

1 **NOTC**

2 **CARRIE E. HURTIK, ESQ.**

3 Nevada Bar No. 7028

4 **JONATHON R. PATTERSON, ESQ.**

5 Nevada Bar No. 9644

6 **HURTIK LAW & ASSOCIATES**

7 6767 West Tropicana Ave. Suite #200

8 Las Vegas, NV 89103

9 (702) 966-5200 Telephone

10 (702) 966-5206 Facsimile

11 churtik@hurtiklaw.com

12 jpatterson@hurtiklaw.com

13 Attorneys for Defendants

14 **HILLSBORO ENTERPRISES INC.,**

15 **MOBILE BILLBOARDS, LLC;**

16 **EBVB HOLDINGS, LLC,**

17 **VINCE BARTELLO, and**

18 **ERICA BARTELLO**

Electronically Filed
Sep 27 2019 11:27 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 SEAN FITZGERALD,

14
15 Plaintiff,

16 vs.

Case No.: A-15-716570-C

Dept. No.: IX

NOTICE OF APPEAL

17 HILLSBORO ENTERPRISES INC., A Nevada
18 Corporation; and, MOBILE BILLBOARDS,
19 LLC, a Nevada Limited Liability Company;
20 EBVB HOLDINGS, LLC, a Nevada Limited
21 Liability Company; VINCE BARTELLO, an
22 individual; ERICA BARTELLO, an individual;
23 and DOES I through X; and ROE BUSINESS
24 ENTITIES I through X, inclusive,

25 Defendants.

23 **NOTICE OF APPEAL**

25 NOTICE IS HEREBY GIVEN that the above-named Defendants, HILLSBORO
26 ENTERPRISES INC., MOBILE BILLBOARDS LLC, EBVB HOLDINGS LLC, VINCE
27 BARTELLO, ERICA BARTELLO by and through their counsel or record, HURTIK LAW &
28

1 ASSOCIATES, hereby appeals to the Supreme Court of Nevada from the Judgment entered
2 against them on August 23, 2019, by the Eighth Judicial District Court in the above-captioned
3 action.

4 DATED this 20 day of September, 2019.

6 ~~HURTIK LAW & ASSOCIATES~~

7 
8 ~~CARRIE E. HURTIK, ESQ.~~

9 Nevada Bar No. 7028

10 ~~JONATHON R. PATTERSON, ESQ.~~

11 Nevada Bar No. 9644

12 ~~HURTIK LAW & ASSOCIATES~~

13 Attorneys for Defendants

14 HILLSBORO ENTERPRISES INC,

15 MOBILE BILLBOARDS, LLC;

16 EBVB HOLDINGS, LLC,

17 VINCE BARTELLO, and

18 ERICA BARTELLO

CERTIFICATE OF SERVICE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, NANCY RAMIREZ, declare:

I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6767 West Tropicana Ave. Suite #200, Las Vegas, NV 89103.

On the 20th day of September 2019, I served a true and correct copy of the foregoing document described as **NOTICE OF APPEAL** on the parties listed below:

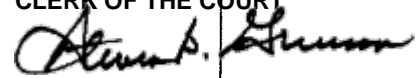
KEMP & KEMP
JAMES P. KEMP, ESQ.
VICTORIA L. NEAL, ESQ.
7435 W. Azure Drive, Suite 110
Las Vegas, NV 89130

☒ **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 ELECTRONIC SERVICE:** by transmitting via Wiznet, pursuant to EDCR 8.05, to the electronic mail address as last given by that person on any document which he/she has filed in the action and served on the party making the service. The copy of the document served by electronic service bears a notation of the date and time of transmission. A confirmation of the transmission containing the electronic mail address(es) 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 the 20th day of September 2019


NANCY RAMIREZ, an employee of
HURTIK LAW & ASSOCIATES



1 **STAT**
2 **CARRIE E. HURTIK, ESQ.**
3 Nevada Bar No. 7028
4 **JONATHON R. PATTERSON, ESQ.**
5 Nevada Bar No. 9644
6 **HURTIK LAW & ASSOCIATES**
7 6767 West Tropicana Ave. Suite #200
8 Las Vegas, NV 89103
9 (702) 966-5200 Telephone
10 (702) 966-5206 Facsimile
churtik@hurtiklaw.com
jpatterson@hurtiklaw.com
Attorneys for Defendants
HILLSBORO ENTERPRISES INC,
MOBILE BILLBOARDS, LLC;
EBVB HOLDINGS, LLC,
VINCE BARTELLO,
ERICA BARTELLO

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 SEAN FITZGERALD,

14 Plaintiff,

15 vs.

Case No.: A-15-716570-C

Dept. No.: IX

CASE APPEAL STATEMENT

16 HILLSBORO ENTERPRISES INC., A Nevada
17 Corporation; and, MOBILE BILLBOARDS,
18 LLC, a Nevada Limited Liability Company;
19 EBVB HOLDINGS, LLC, a Nevada Limited
20 Liability Company; VINCE BARTELLO, an individual;
and DOES I through X; and ROE BUSINESS
ENTITIES I through X, inclusive,

21 Defendants.

22 **CASE APPEAL STATEMENT**

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

24 HILLSBORO ENTERPRISES INC.,
25 MOBILE BILLBOARDS, LLC,
26 EBVB HOLDINGS, LLC,
VINCE BARTELLO, and
ERICA BARTELLO

27 ///

28 ///

1 **2. Identify the judge issuing the decision, judgement, or order appealed from:**

2 HON. Christina Silva

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

4 **Appellants:**

5
6 HILLSBORO ENTERPRISES INC.,
7 MOBILE BILLBOARDS, LLC,
8 EBVB HOLDINGS, LLC,
VINCE BARTELLO, and
ERICA BARTELLO

9 **Counsel for Appellants:**

10 CARRIE E. HURTIK, ESQ.
11 JONATHON R. PATTERSON, ESQ.
12 HURTIK LAW & ASSOCIATES
13 6767 West Tropicana Ave. Suite #200
Las Vegas, NV 89103

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

17 **Respondent:**

18 SEAN FITZGERALD

19 **Counsel for Respondent SEAN FITZGERALD:**

20
21 KEMP & KEMP
22 JAMES P. KEMP, ESQ.
23 VICTORIA L. NEAL, ESQ.
24 7435 W. Azure Drive, Suite 110
Las Vegas, NV 89130

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

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

3 **6. Indicate whether appellant was represented by appointed or retained counsel in the**
4 **district court:**

5
6 Appellant was represented by retained counsel in District Court.

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

8 Appellant is represented by appointed or retained counsel on appeal.

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

11
12 NOT APPLICABLE

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

15 COMPLAINT FILED ON April 6, 2015.

16
17 **10. Provide a brief description of the nature of the action and result in the district court,**
18 **including the type of judgement or order being appealed and the relief granted by the district**
19 **court:**

20 A. The subject matter of this case concerns issues surrounding wrongful termination.
21 Plaintiff claims that he suffered an industrial injury while working for Defendant Hillsboro
22 ENTERPRISES INC. Plaintiff further alleges that Defendant HILLSBORO ENTERPRISES INC.
23 did not possess the required workers compensation insurance so, he was paid by Defendant
24 MOBILE BILLBOARDS LLC. in the interim. Plaintiff alleges that the Defendants terminated his
25 employment because a variety of pain killers were found in Plaintiff's possession, which was false.
26
27
28

1 B. On April 6, 2015, the Plaintiff's filed the instant action alleging Two (2) claims of
2 action against the Defendants.

3 C. On August 23, 2019, the court entered final Judgement upon Jury Verdict in favor of
4 Plaintiff and Plaintiff was awarded a total of Fifty-Nine Thousand, One Hundred Eleven Dollars
5 and Sixteen Cents (\$59,111.16) in repairs.

6 D. This appeal is based on the lack of proof at trial regarding Plaintiff's damages, certain
7 objection overruled by the court, and responses to questions presented to the Jury.
8

9
10 **11. Indicate whether the case has previously been the subject of an appeal to or original**
11 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket**
12 **number of the prior proceeding:**

13 This case has not previously been the subject of an appeal to or original writ proceeding in
14 the Supreme Court.
15

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

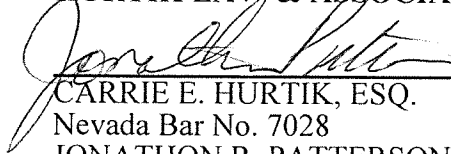
17 This case does not involve child custody or visitation.

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

19 This case involves the possibility of settlement.

20 DATED this 20 day of September, 2019.
21

22 **HURTIK LAW & ASSOCIATES**

23 

24 CARRIE E. HURTIK, ESQ.

25 Nevada Bar No. 7028

26 JONATHON R. PATTERSON, ESQ.

27 Nevada Bar No. 9644

28 HURTIK LAW & ASSOCIATES

Attorneys for Defendants

HILLSBORO ENTERPRISES INC,

MOBILE BILLBOARDS, LLC; EBVB

HOLDINGS, LLC, VINCE BARTELLO,

ERICA BARTELLO

CERTIFICATE OF SERVICE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, NANCY RAMIREZ, declare:

I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6767 West Tropicana Ave. Suite #200, Las Vegas, NV 89103.

