

1 JAMES P. KEMP, ESQ.  
Nevada Bar No.: 6375  
2 VICTORIA L. NEAL, ESQ.  
Nevada Bar No.: 13382  
3 KEMP & KEMP  
7435 W. Azure Drive, Ste 110  
4 Las Vegas, NV 89130  
5 702-258-1183 ph./702-258-6983 fax  
jp@kemp-attorneys.com  
6 vneal@kemp-attorneys.com

7 *Attorneys for Plaintiff*  
8 *Sean Fitzgerald*

Electronically Filed  
Apr 24 2017 11:17 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

9 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
10 **STATE OF NEVADA IN AND FOR**  
11 **THE COUNTY OF CLARK**

12 SEAN FITZGERALD, )  
13 ) Case No.: A-16-737119-C  
14 Plaintiff, )  
15 vs. ) Dept. No. 32  
16 )  
17 MOBILE BILLBOARDS, LLC, a Nevada )  
Limited Liability Company; VINCENT )  
18 BARTELLO, an individual. )  
19 Defendants. )

20 **[CORRECTED] CASE APPEAL STATEMENT**

21  
22 Pursuant to NRAP 3(f), Plaintiff, Sean Fitzgerald, hereby provides the following  
23 [corrected] *Case Appeal Statement*:

24  
25 **1. Name of appellant filing this case appeal statement:**

26 SEAN FITZGERALD

27 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

28 HON. ROB BARE

1       **3. Identify each appellant and the name and address of counsel for each appellant:**

2                       **Appellant:**

3                       SEAN FITZGERALD

4                       **Counsel for Appellant:**

5                       JAMES P. KEMP, ESQ.  
6                       VICTORIA L. NEAL, ESQ.  
7                       KEMP & KEMP  
8                       7435 W. Azure Drive, Ste 110  
9                       Las Vegas, NV 89130

10       **4. Identify each respondent and the name and address of appellate counsel, if known, for**  
11       **each respondent (if the name of a respondent's appellate counsel is unknown, indicate**  
12       **as much and provide the name and address of that respondent's trial counsel):**

13                       **Respondent:**

14                       MOBILE BILLBOARDS, LLC

15                       **Counsel for Respondent MOBILE BILLBOARDS, LLC:**

16                       CARRIE E. HURTIK, ESQ.  
17                       RACHEL L. SHELSTAD, ESQ.  
18                       RACHEL A. SLOAN, ESQ.  
19                       HURTIK LAW & ASSOCIATES  
20                       7866 West Sahara Avenue  
21                       Las Vegas, NV 89117

22                       **Respondent:**

23                       VINCENT BARTELLO

24                       **Counsel for Respondent VINCENT BARTELLO:**

25                       CARRIE E. HURTIK, ESQ.  
26                       RACHEL L. SHELSTAD, ESQ.  
27                       RACHEL A. SLOAN, ESQ.  
28                       HURTIK LAW & ASSOCIATES  
29                       7866 West Sahara Avenue  
30                       Las Vegas, NV 89117

- 1       **5. Indicate whether any attorney identified above in response to question 3 or 4 is not**  
2       **licensed to practice law in Nevada and, if so, whether the district court granted that**  
3       **attorney permission to appear under SCR 42 (attach a copy of any district court**  
4       **order granting such permission):**

5               Based upon information and belief, all attorneys listed in questions 3 and 4 are  
6               licensed to practice law in Nevada.

- 7       **6. Indicate whether appellant was represented by appointed or retained counsel in the**  
8       **district court:**

9               RETAINED COUNSEL

- 10       **7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

11               RETAINED COUNSEL

- 12       **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the**  
13       **date of entry of the district court order granting such leave:**

14               NOT APPLICABLE

- 15       **9. Indicate the date the proceedings commenced in the district court (e.g., date**  
16       **complaint, indictment, information, or petition was filed):**

17               COMPLAINT FILED ON May 20, 2016.

- 18       **10. Provide a brief description of the nature of the action and result in the district court,**  
19       **including the type of judgment or order being appealed and the relief granted by the**  
20       **district court:**

21               The subject matter of this case concerns issues surrounding the common  
22               tort of defamation. Plaintiff claims that Defendants made defamatory  
23               statements resulting in the republication of those statements to  
24               unprivileged third-parties. Defendants claim they are entitled to the  
25               defense of absolute litigation privilege and filed a Motion to Dismiss on that  
26               basis and also claiming the defense of truth. Defendants attached various  
27                 
28

documents to support their Motion. Hearing on Defendants' motion was held on January 24, 2017. The court requested supplemental briefing which was completed on February 17, 2017.

On March 29, 2017, the court granted Defendants' Motion to Dismiss. On April 3, 2017, Notice of Entry of Order was filed by Defendants. On March 6, 2017, Plaintiff filed his Notice of Appeal and Case Appeal Statement. Plaintiff now appeal the court's granting of Defendants' Motion to Dismiss.

**11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:**

This case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

**12. Indicate whether this appeal involves child custody or visitation:**

This case does not involve child custody or visitation.

**13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

This case involves the possibility of settlement.

DATED this 24<sup>th</sup> day of April, 2017.

/s/ Victoria L. Neal

VICTORIA I. NEAL, ESQ.

Nevada Bar No. 13382

KEMP & KEMP

7435 W. Azure Drive, Ste 110

Las Vegas, NV 89130

Attorney for Plaintiff/Appellant

**CERTIFICATE OF SERVICE**

This is to certify that on the date indicated below, the undersigned deposited the within and foregoing [CORRECTED] CASE APPEAL STATEMENT document in the United States Mail at Las Vegas, Nevada, with postage fully prepaid thereon, addressed to the following persons or parties:

CARRIE E. HURTIK, ESQ.  
RACHEL L. SHELSTAD, ESQ.  
RACHEL A. SLOAN, ESQ.  
HURTIK LAW & ASSOCIATES  
7866 West Sahara Avenue  
Las Vegas, NV 89117

*Attorneys for Defendants/Respondents  
Mobile Billboards and Vincent Bartello*

Dated this \_\_\_\_\_ day of April, 2017.

\_\_\_\_\_  
An Employee of Kemp & Kemp