

ORIGINAL

PROPER PERSON RECEIVED/ENTERED

IN THE SUPREME COURT OF THE STATE OF NEVADA

APR 27 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT

ROBERT SCOTLUND VAILE,

Supreme Court Case No: 55446  
District Court Case No: 98 D230385

*Petitioner,*

vs.

**REQUEST TO FILE REPLY  
AND EXHIBITS IN SUPPORT  
OF PETITION FOR WRIT OF  
MANDAMUS OR  
PROHIBITION**

**FILED**

DEC 27 2011

AND

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT

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

**REPLY MEMORANDUM  
IN SUPPORT  
OF WRIT OF MANDAMUS  
OR PROHIBITION**

BY *[Signature]*  
DEPUTY CLERK

*Respondent.*

**REQUEST TO FILE REPLY AND EXHIBITS IN SUPPORT OF  
PETITION FOR WRIT OF MANDAMUS OR PROHIBITION**

Robert Scotlund Vaile, Petitioner, respectfully requests permission to file this reply memorandum in support of his petition for writ of mandamus or prohibition and to provide the attached order from the hearing held March 8, 2010 to this Court and other exhibits.

**RECEIVED**  
APR 27 2010  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

10-10805

1                                   **REPLY MEMORANDUM IN SUPPORT OF**  
2                                   **PETITION FOR WRIT OF MANDAMUS OR PROHIBITION**

3                                   **I.    RELEVANT HISTORY REGARDING**  
4                                   **THE PENDING WRIT PETITION**

5                                   After the hearing held on October 26, 2010, during which Defendant's counsel  
6                                   falsely represented to the court that a 2003 judgment for attorney's fees against  
7                                   Petitioner had been renewed in accordance with the law, the family court ordered Mr.  
8                                   Vaile to interplead funds to the Court in payment of those attorney's fees on threat of  
9                                   criminal contempt.  
10

11                                   During a hearing on February 3, 2010, the lower court signed an order vacating the  
12                                   writ of garnishment against Mr. Vaile's employer, Deloitte & Touche LLP, which had  
13                                   been issued based on the lapsed 2003 judgment. Nevertheless, the family court still  
14                                   issued an order requiring Mr. Vaile to interplead funds in support of the expired 2003  
15                                   judgment for attorney's fees stating simply that the order issued in the October 26, 2010  
16                                   hearing still "stands."  
17

18                                   On February 17, 2010, Petitioner requested this Court to intercede to prevent him  
19                                   from being jailed or allowing the family court to force him into bankruptcy by requiring  
20                                   payment of funds that he did not have. Petitioner also requested this Court to stay the  
21                                   action in the family court.  
22

23                                   On February 19, 2010, this Court issued an order directing Defendant to answer the  
24                                   petition, "limited to the issue of whether the 2003 attorney fee judgment was properly  
25                                   renewed as required by statute and this [C]ourt's precedent." This Court also granted a  
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28

1 temporary stay of “that portion of the district court's ruling that requires petitioner to  
2 deposit funds with the district court, pending further order from this court.”

3  
4 Despite this Court's stay, on February 25, 2010, the family court entered a written  
5 order requiring Mr. Vaile to deposit funds with the district court on threat of contempt.

6  
7 On March 8, 2010, the lower court heard Defendant's claims that a federal court  
8 order subsumed and extended the 2003 judgment for attorney's fees against Petitioner.  
9 Defendant's counsel presented no evidence or binding legal authority in support of their  
10 request. Following the hearing, the lower court ordered an involuntary wage  
11 assignment against Mr. Vaile for 25% of his salary to be paid directly to the Willick Law  
12 Group for attorneys fees. See Exhibit A, 4. This Court's stay is still in place.  
13

## 14 **II. ARGUMENT**

15  
16 In *Answer* to the petition for a writ, Defendant below failed to answer “the issue of  
17 whether the 2003 attorney fee judgment was properly renewed as required by statute  
18 and this [C]ourt's precedent” as directed by this Court. Defendant claims that she need  
19 not answer the question posed by this Court because “it is moot” and because Defendant  
20 has a new theory which she believes, will retroactively legitimize the lower court's order  
21 directing Petitioner to make payments against a void order. Defendant's theory is that  
22 there is a different order against which Petitioner should pay that justifies the lower  
23 court orders issued in direct contravention of this Court's mandate.  
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1                   **A. POST HOC RATIONALIZATION CANNOT JUSTIFY THE PREVIOUS**  
2                   **ORDERS FOR PAYMENTS AGAINST AN INVALID JUDGMENT**

3                   Even in light of Defendant's version of the facts, there is no justification for the  
4 lower court's orders requiring Petitioner to pay against the 2003 judgment following the  
5 October 26, 2009 and February 3, 2010 hearings. The payment of several thousands of  
6 dollars was due into the lower court on March 8, 2010. Had this Court not intervened in  
7 the matter and issued the stay, the lower court would have held Mr. Vaile in contempt of  
8 court for not paying into the district court against the 2003 judgment which both the  
9 lower court and Defendant's counsel knew was invalid.  
10

