to Disburse Funds to E&E Fire Protection</i>
06/14/2018	 Response 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>The PB Judgment Creditors' Response to Fidelity's Motion to Interplead Bond Proceeds and Objection to E&E Fire's Response</i>
06/15/2018	 Declaration Filed By: Intervenor National Wood Products, Inc.'s <i>Declaration of S. Judy Hirahara</i>
06/15/2018	 Request Filed by: Plaintiff Apco Construction <i>Request for Transcript of Proceedings</i>
06/15/2018	 Opposition Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada's Opposition to APCO Constructions Motion for Attorney's Fees and Costs</i>
06/15/2018	 Opposition <i>Apco Construction, Inc.'s Opposition to Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, Inc.'s Motions to Retax Costs</i>
06/15/2018	 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 Attorneys' Fees and Costs</i>
06/18/2018	 Joinder to Opposition 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 Opposition to APCO Construction's Motion for Attorney's Fees and Costs</i>
06/19/2018	 Opposition Filed By: Counter Defendant Zitting Brothers Construction Inc <i>Zitting Brothers' Construction, Inc.'s Limited Opposition to APCO Construction, Inc.'s Motion for 54(b) Certification and for Stay Pending Appeal on Order Shortening Time</i>
06/21/2018	

DISTRICT COURT
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	 Motion (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> Motion Granted; <i>Motion Granted</i>
06/21/2018	 Notice of Non Opposition Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>SWPPP Compliance Solution Inc.'s Notice of Non Opposition to Its Motion for Attorney's Fees, Interest and Costs</i>
06/21/2018	 Notice of Non Opposition Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Cactus Rose Construction Co., Inc.'s Notice of Non Opposition to Its Motion for Attorney's Fees, Interest and Costs</i>
06/21/2018	 Notice of Non Opposition Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Notice of Non Opposition to Its Motion for Attorney's Fees, Interest and Costs</i>
06/21/2018	 Notice of Non Opposition Filed By: Counter Defendant Heinaman Contract Glazing <i>Heinaman Contract Glazing's Notice of Non Opposition to Its Motion for Attorney's Fees, Interest and Costs</i>
06/21/2018	 Notice of Non Opposition Filed By: Counter Defendant Fast Glass Inc <i>Fast Glass, Inc.'s Notice of Non Opposition to Its Motion for Attorney's Fees, Interest and Costs</i>
06/26/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: All Pending Motions, January 11, 2018</i>
06/26/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing Re: Plaintiff's Motion For 54(b) Certification And For Stay Pending Appeal On Order Shortening Time, June 21, 2018</i>
06/28/2018	 Notice of Appeal Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Appeal</i>
06/28/2018	 Case Appeal Statement Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Case Appeal Statement</i>
06/29/2018	 Reply to Motion Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Reply Re: Motion to Retax Costs</i>
06/29/2018	 Reply to Motion Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Reply in Support of its Motion to Retax Costs</i>
06/29/2018	 Case Appeal Statement

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	Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Case Appeal Statement</i>
06/29/2018	 Reply in Support Filed By: Plaintiff Apco Construction <i>Apco Construction, Inc.'s Reply in Support of its Motion for Attorney's Fees and Costs Against Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, Inc.</i>
06/29/2018	 Notice of Appeal Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Notice of Appeal</i>
07/02/2018	Motion to Enforce (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> Granted; <i>Granted</i>
07/02/2018	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Helix Electric of Nevada, LLC's Motion for Attorney's Fees, Interest and Costs</i> Granted; <i>Granted</i>
07/02/2018	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Heinaman Contract Glazing's Motion for Attorney's Fees, Interest and Costs</i> Granted; <i>Granted</i>
07/02/2018	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Swapp Compliance Solution Inc's Motion for Attorney's Fees and Costs</i> Granted; <i>Granted</i>
07/02/2018	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Fast Glass, Inc.'s Motion for Attorney's Fees, Interest and Costs</i> Granted; <i>Granted</i>
07/02/2018	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Cactus Rose Construction Co., Inc.'s Motion for Attorney's Fees, Interest and Costs</i> Granted; <i>Granted</i>
07/02/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
07/02/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Counter Claimant) Creditors: Heinaman Contract Glazing (Counter Defendant) Judgment: 07/02/2018, Docketed: 07/02/2018 Total Judgment: 262,010.64 Comment: a571228
07/02/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Counter Claimant) Creditors: Cactus Rose Construction (Counter Claimant) Judgment: 07/02/2018, Docketed: 07/02/2018 Total Judgment: 326,244.84

