

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3
4 CISILIE A. VAILE,

5 Petitioner,

6 vs.

7 R. SCOTLUND VAILE,

8 Respondent.

9
10 S.C. DOCKET NO. 37082
D.C. CASE NO. D 230385

FILED

MAR 12 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

11 **RESPONDENT'S OPPOSITION TO APPELLANT'S**
12 **MOTION TO SUSPEND BRIEFING SCHEDULE**

13 COMES NOW Respondent, R. SCOTLUND VAILE, by and through his
14 attorneys of record, PETER M. ANGULO, ESQ., of the law firm of RAWLINGS,
15 OLSON, CANNON, GORMLEY & DESRUISSEAUX and files the instant Opposition to
16 Appellant's Motion to Suspend Briefing Schedule.

17 **POINTS AND AUTHORITIES**

18 Respondent in this litigation agrees that pending before the Court is a decision on an
19 Emergency Petition. This matter has been fully briefed and argued and the parties are
20 awaiting, at the present time, the Court's decision on same. That fact being taken as true,
21 Respondent sees no reason why the briefing schedule should be suspended in the instant
22 matter.

23 It would be one thing if Appellant took the position that the Court's decision on the
24 Emergency Writs, whether in her favor or not, would end this matter completely. She does
25 not do so. Instead, she informs this Court that if the Court does not grant her application
26 then the appeal "might" be moot which would imply, that, to Appellant's mind, there are
27 issues raised in the appeal which are distinct and unique from that found in the matters
28 which are presently pending before this Court. If that is true, the parties should be given
the opportunity to fully and properly brief those issues and proceed forward through the
regular appeal process.

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1 If, as Appellant argues, the issues are primarily duplicative, there will be little
2 additional cost to her in simply "cutting and pasting" her prior efforts in the matters which
3 were brought before this Court and the insertion of said material in the proper format for
4 an appeal brief. Thus, Appellant establishes before this Court no valid reason to suspend
5 the briefing schedule presently set forth by the settlement judge.

6 Recognizing the weakness of their position, apparently, Appellant then attempts to
7 excoriate the efforts of the settlement judge. Indeed, the comments which she makes reveal
8 the potential absence of good faith with which she approached the settlement conference.
9 The settlement judge properly noted that she believed the matter had continued on but
10 perhaps the parties could agree among themselves to resolve the matter without the need of
11 further court intervention. However, since Appellant has apparently taken the position that
12 this is an "all or nothing" matter, it is clear that she was unwilling to negotiate. See Motion
13 to Suspend Briefing Schedule at p. 2, ll. 1-2. Her unwillingness to attempt to resolve the
14 matter cannot form a basis to require a suspension of the briefing schedule. To the
15 contrary, it should require her to go through the process since she did not wish to terminate
16 it with settlement negotiations.

17 There are other matters to consider in determining whether it is appropriate to
18 suspend the briefing schedule. By preparing appropriate appellate briefs, Respondent will
19 have sufficient time to prepare a more thorough response to the areas of inquiry lodged by
20 the Court at the time the Emergency Petitions were being considered. As this Court is
21 aware, counsel for Respondent was brought into the case shortly before the original matters
22 were to be briefed and filed. Over time, as he has become increasingly familiar with the
23 case, it has become apparent that there are legitimate issues of concern which need to be
24 brought to the Court's attention. For example, despite her protestations to the invalidity of
25 the divorce, Appellant has since married again in Norway. It is believed that such a change
26 in circumstances could well have an impact on the Court's decision on the issues which are
27 before it given the points and authorities and legal arguments which were made in the prior
28 briefing. Indeed, this matter would have been brought to the Court's attention within the

1 context of the pending Motions save and except for this Court's order that no additional
2 supplementation should be undertaken on those matters.

3 In addition, Respondent has the right to continue in his relationship with his
4 children without the fear that all that he has might be taken away from him. Respondent
5 can think of no better way than to allow this matter to proceed to the briefing process,
6 allow him to put forth a full and fair consideration of the arguments which he brings and
7 which he brought to Judge Steele before this Court for its reasoned consideration.
8 Therefore, Respondent disagrees with the need to suspend the briefing schedule and
9 requests instead that this Court go forward with the schedule as presently outlined.

10 RESPECTFULLY SUBMITTED this 7 day of March, 2002.

11 Respectfully submitted,

12 RAWLINGS, OLSON, CANNON,
13 GORMLEY & DESRUISSEAUX

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