

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE,
Appellant,
vs.
CISILIE A. VAILE N/K/A CISILIE A.
PORSBOLL,
Respondents.

Supreme Court No. 62797
District Court No. D230385

Due Date:
[PilotProgramCivilDueDate]

FILED

MAY 03 2013

CIVIL PROPER PERSON APPEAL STATEMENT

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie Lindeman*
DEPUTY CLERK

Appellant in Proper Person

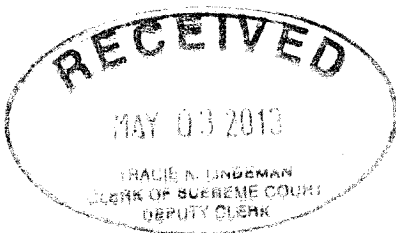
Attorney for Respondent

Robert Scotlund Vaile
2201 McDowell Ave.
Manhattan KS 66502:

Marshal S. Willick
Willick Law Group
3591 E. Bonanza Rd., Ste. 200
Las Vegas, NV 89110-2101

Appellant:
ROBERT SCOTLUND VAILE

Respondent:
CISILIE A. VAILE N/K/A CISILIE
A. PORSBOLL



12 12575

CIVIL PROPER PERSON APPEAL STATEMENT

INSTRUCTIONS: You must complete and file this Appeal Statement with the Nevada Supreme Court on or before [**PilotProgramCivilDueDate**].

HOW TO FILL OUT THE FORM: The form must be typed or clearly handwritten. Write only in the space allowed on the form. **Additional pages and attachments are not allowed.** The Nevada Supreme Court prefers short and direct statements. You do not need to refer to legal authority or the district court record.

WHERE TO FILE THE FORM: You may file your form in person or by mail.

To file your form in person: Bring the form to the Clerk's Office at the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. You can file your form Monday through Friday, 8:00 a.m. to 4:00 p.m.

To file your form by mail: Mail the form to the Clerk of the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. Your form must be postmarked by the due date.

You must file the original form and 1 copy with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original form and 2 copies and include a self-addressed, stamped envelope. Forms cannot be faxed or e-mailed to the Nevada Supreme Court Clerk's Office.

Copies of the completed form must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also fill out the certificate of service that is attached to the form. The Nevada Supreme Court may return any document that does not meet these requirements.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
February 15, 2013	Decision and Order on Attorney's Fees
February 20, 2013	Order for Hearing Held January 22, 2013

Notice of Appeal. Give the date you filed your notice of appeal in the district court: March 11, 2013

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
This case is related to previous appeals in this Court with numbers: 36969, 37082,		
51981, 52244, 52457, 52593, 53687, 53798, 55396, 55446, 55911, 60502, 61415		

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

- | | | |
|--|---|---|
| <input type="checkbox"/> divorce | <input type="checkbox"/> child custody/visitation | <input checked="" type="checkbox"/> child support |
| <input type="checkbox"/> relocation | <input type="checkbox"/> termination of parental rights | <input checked="" type="checkbox"/> attorney fees |
| <input type="checkbox"/> paternity | <input type="checkbox"/> marital settlement agreement | <input type="checkbox"/> division of property |
| <input type="checkbox"/> adoption | <input type="checkbox"/> prenuptial agreement | <input type="checkbox"/> spousal support |
| <input type="checkbox"/> other—briefly explain: <u>Contempt, Default</u> | | |

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

During a district court hearing on April 9, 2012, Appellant requested that the court allow him to appear telephonically in subsequent hearings due to the hardship in terms of time and expense that frequent, long-distance travel to Las Vegas required. The matter before the district court at that time was Respondent's Show Cause motion seeking to hold Mr. Vaile in contempt of court. Although Appellant was expected to testify at subsequent hearings, the district court had never required Respondent to appear personally for any hearing (including the instant hearing), even when her testimony was required. The court granted Mr. Vaile's request to appear

telephonically without exception as recorded in the April 9, 2012 minutes. Exh. 1. The court instructed Mr. Vaile to notice his telephonic appearance three days prior to subsequent hearings.

On January 15, 2012, Mr. Vaile filed a Notice of Intent to Appear by Telephone. Exh. 2. Respondent objected to Mr. Vaile's filing because 1) Mr. Vaile was expected to testify, and 2) because Respondent sought Mr. Vaile's immediate incarceration on the contempt allegation. Exh. 3. On Thursday evening, the 18th of January, sometime after 5pm, the district court reversed its earlier decision and issued a minute order requiring Mr. Vaile to appear in person in Las Vegas on January 22, 2013 – the following Tuesday. Exh. 4. The court sent its order to Mr. Vaile via email.

Because Monday, January 21, 2013 was a holiday, the court's order allowed Mr. Vaile only a single business day (Friday) to receive the court's order, request leave from work and arrange to travel to Nevada if he could. Because Mr. Vaile was not able to get leave and make travel arrangements in this short time frame, Mr. Vaile immediately filed (electronically) a request to continue the hearing, and reconsider the decision not to allow Mr. Vaile to appear by telephone. Exh. 5.