On the 20th day of September 2019, I served a true and correct copy of the foregoing document described as CASE APPEAL STATEMENT on the parties listed below:

KEMP & KEMP
JAMES P. KEMP, ESQ.
VICTORIA L. NEAL, ESQ.
7435 W. Azure Drive, Suite 110
Las Vegas, NV 89130

☒ **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 ELECTRONIC SERVICE:** by transmitting via Wiznet, pursuant to EDCR 8.05, to the electronic mail address as last given by that person on any document which he/she has filed in the action and served on the party making the service. The copy of the document served by electronic service bears a notation of the date and time of transmission. A confirmation of the transmission containing the electronic mail address(es) 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 the 20th day of September, 2019


NANCY RAMIREZ, an employee of
HURTIK LAW & ASSOCIATES

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-15-716570-C**

Sean Fitzgerald, Plaintiff(s)
 vs.
 Hillsboro Enterprises Inc, Defendant(s)

§
 §
 §
 §
 §

Location: **Department 9**
 Judicial Officer: **Silva, Cristina D.**
 Filed on: **04/06/2015**
 Case Number History:
 Cross-Reference Case Number: **A716570**

CASE INFORMATION

Statistical Closures
 07/29/2019 Verdict Reached

Case Type: **Employment Tort**

Case Status: **07/29/2019 Closed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-15-716570-C
 Court Department 9
 Date Assigned 04/29/2019
 Judicial Officer Silva, Cristina D.

PARTY INFORMATION

| | | <i>Lead Attorneys</i> |
|-------------------------------|----------------------------------|--|
| Plaintiff | Fitzgerald, Sean | Kemp, James P. <i>Retained</i> 7022581183(W) |
| Defendant | Bartello, Erica | Van, Michael C. <i>Retained</i> 702-478-7770(W) |
| | Bartello, Vince | Van, Michael C. <i>Retained</i> 702-478-7770(W) |
| | EBVB Holdings LLC | Van, Michael C. <i>Retained</i> 702-478-7770(W) |
| | Hillsboro Enterprises Inc | Van, Michael C. <i>Retained</i> 702-478-7770(W) |
| | Mobile Billboards LLC | Van, Michael C. <i>Retained</i> 702-478-7770(W) |
| Subpoena'd (Non) Party | Shelstand, Rachel L | Hurtik, Carrie E. <i>Retained</i> 702-966-5200(W) |




DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

04/06/2015  Complaint With Jury Demand
 Filed By: Plaintiff Fitzgerald, Sean
Complaint

04/06/2015 Case Opened

CASE SUMMARY

CASE NO. A-15-716570-C

| | |
|------------|--|
| 04/10/2015 |  Initial Appearance Fee Disclosure Filed By: Plaintiff Fitzgerald, Sean <i>Initial Fee Disclosure</i> |
| 06/17/2015 |  Summons Filed by: Plaintiff Fitzgerald, Sean <i>Summons - Hillsboro Enterprises Inc</i> |
| 06/17/2015 |  Summons Filed by: Plaintiff Fitzgerald, Sean <i>Summons - Erica Bartello</i> |
| 06/17/2015 |  Summons Filed by: Plaintiff Fitzgerald, Sean <i>Summons - Vince Bartello</i> |
| 06/17/2015 |  Summons Filed by: Plaintiff Fitzgerald, Sean <i>Summons - EBVB Holdings LLC</i> |
| 06/17/2015 |  Summons Filed by: Plaintiff Fitzgerald, Sean <i>Summons - Mobile Billboards LLC</i> |
| 07/07/2015 |  Default Filed By: Plaintiff Fitzgerald, Sean <i>Default - EBVB Holdings LLC</i> |
| 07/07/2015 |  Default Filed By: Plaintiff Fitzgerald, Sean <i>Default - Erica Bartello</i> |
| 07/07/2015 |  Default Filed By: Plaintiff Fitzgerald, Sean <i>Default - Hillsboro Enterprises Inc</i> |
| 07/07/2015 |  Default Filed By: Plaintiff Fitzgerald, Sean <i>Default - Mobile Billboards LLC</i> |
| 07/07/2015 |  Default Filed By: Plaintiff Fitzgerald, Sean <i>Default - Vince Bartello</i> |
| 07/24/2015 |  Answer Filed By: Defendant Bartello, Erica <i>Answer</i> |
| 07/24/2015 |  Initial Appearance Fee Disclosure Filed By: Defendant Hillsboro Enterprises Inc <i>Initial appearance fee disclosure</i> |
| 07/27/2015 | |















CASE SUMMARY

CASE NO. A-15-716570-C

| | |
|------------|--|
| |  Motion to Set Aside Filed By: Defendant Hillsboro Enterprises Inc <i>Motion to Set Aside Default</i> |
| 08/06/2015 |  Motion to Strike Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Motion to Strike Defendant's Answer</i> |
| 08/06/2015 |  Certificate of Electronic Service Filed By: Plaintiff Fitzgerald, Sean <i>Certificate of E-Service</i> |
| 08/10/2015 |  Opposition to Motion Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Opposition to Defendants' Motion to Set Aside Default</i> |
| 08/18/2015 |  Response Filed by: Defendant Hillsboro Enterprises Inc <i>Defendants' Response to Plaintiff's Motion to Strike Answer</i> |
| 08/24/2015 |  Reply Filed by: Defendant Hillsboro Enterprises Inc <i>Defendants' Reply to Plaintiff's Response to Defendants' Motion to Set Aside Default</i> |
| 11/17/2015 |  Case Conference Report Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Case Conference Report</i> |
| 11/19/2015 |  Case Conference Report Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Amended Case Conference Report</i> |
| 11/25/2015 |  Joinder to Case Conference Report Filed By: Defendant Hillsboro Enterprises Inc <i>Joinder to Plaintiff's November 19, 2015 Case Conference Report</i> |
| 12/21/2015 |  Motion to Withdraw As Counsel Filed By: Defendant Hillsboro Enterprises Inc <i>Motion to Withdraw as Counsel of Record</i> |
| 01/15/2016 |  Scheduling Order <i>Scheduling Order</i> |
| 01/22/2016 |  Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i> |
| 03/16/2016 |  Order to Withdraw as Attorney of Record <i>Order</i> |
| 04/05/2016 |  Notice of Appearance Party: Defendant Hillsboro Enterprises Inc <i>Notice of Appearance</i> |

CASE SUMMARY

CASE NO. A-15-716570-C

| | |
|------------|---|
| 05/03/2016 |  Stipulation and Order to Extend Discovery Deadlines Filed By: Defendant Hillsboro Enterprises Inc <i>Stipulation and Order to Extend Discovery Deadlines (First Request)</i> |
| 05/04/2016 |  Notice of Entry of Stipulation and Order Filed By: Defendant Hillsboro Enterprises Inc <i>Notice of Entry of Stipulation and Order</i> |
| 05/16/2016 |  Offer of Judgment Filed By: Defendant Hillsboro Enterprises Inc <i>Offer of Judgment</i> |
| 06/24/2016 |  Motion for Withdrawal Filed By: Defendant Hillsboro Enterprises Inc <i>Shumway Van's Motion To Withdraw As Attorney Of Record For: Hillsboro Enterprises, Inc.; Mobile Billboards, LLC; EBVB Holdings, LLC; Vince Bartello; And, Erica Bartello</i> |
| 06/28/2016 |  Notice of Entry of Order Filed By: Plaintiff Fitzgerald, Sean <i>Notice of Entry of Order</i> |
| 06/28/2016 |  Order Filed By: Defendant Hillsboro Enterprises Inc <i>ORDER</i> |
| 07/01/2016 |  Motion to Quash Filed By: Subpoena'd (Non) Party Shelstand, Rachel L <i>Non-Party, Rachel L. Shelstad's Motion to Quash Deposition Subpoena On An Order Shortening Time Pursuant to EDCR 2.26</i> |
| 07/01/2016 |  Certificate of Service Filed by: Subpoena'd (Non) Party Shelstand, Rachel L <i>Certificate of Service</i> |
| 07/08/2016 |  Opposition to Motion Filed By: Plaintiff Fitzgerald, Sean <i>Opposition To Non-Party Rachel L. Shelstad's Motion To Quash Deposition Subpoena On An Order Shortening Time Pursuant to EDCR 2.26</i> |
| 07/11/2016 |  Order Shortening Time Filed By: Subpoena'd (Non) Party Shelstand, Rachel L <i>Order Shortening Time</i> |
| 07/18/2016 |  Notice of Entry Filed By: Subpoena'd (Non) Party Shelstand, Rachel L <i>Notice of Entry of Order</i> |
| 08/16/2016 |  Notice of Appearance |
| 10/13/2016 |  Pre-Trial Disclosure Party: Plaintiff Fitzgerald, Sean <i>Plaintiff Sean Fitzgerald's Pre-Trial Disclosure of Document and Witness Lists</i> |
| 10/17/2016 |  Request |

CASE SUMMARY

CASE NO. A-15-716570-C

| | |
|------------|---|
| | <p>Filed by: Defendant Hillsboro Enterprises Inc <i>Defendants Request for all Prior Pleadings and Discovery</i></p> |
| 10/17/2016 | <p> Pre-Trial Disclosure Party: Defendant Hillsboro Enterprises Inc <i>Defendants Pre-Trial Disclosures Pursuant to N.R.C.P 16.1 (a)(3)</i></p> |
| 10/20/2016 | <p> Motion Filed By: Defendant Hillsboro Enterprises Inc <i>Motion to Extend Discovery, Continue Trial and Extend Dispositive Motion Deadlines on an Order Shortening Time</i></p> |
| 10/21/2016 | <p> Opposition to Motion Filed By: Defendant Hillsboro Enterprises Inc <i>Plaintiff's Opposition in Part to Defendant's Motion to Extend Discovery Continue Trial and Extend Dispositive Motion Deadline on an Order Shortening Time</i></p> |
| 11/01/2016 | <p> Amended Order Setting Jury Trial <i>Amended Order Setting Civil Jury Trial</i></p> |
| 01/30/2017 | <p> Order Setting Civil Jury Trial <i>Amended Order Setting Civil Jury Trial</i></p> |
| 02/07/2017 | <p> Order <i>Order Setting Settlement Conference</i></p> |
| 05/16/2017 | <p> Notice of Bankruptcy <i>Notice of Bankruptcy Proceedings</i></p> |
| 06/26/2017 | <p> Motion for Withdrawal Filed By: Defendant Mobile Billboards LLC; Defendant Bartello, Vince <i>Motion to Withdraw as Attorney of Record</i></p> |
| 07/05/2017 | <p> Errata Filed By: Defendant Mobile Billboards LLC <i>Errata to Motion to Withdraw as Attorney of Record</i></p> |
| 09/21/2017 | <p> Order Granting Motion Filed By: Defendant Bartello, Vince <i>Order Granting Motion to Withdraw as Attorney of Record</i></p> |
| 09/25/2017 | <p> Notice of Entry of Order Filed By: Defendant Bartello, Vince <i>Notice of Entry of Order Granting Motion to Withdraw as Attorney of Record</i></p> |
| 04/10/2018 | <p> Supplemental Disclosures Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Second Supplemental Initial Disclosures [New or Amended Information in Bold]</i></p> |
| 07/16/2018 | <p> Motion Filed By: Plaintiff Fitzgerald, Sean <i>Plaintiff's Motion For Case Conference Re: Trial Setting</i></p> |
| 08/14/2018 | <p> Notice of Hearing</p> |