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Comment: a571228

07/02/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Counter Claimant) Creditors: Fast Glass Inc (Counter Defendant) Judgment: 07/02/2018, Docketed: 07/02/2018 Total Judgment: 280,927.71 Comment: A571228
07/02/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Counter Claimant) Creditors: Helix Electric of Nevada LLC (Counter Defendant) Judgment: 07/02/2018, Docketed: 07/02/2018 Total Judgment: 1,277,601.82
07/02/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Camco Pacific Construction Co Inc (Intervenor Plaintiff) Creditors: SWPPP Compliance Solutions LLC (Intervenor Plaintiff) Judgment: 07/02/2018, Docketed: 07/02/2018 Total Judgment: 157,846.63 Comment: a571228
07/02/2018	 Order Granting Motion Filed By: Counter Defendant Heinaman Contract Glazing <i>Order Granting Heinaman Contract Glazing's Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	 Order Granting Motion Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Order Granting Cactus Rose Construction Co., Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	 Order Granting Motion Filed By: Counter Defendant Fast Glass Inc <i>Order Granting Fast Glass, Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	 Order Granting Motion Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Order Granting Helix Electric of Nevada, LLC's Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	 Order Granting Motion Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Order Granting SWPPP Compliance Solution Inc.'s Motion for Attorney's Fees, Interest and Costs</i>
07/02/2018	 Notice of Entry of Order Filed By: Intervenor Plaintiff SWPPP Compliance Solutions LLC <i>Notice of Entry of Order</i>
07/02/2018	 Notice of Entry of Order Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Notice of Entry of Order</i>
07/02/2018	 Notice of Entry of Order Filed By: Counter Defendant Heinaman Contract Glazing <i>Notice of Entry of Order</i>

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228











07/02/2018	 Notice of Entry of Order Filed By: Counter Defendant Fast Glass Inc <i>Notice of Entry of Order</i>
07/02/2018	 Notice of Entry of Order Filed By: Intervenor Plaintiff Cactus Rose Construction Inc <i>Notice of Entry of Order</i>
07/03/2018	 Notice of Posting Bond Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Posting and Acceptance of Appeal Bond</i>
07/03/2018	 Notice of Posting of Cost Bond Filed By: Counter Defendant Helix Electric of Nevada LLC <i>Helix Electric of Nevada, LLC's Notice of Filing Cash Bond</i>
07/05/2018	CANCELED Motion for Attorney Fees and Costs (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>
07/06/2018	 Memorandum of Costs and Disbursements Filed By: Intervenor National Wood Products, Inc.'s <i>Memorandum of Costs and Disbursements (National Wood Products, Inc.)</i>
07/11/2018	 Motion for Order Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Motion for Order Approving Distribution of Fidelity and Deposit Company of Maryland's Bond</i>
07/11/2018	 Ex Parte Motion Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>E&E Fire's Ex Parte Motion for Order Shortening Time to Hear Motion for Order Approving Distribution of Fidelity and Deposit Company of Maryland's Bond</i>
07/12/2018	 Joinder 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 Judgment Creditors' Joinder to E&E's Motion to Disburse Funds</i>
07/12/2018	 Judgment Filed By: Intervenor National Wood Products, Inc.'s <i>Judgment [as to the Claim of National Wood Products, Inc. against CAMCO Construction Company, Inc. and Gemstone Development West, Inc.]</i>
07/12/2018	Judgment Plus Interest (Judicial Officer: Denton, Mark R.) Debtors: Gemstone Development West Inc (Intervenor Defendant), Camco Pacific Construction Co Inc (Intervenor Defendant) Creditors: National Wood Products, Inc.'s (Intervenor) Judgment: 07/12/2018, Docketed: 08/01/2018 Total Judgment: 1,167,915.77 Comment: A571228
07/17/2018	 Ex Parte Motion

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228

	Filed By: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Ex Parte Motion for Order Shortening Time to Hear Motion for Order Permitting Leave to File Surreply to APCO Construction's Reply to National Wood Products, Inc.'s Opposition to Motion for Attorneys' Fees and Costs</i>
07/17/2018	 Motion for Leave to File Party: Intervenor National Wood Products, Inc.'s <i>National Wood Products, Inc.'s Motion for Order Permitting Leave to File Surreply to APCO Construction's Reply to National Wood Products, Inc.'s Opposition to Motion for Attorneys' Fees and Costs</i>
07/19/2018	Motion to Retax (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> Under Advisement; <i>Under Advisement</i>
07/19/2018	Motion to Retax (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> Under Advisement; <i>Under Advisement</i>
07/19/2018	Joinder (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> Under Advisement; <i>Under Advisement</i>
07/19/2018	Joinder (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> Under Advisement; <i>Under Advisement</i>
07/19/2018	Motion for Attorney Fees and Costs (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> Under Advisement; <i>Under Advisement</i>
07/19/2018	Motion (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> Granted; <i>Granted</i>
07/19/2018	Motion (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Motion for Order Approving Distribution of Fidelity and Deposit Company of Maryland's Bond</i> Granted; <i>Granted</i>
07/19/2018	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Peel Brimley Judgment Creditors' Joinder to E&E's Motion to Disburse Funds</i> Granted; <i>Granted</i>
07/19/2018	Motion (9:00 AM) (Judicial Officer: Denton, Mark R.)

DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228


National Wood Products, Inc.'s Ex Parte Motion for Order Shortening Time to Hear Motion for Order Permitting Leave to File Surreply to APCO Construction's Reply to National Wood Products, Inc.'s Opposition to Motion for Attorneys' Fees and Costs
Granted;
Granted


07/19/2018	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
07/19/2018	 Notice of Entry of Judgment Filed By: Intervenor National Wood Products, Inc.'s <i>Notice of Entry of Judgment [as to the claim of NATIONAL WOOD PRODUCTS, INC. against CAMCO CONSTRUCTION COMPANY, INC., and GEMSTONE DEVELOPMENT WEST, INC>]</i>
07/19/2018	 Order Granting Motion Filed By: Third Party Defendant Fidelity & Deposit Co Of Maryland <i>Order Granting Motion to Deposit Bond Penal Sum with Court, Exoneration of Bond, and Dismissal</i>
07/19/2018	 Notice of Entry of Order Filed By: Third Party Defendant Fidelity & Deposit Co Of Maryland <i>Notice of Entry of Order Granting Motion to Deposit Bond Penal Sum with Court, Exoneration of Bond, and Dismissal</i>
07/19/2018	 Reply to Opposition Filed by: Intervenor National Wood Products, Inc.'s <i>Plaintiff in Intervention National Wood Products, Inc.'s Surreply to APCO Construction's Reply to Plaintiff in Intervention National Wood Products, Inc.'s Opposition to Motion for Attorneys Fees and Costs</i>
07/26/2018	 Order Approving Filed By: Intervenor Defendant E & E Fire Protection LLC <i>Order Approving Distribution of Fidelity and Deposit Company of Maryland's Bond</i>
07/27/2018	 Notice of Entry Filed By: Third Party Plaintiff E & E Fire Protection LLC <i>Notice of Entry of Order Approving Distribution of Fidelity and Deposit Company of Maryland's Bond</i>
07/30/2018	 Notice of Deposit Filed By: Third Party Defendant Fidelity & Deposit Co Of Maryland <i>Notice of Deposit and Compliance with Court's Order Dated July 19, 2018</i>
07/30/2018	 Order Granting Motion Filed By: Plaintiff Apco Construction <i>Order Granting Motion for 54(b) Certification and for Stay Pending Appeal</i>
07/30/2018	Partial Summary Judgment (Judicial Officer: Denton, Mark R.) Debtors: APCO Construction (Counter Claimant) Creditors: Zitting Brothers Construction Inc (Counter Defendant) Judgment: 07/30/2018, Docketed: 08/01/2018 Total Judgment: 1,516,723.46
07/31/2018	 Notice of Entry of Order


DISTRICT COURT
CASE SUMMARY
CASE NO. 08A571228

Filed By: Plaintiff Apco Construction
Notice of Entry of Order

08/08/2018  Decision and Order
Decision and Order

08/08/2018  Motion for Attorney Fees
Filed By: Intervenor National Wood Products, Inc.'s
National Wood Products, Inc.'s Motion for Attorneys' Fees and Costs

08/08/2018  Amended Notice of Appeal
Party: Plaintiff Apco Construction
Second Amended Notice of Appeal

08/08/2018  Amended Case Appeal Statement
Party: Plaintiff Apco Construction
Second Amended Case Appeal Statement

09/10/2018 **Motion for Attorney Fees and Costs (9:00 AM)** (Judicial Officer: Denton, Mark R.)
National Wood Products, Inc.'s Motion for Attorneys' Fees and Costs

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

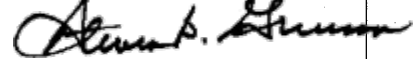
Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<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"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <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	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input checked="" type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> 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



Marquis Aurbach Coffing
Jack Chen Min Juan, Esq.
Nevada Bar No. 6367
Cody S. Mounteer, Esq.
Nevada Bar No. 11220
Tom W. Stewart, Esq.
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cmounteer@maclaw.com
Attorneys for APCO Construction

-and-

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John Randall Jefferies, Esq. (Bar No. 3512)
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RJefferies@spencerfane.com
MBacon@spencerfane.com

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

**ORDER GRANTING MOTION
FOR 54(b) CERTIFICATION AND FOR
STAY PENDING APPEAL**

AND ALL RELATED MATTERS

Plaintiff APCO Construction's Motion for 54(b) Certification and for Stay Pending
Appeal on Order Shortening Time having come on for hearing before this Court on June 21,