At the hearing on January 22nd, 1) the court summarily denied Mr. Vaile's request for a continuance, refused to admit him to the hearing telephonically, and entered a default against him. The court adopted Respondent's proposed order on all points, together with a bench warrant for Mr. Vaile's arrest. Exh. 6. 2) The district court held Mr. Vaile in contempt of court for not notifying the court and Respondent of Mr. Vaile's recent change in employment. However, the district court had never issued an order requiring Mr. Vaile to notify anyone of a change in his employment at any time. No evidence of any order was submitted at the hearing, nor did Respondent argue that such an order even existed.

3) The district court also held Mr. Vaile in contempt of court for not timely notifying the court of his change in address. Mr. Vaile had filed a Notice of Address Change on December 3, 2012 which contained his sworn statement that he obtained a new residence in Kansas on November 9, 2012. His December 3rd notice was within the 30 days of his November 9th change in residence.

4) Although no argument, allegation or evidence of fraud or irregularity in the California proceedings was presented by Respondent's counsel during the hearing, the district court held that the California determination of controlling order was not binding as a sister-state

judgment because Respondent argued fraud.

5) The district court held Mr. Vaile in contempt of court for failure to pay child support for 11 months, because his payments during those periods were made directly to Respondent, and not through Respondent's law firm. The court ordered Mr. Vaile "to serve 275 days of incarceration in the Clark County Detention Center, without bail, on the accumulated charges of contempt."

6) The court ordered payments toward attorneys fees that were previously overturned by this Court, and entered another order for attorneys fees as well. Exh. 7.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

1) The district court abused its discretion by changing its earlier order at the last minute, refusing to grant Mr. Vaile's request for a continuance or to admit him to the hearing, and by entering a default against him. In Appellant's request to stay the district court proceedings, Mr. Vaile warned that the district court appeared intent on entering orders against him with which he could not possibly comply. The district court has done just that once again by requiring him to appear in Nevada at the eleventh hour before the hearing. The bias and unreasonableness of the district court is particularly evident in the fact that the court refused to require Porsboll to appear, even though her appearance was noticed and her testimony was required to show that she did, in fact, receive payments from Vaile during the months Vaile was alleged to have not paid child support. The court wrongly created an issue for its own ends.

2) The district court erred in holding Mr. Vaile in contempt of court for not notifying the court of a change in employment. There is no court order which required Mr. Vaile to notify the court of a change in employment. Furthermore, there is no justification to require this. The court had previously refused to take into account Mr. Vaile's ability to pay in any order it issued, as aptly demonstrated by holding him in contempt for failure to pay when he was recently unemployed. The district court claims to not have the ability to modify child support. Mr. Vaile's income, the number of his dependents, amount of debt, and employment status has been held wholly irrelevant to the court previously. Obviously, the only reason to invent a violation of a non-existent order is for unjustified punitive purposes.

3) The district court erred in holding Mr. Vaile in contempt for not timely notifying the court of his address change, because he filed the notice within 30 days of his change in residence. Respondent submitted an Internet article dated September 19, 2012 which announced Mr. Vaile's anticipated employment start date of November 1, 2012 to support her assertion that Mr. Vaile's notice was two days late. However, an anticipated start date is not an actual employment start date. And starting employment is not equivalent to changing one's residence. Mr. Vaile's first day of work in Kansas was November 5, 2012, and he actually changed his address by signing a new lease in Kansas on November 9, 2012. His sworn statement in the notice of the change is the only evidence submitted on this point. Mr. Vaile's notice of that change was timely and determinative.

Furthermore, the district court order which Mr. Vaile was alleged to have violated was reversed by this Court through its January 26, 2012 decision. The district court has simply refused to recognize the fact that it was overturned (the subject of appeal #61415). Finally, even if Mr. Vaile had been late, there was no harm to any party or the court. At all times, Mr. Vaile received all filings by mail, and electronic mail, and has fully participated in the proceedings. The court's fabricated contempt against Mr. Vaile is solely punitive, an abuse of the district court's power.

4) The district court erred by failing to enforce a sister-state child support order in accordance with federal law. In July 2012, the district court determined that NRS 130.207 (UIFSA §207) was irrelevant to the matter before it. (Since this holding is directly contrary to the mandate provided by this Court in January 26, 2012, the district court's July order is on appeal with this Court.) Section 207 of UIFSA requires the district court to make a determination of controlling order when there are two competing child support orders for the same children. On October 30, 2012, a California tribunal with jurisdiction over the parties in the action held that UIFSA §207 was relevant to its determination, and found that the Norwegian order was indeed controlling. Appellant filed the California judgment with the district court on December 18, 2012. Title 28 U.S.C. § 1738B requires the district court to recognize and enforce this order. However, the district court held that the California order was not binding because Respondent argued that fraud took place in the California action. A detailed review of the transcript of the hearing on January 22, 2013 will show that not only did Respondent not submit a single shred of evidence

to show the slightest inkling of irregularity in the proceedings in the California court, but the word "fraud" was also not uttered a single time by anyone during the hearing – not even in mere argument. Fraud must be plead with specificity, and proven with a preponderance of evidence. Here, Respondent offered no evidence at all of fraud. The California order is binding in Nevada.

