IN THE SUPREME COURT OF THE STATE OF NEVADA

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ROBERT SCOTLUND VAILE,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE CHERYL MOSS, DISTRICT JUDGE, FAMILY COURT DIVISION,

Respondents,

and

CISILIE A. PORSBOLL F/K/A CISILIE A. VAILE,

Real Party in Interest.

S.C. DOCKET NO.: 55446
D.C. CASE: 98-D-230385-D

REAL PARTY IN INTEREST'S OPPOSITION TO PETITIONER'S MOTION TO STAY INTERPLEADING OF FUNDS TO THE DISTRICT COURT

I. INTRODUCTION; SCOPE OF ISSUES:

Scot's filing in this Court goes beyond "mischaracterization," to overt lies. The bottom line is that he ***still*** owes Cisilie nearly $1,500,000 in judgments for attorney's fees incurred in recovering the kidnaped children, penalties, tort damages and back child support. He has not voluntarily paid a single dime since those judgments were issued by various State and federal courts over the past ten years.

Scot has run from jurisdiction to jurisdiction seeking out any court in which to file vexatious and frivolous pleadings in an attempt to avoid paying the judgments rendered against him. We have just been informed that within the past week or so, he has filed yet another action, this time in Sonoma County, California, consisting of a baseless motion to stop the wage assignment initiated by the Clark County District Attorney for the child support he still owes and the pittance that he paying toward the $160,000 he owes in child

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support arrearages.[1] As this Court knows, since Cisilie and the children reside in Norway, the Sonoma Court does not have jurisdiction to hear any request to modify child support.[2] He also has not served either us or our California counsel with that frivolous filing.

The Ninth Circuit Court of Appeals, having "had it" with Scot's repetitive, baseless, and fraudulent filings, tersely banned Scot from any further filings in the case in that Court.[3] The United States Supreme Court has refused certiorari on at least two occasions, and the District Court, Family Division, has required that Scot obtain permission from the Court before any filing is allowed.[4] Scot is the epitome of the vexatious litigant regarding whom this Court has indicated such steps are appropriate.[5]

The reason for such orders being entered in those courts is fairly illustrated by Scot's current filing in this Court; each and every one of the supposed "facts" in Scot's *Statement*

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[1] His lies to the California courts in an effort to try to undo the Nevada child support orders include the false statements that one of the children had emancipated, omitting the fact that the child remains in high school. Of course, even if she ***had*** emancipated, child support remains at the full monthly amount until 100% of all arrears, penalties, and interest have been paid – which will take many years. *See* NRS 125B.100.

[2] UIFSA (2001) "Prefatory Note," at "Basic Principles of UIFSA," "Modifying a Support Order," "Modification Statutorily Restricted": . . . the party petitioning for modification must be a nonresident of the responding State and must submit himself or herself to the forum State, which must have personal jurisdiction over the respondent, Section 611. The vast majority of the time this is the State in which the respondent resides. A colloquial short-hand summary of the principle is that ordinarily the movant for modification of a child support order "must play an away game."

[3] *See* Exhibit A, Real Party In Interest's Appendix (RPIA) page 1.

[4] Scot's filing in this Court falsely claims that the family court order requires him to obtain approval from the this law firm before making any filings. *Petition For WRIT [etc.]* at 5, item 19. Actually, the family court's direction was that Scot was to get approval of the court, if he was unrepresented by counsel, in proper person, before making any future filings, and that he was to notice the Willick Law Group of any such request (which, of course, he would be required to do in any case).

[5] *See Jordan v. DMV*, 121 Nev. 44, 110 P.3d 30 (2005).

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of The Facts is either incorrect, inaccurate by way of commission or omission, or an out-and-out lie.

This Court has directed us to respond to Scot's *Motion to Stay* the interpleading of funds with the District Court as ordered by the Hon. Judge Cheryl Moss on February 3, 2010. We will limit the argument here to just that issue and reserve the remainder of our argument to his filing to our Answer to his Petition for Writ of Mandamus, which will be filed at a later date. As detailed below, the 2003 attorney fees judgment was not so much "renewed" as subsumed, replaced, and thus mooted, and Scot is barred by statute from seeking a stay.

