

IN THE SUPREME COURT OF THE STATE OF NEVADA

APCO CONSTRUCTION, INC., A
NEVADA CORPORATION; AND
SAFECO INSURANCE COMPANY OF
AMERICA,

Appellants,

vs.

HELIX ELECTRIC OF NEVADA, LLC,
A NEVADA LIMITED LIABILITY
COMPANY,

Respondent.

No. 80177

FILED

AUG 04 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER REINSTATING BRIEFING

This court previously ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. It appeared that appellants prematurely filed the notice of appeal in the district court after the filing of timely tolling motions and before those motions were formally resolved by the district court. See NRAP 4(a)(4), (6). In response, appellants assert that the district court denied the motions in the November 6, 2019, final judgment.

The November 6, 2019, final judgment did not expressly resolve the pending tolling motions. However, the district court held a hearing on the motions and orally denied them, then entered the final judgment that did not award the relief requested in either motion. It thus appears that the motions were implicitly denied in the November 6, 2019, final judgment. See *Bd. of Gallery of History v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (stating that the district court's failure to rule on a request constitutes a denial of the request). Accordingly, this appeal may proceed.

Appellants shall have 90 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.

_____*Pickering*_____, C.J.

cc: Fennemore Craig, P.C./Las Vegas
Fennemore Craig, P.C./Phoenix
Peel Brimley LLP/Henderson