5) The district court erred in holding Mr. Vaile in contempt for failing to pay child support for 11 months because he did, in fact, pay during those months, and this Court previously held that the district court was not permitted to modify the decree. As noted, the district court's ongoing modifications of the 1998 divorce decree is before this Court in appeal #61415. Because the district court continues to wrongly modify, Appellant continues to petition this Court for relief.

As the district court forecasted in its July 2012 decision, that court newly held Mr. Vaile in contempt of court for failure to pay child support for 11 months, because he made child support payments during those periods directly to Respondent, and not through Respondent's law firm. The district court's July 2012 decision held that the payments during those periods "didn't count" because they violated a temporary district court order, which order was stayed and then overturned by this Court in January 2012. This Court's January 2012 decision stated with clarity that the district court did not have jurisdiction to modify the parties' 1998 decree, including modifications as to whom the child support payments were to be paid.

6) The district court erred in enforcing attorneys fees that should have been overturned when Respondent failed to prevail on appeal. In its July 10, 2012 order, the district court refused to overturn the attorney fee awards that it provided to Respondent's counsel, despite the fact that each and every argument Respondent submitted on appeal was rejected by this Court, and each of the district court's orders overturned. This matter is also an issue on appeal before this Court, however, the district court has newly mandated payments towards the attorney fee awards on pain of contempt, and then ordered additional attorneys fees. The non-prevailing party is not entitled to attorneys fees. The fact that the district court continues to enforce the award of attorney's fees to the non-prevailing party is error and shows clear bias by the district court.

In conclusion, Appellant requests the Court to explicitly overturn the district court on all points.

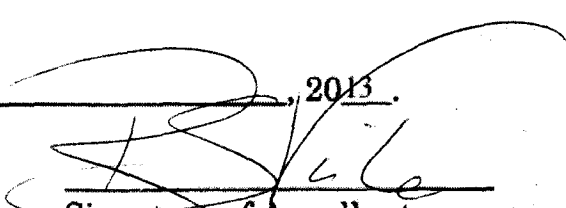
CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

- By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

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

DATED this 1st day of May, 2013.



Signature of Appellant

Robert Scotlund Vaile

Print Name of Appellant

2201 McDowell Avenue

Address

Manhattan, KS 66502

City/State/Zip

707 633 4550

Telephone

APPELLANT'S EXHIBITS

EXHIBIT 1

MINUTES FROM APRIL 9, 2012 HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint

COURT MINUTES

April 09, 2012

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

April 09, 2012

10:30 AM

All Pending Motions

HEARD BY: Moss, Cheryl B

COURTROOM: Courtroom 13

COURT CLERK: Valerie Riggs

PARTIES:

Cisilie Vaile, Defendant, not present
Deloitte & Touche, LLP, Other, not present

Marshal Willick, Attorney, present
Raleigh Thompson, Attorney, not present

Frank England, Other, not present
Kaia Vaile, Subject Minor, not present

Kamilla Vaile, Subject Minor, not present

Parties Receiving Notice, Other, not present

Robert Vaile, Plaintiff, present

Pro Se

JOURNAL ENTRIES

- DEFT'S MOTION FOR ORDER TO SHOW CAUSE FOR FAILURE TO PAY CHILD SUPPORT & CHANGING ADDRESS WITHOUT NOTIFICATION; REDUCE CURRENT ARREARAGES TO JUDGMENT; ATTORNEY'S FEES & COSTS...ORDER TO SHOW CAUSE

R. Crane, Law Clerk, present with Atty Willick.

Plaintiff sworn and testified.

Arguments by Counsel and Plaintiff.

COURT ORDERED the following:

1. Plaintiff shall file and serve electronically, a Rebuttal Brief on NRS 130.207 and 130.611 by May 9, 2012 5:00 p.m.
2. Plaintiff shall also Brief, Montana vs Lopez and Parkinson vs Parkinson.
3. Defendant shall file and serve electronically, a Responsive Brief by May 23, 2012 5:00 p.m.
4. Plaintiff shall file and serve electronically, a Sur-Rebuttal by May 30, 2012, 5:00 p.m.
5. Both Parties shall file updated Financial Disclosure Forms with the last three (3) paystubs attached, within two (2) weeks, by April 23, 2012.
6. Plaintiff shall request an Audit from the District Attorney's Office forthwith.
7. Plaintiff's request for telephonic appearances is GRANTED. Court prefers a landline telephone with a handset.
8. Hearing SET.

