

FILED

OCT 01 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

1 Robert Scotlund Vaile
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 633-4550
5 *Appellant in Proper Person*

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

7
8
9
10 ROBERT SCOTLUND VAILE,
11 Appellant,

12 vs.

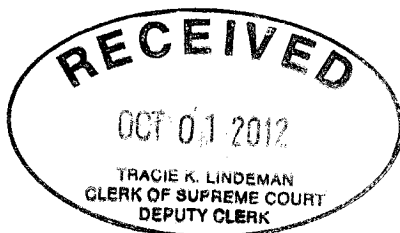
13
14 CISILIE A. PORSBOLL,
15 Respondent.

Supreme Court Case No: 61415
District Court Case No: 98D230385

**REQUEST TO WAIVE
DEFICIENCY IN REPLY BRIEF, OR
ALTERNATIVELY, FILE
AMENDED REPLY BRIEF**

17 Overlooking the relevant section in the Nevada Rules of Appellate
18 Procedure, Appellant recently filed a reply brief that exceeded the page limit set
19 forth in NRAP 27(d)(2) for a reply brief. As such, Appellant requests that the
20 Court waive the deficiency in his reply and file the brief, or alternatively, file the
21 amended reply brief attached as Exhibit 1.

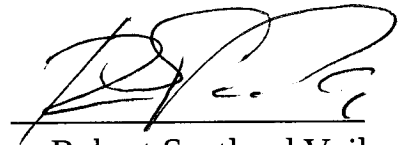
22 Since Appellant is proceeding in proper person, the civil case appeal
23 statement allows for limited discussion of the subject matter on appeal.
24 Respondent raised many evidentiary issues in her opposition to Appellant's
25 request to stay enforcement of the district court's July decision while the appeal is
26 pending. Those issues are more fully addressed in Appellant's 10 page reply.
27
28



12-30993

1 Nevertheless, a reply brief that strictly conforms to the rules is provided as an
2 alternative.

3 Respectfully submitted this 27th day of September, 2012.
4

5 
6

7 Robert Scotlund Vaile
8 PO Box 727
9 Kenwood, CA 95452
10 (707) 633-4550
11 *Appellant in Proper Person*
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that on September 27, 2012, I deposited in the United States Mail, postage prepaid, at Kenwood, California, a true and correct copy of *REQUEST TO WAIVE DEFICIENCY IN REPLY BRIEF, OR ALTERNATIVELY, FILE AMENDED REPLY BRIEF*, addressed as follows:

Marshal S. Willick, Esq.
Willick Law Group
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Attorney for Respondent

Signed,

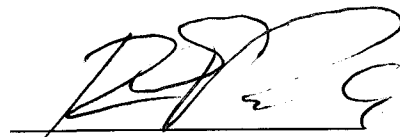

Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 633-4550

Exhibit 1

1 Robert Scotlund Vaile
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 633-4550
5 *Appellant in Proper Person*

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

7
8
9
10
11 ROBERT SCOTLUND VAILE,
12 Appellant,

13 vs.

14 CISILIE A. PORSBOLL,
15 Respondent.
16
17
18

Supreme Court Case No: 61415
District Court Case No: 98D230385

**AMENDED
REPLY IN SUPPORT OF
EMERGENCY MOTION
TO STAY PROCEEDINGS AND
ENFORCEMENT IN THIS CASE
PENDING APPEAL**

**ACTION REQUIRED
prior to October 15, 2012.**

19 Contrary to Respondent's assertions, the granting of Appellant's request for a
20 stay in this case *does the opposite* of increase cost of litigation or delay this
21 Court's just resolution of the case. If the Court does not stay the case while the
22 appeal is pending, Respondent will most certainly continue to add to the more
23 than **70** motions and filings they have made in the district court since 2007, and
24 the district court will continue to grant each request from Respondent's counsel
25 for additional fees, even if this Court later overturns the underlying relief.
26 Respondent's fee awards, which they now claims exceed \$1.3 million will also
27 increase. Importantly, the district court has scheduled a contempt hearing in
28 October for child support payments that Appellant actually made. Failing to stay

1 the case will give the district court continued *carte blanche* to defy this Court to
2 the severe detriment of Appellant in terms of fines and imprisonment, and cause
3 need for further appeals and emergency relief. In order to avoid the inevitable
4 churn of litigation that has characterized this case, Appellant respectfully requests
5 that this Court urgently intercede and stay this case.