CASE SUMMARY

CASE NO. A-15-716570-C

Notice of Hearing

03/25/2019



Pre-trial Memorandum

Filed by: Plaintiff Fitzgerald, Sean

PLAINTIFF S PRE-TRIAL MEMORANDUM

04/03/2019



Notice of Rescheduling of Hearing

Notice of Rescheduling Hearing

04/29/2019

Case Reassigned to Department 9

Judicial Reassignment to Department 9 - Judge Cristina Silva

07/03/2019



Notice of Appearance

Party: Defendant Hillsboro Enterprises Inc

Notice of Appearance

07/08/2019



Proposed Voir Dire Questions

Filed By: Plaintiff Fitzgerald, Sean

Proposed Voir Dire Questions

07/08/2019



Jury Instructions

Party: Plaintiff Fitzgerald, Sean

PLAINTIFF S PROPOSED JURY INSTRUCTIONS

07/08/2019



Special Jury Verdict

Proposed Special Jury Verdict Form

07/11/2019



Proposed Voir Dire Questions

Proposed Voir Dire Questions

07/11/2019



Instructions to the Jury

Purposed Jury Instructions

07/11/2019



Pre-trial Memorandum

Pre-Trial Memorandum

07/14/2019



Jury Instructions

Amended Proposed Jury Instructions

07/15/2019



Amended Jury List

07/18/2019



Instructions to the Jury

07/19/2019



Special Verdict Form

07/29/2019



Order to Statistically Close Case

Civil Order to Statistically Close Case

08/23/2019



Judgment Upon Jury Verdict

Filed By: Plaintiff Fitzgerald, Sean

Judgment Upon Jury Verdict

CASE SUMMARY

CASE NO. A-15-716570-C

08/23/2019



Notice of Entry of Order

Filed By: Plaintiff Fitzgerald, Sean

Notice of Entry of Order and Final Judgment

08/23/2019



Memorandum of Costs and Disbursements

Filed By: Plaintiff Fitzgerald, Sean

Verified Memorandum of Costs and Disbursements

09/20/2019



Case Appeal Statement

Filed By: Defendant Hillsboro Enterprises Inc

Case Appeal Statement

09/20/2019



Notice of Appeal

Filed By: Defendant Hillsboro Enterprises Inc

Notice of Appeal

DISPOSITIONS

08/23/2019

Judgment Upon the Verdict (Judicial Officer: Silva, Cristina D.)

Debtors: Hillsboro Enterprises Inc (Defendant), Mobile Billboards LLC (Defendant), Vince Bartello (Defendant)

Creditors: Sean Fitzgerald (Plaintiff)

Judgment: 08/23/2019, Docketed: 08/23/2019

Total Judgment: 59,111.16

HEARINGS

09/01/2015



Motion to Set Aside (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Defendants' Motion to Set Aside Default

Motion Denied;

Journal Entry Details:

Following statements and arguments by counsel, COURT stated its findings and ORDERED, Answer to Strike DENIED.;

09/14/2015

CANCELED Motion to Strike (3:00 AM) (Judicial Officer: Smith, Douglas E.)

Vacated

Plaintiff's Motion to Strike Defendant's Answer

01/25/2016



Motion to Withdraw as Counsel (3:00 AM) (Judicial Officer: Smith, Douglas E.)

Allen Lichtenstein ESQ's Motion to Withdraw as Counsel of Record

Motion Granted;

Journal Entry Details:

After reviewing the record, the Court ordered counsel's motion to withdraw GRANTED without opposition. CLERK'S NOTE: The above Minute Order has been distributed via e-mail to: Allen Lichtenstein, Esq. (allaw@lvcoxml.com) and Victoria L. Neal, Esq. (vneal@kemp-attorneys.com).;

06/28/2016



Motion to Withdraw as Counsel (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Shumway Van's Motion To Withdraw As Attorney Of Record For: Hillsboro Enterprises, Inc.; Mobile Billboards, LLC; EBVB Holdings, LLC; Vince Bartello; And, Erica Bartello

Matter Resolved;

Setting slip to ADD a Motion to Quash Hearing was sent on 07/05/16

Journal Entry Details:

The Court noted Michael Van moved to withdraw his Motion; no opposition. Get with Michael Van's office and inform them they are representing themselves now. Order submitted and signed in open court. The Court directed Pltf to give Notice to Def't's to have new counsel here next date. 7-12-16 8:00 AM CONFIRMATION OF COUNSEL (DEPT. VIII);

07/12/2016



Motion to Quash (8:00 AM) (Judicial Officer: Smith, Douglas E.)

CASE SUMMARY

CASE NO. A-15-716570-C

Non-Party Rachel L. Shelstad's Motion to Quash Deposition Subpoena on an Order Shortening Time Pursuant to EDCR 2.26

MINUTES

Denied;

Journal Entry Details:

Arguments regarding the merits of the motion by counsel. Ms. Hurtik argued the deposition would not result in any additional information not already in known. They had the inventory, the matter was related to an employee, the police and Mr. Bartello were present. Ms. Neal argued the deposition regarding what had occurred was a relevant material fact. The question was whether Mr. Fitzgerald was trespassed permanently off the property. If Mr. Fitzgerald was trespassed off the property, then he could not return to work, and was denied access to retrieve his tools. Additionally, the conversation between Mr. Bartello, Ms. Shelstad, and the police was not protected being there was a third party involved, therefore that did not fall under attorney-client privilege. Moreover, what Ms. Shelstad observed was acceptable, and important as to what Mr. Bartello told the police. Ms. Hurtik argued that the Plaintiff's had Mr. Bartello's testimony, and the police report, therefore, there was nothing additional to add. COURT stated FINDINGS and ORDERED motion DENIED IN PART; the deposition may proceed however it will be limited to what Rachel L. Shelstad saw and heard, and no communication, or attempted inquiry as to any advice or communication to the law firm about advice. Court further noted, if there was a problem during the deposition the Court may be contacted. COURT FURTHER ORDERED; Plaintiff to prepare the order. Ms. Hurtik advised Mr. Bartello did not have an attorney, therefore, until that time, the deposition should not go forward. Ms. Neal stated discovery had closed, and being Mr. Bartello did not have counsel, it was requested to strike the corporate defendant's answer. Court noted the matter today was only about the deposition. Mr. Ales advised Mr. Bartello could not be present, but had intention of retaining counsel. Moreover, there was a status check set regarding confirmation of counsel. COURT ADDITIONALLY ORDERED, hearing regarding Confirmation of Counsel SET. 7/26/16 8:00 AM CONFIRMATION OF COUNSEL (BARTELLO);

07/26/2016



Hearing (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Confirmation of Counsel for Vince Bartello

Matter Heard;

Journal Entry Details:

Colloquy regarding confirmation of counsel and trial date. Court VACATED trial date and SET matter for status check. 8/16/16 8:00 AM STATUS CHECK: TRIAL SETTING//CONFIRMATION OF COUNSEL;

08/16/2016



Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Status Check: Confirmation of Counsel/Trial Setting

Counsel Confirmed;

Journal Entry Details:

Rachel Sloane, Esq., appearing on behalf of Defendants. Notice of Appearance FILED IN OPEN COURT. Colloquy regarding the status of the case. Upon Court's inquiry, Ms. Neal advised depositions were scheduled for September 19th and requested trial date to be set. COURT ORDERED, matter SET for trial. 11/1/16 8:00 AM CALENDAR CALL 11/14/16 9:30 AM JURY TRIAL CLERK'S NOTE: Court Clerk gave out incorrect date for Calendar Call in court. The above minute order has been distributed to: Victoria Neal, Esq. (702-258-6983) and Rachel Sloane, Esq. (702-966-5200) on 08/17/16. ;

08/23/2016

CANCELED Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Vacated

09/06/2016

CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.)

Vacated

10/24/2016



Motion to Extend Discovery (3:00 AM) (Judicial Officer: Smith, Douglas E.)

