

JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
VICTORIA L. NEAL, ESQ.
Nevada Bar No.: 13382
KEMP & KEMP
7435 W. Azure Drive, Ste 110
Las Vegas, NV 89130
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*Attorneys for Plaintiff-Appellant
Sean Fitzgerald*

Electronically Filed
Jul 14 2017 01:17 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**IN THE SUPRME COURT
OF THE STATE OF NEVADA**

SEAN FITZGERALD,

Plaintiff-Appellant,

vs.

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

Defendants-Respondents.

Supreme Court Case: 72803
District Court Case No.: A-16-737119-C

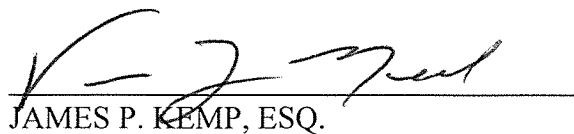
**MOTION TO EXTEND THE APPEAL
TIMELINE BASED ON THE DISMISSAL
OF DEFENDANT BARTELLO'S
BANKRUPTCY CASE**

COMES NOW PLAINTIFF-APPELLANT, SEAN FITZGERALD, (herein "Appellant") by
and through his Attorney of Record, KEMP & KEMP, and pursuant to NRAP 26(b)(1)(A), hereby
files this Motion To Extend The Appeal Timeline Based On The Dismissal Of DEFENDANT-
RESPONDENT Bartello's (herein "Respondent") bankruptcy case.

...
...
...

1 This Motion is based upon and supported by the following Memorandum of Points and
2 Authorities, the pleadings and papers on file, the affidavits and exhibits attached here, and any
3 argument the Honorable Court may allow at the time of hearing.
4

5 DATED this 14th day of July, 2017.

6 

JAMES P. KEMP, ESQ.

Nevada Bar No.: 6375

VICTORIA L. NEAL, ESQ.

Nevada Bar No.: 13382

KEMP & KEMP

7435 W. Azure Drive, Suite 110

Las Vegas, NV 89130

702-258-1183 ph/702-258-6983/fax

Attorney for Appellant Sean Fitzgerald

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. FACTUAL BACKGROUND**

3 Appellant filed his Complaint against Defendant for defamation per se and slander per se on
4 May 20, 2016, in Nevada District Court, Eighth Judicial District. *See* Exhibit 1, pp 3-4, Plaintiff's
5 Corrected Case Appeal Statement. On March 29, 2017, that court granted Respondents' Motion to
6 Dismiss. *Id.* On April 3, 2017, Notice of Entry of Order was filed by Respondents. *Id.* Appellant
7 filed a timely Notice of Appeal and Case Appeal Statement on April 6, 2017. A Corrected Case
8 Appeal Statement was filed on April 24, 2017. *Id.*

9
10 On April 27, 2017, this case was assigned to the Nevada Supreme Court Settlement Program.
11 On or about, May 1, 2017, Appellant's counsel was informed by Respondents' counsel that
12 Respondent Bartello had filed for bankruptcy on April 19, 2017. Respondents' counsel had been
13 unaware of his bankruptcy filing as Respondent Bartello had refused to communicate with his
14 attorneys since March 29, 2017. *See* Exhibit 2, 2:12-24. The Settlement Conference Judge was
15 informed of Respondent Bartello's bankruptcy and, thereafter, on May 22, 2017, removed this case
16 from the Settlement Program. On May 23, 2017, the following deadlines were set: 10 days docketing
17 statement, 15 days transcript request, and 90 days opening brief. On June 26, 2017, Respondents'
18 counsel moved to withdraw. *See* Exhibit 2. That motion is still pending before this Court.

19
20
21 On June 27, 2017, the Bankruptcy Trustee Kathleen Leavitt, assigned as trustee in
22 Respondent Bartello's bankruptcy, filed an Opposition To Confirmation of Plan #1 Combined With
23 Trustee's Recommendation For Dismissal. *See* Exhibit 3. ¹ On July 12, 2017, the Trustee's Motion
24

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1 Appellant requests the Court take judicial notice of Respondent's bankruptcy records filed in Federal Bankruptcy
27 Court, District of Nevada, case number 17-11982, as submitted herein. Judicial notice may be taken of facts
28 generally known or capable of verification from a reliable source. NRS 47.130(2)(b). Although the court is not
required to take judicial notice of records in another and different case, the rule not inflexible and appropriate under
certain circumstances. *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981) (citing *Giannopoulos v.*

1 was granted and the order entered. *See* Exhibit 4; Motion, fn 1.