11  
12                   Defendant argues that the matter is moot now and was moot on February 17, 2010,  
13 when Mr. Vaile filed his petition for writ of mandamus. Firstly, Petitioner observes that  
14 an unlawful order cannot be *in place* at the same time that the matter is *moot*. The  
15 suggestion is nonsensical. In fact, the matter is still not moot since the lower court's  
16 order is merely stayed by virtue of this Court's order, and because the lower court made  
17 another order which violates this Court's stay. Secondly, in order for this matter to have  
18 been moot on February 17, it would have been necessary that the lower court's improper  
19 decision to register and enforce the federal court order, which it made on March 8, 2010,  
20 was a foregone conclusion as of February 17th. While Mr. Vaile is unfamiliar with the  
21 understanding that Defendant's counsel has with the lower court, Mr. Vaile understood  
22 on February 17<sup>th</sup> that the matter would still have to be litigated. Clearly, this matter was  
23 not moot on February 17, 2010 because the Court had not made its decision at the time,  
24 nor is the matter moot now.  
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1 The fact remains that the lower court relied<sup>1</sup> on counsel for Defendant's blatant  
2 misrepresentations to the lower court on October 26, 2009 that the 2003 order had been  
3 renewed. Counsel claims that his misrepresentations were simply his own "error" and  
4 that he simply could not remember the sequence of events.<sup>2</sup> By February 3, 2010, the  
5 lower court had been made aware that the renewal did not actually take place, but still  
6 required Petitioner to pay against the expired judgment. Even if the lower court had  
7 already determined as of February 3, 2010<sup>3</sup> to accept counsel for Defendant's new  
8 justification at a future hearing, that decision could not have served as a legal basis for  
9 the order against Mr. Vaile on February 3rd.  
10  
11

12  
13 When the lower court ordered Mr. Vaile to pay the funds into the court, there was  
14 simply no legal basis for the court to do so, and this Court's remedy was necessary.  
15

16 **B. NO EVIDENCE SUGGESTS THAT 2003 JUDGMENT WAS SAME AS 2006**  
17 **JUDGMENT FOR ATTORNEY'S FEES**

18 Even if Defendant's newly conceived theory of liability against Mr. Vaile had  
19 preceded the lower court's order, that theory is not viable under the law. The first and  
20 most obvious flaw in Defendant's theory is that \$116,000 does not equal \$272,000. At  
21 the hearing on March 8, 2010, where Defendant's request to register the federal court's  
22

---

23 <sup>1.</sup> This reliance was over the objection of Mr. Vaile that no evidence of the renewal  
24 had been presented to the court.

25 <sup>2.</sup> See *Real Party in Interest's Opposition to Petitioner's Motion to Stay*  
26 *Interpleading of Funds to the District Court*, 6. This situation is precisely the  
27 reason that a party who is not subject to cross-examination should not be able to  
provide testimony in a case.

28 <sup>3.</sup> The registration request had not been served on Petitioner as of the date of the  
February 3, 2010 hearing, as it was apparently filed on February 1, 2010.

1 default judgment was finally heard, Defendant's counsel presented not a single shred of  
2 evidence that the attorney fee award mentioned in the federal court judgment had any  
3 connection whatsoever to the 2003 judgment for attorneys fees awarded by the Nevada  
4 lower court. And Defendant does not refer to or even allege any evidence of this fact in  
5 answer to this writ petition either.  
6

7  
8 Furthermore, it would have been impossible for the \$116,000 attorney fee  
9 judgment issued by the family court in 2003, to have been relitigated and reissued in the  
10 amount of \$272,000<sup>4</sup> as a part of the 2006 judgment without offending the principles of  
11 *res judicata*. Defendant's theory relies on the assertion that the same issue was litigated  
12 twice, just in different amounts. This would have been unlawful for the federal court to  
13 do.  
14

15  
16 Although the lower court has at all times relied on the self-proclaimed expertise  
17 and unsworn testimony of Defendant's counsel throughout these proceedings, this  
18 reliance is misplaced, especially given counsel's propensity to remember relevant facts  
19 only when the matter is elevated to this Court. Regardless, assertion of facts by counsel  
20 cannot be treated as evidence, and cannot provide the basis for a litigant to fulfill her  
21 burden of proof. Without proof that the \$116,000 was the same as the \$272,000 referred  
22 to in the federal court judgment, and that a judgment of this type did not violate claim  
23 preclusion, Defendant's theory of post hoc rationalization for the lower court's order  
24 against Mr. Vaile for payment of attorney's fees is also without legal basis.  
25  
26

27  
28 <sup>4</sup> Defendant's counsel fails to admit that the federal court ultimately denied attorney's fees in that case. See Exhibit B.