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

RECEIVED

JUL 20 2018

DISTRICT COURT DEPT#13

1 2018, Plaintiff APCO Construction, being represented by and through its attorney of record,
2 Cody S. Mounteer, Esq. of the law firm of Marquis Aurbach Coffing, and Defendant Zitting
3 Brothers Construction, Inc., being represented by and through its attorney of record, I-Che Lai,
4 Esq. of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP; the Court having
5 reviewed the papers and pleadings on file herein, having heard arguments of the parties, and for
6 good cause shown;

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, APCO's Motion for
8 NRCP 54(b) Certification is GRANTED;

9 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
10 enters an express direction for the entry of judgment as to the Findings of Fact, Conclusions of
11 Law, and Order Granting Zitting Brother Construction, Inc.'s Motion for Partial Summary
12 Judgment, which is hereby certified as final under NRCP 54(b);

13 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
14 enters an express direction for the entry of judgment as to the Order Denying APCO's Motion
15 for Reconsideration of Court's Order Granting Zitting Brother Construction, Inc.'s Partial
16 Motion for Summary Judgment, which is hereby certified as final under NRCP 54(b);

17 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
18 enters an express direction for the entry of judgment as to Order Determining Amount of Zitting
19 Brothers Construction, Inc.'s Attorney's Fees, Costs, and Prejudgment Interest, which is hereby
20 certified as final under NRCP 54(b);

21 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
22 enters an express direction for the entry the Judgment in Favor of Zitting Brothers Construction,
23 Inc., which is hereby is certified as final under NRCP 54(b);

24 IT IS FURTHER ORDERED that APCO's Motion for Stay Pending Appeal is also
25 GRANTED;

1 IT IS FURTHER ORDERED that APCO shall have thirty days from notice of entry of
2 this order to post a bond for the full amount of the Judgment in favor of Zitting Brothers
3 Construction, Inc., \$1,516,723.46, in order to stay these proceedings pending appeal.

4 **ORDER**

5 IT IS SO ORDERED.

6 Dated this 28th day of July, 2018

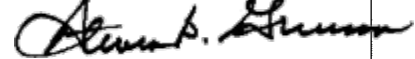
7
8 
9 DISTRICT COURT JUDGE

10 Respectfully submitted by:

11 MARQUIS AURBACH COFFING

12 By 

13 Jack Chen Min Juan, Esq.
14 Nevada Bar No. 6367
15 Cody S. Mounteer, Esq.
16 Nevada Bar No. 11220
17 Tom W. Stewart, Esq.
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20 Las Vegas, Nevada 89145
21 Attorneys for APCO Construction
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-and-

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Attorneys for Apco Construction, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

APCO CONSTRUCTION, a Nevada
corporation,

Plaintiff,

v.

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

NOTICE OF ENTRY OF ORDER

Please take notice that the Order Granting Motion for 54(b) Certification and for Stay
Pending Appeal was entered in the above-captioned matter on the 30th day of July, 2018, a copy

///

///

1 Of which is attached hereto.

2 Dated this 31st day of July, 2018.

3
4 MARQUIS AURBACH COFFING

5
6 By /s/Cody S. Munteer
7 Cody S. Munteer, Esq.
8 Nevada Bar No. 11220
9 10001 Park Run Drive
10 Las Vegas, Nevada 89145
11 *Attorneys for Plaintiff*
12
13
14
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted
3 electronically for filing and/or service with the Eighth Judicial District Court on the 31st day of
4 July, 2018. Electronic service of the foregoing document shall be made in accordance with the
5 E-Service List as follows:¹

6
7 **Counter Claimant: Camco Pacific Construction Co Inc**

8 Steven L. Morris (steve@gmdlegal.com)

9 **Intervenor Plaintiff: Cactus Rose Construction Inc**

10 Eric B. Zimbelman (ezimbelman@peelbrimley.com)

11 **Intervenor Plaintiff: Interstate Plumbing & Air Conditioning Inc**

12 Jonathan S. Dabbieri (dabbieri@sullivanhill.com)

13 **Intervenor: National Wood Products, Inc.'s**

14 Dana Y Kim (dkim@caddenfuller.com)

15 Richard L Tobler (rltldck@hotmail.com)

16 Richard Reincke (rreincke@caddenfuller.com)

17 S. Judy Hirahara (jhirahara@caddenfuller.com)

18 Tammy Cortez (tcortez@caddenfuller.com)

19 **Other: Chaper 7 Trustee**

20 Elizabeth Stephens (stephens@sullivanhill.com)

21 Gianna Garcia (ggarcia@sullivanhill.com)

22 Jennifer Saurer (Saurer@sullivanhill.com)

23 Jonathan Dabbieri (dabbieri@sullivanhill.com)

24 **Plaintiff: Apco Construction**

25 Rosie Wesp (rwesp@maclaw.com)

26 **Third Party Plaintiff: E & E Fire Protection LLC**

27 TRACY JAMES TRUMAN (DISTRICT@TRUMANLEGAL.COM)

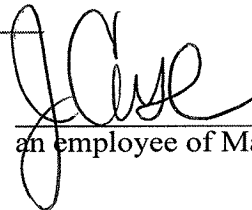
28 ¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Other Service Contacts

