

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION OF
WELFARE AND SUPPORTIVE
SERVICES, CHILD SUPPORT
ENFORCEMENT PROGRAM, AND
KIERSTEN GALLAGHER,
(SOCIAL SERVICES MGR II),

Appellants,

vs.

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

Respondent.

Electronically Filed
Mar 18 2019 10:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 77070
Dist. Court Case No. 98D230385

APPELLANTS' APPENDIX
(Volume I of I, Pages AA 1–253)

DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE NOS.
09/21/18	Case Appeal Statement	I	160– 162
10/09/18	Exhibits to Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should Not Be Held in Contempt and for Attorney's Fees and Costs	I	197– 210
09/12/18	Minute Order (Court finds no new arguments, all substantive issues were decided at July 24, 2018, hearing)	I	158– 159
05/21/18	Minute Order (due to matter being contested, the hearing on the Motion, Opposition and Countermotion to Alter or Amend Order to be reset for oral argument, Motion and Opposition to be heard on June 7, 2018)	I	32– 33
10/09/18	Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should Not Be Held in Contempt and for Attorney's Fees and Costs	I	179– 196
03/12/18	Motion for Writ of Mandamus	I	1– 11
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09/21/18	Notice of Appeal	I	163– 178

DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE NOS.
05/22/18	Notice of Entry of May 21, 2018, Minute Order (due to matter being contested, the hearing on the Motion, Opposition and Countermotion to Alter or Amend Order to be reset for oral argument, Motion and Opposition to be heard on June 7, 2018)	I	34– 37
09/12/18	Notice of Entry of Order (Court finds no new arguments, all substantive issues were decided at July 24, 2018, hearing)	I	154– 157
07/16/18	Notice of Entry of Order (Order of Mandamus issued April 16, 2018, set aside and hearing set)	I	87– 90
09/06/18	Notice of Entry of Order of Mandamus	I	112– 117
05/07/18	Opposition to “Motion to Alter or Amend Order” and Countermotion for a Hearing for DHHS to Show Cause Why They Should Not Comply with Nevada Law and Pursue Collections of Child Support	I	21– 31
07/03/18	Opposition to “Response to Motion for Writ of Mandamus” and Countermotion for Attorney’s Fees	I	72– 86

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DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE NOS.
10/22/18	Opposition to Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should Not be Held in Contempt and for Attorney's Fees and Costs	I	211–233
07/16/18	Order (Order of Mandamus issued April 16, 2018, set aside and hearing set)	I	91–92
08/03/18	Order for Hearing Held July 24, 2018 (no attorney's fees awarded, writ to issue to compel State to take steps to collect child support, oral request by State for stay of orders is denied, and Willick Law Firm to prepare order and writ in accordance with findings)	I	105–108
01/02/19	Order from the November 6, 2018, Hearing (Defendant's Motion for Order to Show Cause denied, Defendant to fill out new application, and request for attorney's fees denied)	I	248–250
04/16/18	Order of Mandamus	I	12–16
09/05/18	Order of Mandamus	I	109–111
07/26/18	Petition for Writ of Mandamus and Consolidation with Motion for Mandamus	I	93–104

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DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE NOS.
11/01/18	Reply to Opposition to Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should Not be Held in Contempt and for Attorney's Fees and Costs	I	234– 244
11/19/18	Report to Court on Order of Mandamus	I	245– 247
02/04/19	Report to Court on Order of Mandamus	I	251– 253
06/27/18	Response to Motion for Writ of Mandamus	I	38– 71
09/06/18	Response to Petition for Writ of Mandamus	I	118– 153

RESPECTFULLY SUBMITTED this 18th day of March, 2019.

AARON D. FORD
Attorney General

By: /s/ Gregory L. Zunino
GREGORY L. ZUNINO
Deputy Solicitor General
Nevada State Bar. No. 4805
Attorneys for Appellants
100 North Carson Street
Carson City, Nevada 89701
Tel: (775) 684-1237
Email: GZunino@ag.nv.gov

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed APPELLANTS' APPENDIX (Volume I of I, Pages AA 1–253) with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on March 18, 2019.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system:

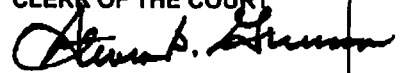
Marshal S. Willick, Esq.
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansas 66457

Dated this 18th day of March, 2019.

/s/ Sandra Geyer
State of Nevada
Office of the Attorney General



MOT
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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

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

DATE OF HEARING: 05/22/2018
TIME OF HEARING: 10:30 am

ORAL ARGUMENT Yes X No

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

MOTION FOR WRIT OF MANDAMUS

1 As this Court is well aware, Mr. Vaile is the most notorious deadbeat Dad in
2 Nevada history. His efforts to avoid a legitimate child support award are infamous
3 and he has pursued actions in just about every state and federal court that would hear
4 him. His efforts have included his fraudulently using a now-void California order in
5 Kansas to convince a Judge there that he had satisfied all of his child support arrears.

6 Now that the Nevada Supreme Court has affirmed this Court's last *Order*, the
7 fraudulently-entered order in Kansas should be set aside and collection/imprisonment
8 sought.

9 We were working through the Clark County District Attorney's (DA) Office
10 for collection, but since Mr. Vaile is "no longer" in Nevada – he *never* resided here
11 – they passed the collection on to the State of Nevada Department of Health and
12 Human Services, Child Support Enforcement Program (hereafter DHHS).

13 DHHS has now claimed that there is "no remedy" for this case through the
14 Nevada Child Support Enforcement Program. As detailed below, that assertion is
15 false and only demonstrates that DHHS does not want to make the effort to collect on
16 a valid child support order as it is "too difficult" and may result in them actually
17 having to put forth some effort in collection, while not doing anything for their
18 collection statistics and therefore their budget. Those are not legitimate bases for
19 refusing to follow the directions of this Court and the Nevada Supreme Court.

20 This *Motion* follows.

21
22 NOTICE OF MOTION

23 TO: ROBERT SCOTLUND VAILE , Plaintiff in Proper Person.

24 TO: Dept. Of Health and Human Svcs., Child Support Enforcement Program, Real
25 Party in Interest

26 TO: Adam Laxalt, Esq., Nevada Attorney General
27
28

1 **YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE** that the undersigned
2 will bring the above and foregoing *Motion* on for hearing in Courtroom 13 of the
3 Eighth Judicial District Court, Family Division, located at 601 N. Pecos Rd., Las
4 Vegas, Nevada 89101 on the 22 day of May, ²⁰¹⁸~~2016~~, at the hour of 10:30
5 o'clock a.m., in Department I of said Court. ✓

6 **POINTS AND AUTHORITIES**

7 **I. FACTS**

8 This case has been ongoing since Mr. Vaile committed a fraud upon the Court
9 in obtaining a divorce in Nevada in 1998 while never residing here. The Court is
10 aware of the torturous history of the case and we will not endeavor to repeat it here.
11 We ask the Court to review the decisions from the Nevada Supreme Court for a
12 complete rendition of the history.¹
13

14 Since we were last in this Court, Mr. Vaile appealed the *Orders* of this Court.
15 The Court of Appeals made its decision, but Mr. Vaile was unhappy with the result
16 and moved to have the Nevada Supreme Court review the Court of Appeals decision.
17 The Nevada Supreme Court did so and affirmed the *Orders* of this Court.

18 Still unhappy, Mr. Vaile attempted – again – to have the United States Supreme
19 Court to review the case. Cert was denied in October 2017.

20 As a quick reminder, Mr. Vaile had gone to California where he obtained a
21 fraudulent *Order* stating that his child support obligation had been satisfied. He took
22

23 ¹ *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 44 P.3d 506 (2002); *Vaile v. Porsboll*,
24 128 Nev. 27, 268 P.3d 1272 (2012); and *Vaile v. Porsbol*, 133 Nev. ___, P.3d ___ (Adv. Opn. 30
25 June 22, 2017). The Court can also see the decision issued by the Court of Appeal of the State of
26 California, First Appellate District, Division Four, filed May 22, 2015 (Unpublished Disposition)
27 posted on our website at:
<https://www.willicklawgroup.com/wp-content/uploads/2018/02/Decision-on-California-Appeal-5-22-15-00088961x7A582.pdf>.

1 that *Order* to Kansas – where he now resides – and had a Court there give that *Order*
2 full faith and credit stymying any attempt at collection. All of this was done while
3 the California *Order* was being challenged in the California Appellate Courts.

4 The California Appellate Courts – after oral argument in which Mr. Vaile
5 participated – determined that the California *Order* was obtained by fraud and that
6 California lacked any jurisdiction to modify the Nevada child support *Order*.

7 All of this information including copies of all of the *Orders* was provided to
8 the Clark County District Attorney's Office for the initiation of collection actions in
9 Kansas. We were informed that since Mr. Vaile is not in Nevada that the case was
10 being passed to the Department of Health and Human Services, Division of Welfare
11 and Supportive Services, Child Support Enforcement Program.

12 On January 29, 2018, we received a letter from DHHS telling us that they were
13 closing the case because "From a Program standpoint, the Nevada order is
14 unenforceable outside Nevada."² They refuse to discuss this matter any further.
15 This *Motion* follows.

16 17 **II. LEGAL ARGUMENT**

18 **A. DHHS is Required to Provide Services To Ms. Porsboll**

19 DHHS is a IV-D agency responsible for enforcement of child support orders.
20 They have statutory requirements that they *MUST* follow in any request for
21 enforcement of a child support order. Specifically their duties to the public are
22 outlined in NRS 130.307. This statute says:

23 NRS 130.307 Duties of support-enforcement agency.

- 24 *1. A support-enforcement agency of this State, upon request, shall provide*
25 *services to a petitioner in a proceeding under this chapter.*
2. A support-enforcement agency of this State that is providing services to
the petitioner shall:

26
27 ² See Exhibit A, copy of the letter from DHHS refusing to move forward.

1 (a) Take all steps necessary to enable an appropriate tribunal of this State,
2 another state or a foreign country to obtain jurisdiction over the respondent;
3 (b) Request an appropriate tribunal to set a date, time and place for a
4 hearing;

5 (c) Make a reasonable effort to obtain all relevant information, including
6 information as to the income and property of the parties;

7 (d) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after
8 receipt of notice in a record from an initiating, responding or registering
9 tribunal, send a copy of the notice to the petitioner;

10 (e) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after
11 receipt of communication in a record from the respondent or his or her
12 attorney, send a copy of the communication to the petitioner; and

13 (f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

14 3. A support-enforcement agency of this State that requests registration of a
15 child-support order in this State for enforcement or for modification shall
16 make reasonable efforts:

17 (a) To ensure that the order to be registered is the controlling order; or

18 (b) If two or more child-support orders exist and the identity of the controlling
19 order has not been determined, to ensure that a request for such a
20 determination is made in a tribunal having jurisdiction to do so.

21 4. A support-enforcement agency of this State that requests registration and
22 enforcement of a support order, arrears or judgment stated in a foreign
23 currency shall convert the amounts stated in the foreign currency into the
24 equivalent amounts in dollars under the applicable official or market exchange
25 rate as publicly reported.

26 5. A support-enforcement agency of this State shall request a tribunal of this
27 State to issue a child-support order and an income-withholding order that
28 redirect payment of current support, arrears and interest if requested to do so
by a support-enforcement agency of another state pursuant to a law similar to
NRS 130.319.

6. This chapter does not create or negate a relationship of attorney and client
or other fiduciary relationship between a support-enforcement agency or the
attorney for the agency and the natural person being assisted by the agency.

[Emphasis added.]

The Supreme Court in *State of Nev. Emp. Ass'n v. Daines*³ held that: "This court
has stated that in statutes, "may" is permissive and "shall" is mandatory unless the
statute demands a different construction to carry out the clear intent of the
legislature."⁴ The statute is not discretionary as to the duties of DHHS in this matter.
The first sentence states: "*A support-enforcement agency of this State, upon request,*

³ 108 Nev. 15, 824 P.2d 276 (1992).

⁴ *Id.*, citing to *Givens v. State*, 99 Nev. 50, 54, 657 P.2d 97, 100 (1983); This court has also
held, however, that the term "may" in a statute is conditional rather than permissive if the purpose
of the statute requires that construction.

1 shall provide services to a petitioner in a proceeding under this chapter. The use of the
2 word "shall" makes it mandatory for the DHHS to act.

3 Here, DHHS did nothing but review the *Orders* we provided and determined
4 that "it was just too hard for them" to proceed. They never made any reasonable
5 effort to obtain jurisdiction over Mr. Vaile and certainly did not attempt to get the
6 now void *Order* on which Kansas based its decision, tossed out of the Kansas court,
7 which is what the *Opinion* of the Nevada Supreme Court requires to actually enforce
8 its decision.

9 The bottom line is that this *is* DHHS' job and they are refusing to proceed.

10 11 **B. This Court Has the Authority To Mandate DHHS Act**

12 When a state agency refuses to perform an act that they are required by statute
13 or court order to perform, a District Court can issue a writ of mandate to require the
14 agency to act. NRS 34.160 states:

15 The writ may be issued by the Supreme Court, the Court of Appeals, a district
16 court or a judge of the district court, to compel the performance of an act
17 which the law especially enjoins as a duty resulting from an office, trust or
18 station; or to compel the admission of a party to the use and enjoyment of a
19 right or office to which the party is entitled and from which the party is
20 unlawfully precluded by such inferior tribunal, corporation, board or person.
21 When issued by a district court or a judge of the district court it shall be made
22 returnable before the district court.

23 Here, DHHS is required to use its resources – including tax intercepts and its
24 ability to work through parallel agencies in other states – to obtain jurisdiction over
25 Mr. Vaile and to begin collection actions consistent with the *Orders* of this Court.
26 They have refused to do so. This Court can order DHHS under a writ of mandate, to
27 do the job for which that agency exists.

28 NRS 34.170 states that the "writ shall be issued in all cases where there is not
a plain, speedy and adequate remedy in the ordinary course of law. It shall be issued
upon affidavit, on the application of the party beneficially interested."

1 There is no other plain, speedy or adequate remedy in which Ms. Porsboll can
2 seek. This Court has the authority and should exercise the same to ensure Mr. Vaile
3 is no longer allowed to thumb his nose at this Court and its orders.

4 Our affidavit/declaration is attached hereto to comply with the requirements of
5 NRS 34 *et seq.*

6
7 **III. CONCLUSION**

8 DHHS is avoiding its statutorily mandated duty to provide services to Ms.
9 Porsboll in the collection of the only valid and enforceable child support order. This
10 Court has the authority to require DHHS to act and should issue the writ of mandate
11 requiring that DHHS move forward with getting the Kansas Order that is based on a
12 now void California Order, overturned and to begin immediate collection of the child
13 support arrearages until all of this Court's orders have been satisfied.

14
15 **DATED** this 14th day of March, 2018.

16 Respectfully Submitted By:
17 WILICK LAW GROUP



18 **MARSHAL S. WILICK, ESQ.**

19 Nevada Bar No. 2515

20 **RICHARD L. CRANE, ESQ.**

21 Nevada Bar No. 9536

22 3591 East Bonanza Road, Suite 200

23 Las Vegas, Nevada 89110-2101

24 (702) 438-4100

25 Attorneys for Defendant

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DECLARATION OF ATTORNEY

1. I, Marshal S. Willick, Esq., declare that I am the principal attorney at the Willick Law Group and am competent to testify to the facts contained in the preceding filing.

2. I have read the preceding filing, and the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

4. DHHS has refused to fulfill their statutory requirements in the collection of child support on behalf of Ms. Porsboll.

5. Ms. Porsboll has no other plain, speedy, or adequate remedy at law and a writ of mandate issued by this Court is required to compel DHHS to do their job.

6. I sign this pleading and this Declaration under NRS 15.010 as Ms. Porsboll resides outside of Clark County, Nevada.

I declare under penalty of perjury that under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 11th day of ^{March}~~February~~, 2018



MARSHAL S. WILICK, ESQ.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 12th day of March, 2018, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101


Employee of the WILICK LAW GROUP

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EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff/Petitioner

-v.-

CISILIE A. PORSBOLL f/k/a,
CISILIE A VAILE,

Defendant/Respondent

Case No. 98D230385

Department I

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

☐ \$25 The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

-Or-

☒ \$0 The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

☐ \$0 The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:

- ☐ The Motion/Opposition is being filed in a case that was not initiated by joint petition.
☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-Or-

☐ \$129 The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-Or-

☐ \$57 The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

X \$0 ☐ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition: Willick Law Group

Date: 3/12/2018

Signature of Party or Preparer: 

P:\wp16\VAILE,CNV\PLEADINGS\00227056.WPD\

Steven D. Grier

1 **ORDER**
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 Attorney for Defendant

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

13 **ROBERT SCOTLUND VAILE,**

14 **Plaintiff,**

15 **vs.**

16 **CISILIE A. PORSBOLL F.K.A. CISILIE A.**
17 **VAILE,**

18 **Defendant.**

19 **DEPT. OF HEALTH AND HUMAN SVCS**
20 **CHILD SUPPORT ENFORCEMENT**
21 **PROGRAM AND KIERSTEN**
22 **GALLAGHER (SOCIAL SERVICES MGR**
23 **I)**

24 **Real Party In Interest**

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

DATE OF HEARING:
TIME OF HEARING:

25 **ORDER OF MANDAMUS**

26 **THE COURT FINDS** that the *Writ of Mandamus* having been properly filed
27 and served on all parties to this case and no *Opposition* or objections having been
28 filed in the appropriate time, this Court deems the request for a Writ of Mandate

Non-Trial Dispositions:
☐ Settled/Withdrawn
☒ Without Judicial Conf/Hrg
☐ With Judicial Conf/Hrg
☐ By ADR
☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred
☐ Disposed After Trial/Grant
Total Dispositions: ☐ Judgment Reached by Trial

1 unopposed and appropriate under the facts and circumstances presented by the
2 Defendant in this case.

3 **IT IS HEREBY ORDERED** that the Department of Health and Human
4 Services Child Support Enforcement Program (DHHS) and Klersten Gallagher
5 (Social Services Manager I) shall immediately begin collection actions of the child
6 support arrearages determined by this Court and affirmed by the Supreme Court of
7 the State of Nevada against Robert Scotlund Vaile.

8 **IT IS FURTHER ORDERED** that DHHS shall take whatever actions are
9 necessary to have proceedings filed and pursued in Kansas – or any other state or
10 jurisdiction where Mr. Vaile may be found – to nullify any order that is contrary to
11 the orders issued by this Court so as to allow those collections to proceed.

12 **IT IS FURTHER ORDERED** that DHHS shall provide a monthly status
13 report of the actions taken and the results of those actions to this Court with a copy
14 provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200, Las Vegas,
15 Nevada, 89110. These status reports are due by the 5th day of each month beginning
16 in May 2018, and shall continue until the total amounts due and owing are collected.

17 *****

18 *****

19 *****

20 *****

21 *****


22 *****

1 IT IS FURTHER ORDERED that this Court shall use its contempt powers
2 if any term of this *Mandate* are not followed by DHHS and Kiersten Gallagher.