1 **C. A FEDERAL COURT ORDER MAY NOT BE REGISTERED IN A FAMILY COURT**

2 Even if the federal court order<sup>5</sup> was valid, that order may be enforced only as  
3 dictated by federal statutes. Fed. R. Civ. P. 69(a)(1) states:

4 **A money judgment is enforced by a writ of execution**, unless the court  
5 directs otherwise. The procedure on execution — and in proceedings  
6 supplementary to and in aid of judgment or execution — must accord with  
7 the procedure of the state where the court is located, but **a federal statute**  
8 **governs** to the extent it applies.

9 This rule not only mandates that enforcement of the federal order may only be  
10 effected through execution (not by forced installment payments on threat of contempt),  
11 but it also states that federal statute governs the matter. The relevant federal statute on  
12 registration of a federal court order is 28 USC §1963. This statute clearly mandates that  
13 a federal judgment may only be registered *outside* the district where the judgment was  
14 entered. It states:

15  
16 A judgment in an action for the recovery of money or property entered in any  
17 court of appeals, district court, bankruptcy court, or in the Court of  
18 International Trade may be registered by filing a certified copy of the  
19 judgment in **any other district** or, with respect to the Court of International  
20 Trade, in any judicial district, when the judgment has become final by appeal  
21 or expiration of the time for appeal or when ordered by the court that entered  
22 the judgment for good cause shown may be enforced only by execution by  
23 federal rule.

24 The default judgment in question was entered in Las Vegas, Nevada, and can be  
25 registered only in a district outside this district. Defendant was advised of the relevant  
26 rule when the federal court previously denied Defendant's request to enforce the federal  
27 judgment on Mr. Vaile, an out of state litigant. See Exhibit C.

28  

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5. It is important to note that the federal court order was a default judgment, written  
and submitted to the federal court by Defendant's counsel. Mr. Vaile was not  
provided a copy before it was submitted, and it recites a series of false facts to  
justify the relief granted therein.

1 Even if the federal order could, under the federal statutes, be registered in the state  
2 court within the same district, it could not be registered in a family court. Under NRS  
3 3.223(a), a *domestic* judgment may be registered in a family court, but *not* a judgment  
4 outside the domestic domain. The Nevada statute addressing domestic judgment  
5 registration (NRS 130) is specifically enumerated in NRS 3.223(a), but registration of  
6 judgments outside this domain (NRS 17) are not included. According to this Court's  
7 decision in Landreth v. Malik, 125 Nev. Adv. Op. 61 (2009), NRS 3.223 prescribes the  
8 jurisdiction of the family court. Unless and until the family courts are empowered to  
9 address all issues that may arise in the registration of all forms of judgments on any  
10 cause of action (torts, securities, bankruptcies, etc), then the policy behind limiting the  
11 family court jurisdiction is justified.  
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15 Although Defendant may prefer to register the federal tort judgment in a family  
16 court which is predisposed to order relief against Petitioner regardless of prohibitions by  
17 this Court, the family court's jurisdiction is limited. This district court may not register  
18 a judgment that falls outside those prescribed by statute, and is prohibited by the  
19 relevant federal statutes and rules from doing so as well.  
20  
21

22 **D. JUDGMENT RENEWAL IS NOT ACCOMPLISHED**  
23 **BY MENTION IN ANOTHER COURT'S ORDER**

24 This Court has determined that the legislature's dictates of how judgment renewal  
25 shall take place in Nevada (NRS 17.214) requires strict compliance. Leven v. Frey, 123  
26 Nev. 399, 402, 168 P.3d 712, 714 (2007). Because Defendant could not demonstrate  
27 compliance with this statute, Defendant has propounded another theory – that mention  
28



1 of a different amount in a different judgment with no evidence of any connection  
2 between the two, automatically renews the first judgment. This theory has no support in  
3 the renewal statute, or in this Court's decisions. As such, it must be rejected by this  
4 Court.  
5

### 6 **III. CONCLUSION**

7 Defendant's answer continues to ask that this Court not apply the law to this case  
8 based on the assertion that Petitioner is bad and Defendant's attorneys are good. While  
9 application of this false theory may have worked in influencing children on the  
10 playground, it has no place in the exercise of jurisprudence under the law. Petitioner  
11 requests that the Court apply Nevada law and require the lower courts to do the same.  
12  
13

14 The matters in this case continue to flow up to this Court because of the outright  
15 refusal of the lower court to apply the law or to follow this Court's mandates. This case  
16 began again when the family court refused to follow this Court's 2002 decision holding  
17 that the Nevada courts had neither personal jurisdiction of the parties, nor subject matter  
18 jurisdiction in the case. The matter became more serious when the lower court refused  
19 to follow this Court's precedent prohibiting the institution of retroactive child support  
20 arrearages. Despite this Court's stay of requiring unjustified payment from Mr. Vaile,  
21 the lower court issued orders on February 25, March 25, and April 5, 2010 that directly  
22 contradict this Court's mandate. Since this Court is the only avenue for relief of the  
23 abuse of judicial power, Petitioner respectfully requests that this Court take appropriate  
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27  
28 action.

