

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

2
3 ROBERT SCOTLUND VAILE,

4 Petitioner,

5 vs.

6 THE EIGHTH JUDICIAL DISTRICT
7 COURT OF THE STATE OF NEVADA, IN
8 AND FOR THE COUNTY OF CLARK,
9 AND THE HONORABLE CHERYL B.
 MOSS, DISTRICT JUDGE, FAMILY
 COURT DIVISION,

10 Respondents,

11 and

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

13 Real Party in Interest.
14

SC No.: 55446 (WRIT)
53687 & 53798

DC No.: 98-19-230383-1
Electronically Filed
Nov 18 2010 09:04 a.m.
Tracie K. Lindeman

15 **OPPOSITION TO PETITIONER’S**
16 **“REQUEST FOR JUDICIAL NOTICE”**

17
18 **I. INTRODUCTION**

19 Scot’s recent filing with this court – as it has been with the dozen or so
20 appeals and writs he has filed just in this Court (among the dozen or so courts to
21 which he has run) – is fraught with inconsistencies, false statements, and out and out
22 lies. All in an effort to avoid accountability for his actions, and payment of the child
23 support and judgments he owes to his former spouse and children.

24 This latest filing asked the Supreme Court to accept a decision of a part-time
25 magistrate in an action to which Cisilie was not a party and which was not even in
26 his favor.

27 Scot’s recent forays seeking out multiple new venues hoping for some
28 erroneous order in his favor included filings in four different courts in the State of

1 California.¹ Of particular note from one of them is from his fraudulent effort to hide
2 behind the put-up bankruptcy he had his current wife file, in which the United States
3 Bankruptcy Court's *Memorandum on Request for Preliminary Injunction*² stated in
4 its first paragraph:

5 Chapter 7 debtor Heather Vaile is married to a particularly
6 despicable man. Prior to their marriage, a federal district court entered
7 a large tort judgment against him for child abduction. In addition, he
8 has not complied with orders of a Nevada state court to pay child
9 support and has not paid several hundred thousand dollars in
10 attorneys' fees ordered by that court.

11 The concluding paragraph of that order, largely denying the requested relief, is also
12 worth noting:

13 Since [Heather] Vaile's pleadings are probably being ghost-
14 written by her husband [Scot] and he has been found to have obtained
15 court orders in prior cases by fraudulent means, the court will prepare
16 its own injunction.

17 From another of his four California filings, Scot asks this court to take
18 "judicial notice" of the (erroneous) analysis – but not the (correct) ruling and
19 conclusion of an appointed Commissioner sitting in child support enforcement for
20 the Superior Court of California, County of Sonoma.

21 The Commissioner was reviewing the child support garnishment against Scot
22 by the local District Attorney; Scot's Registration of Out-of-State Support Order was
23 vacated and his request for a stay of the Earnings Assignment Order was denied.
24 This is yet again another attempt by Scot to distract and mislead the court, setting up
25 yet another *red herring*.

26 ¹ Scot has filed actions in: (1) Superior Court of California County of Sonoma - Case
27 No. SFL-49802 - denying all requested relief; (2) Superior Court of California City
28 and County of San Francisco - Case No. CGC-09-490578 - which has been
Dismissed with Prejudice; (3) California Appellate Court First Appellate District -
Case No. A127834 - which has been Dismissed; (4) United States Bankruptcy Court
Northern District of California - Case No. 08-11135, A.P. No. 10-1081 - Denying
Most Relief; Scheduled for Final Hearing 4/25/11.

² Exhibit A, US Bankruptcy Court Northern District of California, *Memorandum on
Request for Preliminary Injunction*, filed August 9, 2010.

II. FACTS AND ARGUMENT

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

Most of the facts of this case are detailed in the various orders and opinions – including this Court's *Opinion*,³ which Scot continues to misrepresent as stating that Nevada does not have jurisdiction to impose child support, which this Court did not say and which is not true.

As we are only addressing whether or not the Court should or should not take judicial notice of the magistrate's comments leading up to her dismissal of Scot's action, we will not further address (but certainly should not be seen to acquiesce to the truth of) the misleading factual statements in Scot's *Overview of California Decision*. Those statements have no relevance to anything currently before the Court in Scot's one not-yet-dismissed writ filing, or the either of the two pending and consolidated appeals before this Court (discussed below).

