

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

APCO CONSTRUCTION, INC., A  
NEVADA CORPORATION,

Appellant,

vs.

ZITTING BROTHERS  
CONSTRUCTION, INC.,

Respondent.

Case No.: 75197      Electronically Filed  
Oct 16 2019 07:14 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

**MOTION TO EXCEED TYPE-VOLUME LIMIT OF  
APPELLANT'S REPLY BRIEF**

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Appellant, APCO Construction, Inc. (APCO) hereby moves this Court pursuant to NRAP 32(a)(7) to exceed the type-volume limit for Appellant's Reply Brief, which is timely-filed along with this Motion.

NRAP 32(a)(7) requires that opening and answering briefs shall not exceed 14,000 words of text, and reply briefs shall not exceed 7,000 words of text, including headings, footnotes, and quotations. Further, this Rule states that the disclosure statement, table of contents, tables of authorities, required certificate of compliance, and any addendum containing statutes, rules, or regulations do not count toward a brief's page- or type-volume limitation. However, this Rule does allow a party to exceed the type-volume limit by permission of the court and "upon a showing of diligence and good cause."

In the instant case, Appellant's Reply Brief contains 8,213 words of text. Good cause exists to allow the Appellant's Reply Brief to exceed the type-volume limit. The following reasons are outlined in greater detail in the following declaration of counsel for APCO:

**DECLARATION OF TOM W. STEWART, ESQ. IN SUPPORT OF  
MOTION TO EXCEED PAGE LIMIT FOR APPELLANT'S REPLY BRIEF**

Tom W. Stewart, Esq., declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am an attorney with the law firm of Marquis Aurbach Coffing, and counsel of record for APCO.

3. The instant appeal raises numerous issues due to the complexity and length of the litigation below.

4. Appellant's Reply Brief necessarily responds to the numerous issues in the over length answering brief.

5. This Court granted Respondent's motion to exceed the word count for their answering brief, allowing 16,968 words.

6. Appellant's Reply Brief contains 8,213 words of text, which exceeds the type-volume limitation by 1,213 words.

7. Although I have worked diligently to edit Appellant's Reply Brief to be as concise and cogent as possible, the additional 1,213 words are needed to adequately present APCO's arguments for this Court's consideration.

8. Based upon good cause, APCO requests that this Court extend the page limit of Appellant's Reply Brief and allow it to be filed.

9. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Tom W. Stewart  
Tom W. Stewart, Esq.

Therefore, for diligence and good cause shown, and according to NRAP 32(a)(7), this Court should allow APCO to file Appellant's Reply Brief consisting of 8,213 words of text.

Dated this 16th day of October, 2019.

MARQUIS AURBACH COFFING

By: /s/ Tom W. Stewart  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **MOTION TO EXCEED TYPE-VOLUME LIMIT OF APPELLANT'S REPLY BRIEF** was filed electronically with the Nevada Supreme Court on the 16th day of October, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

I-Che Lai  
Jorge Ramirez

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A.

/s/ Leah Dell  
An employee of Marquis Aurbach Coffing