

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**
2 **OFFICE OF THE CLERK**

3 SEAN FITZGERALD,

4 Plaintiff,

5 vs.

6 MOBILE BILLBOARDS, LLC, a Nevada
7 Limited Liability Company; VINCENT
8 BARTELLO, an individual; and DOES I
9 through X; and ROE BUSINESS ENTITIES I
10 through X, inclusive,

11 Defendants.

Supreme Court No. 72803

District Court Case No. A

Electronically Filed
Jun 28 2017 09:07 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

12 **MOTION TO WITHDRAW AS ATTORNEY OF RECORD**

13 COMES NOW, CARRIE E. HURTIK, Esq., counsel of record for MOBILE BILLBOARDS,
14 LLC, and VINCENT BARTELLO, and pursuant to Supreme Court Rule 46, Nevada Rules of
15 Professional Conduct 1.16(b)(1)(5)(6) and EDCR 7.40 and moves this Honorable Court to allow her to
16 withdraw as attorney of record for the above referenced parties.
17

18 This Motion is based upon and supported by the following Memorandum of Points and
19 Authorities, the pleadings and papers on file, the affidavits and exhibits attached hereto, and any
20 argument that this Honorable Court may allow at the time of hearing. The Affidavit of CARRIE E.
21 HURTIK, ESQ. is attached hereto as Exhibit 1.

22 DATED this 26th day of June, 2017.

23 **HURTIK LAW & ASSOCIATES**

24 
25 **CARRIE E. HURTIK, ESQ.**

26 Nevada Bar No. 7028
27 7866 West Sahara Avenue
28 Las Vegas, Nevada 89117
 Attorneys for Defendants,
 VINCENT BARTELLO
 MOBILE BILLBOARDS, LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTUAL BACKGROUND**

3 HURTIK LAW & ASSOCIATES entered an appearance on behalf of VINCENT BARTELLO
4 and MOBILE BILLBOARDS, LLC on November 18, 2016. On November 29, 2016 a Motion to
5 Dismiss was filed on behalf of the Defendants. The Motion to Dismiss was granted on March 29,
6 2017. On April 6, 2017 a Notice of Appeal was filed by the Plaintiffs.

7
8 During HURTIK LAW & ASSOCIATES representation, Defendant has substantially failed to
9 fulfill his obligations to the firm regarding its services, despite reasonable warnings that it would
10 withdraw as counsel unless the obligations are fulfilled. Further representation would result in an
11 unreasonable financial burden on the assigned lawyers and law firm.

12
13 Furthermore, Defendants have failed to respond to repeated requests to communicate with their
14 counsel. Defendant VINCENT BARTELLO filed a Chapter 13 Bankruptcy on April 19, 2017 through
15 the Law Firm of Peters and Associates. This move was a surprise to HURTIK LAW & ASSOCIATES
16 and they were never noticed by Mr. Bartello's bankruptcy counsel. In fact, the only way the firm
17 knew was Mr. Bartello had discussed that he may consider filing and he would not return any calls or
18 respond to any correspondence with the firm, thus Ms. Hurtik checked on PACER and discovered Mr.
19 Bartello had filed bankruptcy. In fact, Counsel for Defendants has not received a response to her
20 request for communications since March 29, 2017. Ms. Hurtik has attempted to contact Mr. Bartello
21 via telephone calls, texting, and emails with no response despite repeated attempts as she represented
22 Mr. Bartello in several ongoing matters in which some had been filed actions and others had not been
23 filed.
24

25 **II. ANALYSIS**

26 Rule 1.16(b)(5) of the Nevada Rules of Professional Conduct provides that an attorney may
27 withdraw from representing a client if "[t]he client fails to substantially fulfill an obligation to the
28

1 lawyers regarding the lawyer's services and has been given reasonable warning that the lawyer will
2 withdraw unless the obligation is fulfilled."

3 Furthermore, SCR 46 provides:

4 The attorney in an action or special proceeding may be changed at any time before judgment of
5 final determination as follows:
6

7 (2) Upon the order of the court or judge thereof on the application of the attorney or the client.

