

1 R. Scotlund Vaile
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 833-2350
5 Plaintiff in Proper Person

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

7 **ROBERT SCOTLUND VAILE,**

8 Petitioner,

Supreme Court Case No: 52244

District Court Case No: 98D230385

9
10 vs.

11 **THE EIGHTH JUDICIAL DISTRICT**
12 **COURT OF THE STATE OF**
13 **NEVADA, IN AND FOR THE**
14 **COUNTY OF CLARK, AND THE**
15 **HONORABLE CHERYL B. MOSS,**
16 **DISTRICT JUDGE, FAMILY COURT**
17 **DIVISION,**

18 Respondents.

FILED

OCT 01 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

BY S. Young
DEPUTY CLERK

19 **EMERGENCY MOTION TO EXPEDITE SUPREME COURT**
20 **REVIEW OF PETITION FOR WRIT OF MANDAMUS**

21
22 Petitioner, Robert Scotlund Vaile has filed a Petition for Writ of Mandamus
23 seeking an Order from this Honorable Court directing the Honorable Cheryl B.
24 Moss, District Court Judge, Dept. I, Eighth Judicial District Court Judge, Family
25 Division to enter orders disqualifying Marshal Willick and the Willick Law
26 Group from representation of Defendant Porsboll below and vacating the order
27 awarding \$2,000.00 in attorney's fees and costs to the Willick Law Group.
28

1 file a response in opposition to a motion other than one for a
2 procedural order (for which see subdivision (b)) within seven (7) days
3 after service of the motion, but motions authorized by Rules 8 and 41
4 may be acted upon after reasonable notice, and the court may shorten
5 or extend the time for responding to any motion. A reply to the
6 opposition to a motion shall not be filed unless permission is first
7 sought and granted by the Supreme Court.

8 [As amended; effective September 1, 1989.]

9 **(b) Determination of Motions for Procedural Orders.**

10 Notwithstanding the provisions of the preceding paragraph as to
11 motions generally, motions for procedural orders, including any motion
12 under Rule 26(b) may be acted upon at any time, without awaiting a
13 response thereto, and pursuant to subsection (c), motions for
14 specified types of procedural orders may be disposed of by the clerk.
15 Any party adversely affected by such action may request
16 reconsideration, vacation or modification of such action.

17 [As amended; effective January 4, 1999.]

18 **(c) Power of a Single Justice to Entertain Motions; Delegation
19 of Authority to Entertain Motions.** In addition to the authority
20 expressly conferred by these Rules or by law, a single justice of the
21 Supreme Court may entertain and may grant or deny any request for
22 relief which under these Rules may properly be sought by motion,
23 except that a single justice may not dismiss or otherwise determine an
24 appeal or other proceeding, and except that the Supreme Court may
25 provide by order or rule that any motion or class of motions must be
26 acted upon by the court. The action of a single justice may be
27 reviewed by the court.

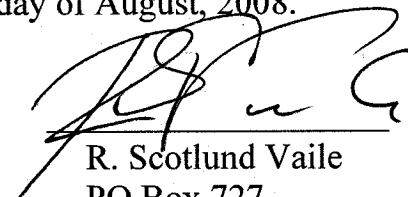
28 The chief justice may delegate to the clerk authority to decide
motions that are subject to disposition by a single justice. An order
issued by the clerk pursuant to this rule shall be subject to
reconsideration by a single justice pursuant to motion filed within
ten (10) days after entry of the clerk's order.

[As amended; effective January 4, 1999.]

(d) Form of Papers; Number of Copies. All papers relating to
motions may be typewritten. One copy shall be filed with the original,
but the court may require that additional copies be furnished.

[As amended; effective January 4, 1999.]

Respectfully submitted this 13th day of August, 2008.



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

7 ROBERT SCOTLUND VAILE,

8 Petitioner,

Supreme Court Case No: _____
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9
10 vs.

11 THE EIGHTH JUDICIAL DISTRICT
12 COURT OF THE STATE OF
13 NEVADA, IN AND FOR THE
14 COUNTY OF CLARK, AND THE
15 HONORABLE CHERYL B. MOSS,
16 DISTRICT JUDGE, FAMILY COURT
DIVISION,

17 Respondents.
18

19 **AFFIDAVIT OF R. SCOTLUND VAILE IN SUPPORT OF**
20 **EMERGENCY MOTION TO EXPEDITE REVIEW OF**
21 **PETITION FOR A WRIT OF MANDAMUS**

22
23 R. Scotlund Vaile, under penalty of perjury under the laws of the State of
24 Nevada, declares as follows:

- 25 1. I am the Plaintiff in this case.
26 2. I am making this Declaration in support of the Emergency Motion to
27 Expedite Review of Petition for a Writ of Mandamus Pursuant to NRAP
28 Rule 21.

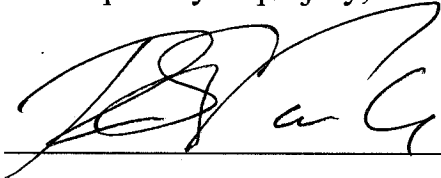
- 1 3. I am familiar with the contents of the petition and the emergency motion,
2 and those matters that I do not have personal knowledge of, I state on
3 information and belief.
- 4 4. I reside in Kenwood, California.
- 5 5. In April of 2002, this Court relinquished both personal and subject-matter
6 jurisdiction of both Plaintiff and Defendant in this case based on the finding
7 that neither party had ever resided in Nevada.
- 8 6. In November of 2007, Defendant sought to reduce child support arrears to
9 judgment and retroactively set a sum certain dating back to the 1998 divorce.
- 10 7. On December 1, 2007, I moved for dismissal based on this Court's previous
11 pronouncement that neither personal nor subject matter jurisdiction was
12 proper in this case. The court denied my request.
- 13 8. Attorney Greta Muirhead agreed to appear for me in the hearings that
14 resulted and discovered that the MLAW calculations for child support
15 penalties were contrary to those calculated under NRS 125B.095.
- 16 9. Mr. Willick submitted documentary evidence and then testified at a hearing
17 on this matter on July 11, 2008, specifically addressing the appropriate
18 interpretation of the legislative history and the operation of the computer
19 program in question.
- 20 10. On July 21, 2008, Ms. Muirhead filed a Motion to Disqualify Marshal
21 Willick and the Willick Law Group as counsel of record for Defendant,
22 based upon Nevada Rules of Professional Conduct 3.7.
- 23 11. In a hearing held on July 24, 2008, Judge Cheryl B. Moss declined to
24 disqualify Mr. Willick or the Willick Law Group as attorney of record for
25 Mrs. Porsboll and refused to classify the only information she received in
26 support of the MLAW Program calculations as "evidence" or "testimony."
27 Judge Moss further awarded \$2,000 in attorney's fees and costs to the
28 Willick Law Group for having to defend the Motion to Disqualify.

1 12. It was and remains my position that if this Court allows the lower court to
2 now take jurisdiction over two parties who have never lived in Nevada, and
3 that retroactive arrearages are proper under Nevada law, then child support
4 penalties should be calculated pursuant to NRS 125B.095, instead of the
5 calculations produced by the MLAW Program.

6 13. I am respectfully requesting that Judge Moss be immediately directed by this
7 Honorable Court to enter orders disqualifying Marshal Willick and the
8 Willick Law Group from representation of Defendant Porsboll below and
9 vacating the order awarding \$2,000.00 in attorney's fees and costs to the
10 Willick Law Group.

11 14. Further I say not.

12 Under penalty of perjury, State of Nevada.

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16 R. Scotlund Vaile
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