

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

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4 **ROBERT SCOTLUND VAILE,**  
5 *Petitioner,*

Supreme Court Case Nos: 55446 ✓  
53678/53798

6 vs.

District Court Case No: 98-D230385

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

PROPER PERSON  
RECEIVED/ENTERED  
NOV 12 2010  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT

15 *Respondent,*

16 **CISILIE A. PORSBOLL**  
17 **fka, CISILIE A. VAILE,**  
18 *Real Party in Interest.*

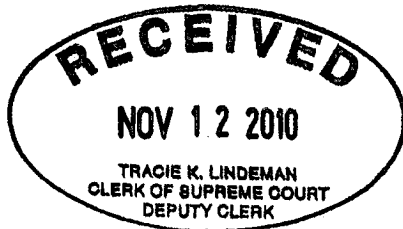
FILED

DEC 27 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angela  
DEPUTY CLERK

19 **REQUEST FOR JUDICIAL NOTICE**

20 Relative to the cases noted above, Plaintiff hereby requests that this Court  
21 take judicial notice of the decision issued by the Superior Court of California for  
22 the County of Sonoma on September 27, 2010, entitled *Order on Notice of*  
23 *Registration of Out-of-State Support Order and Request for Hearing*  
24 *Regarding Earnings Assignment,* attached hereto as Exhibit 1.



## OVERVIEW OF CALIFORNIA DECISION

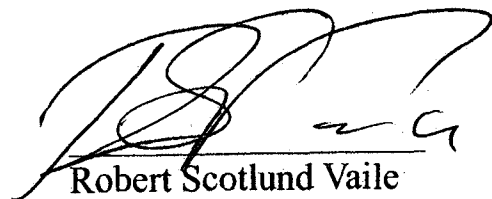
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2 In 2002, this Court issued a decision in this case holding that subject matter  
3 jurisdiction could not be exercised by Nevada courts unless a Nevada statute  
4 allowed it. Finding that no Nevada statute allowed the family court to exercise  
5 jurisdiction, and because neither party had resided in or had meaningful  
6 contacts with the State, this Court determined that the Nevada courts had  
7 neither jurisdiction of the subject matter nor personal jurisdiction over the  
8 parties. In 2008, a Las Vegas family court determined, contrary to this Court's  
9 decision, that it *could* exercise subject matter in the case and personal  
10 jurisdiction over the non-resident parties, and that jurisdiction had existed since  
11 1998, both before and after this Court's 2002 decision. The lower court also  
12 decided that it was authorized to institute a retroactive child support order  
13 against the non-resident Plaintiff Mr. Vaile, in favor of the non-resident  
14 Defendant Ms. Porsboll, going back 10 years, but that the family court lacked  
15 prospective jurisdiction in the matter. A number of appeals followed.  
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21 Because the Nevada family court decided that it could not prospectively  
22 alter its retroactive decision in this case, Plaintiff was forced to domesticate the  
23 Nevada judgment in California and request modification based on Plaintiff's  
24 oldest child's emancipation in 2009. Under California's implementation of  
25 UIFSA, if the court from which a child support order originates rejects ongoing  
26 jurisdiction, then the California court may modify the order.  
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1           Instead of modifying the Nevada order, the California court surveyed federal  
2 and state law searching for any legal basis under which the Nevada family court  
3 could have exercised jurisdiction over the matter. Consistent with this Court's  
4 2002 decision, the California court independently determined that the Nevada  
5 family court's exercise of jurisdiction was not supported by federal or state law.  
6 As such, the California court held that the Nevada order cannot be enforced by  
7 the California courts.  
8

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10           The California court's decision is perfectly consistent with this Court's 2002  
11 mandate that the exercise of jurisdiction by Nevada courts must be based on  
12 statute. But importantly, the California court's determination is a clear  
13 demonstration of the burden placed on the interstate judicial system when a  
14 court (like the Nevada family court here) attempts to exercise jurisdiction over  
15 parties who have never lived in the state, and when state statute does not  
16 support the exercise. Plaintiff requests the Court to recognize this decision, and  
17 take its findings into account in the adjudication of the matters pending here.  
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21           Respectfully submitted this 6<sup>th</sup> day of November, 2010.  
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26 Robert Scotlund Vaile  
27 PO Box 727  
28 Kenwood, CA 95452  
(707) 833-2350  
Petitioner in Proper Person

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## CERTIFICATE OF SERVICE

I certify that I am the Petitioner in this action, and that on the 7<sup>th</sup> day of November, 2010, I served a true and correct copy of the foregoing *Request for Judicial Notice* by placing the document in:

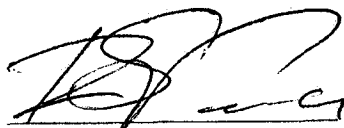
\_\_\_ U.S. Mail, first class postage prepaid; or

\_\_\_ National courier (Fedex or UPS) with expedited delivery prepaid,

and addressed as follows:

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

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



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

# Exhibit 1

**FILED**

1 COMMISSIONER LOUISE BAYLES-FIGHTMASTER  
2 COMMISSIONER OF THE SUPERIOR COURT  
3 Civil and Family Law Courthouse  
4 3055 Cleveland Avenue  
5 Santa Rosa, CA 95403  
6 Telephone: (707) 521-6732

SEP 27 2010

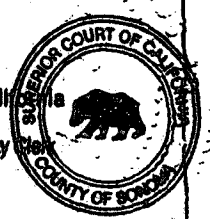
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

By M. Lawley  
Deputy Clerk  
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST: OCT 21 2010

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

Clerk of the Superior Court of California  
County of Sonoma  
By [Signature] Deputy Clerk



Case No. SFL-49802

Petitioner: ROBERT SCOTLUND VAILE

vs.

Respondent: CISILIE A. PORSBOLL

**Order on Notice of Registration of Out-of-State Support Order and Request for Hearing Regarding Earnings Assignment**

14 This matter was initially heard by this Court on March 1, 2010 in Department 23,  
15 before the Honorable Judge Cerena Wong on ROBERT SCOTLUND VAILE's (hereafter  
16 Husband) Notice of Registration of Out-of-State Support Order and Request for Hearing  
17 Regarding Earnings Assignment filed on February 9, 2010. Present at the hearing were  
18 Petitioner, and JEANNE MISKEL, Chief Child Support Attorney on behalf of the Sonoma  
19 County Department of Child Support Services (hereafter DCSS). CISILIE A. PORSBOLL  
20 (hereafter Wife) was not present.

21 The matter was discussed with the court and continued to Department 20 on  
22 March 16, 2010 at 8:30 before Commissioner Louise Bayles-Fightmaster, the assigned  
23 Title IV-D Commissioner for Sonoma County as this matter was currently being handled  
24 by the Clark County Nevada IV-D child support agency.

25 **I. Procedural History:**

26 The parties were divorced in Clark County Nevada on August 21, 1998. Their  
27 Decree of Divorce included an agreement that provided a precise formula for calculating  
28 child support.

1 In November 2007 Wife asked the Nevada District Court to establish the child  
2 support arrears that had accrued pursuant to the parties' agreement and to establish a  
3 sum certain for child support, i.e. modify the agreement that was set forth in the parties'  
4 Decree of Divorce. Neither party nor the children resided in Nevada at the time of this  
5 proceeding. The Nevada Court issued its ruling on October 9, 2008, enforcing the parties'  
6 informal agreement for \$1,300 per month. This sum was previously paid by Husband  
7 pursuant to this informal agreement until April 2000. Payments resumed later when a  
8 wage assignment was issued.

9 The Nevada Court set the arrears pursuant to this informal agreement and Nevada  
10 State Law.

11 Petitioner has appealed this order and that action is still pending in Nevada with the  
12 Nevada Supreme Court.

13 Petitioner then, in February of this year, sought to register the 2008 Nevada order in  
14 Sonoma County, and to modify it based on the fact that one of the parties' children had  
15 emancipated. He also requested a stay of the wage assignment.

16 Petitioner contends that the Nevada Court was without jurisdiction to enter the  
17 orders it made on October 9, 2008, outlined above.

18 After reviewing the voluminous pleadings, declarations, and other documents,  
19 listening to oral argument and reviewing the law regarding interstate child support  
20 jurisdiction and enforcement, the Court makes the following findings and orders:

21 **II. Relevant Law:**

22 The overarching applicable law in the case is found in the Uniform Interstate Family  
23 Support Act (UIFSA) (Family Code § 4900, et seq.) and the Federal Full Faith and Credit  
24 for Child Support Orders Act (FFCCSOA). When there are interstate ties, or a pre-existing  
25 out-of-state order, California can exercise jurisdiction to establish, enforce, or modify  
26 support orders **only if** consistent with UIFSA and FFCCSOA. Stone v. Davis (2007) 148  
27 Cal.App. 4<sup>th</sup> 596, 600; Marriage of Crosby and Grooms (2004) 116 Cal.App. 4<sup>th</sup> 201, 206;  
28 de Leon v. Jenkins (2006) 143 Cal.App.4<sup>th</sup> 118, 124; Hogoboom & King, California

1 Practice Guide:Family Law (TRG 2010) §17.3.

2 The FFCCSOA, as set forth in 28 USC §1738B, states, in part:

3 "...(c) Requirements of child support orders. – A child support order made by  
4 a court of a State is made consistently with this section if –

5 (1) a court that makes the order, pursuant to the laws of the State in  
6 which the court is located and subsections (e), (f), and (g) –<sup>1</sup>

7 (A) has subject matter jurisdiction to hear the matter and enter  
8 such an order; and

9 (B) has personal jurisdiction over the contestants; and

10 (2) reasonable notice and opportunity to be heard is given to the  
11 contestants.