Motion to Extend Discovery, Continue Trial, and Extend Dispositive Motion Deadlines on an Order Shortening Time

Granted in Part; Motion to Extend Discovery, Continue Trial, and Extend Dispositive Motion Deadlines on an Order Shortening Time

Journal Entry Details:

The Defendants' Motion to Extend Discovery, Continue Trial, and Extend Dispositive Motion


CASE SUMMARY

CASE NO. A-15-716570-C


Deadlines on an Order Shortening Time came before this Court on the October 24, 2016, Chambers Calendar. Having reviewed the Motion and Opposition, COURT ORDERED, Motion GRANTED, in part, and DENIED, in part. The Court GRANTS the Motion to Continue Trial and Extend Dispositive Motion Deadlines but DENIES the Motion to Extend Discovery. This Court's Judicial Executive Assistant (JEA) shall set a new trial date. Carrie Hurtik, Esq., to prepare the Order. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Carrie Hurtik, Esq., (Hurtik Law & Associates).;


11/01/2016 **CANCELED Calendar Call** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Law Clerk
Calendar Call


11/14/2016 **CANCELED Jury Trial** (9:30 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Law Clerk

01/24/2017  **Calendar Call** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Calendar Call
Matter Heard;
Journal Entry Details:
This is the time set for Calendar Call. Colloquy regarding case status; Discovery is complete. Upon Court's inquiry as to whether or not counsel were ready for trial, Ms. Hurtik advised that counsel have conflicting trial schedules. Mr. Kemp advised that counsel just participated in their Rule 2.67 meeting and would request a mandatory settlement conference; he requested that the trial date be continued. COURT ORDERED, matter REFERRED for mandatory settlement conference. COURT FURTHER ORDERED, trial date VACATED and RESET. 08/22/17 8:00 AM CALENDAR CALL 09/05/17 9:30 AM JURY TRIAL ;

02/06/2017 **CANCELED Jury Trial** (9:30 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge

05/23/2017  **Settlement Conference** (1:30 PM)
Not Settled;
Journal Entry Details:
Matter not settled.;

08/07/2017  **Motion to Withdraw as Counsel** (3:00 AM) (Judicial Officer: Smith, Douglas E.)
Carrie E. Hurtik Esq.'s Motion to Withdraw as Attorney of Record
Granted; Carrie E. Hurtik, Esq.'s Motion to Withdraw as Attorney of Record
Journal Entry Details:
Carrie E. Hurtik, Esq.'s Motion to Withdraw as Attorney of Record came before the Court on the August 7, 2017, Chamber Calendar. Having reviewed the Motion and there being no Opposition thereto, COURT ORDERED, the Motion is GRANTED. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Carrie E. Hurtik, Esq., (Hurtik Law & Associates).;

08/22/2017  **Calendar Call** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Off Calendar;
Journal Entry Details:
This is the time set for Calendar Call; Mr. Neal advised that Carrie Hurtik, counsel for Defendants Vincent Bartello and Mobile Billboards, LLC, has moved to withdraw. Court noted the Motion was GRANTED. Colloquy regarding trial; Mr. Neal believes the trial will need to be continued; he is not sure who Defendants new counsel will be. Additionally, the parties were trying to do a Settlement Conference and would still like to do one but once the Defendants filed bankruptcy, everything was placed on hold. COURT ORDERED, trial date VACATED; matter OFF CALENDAR, counsel to place this matter back on calendar when they are ready to move forward. ;

09/05/2017 **CANCELED Jury Trial** (9:30 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge

08/28/2018

CASE SUMMARY

CASE NO. A-15-716570-C



Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Status Check: Trial Setting

Trial Date Set; Trial Setting

Journal Entry Details:

This is the time set for the Status Check on a Trial Setting. Upon Court's inquiry, Ms. Neal advised that the trial will take approximately three (3) days; she requested a trial setting in April or May 2019. Defendant, Vince Bartello, who is present today without counsel, stated that he is in the process of hiring a new attorney. The Motion to Withdraw of Defendant's prior counsel was previously granted. COURT ORDERED, matter set for trial. Additionally, Ms. Neal advised that the parties had previously scheduled a settlement conference but the case stalled and the conference did not go forward; she inquired as to whether the Settlement Conference could be rescheduled, she believes the parties may be able to resolve this matter. COURT ORDERED, matter REFERRED for a settlement conference. 04/09/19 8:00 AM CALENDAR CALL 04/22/19 9:30 AM JURY TRIAL ;

04/09/2019



Calendar Call (9:00 AM) (Judicial Officer: Cherry, Michael A.)

Matter Heard;

Journal Entry Details:

This the time set for the Calendar Call. Upon Court's inquiry, Mr. Kemp announced ready for Plaintiff. Mr. Patterson advised that Hurtik Law & Associates previously represented Defendants Bartello and Hillsboro Enterprises but withdrew. Subsequently, they were brought back into the case but cannot announce ready at this time because they have some major scheduling conflicts in April; he requested that the trial be CONTINUED to the next stack. Colloquy regarding scheduling issues; Court represented that it could give counsel a FIRM trial date in July if they so desired. Mr. Kemp requested a firm trial setting on July 15, 2019; Mr. Patterson CONCURRED. COURT ORDERED, trial date VACATED and RESET. The trial is expected to take three (3) days. 06/18/19 8:00 AM CALENDAR CALL 07/15/19 9:30 AM JURY TRIAL - FIRM ;

04/22/2019

CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.)

Vacated - per Judge

06/18/2019



Calendar Call (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

This is the time set for Calendar Call. Court noted that this matter is set for trial on July 15, 2019; it is a FIRM setting. Mr. Kemp announced ready for the Plaintiff. Mr. Patterson advised that he has had no contact with their client for several weeks; he had withdrawn once before and thought that issue was resolved. In any event, Mr. Patterson advised the he is going to Withdraw as Counsel on an Order Shortening Time as soon as possible; colloquy. COURT ORDERED, trial date VACATED; matter set for status check. The presence of counsel and the parties is MANDATORY as the Court would like to address any issues and see if there is a remedy so this case may move forward. 06/25/19 8:30 AM STATUS CHECK: RESET TRIAL DATE/PARTIES MUST APPEAR ;

06/25/2019



Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Status Check: Reset Trial Date/Parties Must be Present

Matter Heard; Reset Trial Date/Parties Must be Present

Journal Entry Details:

This is the time set for the Status Check: Reset Trial Date/Parties Must Be Present. Court noted that this matter was set as a result of the June 18, 2019, Calendar Call. At that time Mr. Kemp and Jonathan Patterson, Esq., were present but Mr. Patterson indicated that he was going to Withdraw as Counsel of Record so the Court requested that counsel and the parties be present this morning. Ms. Lay advised that Hurtik Law & Associates was recently retained on this matter and they are ready for trial. Although Carrie Hurtik, Esq., will be trying the matter, she is not available at the end of July and is inquiring as to whether opposing counsel would be willing to continue the trial to either August or September. Mr. Kemp advised that July 15, 2019, was a FIRM setting. At the Calendar Call, counsel advised that Ms. Hurtik was no longer representing the Defendants. This has been an ongoing repeated process where Ms. Hurtik represents the Defendant, then they withdraw. In addition to the individual Defendants, counsel also represents a corporation and some business entities. This matter was set by Justice Cherry on a firm setting back in April 2019 and Plaintiff is ready for trial. If Ms. Lay is

CASE SUMMARY

CASE NO. A-15-716570-C

now representing the Defendants, he would request that a Notice of Appearance be filed as there has never been an official appearance filed with the court. Colloquy regarding scheduling issues; Ms. Hurtik has a potential conflict. Court noted that, under the circumstances, the Court is inclined to proceed with trial on July 15, 2019. Therefore, COURT ORDERED, the trial date STANDS; counsel should file a Notice of Appearance as soon as possible. ;

07/15/2019



Jury Trial - FIRM (9:30 AM) (Judicial Officer: Silva, Cristina D.)

07/15/2019-07/19/2019

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

9:00 a.m. Jury Trial resumed. The Jury returned from their recess and retired to deliberate. While deliberating, the Jury presented three (3) questions to the Court. The Court conferenced with counsel on the record to formulate answers to the Jury's questions. The Questions and Answers were marked for identification as Court's Exhibits 8, 9, and 10 and ADMITTED. At the hour of 1:50 p.m., the Jury returned with a verdict as recorded herein. Jury polled. Court thanked and excused the Jury. 1:55 p.m. Court ADJOURNED. ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

9:08 p.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: the presence of both the Defendants is WAIVED. During the testimony of Mr. Bartello, he mentioned that there was a video of the conversation between him and the Plaintiff when the Plaintiff had come to the worksite to collect his tools; Mr. Bartello testified that the video had been given to his attorney but she does not have it, it was not given to Plaintiff's counsel, and it was not produced for trial. Court noted that there was no discovery motion pending before the Court or a motion to compel prior to trial and the Court believes there was testimony that the video was sent to his attorney. Mr. Kemp orally requested that an adverse inference instruction be given or that Defendants' Answer to the Complaint be stricken in its entirety for the reasons stated on the record; arguments by counsel. Court advised that it was not inclined to strike the Defendants' Answer but would take the request for an adverse inference under submission. Ms. Hurtik then orally requested an adverse inference with the regard to the trespass sign; additional argument. Court advised it would take this matter under submission as well. After hearing further argument by counsel on these issues, the COURT ORDERED, the Complaint will not be stricken and an adverse instruction shall be given with regard to the video issue. The parties are free to submit a proposed Jury Instruction on this issue to the Court for consideration. Jury Instructions and Verdict form settled on the record. JURY PRESENT: Exclusionary Rule INVOKED; Testimony and exhibits presented (see worksheets). Court instructed the Jury; Closing arguments by Mr. Kemp and Ms. Hurtik; rebuttal by Mr. Kemp. Court thanked and excused the alternates. 5:16 p.m. ADJOURNED: COURT ORDERED, Jury Trial CONTINUED. CONTINUED TO: 07/19/19 9:00 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

12:45 p.m. Jury Trial resumed. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets). 5:36 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED. CONTINUED TO: 07/18/19 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

CASE SUMMARY**CASE No. A-15-716570-C**

9:45 a.m. Jury Trial resumed. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets). Plaintiff's Exhibits 3 through 40, with the exception of Exhibit 33, were ADMITTED by stipulation of the parties. 5:03 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED. CONTINUED TO: 07/17/19 9:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

10:37 a.m. Jury Trial commenced. Court and counsel begin Voir Dire examination of the prospective Jurors. Jury and two (2) alternates selected and sworn. Opening statements by Mr. Kemp and Ms. Hurtik. 4:03 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED. CONTINUED TO: 07/16/19 9:30 AM ;