Plaintiff and Counsel STIPULATE pursuant to EDCR 7.50 that the minutes shall stand as an Order.

6-4-2012 1:30 PM HEARING

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: October 22, 2012 1:30 PM Evidentiary Hearing
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per
Judge
Moss, Cheryl B
Courtroom 13
Riggs, Valerie*

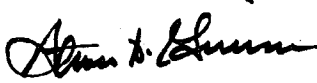
*Canceled: November 26, 2012 10:30 AM Motion to Reconsider
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - Moot
Moss, Cheryl B
Courtroom 13
Riggs, Valerie*

January 22, 2013 1:30 PM Evidentiary Hearing
Moss, Cheryl B
Courtroom 13

APPELLANT'S EXHIBITS

EXHIBIT 2

APPELLANT'S NOTICE OF
INTENT TO APPEAR BY TELEPHONE
DATED JANUARY 15, 2013


CLERK OF THE COURT

1 **NOT**
2 Robert Scotlund Vaile
3 2201 McDowell Avenue
4 Manhattan, KS 66502
5 (707) 633-4550
6 *Plaintiff in Proper Person*

7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 ROBERT SCOTLUND VAILE,
11 Plaintiff,

CASE NO: 98 D230385
DEPT. NO: I

12 vs.
13

DATE OF HEARING: 01/22/2013
TIME OF HEARING: 1:30 PM

14 CISILIE A. PORSBOLL,
15 Defendant.

**NOTICE OF INTENT TO APPEAR
BY TELEPHONE**

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17
18 **NOTICE**

19 In accordance with Part IX of the Nevada Supreme Court Rules, Plaintiff
20 hereby provides notice to the Court and opposing counsel that he intends to
21 appear by telephone at the hearing set for January 22, 2013 at 1:30pm Pacific
22 Time in the above captioned case.
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1 For the purposes of this appearance I can be reached at the following
2 telephone number, (785) 532-2985. I understand that it is my responsibility to
3 ensure that I can be reached at this telephone number on the date and time of the
4 hearing. I also understand that due to the unpredictable nature of court
5 proceedings, my hearing may be called at a time, other than the scheduled time.
6 Further, I understand that my failure to be available at the above stated telephone
7 number will constitute a nonappearance.
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9

10
11 Respectfully submitted this 15th day of January, 2013.

12 /signed/ R.S. Vaile

13
14 Robert Scotlund Vaile
15 2201 McDowell Avenue
16 Manhattan, KS 66502
17 (707) 633-4550
18 *Plaintiff in Proper Person*
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APPELLANT'S EXHIBITS

EXHIBIT 3

RESPONDENT'S OBJECTION TO NOTICE OF
INTENT TO APPEAR BY TELEPHONE
DATED JANUARY 16, 2013

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OBJ
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 002515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@wilicklawgroup.com
Attorneys for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

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

Defendant.

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

DATE OF HEARING: 01/22/12
TIME OF HEARING: 1:30 p.m.

**OBJECTION
TO NOTICE OF INTENT TO APPEAR BY TELEPHONE**

I. INTRODUCTION

Scotlund has sent an e-mail transmission to this office indicating his intention to appear at the above captioned evidentiary hearing by telephone in accordance with Part IX of the Nevada Supreme Court Rules. His request should be denied for the reasons outlined below.

II. ARGUMENT

A. Scot's Request Must Be Denied

Part IX Rule 4, of the Supreme Court Rules specifically states that "a personal appearance is required for hearings, conferences, and proceedings not listed in subsection 1, including the following:

- (1) Trials and hearings at which witnesses are expected to testify"

1 This is an evidentiary hearing where at least Scot will be required to testify as he is to show
2 cause why he should not be held in contempt and possibly incarcerated for his contemptuous
3 behavior.

4
5 **B. This Court Has Discretion To Deny Scot's Notice**

6 Under Part IX Rule 4(3) of the Supreme Court Rules, the District Court retains discretion to
7 deny a request to appear by telecommunications equipment. Though the Court is to favor such a
8 request, upon good cause showing, the Court can still deny the request and order that the party
9 appear.

10 Here, Scot has been afforded the opportunity in the past to appear telephonically but later
11 claimed that such appearance affected his due process rights as he claimed he was unable to hear the
12 proceedings. This Court later ordered that Scot would not be afforded this option in the future as
13 they could not guarantee his ability to hear and participate in the hearing.

14 Part IX Rule 4(8) of the Supreme Court Rules requires that:

15 (a) The court must ensure that the statements of participants are audible to all other
16 participants and the court staff and that the statements made by a participant are identified
as being made by that participant.