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an employee of Marquis Aurbach Coffing



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14 Attorneys for APCO Construction

8 -and-

9
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15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 APCO CONSTRUCTION, a Nevada
18 corporation,

19 Plaintiff,

20 vs.

21
22 **GEMSTONE DEVELOPMENT WEST, INC., A**
23 Nevada corporation,

24 Defendant.

25
26 **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

ORDER GRANTING MOTION
FOR 54(b) CERTIFICATION AND FOR
STAY PENDING APPEAL

27 Plaintiff APCO Construction's Motion for 54(b) Certification and for Stay Pending
28 Appeal on Order Shortening Time having come on for hearing before this Court on June 21,

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

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JUL 20 2018

DISTRICT COURT DEPT#13

1 2018, Plaintiff APCO Construction, being represented by and through its attorney of record,
2 Cody S. Munteer, Esq. of the law firm of Marquis Aurbach Coffing, and Defendant Zitting
3 Brothers Construction, Inc., being represented by and through its attorney of record, I-Che Lai,
4 Esq. of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP; the Court having
5 reviewed the papers and pleadings on file herein, having heard arguments of the parties, and for
6 good cause shown;

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, APCO's Motion for
8 NRCP 54(b) Certification is GRANTED;

9 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
10 enters an express direction for the entry of judgment as to the Findings of Fact, Conclusions of
11 Law, and Order Granting Zitting Brother Construction, Inc.'s Motion for Partial Summary
12 Judgment, which is hereby certified as final under NRCP 54(b);

13 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
14 enters an express direction for the entry of judgment as to the Order Denying APCO's Motion
15 for Reconsideration of Court's Order Granting Zitting Brother Construction, Inc.'s Partial
16 Motion for Summary Judgment, which is hereby certified as final under NRCP 54(b);

17 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
18 enters an express direction for the entry of judgment as to Order Determining Amount of Zitting
19 Brothers Construction, Inc.'s Attorney's Fees, Costs, and Prejudgment Interest, which is hereby
20 certified as final under NRCP 54(b);

21 IT IS FURTHER ORDERED that because no just reason for delay exists, this Court
22 enters an express direction for the entry the Judgment in Favor of Zitting Brothers Construction,
23 Inc., which is hereby is certified as final under NRCP 54(b);

24 IT IS FURTHER ORDERED that APCO's Motion for Stay Pending Appeal is also
25 GRANTED;

1 IT IS FURTHER ORDERED that APCO shall have thirty days from notice of entry of
2 this order to post a bond for the full amount of the Judgment in favor of Zitting Brothers
3 Construction, Inc., \$1,516,723.46, in order to stay these proceedings pending appeal.

4 **ORDER**

5 IT IS SO ORDERED.

6 Dated this 28th day of July, 2018

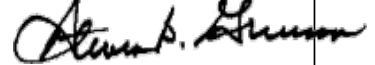
7
8 
9 DISTRICT COURT JUDGE

10 Respectfully submitted by:

11 MARQUIS AURBACH COFFING

12 By 

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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.

//

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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.

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.

D. Preclusion of APCO's Defenses

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

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

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

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

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

17. ZBCI reasonably relied on APCO's interrogatory responses to formulate its litigation 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.

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

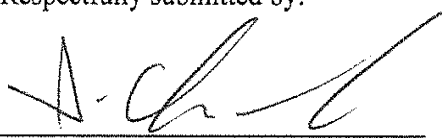
4 **IT IS FURTHER ORDERED** that the trial on ZBCI's complaint and all pending hearings
5 associated with ZBCI's complaint are vacated.

6 **IT IS SO ORDERED.**

7 Dated this 26th day of December, 2017.

8 
9
10 DISTRICT COURT JUDGE

11 Respectfully submitted by:

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

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17 *Attorneys for Lien Clamant,
Zitting Brothers Construction, Inc.*

18 Approved as to form and content by:

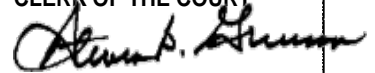
19 *declined to sign*

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

11 APCO CONSTRUCTION, a Nevada
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A590319

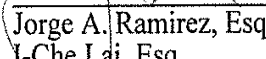
Hearing Date: November 16, 2017
Hearing Time: 9:00 a.m.