1 Further evidence of the abuse of judicial power is evident in the April 5, 2010 order  
2 attached as Exhibit A. Paragraphs 1-5 of that decision demonstrate that the lower court  
3 interprets a stay in California litigation as transfer of the case to the Nevada family court  
4 for decision on the merits, without the California litigants even being parties to the  
5 matter. The lower court then granted attorneys fees to all defendants in the California  
6 litigation, including \$100,000 to Defendant's counsel. Paragraph 6 of the April 5, 2010  
7 order demonstrates that the lower court determined to decide the jurisdictional merits of  
8 a case before another California court, this time the California family court. Despite  
9 instructing the parties that they would have to go to California or Norway to further  
10 modify the retroactive modifications to child support finalized in the October 9, 2008  
11 order, the lower court (or rather counsel for Defendant) is apparently displeased that Mr.  
12 Vaile has done just that, and seeks now to decide for the California court that it does not  
13 have jurisdiction of the matter.  
14  
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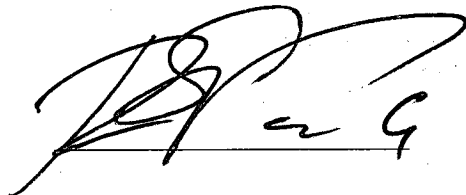
18 Paragraph 8 of the April 5, 2010 decision is based on a request for declaratory  
19 judgment to help *Defendant's counsel* with litigation in Virginia by judicially changing  
20 the facts of this case to state that March 20, 2008 order was "final, valid and  
21 enforceable." This ruling directly conflicts with this Court's October 13, 2008 order  
22 stating that the March 20, 2008 order was a temporary order that could not be appealed.  
23 See Exhibit D.  
24  
25

26 These decisions by the lower court in defiance of this Court's order and its  
27 precedent must necessarily flow up to this Court for review. Defendant labels Mr. Vaile  
28

1 vexatious for not keeping quiet about the abuses of the lower court, made in satisfaction  
2 of Defendant's counsel's outrageous demands. Petitioner respectfully requests this  
3 Court to take action to more fully mandate that the lower court obey this Court's orders  
4 and Nevada law.  
5

6 Extraordinary relief is still required given the lower court's order requiring  
7 Petitioner to make unjustified payments directly to defendant's counsel despite this  
8 Court's stay of the same. These payments are now past due and the order threatens to  
9 apply NRS 31.480 (arrest statute) if Petitioner is unable to pay. If this Court does not  
10 act, then the lower court will have been enabled to force Petitioner into bankruptcy or  
11 worse to satisfy Defendant's counsel.  
12  
13

14 Respectfully submitted this 26<sup>th</sup> day of April, 2010.  
15

16  
17  
18 

19 Robert Scotlund Vaile  
20 PO Box 727  
21 Kenwood, CA 95452  
22 (707) 833-2350  
23 *Petitioner in Proper Person*  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I certify that I am the Petitioner in this action, and that on the 26<sup>th</sup> day of April,  
3 2010, I served a true and correct copy of the foregoing *Request to File Reply and*  
4 *Exhibits in Support of Writ and Reply Memorandum in Support of Writ of Mandamus,*  
5 *and Reply Memorandum in Support of Writ of Mandamus or Prohibition* by placing the  
6 document in:  
7

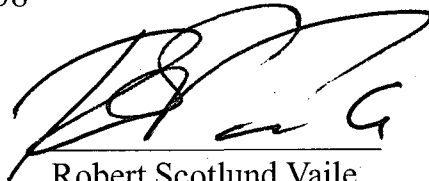
8  
9  U.S. Mail, first class postage prepaid; or

10  
11  National courier (Fedex or UPS) with expedited delivery prepaid,

12 and addressed as follows:

13 Marshal S. Willick  
14 Willick Law Group  
15 3591 E. Bonanza Road, Suite 200  
16 Las Vegas, NV 89110-2101  
17 *Attorneys for Real Party in Interest*

18 Honorable Cheryl B. Moss  
19 Eighth Judicial District Court  
20 Family Division  
21 601 North Pecos Road  
22 Las Vegas, NV 89101-2408  
23 *Respondent*

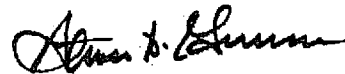
24 

25 Robert Scotlund Vaile  
26 PO Box 727  
27 Kenwood, CA 95452  
28 (707) 833-2350  
*Petitioner in Proper Person*

REPLY MEMORANDUM  
IN SUPPORT  
OF WRIT OF MANDAMUS OR PROHIBITION

# EXHIBIT A

ORDER FOR HEARING HELD MARCH 8, 2010  
DATED APRIL 5, 2010



CLERK OF THE COURT

1 NEO  
2 WILICK LAW GROUP  
3 MARSHAL S. WILICK, ESQ.  
4 Nevada Bar No. 002515  
5 3591 E. Bonanza Road, Suite 200  
6 Las Vegas, NV 89110-2101  
7 Phone (702) 438-4100; Fax (702) 438-5311  
8 email@willicklawgroup.com  
9 Attorneys for Defendant

8 DISTRICT COURT  
9 FAMILY DIVISION  
10 CLARK COUNTY, NEVADA

11 ROBERT SCOTLUND VAILE,

12 Plaintiff,

13 vs.