17 Since Scot has complained of his ability to hear the proceedings and thus made an assertion
18 that his due process rights were violated by that inability to hear, this Court can't guarantee that the
19 same problem would occur again and his personal appearance is the only way to assure his rights are
20 not violated.

21 Additionally, since the sanction that is sought for his contempt is his immediate incarceration,
22 for not less than 400 days, it *would not* be appropriate to allow him to appear telephonically at this
23 hearing.¹

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¹ See NSCR Part IX Rule 4(3)(c).

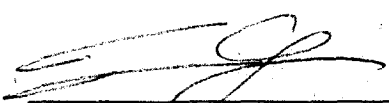
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III. CONCLUSION

Scot should be immediately notified – at least two Court days before the hearing – that his *Notice Of Intent To Appear By Telephone* is denied and that his presence at the above captioned hearing is required.

DATED this 16th day of January, 2013.

WILLICK LAW GROUP



MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 002515
TREVOR M. CREEL, ESQ.
Nevada Bar No. 011943
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
(702) 438-4100
Attorneys for Defendant

APPELLANT'S EXHIBITS

EXHIBIT 4

COURT MINUTES/MINUTE ORDER
DATED JANUARY 17, 2013

98D230385

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint

COURT MINUTES

January 17, 2013

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

January 17, 2013

2:00 PM

Minute Order

HEARD BY: Moss, Cheryl B

COURTROOM: Courtroom 13

COURT CLERK: Valerie Riggs

PARTIES:

Cisilie Vaile, Defendant, not present
Deloitte & Touche, LLP, Other, not present

Marshal Willick, Attorney, not present
Raleigh Thompson, Attorney, not present

Kaia Vaile, Subject Minor, not present
Kamilla Vaile, Subject Minor, not present

Parties Receiving Notice, Other, not present

Parties Receiving Notice, Other, not present

Robert Vaile, Plaintiff, not present

Pro Se

JOURNAL ENTRIES

- MINUTE ORDER

On January 15, 2013, Plaintiff filed a Notice of Intent to Appear by Telephone to the Evidentiary Hearing scheduled for January 22, 2013.

On January 16, 2013 Defendant filed an Objection to Notice of Intent to Appear by Telephone.

This matter is scheduled for an Evidentiary Hearing on Contempt against the Plaintiff. Pursuant to court rules, Plaintiff is required to appear in person to Show Cause why he should not be held in

PRINT DATE: 01/17/2013

Page 1 of 2

Minutes Date:

January 17, 2013

98D230385

Contempt.

INTERIM CONDITIONS:

FUTURE HEARINGS:

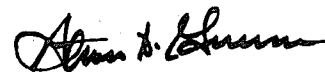
January 22, 2013 1:30 PM Evidentiary Hearing
Moss, Cheryl B
Courtroom 13

APPELLANT'S EXHIBITS

EXHIBIT 5

APPELLANT'S REQUEST FOR CONTINUANCE

DATED JANUARY 18, 2013


CLERK OF THE COURT

1 **REQC**
2 Robert Scotlund Vaile
3 2201 McDowell Avenue
4 Manhattan, KS 66502
5 (707) 633-4550
6 *Plaintiff in Proper Person*

7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 **ROBERT SCOTLUND VAILE,**
11 **Plaintiff,**

CASE NO: 98 D230385
DEPT. NO: I

12 vs.

DATE OF HEARING: 01/22/2013
TIME OF HEARING: 1:30 PM

13
14 **CISILIE A. PORSBOLL,**
15 **Defendant.**

REQUEST FOR CONTINUANCE

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18 **I. BACKGROUND**

19 During the hearing on April 9, 2012, Plaintiff requested to be allowed to
20 appear telephonically due to the long distance that he would be required to travel
21 to attend hearings in Las Vegas. At that time, it was anticipated that Mr. Vaile
22 would have incurred some considerable cost in traveling from Sonoma County,
23 California to Las Vegas, Nevada in order to attend further hearings. Although the
24 matter before the Court at that time was Defendant's Show Cause motion to hold
25 Mr. Vaile in contempt, the Court granted Mr. Vaile's request to appear
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1 telephonically. The Court instructed Mr. Vaile to file a notice of telephonic
2 appearance three days prior to subsequent hearings.

3
4 More than three days prior to the January 22, 2013 hearing, Mr. Vaile filed a
5 Notice of Intent to Appear by Telephone. Mr. Vaile now resides more than twice
6 the distance to Las Vegas than he did when he lived in California, and the matter
7 before the Court remains Defendant's motion to hold Mr. Vaile in contempt.
8 However, Defendant objected to Mr. Vaile's telephonic appearance because 1)
9 Mr. Vaile is expected to testify,¹ and 2) because Defendant seeks Mr. Vaile's
10 immediate incarceration. The Court sustained Defendant's objection, and issued a
11 minute order requiring Mr. Vaile to appear in person in Las Vegas on January 22,
12 2013. On Thursday evening of January 18, after 5pm, the Court provided Mr.
13 Vaile its order via email, less than two² business days before the hearing.
14
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16

17 **II. NEED FOR A CONTINUANCE**

18
19 Because Mr. Vaile relied on the Court's April 9, 2013 order, he planned only
20 to make himself available via telephone on January 22, 2013. He did not budget
21 for travel costs to Nevada,³ make travel arrangements,⁴ request leave from work,⁵
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24

25 ¹ Even when Porsboll was required to give testimony, the Court has never required her to
appear except by telephone.