The motion now before this Court is nothing more than a continuation of Scot's shuck and jive attempts to avoid paying the judgments against him while trying to force others to expend as much time, energy, and money as possible. He has misrepresented what the lower court ordered and lied about the facts surrounding the case in an effort to convince this Court to effectively aid him in his ongoing fraudulent evasions. It is for this reason that the bigger picture of what is going on overall – and the steps that should be taken by this Court to put an end to it – will be specifically addressed in our Answer to his Petition.

II. STATEMENT OF FACTS:

The current filing continues Scot's quest to evade responsibility for the hundreds of thousands of dollars in damages, attorney's fees, and penalties assessed against him by multiple courts throughout the country and the world, despite his six-figure income.[6]

Most of the facts of this case are detailed in the various orders and opinions – including this Court's *Opinion*.[7] As we are only addressing the one issue, this factual statement will only go over matters not appearing in the record known to this Court, or which we think are central to the issue currently before this Court.

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[6] Scot has admitted that he makes over $120,000 per year. This was confirmed by the Answer to Interrogatories provided by his employer, Deloitte & Touche.

[7] *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 44 P.3d 506 (2002).

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The reason we are in this case in the first place is that this office is the Nevada contact for the National Center for Missing and Exploited Children; when an internationally-abducted child is traced to Nevada, they call us, whether the case is funded, partly funded, or entirely *pro bono*, to try to obtain recovery of the child.[8]

In this case, it took over two years of litigation, in the family court, in this Court, back in family court on remand, and in the United States Supreme Court, to recover the kidnaped children. As noted in the Family Court's *Order* filed July 24, 2003, over $116,000 in fees and costs were incurred in that recovery just in the Nevada part of the proceedings. Cisilie had no capacity to pay any portion of the costs incurred, and Scot has ducked every collection effort attempted since entry of the judgments.

This amount, plus the attorney's fees in related litigation in other jurisdictions (particularly Texas), were consolidated by the United States District Court as part of the comprehensive damages award against Scot and in favor of Cisilie and two child-victims. Part of that damages award was for $272,255.56 in attorney's fees incurred across the country, plus interest until paid.[9]

The award was entered by the federal court in 2006. Scot appealed to the Ninth Circuit, which affirmed, and the matter came back before the federal District Court for a final order in 2008. Specifically, the United States District Court, District of Nevada, *Amended Judgment Nunc Pro Tunc*, of July 23, 2008, consolidated the Nevada family court's 2003

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[8] The U.S. is signatory to "The Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 Oct. 1980" [commonly referred to as "the Hague Convention"], and has passed implementing legislation, the International Child Abduction Remedies Act ("ICARA"). The United States, unlike some other countries, has no State-supported program to pay attorneys in civil cases, and so complies with its treaty obligations under the Hague Convention by finding volunteers to recover internationally abducted children. I am the responsive attorney in Nevada.

[9] *Amended Judgment Nunc Pro Tunc*, Case No. 2:02-cv-0706-RLH-RJJ, filed July 23, 2008, Exhibit B, RPIA pages 2-3. This relates back to the same case in the U.S. District Court's *Findings of Fact and Conclusions of Law and Decision* filed March 13, 2006, Exhibit C, RPIA pages 4-14, and the *Judgement* filed March 13, 2006, Exhibit D, RPIA pages 15-16.

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attorney's fee award within the various categories and classes of damages awarded to Cisilie and against Scot, including them (at 10) in the cumulative formal attorney's fee award:

> Plaintiff Cisilie Vaile Porsboll is awarded damages of attorneys fees and costs, awarded in other cases as a result of her having to come to the United States to recover her children, overturn fraudulently obtained orders, and regain custody of her children, in the amount of $272,255.56, plus interest until paid.[10]

Unlike a state court-issued judgment, such a federal order does not have to be served upon the obligor and, once registered in the local district, the judgment has "the same effect as a judgment of the district court of the district where registered and may be enforced in like manner." (28 U.S.C. § 1963). The federal judgment was filed in the family court action in 2007.