14 CISILIE A. PORSBOLL, FNA CISILIE A. VAILE,

15 Defendant.

CASE NO: 98-D230385  
DEPT. NO: I

DATE OF HEARING: n/a  
TIME OF HEARING: n/a

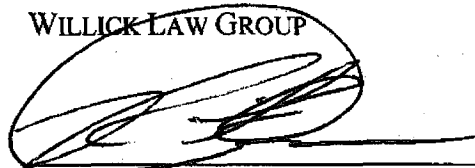
16  
17 **NOTICE OF ENTRY OF ORDER**

18 TO: ROBERT SCOTLUND VAILE, Plaintiff, In Proper Person.

19 PLEASE TAKE NOTICE that an *Order for Hearing Held March 8, 2010*, was duly entered  
20 by the Court on the 5<sup>th</sup> day of April, 2010, and the attached is a true and correct copy.

21 DATED this 9<sup>th</sup> day of April, 2010.

22 WILICK LAW GROUP




23 MARSHAL S. WILICK, ESQ.  
24 Nevada Bar No. 002515  
25 RICHARD L. CRANE, ESQ.  
26 Nevada Bar No. 009536  
27 3591 East Bonanza Road, Suite 200  
28 Las Vegas, Nevada 89110-2101  
(702) 438-4100  
Attorneys for Defendant

1 **CERTIFICATE OF MAILING**

2 I hereby certify that service of the foregoing *Notice of Entry of Order* was made on the 9<sup>th</sup>  
3 day of April, 2010, pursuant to NRCP 5(b), by depositing a copy of same in the United States Mail  
4 in Las Vegas, Nevada, postage prepaid, addressed as follows:

5  
6 Mr. Robert Scotlund Vaile  
7 P.O. Box 727  
8 Kenwood, California 95452

9 Mr. Robert Scotlund Vaile  
10 1435 Adobe Canyon Road  
11 Kenwood, California 95452  
12 Plaintiff in PROPER PERSON

13   
14 Employee of the WILICK LAW GROUP

15 P:\wp13\VAILE\FF12360.WPD

ORIGINAL

1 **ORDER**  
2 **WILLICK LAW GROUP**  
3 **MARSHAL S. WILLICK, ESQ.**  
4 Nevada Bar No. 002515  
5 3591 E. Bonanza Road, Suite 200  
6 Las Vegas, NV 89110-2101  
7 Phone (702) 438-4100; Fax (702) 438-5311  
8 email@willicklawgroup.com  
9 Attorneys for Defendant

8 **DISTRICT COURT**  
9 **FAMILY DIVISION**  
10 **CLARK COUNTY, NEVADA**

11 **ROBERT SCOTLUND VAILE,**

12 **Plaintiff,**

13 vs.

14 **CISILIE A. PORSBOL f/k/a CISILIE A. VAILE,**

15 **Defendant.**

CASE NO: 98-D-230385-D  
DEPT. NO: I

DATE OF HEARING: 03/08/2010  
TIME OF HEARING: 1:30 P.M.

16  
17 **ORDER FOR HEARING HELD MARCH 8, 2010**

18 This matter having come before the Hon. Cheryl B. Moss, on Defendant's *Motion for*  
19 *Declaratory Relief, Plaintiff's Motion to Vacate Judgment or in the Alternative, For New Hearing*  
20 *On the Matter,* and Status Check Re: California Case. Present at the hearing was Raleigh C.  
21 Thompson, Esq. of the law firm of MORRIS PETERSON representing DELOITTE & TOUCHE, LLP,  
22 Robert Scotlund Vaile, in *Pro Per*, and Richard L. Crane, Esq., and Marshal S. Willick, Esq., of the  
23 WILLICK LAW GROUP, representing Cisilie Porsboll. Based upon the pleadings on file and oral  
24 argument, the Court makes the following findings, conclusions, and orders:

25 \*\*\*\*\*

26 \*\*\*\*\*

27 \*\*\*\*\*

28 **RECEIVED**  
**MAR 26 2010**  
**DISTRICT COURT**  
**DEPT I**



1 **FINDINGS:**

- 2 1. The entirety of the California case was deferred to Nevada, as all of the evidence, witnesses,  
3 and pleadings, are in Nevada as stated in the language of the California Order. (Time Index:  
4 16:34:34)
- 5 2. The Court takes notice that Scotlund has filed an *Appeal* in his California actions on March  
6 5, 2010, and that defense counsel has just been made aware of the filing; however, this Court  
7 finds that the filing of a Notice of Appeal in California has no effect on the case currently  
8 before this Court, which may proceed to make findings related to the case. (Time Index:  
9 16:34:04)
- 10 3. As to Scotlund's California claims for the *Abuse of Process* and *Conversion*. These claims  
11 are before this Court. Though this Court does not have the authority to order the California  
12 court to do anything, the matter is stayed in California on the basis of a finding of *Forum*  
13 *Non Conveniens*, in favor of this Court. In accordance with the *Order* from California, and  
14 this Court's close familiarity with the lengthy history, facts, evidence, procedures, and  
15 parties, and after hearing argument on the merits of the matter, this Court finds there is no  
16 valid cause of action for *Abuse of Process* or *Conversion* against Richard L. Crane, Esq.,  
17 Marshal S. Willick, Esq., Cisilie Porsboll, the WILICKLAW GROUP, or DELOITTE & TOUCHE  
18 related to the attempted collection of judgments against Mr. Vaile. (Time Index: 16:35:14  
19 and 17:19:04)
- 20 4. The reason this Court stayed its decisions in this matter earlier was to find out what the  
21 California court was going to do regarding the issue of the garnishment. The California court  
22 deferred the case back to Nevada on the basis of a finding of *Forum Non Conveniens* in favor  
23 of this Court. This has allowed this Court to proceed on the merits and to make the above  
24 findings. (Time Index: 16:35:28)
- 25 5. As to the garnishment previously attempted by the WILICK LAW GROUP to collect on the  
26 various judgments against Mr. Vaile, the Court finds that this approach is not viable. The  
27 Court is not barred from setting installment payments, for what the Court sees as equitable  
28 reasons. This Court has issued installment orders in the past and considering the cost of

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garnishment and other equitable issues, the Court has sufficient reasons to require installment payments by Mr. Vaile on the various judgments against him. (Time Index: 16:35:50)

6. As to the action filed by Mr. Vaile in Sonoma, California, pursuant to NRS 125A.225, a Court of this state shall treat a foreign country as if it were a State of the United States, and under UIFSA, Norway is considered a State. California is subject to UIFSA as well, codified under the statutory code there, and thus does not have jurisdiction to modify the current support order. (Time Index: 16:41:20)

7. The issue regarding providing of a certified copy of the *Affidavit of Renewal* to Scotlund is moot, and was not required. (Time Index: 16:43:25)

8. The Court restates that its *Order* of March 20, 2008, was a final, valid, and enforceable order of the Court. The order remained enforceable until an order setting it aside, or an order modifying the support order was issued by this Court. In this case, the March 20, 2008, *Order* was not modified until issuance of the *Order* of October 9, 2008, and thus was final, valid, and enforceable throughout that time.<sup>1</sup> (Time Index: 16:44:32) Any motions filed in this Court between March 20, 2008, and October 9, 2008, or proceedings elsewhere, did not affect the validity, finality, or enforceability of the March 20, 2008, *Order*. Lastly, the Supreme Court of the State of Nevada, by implication, has also found that the *Order* of March 20, 2008, was a final, valid and enforceable *Order*. (Time Index: 16:44:32 and 16:52:46)

9. Deloitte & Touche, LLP, pursuant to NRS 31A.100, as an employer which complies with a notice to withhold income that is regular on its face, may not be held liable in any civil action for any conduct taken in compliance with the notice. Further, compliance by an employer with a notice to withhold income is a discharge of the employer's liability to the obligor as to that portion of the income affected. (Time Index: 16:49:50)

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<sup>1</sup> Under oath, Mr Vaile stated that "I never claimed that the March 20, 2008, *Order* was not valid or enforceable in Nevada as soon as it was entered." (Time Index 14:40:00)

- 1 10. Pursuant to NRS 31.480, the Court does not have the authority to have a party arrested for  
2 monies owed. However, the Court will allow the Defendant to revisit NRS 31.480 at a later  
3 date if money is not actually paid in accordance with this *Order*. (Time Index: 16:38:42)
- 4 11. The United State District Court's *Order* of March 13, 2006, subsumed the June 24, 2003,  
5 *Order* of this Court. NRS 3.223 is not violated, and *Landreth* does not apply, in seeking  
6 enforcement of the March 13, 2006, Federal Court *Order* properly filed in this Court. The  
7 Court finds that the federal action arose directly out of the domestic relations action and the  
8 Hague action for the return of the kidnaped children. *Landreth* does not disallow this Court  
9 from making rulings on issues that stem directly from the action before this Court. (Time  
10 Index: 16:40:20)
- 11 12. Pursuant to NRS 31.295, which is the garnishment statute, which this Court applies by  
12 analogy as a guideline for a court ordered involuntary wage assignment, the installment  
13 amount shall be limited to 25% of Mr. Vaile's total gross wages, after subtracting the sum  
14 being collected for child support, as it would be used for the purposes of garnishment.<sup>2</sup>  
15 (Time Index: 16:37:30)
- 16 13. The Court notes that under NRCPP 19, 20, and 21, the Court has broad discretion to allow or  
17 deny joinder of parties, and finds that Marshal S. Willick, Esq., WILLICK LAW GROUP, and  
18 Deloitte & Touche, LLP, need not be made parties or joined in this action to make the  
19 findings and rulings herein. (Time Index: 16:49:30)