Scot's is simply again arguing a position which has been long ago decided by not only this Court, but thus far *every* court which has had jurisdiction and power to address the matter.

On February 17, 2010, Scot filed a *Petition for Writ of Mandamus*, Supreme Court Case No. 55446, claiming among other things that the District Court lacked jurisdiction in the case, and to prevent the court from ordering him to pay funds into the court in satisfaction of any judgment.

That writ filing had nothing to do with the decision of the California Superior Court of which Scot is asking this Court to take judicial notice. Its "legitimacy" is bound up with resolution of the two appeals – and remaining pending is our request

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

1 to dissolve the temporary stay entered by this Court in that writ case, which is being
2 misused by Scot in efforts to block payment of currently due child support.

3 The issues currently before the Court lie in the appeals of Supreme Court
4 Case No. 53687 and 53798. The first of these was Scot's appeal of the District Court
5 Orders of 3/20/08; 8/15/08; 10/9/08; and 2/27/09.⁴

6 The appeal in Supreme Court Case No. 53798, which was filed by Cisilie,
7 concerns the issue of how to correctly calculate penalties on child support arrears,
8 addressing the District Court's Order of 4/17/09.

9 Scot attempted to withdraw his appeal in Supreme Court Case No. 53687,
10 after the court had consolidated the two Appeals, in what appears to have been a
11 clumsy attempt to confuse the Court and somehow dismiss Cisilie's appeal.

12 Scot's request is simply without merit. The magistrate's incorrect dicta about
13 UIFSA was not recognized as having any meaning even by other courts in California
14 where Scot similarly attempted to misuse it, including the Superior Court of
15 California City and County of San Francisco, Case No. CGC-09-490578, which
16 recently ignored a similar request and dismissed Scot's filings there.⁵

17
18 **III. SCOT'S ARGUMENTS ARE (AGAIN) CONVOLUTED,**
19 **INDISCERNIBLE, AND MERITLESS**

20 Scot's argument as to why this Court should take "judicial notice" of dicta in
21 a magistrate's order dismissing his various claims are so convoluted and illogical that
22 it was impossible for us to discern what point he was attempting to make. He cites
23 to nothing that would assist.

24
25
26 ⁴ The Appeal of Orders 3/20/08 and 8/15/08 were made moot by dismissal of Scot's
27 Appeals in Supreme Court Case Nos. 52457 and 52593.

28 ⁵ Exhibit B, Superior Court of California City and County of San Francisco, Order
filed November 2, 2010.

1 Scot makes unsupported statements in his request concerning jurisdiction to
2 determine the merits without any tie to the relief he is requesting or the issues
3 remaining before the Court in this matter.

4 This Court has recently addressed judicial notice in *Mack*,⁶ where it held:

5 On appeal, a court can only consider those matters that are
6 contained in the record made by the court below and the necessary
7 inferences that can be drawn therefrom. *Toigo v. Toigo*, 109 Nev.
8 350, 350, 849 P.2d 259, 259 (1993) (citing *Lindauer v. Allen*, 85 Nev.
9 430, 433, 456 P.2d 851, 853 (1969)). We will generally not consider
10 on appeal statements made by counsel portraying what purportedly
11 occurred below. *Wichinsky v. Mosa*, 109 Nev. 84, 87, 847 P.2d 727,
12 729 (1993) (citing *Lindauer*, 85 Nev. at 433, 456 P.2d at 852-53).

13 However, we may take judicial notice of facts generally known
14 or capable of verification from a reliable source, whether we are
15 requested to or not. NRS 47.150(1). Further, we may take judicial
16 notice of facts that are “[c]apable of accurate and ready determination
17 by resort to sources whose accuracy cannot reasonably be questioned,
18 so that the fact is not subject to reasonable dispute.” See NRS
19 47.130(2)(b).