Because of these proceedings, any need to renew the 2003 family court judgment was mooted by the federal court judgment, which need not be renewed until at least 2012,[11] and the 2003 order should have been removed from our judgment-renewal scheduling calendar, but was not.

The federal district court's 2006 and 2008 orders are nearly identical. As discussed at great length during the proceedings in the family court, the only difference between them was the removal of child support arrearages by the Ninth Circuit on the ground that those damages had not been specifically pled in the tort suit. All other awards of damages, including the brought-forward attorney's fees, were specifically affirmed by the Ninth Circuit

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[10] *See* Exhibit B, *Amended Judgment Nunc Pro Tunc*, filed July 23, 2008. The *Findings of Fact, and Conclusions of Law and Decision* entered the same day as the original *Judgment* recited (at 7) the $116,732.09 awarded by this Court, and noted the other awards added to it to constitute the $272,255.56 attorney's fee total.

[11] We have not fully researched the matter yet, but since the 2008 judgment was issued "nunc pro tunc" to the 2006 original *Judgment*, there is some question whether the six-year renewal-of-judgment statute will call for renewal of that judgment in 2012 (six years from the original judgment) or 2014 (six years from the *nunc pro tunc* judgment), but that question is academic for the moment; the only relevant point here is that there was nothing to do to renew the judgment in 2009, because it had been incorporated and subsumed into the federal judgment in 2006 (or 2008).

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Court of Appeals.[12] The United States Supreme Court refused Scot's request to review the award.

As noted above, that sequence of events should have resulted in removal of the 2003 judgment from the list of judgments requiring renewal in our calendaring system, but it did not. When the previously-calendared renewal date came around, it looks like someone in this office initiated the process. It was apparently abandoned at some point when someone here picked up on the fact that it was unnecessary, although the renewal was put in the file anyway.

We knew we had a valid and fully-enforceable judgment for the fees involved, and sought collection. My error was in not remembering the full sequence of events, and (in late 2009) putting in front of the family court the "renewed" 2003 order, instead of the federal 2006 order into which it had been incorporated, but that point is irrelevant – the family court's 2003 order for payment of $116,732.09 is alive and well and a component of the attorney's fees found to be owing as of March 13, 2006, in the sum of $272,255.56, plus interest until paid.

Recently, Scot filed a bogus action in the state of California to prevent the collection of attorney's fees he has owed for recovery of the kidnaped children since 2003 – after earlier demanding that formal garnishment of those fees be initiated. As will be explained in our Answer to his writ petition, we are attempting to cut through the various layers of nonsense he continually churns up,[13] and are asking the family court to directly enforce its orders pursuant to this Court's precedents.[14]

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[12] *See* Exhibit E, pages 17-22, *Memorandum Decision*, filed March 26, 2008.

[13] Scot's antics have caused ***another*** $39,000 in attorney's fees to be assessed against him in family court during the proceedings he has dragged out interminably during the past two years. He has (of course) paid not a penny of the fees assessed against him, and has declared that he will never comply with any order to pay anything.

[14] *See, e.g., Reed v. Reed*, 88 Nev. 329, 497 P.2d 896 (1972) (a court has inherent power to enforce its orders and judgments); *Kennedy v. Kennedy*, 98 Nev. 318, 646 P.2d 1226 (1982) (a judgment ***must*** actually be satisfied to have any meaning, by "a payment schedule which

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Scot is keenly aware that there is a limited pool of counsel willing to seek recovery on behalf of an impecunious client such as Cisilie against an opponent like him, who files endless actions in multiple courts for the purpose of driving up costs and trying to exhaust his pursuers. To date, the total value of time and costs expended in recovering the children from Scot, and trying to recover damages and support arrearages from him, significantly exceeds half a million dollars.[15] Counsel's out-of-pocket costs are nearly $100,000.