6 A. LIKELIHOOD OF SUCCESS ON THE MERITS WEIGHS IN FAVOR OF APPELLANT

7
8 The fact that the district court's July decision and order directly conflicts
9 with this Court's January decision is readily apparent from a mere reading of the
10 two decisions. In order to overcome the obvious likelihood of Appellant's success
11 on the merits of a case, Respondent asserts that "[t]here are no conflicting [child
12 support] orders" which would have required the district court to follow this
13 Court's instructions to resolve the conflict in accordance with NRS 130.207.
14 *Opp.*, 7. Section 2 of the UIFSA conflict resolution statute, codified in NRS
15 130.207, requires its application when "*two or more child-support orders have*
16 *been issued by tribunals of this State or another state with regard to the same*
17 *obligor and same child.*" The child support orders issued by Norway at the
18 request of Porsboll were filed with the district court (and this Court), and they
19 apply to the same obligor (Mr. Vaile) and the same children. As such, the two
20 orders (the Norwegian and the Nevada decree) fall squarely into the definition
21 provided under NRS 130.207(2). Respondent's denial of the existence¹ of the
22 Norwegian orders, like the district court striking the notice containing them, is as
23 futile an effort as the district court's assertion that NRS 130.207 does not apply
24 because there was only one order immediately after the first order was issued.
25 None of these efforts justify the defiance that the district has shown this Court's

26
27 ¹ Buried in a footnote in Respondent's opposition, she actually admits that the
28 Norwegian orders exist, but labels them "irrelevant internal Norway welfare
orders" in the hopes that this characterization removes them from the applicable
statute. See *Opp.*, 8, fn 4.

1 directive to properly apply NRS 130.207 to resolve the conflict. It is highly likely
2 that this Court will continue to require, or rather find as a matter of law, what it
3 mandated the defiant district court to do last time.

4 **B. A STAY IS NECESSARY TO MAINTAIN THE STATUS QUO AND AVOID CONFLICT**

5 Respondent attached an order from the California court to her Opposition,
6 pretending that it held that California does not have jurisdiction in the case
7 currently pending in the California family court. This is not so. The current case
8 numbered SFL 49802 pending in the California court is a UIFSA-compliant
9 request to register the Norwegian orders and to declare them controlling in
10 accordance with Section 207 of UIFSA, the same request made to the district
11 court below, but in a state with ongoing jurisdiction.

12
13 In the previous California case, from which the order provided was the
14 result, the California court determined that it did not have jurisdiction to *modify*
15 the Nevada district court orders because the district court did not have jurisdiction
16 to enter those orders in the first place – precisely as this Court held. Although
17 there is little chance that this Court would be fooled by Respondent's slight of
18 hand, Appellant wanted to set the record straight.

19 The last Norwegian child support modification requested by Porsboll in
20 Norway in 2008 required Mr. Vaile to pay 4,680 Norwegian Kroner per month in
21 support of the younger child.² This amount is approximately \$780³ per month,
22 and is the amount that Mr. Vaile requested that the California court require him to
23 pay each month if it determines that his obligations under the Norwegian orders
24 have not been exceeded. Neither Porsboll, nor her counsel, attended the relevant
25 hearing in California on the matter, and cannot possibly claim to have any
26 knowledge to challenge Mr. Vaile's accurate portrayal of events in that forum.

27
28 ² The Norwegian child support order is a part of the lower court record. *Opp.*, 6.

³ This number is very nearly the statutory maximum under NRS 125B.070.