2 **II. ANALYSIS**

3 Under Federal law, the filing of a bankruptcy petition invokes an automatic stay to include
4 “the commencement or continuation, including the issuance or employment of process, of a judicial,
5 administrative, or other action or proceeding against the debtor that was or could have been
6 commenced before the commencement of the case under this title, or to recover a claim against the
7 debtor that arose before the commencement of the case under this title.” 11 U.S. Code § 362 (a)(1).
8 As such, Appellant was unable to proceed with this appeal, including filing documents, after he
9 became aware of Respondent Bartello’s bankruptcy on or about May 1, 2017. Therefore, Appellant
10 has not filed his docketing statement or transcript request, and Plaintiff’s opening brief is due in 38
11 days (as of the date of this Motion).
12

13
14 Upon a showing of good cause the Court “may extend the time prescribed by these Rules or
15 by its order to perform any act, or may permit an act to be done after that time expires.” NRAP
16 26(b)(1)(A). This Court has held that the good cause necessary to overcome a procedural bar must
17 be some impediment external to the defense. *See e.g. Harris v. Warden*, 114 Nev. 956, 959 & 960 n.
18 4, 964 P.2d 785, 787 & n. 4 (1998) (quoting *Murray v. Carrier*, 477 U.S. 478, 488, 106 S.Ct. 2639
19 (1986) (quoting *Brown v. Allen*, 344 U.S. 443, 486, 73 S.Ct. 397 (1953))). Here, Appellant was not
20 able to comply with the deadlines set by the Court without violating the automatic stay issued by the
21 Federal bankruptcy court in Respondent Bartello’s bankruptcy. Thus, good cause exists for this Court
22 to recalculate the deadlines for the docketing statement, transcript request and opening brief from the
23 date it grants this Motion.
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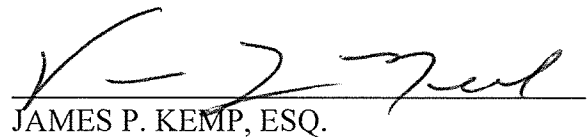
26 *Chachas*, 50 Nev. 269, 270, 257 P. 618, 618 (1927)). Under the circumstances detailed herein, taking judicial
27 notice of Respondent’s bankruptcy records would be entirely appropriate.
28

1 Under NRAP 27(b), this Court “may act on a motion for a procedural order—including a
2 motion under Rule 26(b)—at any time without awaiting a response.” Appellant requests this Court
3 grant his Motion without awaiting a response.
4

5 **III. CONCLUSION**

6 Based on the foregoing and upon good cause, Appellant respectfully requests the Court grant
7 his Motion without awaiting a response and extend the time in which Appellant has to submit his
8 docketing statement, transcript request and opening brief calculated from the date this Motion is
9 granted.
10

11 DATED this 14th day of July, 2017.

12 

13 JAMES P. KEMP, ESQ.

14 Nevada Bar No.: 6375

15 VICTORIA L. NEAL, ESQ.

16 Nevada Bar No.: 13382

17 KEMP & KEMP

18 7435 W. Azure Drive, Suite 110

19 Las Vegas, NV 89130

20 702-258-1183 ph/702-258-6983/fax

21 *Attorney for Appellant Sean Fitzgerald*
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of KEMP & KEMP ATTORNEYS AT LAW and on the date indicated below the above and foregoing document was submitted for service through the Court's electronic filing system to be served on the following:

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 Mobile Billboards and Vincent Bartello

DATED this 14th day of July, 2017.

/s/Victoria L. Neal
An Employee of Kemp & Kemp

EXHIBIT 1

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.)
Defendants.)

19
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 24th 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

EXHIBIT 2

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-1-17-00000000
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
24 **HURTIK LAW & ASSOCIATES**

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

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

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2

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

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

9
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.

1 8. Defendant's last known address is:

2
3 Vincent Bartello
4 Mobile Billboards, LLC
5 1640 Liege Drive
6 Henderson, NV 89012
7 vincebartello@gmail.com
8 702-236-2323

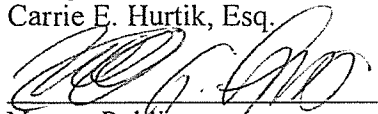
9 9. That in light of the above, I believe an order allowing HURTIK LAW &
10 ASSOCIATES to withdraw from representation in this matter is appropriate and that such withdrawal
11 complies with the applicable rules of professional conduct, Nevada Supreme Court Rules, and Local
12 rules of practice before the Eight Judicial District Court.