On February 3, 2010, the court held a hearing and found that Scot was in violation of the order issued at the last hearing, and directed that he pay $4,696.64 for the four payments of $1,174.14 by the next hearing date of March 8, 2010. The court also ruled that it would decide what to do with that money at the March 8, hearing.[16] The other related issues have not been decided by the court.[17]

III. ARGUMENT

A. The Filing of the Federal Judgment Establishes An Enforceable Order

Scot has requested a *Stay* of the interpleading of funds to the district court. At the hearing on October 26, 2009, he complained to the Court (for the first time) that he believed that the judgment had not been renewed timely and thus did not owe the money. Judge Moss, wanting to verify if there was actually a valid judgment, ordered Scot to interplead the funds.

During the time between the October 26, 2009, hearing and the hearing held on February 3, 2010, as detailed above, we went back over the file, and found out that the

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will allow for liquidation of arrearages on a reasonable basis").

[15] This includes about $200,000 in the value of time expended in the Family Court matter, and more than $300,000 worth of time expended in the Federal District Court, Ninth Circuit, and United States Supreme Court. In addition to last week's filings in California, Scot has sued this law firm in Virginia for trying to collect child support from him.

[16] The family court is aware that there are multiple judgments available to which this money could be credited and deferred as to how to apply that money until the March 8, 2010, hearing.

[17] *See* Exhibit F, RPIA pages 23-26, and Exhibit G, RPIA pages 27-29.

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normal judgment renewal process had not been followed because the fees order had been subsumed in the comprehensive federal court judgment. The whole history was explained to the family court in Cisilie's Supplement filed November 30, 2009.[18]

In this context, the judgment renewal statute is irrelevant – as Scot knew perfectly well but neglected to tell this Court when he filed the current writ petition and motion. The 2003 payment order as to the fees incurred in recovery of the kidnaped children is valid, as part of the federal judgment, with no renewal required for years.

We originally filed the federal judgment with the Court as Exhibit A to Cisilie's *Motion to Reduce Arrears in Child Support to Judgment, To Establish A Sum Certain Due Each Month In Child Support, and For Attorney's Fees and Costs*, filed November 14, 2007. The judgment was valid and enforceable by that court at that time. Scot's failure to object in a timely manner to that filing is a waiver to any legitimate objection that might have existed – and there ***is*** no legitimate objection.

Before the February 3, 2010, hearing, we re-filed the federal judgment (as amended in 2008) in the district court to avoid any further hyper-technical objections and to make it crystal clear that it remains as fully enforceable as any judgment issued by that court.[19]

Fairly straightforward Nevada statutes determine if a judgment issued by some other court can be filed and enforced here. NRS 17.340 states:

> As used in NRS 17.330 to 17.400 inclusive, unless the context otherwise requires, "foreign judgment" means ***any*** judgment of a court of the United States or of any other court which is entitled to full faith and credit in this state, except:
> 1. A judgment to which chapter 130 of NRS applies; and
> 2. An order for protection issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders.

None of the statutory exceptions apply. Since full faith and credit is specifically delineated in the United States Constitution, it would be very hard to argue that any judgment

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[18] *See* Exhibit H, RPIA pages 30-43.

[19] *See* Exhibit I, pages 44-47.

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issued by a federal court – no matter where it was located – is not entitled to full faith and credit in, and enforcement by, any court of this State.[20]

Scot's ramblings about the filing of the federal judgment are just noise. Both the district court and this Court ***must*** give full faith and credit to the judgment of the federal district court and enforce that judgment in its entirety.

The family court heard this argument at the February 3, 2010, hearing and deferred decision on the matter until the March 8, 2010, hearing. The deferral was only to allow Scot the opportunity to file an *Opposition* to our argument that the judgment is still valid due to the United States District Court's ruling. Scot has not filed such an *Opposition*. He did file an objection to the filing of the foreign judgment, but nowhere in that objection does it address the fact that NRS 17.340 is controlling and certainly does not cite to any authority from this State that is contrary.