DATE

FINANCIAL INFORMATION

Defendant Bartello, Erica

Total Charges

223.00

Total Payments and Credits

223.00

Balance Due as of 9/24/2019

0.00**Defendant** Bartello, Vince

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 9/24/2019

0.00**Defendant** EBVB Holdings LLC

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 9/24/2019

0.00**Defendant** Hillsboro Enterprises Inc

Total Charges

54.00

Total Payments and Credits

54.00

Balance Due as of 9/24/2019

0.00**Defendant** Mobile Billboards LLC

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 9/24/2019

0.00**Plaintiff** Fitzgerald, Sean

Total Charges

270.00

Total Payments and Credits

270.00

Balance Due as of 9/24/2019

0.00

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

A-15-716570-C

Case No. _____

VIII

(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

| | |
|--|--|
| Plaintiff(s) (name/address/phone): <div style="text-align: center;">Sean Fitzgerald</div> <div style="text-align: center;">% Kemp & Kemp, Attorneys at Law</div> <div style="text-align: center;">7435 W. Azure Drive, Suite 110</div> <div style="text-align: center;">Las Vegas, NV 89130</div> | Defendant(s) (name/address/phone): <div style="text-align: center;">HILLSBORO ENTERPRISES INC.,</div> <div style="text-align: center;">MOBILE BILLBOARDS, LLC, EBVB HOLDINGS, LLC,</div> <div style="text-align: center;">VINCE BARTELLO, ERICA BARTELLO,</div> |
| Attorney (name/address/phone): <div style="text-align: center;">James P. Kemp, Esq.</div> <div style="text-align: center;">7435 W. Azure Drive, Suite 110</div> <div style="text-align: center;">Las Vegas, NV 89130</div> <div style="text-align: center;">702-258-1183</div> | Attorney (name/address/phone): |

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

| | | |
|---|--|--|
| Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property | Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice | Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input checked="" type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort |
| Probate Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500 | Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract | Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal |
| Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ | | Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters |

Business Court filings should be filed using the Business Court civil coversheet.

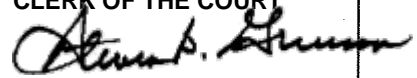
4/6/15

Date

/s/ James P. Kemp, Esq.

Signature of initiating party or representative

See other side for family-related case filings.



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
702-258-1183 ph./702-258-6983 fax
jp@kemp-attorneys.com
vneal@kemp-attorneys.com

*Attorneys for Plaintiff
Sean Fitzgerald*

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

| | | |
|---|---|---------------------------|
| SEAN FITZGERALD, |) | |
| |) | Case No.: A-15-716570-C |
| Plaintiff, |) | |
| |) | Dept. No. IX |
| vs. |) | |
| |) | Trial Date: July 15, 2019 |
| HILLSBORO ENTERPRISES INC., a Nevada |) | |
| Corporation; and, MOBILE BILLBOARDS, |) | |
| LLC, a Nevada Limited Liability Company; |) | |
| EBVB HOLDINGS, LLC, a Nevada Limited |) | |
| Liability Company; VINCE BARTELLO, an |) | |
| individual; ERICA BARTELLO, an |) | |
| individual; and DOES I through X; and ROE |) | |
| BUSINESS ENTITIES I through X, inclusive, |) | |
| Defendants. |) | |

JUDGMENT UPON JURY VERDICT

THIS MATTER came on for a trial by jury on July 15, 2019 – July 19, 2019. Plaintiff Sean Fitzgerald appeared in person, and by and through his counsel, James P. Kemp, Esq., and Victoria L. Neal, Esq., of the law firm Kemp & Kemp, and for All Defendants, Carrie E. Hurtik, Esq., and Jonathan R. Patterson, Esq., of the law firm Hurtik Law & Associates. Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the merits of their cases.

1 Pursuant to the Special Verdict Form dated July 19, 2019, the jury rendered a verdict in
2 favor of Plaintiff on his claim for Conversion of Property against Defendants Vince Bartello,
3 Mobile Billboards, LLC, and Hillsboro Enterprises, Inc., in the amount of \$3,111.16 plus post-
4 judgment interest. The jury further rendered a verdict for Plaintiff's claim for Wrongful
5 Discharge In Violation of Public Policy against All Defendants, Vince Bartello, Mobile
6 Billboards, LLC, and Hillsboro Enterprises, Inc., Erica Bartello, and EBVB HOLDINGS, LLC
7 in the amount of \$56,000.00 plus post-judgment interest.
8

9 NOW THEREFORE, judgment upon the verdict is hereby entered in favor of Plaintiff
10 Sean Fitzgerald and against Defendants as follows:

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KEMP & KEMP
ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110
LAS VEGAS, NEVADA 89130
Tel. (702) 258-1183 • Fax (702) 258-6983

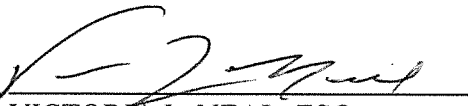
1 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff Sean Fitzgerald shall
2 have and recover against Defendants Vince Bartello, Mobile Billboards, LLC, and Hillsboro
3 Enterprises, Inc., the sum of THREE THOUSAND ONE-HUNDRED ELEVEN DOLLARS
4 AND 16/100 (\$3,111.16) plus post-judgment interest. Plaintiff Sean Fitzgerald shall further
5 have and recover against All Defendants, Vince Bartello, Mobile Billboards, LLC, and Hillsboro
6 Enterprises, Inc., Erica Bartello, and EBVB HOLDINGS, LLC, the sum of FIFTY SIX
7 THOUSAND DOLLARS (\$56,000.00) plus post-judgment interest.
8

9 IT IS SO ORDERED:

10 DATED this 21st day of August, 2019.

11
12 DISTRICT COURT JUDGE
CRISTINA SILVA
13

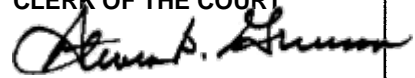
14 Respectfully Submitted By:

15
16 
VICTORIA L. NEAL, ESQ.
17 Attorney for the Plaintiff

18 Defendants' attorney, Ms. Hurtik, was contacted via email and provided this Judgment
19 Upon Jury Verdict on August 4, 2019. On August 5, 2019, via email, Ms. Hurtik disagreed with
20 the Judgment Upon Jury Verdict.
21

22
23 Approved as to form and content:

24
25 Does Not Agree/Declined to Sign
26 CARRIE E. HURTIK, ESQ.
27 Attorney for Defendants
28



1 NEO
2 JAMES P. KEMP, ESQ.
3 Nevada Bar No.: 6375
4 VICTORIA L. NEAL, ESQ.
5 Nevada Bar No.: 13382
6 KEMP & KEMP
7 7435 W. Azure Drive, Ste 110
8 Las Vegas, NV 89130
9 702-258-1183 ph./702-258-6983 fax
10 jp@kemp-attorneys.com
11 vneal@kemp-attorneys.com

12 *Attorneys for Plaintiff*
13 *Sean Fitzgerald*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 SEAN FITZGERALD,)
12) Case No.: A-15-716570-C
13 Plaintiff,)
14 vs.) Dept. No. IX
15)
16 HILLSBORO ENTERPRISES INC., a Nevada)
17 Corporation; and, MOBILE BILLBOARDS,)
18 LLC, a Nevada Limited Liability Company;)
19 EBVB HOLDINGS, LLC, a Nevada Limited)
20 Liability Company; VINCE BARTELLO, an)
21 individual; ERICA BARTELLO, an)
22 individual; and DOES I through X; and ROE)
23 BUSINESS ENTITIES I through X, inclusive,)
24 Defendants.)

NOTICE OF ENTRY OF ORDER AND FINAL JUDGMENT

25 PLEASE TAKE NOTICE that an Order and Final Judgment in the above referenced
26 matter was entered in on August 23, 2019 a true and correct copy of which is attached hereto.

27 ///

28 ///

///

KEMP & KEMP
ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110
LAS VEGAS, NEVADA 89130
Tel. (702) 258-1183 ♦ Fax (702) 258-6983

1 DATED this 23rd day of August, 2019.

2 KEMP & KEMP

3 BY: 

4 VICTORIA L. NEAL, ESQ.

5 Nevada Bar No. 13382

6 7435 W. Azure Drive, Ste 110

7 Las Vegas, NV 89130

8 *Attorneys for Plaintiff*

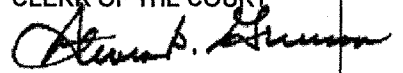
9 *Sean Fitzgerald*

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, the undersigned certifies that on the 23rd day of August, 2019 the forgoing NOTICE OF ENTRY OF ORDER AND FINAL JUDGMENT was served by electronic transmission through the Odyssey system to the persons or parties below. The undersigned additionally certifies that on 23rd day of August, 2019, the undersigned deposited the within and foregoing Notice of Entry of Order and Final Judgment in the United States Mail at Las Vegas, Nevada, with postage fully paid thereon, address to the following persons or parties:

Carrie E. Hurtik, Esq.
Jonathon R. Patterson, Esq.
HURTIK LAW AND ASSOCIATES
6767 West Tropicana Ave, Suite #200
Las Vegas, NV 89103


An Employee of KEMP & KEMP



1 JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
2 VICTORIA L. NEAL, ESQ.
Nevada Bar No.: 13382
3 KEMP & KEMP
4 7435 W. Azure Drive, Ste 110
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*

DISTRICT COURT
CLARK COUNTY, NEVADA

10 SEAN FITZGERALD,)
11) Case No.: A-15-716570-C
12 Plaintiff,)
13 vs.) Dept. No. IX
14) Trial Date: July 15, 2019
15 HILLSBORO ENTERPRISES INC., a Nevada)
16 Corporation; and, MOBILE BILLBOARDS,)
17 LLC, a Nevada Limited Liability Company;)
18 EBVB HOLDINGS, LLC, a Nevada Limited)
19 Liability Company; VINCE BARTELLO, an)
individual; ERICA BARTELLO, an)
individual; and DOES I through X; and ROE)
BUSINESS ENTITIES I through X, inclusive,)
20 Defendants.)