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 29th
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, ELSE, 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



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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.

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

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

21 **JUDGMENT AGAINST APCO CONSTRUCTION**

22 On November 16, 2017, this Court heard Zitting Brothers Construction, Inc.'s Motion for
23 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.

//

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DISTRICT COURT DEPT. XIII

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.

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(e). 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.

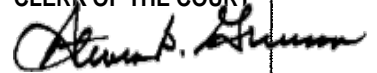
19 **IT IS FURTHER ORDERED** that ZBCI has 30 days from the date of this order to submit a
20 memorandum setting forth its attorney's fees and costs.

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.



ORDER

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DISTRICT COURT

CLARK COUNTY, NEVADA

APCO CONSTRUCTION, a Nevada
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Plaintiff,

vs.

GEMSTONE DEVELOPMENT WEST, INC., a
Nevada corporation,

Defendant.

CASE NO. 08A571228
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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**

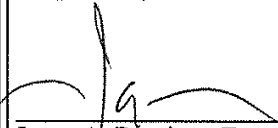
On January 11, 2018, this Court heard APCO Construction, Inc.'s Motion for Reconsideration of Court's Order Granting Zitting Brothers Construction, Inc.'s Partial Motion for Summary Judgment. I-Che Lai of Wilson Elser Moskowitz Edelman & Dicker, LLP appeared at the hearing for Zitting Brothers Construction, 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,

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 24th 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**


12 300 South Fourth Street, 11th Floor

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14 Attorneys for Lien Clamant,

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16 Approved as to form and content by:

17 
John H. Mowbray, Esq.

18 John Randall Jefferies, Esq.

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21 300 South Fourth Street, Suite 700

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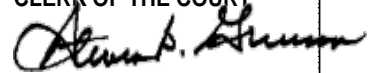
24 Cody S. Mounteer, Esq.

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28 Attorneys for APCO Construction, Inc.



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8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 APCO CONSTRUCTION, a Nevada
11 corporation,

12 Plaintiff,

13 vs.

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17 AND ALL RELATED MATTERS

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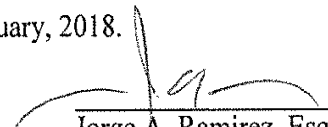
**NOTICE OF ENTRY OF ORDER
DENYING APCO CONSTRUCTION,
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RECONSIDERATION OF COURT'S
ORDER GRANTING ZITTING
BROTHERS CONSTRUCTION, INC.'S
PARTIAL MOTION FOR SUMMARY
JUDGMENT**

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 25th
22 day of January, 2018, a true and correct copy of which is attached hereto.

23 Dated this 30th day of January, 2018.

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

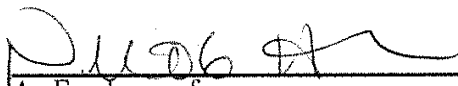
**WILSON, ELSE, MOSKOWITZ, EDELMAN
& DICKER LLP**

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 ELSER MOSKOWITZ
EDELMAN & DICKER LLP, and that on this 30th 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, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



1 **ORDR**

2 JORGE A. RAMIREZ, ESQ.

3 Nevada Bar No. 6787

4 I-CHE LAI, ESQ.

5 Nevada Bar No. 12247

6 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

7 300 South 4th Street, 11th Floor

8 Las Vegas, NV 89101-6014

9 Telephone: (702) 727-1400

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.

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.

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

24 AND ALL RELATED MATTERS

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

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. Munteer 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,

RECEIVED

JAN 23 2018

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 24th day of January, 2018.

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6 
DISTRICT COURT JUDGE RA

7 Respectfully submitted by:

8
9 
Jorge A. Ramirez, Esq.

10 I-Che Lai, Esq.

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

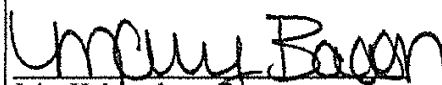
12 300 South Fourth Street, 11th Floor

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**

21 300 South Fourth Street, Suite 700

22 Las Vegas, Nevada 89101

23 and

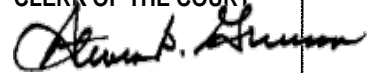
24 Cody S. Munteer, Esq.

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.
Nevada Bar No. 6787
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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

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

AND ALL RELATED MATTERS

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
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.

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.

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.

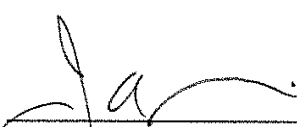
6 **IT IS SO ORDERED.**

7 Dated this 3rd day of May, 2018.

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DISTRICT COURT JUDGE

11 Respectfully submitted by:

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Jorge A. Ramirez, Esq.