26 ² Since Monday, January 21 is a holiday, Mr. Vaile would have only one business day to
make arrangements to travel to Nevada.

27 ³ The Vaile's are still trying to catch up after six months being unemployed.

28 ⁴ Mr. Vaile's immediate search for airline arrangements turned up little availability and
seats at prohibitive costs.

1 or make family arrangements⁶ for his absence during this time frame. In order to
2 make arrangements to travel to Nevada for a hearing, Mr. Vaile requires much
3 more than two day's notice. As such, Plaintiff requests a continuance for at least
4 30 days. Additionally, Plaintiff requests the Court to reconsider the requirement
5 that Mr. Vaile appear in person for the hearing.
6

7 **III. CONCLUSION**

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9 The reasons which justified Mr. Vaile's request to appear telephonically in
10 April 2012 are more pronounced since his relocation to Kansas. The matter
11 before the Court is precisely the same as it was when the Court granted Mr.
12 Vaile's request in April 2012. Since the Court has allowed Defendant to appear
13 telephonically to provide her testimony, it would be consistent to allow Mr. Vaile
14 to do so now.
15
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17 If the Court requires Mr. Vaile to appear in person, he simply asks for
18 sufficient time to make arrangements to do so. Furthermore, if the Court requires
19 Mr. Vaile to appear in person to testify, Plaintiff requests that the Court require
20 Porsboll to similarly appear in person to testify. Porsboll's testimony that she did,
21 in fact, receive child support payments during the relevant period is essential to
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26 ⁵ Because Mr. Vaile did not anticipate having to use vacation time for the January 22,
27 2013 hearing because of the Court's previous concession, Mr. Vaile depleted his
28 vacation time during the holidays with family.

⁶ As noted in previous filings, the Vailes have five young children, two of whom have special needs. In order to manage the needs of the family without the help of Mr. Vaile requires careful planning and help from extended family.

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Mr. Vaile's proof and clearly demonstrates why Mr. Vaile should not be held in contempt for non-payment.

Respectfully submitted this 19th day of January, 2013.

/s/ R.S. Vaile
Robert Scotlund Vaile
2201 McDowell Avenue
Manhattan, KS 66502
(707) 633-4550
Plaintiff in Proper Person

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3 **CERTIFICATE OF MAILING**

4 I hereby certify that on this date, I deposited in the United States Mail,
5 postage prepaid, at Manhattan, KS, a true and correct copy of **REQUEST FOR**
6 **CONTINUANCE**, addressed as follows:

7
8 Marshal S. Willick, Esq.
9 Willick Law Group
10 3591 E. Bonanza Road, Suite 200
11 Las Vegas, NV 89110-2101
12 *Attorney for Defendant*

13 I also sent the document via email to Marshal@willicklawgroup.com, and
14 Leonard@willicklawgroup.com.

15
16
17 Respectfully submitted this 19th day of January, 2013.
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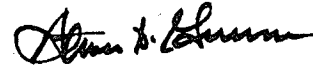
20
21 /s/ R.S. Vaile
22 Robert Scotlund Vaile
23 2201 McDowell Avenue
24 Manhattan, KS 66502
25 (707) 633-4550
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APPELLANT'S EXHIBITS

EXHIBIT 6

ORDER FOR HEARING HELD JANUARY 22, 2013

DATED FEBRUARY 20, 2013



CLERK OF THE COURT

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 (702) 438-4100
8 Attorneys for Defendant

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

12 **ROBERT SCOTLUND VAILE,**

13 Plaintiff,

14 vs.

15 **CISILIE VAILE PORSBOLL,**

16 Defendant.

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

DATE OF HEARING: 01/22/2013
TIME OF HEARING: 1:30 P.M.

17 **ORDER FOR HEARING HELD JANUARY 22, 2013**

18 This matter came before the Court on Defendant's *Motion For Order to Show Cause Why*
19 *Robert Scotlund Vaile Should Not Be Held In Contempt For Failure To Pay child Support and For*
20 *Changing Address Without Notifying The Court; To Reduce Current Arrearages to Judgment; and*
21 *For Attorney's Fees and Costs, and Defendant's Oppositions.* Defendant, Cisilie A. Porsboll, f.k.a.
22 Cisilie A. Vaile was not present as she resides in Norway, but was represented by her attorneys of
23 the WILLICK LAW GROUP, and Plaintiff was not present, nor represented by counsel, having been
24 duly noticed, and the Court having read the papers and pleadings on file herein by counsel and being
25 fully advised, and for good cause shown:

26 **FINDS AS FOLLOWS:**

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RECEIVED
FEB 04 2013
DISTRICT COURT
DEPT I

1 1. That Plaintiff had filed a *Notice of Intent to Appear By Telephone* on January 15th,
2 an *Objection to Notice of Intent to Appear by Telephone* was filed by Defendant on January 16th, and
3 the Court Denied Plaintiff's request to appear by telephone on January 17th.