13 FURTHER YOUR AFFIANT SAYETH NAUGHT

14 DATED this 26th of June, 2017

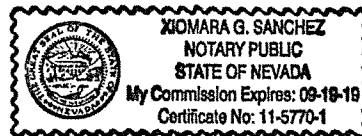
15 
16 Carrie E. Hurtik, Esq.

17 Subscribed and Sworn to before me
18 this 26th day of June, 2017 by
19 Carrie E. Hurtik, Esq.

20 

21 Notary Public

22 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
---	---

☒ **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

EXHIBIT 3

KATHLEEN A. LEAVITT
CHAPTER 13 BANKRUPTCY TRUSTEE
201 Las Vegas Blvd South, Suite 200
Las Vegas, NV 89101
kal13mail@las13.com
Tel: (702) 853-0700
Fax: (702) 853-0713

E-FILED

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:
VINCENT M BARTELLO

Debtor(s)

CASE NO: BKS-17-11982-ABL

CHAPTER 13

Hearing Date: July 06, 2017

Hearing Time: 1:30 pm

PETERS & ASSOCIATES LLP
Attorney for the Debtor

**TRUSTEE'S OPPOSITION TO CONFIRMATION OF PLAN
#1 COMBINED WITH TRUSTEE'S RECOMMENDATION FOR DISMISSAL**

Comes now KATHLEEN A. LEAVITT, Chapter 13 Bankruptcy Trustee, in the above captioned
bankruptcy case and hereby alleges as follows:

Statement of Facts

The Debtor(s) filed for Chapter 13 relief on 04/19/2017. The 341(a) Meeting of Creditors held on June
27, 2017 at 3:00 pm was continued to July 11, 2017 at 2:00 pm.

Argument

The Trustee objects to confirmation of the Chapter 13 Plan and recommends that this case be dismissed
pursuant to 11 U.S.C. 1307(c) for one or more of the following reasons:

- Debtor(s) is/are delinquent in plan payments. 11 U.S.C. §1307(c)(1)
- The Plan fails to provide for all of the Debtor(s)' Disposable Income pursuant to 11U.S.C. §1325(a)(3) and (b) based on: disposable income listed on schedule J is \$1493 greater than plan payment, plan pays 0% to general unsecured creditors.

- Trustee objects to the exemptions claimed as the exemptions are not allowed under the specified section or the amounts specified exceed the allowable exemption, specifically: N.R.S. 21.090(1)(i) as applied to two guns; N.R.S. 21.090(1)(g) as applied to "business checking account".
- Debtor(s) owe(s) pre-petition arrears and is/are delinquent with post-petition obligations to a Conduit Creditor. Debtor(s) Plan does not comply with Local Bankruptcy Rule 3015(h) which requires Debtor(s) to make all ongoing post-petition payments through the Chapter 13 Plan as Conduit Payments for the following property: Capital One (Ford F350)
- Pursuant to Local Bankruptcy Rule 3015(h), Debtor(s) must demonstrate that all secured payments are current as of the date of confirmation.
- Other: Debtor to provide EVBV Trust documents; Debtor to file statement as attachment to Schedule I showing gross receipts and ordinary and necessary business expenses and the total monthly net income.

Debtor(s) failed to cooperate with the Trustee as necessary to enable the Trustee to perform her duties pursuant to 11 U.S.C. §521(a)(3), §704 and/or §1302. This failure to cooperate has caused unreasonable delay that is prejudicial to creditors under 11 U.S.C. §1307(c)(1) as the Debtor(s) did not provide the following documents:

- All tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition. Specifically: 2013-2016
- Profit & loss statement(s) for the following period(s): October 2016 - March 2017 (broken down by month)
- Bank Statement(s) for the following period(s): Chase 7168: 11/19/16 -4/19/2017.
- Appraisal for property described as follows: 1994 GMC 2500; 2003 Yukon XL.
- Conduit Information Worksheet
- Conduit Authorization Form

Conclusion

WHEREFORE, for the foregoing reasons, the Trustee objects to confirmation and recommends that this case be dismissed pursuant to 11 U.S.C. §1307(c).