In other words, at Scot's demand, Judge Moss gave Scot the opportunity to file an *Opposition*, but ordered him to continue to interplead the funds, since it is crystal clear he is just stalling payment of the money he owes by any and all means he can concoct. The decision as to what to do with those funds was also to be deferred to the March 8, 2010, hearing.[21]

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[20] *See* U.S. Const., art. IV, § 1. This would be true even if the judgment was granted for a cause of action not recognized in this State. *See, e.g., Burdick v. Nicholson*, 100 Nev. 284, 680 P.2d 589 (1984) (full faith and credit clause required Nevada to give effect to the North Carolina judgment). Of course, in this case, the judgments are for massive child support arrears, interest, penalties, tort damages, and attorney's fees incurred in recovering kidnaped children – collection of all of which are strongly favored by Nevada public policy). An action to enforce the judgment is an action to enforce a debt, not the underlying cause of action. *Id.*

[21] *See* Exhibit G, RPIA pages 27-29, Judge Moss knows there are many thousands of dollars of judgments and arrearages to which this money can be applied. She never said that WILLICK LAW GROUP was going to get the money, only that a decision as to what to do with the money was deferred.

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B. The Stay Should Be Denied Because Scot Owes The Money

The simplest reason that the Stay should be lifted is that Scot owes the money. He owes over $1,500,000 through federal tort judgments, child support arrears, penalties and interest, attorney's fees, and costs, and as the result of his litigation in the courts of this State and in Texas.

The U.S. District Court alone has awarded Cisilie and her children $822,255.56 in tort damages, attorney's fees, and punitive damages – of which Scot has paid ***nothing***.[22] These awards have been upheld on appeal and are a final judgment by the federal court. This *Judgment* has been properly filed in the Nevada State district court and is completely enforceable by that court.[23]

In fact, and with respect, the Nevada Legislature has stated that ***no*** stay of enforcement of such a judgment is appropriate in these circumstances. Since 1979, NRS 17.370 has stated that a stay of enforcement of such a final, unappealable, and filed judgment of a U.S. District Court is not available. Even if a stay ***was*** available, it would issue ***only*** after posting "security for the satisfaction of the judgment." Scot has never posted a dime in security of any kind. He is merely a million-plus dollar deadbeat seeking to evade justice.

In short, Scot's motion for Stay should be summarily denied as ***he owes the money***.

IV. CONCLUSION

Scot has not voluntarily paid a single dime toward any judgment imposed against him, or support of his children, since he kidnaped them in 2000; the damage he caused –and continues to inflict all around – exceeds a million and a half dollars. Each opportunity at collection in favor of his victims – his children and former spouse – has been met with new litigation for the past ten years.

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[22] *See* Exhibit B, RPIA pages 2-3.

[23] *See* Exhibit H, RPIA pages 30-43.

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The Motion to Stay interpleading the funds into the District Court should be denied with prejudice as Scot owes the money and the payment of these funds will be used to reduce at least some of the interest that continues to accrue on all of the valid judgments.

We will address why the writ petition should be dismissed in its entirety, and Scot barred from filing any further papers in this Court seeking to evade justice, in the requested *Answer*.

DATED this 2nd day of March, 2010.

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/s/ Marshal S. Willick, Esq.
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of WILLICK LAW GROUP, and on the 2nd day of March, 2010, I send via electronic transmission to scotlund@vaile.info and legal@infosec.privacyport.com, as well as deposited in the United States Mails, postage prepaid, at Las Vegas, Nevada, a true and correct copy of the *Real Party Interest's Opposition to Petitioner's Motion to Stay Interpleading of Funds to District Court*, and *Respondent Real Party In Interest's Appendix*, addressed to:

Robert Scotlund Vaile
P.O. Box 727
Kenwood, California 95452
Petitioner *In Proper Person*

There is regular communication between the place of mailing and the places so addressed.

Employee of the WILLICK LAW GROUP

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