4 2. That pursuant to Nevada Supreme Court Rule 4(2)(b)(2), personal appearance is
5 required for this Evidentiary Hearing for Contempt. (Time Index: 14:30:00 - 14:33:01)

6 3. The Court is also aware of the Plaintiff's filing requesting a continuance of this
7 hearing, which is denied, and his request that Cisilie be physically present at the hearing, which the
8 court finds as being moot, as he has failed to appear. (Time Index: 14:33:20 - 14:37:20)

9 4. The Supreme Court DENIED Mr. Vaile's request for a Stay of this hearing. (Time
10 Index: 14:40:20; 14:44:44)

11 5. Mr. Vaile began his new employment on November 1st, in Kansas, it is reasonable
12 that he relocated to Kansas at least the day before he began his employment, and that he had a duty
13 to inform the Court and the parties of the relocation within 30 days of the move. Further, Mr. Vaile
14 is aware of the continuing duty to update his *Financial Disclosure Form*, to reflect a change of
15 employment and income. (Time Index: 14:56:40 - 14:53:16)

16 6. Mr. Vaile's notice of change of address was untimely. (Time Index: 15:30:08)

17 7. Mr. Vaile is in Default and is found to be in Contempt for failure to pay child support
18 as order for a total of 11 months. (Time Index: 15:27:40)

19 8. Mr. Vaile is a high income earner, and due to the nature of this case he needs to file
20 the *Detailed Financial Disclosure Form*. (Time Index: 15:36:10 - 15:38:34)

21
22 **IT IS HEREBY ORDERED** that:

23 1. Mr. Vaile was NOT granted approval to appear telephonically. (Time Index:
24 14:33:01; 15:27:15)

25 2. Cisilie's Exhibits A thru G, are admitted. (Time Index 14:43:35)

26 3. Mr. Vaile's *Motion to Continue* is DENIED. (Time Index: 14:33:38)

27 4. Mr. Vaile is in DEFAULT for failing to appear for today's hearing. (Time Index:
28 15:27:40)

1 5. Cisilie was not required to appear at this hearing as her attendance is moot. (Time
2 Index: 14:37:20)

3 6. Defendant argued that the Court *Order* from California stating that a child support
4 order from Norway was controlling, was obtained by fraud by Mr. Vaile. The Court orders that the
5 California order is not binding in this matter. (Time Index: 14:39:07)

6 7. Cisilie's *Motion and Request for Relief* are GRANTED. (Time Index: 14:42:55)

7 8. Mr. Vaile is found to be in CONTEMPT for failure to pay child support in the months
8 of May through October, 2010; July through September, 2011; and May through June 2012. (Time
9 Index: 15:27:40)

10 9. Mr. Vaile has failed to pay child support in the amount of \$2,870.13 per month, for
11 the 11 months specified, totaling a principal arrearage of \$31,571.43, accumulated interest in the
12 amount of \$62,466.86, and penalties in the amount of \$15,162.41. (Time Index: 15:28:10)

13 10. Mr. Vaile may purge the Civil Contempt charge for the specified months by making
14 a lump sum payment of \$40,000.00. (Time Index: 15:44:13)

15 11. Mr. Vaile is ADMONISHED that he is required to inform the Court and Counsel of
16 any change of address or employment. (Time Index: 15:35:15)

17 12. Mr. Vaile is in CONTEMPT for failure to notify the Court and counsel of having
18 obtained new employment. (Time Index: 15:30:08)

19 13. Mr. Vaile is sanctioned in the amount of \$500.00, said amount is to be paid no later
20 than 30 days from the Notice of Entry of this *Order*. (Time Index: 15:31:30)

21 14. Mr. Vaile is directed to provide written notification to the WILICK LAW GROUP and
22 the Court of any change in employment within 10 days of the date of hire. (Time Index: 15:33:00)

23 15. Mr. Vaile is to provide the WILICK LAW GROUP and the Court written notice of any
24 change in his address within 10 days of the relocation. (Time Index: 15:32:20)

25 16. Mr. Vaile is to file an updated *Detailed Financial Disclosure Form*, and serve on
26 counsel no later than March 15, 2013, at 5:00 p.m. (Time Index: 15:37:01)