I-Che Lai, Esq.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP


300 South Fourth Street, 11th Floor

Las Vegas, Nevada 89101

Attorneys for Lien Clamant,

Zitting Brothers Construction, Inc.

18 Approved as to form and content by:

19
20
21
22
23
24
25
26
27
28

John H. Mowbray, Esq.

John Randall Jefferies, Esq.

Mary E. Bacon, Esq.

SPENCER FANE LLP

300 South Fourth Street, Suite 700

Las Vegas, Nevada 89101

and

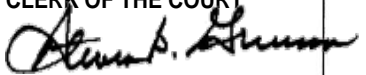
Cody S. Mounteer, Esq.

MARQUIS AURBACH COFFING

10001 Park Run Drive

Las Vegas, Nevada 89145

Attorneys for APCO Construction, Inc.



1 **NEOJ**
2 JORGE A. RAMIREZ, ESQ.
3 Nevada Bar No. 6787
4 I-CHE LAI, ESQ.
5 Nevada Bar No. 12247
6 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
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11 Jorge.Ramirez@wilsonelser.com
12 I-Che.Lai@wilsonelser.com
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:

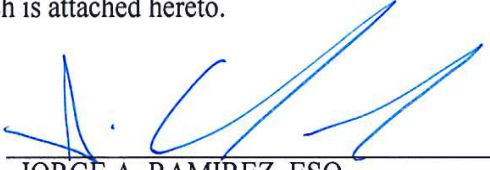
A574391; A574792; A577623; A583289;
A587168; A580889; A584730; A589195;
A595552; A597089; A592826; A589677;
A596924; A584960; A608717; A608718; and
A590319

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 8th
23 day of May, 2018, a true and correct copy of which is attached hereto.

24 Dated this 10th day of May, 2018.




25 JORGE A. RAMIREZ, ESQ.
26 Nevada Bar No. 6787
27 I-CHE LAI, ESQ.
28 Nevada Bar No. 12247
WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
300 South Fourth Street, 11th Floor
Las Vegas, Nevada 89101
Attorneys for Lien Clamant,
Zitting Brothers Construction, Inc.

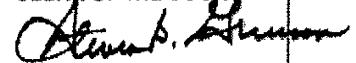
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP, and that on this 11th day of May, 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



1 **ORDER**

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
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11 Jorge.Ramirez@wilsonelser.com
12 I-Che.Lai@wilsonelser.com
13 Attorneys for Lien Clamant,
14 Zitting Brothers Construction, Inc.

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

11 APCO CONSTRUCTION, a Nevada
12 corporation,

12 Plaintiff,

13 vs.

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

16 Defendant.

17 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.

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

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

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

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

MAY 02 2018

DISTRICT COURT DEPT. 13

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.

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 3rd day of May, 2018.

8 
9 _____
10 DISTRICT COURT JUDGE

11 Respectfully submitted by:

12 
13 _____
14 Jorge A. Ramirez, Esq.

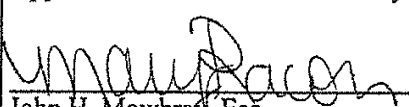
15 I-Che Lai, Esq.

16 **WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP**

17 300 South Fourth Street, 11th Floor
18 Las Vegas, Nevada 89101

19 Attorneys for Lien Clamant,
20 Zitting Brothers Construction, Inc.

21 Approved as to form and content by:

22 
23 _____
24 John H. Mowbray, Esq.

25 John Randall Jefferies, Esq.

26 Mary E. Bacon, Esq.

27 **SPENCER FANE LLP**

28 300 South Fourth Street, Suite 700
Las Vegas, Nevada 89101

and

Cody S. Mounteer, Esq.

MARQUIS AURBACH COFFING

10001 Park Run Drive

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****PRESENT:**

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)

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

PRESENT:	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**

PRESENT:	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.

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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**

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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

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****PRESENT:**

Blake, David	Attorney
Carter, Matthew S.	Attorney
CAWLEY, REUBEN	Attorney
Craft, Christopher	Attorney
Dixon, Stephen M.	Attorney
Dobberstein, Eric	Attorney
Gochmour, Wade B.	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

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**

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

November 03, 2009	9:00 AM	Motion to Reconsider	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 & WRIT OF GARNISHMENT SHOULD NOT ISSUE AFTER NOTICE (CONSOLIDATED CASE)
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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

PRESENT:	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
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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**

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

December 08, 2009	9:00 AM	Motion to Amend Complaint	HARSCO CORP'S MOTION FOR SECOND AMENDED COMPLAINT IN INTERVENTION
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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**

PRESENT:	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
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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