8 As set forth in the attached Affidavit of CARRIE E. HURTIK, ESQ., and based upon
9 information and belief the last known address of Defendant is as follows;

10 Vincent Bartello
11 Mobile Billboards, LLC
12 1640 Liege Drive
13 Henderson, NV 89012
14 vincebartello@gmail.com
15 702-236-2323

16 This Motion will be served upon the Defendant at his last known address listed above.

17 CONCLUSION

18 In this case, Defendant has substantially failed to fulfill his obligations to HURTIK LAW &
19 ASSOCIATES and has failed to communicate with counsel and has hindered counsel thus making
20 effective representation impossible. Counsel has complied with all requirements to withdraw as
21 counsel of record. As such an order allowing Counsel to withdraw is appropriate.

22 DATED this 26th day of June, 2017.

23 **HURTIK LAW & ASSOCIATES**

24 
25 **CARRIE E. HURTIK, ESQ.**

26 Nevada Bar No. 7028
27 7866 West Sahara Avenue
28 Las Vegas, Nevada 89117
Attorneys for Defendants,
VINCENT BARTELLO and
MOBILE BILLBOARDS, LLC

**AFFIDAVIT OF CARRIE E. HURTIK ESQ. IN SUPPORT OF MOTION TO
WITHDRAW AS COUNSEL FOR DEFENDANTS VINCENT
BARTELLO AND MOBIL BILLBOARDS, LLC**

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

1. I am an attorney duly licensed to practice before all Courts in the State of Nevada, am a owner of HURTIK LAW & ASSOCIATES, as well as counsel for Defendants VINCENT BARTELLO AND MOBILE BILLBOARDS, LLC. In the above-entitled matter. I have personal knowledge of the facts stated herein, except for those stated upon information and belief, as to those, I believe them to be true.

2. I make this Affidavit in support of HURTIK LAW & ASSOCIATES's Motion to Withdraw as Counsel for Defendant.

3. Continued representation will result in unreasonable financial burden on HURTIK LAW & ASSOCIATES and the representation has been rendered unreasonably difficult.

4. Defendant has been repeatedly advised of his obligations to HURTIK LAW & ASSOCIATES and failure to meet those obligations could result in HURTIK LAW & ASSOCIATES withdrawing as counsel of record.


5. Defendants continue to have a substantial financial obligation to HURTIK LAW & ASSOCIATES that remains unrectified.


6. Defendants have not communicated with HURTIK LAW & ASSOCIATES since March 29, 2017, despite my continued attempts to reach Mr. Bartello and he has thus hindered my ability to effectively represent him.

7. On April 19, 2017, without informing HURTIK LAW & ASSOCIATES, Defendants filed a Chapter 13 Bankruptcy action.

Vincent Bartello
Mobile Billboards, LLC
1640 Liege Drive
Henderson, NV 89012
vincebartello@gmail.com
702-236-2323

FURTHER YOUR AFFIANT SAYETH NAUGHT


Carrie E. Hurtik, Esq.

 **XIOMARA G. SANCHEZ**
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 09-19-19
Certificate No: 11-5770-1

My Commission Expires: 09/19/2019

CERTIFICATE OF SERVICE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, XIOMARA G. SANCHEZ, declare:

I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen years and not a party to the within action. My business address is 7866 W. Sahara Avenue, Las Vegas, NV 89117.

On June 27, 2017, I served the document described as **MOTION TO WITHDRAW AS ATTORNEY OF RECORD** on the parties listed below:

James P. Kemp, Esq. KEMP & KEMP 7435 W. Azure Drive, Ste. 110 Las Vegas, NV 89130 (702) 258-1183 Telephone (702) 258-6983 Facsimile Attorneys for Plaintiff, Sean Fitzgerald	Vincent Bartello 1640 Liege Drive Henderson, NV 89012 vincebartello@gmail.com 702-236-2323
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☒ **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. postal service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

☒ **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which he/she has filed in the cause and served on the party making the service. The copy of the document served by facsimile transmission bears a notation of the date and place of transmission and the facsimile telephone number to which transmitted. A confirmation of the transmission containing the facsimile telephone numbers to which the document(s) was/were transmitted will be maintained with the document(s) served.

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Las Vegas, Nevada, on June 27, 2017.



XIOMARA G. SANCHEZ, an employee of
HURTIK LAW & ASSOCIATES