JUDGMENT UPON JURY VERDICT

21
22 THIS MATTER came on for a trial by jury on July 15, 2019 – July 19, 2019. Plaintiff
23 Sean Fitzgerald appeared in person, and by and through his counsel, James P. Kemp, Esq., and
24 Victoria L. Neal, Esq., of the law firm Kemp & Kemp, and for All Defendants, Carrie E. Hurtik,
25 Esq., and Jonathan R. Patterson, Esq., of the law firm Hurtik Law & Associates. Testimony was
26 taken, evidence was offered, introduced and admitted. Counsel argued the merits of their cases.
27
28

1 Pursuant to the Special Verdict Form dated July 19, 2019, the jury rendered a verdict in
2 favor of Plaintiff on his claim for Conversion of Property against Defendants Vince Bartello,
3 Mobile Billboards, LLC, and Hillsboro Enterprises, Inc., in the amount of \$3,111.16 plus post-
4 judgment interest. The jury further rendered a verdict for Plaintiff's claim for Wrongful
5 Discharge In Violation of Public Policy against All Defendants, Vince Bartello, Mobile
6 Billboards, LLC, and Hillsboro Enterprises, Inc., Erica Bartello, and EBVB HOLDINGS, LLC
7 in the amount of \$56,000.00 plus post-judgment interest.
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9 NOW THEREFORE, judgment upon the verdict is hereby entered in favor of Plaintiff
10 Sean Fitzgerald and against Defendants as follows:

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KEMP & KEMP
ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110
LAS VEGAS, NEVADA 89130
Tel. (702) 258-1133 • Fax (702) 258-6983

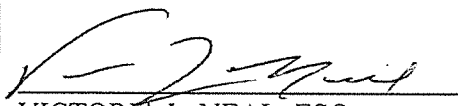
1 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff Sean Fitzgerald shall
2 have and recover against Defendants Vince Bartello, Mobile Billboards, LLC, and Hillsboro
3 Enterprises, Inc., the sum of THREE THOUSAND ONE-HUNDRED ELEVEN DOLLARS
4 AND 16/100 (\$3,111.16) plus post-judgment interest. Plaintiff Sean Fitzgerald shall further
5 have and recover against All Defendants, Vince Bartello, Mobile Billboards, LLC, and Hillsboro
6 Enterprises, Inc., Erica Bartello, and EBVB HOLDINGS, LLC, the sum of FIFTY SIX
7 THOUSAND DOLLARS (\$56,000.00) plus post-judgment interest.

9 IT IS SO ORDERED:

10 DATED this 21st day of August, 2019.

11
12 
DISTRICT COURT JUDGE
CRISTINA SILVA

13 Respectfully Submitted By:

14
15 
16 VICTORIA L. NEAL, ESQ.
17 Attorney for the Plaintiff

18 Defendants' attorney, Ms. Hurtik, was contacted via email and provided this Judgment
19 Upon Jury Verdict on August 4, 2019. On August 5, 2019, via email, Ms. Hurtik disagreed with
20 the Judgment Upon Jury Verdict.
21

22
23 Approved as to form and content:

24
25 Does Not Agree/Declined to Sign
26 CARRIE E. HURTIK, ESQ.
27 Attorney for Defendants
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

September 01, 2015

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

September 01, 2015 8:00 AM Motion to Set Aside

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Louisa Garcia

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Kemp, James P. Attorney
 Lichtenstein, Allen Attorney

JOURNAL ENTRIES

- Following statements and arguments by counsel, COURT stated its findings and ORDERED, Answer to Strike DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

January 25, 2016

| | |
|---------------|---|
| A-15-716570-C | Sean Fitzgerald, Plaintiff(s) vs. Hillsboro Enterprises Inc, Defendant(s) |
|---------------|---|

| | | |
|-------------------------|----------------|--|
| January 25, 2016 | 3:00 AM | Motion to Withdraw as Counsel |
|-------------------------|----------------|--|

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Tena Jolley

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- After reviewing the record, the Court ordered counsel's motion to withdraw GRANTED without opposition.

CLERK'S NOTE: The above Minute Order has been distributed via e-mail to: Allen Lichtenstein, Esq. (allaw@lvcoxmail.com) and Victoria L. Neal, Esq. (vneal@kemp-attorneys.com).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

June 28, 2016

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

June 28, 2016

8:00 AM

**Motion to Withdraw as
Counsel**

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Phyllis Irby

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT:

Marshall, Samuel

Attorney

Neal, Victoria L.

Attorney

JOURNAL ENTRIES

- The Court noted Michael Van moved to withdraw his Motion; no opposition. Get with Michael Van's office and inform them they are representing themselves now. Order submitted and signed in open court. The Court directed Pltf to give Notice to Deft's to have new counsel here next date.

7-12-16 8:00 AM CONFIRMATION OF COUNSEL (DEPT. VIII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort**COURT MINUTES****July 12, 2016**

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
 vs.
 Hillsboro Enterprises Inc, Defendant(s)

July 12, 2016 8:00 AM Motion to Quash

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Natalie Ortega

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT: Ales, Barney C. Attorney
 Hurtik, Carrie E. Attorney
 Neal, Victoria L. Attorney

JOURNAL ENTRIES

- Arguments regarding the merits of the motion by counsel. Ms. Hurtik argued the deposition would not result in any additional information not already in known. They had the inventory, the matter was related to an employee, the police and Mr. Bartello were present. Ms. Neal argued the deposition regarding what had occurred was a relevant material fact. The question was whether Mr. Fitzgerald was trespassed permanently off the property. If Mr. Fitzgerald was trespassed off the property, then he could not return to work, and was denied access to retrieve his tools. Additionally, the conversation between Mr. Bartello, Ms. Shelstad, and the police was not protected being there was a third party involved, therefore that did not fall under attorney-client privilege. Moreover, what Ms. Shelstad observed was acceptable, and important as to what Mr. Bartello told the police. Ms. Hurtik argued that the Plaintiff's had Mr. Bartello's testimony, and the police report, therefore, there was nothing additional to add. COURT stated FINDINGS and ORDERED motion DENIED IN PART; the deposition may proceed however it will be limited to what Rachel L. Shelstad saw and heard, and no communication, or attempted inquiry as to any advice or communication to the law firm about advice. Court further noted, if there was a problem during the deposition the Court may be contacted. COURT FURTHER ORDERED; Plaintiff to prepare the order. Ms. Hurtik advised Mr. Bartello did not have an attorney, therefore, until that time, the deposition should not go forward.

Ms. Neal stated discovery had closed, and being Mr. Bartello did not have counsel, it was requested to strike the corporate defendant's answer. Court noted the matter today was only about the deposition. Mr. Ales advised Mr. Bartello could not be present, but had intention of retaining counsel. Moreover, there was a status check set regarding confirmation of counsel. COURT ADDITIONALLY ORDERED, hearing regarding Confirmation of Counsel SET.

7/26/16 8:00 AM CONFIRMATION OF COUNSEL (BARTELLO)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

July 26, 2016

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

July 26, 2016 8:00 AM Hearing

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Jill Chambers

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Hurtik, Carrie E. Attorney
 Neal, Victoria L. Attorney

JOURNAL ENTRIES

- Colloquy regarding confirmation of counsel and trial date. Court VACATED trial date and SET matter for status check.

8/16/16 8:00 AM STATUS CHECK: TRIAL SETTING//CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

August 16, 2016

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

August 16, 2016 8:00 AM Status Check

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Keri Cromer
Olivia Black

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Neal, Victoria L. Attorney

JOURNAL ENTRIES

- Rachel Sloane, Esq., appearing on behalf of Defendants.

Notice of Appearance FILED IN OPEN COURT.

Colloquy regarding the status of the case. Upon Court's inquiry, Ms. Neal advised depositions were scheduled for September 19th and requested trial date to be set. COURT ORDERED, matter SET for trial.

11/1/16 8:00 AM CALENDAR CALL

11/14/16 9:30 AM JURY TRIAL

CLERK'S NOTE: Court Clerk gave out incorrect date for Calendar Call in court. The above minute order has been distributed to: Victoria Neal, Esq. (702-258-6983) and Rachel Sloane, Esq. (702-966-5200)ob/08/17/16.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort**COURT MINUTES****October 24, 2016**

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

October 24, 2016**3:00 AM****Motion to Extend
Discovery****Motion to Extend
Discovery, Continue
Trial, and Extend
Dispositive Motion
Deadlines on an
Order Shortening
Time****HEARD BY:** Smith, Douglas E.**COURTROOM:** Chambers**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- The Defendants' Motion to Extend Discovery, Continue Trial, and Extend Dispositive Motion Deadlines on an Order Shortening Time came before this Court on the October 24, 2016, Chambers Calendar. Having reviewed the Motion and Opposition, COURT ORDERED, Motion GRANTED, in part, and DENIED, in part. The Court GRANTS the Motion to Continue Trial and Extend Dispositive Motion Deadlines but DENIES the Motion to Extend Discovery. This Court's Judicial Executive Assistant (JEA) shall set a new trial date.

Carrie Hurtik, Esq., to prepare the Order.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Carrie Hurtik, Esq., (Hurtik Law & Associates).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

January 24, 2017

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

January 24, 2017 8:00 AM Calendar Call

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Hurtik, Carrie E. Attorney
Kemp, James P. Attorney
Neal, Victoria L. Attorney

JOURNAL ENTRIES

- This is the time set for Calendar Call.

Colloquy regarding case status; Discovery is complete. Upon Court's inquiry as to whether or not counsel were ready for trial, Ms. Hurtik advised that counsel have conflicting trial schedules.

Mr. Kemp advised that counsel just participated in their Rule 2.67 meeting and would request a mandatory settlement conference; he requested that the trial date be continued. COURT ORDERED, matter REFERRED for mandatory settlement conference. COURT FURTHER ORDERED, trial date VACATED and RESET.