20 As a general rule, we will not take judicial notice of records in
21 another and different case, even though the cases are connected.
22 *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981)
23 (citing *Giannopoulos v. Chachas*, 50 Nev. 269, 270, 257 P. 618, 618
24 (1927)). However, this rule is flexible in its application and, under
25 some circumstances, we will invoke judicial notice to take cognizance
26 of the record in another case. *Id.*

27 To determine if a particular circumstance falls within the
28 exception, we examine the closeness of the relationship between the
two cases. *Id.*

There are *no* “facts” in the dicta from the magistrate’s dismissal, nevertheless
facts “capable of accurate and ready determination by resort to sources whose
accuracy cannot reasonably be questioned.” It merely contains musings showing that
the magistrate did not understand initial jurisdiction to enter a child support award
under UIFSA – which even the magistrate found irrelevant to the decision to deny
and dismiss Scot’s requests for relief.

This Court should summarily deny Scot’s current filing as meritless.

⁶ *Mack v. Estate of Mack*, 125 Nev. ___, 206 P.3d 98 (Adv. Opn. No. 9, Mar. 26, 2009).

1 **IV. CONCLUSION**

2 There is no reason for this Court to take any more “notice” of the Sonoma
3 magistrate’s dicta any more than the San Francisco order did; neither of those
4 determinations have anything to do with the issues currently before this Court.

5 The California courts have ruled against Scot in every case – as has every
6 *other* court in which he has attempted to re-argue the decisions rendered against him.
7 This Court has already found that he committed multiple acts of fraud upon the
8 District Court, with some justices requesting referral for prosecution. As succinctly
9 summarized by the Bankruptcy Court for Northern California, Scot’s actions and
10 behavior are just “reprehensible.”

11 Scot has long passed the point of being a vexatious litigant. His pleadings are
12 riddled with outright lies and are transparently intended for the purpose of evasion
13 of his most basic obligations to his former spouse and children. He has demonstrated
14 complete disregard and disdain for every court in the State of Nevada and elsewhere,
15 not to mention basic tenets of honesty and decency.

16 This Court should, without further delay, deny the request for judicial notice,
17 decide the penalties calculation question presented by Case No. 53798, deny as
18 frivolous Scot’s appeal from the child support and fee awards in Case No. 53687,
19 dissolve the stay and dismiss as moot Scot’s remaining writ petition.

20 DATED this 17th day of November, 2010.

21 WILICK LAW GROUP

22 

23 MARSHAL S. WILICK, ESQ.
24 Nevada Bar No. 002515
25 3591 East Bonanza Road, Suite 200
26 Las Vegas, Nevada 89110-2101
27 Attorneys for Real Party in Interest
28

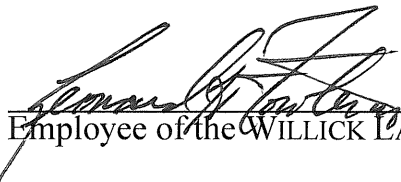
1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of WILICK LAW GROUP, and on the
3 17th day of November, 2010, I send via electronic transmission to:
4 scotlund@vaile.info and legal@infosec.privacyport.com, as well as deposited in the
5 United States Mails, postage prepaid, at Las Vegas, Nevada, a true and correct copy
6 of the *Opposition Petitioner's Request for Judicial Notice* addressed to:

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

11 *Courtesy Copied to:*
12 Raleigh C. Thompson, Esq.
13 MORRIS PETERSON
14 300 S. Fourth Street, Suite 900
15 Las Vegas, Nevada 89101
16 *Attorneys Representing Deloitte & Touche, LLP*

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

19 
20 Employee of the WILICK LAW GROUP

21 P:\wp13\VAILE\LF1398.WPD

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

HEATHER V. VAILE,

No. 08-11135

Debtor(s).

HEATHER V. VAILE,

Plaintiff(s),

v.

A.P. No. 10-1081

CISILIE A. PORSBOLL, et al.,

Defendant(s).

Memorandum on Request for Preliminary Injunction

Chapter 7 debtor Heather Vaile is married to a particularly despicable man. Prior to their marriage, a federal district court entered a large tort judgment against him for child abduction. In addition, he has not complied with orders of a Nevada state court to pay child support and has not paid several hundred thousand dollars in attorneys' fees ordered by that court.