PRESENT:	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**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

May 03, 2010**9:00 AM****Motion for Substitution**

**LIEN CLAIMANT
ARCH ALUMINUM
AND GLASS
COMPANY'S
MOTION TO
SUBSTITUTE
PROPER PARTY
PURSUANT TO
NRCP 25**

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

PRESENT:	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: 08/10/2018

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Minutes Date: May 12, 2009

REPORTER: Brenda Schroeder

PARTIES

PRESENT:	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 006586

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: 08/10/2018

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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

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

PRESENT:	Berman, Brian Keith	Attorney
	Cawley, Reuben	Attorney
	Dobberstein, Eric	Attorney
	Fisher, Mindy C.	Attorney
	Maskas, Marisa	Attorney
	Meier, Glenn F	Attorney
	Miller, William	Attorney
	Muckleroy, Martin A.	Attorney
	Parry, Zachariah	Attorney
	Pintar, Becky	Attorney
	Rutar Mullins, Gwen	Attorney
		Attorney
	Williams, Donald H	Attorney
		Attorney
	Ziems, Robert B.	Attorney

AA 006592

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. *****

December 09, 2010

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

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

AA 006595

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
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

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: 08/10/2018

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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

November 15, 2011

AA 006600

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

December 01, 2011

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

COURTROOM: Phoenix Building Courtroom -
11th Floor

REPORTER:

PRESENT:	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

Minutes Date: May 12, 2009

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 been 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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

January 11, 2012

08A571228	Apco Construction, Plaintiff(s) vs. Gemstone Development West Inc, Defendant(s)
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January 11, 2012 10:00 AM Status Check

HEARD BY: Scann, Susan

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Larry Snyder

RECORDER: Angie Calvillo

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.

2/15/12 10:00 AM STATUS CHECK: PARTIES WITH MATTERS UNDER SUBMISSION

**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

PRINT DATE: 08/10/2018

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Minutes Date: May 12, 2009

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 Slighting, 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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court**COURT MINUTES****February 15, 2012**

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

February 15, 2012 10:00 AM Status Check

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

PRESENT: Gochnour, Wade B. Attorney
 Attorney
 Shapiro, James E. Attorney

JOURNAL ENTRIES

- Mr. Bradley Slighting Esq., Bar No. 10225, also present.

COURT NOTED, case is under submission and no progress to report. Court SUGGESTED, matter be reheard in this Court. Mr. Gochnour concurred that it would make the most sense for matter to heard in this Court. Colloquy regarding what Court needed for a rehearing. Mr. Gochnour requested clarification on new briefing. Court answered briefing would be held to what has already been filed.

March 07, 2012

AA 006609

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)

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
	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**

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

**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.

May 09, 2012

AA 006618

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

AA 006620

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court**COURT MINUTES****July 02, 2012**

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

July 02, 2012**9:30 AM****Evidentiary Hearing****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
Ferrario, Mark E., ESQ	Attorney
Gebhart, Michael T.	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Jones, Jon Randall	Attorney
Kessler, Andrew J., ESQ	Attorney
Meier, Glenn F	Attorney
Peel, Richard L.	Attorney
Scott, Bradley J	Defendant

JOURNAL ENTRIES

- Attorney Andrew Kessler participated telephonically through CourtCall.

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

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

08A571228

Apco Construction, Plaintiff(s)

vs.

Gemstone Development West Inc, Defendant(s)

July 09, 2012**9:30 AM****Evidentiary Hearing****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
Ferrario, Mark E., ESQ	Attorney
Gochmour, Wade B.	Attorney
	Attorney
Jones, Jon Randall	Attorney
Meier, Glenn F	Attorney
Williams, Donald H	Attorney
	Attorney
Zimbelman, Eric B.	Attorney

JOURNAL ENTRIES

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

Attorney Jeffrey Steffen, Bar No. 9912, also present.

Court convened for the continuation of the Evidentiary Hearing. Testimony and exhibits presented (see worksheets). COURT ORDERED, matter CONTINUED for Closing Arguments.

08A571228

7/10/12 2:00 PM EVIDENTIARY HEARING

July 10, 2012

AA 006626

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 006631

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 & 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: 08/10/2018

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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

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

PRESENT:	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: 08/10/2018

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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

October 16, 2012

AA 006642

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
	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**

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

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**

PRESENT:	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

PRESENT:	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****PRESENT:**

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**

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

**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**

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

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

PRESENT:	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**

PRESENT:	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**

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

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

PRESENT:	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

PRESENT:	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

PRINT DATE: 08/10/2018

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Minutes Date: May 12, 2009

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****PRESENT:**

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: 08/10/2018

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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

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**

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

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**

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

PRESENT:	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**

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

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

PRESENT:	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.