08/22/17 8:00 AM CALENDAR CALL

09/05/17 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

May 23, 2017

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

May 23, 2017

1:30 PM

Settlement Conference

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Matter not settled.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

August 07, 2017

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

August 07, 2017

3:00 AM

**Motion to Withdraw as
Counsel**

**Carrie E. Hurtik,
Esq.'s Motion to
Withdraw as
Attorney of Record**

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Carrie E. Hurtik, Esq.'s Motion to Withdraw as Attorney of Record came before the Court on the August 7, 2017, Chamber Calendar. Having reviewed the Motion and there being no Opposition thereto, COURT ORDERED, the Motion is GRANTED.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Carrie E. Hurtik, Esq., (Hurtik Law & Associates).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

August 22, 2017

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

August 22, 2017 8:00 AM Calendar Call

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Kemp, James P. Attorney
 Neal, Victoria L. Attorney

JOURNAL ENTRIES

- This is the time set for Calendar Call; Mr. Neal advised that Carrie Hurtik, counsel for Defendants Vincent Bartello and Mobile Billboards, LLC, has moved to withdraw. Court noted the Motion was GRANTED.

Colloquy regarding trial; Mr. Neal believes the trial will need to be continued; he is not sure who Defendants new counsel will be. Additionally, the parties were trying to do a Settlement Conference and would still like to do one but once the Defendants filed bankruptcy, everything was placed on hold. COURT ORDERED, trial date VACATED; matter OFF CALENDAR, counsel to place this matter back on calendar when they are ready to move forward.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort**COURT MINUTES****August 28, 2018**

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

August 28, 2018**8:00 AM****Status Check****Trial Setting****HEARD BY:** Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES****PRESENT:**

Bartello, Vince

Defendant

Neal, Victoria L.

Attorney

JOURNAL ENTRIES

- This is the time set for the Status Check on a Trial Setting. Upon Court's inquiry, Ms. Neal advised that the trial will take approximately three (3) days; she requested a trial setting in April or May 2019. Defendant, Vince Bartello, who is present today without counsel, stated that he is in the process of hiring a new attorney. The Motion to Withdraw of Defendant's prior counsel was previously granted. COURT ORDERED, matter set for trial.

Additionally, Ms. Neal advised that the parties had previously scheduled a settlement conference but the case stalled and the conference did not go forward; she inquired as to whether the Settlement Conference could be rescheduled, she believes the parties may be able to resolve this matter. COURT ORDERED, matter REFERRED for a settlement conference.

04/09/19 8:00 AM CALENDAR CALL

04/22/19 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

April 09, 2019

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

VS.

Hillsboro Enterprises Inc, Defendant(s)

April 09, 2019

9:00 AM

Calendar Call

HEARD BY: Cherry, Michael A.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

Kemp, James P.

Attorney

Neal, Victoria L.

Attorney

Patterson, Jonathan R.

Attorney

JOURNAL ENTRIES

- This the time set for the Calendar Call. Upon Court's inquiry, Mr. Kemp announced ready for Plaintiff.

Mr. Patterson advised that Hurtik Law & Associates previously represented Defendants Bartello and Hillsboro Enterprises but withdrew. Subsequently, they were brought back into the case but cannot announce ready at this time because they have some major scheduling conflicts in April; he requested that the trial be CONTINUED to the next stack.

Colloquy regarding scheduling issues; Court represented that it could give counsel a FIRM trial date in July if they so desired. Mr. Kemp requested a firm trial setting on July 15, 2019; Mr. Patterson CONCURRED. COURT ORDERED, trial date VACATED and RESET. The trial is expected to take three (3) days.

06/18/19 8:00 AM CALENDAR CALL

07/15/19 9:30 AM JURY TRIAL - FIRM

PRINT DATE: 09/24/2019

Page 14 of 24

Minutes Date: September 01, 2015

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

June 18, 2019

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

June 18, 2019 8:30 AM Calendar Call

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Kemp, James P. Attorney
Patterson, Jonathan R. Attorney

JOURNAL ENTRIES

- This is the time set for Calendar Call. Court noted that this matter is set for trial on July 15, 2019; it is a FIRM setting. Mr. Kemp announced ready for the Plaintiff.

Mr. Patterson advised that he has had no contact with their client for several weeks; he had withdrawn once before and thought that issue was resolved. In any event, Mr. Patterson advised the he is going to Withdraw as Counsel on an Order Shortening Time as soon as possible; colloquy. COURT ORDERED, trial date VACATED; matter set for status check. The presence of counsel and the parties is MANDATORY as the Court would like to address any issues and see if there is a remedy so this case may move forward.

06/25/19 8:30 AM STATUS CHECK: RESET TRIAL DATE/PARTIES MUST APPEAR

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort**COURT MINUTES****June 25, 2019**

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

June 25, 2019**8:30 AM****Status Check**

**Reset Trial
Date/Parties Must be
Present**

HEARD BY: Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES****PRESENT:**

Bartello, Vince

Defendant

Kemp, James P.

Attorney

Lay, Linda L

Attorney

Neal, Victoria L.

Attorney

JOURNAL ENTRIES

- This is the time set for the Status Check: Reset Trial Date/Parties Must Be Present. Court noted that this matter was set as a result of the June 18, 2019, Calendar Call. At that time Mr. Kemp and Jonathan Patterson, Esq., were present but Mr. Patterson indicated that he was going to Withdraw as Counsel of Record so the Court requested that counsel and the parties be present this morning.

Ms. Lay advised that Hurtik Law & Associates was recently retained on this matter and they are ready for trial. Although Carrie Hurtik, Esq., will be trying the matter, she is not available at the end of July and is inquiring as to whether opposing counsel would be willing to continue the trial to either August or September.

Mr. Kemp advised that July 15, 2019, was a FIRM setting. At the Calendar Call, counsel advised that Ms. Hurtik was no longer representing the Defendants. This has been an ongoing repeated process where Ms. Hurtik represents the Defendant, then they withdraw. In addition to the individual

Defendants, counsel also represents a corporation and some business entities. This matter was set by Justice Cherry on a firm setting back in April 2019 and Plaintiff is ready for trial. If Ms. Lay is now representing the Defendants, he would request that a Notice of Appearance be filed as there has never been an official appearance filed with the court.

Colloquy regarding scheduling issues; Ms. Hurtik has a potential conflict. Court noted that, under the circumstances, the Court is inclined to proceed with trial on July 15, 2019. Therefore, COURT ORDERED, the trial date STANDS; counsel should file a Notice of Appearance as soon as possible.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

July 15, 2019

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

July 15, 2019 9:30 AM Jury Trial - FIRM

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

| | | |
|-----------------|------------------------|-----------|
| PRESENT: | Bartello, Erica | Defendant |
| | Bartello, Vince | Defendant |
| | Fitzgerald, Sean | Plaintiff |
| | Hurtik, Carrie E. | Attorney |
| | Kemp, James P. | Attorney |
| | Neal, Victoria L. | Attorney |
| | Patterson, Jonathan R. | Attorney |

JOURNAL ENTRIES

- 10:37 a.m. Jury Trial commenced. Court and counsel begin Voir Dire examination of the prospective Jurors. Jury and two (2) alternates selected and sworn. Opening statements by Mr. Kemp and Ms. Hurtik.

4:03 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED.

CONTINUED TO: 07/16/19 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

July 16, 2019

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

July 16, 2019 9:30 AM Jury Trial - FIRM

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

| | | |
|-----------------|------------------------|-----------|
| PRESENT: | Bartello, Erica | Defendant |
| | Bartello, Vince | Defendant |
| | Fitzgerald, Sean | Plaintiff |
| | Hurtik, Carrie E. | Attorney |
| | Kemp, James P. | Attorney |
| | Neal, Victoria L. | Attorney |
| | Patterson, Jonathan R. | Attorney |

JOURNAL ENTRIES

- 9:45 a.m. Jury Trial resumed. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets). Plaintiff's Exhibits 3 through 40, with the exception of Exhibit 33, were ADMITTED by stipulation of the parties.

5:03 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED.

CONTINUED TO: 07/17/19 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

July 17, 2019

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

July 17, 2019 12:30 AM Jury Trial - FIRM

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

| | | |
|-----------------|------------------------|-----------|
| PRESENT: | Bartello, Erica | Defendant |
| | Bartello, Vince | Defendant |
| | Fitzgerald, Sean | Plaintiff |
| | Hurtik, Carrie E. | Attorney |
| | Kemp, James P. | Attorney |
| | Neal, Victoria L. | Attorney |
| | Patterson, Jonathan R. | Attorney |

JOURNAL ENTRIES

- 12:45 p.m. Jury Trial resumed. Exclusionary Rule INVOKED. Testimony and exhibits presented (see worksheets).

5:36 p.m. Court ADJOURNED: COURT ORDERED, Jury Trial CONTINUED.

CONTINUED TO: 07/18/19 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort**COURT MINUTES****July 18, 2019**

A-15-716570-C

Sean Fitzgerald, Plaintiff(s)

vs.

Hillsboro Enterprises Inc, Defendant(s)

July 18, 2019**9:00 AM****Jury Trial - FIRM****HEARD BY:** Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES****PRESENT:**

Bartello, Erica

Defendant

Bartello, Vince

Defendant

Fitzgerald, Sean

Plaintiff

Hurtik, Carrie E.

Attorney

Kemp, James P.

Attorney

Neal, Victoria L.

Attorney

Patterson, Jonathan R.