27 17. Mr. Vaile shall commence payment of the \$38,000.00 in sanctions specified in the
28 July 10, 2012, *Order* at a rate of \$1,000.00 per month, due by the 15th of each month, commencing

1 February 15, 2013, until paid in full. Once the sanctions have been paid in full the payments are then
2 to be applied to the previous award of Attorney's fees in the amount of \$100,000.00 until paid in full.
3 Failure to make timely payments as ordered until paid in full is under the pain of contempt. (Time
4 Index: 15:41:25)

5 18. Cisilie is awarded attorney's fees, yet to be determined; WILLYCK LAW GROUP is to
6 file a *Memorandum of Cost and Fees* for the period of July 2012 to January 2013. (Time Index:
7 15:45:35)

8 19. WILLYCK LAW GROUP specifically reserved the right to seek additional findings of
9 contempt for July, 2012 forward. (Time Index: 15:45:55)

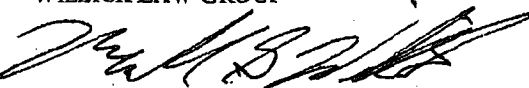
10 20. The Court issued a Bench Warrant for Mr. Robert Scotlund Vaile to serve 275 days
11 of incarceration in the Clark County Detention Center, without bail, on the accumulated charges of
12 CONTEMPT. (Time Index: 15:28:35)

13 21. WILLYCK LAW GROUP shall prepare the *Order* for today's hearing, and prepare a
14 separate *Order* for additional fees and costs.

15 DATED this ___ day of FEB 12 2013, 2013.

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18 DISTRICT COURT JUDGE AL

19 Respectfully Submitted By:
20 WILLYCK LAW GROUP

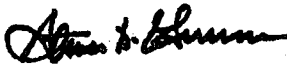
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22 MARSHAL S. WILLYCK, ESQ.
23 Nevada Bar No. 002515
24 3591 East Bonanza Road, Suite 200
25 Las Vegas, Nevada 89110-2101
26 Attorneys for Defendant

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APPELLANT'S EXHIBITS

EXHIBIT 7

DECISION AND ORDER ON ATTORNEY'S FEES
DATED FEBRUARY 15, 2013


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

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ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. VAILE nka PORSBOLL,

Defendant.

Case No. 98-D-230385

Dept. No. I

DECISION AND ORDER ON ATTORNEY'S FEES

On January 22, 2013, Plaintiff Mr. Vaile was defaulted based on his failure to appear at the Evidentiary Hearing. The Court directed counsel for Defendant Ms. Porsboll to submit a Memorandum of Fees and Costs which was filed on January 31, 2013.

After review of Defendant's Memorandum of Fees and Costs, and counsel's Brunzell analysis in their Motion for Order Show Cause filed on February 27, 2012, the Court makes the following findings and orders.

The Nevada Supreme Court in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 349 (1969), discussed factors to be applied in determining attorney's fees and costs.

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Under Brunzell, when courts determine the appropriate fee to award in civil cases, they must consider various factors, including:

- a. the qualities of the advocate,
- b. the character and difficulty of the work performed,
- c. the work actually performed by the attorney, and
- d. the result obtained.

“Furthermore, good judgment would dictate that each of these factors be given consideration by the trier of fact and that no one element should predominate or be given undue weight.” (Emphasis by court.)” Brunzell, 85 Nev. at 350, quoting Schwartz v. Schwerin, 336 P.2d 144, 146 (1959).

The first factor is the qualities of the advocate. Ms. Porsboll’s attorneys, The Willick Law Group, are experienced domestic relations litigators who have practiced for many years. Ms. Porsboll’s attorneys practice primarily in the area of family law. The attorneys have conducted and litigated several dozen trials in Family Court, including the undersigned Judge’s department.

The second factor is the character and difficulty of the work performed. The Court finds that the work performed was complex and substantial considering the numerous pleadings filed, the number of hearings held, the lengthy history of the case, the hours spent preparing for hearings and the evidentiary hearing, and the high conflict litigation.

The third factor is the work actually performed by the attorneys. Here, Ms. Porsboll’s counsel submitted detailed billing statements. The billing breakdown for the Motion for Order Show Cause indicates most of the entries are reasonable. Some entries

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were administrative in nature. Therefore, the Court exercised discretion as to the reasonableness of the amounts.

The fourth factor is the result obtained. The Defendant was the prevailing party based on Plaintiff's failure to appear at the Evidentiary Hearing.


Based on the above and foregoing:

The Court finds that an award of \$20,000.00 as and for attorney's fees and costs to Defendant Ms. Porsboll is reasonable and appropriate based on this court's review of the detailed billing statements and under a Brunzell analysis.

IT IS HEREBY ORDERED that Defendant Cisilie A. Porsboll is awarded the sum of \$20,000.00 as and for attorney's fees and costs.

SO ORDERED.

Dated this 15th day of February, 2013.


CHERYL B. MOSS
District Court Judge