1 In order to avoid the conflict that will necessarily result when one court
2 properly applies section 207 of UIFSA, and another court refuses to do so,
3 Appellant requests that this Court order a stay of further collection of child
4 support under the Nevada district court's order and defer to the California
5 Department of Child Support Services. Appellant also requests that the stay
6 require the Clark County District Attorney's Office to lift any federal intercepts in
7 place as they detrimentally effect Mr. Vaile's job search.⁴

8 C. COLLECTION OF ATTORNEYS FEES SHOULD BE STAYED BECAUSE THEY
9 SHOULD HAVE NEVER BEEN AWARDED TO THE NON-PREVAILING PARTY

10 Respondent does not dispute that she was the non-prevailing party in every
11 respect on appeal, yet claims that her counsel are still entitled to attorney's fees as
12 the non-prevailing party in the litigation according to *Edgington v. Edgington*,
13 119 Nev. 557 (2003) (or actually NRS 125B.140) because child support is still
14 due. Under Respondent's theory, her counsel should be entitled to attorney's fees
15 if child support is due, even though those attorney's fees were incurred in other
16 states, for litigation expenses for those other than Respondent herself,⁵ and for
17 matters outside the scope of actually seeking child support enforcement of the
18 relevant order. Where, as here, counsel have maintained the litigation for the sake
19 of earning litigation fees, the award of fees would be particularly unjust. But
20 because this is a UIFSA action, under the language of NRS 125B.140 itself, the
21 statute does not apply requiring attorneys fees to be denied to Porsboll.

22
23 ⁴ Mr. Vaile was required to decline a worthwhile job offer because there was a
24 requirement for occasional international travel in the job assignment. The
25 federal authorities will not allow Mr. Vaile to renew his U.S. passport when he
26 owes in excess of \$2,500 in child support, which is the case under the district
27 court's recent order. The District Attorney must be required to remove federal
28 intercepts in order for Mr. Vaile to renew his passport.

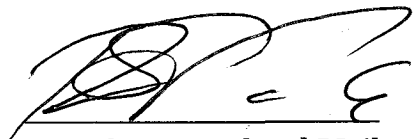
⁵ For example, the district court previously granted an award of attorney's fees for
the legal representation of *Porsboll's counsel* in California proceedings for
unlawful collection attempts.

1 D. THE EFFECTS OF NOT STAYING ENFORCEMENT ARE DIRE

2 Respondent's only argument that a stay is not necessary is because she has
3 been unable to collect given Mr. Vaile's unemployment. See *Opp.*, 6. Mr. Vaile
4 has aggressively sought employment and intends to be employed soon. Since
5 Respondent has demonstrated that she is adamant about collecting against Mr.
6 Vaile's employer in accordance with the district court's July decision (50% of
7 income plus almost \$3,000 per month in child support), her failure to collect so
8 far does nothing to mitigate the adverse effects of the district court's judgment.
9 Respondent's counsel has been restrained and enjoined by the California Superior
10 Court, the California family court, three times from the US Bankruptcy court, and
11 sued by Mr. Vaile's previous attorney in Virginia state court for repeated unlawful
12 collection attempts. In fact, the current district court is the only court in the
13 country that has endorsed the conduct of Respondent's counsel. The actions by
14 the district court have been mitigated only by this Court's several previous orders
15 to stay. This Court's intervention is urgently necessary now.

16 In order to avoid the dire effects on Appellant that enforcement of the
17 district court's orders would cause, Appellant respectfully requests a stay of the
18 proceedings in the district court, as well as a stay on enforcement of all monetary
19 judgments. Appellant also requests that the Clark County District Attorney's
20 office be required to lift any federal intercepts in place.

21 Respectfully submitted this 27th day of September, 2012.
22

23 
24

25 Robert Scotlund Vaile
26 PO Box 727
27 Kenwood, CA 95452
28 (707) 633-4550
Appellant in Proper Person

1. I, Robert Scotlund Vaile, certify that I have authored this motion based on my first-hand knowledge and experience in this case.
2. The averments to facts in the motion above I know to be true, or make based on my information and belief.
3. I believe that I will suffer irreparable injury if this stay is not granted.
4. This filing complies with NRAP Rule 32(a)(4)-(6), and 27(d)(2) and is produced in proportionally space typeface Times New Roman and 14 point font in LibreOffice Writer and does not exceed 5 pages.
5. I make these statements under penalty of perjury.

Robert Scotlund Vaile

I hereby certify that on September 27, 2012, I deposited in the United States Mail, postage prepaid, at Kenwood, California, a true and correct copy of *AMENDED REPLY IN SUPPORT OF MOTION TO STAY PROCEEDINGS AND ENFORCEMENT IN THIS CASE PENDING APPEAL*, addressed as follows:

Marshal S. Willick, Esq.
Willick Law Group
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Attorney for Respondent

Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 633-4550