Section 11 U.S.C. § 524(a)(3) of the Bankruptcy Code sets forth the rights of a debtor in a community property state when debts are owed by the debtor's spouse. That section provides that all community property is protected by the debtor's discharge from all dischargeable debts. Moreover, if a debt is of the type described in § 523(c), then the community is protected against it for all time

1 unless a timely action was filed in plaintiff's case, even if the debt is only owed by her husband. 4
2 **Collier on Bankruptcy** (16th Ed.), ¶ 524.02[3][c] (“[C]omplaints to determine the nondischargeability
3 of an obligation of the debtor or of an obligation of a nondebtor spouse in a hypothetical case
4 commenced by such spouse must be filed within the time period set forth in Federal Rule of
5 Bankruptcy Procedure 4007(c).”).

6 The district court judgment was in favor of a former spouse, defendant Cisilie Porsboll, and the
7 minor children of her marriage to Vaile's current husband. Since Porsboll apparently knew about
8 Vaile's bankruptcy and did not file a timely complaint, it would appear that she has no right to collect
9 her judgment from the community property of Vaile's marriage. Whether the claims of the children
10 are likewise limited is an open question. See Rule 1007(m) of the Federal Rules of Bankruptcy
11 Procedure; *In re McGhan*, 288 F.3d 1172, 1175 (9th Cir. 2002). On the other hand, the orders made
12 by the Nevada family law court are clearly nondischargeable pursuant to § 523(a)(5) and §
13 523(a)(15) of the Bankruptcy Code and not time-barred, and may therefore be enforced against
14 Vaile's community property.

15 Vaile's request for a preliminary injunction is now before the court. While the law is very
16 clear, the convoluted procedural history makes a proper resolution a little more of a challenge.

17 One of the complicating factors is that both the federal and state courts are “district” courts.
18 The federal court is the United States District Court for the District of Nevada, No. 2:02-cv-0706-
19 RLH-RJJ. The state court is the District Court, Family Division, Clark County, Nevada, No.
20 D230385. To avoid confusion, the court will refer to the former as the “Federal Court” and the latter
21 as the “State Court.”

22 Another complicating factor is that the Federal Court judgment contains the following
23 provision:

24 Plaintiff Cisilie Vaile Porsboll is awarded damages of attorneys fees and
25 costs, awarded in other cases as a result of her having to come to the United States to
26 recover her children, overturn fraudulently obtained orders, and regain custody of
her children, in the amount of \$272,255,56, plus interest until paid.

1 The only issue of law the court can see is whether this provision somehow makes the Federal
2 Court judgment nondischargeable pursuant to § 523(a)(5) or (15). Section 523(a)(5) exempts from
3 discharge “a domestic support obligation.” Section 523(a)(15) exempts debts to a former spouse “that
4 is incurred by the debtor in the course of a divorce or separation or in connection with a separation
5 agreement, divorce decree or other order of a court of record, or a determination made in accordance
6 with State or territorial law by a governmental unit.” This incorporation of awards made by the State
7 Court into the judgment made by the Federal Court creates problems, as the judgment of the Federal
8 Court judgment contains other awards which clearly are not within the scope of § 523(a)(5) or §
9 523(a)(15).

10 Another complicating factor is that the Federal Court judgment has been “registered” with the
11 State Court. The legal effect of this is unclear, although the court doubts that such an action can
12 change a judgment from one subject to § 523(c) into one that is not.

13 This is not the time for final adjudication of these issues. Since there is a substantial likelihood
14 that some or all of the judgment of the Federal Court is not enforceable against the community property
15 of Vaile’s marriage but no possibility that an independent judgment or order of the State Court is
16 subject to that limitation, the court need only fashion a properly narrow injunction.

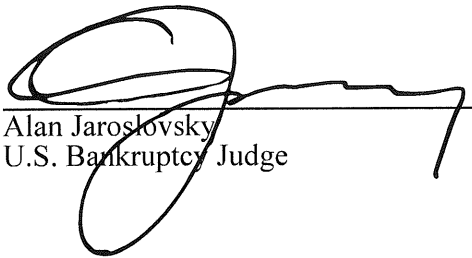
17 For the foregoing reasons, the court will enjoin the collection of the Federal Court judgment
18 from Vaile’s community property, including her husband’s wages, pending a final determination of the
19 dischargeability of that judgment. The court will also enjoin collection of any judgment or order of the
20 State Court from the same property, but only to the extent such judgment or order is based solely on the
21 Federal Court judgment. Any judgment or order of the State Court made independent of the Federal
22 Court judgment will be fully enforceable against Vaile’s community property.