20  
21 **ORDERS:**

- 22 1. *An Involuntary Wage Assignment* shall be implemented against Scotlund pursuant to NRS  
23 31.295. The installment payment shall not exceed 25% of Scotlund's gross income each  
24 month, collecting against combined current child support, child support arrearages, attorney's  
25 fees, and federal tort judgments. Scotlund's employer shall deduct \$541.92 per pay period  
26

27  
28 <sup>2</sup> The total amount that Mr. Vaile is to pay each month will always be 25% of his gross income, against the  
sums he owes for current child support, child support arrearages, attorney's fees, and for the remainder of the federal  
tort judgments awarded against him, plus interest and penalties, until all those judgments have been paid.

- 1 from Scotlund's wages, for a total of \$1,174.16 per month to be sent directly to the WILICK  
2 LAW GROUP, beginning with the first pay period on or after April 15, 2010, and continuing  
3 within five days of each pay period thereafter. (Time Index: 16:38:00)
- 4 2. If the wage assignment has not begun by April 15, 2010, for whatever reason, Scotlund shall  
5 be responsible for making the payments directly to the WILICK LAW GROUP until the wage  
6 assignment begins or indefinitely if no wage assignment begins. If Scotlund fails to ensure  
7 the payments are in the hands of the WILICK LAW GROUP at least 5 days after any pay  
8 period, he shall become subject to the penalties, sanctions, and remedies provided by NRS  
9 22.010 and NRS 31.480. (Time Index: 16:38:42 and 17:03:50)
- 10 3. Scotlund's *Motion to Vacate Judgment* is STAYED, due to his *Appeal* of the October 26,  
11 2009 *Order*. (Time Index: 16:39:52)
- 12 4. The March 20, 2008, *Order* was a *Final, Valid, and Enforceable Order* until the Court issued  
13 its *Order* of October 9, 2008.<sup>3</sup> (Time Index: 16:44:32)
- 14 5. The March 13, 2006, Federal District Court *Judgment* subsumed and incorporated this  
15 Court's June 2003, attorney's fee *Order*; NRS 3.223 was not violated and the Supreme  
16 Court's decision in *Landreth* does not apply to the filing and seeking enforcement of the  
17 Federal Court *Order*. (Time Index: 16:40:10)
- 18 6. Pursuant to NRS 17.340, the filing of any order of a court of the United States is proper and  
19 enforceable and does not violate *Landreth*. The Federal Court Judgment was properly filed  
20 in the Family Division of the District Court. (Time Index: 16:40:10 & 17:00:38)
- 21 7. Pursuant to *Brunzell*, NRS 18.010, and 18.005(16), Cisilie is AWARDED Attorney's Fees.  
22 Cisilie shall file a *Memorandum of Costs*. This issue is under advisement and the Court will  
23 issue a minute order as to the attorney's fees or any clarification of findings. (Time Index:  
24 17:30:10)
- 25 8. An award of attorney's fees to DELOITTE & TOUCHE, LLP, is reserved. (Time Index:  
26 17:28:04)

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28 <sup>3</sup> The United States Constitution's requirement that all orders from sister states shall receive full faith and credit applies.

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9. The WILICK LAW GROUP shall prepare the *Order* from today's hearing within ten days, Scotlund shall have five days to sign as to form and content.

DATED this APR 05 2010 day of ~~March~~, 2010.

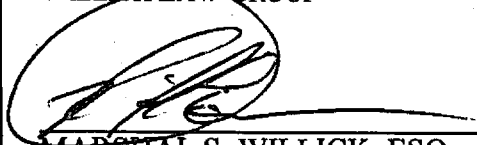
  
DISTRICT COURT JUDGE UR

Respectfully submitted by:

Approved as to form and content:

WILICK LAW GROUP

**SIGNATURE  
REFUSED**



MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 002515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 009536  
3591 East Bonanza Road, Suite 200  
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(702) 438-4100  
Attorneys for the Defendant

ROBERT SCOTLUND VAILE  
P.O. BOX  
Kenwood, California 95452  
*Plaintiff In Proper Person*

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REPLY MEMORANDUM  
IN SUPPORT  
OF WRIT OF MANDAMUS OR PROHIBITION

**EXHIBIT B**

CLERK'S MEMORANDUM REGARDING TAXATION OF COSTS  
DENIAL OF ATTORNEY'S FEES AND COSTS  
DATED SEPTEMBER 17, 2008

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CISILIE VAILE PORSBOLL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	2:02-cv-0706-RLH-RJJ
	)	
ROBERT SCOTLUND VAILE, et al.,	)	
	)	
Defendants,	)	
	)	

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**CLERK'S MEMORANDUM REGARDING TAXATION OF COSTS**

August 15, 2008 Plaintiff filed a Bill of Costs (#336) in the court's CM/ECF system, but attached a document entitled "Submission of Documentation and Verification of Attorney's Fees Awarded July 23, 2008." Clerk's office staff electronically notified counsel of the need for a docket correction and to download and complete form AO 133 Bill of Costs, then refile. Local Rule 54-1(a) requires the bill of costs be filed ". . . on the form provided by the clerk . . ."

A Bill of Costs (#337) was filed by plaintiffs on the correct form August 25, 2008. Defendant ROBERT SCOTLUND VAILE filed his Objection to Bill of Costs (#337) and Opposition to Request for Attorneys Fees (#338) on September 8, 2008.

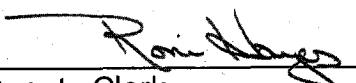
Defendant ROBERT SCOTLUND VAILE's Objection and Opposition (#338) details numerous arguments, briefly restated as follows: filing of the Bill of Costs is untimely (LR 54-1); a motion for attorney fees should have been filed (LR 54-16(a)); many costs are not taxable and others are indistinguishable as they are not itemized as required (LR 54-1(b)); fees for transcripts (LR 54-3); other costs are not itemized as required (LR 54-1 (b)); and attorney travel costs and travel time (LR 54-4).

The clerk finds the Bill of Costs (#337) was not timely filed and therefore cannot tax costs.

Even if the Bill of Costs had been timely filed, costs would not be awarded as there is no provision under which the clerk can allow attorney's fees to be taxed as part of the Bill of Costs (see Local Rule 54-16). Additionally, the clerk is unable to make a determination from the 101 pages of exhibits attached to the Bill of Costs which items pertain to those being requested to be taxed and which pertain to the request for attorney fees. (See Local Rule 54-1(b))

LANCE S. WILSON, Clerk  
United States District Court

Dated: September 17, 2008



Deputy Clerk

REPLY MEMORANDUM  
IN SUPPORT  
OF WRIT OF MANDAMUS OR PROHIBITION

# EXHIBIT C

US DISTRICT COURT ORDER  
DENYING JUDGMENT DEBTOR EXAM  
DATED MAY 20, 2008



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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\*\*\*

CISILIE VAILE PORSBOLL, *et al.*,

Plaintiffs,

vs.

ROBERT SCOTLUND VAILE, *et al.*,

Defendant,

2:02-cv-706-RLH-RJJ

ORDER

This matter is before the Court on an Ex Parte Motion for Order Allowing Examination of Judgment Debtor (#327).

The Court having reviewed the Ex Parte Motion (#327) finds that the Debtor resides in California. Good cause appearing therefore,

IT IS HEREBY ORDERED that the Ex Parte Motion for Order Allowing Examination of Judgment Debtor (#327) is **DENIED** as the Debtor is outside of the jurisdiction of the court. *See*, N.R.S. 21.270 and Fed. R. Civ. P. 69.

DATED this 20<sup>th</sup> day of May, 2008.

  
ROBERT J. JOHNSTON  
United States Magistrate Judge

REPLY MEMORANDUM  
IN SUPPORT  
OF WRIT OF MANDAMUS OR PROHIBITION

# EXHIBIT D

NEVADA SUPREME COURT  
ORDER DISMISSING APPEAL  
DATED OCTOBER 13, 2008

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE,  
Appellant,  
vs.  
CISILIE A. PORSBOLL F/K/A CISILIE  
A. VAILE,  
Respondent.

No. 52457

**FILED**

OCT 13 2008

TRAVIS L. ANDERMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from district court orders denying several motions regarding child support. Eighth Judicial District Court, Family Court Division, Clark County; Cheryl B. Moss, Judge.

Our review of the documents transmitted to this court pursuant to NRAP 3(e) reveals a jurisdictional defect. Specifically, the orders appealed from are not substantively appealable.

In this case, the district court's March 20, 2008, order amending the January 15, 2008, order and the August 15, 2008, order concerning the order for hearing held June 11, 2008, both indicate that additional documentation must be supplied and that the district court contemplates further review and determination of the child support amounts. Orders that are subject to review and modification by the

district court are temporary orders that may not be appealed.<sup>1</sup>  
Accordingly, as we lack jurisdiction to consider this appeal, we

ORDER this appeal DISMISSED.<sup>2</sup>

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

cc: Hon. Cheryl B. Moss, District Judge, Family Court Division  
Robert Scotlund Vaile  
Willick Law Group  
Eighth District Court Clerk

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<sup>1</sup>See In re Temporary Custody of Five Minors, 105 Nev. 441, 777 P.2d 901 (1989) (holding that no appeal may be taken from a temporary order subject to periodic mandatory review); Sugarman Co. v. Morse Bros., 50 Nev. 191, 255 P. 1010 (1927) (indicating that no appeal may be taken from a temporary restraining order); see also NRAP 3A(b)(2).

<sup>2</sup>On September 22, 2008, appellant was issued a notice to pay the filing fee required by NRS 2.250. To date, appellant has still not paid the filing fee. Appellant's failure to pay the filing fee constitutes an independent basis for dismissing this appeal.