

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 77320

Electronically Filed
Aug 29 2019 12:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

HELIX ELECTRIC OF NEVADA, LLC

Appellant/Cross-Respondent

v.

APCO CONSTRUCTION, INC, A NEVADA CORPORATION,

Respondent/Cross-Appellant.

Appeal from Judgment
Eighth Judicial District Court, Clark County
The Honorable Mark Denton, District Court Judge
District Court Case No. **08A571228**

**APPELLANT/CROSS-RESPONDENT'S STATUS REPORT AND
RESPONSE TO ORDER TO SHOW CAUSE**

ERIC B. ZIMBELMAN, ESQ.

Nevada Bar No. 9407

RICHARD L. PEEL, ESQ.

Nevada Bar No. 4359

PEEL BRIMLEY LLP

3333 E. Serene Avenue, Suite 200

Henderson, NV 89074-6571

Telephone: (702) 990-7272

Facsimile: (702) 990-7273

ezimbelman@peelbrimley.com

rpeel@peelbrimley.com

Attorneys for Appellant/Cross-Respondent

Helix Electric of Nevada, LLC

As the Court's August 16, 2019 Order (the "Order") notes, the Court recently dismissed the related appeal, Docket No. 76276, because the order challenged on appeal was not appealable as a final judgment. Helix previously anticipated that if the Court were to dismiss Docket No. 76276 for lack of a final appealable order, the Order subject to challenge in the instant matter (Docket No. 77320) would suffer from the same defect and would also have to be dismissed on the same grounds. Helix stands by that view.

Helix has filed a motion with the District Court seeking dismissal of any and all unresolved claims so there will be a final appealable order and the substance of the grounds for appeal can be heard by this Court. Curiously, APCO has opposed Helix's District Court motion, scheduled for hearing on September 9, 2019, by arguing that such unresolved claims were in fact resolved despite this Court's contrary conclusion. Specifically, APCO makes various arguments (to the wrong court) as to why some of the unresolved claims should, by implication, be deemed to have been resolved. However, APCO never presented this Court with such contentions, whether in response to the Order to Show Cause ("OSC") issued in Docket No. 76276 or in response to Helix's Response to that OSC.

In any event, this Court has heard and considered the issue and ruled that the Order challenged in Docket No. 76276 was not appealable as a final judgment. As the District Court has no authority to overrule that decision, the pending District Court

motion should have no impact on this Court's present evaluation of its jurisdiction in the instant matter, Docket No. 77320.

The Court should dismiss Docket No. 77320 on the same grounds it dismissed Docket No. 76276.

Respectfully submitted this 30th day of August, 2019.

PEEL BRIMLEY LLP



ERIC B. ZIMBELMAN, ESQ. (9407)

RICHARD L. PEEL, ESQ. (4359)

3333 E. Serene Avenue, Suite 200

Henderson, NV 89074-6571

Attorneys for Appellant/Cross-Respondent

CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFCR 9(f), I certify that I am an employee of **PEEL BRIMLEY, LLP**, and that on this 29th day of August, 2019, I caused the above and foregoing document, **APPELLANT/CROSS-RESPONDENT'S STATUS REPORT AND RESPONSE TO ORDER TO SHOW CAUSE**, to be served 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; and/or
- ☒ pursuant to NEFCR 9, upon all registered parties via the Nevada Supreme Court's electronic filing system;
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**;
- ☐ to be hand-delivered; and/or
- ☐ other _____

to the attorney(s) and/or party(ies) listed below at the address and/or facsimile number indicated below:

John H. Mowbray, Esq. (NV Bar No. 1140)
John Randall Jeffries, Esq. (NV Bar No. 3512)
Mary E. Bacon, Esq. (NV Bar No. 12686)
400 S. Fourth Street, Suite 500
Las Vegas, NV 89101
Telephone: (702) 408-3411
Facsimile: (702) 408-3401
JMowbray@spnecrfane.com
RJJeffries@spnecrfane.com
MBacon@spnecrfane.com

-and-

Jack Chen Min Juan, Esq. (NV Bar No. 6367)
Micah Echols, Esq. (NV Bar No. 8437)
Cody S. Mounter, Esq. (NV Bar No. 11220)
10001 Park Run Drive
Las Vegas, NV 89145
Telephone: (702) 207-6089
JJuan@maclaw.com
MEchols@maclaw.com
CMounteer@maclaw.com

*Attorneys for Respondent
APCO Construction, Inc.*

Richard L. Tobler, Esq. (NV Bar No. 004070)
LAW OFFICES OF RICHARD L. TOBLER, LTD.
3654 N. Rancho Drive, Suite 102
Las Vegas, NV 89130-3179
Telephone: (702) 256-6000
rltltd@hotmail.com

-and-

Thomas H. Cadden, Esq. (CA Bar No. 122299)
John B. Taylor, Esq. (CA Bar No. 126400)
S. Judy Hirahara, Esq. (CA Bar No. 177332)
CADEN & FULLER LLPP
114 Pacifica, Suite 450
Irvine, CA 92618
Telephone: (949) 788-0827
jtaylor@caddenfuller.com
jhirahara@caddenfuller.com

*Attorneys for Appellant
National Wood Products, Inc.*


An employee of **PEEL BRIMLEY, LLP**