23 The court is less than impressed with defendants’ personal jurisdiction arguments. This court is
24 required to give full effect to Vaile’s discharge rights, and § 105(a) of the Bankruptcy Code gives it
25 ample power to do so. The court does not need personal jurisdiction over defendants, as jurisdiction
26 over their lawyers and local government officials will suffice. This is the only court which has

1 jurisdiction to determine the dischargeability of the debts discussed above. Defendants must live with
2 the court's injunctive relief until such time as they voluntarily submit themselves to the court's
3 jurisdiction and obtain a judgment on the merits.

4 Since Vaile's pleadings are probably being ghost-written by her husband and he has been found
5 to have obtained court orders in prior cases by fraudulent means, the court will prepare its own
6 injunction.

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8 Dated: August 9, 2010

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11 Alan Jaroslovsky
12 U.S. Bankruptcy Judge
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4 **CERTIFICATE OF MAILING**

5 I, the undersigned, a regularly appointed deputy clerk of the United States Bankruptcy Court for the
6 Northern District of California, at Santa Rosa, hereby certify:

7 That I, in the performance of my duties as such clerk, served a copy of the foregoing document by
8 depositing it in the regular United States mail at Santa Rosa, California on the date shown below, in a
9 sealed envelope bearing the lawful frank of the Bankruptcy Judge, addressed as listed below.

10 Dated: August 9, 2010

11 By : Katie Andersen
12 Katie Andersen
13 Deputy Clerk

14 Heather Vandygriff Vaile
15 P.O. Box 727
16 Kenwood, CA 95452
17
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EXHIBIT B

TROMBADORE GONDEN LAW GROUP LLP
225 Bush Street • Suite 1600 • San Francisco • CA 94104
PHONE: 415-439-8373 • FAX: 415-651-9489

1 J. THOMAS TROMBADORE, Esq. (State Bar No. 136244)
2 JAMES S. MONROE, Esq., (State Bar No. 102328)
3 TROMBADORE GONDEN LAW GROUP
225 Bush Street, Suite 1600
4 San Francisco, California 94104
T: (415) 439-8373 \ F: (415) 651-9489

5 Attorneys Specially Appearing for Defendants
6 Marshal S. Willick and Marshal S. Willick P.C.,
7 d.b.a. Willick Law Group

8 SUPERIOR COURT OF CALIFORNIA
9 CITY AND COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL CASE

10 ROBERT S. VAILE,

11 Plaintiff,

12 vs.

13 DELOITTE TOUCHE LLP, et al.,

14 Defendants.

Case No. CGC-09-490578

[PROPOSED] ORDER GRANTING WILICK
PARTIES' MOTION TO DISMISS ACTION
WITH PREJUDICE FOR MOOTNESS AS TO
ALL DEFENDANTS AND JUDGMENT
THEREON.

DATE: November 2, 2010
TIME: 9:30 A.M.
DEPT: 302

Hon. Charlotte W. Woolard, presiding

TRIAL DATE: None

17 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

18 The above-entitled Action came on for hearing before the Honorable Charlotte W.
19 Woolard on the Willick Defendants' Motion to Dismiss this Action with Prejudice as Moot; or
20 Alternatively by Renewed Demurrer and Motion For Judgment On The Pleadings (hereafter
21 "Motion"). At the hearing attorney J. Thomas Trombadore appeared specially for moving
22 parties and Defendants Marshal S. Willick and Marshal S. Willick, P.C, a Nevada Professional
23 Corporation, *doing business as* Willick Law Group (collectively hereafter "Willick"). Attorney
24 Eileen M. O'Brien of Bingham McCutchen appeared telephonically at the hearing representing
25
26
27
28

ENDORSED
FILED
San Francisco County Superior Court
NOV - 2 2010
CLERK OF THE COURT
BY: MARTA VALLEJO
Deputy Clerk

1 Defendant Deloitte Touche LLP. Plaintiff *in propria persona* Robert Scotlund Vaile also
2 appeared telephonically.

3 **ORDER**

4 Having considered the parties' briefs, evidence and arguments of counsel on the Motion
5 and good cause appearing:

6 **IT IS HEREBY ORDERED** that the Motion by Defendant Marshal S. Willick's and
7 Defendant Marshal S. Willick, P.C., A Nevada Professional Corporation's to Dismiss this Action
8 with Prejudice for Mootness as to All Defendants established by the Law of the Case on Appeal
9 of This Action (hereafter "motion to dismiss") is hereby granted in view of the resolution of the
10 issues in Nevada. Accordingly, this Action is dismissed with prejudice in its entirety as to all
11 defendants. Judgment of dismissal for defendants is entered thereon accordingly.