Dated: 6/27/17

/s/ Kathleen A. Leavitt
Kathleen A. Leavitt
Chapter 13 Trustee

1 KATHLEEN A. LEAVITT
2 CHAPTER 13 STANDING TRUSTEE
3 201 Las Vegas Blvd South
4 Suite 200
5 Las Vegas, NV 89101

6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 **IN RE:**

CASE NO: BKS-17-11982-ABL
Chapter 13

9 **VINCENT M BARTELLO**

Debtor (s)

10 **CERTIFICATE OF SERVICE**

11 1. On June 27, 2017, I served the following document(s):

12 **TRUSTEE'S OPPOSITION TO CONFIRMATION OF PLAN #1 COMBINED WITH**
13 **TRUSTEE'S RECOMMENDATION FOR DISMISSAL**

14 2. I served the above-named documents(s) by the following means to the persons
15 as listed below:

16 **United States mail, postage fully prepaid**

17 VINCENT M BARTELLO
18 1640 LIEGE DRIVE
19 HENDERSON, NV 89012

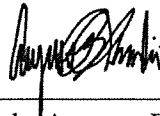
PETERS & ASSOCIATES LLP
6173 S RAINBOW BLVD
LAS VEGAS, NV 89118

20 **I declare under penalty of perjury that the foregoing is true and correct.**

21 Signed on: 6/27/17

/s/ Esther Carr
Employee of
Kathleen A. Leavitt
Chapter 13 Standing Trustee

EXHIBIT 4



Honorable August B. Landis
United States Bankruptcy Judge



Entered on Docket
July 12, 2017

KATHLEEN A. LEAVITT
CHAPTER 13 BANKRUPTCY TRUSTEE
201 Las Vegas Blvd South Suite 200
Las Vegas, NV 89101
(702) 853-0700
kal13mail@las13.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

Chapter 13
BKS-17-11982-ABL

VINCENT M BARTELLO

ORDER DENIAL OF CONFIRMATION AND
DISMISSING CASE

Debtor

Hearing Date: 07/06/2017
Hearing Time: 1:30 pm

The Trustee's Opposition to Confirmation of Plan Combined with Trustee's Recommendation of Dismissal filed in the above-captioned matter having on for hearing, the following parties have appeared:
[X] Trustee [] Debtor [] Attorney for Debtor [] Other , and said Motion having been considered by this Court, and good cause appearing therefore;

IT IS HEREBY ORDERED that confirmation of the Plan is denied and that the above-captioned proceedings under Chapter 13 be DISMISSED for the following reason(s):

- Delinquent Plan payments.
- Other Reason: Failure to conclude Section 341 (a) Meeting of Creditors

1
2 DATED: 07/07/2017

3 Submitted by:

4 /s/ KATHLEEN A. LEAVITT
5 Kathleen A. Leavitt
6 Chapter 13 Trustee
(mjb)

7 **LR 9021 CERTIFICATION:**

8 In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that:

9 ☐ The court has waived the requirement set forth in LR 9021 (b)(1).

10 ☒ No party appeared at the hearing or filed an objection to the motion.

11 ☐ I have delivered a copy of this proposed order to all counsel who appeared at the hearing,
12 and each has approved or disapproved the order, or failed to respond, as indicated below:

13 Approved: _____
14 Disapproved: _____
15 Failed to Respond: _____

16 ☐ I certify that this is a case under chapter 7 or 13, that I have served a copy of this order
17 with the motion pursuant to LR 9014(g), and that no party has objected to the form or content
18 of the order.

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NVB 1017-1 (Rev. 8/15)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:

VINCENT M. BARTELLO

BK-17-11982-abl
CHAPTER 13

Debtor(s)

NOTICE OF DISMISSAL;
NOTICE THAT ALL PENDING HEARINGS
ARE VACATED

On 7/12/17, the Bankruptcy Court for the District of Nevada entered an order dismissing this bankruptcy case. As a result, all pending hearings in the case, except any pending hearings regarding Appeals and Motions to Reconsider, are hereby vacated and will be taken off calendar without further notice. This notice does not affect the status of any adversary proceedings or any motions or matters that are pending in such adversary proceedings.

Dated: 7/12/17



Mary A. Schott
Clerk of Court