12 (d) Continuing jurisdiction. –A court of a State that has made a child  
13 support order consistently with this section has continuing, exclusive  
14 jurisdiction over the order if the State is the child's State or the residence  
15 of any individual contestant unless the court of another State, acting in  
16 accordance with subsections (e) and (f), has made a modification of the  
17 order."

18 **III. Analysis and Conclusion:**

19 When the Nevada District Court assumed jurisdiction over the issues of child  
20 support in 2008 it, perhaps, did so because it had issued the original divorce decree in  
21 1998. Nevada's assumption of jurisdiction over the child support issues must comply with  
22 the UIFSA and FFCCSOA law, but it does not.

23 Nevada did not have continuing exclusive jurisdiction under the FFCCSOA because  
24 neither the children nor the parents resided in Nevada at the time of the proceeding.  
25 FFCCSOA provides that a State that made a child support order may exercise continuing  
26 jurisdiction over the child support order "if the State is the child's State or the residence  
27

28 <sup>1</sup> Subsections (e), (f) and (g) are not relevant to the issues presented in this case.



1 of any individual contestant." 28 USC §1738B(d). Since Nevada was no one's residence  
2 at the time of the October 2008 order this order does not comply with the FFCCSOA and  
3 cannot be enforced by the California courts.

4 In addition, Nevada does not have continuing exclusive jurisdiction under UIFSA  
5 either. Under UIFSA (see NRS 130.205(1)<sup>2</sup>; see also California Family Code § 4909(a)<sup>3</sup>),  
6 a State has continuing and exclusive jurisdiction to modify its child support order if the  
7 order is the controlling order and (1) either of the parents or children reside in Nevada at  
8 the time of the request for modification or (2) the parties consent in a record or in open  
9 court that the tribunal of this State may continue to exercise jurisdiction to modify its order.  
10 Because none of the parents or the children resided in Nevada, and Husband did not  
11 consent to continuing exclusive jurisdiction in Nevada, Nevada does not have continuing  
12 exclusive jurisdiction over child support under UIFSA, and, therefore, its 2008 child  
13 support order is unenforceable by a California court.  
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17 <sup>2</sup> NRS 130.205(1) states:

18 "1. A tribunal of this State that has issued a child-support order consistent with the law of this  
19 State has and shall exercise continuing and exclusive jurisdiction to modify its child-support  
20 order if the order is the controlling order and:

- 21 (a) At the time of the filing of a request for modification, the State is the residence of the obligor, the  
22 obligee who is a natural person of the child for whose benefit the support order is issued; or  
23 (b) Even if this State is not the residence of the obligor, the obligee who is a natural person or the child  
24 for whose benefit the support order is issued, the parties consent in a record or in open court that  
25 the tribunal of this State may continue to exercise jurisdiction to modify its order."

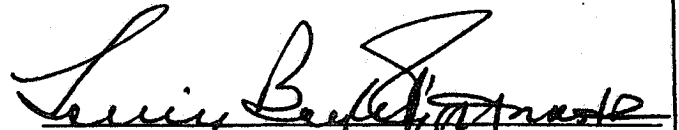
26 <sup>3</sup> California Family Code § 4909(a) states:

27 "A tribunal of this state issuing a support order consistent with the law of this state has continuing,  
28 exclusive jurisdiction over a child support order:

- (1) As long as this state remains the residence of the obligor, the individual obligee, or the child for  
whose benefit the support order was issued; or  
(2) Until all of the parties who are individuals have filed written consents with the tribunal of this state  
for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction."

1 In conclusion, this Court will not grant either request made by Husband as it does  
2 not have jurisdiction in this matter, as set forth above. Husband's remedies are  
3 elsewhere. Husband's Notice of Registration of Out-of-State Support Order is vacated  
4 and his Request for a stay of the Earnings Assignment order is denied.  
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6 Dated: September 27, 2010  
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9 LOUISE BAYLES-FIGHTMASTER  
10 Commissioner of the Superior Court  
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## PROOF OF SERVICE BY MAIL

I certify that I am an employee of the Superior Court of California, County of Sonoma, and that my business address is 3055 Cleveland Avenue, Santa Rosa, CA 95403; that I am not a party to this cause; that I am over the age of 18 years; that I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service; and that on the date shown below I placed a true copy of the foregoing attached papers in an envelope, sealed and addressed as shown below, for collection and mailing at Santa Rosa, California, first class, postage fully prepaid, following ordinary business practices.

Date: September 27, 2010

JOSÉ OCTAVIO GUILLÉN  
COURT EXECUTIVE OFFICER

by 

Deputy Clerk

--ADDRESSEES--

SONOMA COUNTY DCSS  
1755 COPPERHILL PKWY  
SANTA ROSA, CA 95403

VAILE, ROBERT SCOTLUND  
PO BOX 727  
KENWOOD, CA 95452