

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 77320

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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 OPPOSITION TO
RESPONDENT/CROSS-APPELLANT'S MOTION TO FILE AMENDED
DOCKETING STATEMENT**

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Respondent/Cross-Appellant, APCO Construction, Inc. (“APCO”) remained silent in response to this Court’s Order to Show Cause and eventual dismissal of Docket No. 76276. Now that this related appeal is also unsurprisingly subject to dismissal on the same grounds, APCO apparently intends to make arguments as to why the related appeal should not be dismissed. APCO has set forth those arguments in a Status Report to which Appellant/Cross-Respondent Helix Electric of Nevada, LLC (“Helix”) intends to respond by separate submission.

APCO’s motion to amend its docketing statement should be denied because APCO has waited until after dismissal of the related appeal to seek the same. To the extent APCO intended to assert a position affirming appellate jurisdiction or to offer additional documents from the trial court that might be deemed relevant to the pending dismissal of this appeal, APCO could have and should have done so while the related appeal was pending. Having instead – for transparently tactical reasons – withheld such documents and arguments, APCO is promoting a fraud on the Court that this Court should not countenance. The Motion to Amend should be denied.

Respectfully submitted this 3rd day of September, 2019.

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/s/ Eric B. Zimbelman

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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 3rd day of September, 2019, I caused the above and foregoing document, **APPELLANT/CROSS-RESPONDENT'S OPPOSITION TO RESPONDENT/CROSS-APPELLANT'S MOTION TO FILE AMENDED DOCKETING STATEMENT**, 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:

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