12 **IT IS FURTHER ORDERED** that Marshal S. Willick's and Defendant Marshal S.
13 Willick, P.C.'s Renewed Demurrer and Motion For Judgment on The Pleadings to Plaintiff's
14 Amended Complaint, made in the alternative, is off calendar in view of the Court's ruling on the
15 motion to dismiss.

16 **IT IS SO ORDERED.**

CHARLOTTE WALTER WOOLARD

17 Dated: November 2, 2010

By

Honorable Charlotte W. Woolard
Judge, San Francisco Superior Court

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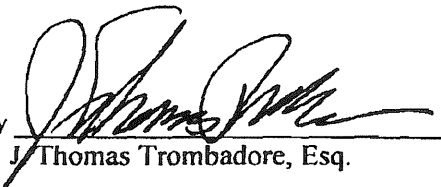
28 ///

TROMBADORE GONDEN LAW GROUP LLP
225 Bush Street • Suite 1600 • San Francisco • CA 94104
PHONE: 415-439-8373 • FAX: 415-651-9489

Submitted by:

TROMBADORE GONDEN LAW GROUP LLP

By


J. Thomas Trombadore, Esq.

Date: November 2, 2010

*Attorneys Specially Appearing for Defendants
Marshal S. Willick and Marshal S. Willick P.C.
d.b.a. Willick Law Group*

APPROVED AS TO FORM:

ROBERT SCOTLUND VAILE

BINGHAM McCUTCHEN

By:

Robert S. Vaile, *Plaintiff, Pro Per*

By:

Eileen M. O'Brien, Esq.
Attorneys for Defendant Deloitte Touche LLP

Date: November , 2010

Date: November , 2010

TROMBADORE GONDEN LAW GROUP LLP
225 Bush Street • Suite 1600 • San Francisco • CA 94104
PHONE: 415-439-8373 • FAX: 415-651-9489

PROOF OF SERVICE

CASE NAME: Vaile v. Deloitte Touche LLP Et al.
COURT: San Francisco County Superior Court
CASE NO.: CGC-09-490578

I, the undersigned, certify that I am employed in the City and County of San Francisco, California; that I am over the age of eighteen years and not a party to the within action; and that my business address is 225 Bush Street, Suite 1600, San Francisco, CA 94104. On this date, I served the following document(s):

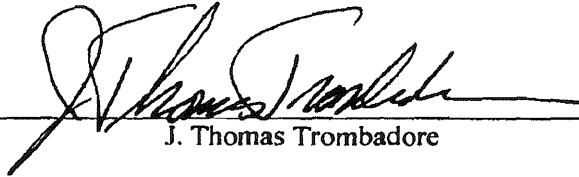
ORDER DISMISSING ENTIRE ACTION WITH PREJUDICE AND FOR JUDGMENT THEREON.

on the parties stated below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

X : By First-Class Mail — I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the United States Postal Service on the same day as collected, with first-class postage thereon fully prepaid, in San Francisco, California, for mailing to the office of the addressee following ordinary business practices.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 2nd day of November 2010 in San Francisco, California.

By



J. Thomas Trombadore

TROMBADORE GONDEN LAW GROUP LLP
225 Bush Street • Suite 1600 • San Francisco • CA 94104
PHONE: 415-439-8373 • FAX: 415-651-9489

SERVICE LIST

Vaile v. Deloitte Touche LLP et al.

San Francisco County Superior Court, Case No. CGC-09-490578

Plaintiff in Propria Persona

Robert Scotlund Vaile
P.O. Box 727
Kenwood, California 95452

For Defendant Deloitte Touche LLP

Debra L. Fischer, Esq.
Eileen M. O'Brien, Esq.
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, California 90071-3106