Attorney

JOURNAL ENTRIES

- 9:08 p.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: the presence of both the Defendants is WAIVED. During the testimony of Mr. Bartello, he mentioned that there was a video of the conversation between him and the Plaintiff when the Plaintiff had come to the worksite to collect his tools; Mr. Bartello testified that the video had been given to his attorney but she does not have it, it was not given to Plaintiff's counsel, and it was not produced for trial. Court noted that there was no discovery motion pending before the Court or a motion to compel prior to trial and the Court believes there was testimony that the video was sent to his attorney. Mr. Kemp orally requested that an adverse inference instruction be given or that Defendants' Answer to the Complaint be stricken in its entirety for the reasons stated on the record; arguments by counsel. Court advised that it was not inclined to strike the Defendants' Answer but would take the request for an adverse inference under submission. Ms. Hurtik then orally requested an adverse inference with the regard to the trespass sign; additional argument. Court advised it would take this matter under submission as well. After

hearing further argument by counsel on these issues, the COURT ORDERED, the Complaint will not be stricken and an adverse instruction shall be given with regard to the video issue. The parties are free to submit a proposed Jury Instruction on this issue to the Court for consideration.

Jury Instructions and Verdict form settled on the record.

JURY PRESENT: Exclusionary Rule INVOKED; Testimony and exhibits presented (see worksheets).

Court instructed the Jury; Closing arguments by Mr. Kemp and Ms. Hurtik; rebuttal by Mr. Kemp. Court thanked and excused the alternates.

5:16 p.m. ADJOURNED: COURT ORDERED, Jury Trial CONTINUED.

CONTINUED TO: 07/19/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

July 19, 2019

A-15-716570-C Sean Fitzgerald, Plaintiff(s)
vs.
Hillsboro Enterprises Inc, Defendant(s)

July 19, 2019 9:00 AM Jury Trial - FIRM

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Hurtik, Carrie E. Attorney
Kemp, James P. Attorney
Neal, Victoria L. Attorney
Patterson, Jonathan R. Attorney

JOURNAL ENTRIES

- 9:00 a.m. Jury Trial resumed. The Jury returned from their recess and retired to deliberate.

While deliberating, the Jury presented three (3) questions to the Court. The Court conferenced with counsel on the record to formulate answers to the Jury's questions. The Questions and Answers were marked for identification as Court's Exhibits 8, 9, and 10 and ADMITTED.

At the hour of 1:50 p.m., the Jury returned with a verdict as recorded herein.

Jury polled. Court thanked and excused the Jury.

1:55 p.m. Court ADJOURNED.

SEAN FITZGERALD

vs. HILLSBORO ENTERPRISES INC., et al

| # | DESCRIPTION | DATE OFFERED | OBJECTION | DATE ADMITTED | |
|----|---|--------------|-----------|---------------|----|
| 1 | Complaint | | | | PS |
| 2 | Answer to Complaint | | | | PS |
| 3 | Emails Between Sean Fitzgerald and Vince Bartello Bates Stamped P10000-P10040 | 7/16/19 | Stp | 7/16/19 | PS |
| 4 | Employee's Claim for Compensation/Report of Initial Treatment Form C-4 for Sean Fitzgerald dated April 30, 2014 Bates Stamped P10041 | | | | PS |
| 5 | AmTrust Letter dated May 14, 2014 Bates Stamped P10042-46 | | | | PS |
| 6 | Worker's Compensation Evidentiary Documents Bates Stamped P10048-57 | | | | PS |
| 7 | AmTrust Letter dated May 22, 2014 Bates Stamped P10058-60 | | | | PS |
| 8 | AmTrust Letter dated May 22, 2014 Bates Stamped P10061-63 | | | | PS |
| 9 | AmTrust Letter dated June 3, 2014 Bates Stamped P10064-65 | | | | PS |
| 10 | State of Nevada, Department of Administration Hearings Division Decision and Order dated June 25, 2014 Bates Stamped P10066-67 | | | | PS |
| 11 | AmTrust Letter dated July 14, 2014 Bates Stamped P10068-74 | | | | PS |
| 12 | AmTrust Letter dated July 17, 2014 Bates Stamped P10075-77 | | | | PS |
| 13 | Worker's Compensation Evidential Packet Bates Stamped P10078-102 | | | | PS |
| 14 | Worker's Compensation Evidential Packet Bates Stamped P10103-143 | | | | PS |
| 15 | State of Nevada, Department of Administration Hearings Division Decision and Order dated August 25, 2014 Bates Stamped P10144-47 | | | | PS |
| 16 | State of Nevada, Department of Administration Hearings Division Decision and Order dated September 16, 2014 Bates Stamped P10148-150 | | | | PS |
| 17 | AmTrust Letter dated September 17, 2014 Bates Stamped P10051-153 | | | | PS |
| 18 | Worker's Compensation Evidential Packet Bates Stamped P10154-180 | | | | PS |
| 19 | AmTrust Letter dated October 20, 2014 Bates Stamped P10181-183 | 7/16/19 | Stp | 7/16/19 | PS |

PLAINTIFF'S TRIAL EXHIBIT

CASE NO. A-15-716570-C

SEAN FITZGERALD

vs. HILLSBORO ENTERPRISES INC., et al

| # | DESCRIPTION | DATE OFFERED | OBJECTION | DATE ADMITTED | |
|----|---|--------------|-----------|---------------|----|
| 20 | AmTrust Letter dated October 20, 2014 Bates Stamped P10184-186 | 7/16/19 | stop | 7/16/19 | VB |
| 21 | AmTrust Letter dated November 20, 2014 Bates Stamped P10187-193 | | | | VB |
| 22 | State of Nevada, Department of Administration Hearings Division Decision and Order dated November 24, 2014 Bates Stamped P10194-197 | | | | VB |
| 23 | Certified Vocational Services Letter dated December 1, 2014 Bates Stamped P10198-200 | | | | VB |
| 24 | AmTrust Letter dated December 12, 2014 Bates Stamped P10201-202 | | | | VB |
| 25 | AmTrust Letter dated December 29, 2014 Bates Stamped P10203-204 | | | | VB |
| 26 | Decision and Order Before the Appeal Officer in the Matter of the Contest Industrial Insurance Claim of Sean Fitzgerald dated March 25, 2015 Bates Stamped P10205-208 | | | | VB |
| 27 | Hearing Memorandum filed date February 24, 2015 Bates Stamped P10209-221 | | | | VB |
| 28 | Petition for Judicial Review dated April 9, 2015 Bates Stamped P10222-230 | | | | VB |
| 29 | Notice of Entry of Order dated September 18, 2015 Bates Stamped P10231-232 | | | | VB |
| 30 | Order Denying Pertition for Judicial Review dated September 16, 2015 Bates Stamped P10233-237 | | | | VB |
| 31 | IRS Forms W-2 for 2014 from Hillsboro Enterprises and Mobile Billboards Bates Stamped P10238-239 | | | | VB |
| 32 | Email Between Vince Bartello and Michele Goodes dated May 21, 2014 Bates Stamped Hillsboro et al 000001 | 7/16/19 | stop | 7/16/19 | VB |
| 33 | Fax dated June 17, 2004 From Sean Fitzgerald Bates Stamped Hillsboro et al 000004-5 | 7/16/19 | obj. | 7/16/19 | VB |
| 34 | Emails Between Vince Bartello and Michele Goodes Bates Stamped Hillsboro et al 000007-000110 | 7/16/19 | stop | 7/16/19 | VB |
| 35 | Emails Between Vince Bartello and Michele Goodes Bates Stamped Hillsboro et al 000118-000120 | | | | VB |
| 36 | Inventory List dated May 19, 2014 Bates Stamped Hillsboro et al 000121-000126 | | | | VB |
| 37 | Accident Report Bates Stamped Hillsboro000128 | 7/16/19 | stop | 7/16/19 | VB |

SEAN FITZGERALD

vs. HILLSBORO ENTERPRISES INC., et al

| # | DESCRIPTION | DATE OFFERED | OBJECTION | DATE ADMITTED | |
|----|--|-----------------|-----------|------------------|----|
| 38 | Notice of Injury or Occupational Disease Bates Stamped Hillsboro000129 | 7/16/19 | stp | 7/16/19 | PS |
| 39 | Email Chain Between Vince Bartello and Kimberly Abdella Bates Stamped Hillsboro 000130-147 | | | | PS |
| 40 | Resume and Certifications of Sean Fitzgerald Bates Stamped Hillsboro000148-155 | 7/16/19 | stp | 7/16/19 | PS |
| 41 | Defendant Hillsboro Enterprises, Inc., Responses to Plaintiff's First Set of Request for Admissions | | | | PS |
| 42 | Defendant Hillsboro Enterprises, Inc., Responses to Plaintiff's First Set of Interrogatories | | | | PS |
| 43 | Defendant Mobile Billboards, LLC's Responses to Plaintiff's First Set of Request for Admissions | | | | PS |
| 44 | Defendant Mobile Billboards, LLC's Responses to Plaintiff's First Set of Interrogatories | | | | PS |
| 45 | Defendant EBVB Holdings, LLC's Responses to Plaintiff's First Set of Interrogatories | | | | PS |

Sean Fitzgerald

Hillsboro Enterprises, Inc.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

CARRIE E. HURTIK, ESQ.
6767 W. TROPICANA AVE., SUITE #200
LAS VEGAS, NV 89103

DATE: September 24, 2019
CASE: A-15-716570-C

RE CASE: SEAN FITZGERALD vs. HILLSBORO ENTERPRISES INC.; MOBILE BILLBOARDS, LLC; EBVB HOLDINGS, LLC; VINCE BARTELLO; ERICA BARTELLO

NOTICE OF APPEAL FILED: September 20, 2019

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT UPON JURY VERDICT; NOTICE OF ENTRY OF ORDER AND FINAL JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

SEAN FITZGERALD,

Plaintiff(s),

vs.

HILLSBORO ENTERPRISES INC.; MOBILE
BILLBOARDS, LLC; EBVB HOLDINGS,
LLC; VINCE BARTELLO; ERICA
BARTELLO,

Defendant(s),

Case No: A-15-716570-C

Dept No: IX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of September 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk