

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

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

5 Appellants,

6 vs.

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

9 Respondent.

Case No. 80177
D.C. Case No. A730091

Electronically Filed
Mar 19 2021 05:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

10 **APPELLANTS APCO CONSTRUCTION, INC. AND**
11 **SAFECO INSURANCE COMPANY OF AMERICA'S**
12 **MOTION TO FILE OVERSIZE BRIEF**

13 **FENNEMORE CRAIG, P.C.**

14 John Randall Jefferies, Esq.

 Nevada Bar No. 3512

15 Christopher H. Byrd, Esq.

 Nevada Bar No. 1633

 300 South 4th Street, 14th Floor

 Las Vegas, Nevada 89101

16 Telephone: (702) 692-8000 Facsimile: (702) 692-8099

 Email: rjeffries@fclaw.com

 cbyrd@fclaw.com

17 *Attorneys for Appellants APCO Construction, Inc.*
18 *and Safeco Insurance Company of America*
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1 **MOTION TO FILE OVERSIZE BRIEF**

2 Pursuant to NRAP 32(A)(7)(D), Appellants APCO Construction, Inc. and
3 Safeco Insurance Company of America, (“APCO/SAFECO”) respectfully move
4 this Court to exceed the word count for Appellants’ opening brief, which is
5 submitted along with this motion. NRAP 32(a)(7) limits an opening brief to
6 14,000 words. However, NRAP 32(a)(7) allows a party to exceed the word
7 count by permission of the Court.

8 In the instant case, Appellants’ opening brief contains 17,002 words.
9 Good cause exists to allow Appellants to exceed the word count by 3,002 words.

10 As set forth in the attached declaration of Christopher h. Byrd, Esq.
11 counsel has spent the last three weeks refining the original working draft of this
12 brief in an effort to meet the required word count limits. However, in this case,
13 the district court ruling consisted of 23 pages of findings of fact and conclusions
14 of law. In the brief it was necessary to put these facts into context and to present
15 additional material key facts that the district court overlooked or
16 misapprehended. In addition, the court interpreted several contracts and statute
17 to support the main ruling, which required additional legal analysis in the brief.
18 Finally the in reach its decision the district court made certain assumptions that
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1 while not part of the decision nevertheless required briefing in order to
2 demonstrate error.

3 Therefore, for diligence and good cause shown, and according to NRAP
4 32(a)(7), this Court should allow Appellants' to file their opening brief
5 consisting of 17,002 words.

6 DATED this 19th day of March, 2021.

7 **FENNEMORE CRAIG, P.C.**

8 /s/ Christopher H. Byrd
9 John Randall Jefferies, Esq.
Nevada Bar No. 3512
Christopher H. Byrd, Esq.
Nevada Bar No. 1633
10 *Attorneys for Appellants*
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1 **DECLARATION OF CHRISTOPHER H. BYRD, ESQ.**
2 **IN SUPPORT OF MOTION TO EXCEED WORD COUNT**
3 **FOR APPELLANTS' OPENING BRIEF**

4 Under penalty of perjury, Christopher H. Byrd, Esq. hereby declares the
5 following in support of motion to exceed word count of Appellants' opening
6 brief:

7 1. I have personal knowledge of all matters within this Declaration. I
8 am competent to testify to the facts herein in a court of law and, if called upon to
9 do so, would so testify.

10 2. Appellants' opening brief contains 17,002 words, which is 3,002
11 words more than is allowed by NRAP 32(a)(7).

12 3. This Court should allow Appellants to file their opening brief with
13 the additional word count because this appeal involves a case arising out of
14 business court in which a three-day trial was held, resulting in a twenty-three
15 page Findings of Fact and Conclusions of Law by the district court that has been
16 challenged on appeal.

17 4. Counsel for Appellants have reviewed and revised and omitted as
18 much information as possible but have not been able to draft a brief below the

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1 14,000 word threshold required by NRAP 32(a)(7).

2 **FENNEMORE CRAIG, P.C.**

3 /s/ Christopher H. Byrd
4 John Randall Jefferies, Esq.
5 Nevada Bar No. 3512
6 Christopher H. Byrd, Esq.
7 Nevada Bar No. 1633
8 *Attorneys for Appellants*
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