3 IT IS SO ORDERED this 9 day of APRIL, 2018.

4
5
6 
DISTRICT COURT JUDGE

7
8 Respectfully Submitted By:
9 WILICK LAW GROUP

10 
11 MARSHAL S. WILICK, ESQ.
12 Nevada Bar No. 2515
13 RICHARD L. CRANE, ESQ.
14 Nevada Bar No. 9536
15 3591 E. Bonanza, Suite 200
16 Las Vegas, Nevada 89110-2101
17 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLYCK LAW GROUP and that on the 16th day of April, 2018, I caused the foregoing document to be served as follows:

☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;

☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

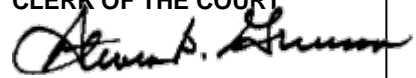
Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

1 Department of Health and Human Services
2 Division of Welfare and Supportive Services
3 Child Support Enforcement Program
4 1900 E. Flamingo Road
5 Las Vegas, Nevada 89119

6 Adam Laxalt, Esq.
7 Attorney General State of Nevada
8 Office of the Attorney General
9 Grant Sawyer Building
10 555 E. Washington Avenue, Suite 2900
11 Las Vegas, NV 89101

12 
13 Employee of the WILICK LAW GROUP

14 <http://server1.compsys.com/161/VAILE,CNVPLADINGS00210367.WPD/m>



MOT
ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILE A. PORSBOLL,

Defendant.

Case No. 98D23038
Dept. I

MOTION TO ALTER OR AMEND ORDER

The State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, (hereinafter “the State”) by and through counsel, ADAM PAUL LAXALT, Attorney General, and Chief Deputy Attorney General, LINDA C. ANDERSON, hereby files this Motion to Alter or Amend Order pursuant to NRCP Rule 59(e). This Motion is made and based upon the papers and pleadings on file and the attached points and authorities.

DATED: April 20, 2018.

ADAM PAL LAXALT
Attorney General

By: /s/ Linda C. Anderson
LINDA C. ANDERSON
Chief Deputy Attorney General

NOTICE OF MOTION

TO: MARSHAL S. WILLICK, Esq.

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion to Alter or Amend on for hearing before this Court at the courtroom of the above-entitled Court on the 23rd day of May, 2018, at _____ a.m. of said day, or as soon thereafter as counsel can be heard.

DATED April 20, 2018.

ADAM PAUL LAXALT
Attorney General

By: /s/ Linda C. Anderson
LINDA C. ANDERSON
Chief Deputy Attorney General

POINTS AND AUTHORITIES

If the Defendant did not have an adequate remedy at law, the Defendant could file a petition for writ of mandamus to compel the performance of an act that the law requires as a duty or to control an arbitrary or capricious exercise of discretion pursuant to NRS 34.160. A writ of mandamus is an extraordinary remedy and it would be within the discretion of a Court to determine if such a petition would be considered. *Redeker v. Eighth Judicial District Court*, 122 Nev. 164, 127 P.3d 520 (2006). In this matter, Defendant filed a “motion” for writ in this case and added “Dept. of Health and Human Svcs., Child Support Enforcement Program and Kiersten Gallagher (Social Services MGR 1)” to the caption as “the real party in interest.” Defendant did not provide this Court any authority for a writ to be filed as a motion or to be served by mail on the State who was not a party to these proceedings. According to NRS 41.031, any action brought against a state agency must be personally served upon the Attorney General’s Office in Carson City as well as the Administrator of the Division of Welfare and Supportive Services. Finally, although the Family Court has jurisdiction over the underlying case, a writ is not included within their jurisdiction in NRS 3.223.

Because the State was not a party to these proceedings, there was no deadline for a response. The State was not notified that the Court was exercising its discretion to assume jurisdiction over the writ and directing the State to answer. The Court set a hearing for May 22, 2018 so the State did not anticipate any decision prior to the hearing. As provided in NRS 34.200, a “writ shall not be granted by default” and “the

1 case shall be heard by the court, whether the adverse party appears or not.” In a notice of entry mailed on
2 April 16, 2018, the State learned that this Court entered an Order providing the relief requested by Defendant
3 because the writ was unopposed. Instead of summarily granting the relief sought, the State asks this Court to
4 amend its Order issued on April 16, 2018 to be an Order to Show Cause as to why the relief requested by the
5 Defendant should not be granted. This would allow the Court to be fully apprised of the procedures and
6 merits of the writ before reaching a final decision. If the Court denies this motion, the State will respectfully
7 request this Court to stay the Order and allow the State to pursue an appeal to resolve the jurisdictional
8 defects.

9 DATED: April 20, 2018.

10 ADAM PAUL LAXALT
Attorney General

11 By: /s/ Linda C. Anderson
12 LINDA C. ANDERSON
Chief Deputy Attorney General

13
14 **AFFIRMATION PURSUANT TO NRS 239B.030**

15 The undersigned does hereby affirm that the preceding document does not contain the social
16 security number of any person.

17 DATED: April 20, 2018.

18 ADAM PAUL LAXALT
Attorney General

19 By: /s/ Linda C. Anderson
20 LINDA C. ANDERSON
21 Chief Deputy Attorney General

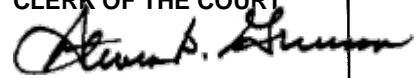
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing MOTION TO ALTER OR AMEND ORDER by using the electronic filing system on April 20, 2018. The following participants in this case are registered electronic filing system users and will be served electronically:

Marshall S. Willick, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101

Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansa 66547

/s/ Marilyn Millam
An Employee of the Office of the Attorney General



OPP
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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

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

Defendant.

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

ORAL ARGUMENT

Yes X No

**OPPOSITION TO
“MOTION TO ALTER OR AMEND ORDER” AND
COUNTERMOTION FOR A HEARING FOR DHHS TO SHOW CAUSE
WHY THEY SHOULD NOT COMPLY WITH NEVADA LAW AND
PURSUE COLLECTIONS OF CHILD SUPPORT**

1 **I. INTRODUCTION**

2 The Attorney General's *Motion to Alter or Amend Order* on behalf of DHHS
3 is deficient in its recitation of the law and lacks merit with the single exception of
4 allowing them to appear and show cause why they should not be compelled to
5 perform their required duties under the law.

6 In fact, the *Motion* does not provide any argument whatsoever as to why they
7 should not be compelled to complete their duties under the law; it only claims,
8 erroneously, that this Court lacks jurisdiction to issue a writ.

9 We ask the Court to deny the *Motion* and to set the show cause hearing as soon
10 as possible to compel the State to act as required by statute.

11
12 **II. OPPOSITION**

13 **A. No Requirement of Personal Service**

14 The State argues that we were required by NRS 41.031 to personally serve the
15 Attorney General's Office in Carson City with any document against a state agency.
16 That statute says no such thing.

17 NRS 41.031 Waiver applies to State and its political subdivisions; naming
18 State as defendant; service of process; State does not waive immunity
conferred by Eleventh Amendment.

19 1. The State of Nevada hereby waives its immunity from liability and
20 action and hereby consents to have its liability determined in accordance with
21 the same rules of law as are applied to civil actions against natural persons and
22 corporations, except as otherwise provided in NRS 41.032 to 41.038,
23 inclusive, 485.318, subsection 3 and any statute which expressly provides for
24 governmental immunity, if the claimant complies with the limitations of NRS
41.010 or the limitations of NRS 41.032 to 41.036, inclusive. The State of
Nevada further waives the immunity from liability and action of all political
subdivisions of the State, and their liability must be determined in the same
manner, except as otherwise provided in NRS 41.032 to 41.038, inclusive,
subsection 3 and any statute which expressly provides for governmental
immunity, if the claimant complies with the limitations of NRS 41.032 to
41.036, inclusive.

25 2. An action may be brought under this section against the State of Nevada
26 or any political subdivision of the State. In any action against the State of
27 Nevada, the action must be brought in the name of the State of Nevada on
relation of the particular department, commission, board or other agency of the
State whose actions are the basis for the suit. An action against the State of

1 Nevada must be filed in the county where the cause or some part thereof arose
2 or in Carson City. In an action against the State of Nevada, the summons and
3 a copy of the complaint must be served upon:

4 (a) The Attorney General, or a person designated by the Attorney General, at
5 the Office of the Attorney General in Carson City; and
6 (b) The person serving in the office of administrative head of the named
7 agency.

8 3. The State of Nevada does not waive its immunity from suit conferred by
9 Amendment XI of the Constitution of the United States.

10 This is not a new action and thus service is not required in accordance with this
11 statute. Our *Motion* was served properly upon the Attorney General's Office as
12 evidenced by their acknowledgment of receipt and filing of the instant *Motion*.

13 Even if the statute could be tortured to be read as saying that service was
14 required to be done on the Attorney General's Office in Carson City, nowhere in this
15 statute does it require *personal* service.

16 Lastly, delaying this case over an (alleged) procedural defect will not affect the
17 underlying merits. We would just re-file, re-serve, and be right where we are today.
18 As a matter of judicial economy, the State should waive this argument and be
19 prepared to justify why they are not willing to **DO THEIR JOB** and begin collection
20 against Nevada's most notorious deadbeat Dad!

21 B. No "Petition" Was Necessary

22 Again, the State argues that a particular statute requires us to do something that
23 is not even mentioned in the statute.

24 NRS 34.160 Writ may be issued by appellate and district courts; when writ
25 may issue. The writ may be issued by the Supreme Court, the Court of
26 Appeals, a district court or a judge of the district court, to compel the
27 performance of an act which the law especially enjoins as a duty resulting from
28 an office, trust or station; or to compel the admission of a party to the use and
enjoyment of a right or office to which the party is entitled and from which the
party is unlawfully precluded by such inferior tribunal, corporation, board or
person. When issued by a district court or a judge of the district court it shall
be made returnable before the district court.

1 Nowhere within this statute does it require that a separate petition be filed in
2 requesting a writ. We are not saying that a petition might *not* be used, but there is no
3 requirement.

4 The Supreme Court in *Southern Nev. Homebuilders*¹ found:

5 The City nevertheless contends that supplemental relief was inappropriate
6 because NRS 30.100 requires a “petition” for such relief, and SNHBA sought
7 the injunction by motion. However, the City ***cites no authority for such a***
8 ***meaningless distinction*** within the context and purpose of NRS 30.100. The
9 statute allows supplemental relief based upon a declaratory judgment
10 “whenever necessary,” and relief from the previously declared invalid
11 Ordinance was necessary and proper, whether in the form of a petition or a
12 motion. ***This court has never hesitated to look to the substance of the relief***
13 ***sought, rather than the label attached to it.***

14 Here, the State cites to no case, statute, or rule that requires that writ relief be
15 required to be requested by petition. For over 60 years, the Supreme Court has
16 recognized that the substance of a paper outweighs the arbitrary title given the
17 document. The *Motion* was valid as filed.

18 C. This Court Has Jurisdiction to Issues Writs

19 It is with disbelief that we have to address this issue at all. The State argues
20 that under NRS 3.223 this Court lacks jurisdiction to issue a writ of mandate.
21 Apparently the State missed the holding in *Landreth*,² which held that family court
22 is a real court, its judges are real district court judges who can do anything that any
23 other district court judges can do, and confirmed that family court has the most
24 expansive jurisdiction of any district court in Nevada. Specifically:

25 Pursuant to the Constitution’s grant of this authority, the Legislature
26 established a family court division in the Second and Eighth Judicial Districts
27 and limited the family courts’ jurisdiction to matters specifically enumerated
28 in NRS 3.223. ***However***, all judges in the family court division are district

29 ¹ *Southern Nevada Life v. City of Las Vegas*, 74 Nev. 163, 166, 325 P.2d 757, 758 (1958).

30 ² *Landreth v. Malik*, 127 Nev. 175, 251 P.3d 163 (2011).

1 court judges with authority to preside over matters outside the family court
2 division's jurisdiction.

3 The Supreme Court did not stop there:

4 By creating a family court division, prescribing its jurisdiction, mandating the
5 number of district court judges who must be judges of the family court, and
6 requiring specialized instruction and training, the Legislature did not restrict
7 the judicial powers of a district court judge sitting in the family court division.
8 Indeed, it would not have the constitutional authority to do so. Instead, the
9 Legislature has recognized that district court judges sitting in the family court
10 division have expanded authority to hear family court disputes by virtue of
11 their specialized training.

12 Here, the State is arguing that this Court is a lesser court and the Judge
13 presiding in it is some kind of lesser judge than one sitting in either the civil or
14 criminal courts. It is almost embarrassing to point out to the State that a Family
15 Division District Court Judge *has greater* (expanded) *authority* to hear cases than
16 does a judge sitting in the civil or criminal courts. This Court has the authority and
17 the jurisdiction under the Constitution of the State of Nevada to issue writs.

18 **D. The State Was Required to Oppose**

19 The State argues that you can't obtain a writ by default. "Default [judgment]"
20 is a term of art. According to Black's Law Dictionary a default judgment is:

21 A judgment entered against a defendant who has failed to plead or otherwise
22 defend against the plaintiff's claim.³

23 This was a *Motion* filed in an ongoing case, not an original action. The State
24 had notice and was aware that the Nevada Rules of Civil Procedure required an
25 *Opposition* to be filed within 10 days.⁴ It is absurd to suggest that the State could
26 defeat the requested writ by ignoring it.

27 ³ *Black's Law Dictionary* 354 (Bryan A. Garner ed., Abridged 8th ed., West 2005).

28 ⁴ Also see EDCR 5.502(d).

1 They certainly could have made any jurisdictional or other procedural
2 arguments in their *Opposition*, but they chose instead to waste this Court's time by
3 doing nothing and then filing a separate *Motion* that, even if accepted by the Court,
4 only delays the inevitable requirement that they must attempt to defend **NOT DOING**
5 **THEIR JOB**.

6 This is an unenviable position for a State agency.⁵ Their belief that this Court
7 did not have jurisdiction to issue the writ is no excuse for not filing an opposition.
8 This Court did not "default" the State, it exercised its discretion under NRCP 1⁶ and
9 EDCR 2.23(b) and (c).⁷

10 Here, the State – which admits it had notice of the *Motion* – did not file a
11 timely *Opposition*, so our submitting of the writ to this Court, and its issuance, was
12 proper.

13 **E. Relief Can be Sought From a Non-Party (Even Financial)**

14 There is no validity to the implied position that this Court is powerless to get
15 the State to actually do its job because the original underlying action was between
16 private parties. That is the case in nearly *every* case involving a State agency charged
17

18 ⁵ The Nevada Supreme Court, the California Court of Appeals, and *this* Court have all
19 determined that Mr. Vaile is a deadbeat Dad and all child support and attorney's fee awards are valid
20 and should be collected. Neither the AG's Office nor DHHS should be able to dismiss this as
21 unenforceable.

22 ⁶ Rule 1 states: These rules govern the procedure in the district courts in all suits of a civil
23 nature whether cognizable as cases at law or in equity, with the exceptions stated in Rule 81. They
24 shall be construed and administered *to secure the just, speedy, and inexpensive* determination of
25 every action.

26 ⁷ EDCR 2.23(b) If the time to oppose a motion has passed and no opposition has been filed,
27 counsel for the moving party may submit an order granting the motion pursuant to Rule 2.20 to the
28 chambers of the assigned department.

(c) The judge may consider the motion on its merits at anytime with or without oral argument, and
grant or deny it.

1 with performing a public function, and in a wide variety of cases and situations, relief
2 – even monetary relief – can be ordered against a party not named in the original
3 litigation.⁸

4 The face of the statutory authority to issue writs says that the writ may issue “to
5 compel the performance of an act which the law especially enjoins as a duty resulting
6 from an office, trust or station.” Asking Nevada’s child support enforcement agency
7 to obey the judgment of the Nevada Supreme Court and actually *collect child support*
8 is as close to a perfect fit with that statutory charge as may ever be found.

9 10 **III. COUNTERMOTION**

11 To ensure the State has an opportunity to stand before this Court and argue that
12 DHHS should *not* have to collect child support from Robert Scotlund Vaile, we ask
13 the Court to set a hearing at the first possible opportunity in accordance with NRS 34
14 *et seq.*

15 The State should be completely prepared to respond to the Court on all matters
16 raised in our *Motion* and should explain how and why they could ever have had a
17 good faith belief that this Court lacked jurisdiction to issue the writ.

18 Upon completion of that hearing, the writ should be enforced immediately,
19 with DHHS immediately moving to obtain jurisdiction over Mr. Vaile and getting the
20 Kansas order (which was based on a now void California order) overturned, and
21 actually collect the sums found due and owing by this Court.

22
23
24
25
26 ⁸ See, e.g., *Rawson v. Dist. Ct. (Cain)*, 133 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 44, Jun
27 29, 2017) (an unserved third party can be made jointly liable for payment of a judgment if given the
28 *opportunity* to defend in an order to show cause).

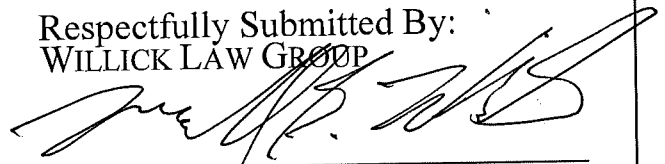
1 **IV. CONCLUSION**

2 The State's position of claiming procedural errors is without merit.
3 Additionally, the State's claim that this Court lacks jurisdiction to issue writs is at
4 best embarrassing.

5 DHHS's position of not attempting to collect child support is the epitome of
6 a bureaucracy avoiding its statutorily mandated duty to provide services because it
7 might be hard. This is public agency that owes maximum effort to the people
8 dependent on it and obedience to the Courts of the State of Nevada. This Court needs
9 to make sure that DHHS does its job, and the State should be admonished for
10 attempting to shield the agency from doing so.

11 **DATED** this 24th day of May, 2018.

12 Respectfully Submitted By:
13 WILICK LAW GROUP



14 MARSHAL S. WILICK, ESQ.
15 Nevada Bar No. 2515
16 RICHARD L. CRANE, ESQ.
17 Nevada Bar No. 9536
18 3591 East Bonanza Road, Suite 200
19 Las Vegas, Nevada 89110-2101
20 (702) 438-4100
21 Attorneys for Defendant
22
23
24
25
26
27
28

DECLARATION OF ATTORNEY

1. I, Marshal S. Willick, Esq., declare that I am the principal attorney at the Willick Law Group and am competent to testify to the facts contained in the preceding filing.

2. I have read the preceding filing, and the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

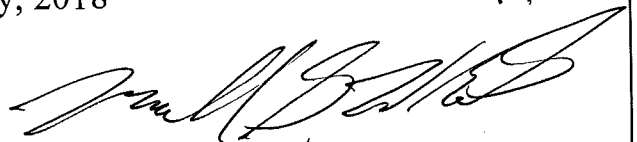
4. DHHS has refused to fulfill their statutory requirements in the collection of child support on behalf of Ms. Porsboll.

5. Ms. Porsboll has no other plain, speedy, or adequate remedy at law and a writ of mandate issued by this Court is required to compel DHHS to do their job.

6. I sign this pleading and this Declaration under NRS 15.010 as Ms. Porsboll resides outside of Clark County, Nevada.

I declare under penalty of perjury that under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 7th day of May, 2018



MARSHAL S. WILICK, ESQ.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 7th day of March, 2018, I caused the foregoing document to be served as follows:

☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;

☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101


Employee of the WILICK LAW GROUP

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff/Petitioner

-v.-

CISILIE A. PORSBOLL f/k/a,
CISILIE A VAILE,

Defendant/Respondent

Case No. 98D230385

Department I

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

☐ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

-Or-

☒ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:

☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.

☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-Or-

☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-Or-

☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☒ **\$0** ☐ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willick Law Group

Date: 5/7/2018

Signature of Party or Preparer: _____

\\wlgsrver\company\wp16\VAILE,CINVPLEADINGS\00227056.WPD\

98D230385

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint

COURT MINUTES

May 21, 2018

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

May 21, 2018

4:30 PM

Minute Order

HEARD BY: Moss, Cheryl B.

COURTROOM: Courtroom 13

COURT CLERK: Erica Carreon

PARTIES:

Cisilie Vaile, Defendant, not present
Deloitte & Touche, LLP, Other, 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
State of Nevada, Agency, not present

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

Pro Se
Linda Anderson, Attorney, not present

JOURNAL ENTRIES

- MINUTE ORDER:

Pursuant to EDCR 5.502 (i) this matter came on before the Court on the Chambers Calendar, for decision without a hearing.

On April 20, 2018, the State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services by and through counsel, Adam P. Laxalt, Attorney General and Chief Deputy Attorney General, Linda C. Anderson filed the Motion to Alter or Amend Order. On May 7, 2018 Defendant/Mother filed an Opposition to Motion to Alter or Amend Order and Countermotion for a Hearing for DHHS to Show Cause Why they Should Not Comply with Nevada

PRINT DATE:	05/21/2018	Page 1 of 2	Minutes Date:	May 21, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

AA 0032

Law and Pursue Collections of Child Support.

Due to the matter being contested, the Motion to Alter or Amend Order and the Opposition to Motion to Alter or Amend Order and Countermotion for a Hearing for DHHS to Show Cause why they Should Not Comply with Nevada Law and Pursue Collections of Child Support currently set for May 23, 2018 at 2:30am shall be re-set for an oral argument hearing.

IT IS ORDERED that the Motion and Opposition shall be heard on June 7, 2018 at 9:00 a.m.

A copy of this Court Minute Order shall be served on counsel and the parties.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: May 22, 2018 10:30 AM Motion
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per
Order*

*Moss, Cheryl B.
Courtroom 13
Carreon, Erica*

Canceled: May 23, 2018 2:30 AM Motion to Amend

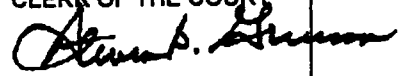
Canceled: May 23, 2018 2:30 AM Opposition & Countermotion

*June 07, 2018 9:00 AM Motion to Amend
Moss, Cheryl B.
Courtroom 13*

*June 07, 2018 9:00 AM Opposition & Countermotion
Moss, Cheryl B.
Courtroom 13*

PRINT DATE:	05/21/2018	Page 2 of 2	Minutes Date:	May 21, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.



1 NEO

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6 * * *

7
8 Robert S Vaile, Plaintiff.
9 vs.
10 Cisilie A Vaile, Defendant.

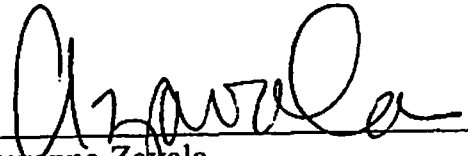
Case No: 98D230385
Department I

11
12 **NOTICE OF ENTRY OF MAY 21, 2018 MINUTE ORDER**

13
14 TO ALL INTERESTED PARTIES:

15 PLEASE TAKE NOTICE that a Minute Order was entered in the above-
16 entitled matter on the May 21, 2018 a true and correct copy of which is attached
17 hereto.
18

19
20 Dated: May 22, 2018

21
22 
23 Suzanna Zavala,
24 Judicial Executive Assistant to the
25 Honorable Cheryl B. Moss
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CERTIFICATE OF SERVICE

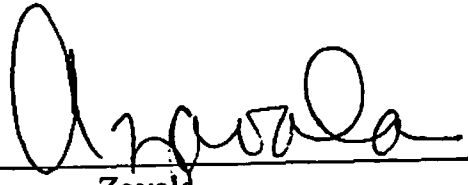
I hereby certify that on the above file stamp date:

☒ I mailed, via first-class mail, postage fully prepaid, the foregoing
NOTICE OF ENTRY OF MAY 21, 2018 MINUTE ORDER to:

ROBERT S. VAILE
812 Lincoln Street
Wamego, Kansas 66547
Plaintiff In Proper Person

ADAM LAXALT, ESQ.
Attorney for General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
landerson@ag.nv.gov

MARSHAL S. WILICK, ESQ.
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89101
Attorney for Defendant


Suzanna Zavala,
Judicial Executive Assistant to the
Honorable Cheryl B. Moss

98D230385

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint

COURT MINUTES

May 21, 2018

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

May 21, 2018

4:30 PM

Minute Order

HEARD BY: Moss, Cheryl B.

COURTROOM: Courtroom 13

COURT CLERK: Erica Carreon

PARTIES:

Cisilie Vaile, Defendant, not present
Deloitte & Touche, LLP, Other, 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
State of Nevada, Agency, not present

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

Pro Se
Linda Anderson, Attorney, not present

JOURNAL ENTRIES

- MINUTE ORDER:

Pursuant to EDCR 5.502 (i) this matter came on before the Court on the Chambers Calendar, for decision without a hearing.

On April 20, 2018, the State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services by and through counsel, Adam P. Laxalt, Attorney General and Chief Deputy Attorney General, Linda C. Anderson filed the Motion to Alter or Amend Order. On May 7, 2018 Defendant/Mother filed an Opposition to Motion to Alter or Amend Order and Countermotion for a Hearing for DHHS to Show Cause Why they Should Not Comply with Nevada

PRINT DATE:	05/21/2018	Page 1 of 2	Minutes Date:	May 21, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

AA 0036

Law and Pursue Collections of Child Support.

Due to the matter being contested, the Motion to Alter or Amend Order and the Opposition to Motion to Alter or Amend Order and Countermotion for a Hearing for DHHS to Show Cause why they Should Not Comply with Nevada Law and Pursue Collections of Child Support currently set for May 23, 2018 at 2:30am shall be re-set for an oral argument hearing.

IT IS ORDERED that the Motion and Opposition shall be heard on June 7, 2018 at 9:00 a.m.

A copy of this Court Minute Order shall be served on counsel and the parties.

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: May 22, 2018 10:30 AM Motion
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per
Order*

*Moss, Cheryl B.
Courtroom 13
Carreon, Erica*

Canceled: May 23, 2018 2:30 AM Motion to Amend

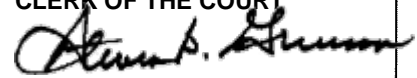
Canceled: May 23, 2018 2:30 AM Opposition & Countermotion

*June 07, 2018 9:00 AM Motion to Amend
Moss, Cheryl B.
Courtroom 13*

*June 07, 2018 9:00 AM Opposition & Countermotion
Moss, Cheryl B.
Courtroom 13*

PRINT DATE:	05/21/2018	Page 2 of 2	Minutes Date:	May 21, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
P: (702) 486-3077
F: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILE A. PORSBOLL,

Defendant.

Case No.: 98D230385

Dept. No.: I

RESPONSE TO MOTION FOR WRIT OF MANDAMUS

Date of Hearing: July 24, 2018

Time of Hearing: 10:30 a.m.

The State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, Child Support Enforcement Program and Kiersten Gallagher (hereinafter "the State") by and through counsel, ADAM PAUL LAXALT, Attorney General, and Chief Deputy Attorney General, LINDA C. ANDERSON, hereby files this response to the "Motion for Writ of Mandamus" filed on March 12, 2018. At a hearing held on June 7, 2018, this Court set aside the Order of Mandamus issued on April 16, 2018, and directed the State to file a response by June 28, 2018. This matter is set for hearing on July 24, 2018.

BACKGROUND

The Child Support Enforcement Program (CSEP) is a federally funded program created under Title IV-D of the Social Security Act and codified in 42 USC § 666 et. seq. CSEP is required to meet these requirements to obtain federal funding for both CSEP and the state's Temporary Assistance for Needy Families Program (TANF).¹ CSEP is overseen and audited by the Federal Office of Child Support Enforcement (OCSE) for compliance with these requirements. CSEP is required by OCSE and state law to perform certain duties as part of the federal program. Two of those OCSE requirements include: accepting referrals to pursue child support cases when a child received Medicaid coverage and establishing child support orders under Chapter 425 of the Nevada Revised Statutes. Under NRS 130.307(2), CSEP takes all steps necessary to enable an appropriate tribunal in another State to obtain jurisdiction over an obligor and request the appropriate tribunal to set a date, time and place for hearing. OCSE holds CSEP responsible for providing these and other child support services to those individuals that apply for those services. CSEP has a statutory obligation and duty to bring these cases to court and prosecute them to arrive at a fair order for all parties. CSEP by statute does not represent either party, but attempts to help obtain verified information and evidence and present same to the Court for the best possible order.

On December 6, 2005, Cisilie Porsboll opened a CSEP case to locate Robert Vaile. On January 3, 2006, counsel for Porsboll requested services for child support enforcement. On October 24, 2012, Vaile was located in California and the CSEP case was amended and transferred to Nevada Intergovernmental Initiating Office (NIIO). In an order filed November 1, 2012, the California Court initially found the 2003 Norwegian child support order was controlling and determined a balance of \$3919 was owed in arrears. *See*, Exhibit 1 for Order on Registration of Reciprocating Foreign Country's Child Support

///

¹ In 1996 welfare reform legislation ended the Aid to Families with Dependent Children ("AFDC") entitlement program and replaced it with the Temporary Assistance for Needy Families ("TANF") block grant program. *See* Pub. L. No. 104-193, 110 Stat. 2105 (1996) (adding Section 403, codified at 42 U.S.C. § 603).

1 Order and Determination of Controlling Order (which was later overturned by California
2 Court of Appeals).

3 Vaile relocated to Kansas and registered the California and Norwegian orders in
4 Kansas. NIIO transmitted the Nevada order to Kansas for enforcement. On February 11,
5 2013, the Kansas Court held a hearing and determined the Nevada order in this case is not
6 enforceable and the California order was controlling. *See*, Exhibit 2 for Order of
7 Registration of Sister State Child Support Order with Determination of Controlling Order
8 and Permanent Injunction. In addition, on April 2, 2014, the Kansas Court ordered the
9 return of funds seized by CSEP and ordered a permanent injunction against enforcement of
10 the Nevada order. *See*, Exhibit 3 for Order Directing Return of Seized Funds and
11 Permanent Injunction. On June 6, 2014, CSEP sent a letter to counsel for Porsboll closing
12 the case because Kansas would not enforce the Nevada order and an attempt to collect on
13 the Nevada order in Kansas by CSEP had resulted in an injunction being issued in Kansas
14 against any further collection by CSEP. *See*, Exhibit 4.

15 On October 4, 2015, the Kansas Court considered the decision of the California
16 Appeals Court and ruled that the Norwegian order is controlling and maintaining the
17 permanent injunction against collection under the Nevada order.). *See*, Exhibit 5 for
18 Clarifying Order on Determination of Controlling Order and Permanent Injunction Kansas.
19 On July 7, 2017, CSEP, through the Clark County District Attorney's office, received an
20 application for services which was not signed by Porsboll and re-opened the CSEP case.
21 The Clark County District Attorney located the employer for Vaile and sent a wage
22 withholding on August 16, 2017. In response, counsel for Vaile's employer sent a letter in
23 November of 2017 that the employer could not honor the wage withholding due to the
24 injunction of the Kansas Court.

25 In a letter dated November 30, 2017, CSEP again closed the case because the
26 request for services on July 5, 2017 did not meet the criteria of a child support application
27 as defined by 45 CFR 303.2 because it was not signed by the applicant and there were no
28 Nevada IV-D services which could be provided due to the injunction issued by the Kansas

1 Court. *See*, Exhibit 6. On January 29, 2018, CSEP send another letter to counsel for
2 Porsbol affirming the closure decision because the Nevada order is not enforceable in
3 Kansas by CSEP. *See*, Exhibit 7.

4 **I. The State Complied with NRS 130.307**

5 Porsboll argues that the State must comply with NRS 130.307 as the basis for her
6 request for a writ. NRS 130.307(1) and (2) provides the following duties for CSEP:

- 7 1. A support-enforcement agency of this State, upon request, shall provide
8 services to a petitioner in a proceeding under this chapter.
9 2. A support-enforcement agency of this State that is providing services to
10 the petitioner shall:
(a) Take all steps necessary to enable an appropriate tribunal of this State,
another state or a foreign country to obtain jurisdiction over the respondent;
(b) Request an appropriate tribunal to set a date, time and place for a hearing;

11 As described above, the State has complied with these statutory duties. The State, through
12 CSEP, has taken the necessary steps to enable both California and Kansas to obtain
13 jurisdiction over Vaile and then hold a hearing. After the California decision was
14 overturned, the Kansas Court held a second hearing and continued its permanent
15 injunction against collection under the Nevada order. The State cannot overturn the
16 Kansas decision or collect child support in contravention of that decision.

17 If Porsboll did not have an adequate remedy at law, Porsboll could obtain a writ of
18 mandamus to compel the performance of an act that the law requires as a duty or to control
19 an arbitrary or capricious exercise of discretion pursuant to NRS 34.160. A writ of
20 mandamus is an extraordinary remedy and it would be within the discretion of a Court to
21 determine if such a petition would be considered. *Redeker v. Eighth Judicial District Court*,
22 122 Nev. 164, 127 P.3d 520 (2006). In this case, issuing a writ of mandamus against CSEP
23 is futile because CSEP cannot take any other steps or provide any services in Kansas. “A
24 writ of mandamus will not issue to compel a public officer to perform an act that the
25 officer has no legal duty or authority to perform.” CSEP has performed its statutory duties
26 and has no legal duty or authority to violate a Kansas court order.

27 ...
28

1 **II. The State Preserves its Objection to Service of the Motion for Writ of**
2 **Mandamus**

3 This Court has set aside the order entered in default and allowed the State to respond
4 before making a decision on whether to order relief. The State preserves its objection to the
5 service of the writ by a motion in a case where the State was not a party. According to NRS
6 41.031, any action brought against a state agency must be personally served upon the
7 Attorney General's Office in Carson City as well as the Administrator of the Division of
8 Welfare and Supportive Services. This Court has ruled that NRS 41.031 does not apply to
9 an existing case. However, this was not an "existing case" for the State and instead was a
10 new proceeding filed against the State which required appropriate service. The State has
11 responded to the motion for writ of mandamus as ordered by this Court.

12 **III. Attorney Fees are Not Warranted**

13 This Court requested the parties to address attorney's fees based on the filing of this writ.
14 The State asserts that the writ should not be issued and therefore attorney fees are not
15 warranted. Chapter 34 of the Nevada Revised Statutes does not make any allowance for
16 attorney's fees. NRS 18.010(2) provides the following:

17 In addition to the cases where an allowance is authorized by specific statute,
18 the court may make an allowance of attorney's fees to a prevailing party:
19 (a) When the prevailing party has not recovered more than \$20,000; or
20 (b) Without regard to the recovery sought, when the court finds that the
21 claim, counterclaim, cross-claim or third-party complaint or defense of the
22 opposing party was brought or maintained without reasonable ground or to
23 harass the prevailing party. The court shall liberally construe the provisions of
24 this paragraph in favor of awarding attorney's fees in all appropriate
25 situations. It is the intent of the Legislature that the court award attorney's
fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of
the Nevada Rules of Civil Procedure in all appropriate situations to punish for
and deter frivolous or vexatious claims and defenses because such claims and
defenses overburden limited judicial resources, hinder the timely resolution of
meritorious claims and increase the costs of engaging in business and
providing professional services to the public.

26 This case does not involve a recovery of more than \$20,000 and the response filed by the
27 State was brought with reasonable ground to allow this Court to review a full record before
28 making a decision of whether the State must be compelled to perform a legal duty.

CONCLUSION

The State respectfully requests this Court to deny the relief requested in the Motion for Writ of Mandamus. Porsboll has a Nevada judgment but is unable to enforce it through CSEP. The State has met its legal duty under NRS 130.307 to provide services to Porsboll and further any attempts to enforce the Nevada order in Kansas are futile because neither the Kansas child support agency nor any employer in Kansas can violate the Kansas Order to register or collect on the Nevada Order.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated: June 27, 2018

ADAM PAUL LAXALT
Attorney General

By: /s/ Linda C. Anderson
Linda C. Anderson
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *RESPONSE TO MOTION FOR WRIT OF MANDAMUS* by using the electronic filing system on June 27, 2018. The following participants in this case are registered electronic filing system users and will be served electronically:

Marshall S. Willick, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101

Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansa 66547

/s/ Linda Aouste
Employee of the Office of the Attorney General

EXHIBIT 1

1 Robert Scotlund Valle
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 833-2350
5 Plaintiff/Petitioner in Proper

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

ATTEST: DEC 11 2012



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

FILED

NOV - 1 2012

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA
By [Signature]
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA**

CASE NO: SFL 49802

12 ROBERT SCOTLUND VAILE,
13 Plaintiff/Petitioner,

15 vs.

18 CISILIE A. PORSBOLL,
19 Respondent.

**ORDER
ON REGISTRATION OF
RECIPROCATING FOREIGN
COUNTRY'S CHILD SUPPORT
ORDER
AND DETERMINATION OF
CONTROLLING ORDER**

Honorable Nancy Case Shaffer
Dept. 23

Hearing Date: 10/12/2012
Hearing Time: 9:30 AM
Date Action Filed: 02/09/2010

24 This matter was heard by this Court on July 2, 2012 and October 12, 2012 in
25 Department 23, before the Honorable Judge Nancy Shaffer on ROBERT
26 SCOTLUND VAILE's (hereafter Husband) Registration of Reciprocating Foreign
27 Country's Child Support Order and Request for Determination of Controlling
28

1 Order. Present at each hearing was Petitioner, but Respondent CISILIE A.
2 PORSBOLL (hereafter Wife) was not present.

3 **PROCEDURAL HISTORY:**

4 The parties were divorced in Clark County Nevada on August 21, 1998.
5 Their Decree of Divorce included an agreement that provided a precise formula
6 for calculating child support. Wife sought a child support order from the
7 appropriate agency in Norway in 2003 when neither party lived in Nevada. In
8 November 2007, Wife also asked the Nevada District Court to establish the child
9 support and arrears in accordance with the parties' 1998 agreement and to
10 establish a retroactive sum certain for child support, i.e. modify the agreement
11 that was set forth in the parties' Decree of Divorce. The Nevada Court issued an
12 order on October 9, 2008, modifying the child support agreement without taking
13 into account the Norwegian child support order.

14 In response to a request by Husband to register and modify the Nevada child
15 support order in 2010, ^{*Ronnie Bayles - Flightmaster*} ~~this~~ Sonoma County Commissioner held that the Nevada
16 Court did not have jurisdiction to modify, and that the Nevada child support
17 orders that purported to do so were unenforceable in California. Eventually, the
18 Nevada Supreme Court similarly held that the Nevada Court did not have
19 continuous and exclusive jurisdiction to modify. Having been newly provided the
20 Norwegian child support order, and subsequent modifications, Husband now
21 requests this Court to both register and to declare the Norwegian orders
22 controlling under UIFSA.
23

24 After reviewing the pleadings, declarations, and other documents, listening
25 to oral argument and reviewing the law regarding interstate child support
26 jurisdiction and enforcement, the Court makes the following findings and orders:
27
28

1 **PERSONAL JURISDICTION**

2 As Petitioner resides within the state of California and submitted himself to
3 the jurisdiction of the Court, this Court has personal jurisdiction over him.
4 Likewise, given that Respondent requested services from the local child support
5 agency, attempted registration of the Nevada support order in California, and
6 reached into the state to garnish monies from Petitioner's salary, the Court finds
7 that the exercise of personal jurisdiction over Respondent is proper.

8 **CONTROLLING ORDER DECLARATION**

9 Under section 207 of the Uniform Interstate Family Support Act (UIFSA)
10 (Family Code § 4900, et seq.), a tribunal of this state having personal jurisdiction
11 over both the obligor and individual obligee shall determine which order controls
12 when two child support orders have been issued by UIFSA states. See F.C. §
13 4911. Norway is a foreign reciprocating country whose orders are entitled to
14 enforcement. (See *Willmer v. Willmer* (2006) 144 Cal.App.4th 951, 956-957.)
15 The Nevada Supreme Court held that the Nevada Court does not have continuing
16 and exclusive jurisdiction to modify the child support provisions of the 1998
17 divorce decree. Because the child in question lives in Norway, Norway is the
18 "only state ^{as defined in U.I.F.S.A.} with continuing and exclusive jurisdiction. Under section 207 of
19 UIFSA as contained in Family Code § 4911, a child support order from the
20 tribunal with continuing and exclusive jurisdiction controls. As such, the 2003
21 Norwegian child support orders together with its subsequent modifications are
22 indeed controlling ~~as of April 1, 2002~~

23 **CHILD SUPPORT PAYMENTS DUE**

24 Having reviewed the sworn statement and evidence provided by Petitioner,
25 taking into account the arrearages due under the Norwegian order, and child
26 support payments paid through the Nevada system, Petitioner has an outstanding
27 balance of \$3,919.00 in child support arrearages due. After payment of this
28

1 balance, Petitioner will have fulfilled his child support obligations under the
2 Norwegian child support orders. Additionally, so long as Petitioner makes
3 payments in accordance with this order, he will remain current in his child
4 support obligations.

5
6 **CONCLUSION**

7 **WHEREFORE, IT IS HEREBY ORDERED:**

- 8 1. The court has personal jurisdiction over both parties to this action;
9 *The 2003 Norwegian child support order shall be registered in Sonoma County.*
10 2. The 2003 Norwegian child support order is controlling over the 1998 Nevada
11 divorce decree *on the issue of child support.*
12 3. Petitioner is ordered to pay \$841.00 by the 15th of each month beginning
13 November 15, 2012 through February 15, 2013, and \$555.00 by March 1,
14 2013 in order to fully satisfy the child support arrearages due;
15 *Petitioner's request for an order that*
16 4. The California Department of Child Support Services is ordered to facilitate
17 such payments; *is denied without prejudice. Petitioner should*
18 *contact Sonoma County DCSS if he wishes to request a*
19 5. No agency, enforcement officer, or employer shall collect or demand child *change*
20 support from Petitioner contrary to this order, or based *on* child support orders *value,*
21 *other than the 2003 Norwegian child support order*
22 *issued by other states or tribunals; registered in Sonoma County*
23 *subject to this order.*
24 6. Petitioner shall provide certified copies of this order to the relevant tribunals
25 in Norway and Nevada.

26
27 Dated this *30th*
28 12th day of October, 2012.

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Honorable Judge Nancy Case Shaffer
Superior Court Judge

EXHIBIT 2

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2013 FEB 11 AM 9:13

DISTRICT COURT
RILEY CO., KS.

TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS

ROBERT S. VAILE,

Plaintiff/Petitioner,

vs.

CISILIE A. PORSBOLL,

Defendant/Respondent.

CASE NO: 2012-DM-000775

**ORDER ON
REGISTRATION OF SISTER
STATE CHILD SUPPORT
ORDER WITH
DETERMINATION OF
CONTROLLING ORDER
AND
PERMANENT INJUNCTION**

Judge: Honorable Meryl D. Wilson

Division: II

Hearing Date: 02/11/2013

Hearing Time: 9:00AM



CERTIFIED COPY
The above is a true and correct
copy of the document which is
on file or of record in this Court.
Dated this 11 day of Feb, 2013
Suey Penell
Clerk of the District Court of
Riley County, Kansas

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INTRODUCTION

2 This matter was heard by this Court on January 14, 2013 and February 11,
3 2013 before the Honorable Judge Meryl D. Wilson on ROBERT VAILE's *MOTION*
4 *FOR REGISTRATION OF SISTER STATE CHILD SUPPORT ORDER WITH*
5 *DETERMINATION OF CONTROLLING ORDER AND MOTION FOR*
6 *PERMANENT INJUNCTION*. Petitioner was present at the hearings. Respondent
7 CISILIE A. PORSBOLL was properly served but was not present at the hearings.

8 Mr. Vaile has requested registration in accordance with the Uniform
9 Interstate Family Support Act (K.S.A. 23-36,601 et. al.) and the Full Faith and
10 Credit of Child Support Orders Act (28 U.S.C. §1738B) of a California child
11 support order file-dated November 1, 2012. The California order contains a
12 determination of controlling child support order finding that a Norwegian child
13 support order with an effective date of April 1, 2002 *is controlling* over a 1998
14 Nevada decree of divorce containing provisions for child support. The California
15 order also sets forth remaining child support payments due under the Norwegian
16 order. Because the Nevada tribunal has not honored the California order as a
17 sister state judgment and has continued to attempt enforcement of its order by
18 intercepting Mr. Vaile's salary in Kansas, Mr. Vaile has also requested an
19 injunction in support of the California order.
20

21

ORDER

22 Having reviewed the filings and evidence provided by Petitioner, and having
23 received no contest from Respondent under K.S.A. 23-36,606-607, the Court
24 hereby confirms the registration of the California child support order as a valid
25 sister state judgment. Furthermore, having reviewed the California order, the
26 Norwegian orders, and the relevant law, the Court finds that the California court
27 properly determined that the Norwegian child support order is controlling over the
28 Nevada decree in accordance with the Uniform Interstate Family Support Act

1 (UIFSA) (see K.S.A. 23-36,101 to 23-36,903). As such, the California order shall be
2 honored and enforced as if issued originally in Kansas.

3
4 **A. CHILD SUPPORT FULFILLMENT**

5 The November 1, 2012 California child support order found that Mr. Vaile
6 owed child support under the Norwegian order in the amount of \$3,919.00. On
7 December 21, 2012, Mr. Vaile paid \$1,682.00 in child support leaving a balance of
8 \$2287.00. On January 4, 2013, (prior to implementation of this Court's injunction)
9 Mr. Vaile's employer withheld \$1,324.68 from his salary for child support leaving a
10 balance of \$912.32. On February 8, 2013, Mr. Vaile made his last payment in the
11 amount of \$912.32, and has, therefore, fulfilled his child support obligations under
12 the controlling Norwegian order.

13
14 **B. PERMANENT INJUNCTION**

15 The California order recites a number of prohibitions on the enforcement of
16 child support orders contrary to the Norwegian child support order which it found
17 to be controlling. Those prohibitions shall be incorporated into this order, relative
18 to Kansas. While this Court has no jurisdiction to decide matters before the
19 Nevada courts, it is apparent that the Nevada court lost jurisdiction in this matter
20 when the Norwegian order sought by Porsboll in Norway became effective on April
21 1, 2002. As such, orders from the Nevada district court contrary to the California
22 order shall not be enforceable in Kansas.

23 **WHEREFORE, IT IS HEREBY ORDERED:**

- 24 1. Petitioner's request to register the November 1, 2012 California child support
25 order with a determination of controlling order is granted;
26 2. The California child support order shall be honored as if issued originally in
27 the State of Kansas;
28 3. Petitioner's request for a permanent injunction is granted; and

1 4. No agency, enforcement officer, or employer in the State of Kansas shall
2 demand or collect child support from Petitioner contrary to this order, or
3 based on child support orders other than the California child support order
4 registered in Riley County pursuant to this order.
5

6 Dated this 11th day of February, 2013.
7

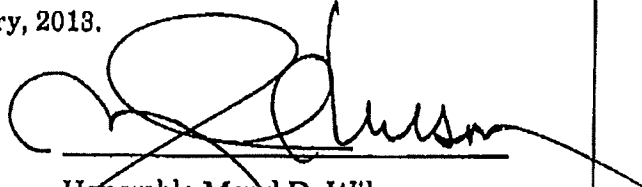
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10 Honorable Meryl D. Wilson
11 Chief Judge
12 RILEY COUNTY DISTRICT COURT
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EXHIBIT 3

FILED

2014 APR -2 PM 2:47

DISTRICT COURT
RILEY CO., KS.

TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS

CASE NO: 2012-DM-000775

ROBERT S. VAILE,

Plaintiff/Petitioner,

VS.

CISILIE A. PORSBOLL,

Defendant/Respondent.

**ORDER DIRECTING RETURN
OF SEIZED FUNDS
AND
PERMANENT INJUNCTION**

Judge: Honorable Meryl D. Wilson

Division: II

Hearing Date: 03/10/2014

Hearing Time: 9:00AM

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INTRODUCTION

This matter was heard by this Court on March 10, 2014 before the Honorable Judge Meryl D. Wilson on ROBERT VAILE's *REQUEST FOR HEARING* seeking return of funds garnished from his bank account at Commerce Bank. Only Petitioner was present at the hearing, although notice was provided to the State of Nevada, Commerce Bank, and Cisilie Porsboll.

Mr. Vaile's request follows the February 11, 2013 order of this Court confirming the registration of a California child support order and enjoining the enforcement of conflicting Nevada orders which are no longer controlling under UIFSA.

ORDER


Having reviewed the filings and evidence provided by Petitioner, the Court finds that Kansas law applies to the proper procedure that must be followed in garnishment and attachment of Kansas citizens' funds deposited at a banking institution operating within Kansas. The Court finds that these procedures were not followed by either the Creditor or Commerce Bank as garnishee. Furthermore, the Court continues to hold that this Court's order on child support is binding and controlling in Kansas, and that the Nevada orders to the contrary, or otherwise seeking to enforce the Nevada orders are unenforceable in this State.

WHEREFORE, IT IS HEREBY ORDERED:

1. Petitioner's request for return of the garnished funds is granted;
2. Commerce Bank shall, within 10 days of this order, issue a check payable to Petitioner in the full amount of the garnished funds, including all fees and charges that resulted from the garnishment, and statutory interest from the date of garnishment;
3. Petitioner's request for a permanent injunction is granted; and

1 4. No agency, enforcement officer, employer, financial institution or other entity
2 holding property of Petitioner operating in the State of Kansas, shall demand,
3 collect, or enforce payment from Petitioner contrary to the orders of this court,
4 or based on orders issued by the Nevada courts on this matter.

5
6 Dated this 1 day of April, 2014.

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9 Honorable Meryl D. Wilson
10 Chief Judge
11 RILEY COUNTY DISTRICT COURT
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RECEIVED

MAY 14 2014

THE DISTRICT ATTORNEY
OF CLARK COUNTY
FAMILY SUPPORT DIVISION

AA 0058

EXHIBIT 4



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE
SERVICES

Child Support Enforcement Program
1900 E Flamingo, Suite B-230
Las Vegas, Nevada 89119
(702) 486-1066 • Fax (702) 366-2333

MICHAEL J. WILLDEN
Director

MICHAEL J. McMAHON
Administrator

June 6, 2014

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

RE: PORSBOLL VS. VAILE - 522604100A

Dear Mr. Willick:

The Nevada Child Support Enforcement Program (CSEP) received an order from the State of Kansas confirming a California order determining Mr. Vaile's compliance with the Norway child support order (NCSO). In short, Kansas will not enforce any Nevada order that conflicts with the California determination made regarding Mr. Vaile's compliance with the NCSO. Kansas closed their child support case that was opened based on a transmittal from Nevada.

Further, CSEP's recent attempt to collect the Nevada order triggered additional Kansas court proceedings that resulted in an injunction against any further collection actions against Mr. Vaile that conflict with those findings entered by the California order. The Kansas court stated specifically that Mr. Vaile "fulfilled his child support obligations under the controlling Norwegian order."

Nevada CSEP is closing its child support enforcement case under the federal and state case closure criteria for two reasons: 1. Two responding jurisdictions have determined Mr. Vaile has now paid his Norway child support obligation in full. 2. The Nevada child support order is unenforceable based on the fact that Nevada has no ability to enforce this order outside of Nevada without violating other state orders.

Ms. Porsboll can still attempt to privately enforce the Nevada order. Ms. Porsboll, a citizen and resident of Norway, can work with Norway's child support enforcement agency to directly intervene and request Kansas reconsider its determination of Mr. Vaile's paid in full status. Norway would have this ability because all states agree Norway is the state with continuing exclusive jurisdiction (CEJ) over the child support order and in that capacity Norway has the final say regarding the arrears owed under its order. The Federal Office of Child Support Enforcement published program guidance documents which support this position as best practice.

This letter is your notice that Nevada's CSEP will close their program case in 60 days from the date of this letter. Ms. Porsboll's best course of action is to involve Norway at this

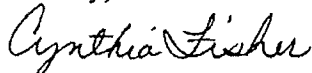
Working for the Welfare of ALL Nevadans

AA 0060

point as mentioned above because Norway is a recognized CEJ state under the Uniform Family Support Act, also known as UIFSA. CSEP hopes you can work with Norway to help collect the child support for Ms. Porsboll.

If you are able to obtain new information from Norway that will directly affect CSEP's ability to enforce Norway's order you may submit the information to the office listed above, but please be sure to include the CSEP case number on all correspondence. CSEP will evaluate all submittals to determine if the information will change CSEP's ability to enforce the case. When the case is closed if Ms. Porsboll attempts to reopen her child support case, she will need to fill out a new application for services.

Sincerely,



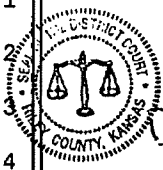
Cynthia Fisher

Field Operations Manager

cc: Cisilie Vaile Porsboll

EXHIBIT 5

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CERTIFIED COPY
The above is a true and correct
copy of the document which is
on file or of record in this Court.
Dated this 5 day of October, 2015
Davis Zimmerman-Deaty
Clerk of the District Court of
Riley County, Kansas

FILED

2015 OCT -5 AM 9:49

DISTRICT COURT
RILEY CO. KS.

**TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS**

ROBERT S. VAILE,

Plaintiff/Petitioner,

VS.

CISILIE A. PORSBOLL,

Defendant/Respondent.

CASE NO: 2012-DM-000775

**CLARIFYING ORDER ON
DETERMINATION OF
CONTROLLING ORDER
AND
PERMANENT INJUNCTION**

Judge: Honorable Meryl D. Wilson
Division: II
Hearing Date: 10/05/2015
Hearing Time: 9:00AM

I. INTRODUCTION

On December 17, 2012, Robert Vaile provided this Court with a Norwegian child support order with an effective date of April 1, 2002 which had been requested by Respondent Porsboll for the provision of support of the parties' two

1 daughters. Mr. Vaile also registered a California court order dated November 1,
2 2012 which recognized the Norwegian order as controlling over the child support
3 provisions contained in the parties' 1998 Nevada divorce decree in accordance with
4 the Uniform Interstate Family Support Act (K.S.A. 23-36,601 et. al.) and the Full
5 Faith and Credit of Child Support Orders Act (28 U.S.C. §1738B). Although
6 provided notice of Vaile's petition, Respondent Porsboll did not contest the
7 registration in Kansas under K.S.A. 23-36,606-607 of the order she sought in
8 Norway, or of the California order.

9 Following a hearing on this matter, this Court confirmed the registration of
10 the Norwegian and California support orders on February 11, 2013, and found
11 that the California court properly determined that the Norwegian child support
12 order was indeed controlling over the earlier issued Nevada decree in accordance
13 with the Uniform Interstate Family Support Act (UIFSA) (see K.S.A. 23-36,101 to
14 23-36,903). The Court also determined that Mr. Vaile had fulfilled his support
15 obligations relative to his two children from that marriage according to the
16 Norwegian orders. Furthermore, since a Nevada family court declined to honor
17 the Norwegian child support orders in Nevada, and continued to make conflicting
18 orders, the Court issued an injunction against enforcement of the foreign child
19 support orders in Kansas contrary to this Court's order.

20
21 Some years after the California lower court's controlling order determination
22 was issued, Respondent successfully appealed to the California Court of Appeals.
23 The appellate court in California determined that Respondent Porsboll required
24 personal service in order for California tribunal to make a controlling child
25 support order determination under UIFSA. The appellate court required the lower
26 court to dismiss the matter there. The California appellate court also required Mr.
27 Vaile to provide this Court with a copy of the appellate court's decision.
28

1 Accordingly, Mr. Vaile provided this Court with the California appellate court's
2 decision and requested clarification of this Court's 2013 order.

3 **II. DISCUSSION**

4 **A. NORWAY'S STATUS AS A FOREIGN RECIPROCATING COUNTRY**

5 It is undisputed that the country of Norway has been declared a Foreign
6 Reciprocating Country (FRC) by the U.S. Secretary of State's office (See 73 Fed.
7 Reg. 230, 72555 (November 28, 2008)) under authority granted under 42 U.S.C. §
8 659A(a)(1). This federal statutory scheme intends to grant FRC status similar to
9 that shared between States under UIFSA. As such, state courts are not in a
10 position to contradict or second guess the federal pronouncement of FRC status
11 granted on foreign countries. The Norwegian child support order was honored in
12 Kansas as if it was a State seeking enforcement of its order. Another state's
13 refusal to recognize an FRC's order is not binding on Kansas courts.
14

15 **B. THE AVAILABILITY OF DEFENSES TO REGISTRATION**

16 The defenses available to a party contesting registration of a foreign support
17 order are defined in K.S.A. 23-36,607. None of the defenses to registration appear
18 to be available to a party who actually sought the foreign support order from a
19 foreign state tribunal. Neither has Respondent Porsboll challenged the
20 registration of the Norwegian orders in Kansas during the three years that they
21 have been registered in the State. In accordance with K.S.A. 23-36,607(c), the
22 Norwegian orders were properly confirmed on February 11, 2013 when
23 Respondent failed to establish a defense to registration.
24

25 **C. CONTROLLING ORDER DETERMINATION**

26 In accordance with K.S.A. 23-36,207, this Court is required to make a
27 determination as to the controlling child support order when two or more child
28 support orders have been issued. Specifically, section (b)(1) requires that "[i]f only

1 one of the tribunals would have continuing, exclusive jurisdiction under this act,
2 the order of that tribunal controls and must be so recognized." Although both
3 Norway and Nevada have issued child support orders regarding the same children,
4 binding Mr. Vaile as obligor, it appears that neither the parties nor the children
5 ever permanently resided in Nevada. According to UIFSA § 205, a court retains
6 continuing, exclusive jurisdiction over a child support order only "[a]s long as [the
7 issuing] state remains the residence of the obligor, the individual obligee or the
8 child for whose benefit the support order is issued." See K.S.A. 23-9,205(a)(1),
9 STATE EX REL. SRS v. Ketzal, 275 P. 3d 923 (Kan: Court of Appeals 2012). Since
10 Nevada did not have continuing, exclusive jurisdiction of the children in 2002,
11 when the child support provisions of the Nevada divorce decree were modified by
12 the Norwegian court, Norway's order is controlling.

13 Alternatively, even if both tribunals had continuing, exclusive jurisdiction in
14 2002, K.S.A. 23-36,207(b)(2) requires that an order issued by a tribunal in the
15 current home state of the children controls over the other. Again, the Norwegian
16 order is clearly controlling over the 1998 Nevada decree.

17 The Court reaffirms its order of February 11, 2013 that the Norwegian order
18 is controlling over the 1998 Nevada decree.
19

20 **D. PERMANENT INJUNCTION**

21 Respondent Porsboll sought and obtained a child support order from her
22 native Norway, and Mr. Vaile has fulfilled his obligations under that order.
23 Nevertheless, Respondent has dispatched Nevada counsel to make repeated efforts
24 to garnish or intercept Mr. Vaile's assets in Kansas under color of competing
25 Nevada support orders. As such, the Court's permanent injunction of these efforts
26 will remain in place.
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EXHIBIT 6

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

November 30, 2017

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, Nevada 89110

Re: Vaile v. Porsboll – UPI-522604100A

Dear Mr. Willick:

This letter is to inform you that the Nevada Child Support Enforcement Program (CSEP) is closing this case based on the following:

The request for services, dated on July 6, 2017, does not meet the criteria for a child support application, as it was incomplete and not signed by the applicant. Per 45 CFR 303.2, an application is defined as a written document provided by the state, which indicates the individual is applying for IV-D services and is signed, electronically or otherwise, by the applicant.

On October 5, 2015, a Kansas District Court issued a Clarifying Order reaffirming its February 11, 2013, ruling that the Norwegian order controls and that the permanent injunction will remain in place. This order specifically states, in paragraph five: "No agency, enforcement officer or employer in the State of Kansas shall threaten, demand or attempt to collect child support, or other fees or costs in the nature of support, from Petitioner contrary to this order, or based on competing orders from other jurisdictions." Accordingly, the Kansas IV-D agency will not enforce this case, leaving the Nevada IV-D program unable to provide these services.

As there are no Nevada IV-D services to be provided, this case will close 60 days from the date of this letter. This does not, however, preclude Ms. Porsboll from attempting to privately enforce the Nevada order through Norway's child support enforcement agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Kiersten Gallagher".

Kiersten Gallagher
Social Services Manager I

*Nevada Department of Health and Human Services
Helping People -- It's Who We Are And What We Do*

AA 0069

EXHIBIT 7

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

January 29, 2018

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

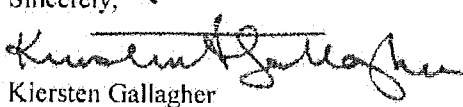
Re: Vaile v. Porsholl – UPI-522604100A

Dear Mr. Crane:

This letter is to inform you that the decision by the Nevada Child Support Enforcement Program (CSEP) to close this case, stands.

From a Program standpoint, the Nevada order is unenforceable outside of Nevada. There is no remedy for this case through the Nevada Child Support Enforcement Program.

If this order is to be enforced, it must happen through private legal remedies. Further actions cannot and will not be taken by the Nevada Child Support Enforcement Program.

Sincerely, 

Kiersten Gallagher
Social Services Manager I

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OPP
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@willicklawgroup.com
Attorney for Defendant

Electronically Filed
07/03/2018

Heather L. Hume
CLERK OF THE COURT

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

ORAL ARGUMENT Yes X No

**OPPOSITION TO
"RESPONSE TO MOTION FOR WRIT OF MANDAMUS"
AND
COUNTERMOTION FOR ATTORNEY'S FEES**

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1 other result is proper or meets the requirements levied by the legislature by statute
2 and by decision of this Court and the Nevada Supreme Court.

3 4 **II. OPPOSITION**

5 **A. Procedure: Failure To Comply With EDCR 5.205**

6 It is a minor issue, but the Court has rules for a reason. You would think that
7 the State of Nevada would at least comply with the local rules of Court as to exhibits
8 attached to Motions.

9 EDCR 5.205 states:

10 (a) Unless otherwise required by another rule, statute, or court order, this rule
11 applies to exhibits filed in support of a motion or other paper.

12 (b) *All papers filed as exhibits shall be produced in discovery and
13 Bate-stamped or otherwise identified by page number at the bottom right
14 corner.*

15 (c) Exhibit must be preceded by a sheet with the identification
16 "Exhibit _____,"

17 (d) *Collective exhibits to a filing must be filed as a separate appendix,
18 including a table of contents identifying each exhibit.*

19 (e) Oversized exhibits that cannot be reduced to 8.5 inches by 11 inches
20 without destroying legibility, and any other exhibits that cannot be e-filed and
21 are filed as served conventionally, must be identified in the exhibit list or table
22 of contents, noting that they have been separately filed and served.

23 (f) *Unless otherwise required by another rule or statute, the following should
24 not be made exhibits:*

25 (1) *Documents of record in a Clark County family division matter;*

26 (2) Cases;

27 (3) Statutes;

28 (4) Other legal authority; or

(5) Confidential court documents or other documents as to which there is any
prohibition or restriction on copying or dissemination.

(g) Exhibit may be deemed offers of proof but shall not be considered
substantive evidence until admitted. [Emphasis added]

Here, the highlighted sections were not complied with by the State. There was
more than one exhibit attached to their filed paper with no separate filing or table of
contents. No documents were bate stamped, and a number of what was submitted are
already part of the Court file and should not be included as exhibits at all.

The Court should instruct the State to actually comply with proper procedure
in this Court.

1 **B. No Requirement of Personal Service**

2 Despite having knowledge that the “issue” is false, the State has renewed its
3 objection to service. We restate the law stating why below; of course, the State has
4 now made a “general appearance” in this case obviating any issue relating to service
5 that might have ever existed.

6 As we previously pointed out, the State argues that we were required by NRS
7 41.031 to “personally serve” the Attorney General’s Office in Carson City with any
8 document directed to a state agency. That statute says no such thing.

9 NRS 41.031 Waiver applies to State and its political subdivisions; naming
10 State as defendant; service of process; State does not waive immunity
11 conferred by Eleventh Amendment.

12 1. The State of Nevada hereby waives its immunity from liability and
13 action and hereby consents to have its liability determined in accordance with
14 the same rules of law as are applied to civil actions against natural persons and
15 corporations, except as otherwise provided in NRS 41.032 to 41.038,
16 inclusive, 485.318, subsection 3 and any statute which expressly provides for
17 governmental immunity, if the claimant complies with the limitations of NRS
18 41.010 or the limitations of NRS 41.032 to 41.036, inclusive. The State of
19 Nevada further waives the immunity from liability and action of all political
20 subdivisions of the State, and their liability must be determined in the same
21 manner, except as otherwise provided in NRS 41.032 to 41.038, inclusive,
22 subsection 3 and any statute which expressly provides for governmental
23 immunity, if the claimant complies with the limitations of NRS 41.032 to
24 41.036, inclusive.

25 2. An action may be brought under this section against the State of Nevada
26 or any political subdivision of the State. In any action against the State of
27 Nevada, the action must be brought in the name of the State of Nevada on
28 relation of the particular department, commission, board or other agency of the
29 State whose actions are the basis for the suit. An action against the State of
30 Nevada must be filed in the county where the cause or some part thereof arose
31 or in Carson City. In an action against the State of Nevada, the summons and
32 a copy of the complaint must be served upon:

33 (a) The Attorney General, or a person designated by the Attorney General, at
34 the Office of the Attorney General in Carson City; and
35 (b) The person serving in the office of administrative head of the named
36 agency.

37 3. The State of Nevada does not waive its immunity from suit conferred by
38 Amendment XI of the Constitution of the United States.

39 As all sides went over in open court at the last hearing, this is not a new action
40 and thus “service of process” does not exist. Our *Motion* was served properly upon
41 the Attorney General’s Office as evidenced by their acknowledgment of receipt and

1 their initial filing asking the Court to *Alter or Amend* the Writ this Court previously
2 issued.

3 Even if the statute could be tortured to be read as saying that service was
4 required to be done on the Attorney General's Office in Carson City, nowhere does
5 the statute require *personal* service.

6 And even if this Court was to somehow find that service was not proper, the
7 State waived any such objection when it sought relief other than lack of jurisdiction
8 due to the alleged insufficiency of service.² Specifically:

9 Subsection (b) of NRCP 12 as adopted in this state has not changed the general
10 rule in existence at the time of its adoption, which is to the effect that a
11 defendant who requests relief additional to that necessary to protect him from
12 defective service of process renders his appearance general.³

13 The State has waived any objection to service and that is now a dead letter.

14 Anticipating that the State will argue NRCP 12(b) abrogated the special
15 appearance and general appearance doctrines, we would agree when the claim has to
16 do with the court not having subject matter jurisdiction. However, a general
17 appearance still applies when the claim has to do with insufficiency of process.⁴

18 It has been argued that *Fritz Hansen A/S v. Eighth Judicial Dist. Court*⁵
19 abrogated all special/general appearance doctrines, however, this case is actually
20 silent as to what happens when relief other than a motion to dismiss for lack of
21 service of process is filed.

22 ² See NRCP 12(b) and *Barnato v. Second Judicial Dist. Court ex rel. County of Washoe*, 76
23 Nev. 335, 353 P.2d 1103 (1960).

24 ³ See NRCP 12 Case Notes § IV. Insufficiency of Process (Annotations).

25 ⁴ *Id.*

26 ⁵ 116 Nev. 650, 6 P.3d 982 (2000). Even if this case can be read that there are no
27 special/general appearances and that requesting relief beyond dismissal does not affect the lack of
28 proper service, we still contend that all we would do is re-file and be right back where we are
today, but with greater costs that we would demand from the State.

1 Here, the State asked to amend or alter an order, not to dismiss for lack of
2 jurisdiction.

3
4 **C. The State Has Not Complied With NRS 130.307**

5 The Court will recognize most of this argument as it appeared in our original
6 *Motion for Writ of Mandamus*. It is repeated here as the State failed to address the
7 key issues.

8 DHHS is a IV-D agency responsible for enforcement of child support orders.
9 They have statutory requirements that they *MUST* follow in any request for
10 enforcement of a child support order. Specifically their duties to the public are
11 outlined in NRS 130.307. This statute says:

12 NRS 130.307 Duties of support-enforcement agency.

13 *1. A support-enforcement agency of this State, upon request, shall provide
services to a petitioner in a proceeding under this chapter.*

14 *2. A support-enforcement agency of this State that is providing services to
the petitioner shall:*

15 *(a) Take all steps necessary to enable an appropriate tribunal of this State,
another state or a foreign country to obtain jurisdiction over the respondent;*

16 *(b) Request an appropriate tribunal to set a date, time and place for a
hearing;*

17 *(c) Make a reasonable effort to obtain all relevant information, including
information as to the income and property of the parties;*

18 *(d) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after
receipt of notice in a record from an initiating, responding or registering
tribunal, send a copy of the notice to the petitioner;*

19 *(e) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after
receipt of communication in a record from the respondent or his or her
attorney, send a copy of the communication to the petitioner; and*

20 *(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.*
21 *3. A support-enforcement agency of this State that requests registration of a
child-support order in this State for enforcement or for modification shall
make reasonable efforts:*

22 *(a) To ensure that the order to be registered is the controlling order; or*

23 *(b) If two or more child-support orders exist and the identity of the controlling
order has not been determined, to ensure that a request for such a
determination is made in a tribunal having jurisdiction to do so.*

24 *4. A support-enforcement agency of this State that requests registration and
enforcement of a support order, arrears or judgment stated in a foreign
currency shall convert the amounts stated in the foreign currency into the
equivalent amounts in dollars under the applicable official or market exchange
rate as publicly reported.*

1 5. A support-enforcement agency of this State shall request a tribunal of this
2 State to issue a child-support order and an income-withholding order that
3 redirect payment of current support, arrears and interest if requested to do so
4 by a support-enforcement agency of another state pursuant to a law similar to
5 NRS 130.319.

6 6. This chapter does not create or negate a relationship of attorney and client
7 or other fiduciary relationship between a support-enforcement agency or the
8 attorney for the agency and the natural person being assisted by the agency.

9 [Emphasis added.]

10 The Supreme Court in *State of Nev. Emp. Ass'n v. Daines*⁶ held that: "This
11 court has stated that in statutes, "may" is permissive and "shall" is mandatory unless
12 the statute demands a different construction to carry out the clear intent of the
13 legislature."⁷ The statute is not discretionary as to the duties of DHHS in this matter.
14 The first sentence states: "*A support-enforcement agency of this State, upon
15 request, shall provide services to a petitioner in a proceeding under this chapter.*"
16 The use of the word "shall" makes it mandatory for the DHHS to act.

17 Contrary to the assertion by the State, CSEP has done nothing in Kansas to
18 address the miscarriage of justice by allowing a state with no jurisdiction over the
19 children or the obligee to find that the Norway child support order was "controlling."
20 This issue is *res judicata* in Nevada and California. They made no appearance in
21 Kansas and therefore did not meet their statutory requirements. For the State to now
22 assert that a knowingly defective and void proceeding "satisfies" their obligation is,
23 at best, disingenuous – they know the existing order is defective and contrary to this
24 Court's order, and they have an obligation to rectify it.

25 The State's Exhibit 5 is new evidence that we have never seen. We haven't
26 seen it because Vaile – yet *again* – moved in Kansas without obtaining proper service
27

28 ⁶ 108 Nev. 15, 824 P.2d 276 (1992).

⁷ *Id.*, citing to *Givens v. State*, 99 Nev. 50, 54, 657 P.2d 97, 100 (1983); This court has also
held, however, that the term "may" in a statute is conditional rather than permissive if the purpose
of the statute requires that construction.

1 on Cisilie in Norway. This is exactly what he did in California, and the order is void
2 for exactly the same reason that the California order was void. Since lack of service
3 is jurisdictional, the State can move at any time to set aside this void order and make
4 a proper UIFSA argument to get the State of Kansas to give full faith and credit to the
5 Nevada orders.⁸

6 By ignoring the Nevada orders including the orders of the Nevada Supreme
7 Court, Kansas has violated the Constitution of the United States. CSEP has yet to do
8 anything about that; it has not filed a document, made an appearance, or taken any
9 action to set aside a knowingly void order.

10 So let's look at what their requirements are:

11 ***(a) Take all steps necessary to enable an appropriate tribunal of this State, another***
12 ***state or a foreign country to obtain jurisdiction over the respondent***

13 Since they have not made an appearance in Kansas, filed any documents,
14 argued the impropriety of the Kansas order, or even mentioned the claim of full faith
15 and credit, they have failed to comply with their statutory mandate.

16 ***(b) Request an appropriate tribunal to set a date, time and place for a hearing***

17 They have not requested a hearing in Kansas. They have just read what was
18 filed and ordered there, shrugged their shoulders, and walked away. Again, the State
19 has failed to meet their obligation under the statute.

20 ***3. A support-enforcement agency of this State that requests registration of a***
21 ***child-support order in this State for enforcement or for modification shall make***
22 ***reasonable efforts:***

23 ***(a) To ensure that the order to be registered is the controlling order***
24
25

26 ⁸ Though we should not have to cite to it – we do so to ensure the State understands their
27 responsibilities. See Article IV, Section 1 of the United States Constitution.

1 The State should be working with their counterparts in Kansas to correct the
2 mis-determination that the Norway order is or possibly could be “controlling.” The
3 State has not done this. This is also a violation of the statutory mandate.

4 The remaining statutory provisions have all been ignored based on the claim
5 that there is “nothing the State can do”; when in fact all that is true is that the State
6 *did nothing*.

7 The State’s filing is devoid of any reasonable reason they have not moved to
8 have the order in Kansas set aside. We even offered our assistance in the drafting of
9 required pleadings.⁹

10 It is – again – almost embarrassing that the State does not even do an analysis
11 of the case. They just read the order from Kansas and determined that there is
12 nothing they can do – no review under UIFSA, no review under the Hague
13 Convention of service of process, nothing. We feel sorry for the indigent litigants
14 that are obviously being left out in the cold by this bureaucracy. This level of non-
15 service is shameful at best.

16 Based on the above, the State has to date been grossly negligent in its duties
17 and must be compelled to do its job instead of ramping up its attorneys to find
18 excuses for *not* doing its job. The Court should re-issue the Writ of Mandamus with
19 prejudice.¹⁰

20 *****

21 *****

22 *****

23
24 ⁹ This is actually pretty easy as the argument would be identical to that made in California
25 to get the void order there set aside.

26 ¹⁰ We expect that the State – not wanting to actually do its job – will appeal any decision in
27 our favor. As such, we ask the Court as a preventive measure to inform the State now that no stay
28 will be issued by this Court.

III. COUNTERMOTION FOR ATTORNEY'S FEES

The facts of this case have been clear and well documented over the past 18 years. The State has failed to meet its statutory mandate and thus, the Writ should re-issue. As such, we are entitled to the entirety of our fees for having to pursue this remedy.

With specific reference to Family Law matters, the Court has adopted "well-known basic elements," which in addition to hourly time schedules kept by attorney, are to be considered in determining the reasonable value of an attorney's services qualities, commonly referred to as the *Brunzell*¹¹ factors:

1. *The Qualities of the Advocate*: his ability, his training, education, experience, professional standing and skill.

2. *The Character of the Work to Be Done*: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation.

3. *The Work Actually Performed by the Lawyer*: the skill, time and attention given to the work.

4. *The Result*: whether the attorney was successful and what benefits were derived.

Each of these factors should be given consideration, and no one element should predominate or be given undue weight.¹² Additional guidance is provided by reviewing the "attorney's fees" cases most often cited in Family Law.¹³

¹¹ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

¹² *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

¹³ Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89 Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v. Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

1 The *Brunzell* factors require counsel to rather immodestly make a
2 representation as to the “qualities of the advocate,” the character and difficulty of the
3 work performed, and the work actually performed by the attorney.

4 First, respectfully, we suggest that the supervising counsel is A/V rated, a
5 peer-reviewed and certified (and re-certified) Fellow of the American Academy of
6 Matrimonial Lawyers, and a Certified Specialist in Family Law.

7 As to the “character and quality of the work performed,” we ask the Court to
8 find our work in this matter to have been adequate, both factually and legally; we
9 have diligently reviewed the applicable law, explored the relevant facts, and believe
10 that we have properly applied one to the other.

11 The fees charged by paralegal staff are reasonable, and compensable, as well.
12 The tasks performed by staff in this case were precisely those that were “some of the
13 work that the attorney would have to do anyway [performed] at substantially less cost
14 per hour.”¹⁴ As the Nevada Supreme Court reasoned, “the use of paralegals and other
15 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”
16 so “reasonable attorney’s fees . . . includes charges for persons such as paralegals and
17 law clerks.”

18 The work actually performed will be provided to the Court upon request by
19 way of a Memorandum of Fees and Costs (redacted as to confidential information),
20 consistent with the requirements under *Love*.¹⁵

21 Additionally, the State could be sanctioned under EDCR 7.60 which reads:

- 22 (b) The Court may, after notice and an opportunity to be heard, impose
23 upon an attorney or party any and all sanctions which may, under the
24 facts of the case, be reasonable, including the imposition of fines, costs
or attorney’s fees when an attorney or a party without just cause:

25 ¹⁴ *LVMPD v. Yeghiazarian*, 129 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 81, Nov. 7, 2013)
26 citing to *Missouri v. Jenkins*, 491 U.S. 274 (1989).

27 ¹⁵ *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

- 1 (3) *So multiplies the proceedings in a case as to increase costs*
2 *unreasonably and vexatiously.*
3 (4) Fails or refuses to comply with these rules.
 (5) Fails or refuses to comply with any order of a judge of the court.

4 [Emphasis added].

5 Here, the State provides no reasonable basis for defending DHHS in this case
6 and has only caused costs to increase. All they have done is read pleadings that were
7 filed and make a decision that it is too difficult to proceed. This is definitionally
8 vexatious and unreasonable. Fees can be awarded as a sanction for this failure.

9 In case the State pivots to make a claim that they are somehow immune from
10 an attorney's fee award, we direct them to *Gitter*,¹⁶ which states the opposite.

11
12 **IV. CONCLUSION**

13 DHHS's position of not attempting to collect child support is the epitome of
14 a bureaucracy avoiding its statutorily mandated duty to provide services because it
15 might take more than minimal effort to do so. This is public agency that owes
16 maximum effort to the people dependent on it and obedience to the Courts of the
17 State of Nevada. This Court should compel DHHS to do its job, and the State should
18 be admonished for attempting to shield the agency from doing so.

19 *****

20 *****

21 *****

22 *****

23 *****


24 *****

25 _____
26 ¹⁶ *Pub. Employees' Ret. Sys. of Nev. v. Gitter*, 133 Nev. ___, ___ P.3d ___, (Adv. Opn. 18,
27 Apr 27, 2017) (fees could have been awarded against PERS had the facts shown a basis for an award
of fees under the controlling statute).

Additionally, the State should be required to pay our actual fees for having to bring the original *Motion* and for having to defend the properly obtained Writ. The Court can and should award these fees under both NRS 18.010 and EDCR 7.60.

DATED this 3rd day of July 2018.

Respectfully Submitted By:
WILICK LAW GROUP



MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
(702) 438-4100
Attorneys for Defendant

DECLARATION OF ATTORNEY

1. I, Richard L. Crane, Esq., declare that I am an associate attorney at the Willick Law Group and am competent to testify to the facts contained in the preceding filing.

2. I have read the preceding filing, and the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

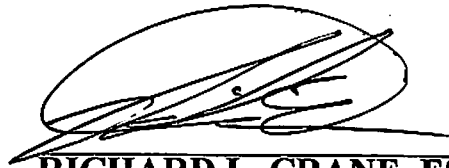
4. DHHS has refused to fulfill their statutory requirements in the collection of child support on behalf of Ms. Porsboll.

5. Ms. Porsboll has no other plain, speedy, or adequate remedy at law and a writ of mandate issued by this Court is required to compel DHHS to do their job.

6. I sign this pleading and this Declaration under NRS 15.010 as Ms. Porsboll resides outside of Clark County, Nevada.

I declare under penalty of perjury that under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 3rd day of July, 2018



RICHARD L. CRANE, ESQ.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 3rd day of July, 2018, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

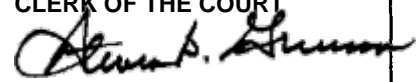
Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 2900
Las Vegas, NV 89107


Employee of the WILICK LAW GROUP

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ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILE A. PORSBOLL,

Defendant.

Case No. 98D230385
Dept. I

NOTICE OF ENTRY OF ORDER:

PLEASE take notice that on the 16th day of July, 2018 an ORDER was entered and attached are true and correct copies thereof.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated: July 16, 2018.

ADAM PAUL LAXALT
Attorney General

By: /s/ Linda C. Anderson
Linda C. Anderson
Chief Deputy Attorney General

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing NOTICE OF ENTRY OF ORDER and ORDER by using the electronic filing system on July 16, 2018. The following participants in this case are registered electronic filing system users and will be served electronically:

Marshall S. Willick, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101

Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansa 66547

/s/ Christina Essagi
An Employee of the Office of the Attorney General

Steven D. Grierson

1 ADAM PAUL LAXALT
Attorney General
2 Linda C. Anderson
Chief Deputy Attorney General
3 Nevada Bar No. 4090
555 E. Washington Ave., #3900
4 Las Vegas, NV 89101
(702) 486-3077
5 Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov
6
7
8

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

12 ROBERT SCOTLUND VAILE,

13 Plaintiff,

14 vs.

15 CISILE A. PORSBOLL,

16 Defendant.

Case No. 98D230385
Dept. I

17
18 **ORDER**

19 This matter came before the Court on June 13, 2018 for hearing on a Motion to Alter
20 or Amend Order filed on April 19, 2018 by the State of Nevada, Department of Health and
21 Human Services, Division of Welfare and Supportive Services, (hereinafter "the State").
22 The State was represented by and through counsel, ADAM PAUL LAXALT, Attorney
23 General, and Chief Deputy Attorney General, LINDA C. ANDERSON. Defendant, Cisilie
24 A. Vaile, was represented by Richard L. Crane, Esq. The Plaintiff, Robert Scotlund Vaile,
25 did not appear and was not represented.

26 The Court had issued a Writ of Mandamus on April 16, 2018, prior to a hearing
27 scheduled for May 22, 2018, because the State had failed to respond to a motion within ten
28 days. The State argued that it was not party to these proceedings so had not been properly

1 served under NRS 41.031. Further the State argued that NRS 34.200 provides that a "writ
2 shall not be granted by default" and requested that the Court hear the case on the merits.

3 The Defendant countered that the State was added to the caption of an existing case
4 and properly served by mail. The Court finds that this is not an initial action so service
5 under NRS 41.031 does not apply. Further, the Court finds that neither side was willful
6 but due process requires that the writ should be heard on the merits.


7 IT IS HEREBY ORDERED that the Order of Mandamus issued on April 16, 2018 is
8 SET ASIDE.

9 IT IS FURTHER ORDERED that this matter is set for hearing on July 24, 2018, to
10 address the substantive issues on the merits. The State shall have until June 28, 2018, to
11 file an opposition and Defendant shall have until July 17, 2018, to file a reply.

12 Dated: JUL 11 2018

13 
14 DISTRICT JUDGE 

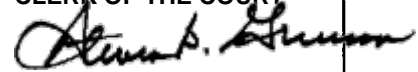
15 Submitted by:
16 ADAM PAUL LAXALT
17 Attorney General

18 By: 
19 Linda C. Anderson
20 Chief Deputy Attorney General

21 Approved as to form:

22  9-536

23 Richard L. Crane, Esq.
24 Attorney for the Cisilie A. Vaile.



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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FAMILY DIVISION
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ROBERT SCOTLUND VAILE,

Plaintiff,

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10 address the substantive issues on the merits. The State shall have until June 28, 2018, to
11 file an opposition and Defendant shall have until July 17, 2018, to file a reply.

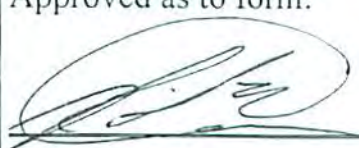
12 Dated: JUL 11 2018

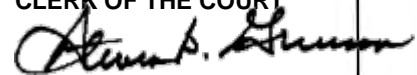
13 
14 DISTRICT JUDGE 

15 Submitted by:
16 ADAM PAUL LAXALT
Attorney General

17 By: 
18 Linda C. Anderson
19 Chief Deputy Attorney General

20 Approved as to form:

21  9536
22 Richard L. Crane, Esq.
23 Attorney for the Cisilie A. Vaile.
24
25
26
27
28



PET
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

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

DATE OF HEARING: **09/12/2018**
TIME OF HEARING:
No Appearance Required

ORAL ARGUMENT Yes ____ No **X**

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**PETITION FOR WRIT OF MANDAMUS AND CONSOLIDATION
WITH MOTION FOR MANDAMUS**

1 This *Petition* is being filed and served to nullify any appellate claims that our
2 initial *Motion for Mandamus* and the resulting service was improper. This *Petition*
3 is filed in accordance with NRS 34.160. We ask the Court to consolidate our
4 previously filed *Motion for Mandamus* which is quoted below and take judicial notice
5 that all hearings and orders stemming from that filing are hereby linked to this
6 *Petition* and remain in force and controlling.

7 – QUOTED FROM *MOTION FOR MANDAMUS* –

8 As this Court is well aware, Mr. Vaile is the most notorious deadbeat Dad in
9 Nevada history. His efforts to avoid a legitimate child support award are infamous
10 and he has pursued actions in just about every state and federal court that would hear
11 him. His efforts have included his fraudulently using a now-void California order in
12 Kansas to convince a Judge there that he had satisfied all of his child support arrears.

13 Now that the Nevada Supreme Court has affirmed this Court's last *Order*, the
14 fraudulently-entered order in Kansas should be set aside and collection/imprisonment
15 sought.

16 We were working through the Clark County District Attorney's (DA) Office
17 for collection, but since Mr. Vaile is "no longer" in Nevada – he *never* resided here
18 – they passed the collection on to the State of Nevada Department of Health and
19 Human Services, Child Support Enforcement Program (hereafter DHHS).

20 DHHS has now claimed that there is "no remedy" for this case through the
21 Nevada Child Support Enforcement Program. As detailed below, that assertion is
22 false and only demonstrates that DHHS does not want to make the effort to collect on
23 a valid child support order as it is "too difficult" and may result in them actually
24 having to put forth some effort in collection, while not doing anything for their
25 collection statistics and therefore their budget. Those are not legitimate bases for
26 refusing to follow the directions of this Court and the Nevada Supreme Court.

27 This *Motion* follows.

NOTICE OF MOTION

TO: ROBERT SCOTLUND VAILE , Plaintiff in Proper Person.

TO: Dept. Of Health and Human Svcs., Child Support Enforcement Program, Real Party in Interest

TO: Adam Laxalt, Esq., Nevada Attorney General

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing *Motion* on for hearing in Courtroom 13 of the Eighth Judicial District Court, Family Division, located at 601 N. Pecos Rd., Las Vegas, Nevada 89101 on the 12 day of September, ~~2016~~ ²⁰¹⁸, at the hour of ____ o'clock ____ .m., in Department I of said Court.

No Appearance Required

POINTS AND AUTHORITIES

I. FACTS

This case has been ongoing since Mr. Vaile committed a fraud upon the Court in obtaining a divorce in Nevada in 1998 while never residing here. The Court is aware of the torturous history of the case and we will not endeavor to repeat it here. We ask the Court to review the decisions from the Nevada Supreme Court for a complete rendition of the history.¹

Since we were last in this Court, Mr. Vaile appealed the *Orders* of this Court. The Court of Appeals made its decision, but Mr. Vaile was unhappy with the result

¹ *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 44 P.3d 506 (2002); *Vaile v. Porsboll*, 128 Nev. 27, 268 P.3d 1272 (2012); and *Vaile v. Porsbol*, 133 Nev. ___, P.3d ___ (Adv. Opn. 30 June 22, 2017). The Court can also see the decision issued by the Court of Appeal of the State of California, First Appellate District, Division Four, filed May 22, 2015 (Unpublished Disposition) posted on our website at: <https://www.willicklawgroup.com/wp-content/uploads/2018/02/Decision-on-California-Appeal-5-22-15-00088961x7A582.pdf>.

1 and moved to have the Nevada Supreme Court review the Court of Appeals decision.
2 The Nevada Supreme Court did so and affirmed the *Orders* of this Court.

3 Still unhappy, Mr. Vaile attempted – again – to have the United States Supreme
4 Court to review the case. Cert was denied in October 2017.

5 As a quick reminder, Mr. Vaile had gone to California where he obtained a
6 fraudulent *Order* stating that his child support obligation had been satisfied. He took
7 that *Order* to Kansas – where he now resides – and had a Court there give that *Order*
8 full faith and credit stymying any attempt at collection. All of this was done while
9 the California *Order* was being challenged in the California Appellate Courts.

10 The California Appellate Courts – after oral argument in which Mr. Vaile
11 participated – determined that the California *Order* was obtained by fraud and that
12 California lacked any jurisdiction to modify the Nevada child support *Order*.

13 All of this information including copies of all of the *Orders* was provided to
14 the Clark County District Attorney's Office for the initiation of collection actions in
15 Kansas. We were informed that since Mr. Vaile is not in Nevada that the case was
16 being passed to the Department of Health and Human Services, Division of Welfare
17 and Supportive Services, Child Support Enforcement Program.

18 On January 29, 2018, we received a letter from DHHS telling us that they were
19 closing the case because "From a Program standpoint, the Nevada order is
20 unenforceable outside Nevada."² They refuse to discuss this matter any further.

21 This *Motion* follows.
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II. LEGAL ARGUMENT

A. DHHS is Required to Provide Services To Ms. Porsboll

DHHS is a IV-D agency responsible for enforcement of child support orders. They have statutory requirements that they **MUST** follow in any request for enforcement of a child support order. Specifically their duties to the public are outlined in NRS 130.307. This statute says:

NRS 130.307 Duties of support-enforcement agency.

1. A support-enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under this chapter.

2. A support-enforcement agency of this State that is providing services to the petitioner shall:

(a) Take all steps necessary to enable an appropriate tribunal of this State, another state or a foreign country to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to the income and property of the parties;

(d) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of notice in a record from an initiating, responding or registering tribunal, send a copy of the notice to the petitioner;

(e) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of communication in a record from the respondent or his or her attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

3. A support-enforcement agency of this State that requests registration of a child-support order in this State for enforcement or for modification shall make reasonable efforts:

(a) To ensure that the order to be registered is the controlling order; or

(b) If two or more child-support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

4. A support-enforcement agency of this State that requests registration and enforcement of a support order, arrears or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

5. A support-enforcement agency of this State shall request a tribunal of this State to issue a child-support order and an income-withholding order that redirect payment of current support, arrears and interest if requested to do so by a support-enforcement agency of another state pursuant to a law similar to NRS 130.319.

6. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support-enforcement agency or the attorney for the agency and the natural person being assisted by the agency.

[Emphasis added.]

1 The Supreme Court in *State of Nev. Emp. Ass'n v. Daines*³ held that: "This court
2 has stated that in statutes, "may" is permissive and "shall" is mandatory unless the
3 statute demands a different construction to carry out the clear intent of the
4 legislature."⁴ The statute is not discretionary as to the duties of DHHS in this matter.
5 The first sentence states: "*A support-enforcement agency of this State, upon request,*
6 *shall provide services to a petitioner in a proceeding under this chapter.* The use of the
7 word "shall" makes it mandatory for the DHHS to act.

8 Here, DHHS did nothing but review the *Orders* we provided and determined
9 that "it was just too hard for them" to proceed. They never made any reasonable
10 effort to obtain jurisdiction over Mr. Vaile and certainly did not attempt to get the
11 now void *Order* on which Kansas based its decision, tossed out of the Kansas court,
12 which is what the *Opinion* of the Nevada Supreme Court requires to actually enforce
13 its decision.

14 The bottom line is that this *is* DHHS' job and they are refusing to proceed.

15 **B. This Court Has the Authority To Mandate DHHS Act**

16 When a state agency refuses to perform an act that they are required by statute
17 or court order to perform, a District Court can issue a writ of mandate to require the
18 agency to act. NRS 34.160 states:
19

20 The writ may be issued by the Supreme Court, the Court of Appeals, a district
21 court or a judge of the district court, to compel the performance of an act
22 which the law especially enjoins as a duty resulting from an office, trust or
23 station; or to compel the admission of a party to the use and enjoyment of a
24 right or office to which the party is entitled and from which the party is
25 unlawfully precluded by such inferior tribunal, corporation, board or person.

26 ³ 108 Nev. 15, 824 P.2d 276 (1992).

27 ⁴ *Id.*, citing to *Givens v. State*, 99 Nev. 50, 54, 657 P.2d 97, 100 (1983); This court has also
28 held, however, that the term "may" in a statute is conditional rather than permissive if the purpose
of the statute requires that construction.

1 When issued by a district court or a judge of the district court it shall be made
2 returnable before the district court.

3 Here, DHHS is required to use its resources – including tax intercepts and its
4 ability to work through parallel agencies in other states – to obtain jurisdiction over
5 Mr. Vaile and to begin collection actions consistent with the *Orders* of this Court.
6 They have refused to do so. This Court can order DHHS under a writ of mandate, to
7 do the job for which that agency exists.

8 NRS 34.170 states that the “writ shall be issued in all cases where there is not
9 a plain, speedy and adequate remedy in the ordinary course of law. It shall be issued
10 upon affidavit, on the application of the party beneficially interested.”

11 There is no other plain, speedy or adequate remedy in which Ms. Porsboll can
12 seek. This Court has the authority and should exercise the same to ensure Mr. Vaile
13 is no longer allowed to thumb his nose at this Court and its orders.

14 Our affidavit/declaration is attached hereto to comply with the requirements of
15 NRS 34 *et seq.*

16 **III. CONCLUSION**

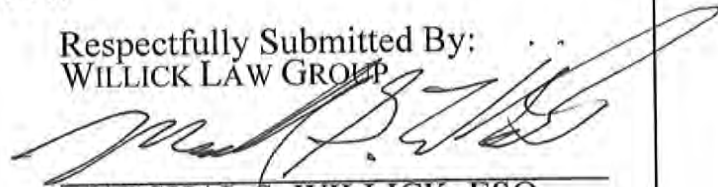
17 DHHS is avoiding its statutorily mandated duty to provide services to Ms.
18 Porsboll in the collection of the only valid and enforceable child support order. This
19 Court has the authority to require DHHS to act and should issue the writ of mandate
20 requiring that DHHS move forward with getting the Kansas Order that is based on a
21 now void California Order, overturned and to begin immediate collection of the child
22 support arrearages until all of this Court’s orders have been satisfied.

23
24 – END QUOTED MOTION –
25
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1 This *Petition for Writ of Mandamus* includes no new information and does not
2 require an additional hearing beyond the Court's acknowledgment that it was filed
3 and properly served and that it is consolidated with the existing *Motion for*
4 *Mandamus* and any hearings and orders stemming from the same.

5 **DATED** this 25th day of July, 2018.

6 Respectfully Submitted By:
7 WILLYCK LAW GROUP



8 MARSHAL S. WILLYCK, ESQ.
9 Nevada Bar No. 2515
10 RICHARD L. CRANE, ESQ.
11 Nevada Bar No. 9536
12 3591 East Bonanza Road, Suite 200
13 Las Vegas, Nevada 89110-2101
14 (702) 438-4100
15 Attorneys for Defendant
16
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DECLARATION OF ATTORNEY

1. I, Marshal S. Willick, Esq., declare that I am the principal attorney at the Willick Law Group and am competent to testify to the facts contained in the preceding filing.

2. I have read the preceding *Petition*, and the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

4. DHHS has refused to fulfill their statutory requirements in the collection of child support on behalf of Ms. Porsboll.

5. Ms. Porsboll has no other plain, speedy, or adequate remedy at law and a writ of mandate issued by this Court is required to compel DHHS to do their job.

6. I sign this pleading and this Declaration under NRS 15.010 as Ms. Porsboll resides outside of Clark County, Nevada.

I declare under penalty of perjury that under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 25th day of July, 2018



MARSHAL S. WILICK, ESQ.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 25th day of July, 2018, I caused the foregoing document to be served as follows:

- ☐ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☒ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
100 N. Carson St.
Carson City, Nevada 89701-4717

1 Kiersten Gallagher
2 (SOCIAL SERVICES MGR I)
3 Department of Health and Human Services
4 Division of Welfare and Supportive Services
5 Child Support Enforcement Program
6 1900 E. Flamingo Road
7 Las Vegas, Nevada 89119

Employee of the WILICK LAW GROUP

P:\wp16\VAILE,CNVPLEADINGS\00248960.WPD/ms

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff/Petitioner

-v.-

CISILIE A. PORSBOLL f/k/a,

CISILIE A VAILE,

Defendant/Respondent

Case No. 98D230385

Department I

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

☐ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

-Or-

☒ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.

☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.

☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.

☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:

☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.

☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-Or-

☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-Or-

☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☒ **\$0** ☐ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willie Law Group Date: 7/26/2018

Signature of Party or Preparer:  P:\wp16\VAILE,CINVPLEADINGS\00227056.WPD/

1 **ORDR**

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 (702) 438-4100
8 Attorneys for Defendant
9

10
11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**
14

15 ROBERT SCOTLUND VAILE,
16 Plaintiff,

17 vs.

18 CISILIE VAILE PORSBOLL,

19 Defendant.

20 DEPT. OF HEALTH AND HUMAN SVCS
21 CHILD SUPPORT ENFORCEMENT
22 PROGRAM AND KIERSTEN GALLAGHER
23 (SOCIAL SERVICES MGR I)

24 Real Party In Interest
25

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

DATE OF HEARING: 07/24/2018
TIME OF HEARING: 10:30 A.M.

26 **ORDER FOR HEARING HELD JULY 24, 2018**

27 This matter came before the Court on the *Motion* filed by the Attorney General
28 of the State of Nevada after briefing on the propriety of the Court's issuance of a *Writ*
of *Mandamus* requiring DHHS to take whatever steps are necessary to collect child
support in accordance with the Nevada child support orders.

Defendant, Cisilie A. Porsboll, f/k/a Cisilie A. Vaile was not present as she
resides in Norway, but was represented by her attorneys of the WILICK LAW GROUP,

1 and Plaintiff was not present, nor represented by counsel, although he was duly
2 noticed. Real Party in Interest was represented by the State of Nevada Attorney
3 General's Office with Chief Deputy AG Linda Anderson, Esq., present. The Court,
4 having read the papers and briefs on file herein by counsel, having heard oral
5 argument, and being fully advised, and for good cause shown:

6
7 **FINDS AS FOLLOWS:**

8 1. The Nevada Child Support Orders are valid and enforceable. (TI:
9 11:02:40)

10 2. The Nevada Court of Appeals held in this case that a core purpose of
11 UIFSA is to ensure that there will be only one enforceable child support order. (TI:
12 11:03:12)

13 3. There appears to now be two child support orders – one in Nevada and
14 one in Kansas – so a determination as to the controlling order must be made. (TI:
15 11:03:20)

16 4. The Kansas Court has held that the administrative order issued in
17 Norway is “controlling.” However, the Nevada Supreme Court has dispensed with
18 this issue, declaring the Nevada Order as controlling.¹ (TI: 11:04:50 and 11:31:23)

19 5. The Kansas Court never had jurisdiction – *ab initio* – over Cisilie when
20 it was making its orders. (TI: 11:05:10)

21 6. The Attorney General's Office does not represent Cisilie but does
22 represent the State of Nevada and its child support orders. (TI: 11:18:00)

23 7. This Court reiterates its finding that NRS 34 *et seq* does not require a
24 separate petition to request the issuance of a writ and that service upon the State was
25 proper. (TI: 11:26:18)

26
27
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¹ The California appellate courts have held identically.

1 8. There has been extensive litigation on what order controls in this case.
2 The Nevada Supreme Court has determined that the Nevada Child Support Order is
3 the controlling order. The operative language is Controlling Order. (TI: 11:27:05)

4 9. The Kansas order has no effect on the validity of the Nevada order as I
5 hereby declare the Nevada order as the controlling order. (TI: 11:27:30)

6 10. The AG is required to enforce the Nevada Child Support Order.² (TI:
7 11:29:20)

8 11. The AG/DA/DHHS is required to take all steps necessary to enforce the
9 Nevada orders in accordance with NRS 130.307. (TI: 11:29:35)³

10 12. The AG has the legal authority and obligation under UIFSA to say that
11 there is only one controlling order, and that order is from Nevada. (TI: 11:30:45)

12 13. The filing by the State was not, however, frivolous and this issue is
13 complex legally. (TI: 11:33:09)

14 14. The Court's inclination is to deny any request for a stay of today's
15 decision due to this being a child support case with a six figure outstanding judgment.
16 (TI: 11:37:49)

17 18 **CONCLUSIONS OF LAW**

19 1. The Nevada Child Support Orders are valid and controlling under
20 UIFSA, which is codified in this State under NRS 130 *et seq.*

21 2. NRS 130.307 is not discretionary and requires the State to take "all steps
22 necessary" to enforce the Nevada Child Support Orders.

23 3. NRS 34 *et seq* does not require a separate petition to request for the
24 issuance of a writ.

25
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27 ² This is actually the Child Support Enforcement Agency's responsibility to enforce.

28 ³ Reference to the AG, DA, or DHHS shall be construed as the State of Nevada and/or its
 agencies.

1 **IT IS HEREBY ORDERED** that:

2 1. No attorney's fees shall be awarded to either side. (TI: 11:33:29)

3 2. The Writ of Mandamus shall issue compelling the State to take all steps
4 necessary to collect child support under the Nevada Controlling Orders in accordance
5 with NRS 130.307. (TI: 11:33:45)

6 3. The oral request by the State for stay of today's orders is denied. (TI:
7 11:37:49)


8 4. The WILICK LAW GROUP shall prepare the order and the writ in
9 accordance with the findings and orders issued today. The AG shall approve as to
10 form and content. (TI: 11:33:50)

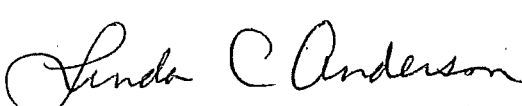
11 **DATED** this ___ day of AUG 03 2018, 2018.

12 
13 **DISTRICT COURT JUDGE** *w*

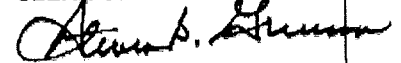
14
15 Respectfully Submitted By:
16 WILICK LAW GROUP

17 Approved as to Form and ~~Content~~ *LCA*

18  9536
19 **MARSHAL S. WILICK, ESQ.**
20 Nevada Bar No. 002515
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

21 
22 **LINDA C. ANDERSON, ESQ.**
23 Nevada Bar No. 4090
24 Chief Deputy Attorney General
25 555 E. Washington Ave.
26 Las Vegas, Nevada 89101
27 Attorneys for Real Party In Interest

28 P:\wp16\VAILE,C\NP\LEADINGS\00249598.WPD/rlo



ORDR
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

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

DATE OF HEARING:
TIME OF HEARING:

ORDER OF MANDAMUS

THE COURT FINDS that the *Writ of Mandamus* having been properly filed and served on all parties to this case and a review of all papers filed and oral argument made by both sides, this Court deems the request for a Writ of Mandate appropriate under the facts and circumstances presented by the Defendant in this case.

IT IS HEREBY ORDERED that the Department of Health and Human Services Child Support Enforcement Program (DHHS) and Kiersten Gallagher (Social Services Manager I) shall immediately begin collection actions of the child support arrearages determined by this Court and affirmed by the Supreme Court of the State of Nevada against Robert Scotlund Vaile in accordance with NRS 130.307.

IT IS FURTHER ORDERED that DHHS shall take “*ALL* necessary steps”¹ to collect all child support due and owing under the Nevada *Orders*, shall take whatever steps are necessary to have the void Kansas order for a permanent injunction overturned or dismissed, and take whatever actions are necessary to have proceedings filed and pursued in Kansas – or any other state or jurisdiction where Mr. Vaile may be found – to nullify any order that is contrary to the orders issued by this Court so as to allow those collections to proceed.

IT IS FURTHER ORDERED that DHHS shall provide a monthly status report of the actions taken and the results of those actions to this Court with a copy provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200, Las Vegas, Nevada, 89110. These status reports are due by the 5th day of each month beginning in August 2018, and shall continue until the total amounts due and owing are collected.

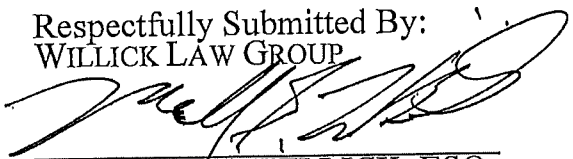
¹ See NRS 130.307.

1 **IT IS FURTHER ORDERED** that this Court shall use its contempt powers
2 if any term of this *Mandate* are not followed by DHHS and Kiersten Gallagher.

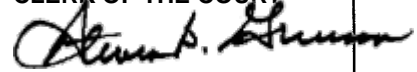
3 **IT IS SO ORDERED** this _____ day of AUG 31 2018, 2018.

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6 
DISTRICT COURT JUDGE w

7
8 Respectfully Submitted By:
9 WILICK LAW GROUP



10 MARSHAL S. WILICK, ESQ.
11 Nevada Bar No. 2515
12 RICHARD L. CRANE, ESQ.
13 Nevada Bar No. 9536
14 3591 E. Bonanza, Suite 200
15 Las Vegas, Nevada 89110-2101
16 Attorney for Plaintiff



1 **NEOJ**
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*

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

CISILIE VAILE PORSBOLL,
Defendant.

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING: N/A
TIME OF HEARING: N/A

NOTICE OF ENTRY OF ORDER OF MANDAMUS

TO: ROBERT SCOTLUND VAILE, Plaintiff, *In Proper Person*,
TO: DEPARTMENT OF HEALTH AND HUMAN SERVICES, and
TO: ADAM LAXALT, ESQ., Attorney General, State of Nevada.

PLEASE TAKE NOTICE that the *Order of Mandamus*, was duly entered by
the Court on the 5th day of September, 2018, and the attached is a true and correct

1 copy.

2 DATED this 11 day of September, 2018.

3 WILICK LAW GROUP

4
5 

6 MARSHAL S. WILICK, ESQ.

7 Nevada Bar No. 2515

8 RICHARD L. CRANE, ESQ.

9 Nevada Bar No. 9536

10 3591 East Bonanza Road, Suite 200

11 Las Vegas, Nevada 89110-2101

12 *Attorneys for Defendant*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on the 6th day of September, 2018, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

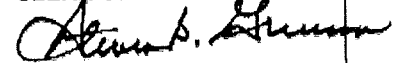
Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101


Employee of the WILLICK LAW GROUP

P:\wp16\VAILE,CNVPLEADINGS\00255841.WPD\jj



ORDR
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN
GALLAGHER (SOCIAL SERVICES MGR
I)

Real Party In Interest

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

DATE OF HEARING:
TIME OF HEARING:

ORDER OF MANDAMUS

THE COURT FINDS that the *Writ of Mandamus* having been properly filed and served on all parties to this case and a review of all papers filed and oral argument made by both sides, this Court deems the request for a Writ of Mandate appropriate under the facts and circumstances presented by the Defendant in this case.

IT IS HEREBY ORDERED that the Department of Health and Human Services Child Support Enforcement Program (DHHS) and Kiersten Gallagher (Social Services Manager I) shall immediately begin collection actions of the child support arrearages determined by this Court and affirmed by the Supreme Court of the State of Nevada against Robert Scotlund Vaile in accordance with NRS 130.307.

IT IS FURTHER ORDERED that DHHS shall take “*ALL* necessary steps”¹ to collect all child support due and owing under the Nevada *Orders*, shall take whatever steps are necessary to have the void Kansas order for a permanent injunction overturned or dismissed, and take whatever actions are necessary to have proceedings filed and pursued in Kansas – or any other state or jurisdiction where Mr. Vaile may be found – to nullify any order that is contrary to the orders issued by this Court so as to allow those collections to proceed.

IT IS FURTHER ORDERED that DHHS shall provide a monthly status report of the actions taken and the results of those actions to this Court with a copy provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200, Las Vegas, Nevada, 89110. These status reports are due by the 5th day of each month beginning in August 2018, and shall continue until the total amounts due and owing are collected.

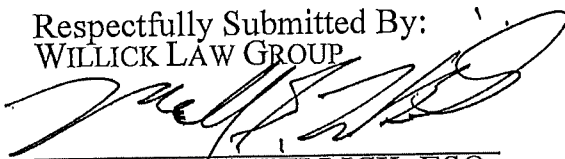
¹ See NRS 130.307.

1 **IT IS FURTHER ORDERED** that this Court shall use its contempt powers
2 if any term of this *Mandate* are not followed by DHHS and Kiersten Gallagher.

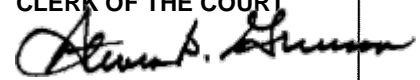
3 **IT IS SO ORDERED** this _____ day of AUG 31 2018, 2018.

4
5
6 
DISTRICT COURT JUDGE *w*

7
8 Respectfully Submitted By:
9 WILICK LAW GROUP



10 MARSHAL S. WILICK, ESQ.
11 Nevada Bar No. 2515
12 RICHARD L. CRANE, ESQ.
13 Nevada Bar No. 9536
14 3591 E. Bonanza, Suite 200
15 Las Vegas, Nevada 89110-2101
16 Attorney for Plaintiff



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
P: (702) 486-3077
F: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. PORSBOLL,

Defendant.

Case No.: 98D230385

Dept.: I

RESPONSE TO PETITION FOR WRIT OF MANDAMUS

Date of Hearing: September 12, 2018
Time of Hearing: No Appearance Required

The State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, Child Support Enforcement Program and Kiersten Gallagher (hereinafter "the State") by and through counsel, ADAM PAUL LAXALT, Attorney General, and Chief Deputy Attorney General, LINDA C. ANDERSON, hereby files this response to the "Petition for Writ of Mandamus and Consolidation with Motion for Mandamus" filed on July 26, 2018. The Petition is calendared for September 12, 2018, but no appearances are required at a hearing. Because, the Court directed the State to file a response to the motion, the State is again filing a response to the "petition consolidated with a motion for mandamus."

...

1 A Motion for Writ of Mandamus was initially filed on March 12, 2018, with a
2 hearing date of May 22, 2018. At the request of the Defendant, the Court issued an Order
3 of Mandamus on April 16, 2018, because no opposition had been filed within 10 days. In
4 response, the State file a Motion to Alter or Amend on April 19, 2018. At a hearing held
5 on June 7, 2018, this Court set aside the Order of Mandamus issued on April 16, 2018, and
6 directed the State to file a response by June 28, 2018.

7 This matter was heard on July 24, 2018, and the Court again ruled that an Order of
8 Mandamus should issue and directed counsel for the Defendant to prepare the order.
9 Instead of preparing that order so the State could proceed with an appeal, Defendant is
10 attempting to rectify the deficiencies in service by serving the State after the Court has
11 already ruled. Defendant has not cited to any authority for this contorted approach to file
12 an action against the State in a divorce case where the State is not a party. The State
13 complied with NRS 130.307 so a writ of mandamus is not warranted.

14 **I. The State is Not Properly Before this Court in a Divorce Case.**

15 Porsboll does not cite to any authority to consolidate the petition with a motion filed
16 within the same case. *Cf.* EDCR Rule 2.50 for consolidation of two or more separate *cases*.
17 The State objected to the method of the service of the writ by motion, but the State also
18 challenged the attempt to have the writ heard in a case where the State was not a party. This
19 Court ruled that the service requirements of NRS 41.031 did not apply to an existing case.
20 However, this sealed divorce matter filed 20 years ago was not an “existing case” for the
21 State and instead a writ against the State should have been a new and separate filing which
22 required appropriate service.

23 Defendant Porsboll still has not joined the State as a party and instead continues to
24 improperly file a writ in this family court matter with an incorrect caption. For a writ,
25 Porsboll should be the plaintiff and the State should be the defendant. Again, the State is not
26 “a real party in interest” as identified in the caption. The State has no interest in this divorce
27 case and does not represent all “child support orders” issued in Nevada as found by this
28 Court. *See*, Order filed August 6, 2018.

1 The Nevada Supreme Court recognized that a district court judge in the family
2 division has the authority to preside over a case improperly filed or assigned to the family
3 court division. *Landreth v. Malik*, 127 Nev. 175, 251 P.3d 163 (2011). However, in a
4 footnote, the *Landreth* Court found the following:

5 The issue is not likely to arise often because local rules serve to prevent
6 litigants from purposefully filing in family court when their claims have no
7 arguable relation to the proceedings set forth in NRS 3.223. *See*, EDCR 1.60(h)
8 WDFCR 37. Additionally, the chief judge has the authority to reassign cases
incorrectly filed in the family court division to a more appropriate venue. *See*,
EDCR 1.60; *see also* WDCR 2; NRS 3.025.

9 *Landreth*, 127 Nev. at 186, footnote 6. If the writ had been properly filed as a separate
10 action, it would have been randomly assigned outside of the Family Court Division.
11 Therefore, the State requests that this Court determine whether a transfer is appropriate as
12 provided in EDCR 1.60(h):

13 When, upon motion of a party, or sua sponte by the court, it appears to the
14 assigned judge that a case has been improperly assigned to the wrong division
15 of the court, then that judge must transfer the case to the correct division and
16 order the clerk's office to randomly reassign the case to a judge serving in the
17 new division. Any objection to the ruling must be heard by the presiding
judge of the division from which the case was reassigned in the same manner
as objections to a discovery recommendation under Rule 2.34(f). Disputes
concerning case assignments that remain unresolved shall be resolved by the
chief judge. The ruling of the chief judge is final and non-appealable.

18 The State requests the Court issue a report with recommendations for the Court order
19 which can be reviewed by the Chief Judge.

20 **II. The State Complied with NRS 130.307 and a Writ is not Warranted.**

21 If Porsboll did not have an adequate remedy at law, Porsboll could obtain a writ of
22 mandamus to compel the performance of an act that the law requires as a duty or to control
23 an arbitrary or capricious exercise of discretion pursuant to NRS 34.160. A writ of
24 mandamus is an extraordinary remedy and it would be within the discretion of a Court to
25 determine if such a petition would be considered. *Redeker v. Eighth Judicial District Court*,
26 122 Nev. 164, 127 P.3d 520 (2006). In this case, issuing a writ of mandamus against CSEP
27 is futile because CSEP cannot take any other steps or provide any services in Kansas. "A
28 writ of mandamus will not issue to compel a public officer to perform an act that the

1 officer has no legal duty or authority to perform.” *Nevada Mining Association v. Erdoes*,
2 117 Nev, 531, 536, 26 P.3d 753, 756 (2001). CSEP has performed its statutory duties and
3 has no legal duty or authority to violate a Kansas court order.

4 The Child Support Enforcement Program (CSEP) is a federally funded program
5 created under Title IV-D of the Social Security Act and codified in 42 USC § 666 et. seq.
6 CSEP is required to meet these requirements to obtain federal funding for both CSEP and
7 the state’s Temporary Assistance for Needy Families Program (TANF).¹ CSEP is overseen
8 and audited by the Federal Office of Child Support Enforcement (OCSE) for compliance
9 with these requirements. CSEP is required by OCSE and state law to perform certain
10 duties as part of the federal program. Two of those OCSE requirements include: accepting
11 referrals to pursue child support cases when a child received Medicaid coverage and
12 establishing child support orders under Chapter 425 of the Nevada Revised Statutes.
13 Under NRS 130.307(2), CSEP takes all steps necessary to enable an appropriate tribunal in
14 another State to obtain jurisdiction over an obligor and request the appropriate tribunal to
15 set a date, time and place for hearing.

16 On December 6, 2005, Cisilie Porsboll opened a CSEP case to locate Robert Vaile.
17 On January 3, 2006, counsel for Porsboll requested services for child support enforcement.
18 On October 24, 2012, Vaile was located in California and the CSEP case was amended and
19 transferred to Nevada Intergovernmental Initiating Office (NIIO). In an order filed
20 November 1, 2012, the California Court initially found the 2003 Norwegian child support
21 order was controlling and determined a balance of \$3,919 was owed in arrears. *See*,
22 Exhibit 1 for Order on Registration of Reciprocating Foreign Country’s Child Support
23 Order and Determination of Controlling Order (which is later overturned by California
24 Court of Appeals).

25 Vaile next relocates to Kansas and registers the California and Norwegian orders in
26 Kansas. NIIO transmits the Nevada order to Kansas for enforcement. On February 11,

27
28 ¹ In 1996 welfare reform legislation ended the Aid to Families with Dependent Children (“AFDC”) entitlement program and replaced it with the Temporary Assistance for Needy Families (“TANF”) block grant program. *See* Pub. L. No. 104-193, 110 Stat. 2105 (1996) (adding Section 403, codified at 42 U.S.C. § 603).

1 2013, the Kansas Court held a hearing and determined that Nevada order in this case is not
2 enforceable and that California order was controlling. *See*, Exhibit 2 for Order of
3 Registration of Sister State Child Support Order with Determination of Controlling Order
4 and Permanent Injunction. In addition, on April 2, 2014, the Kansas Court orders the
5 return of funds seized by CSEP and orders a permanent injunction against enforcement of
6 Nevada order. *See*, Exhibit 3 for Order Directing Return of Seized Funds and Permanent
7 Injunction. On June 6, 2014, CSEP sent a letter to counsel for Porsboll closing the case
8 because Kansas would not enforce Nevada's order and an attempt to collect on the Nevada
9 order in Kansas by CSEP had resulted in an injunction being issued in Kansas against any
10 further collection by CSEP. *See*, Exhibit 4.

11 On October 4, 2015, the Kansas Court considered the decision of the California
12 Appeals Court and ruled that Norwegian order is controlling and maintaining the
13 permanent injunction against collection under the Nevada order. *See*, Exhibit 5 for
14 Clarifying Order on Determination of Controlling Order and Permanent Injunction Kansas
15 On July 7, 2017, CSEP, through the Clark County District Attorney's, received an
16 application for services which was not signed by Porsboll and re-opened the CSEP case.
17 The Clark County District Attorney located the employer for Vaile and sent a wage
18 withholding on August 16, 2017. In response, counsel for Vaile's employer sent a letter in
19 November of 2017, that the employer could not honor the wage withholding due to the
20 injunction of the Kansas Court.

21 In a letter dated November 30, 2017, CSEP again closed the case because the
22 request for services on July 5, 2017, did not meet the criteria of a child support application
23 as defined by 45 CFR 303.2 because it was not signed by the applicant and there were no
24 Nevada IV-D services which could be provided due to the injunction issued by the Kansas
25 Court. *See*, Exhibit 6. On January 29, 2018, CSEP send another letter to counsel for
26 Porsboll affirming the closure decision because the Nevada order is not enforceable in
27 Kansas by CSEP. *See*, Exhibit 7.

28 . . .

1 Porsboll argues that the State must comply with NRS 130.307 as the basis for her
2 request for a writ. NRS 130.307(1) and (2) provides the following duties for CSEP:

- 3 1. A support-enforcement agency of this State, upon request, shall provide
4 services to a petitioner in a proceeding under this chapter.
- 5 2. A support-enforcement agency of this State that is providing services to
6 the petitioner shall:
 - 7 (a) Take all steps necessary to enable an appropriate tribunal of this State,
8 another state or a foreign country to obtain jurisdiction over the respondent;
 - 9 (b) Request an appropriate tribunal to set a date, time and place for a
10 hearing;

11 As described above, the State has complied with these statutory duties. Both California
12 and Kansas obtained jurisdiction over Vaile and held hearings. After the California
13 decision was overturned, the Kansas Court held a second hearing and continued its
14 permanent injunction against collection under the Nevada order. The State cannot collect
15 child support in Kansas in contravention of that decision. Further, the State was not a
16 party to the Kansas proceedings and does not have standing to challenge the order. NRS
17 130.307(6) provides the following: "This chapter does not create or negate a relationship
18 of attorney and client or other fiduciary relationship between a support agency or the
19 attorney for the agency and the natural person assisted by the agency." Therefore, the
20 State cannot represent Porsboll in Kansas and CSEP has provided all available services to
21 comply with NRS 130.307 (1) and (2) so the writ should not issue.

22 CONCLUSION

23 The State requests that the Court deny the relief requested in the Petition for Writ of
24 Mandamus. Porsboll has a Nevada judgment but is unable to enforce it through CSEP.
25 The State has met its legal duty under NRS 130.307 to provide services to Porsboll and
26 further any attempts to enforce the Nevada order in Kansas are futile because neither the
27 Kansas child support agency nor any employer in Kansas can violate the Kansas Order to
28 register or collect on the Nevada Order.

...

...

...

1 **AFFIRMATION PURSUANT TO NRS 239B.030**

2 The undersigned does hereby affirm that the preceding document does not contain
3 the social security number of any person.

4 Dated: September 6, 2018

5 ADAM PAUL LAXALT
6 Attorney General

7 By: Linda C. Anderson
8 Linda C. Anderson
9 Chief Deputy Attorney General

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that I electronically filed the foregoing *RESPONSE TO PETITION*
12 *FOR WRIT OF MANDAMUS* by using the electronic filing system on September 6, 2018.

13 The following participants in this case are registered electronic filing system users and will
14 be served electronically:

15 Marshall S. Willick, Esq.
16 3591 E. Bonanza Road, Suite 200
17 Las Vegas, NV 89110-2101

18 Robert Scotlund Vaile
19 8121 Lincoln Street
20 Wamego, Kansa 66547

21 Linda L. Aouste
22 Employee of the Office of the Attorney General

INDEX OF EXHIBITS

Exhibit 1: California Order on Registration of Reciprocating Foreign Country's Child Support Order and Determination of Controlling Order, filed November 1, 2012

Exhibit 2: Kansas Order on Registration of Sister State Child Support Order with Determination of Controlling Order and Permanent Injunction, filed February 11, 2013.

Exhibit 3: Kansas Order Directing Return of Seized Funds and Permanent Injunction, filed April 2, 2014.

Exhibit 4: Letter to Marshal Willick, Esq. from Cynthia Fisher dated June 6, 2014.

Exhibit 5: Kansas Clarifying Order on Determination of Controlling Order and Permanent Injunction, filed October 5, 2015.

Exhibit 6: Letter to Marshal Willick, Esq. from Kiersten Gallagher dated November 30, 2017.

Exhibit 7: Letter to Marshal Willick, Esq. from Kiersten Gallagher dated January 29, 2018.

EXHIBIT 1

1 Robert Scotlund Valle
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 833-2350
5 Plaintiff/Petitioner in Proper Person

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

ATTEST: DEC 11 2012



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

FILED

NOV - 1 2012

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA
By [Signature]
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA**

12 ROBERT SCOTLUND VAILE,
13 Plaintiff/Petitioner,

15 vs.

18 CISILIE A. PORSBOLL,
19 Respondent.

CASE NO: SFL 49802

**ORDER
ON REGISTRATION OF
RECIPROCATING FOREIGN
COUNTRY'S CHILD SUPPORT
ORDER
AND DETERMINATION OF
CONTROLLING ORDER**

Honorable Nancy Case Shaffer
Dept. 23

Hearing Date: 10/12/2012
Hearing Time: 9:30 AM
Date Action Filed: 02/09/2010

24 This matter was heard by this Court on July 2, 2012 and October 12, 2012 in
25 Department 23, before the Honorable Judge Nancy Shaffer on ROBERT
26 SCOTLUND VAILE's (hereafter Husband) Registration of Reciprocating Foreign
27 Country's Child Support Order and Request for Determination of Controlling
28

1 Order. Present at each hearing was Petitioner, but Respondent CISILIE A.
2 PORSBOLL (hereafter Wife) was not present.

3 **PROCEDURAL HISTORY:**

4 The parties were divorced in Clark County Nevada on August 21, 1998.
5 Their Decree of Divorce included an agreement that provided a precise formula
6 for calculating child support. Wife sought a child support order from the
7 appropriate agency in Norway in 2003 when neither party lived in Nevada. In
8 November 2007, Wife also asked the Nevada District Court to establish the child
9 support and arrears in accordance with the parties' 1998 agreement and to
10 establish a retroactive sum certain for child support, i.e. modify the agreement
11 that was set forth in the parties' Decree of Divorce. The Nevada Court issued an
12 order on October 9, 2008, modifying the child support agreement without taking
13 into account the Norwegian child support order.

14 In response to a request by Husband to register and modify the Nevada child
15 support order in 2010, ^{*Korun Bayles - Fightmaster*} ~~this~~ Sonoma County Commissioner held that the Nevada
16 Court did not have jurisdiction to modify, and that the Nevada child support
17 orders that purported to do so were unenforceable in California. Eventually, the
18 Nevada Supreme Court similarly held that the Nevada Court did not have
19 continuous and exclusive jurisdiction to modify. Having been newly provided the
20 Norwegian child support order, and subsequent modifications, Husband now
21 requests this Court to both register and to declare the Norwegian orders
22 controlling under UIFSA.
23

24 After reviewing the pleadings, declarations, and other documents, listening
25 to oral argument and reviewing the law regarding interstate child support
26 jurisdiction and enforcement, the Court makes the following findings and orders:
27
28

1 **PERSONAL JURISDICTION**

2 As Petitioner resides within the state of California and submitted himself to
3 the jurisdiction of the Court, this Court has personal jurisdiction over him.
4 Likewise, given that Respondent requested services from the local child support
5 agency, attempted registration of the Nevada support order in California, and
6 reached into the state to garnish monies from Petitioner's salary, the Court finds
7 that the exercise of personal jurisdiction over Respondent is proper.

8 **CONTROLLING ORDER DECLARATION**

9 Under section 207 of the Uniform Interstate Family Support Act (UIFSA)
10 (Family Code § 4900, et seq.), a tribunal of this state having personal jurisdiction
11 over both the obligor and individual obligee shall determine which order controls
12 when two child support orders have been issued by UIFSA states. See F.C. §
13 4911. Norway is a foreign reciprocating country whose orders are entitled to
14 enforcement. (See *Willmer v. Willmer* (2006) 144 Cal.App.4th 951, 956-957.)
15 The Nevada Supreme Court held that the Nevada Court does not have continuing
16 and exclusive jurisdiction to modify the child support provisions of the 1998
17 divorce decree. Because the child in question lives in Norway, Norway is the
18 "only" state ^{as defined in U.I.F.S.A.} with continuing and exclusive jurisdiction. Under section 207 of
19 UIFSA as contained in Family Code § 4911, a child support order from the
20 tribunal with continuing and exclusive jurisdiction controls. As such, the 2003
21 Norwegian child support orders together with its subsequent modifications are
22 indeed controlling ~~as of April 1, 2002.~~

23 **CHILD SUPPORT PAYMENTS DUE**

24 Having reviewed the sworn statement and evidence provided by Petitioner,
25 taking into account the arrearages due under the Norwegian order, and child
26 support payments paid through the Nevada system, Petitioner has an outstanding
27 balance of \$3,919.00 in child support arrearages due. After payment of this
28

1 balance, Petitioner will have fulfilled his child support obligations under the
2 Norwegian child support orders. Additionally, so long as Petitioner makes
3 payments in accordance with this order, he will remain current in his child
4 support obligations.

5
6 **CONCLUSION**

7 **WHEREFORE, IT IS HEREBY ORDERED:**

- 8 1. The court has personal jurisdiction over both parties to this action;
9 *The 2003 Norwegian child support order shall be registered in Sonoma County.*
10 2. The 2003 Norwegian child support order is controlling over the 1998 Nevada
11 divorce decree *on the issue of child support.*
12 3. Petitioner is ordered to pay \$841.00 by the 15th of each month beginning
13 November 15, 2012 through February 15, 2013, and \$555.00 by March 1,
14 2013 in order to fully satisfy the child support arrearages due;
15 *Petitioner's request for an order that*
16 4. The California Department of Child Support Services is ordered to facilitate
17 such payments; *is denied without prejudice. Petitioner should*
18 *contact Sonoma County DSS if he wishes to request a*
19 5. No agency, enforcement officer, or employer shall collect or demand child *change*
20 support from Petitioner contrary to this order, or based *on* child support orders *value.*
21 *other than the 2003 Norwegian child support order*
22 *issued by other states or tribunals; registered in Sonoma County*
23 *subject to this order.*
24 6. Petitioner shall provide certified copies of this order to the relevant tribunals
25 in Norway and Nevada.

26
27 Dated this *30th* day of October, 2012.

28
Nancy A. Shaffer
Honorable Judge Nancy Case Shaffer
Superior Court Judge

EXHIBIT 2

FILED

2013 FEB 11 AM 9:13

DISTRICT COURT
RILEY CO., KS.

TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS

ROBERT S. VAILE,

Plaintiff/Petitioner,

vs.

CISILIE A. PORSBOLL,

Defendant/Respondent.

CASE NO: 2012-DM-000775

ORDER ON
REGISTRATION OF SISTER
STATE CHILD SUPPORT
ORDER WITH
DETERMINATION OF
CONTROLLING ORDER
AND
PERMANENT INJUNCTION

Judge: Honorable Meryl D. Wilson

Division: II

Hearing Date: 02/11/2013

Hearing Time: 9:00AM

CERTIFIED COPY

The above is a true and correct
copy of the document which is
on file or of record in this Court.
Dated this 11 day of Feb 2013



Sherry Penell
Clerk of the District Court of
Riley County, Kansas

INTRODUCTION

This matter was heard by this Court on January 14, 2018 and February 11, 2018 before the Honorable Judge Meryl D. Wilson on ROBERT VAILE's *MOTION FOR REGISTRATION OF SISTER STATE CHILD SUPPORT ORDER WITH DETERMINATION OF CONTROLLING ORDER AND MOTION FOR PERMANENT INJUNCTION*. Petitioner was present at the hearings. Respondent CISILIE A. PORSBOLL was properly served but was not present at the hearings.

Mr. Vaile has requested registration in accordance with the Uniform Interstate Family Support Act (K.S.A. 23-36,601 et. al.) and the Full Faith and Credit of Child Support Orders Act (28 U.S.C. §1738B) of a California child support order file-dated November 1, 2012. The California order contains a determination of controlling child support order finding that a Norwegian child support order with an effective date of April 1, 2002 *is controlling* over a 1998 Nevada decree of divorce containing provisions for child support. The California order also sets forth remaining child support payments due under the Norwegian order. Because the Nevada tribunal has not honored the California order as a sister state judgment and has continued to attempt enforcement of its order by intercepting Mr. Vaile's salary in Kansas, Mr. Vaile has also requested an injunction in support of the California order.

ORDER

Having reviewed the filings and evidence provided by Petitioner, and having received no contest from Respondent under K.S.A. 23-36,606-607, the Court hereby confirms the registration of the California child support order as a valid sister state judgment. Furthermore, having reviewed the California order, the Norwegian orders, and the relevant law, the Court finds that the California court properly determined that the Norwegian child support order is controlling over the Nevada decree in accordance with the Uniform Interstate Family Support Act

1 (UIFSA) (see K.S.A. 23-36,101 to 23-36,909). As such, the California order shall be
2 honored and enforced as if issued originally in Kansas.

3
4 **A. CHILD SUPPORT FULFILLMENT**

5 The November 1, 2012 California child support order found that Mr. Vaile
6 owed child support under the Norwegian order in the amount of \$3,919.00. On
7 December 21, 2012, Mr. Vaile paid \$1,682.00 in child support leaving a balance of
8 \$2237.00. On January 4, 2013, (prior to implementation of this Court's injunction)
9 Mr. Vaile's employer withheld \$1,324.68 from his salary for child support leaving a
10 balance of \$912.32. On February 8, 2013, Mr. Vaile made his last payment in the
11 amount of \$912.32, and has, therefore, fulfilled his child support obligations under
12 the controlling Norwegian order.

13 **B. PERMANENT INJUNCTION**

14 The California order recites a number of prohibitions on the enforcement of
15 child support orders contrary to the Norwegian child support order which it found
16 to be controlling. Those prohibitions shall be incorporated into this order, relative
17 to Kansas. While this Court has no jurisdiction to decide matters before the
18 Nevada courts, it is apparent that the Nevada court lost jurisdiction in this matter
19 when the Norwegian order sought by Porsboll in Norway became effective on April
20 1, 2002. As such, orders from the Nevada district court contrary to the California
21 order shall not be enforceable in Kansas.

22 **WHEREFORE, IT IS HEREBY ORDERED:**

- 23
24 1. Petitioner's request to register the November 1, 2012 California child support
25 order with a determination of controlling order is granted;
26 2. The California child support order shall be honored as if issued originally in
27 the State of Kansas;
28 3. Petitioner's request for a permanent injunction is granted; and

1 4. No agency, enforcement officer, or employer in the State of Kansas shall
2 demand or collect child support from Petitioner contrary to this order, or
3 based on child support orders other than the California child support order
4 registered in Riley County pursuant to this order.
5

6 Dated this 11th day of February, 2013.
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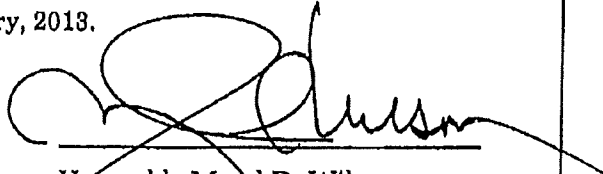
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10 Honorable Meryl D. Wilson
11 Chief Judge
12 RILEY COUNTY DISTRICT COURT
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EXHIBIT 3

FILED

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DISTRICT COURT
RILEY CO., KS.

TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS

CASE NO: 2012-DM-000775

ROBERT S. VAILE,

Plaintiff/Petitioner,

vs.

CISILIE A. PORSBOLL,

Defendant/Respondent.

ORDER DIRECTING RETURN
OF SEIZED FUNDS
AND
PERMANENT INJUNCTION

Judge: Honorable Meryl D. Wilson

Division: II

Hearing Date: 03/10/2014

Hearing Time: 9:00AM

INTRODUCTION

This matter was heard by this Court on March 10, 2014 before the Honorable Judge Meryl D. Wilson on ROBERT VAILE's *REQUEST FOR HEARING* seeking return of funds garnished from his bank account at Commerce Bank. Only Petitioner was present at the hearing, although notice was provided to the State of Nevada, Commerce Bank, and Cisilie Poraboll.

Mr. Vaile's request follows the February 11, 2013 order of this Court confirming the registration of a California child support order and enjoining the enforcement of conflicting Nevada orders which are no longer controlling under UIFSA.

ORDER

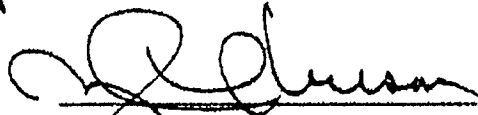
Having reviewed the filings and evidence provided by Petitioner, the Court finds that Kansas law applies to the proper procedure that must be followed in garnishment and attachment of Kansas citizens' funds deposited at a banking institution operating within Kansas. The Court finds that these procedures were not followed by either the Creditor or Commerce Bank as garnishee. Furthermore, the Court continues to hold that this Court's order on child support is binding and controlling in Kansas, and that the Nevada orders to the contrary, or otherwise seeking to enforce the Nevada orders are unenforceable in this State.

WHEREFORE, IT IS HEREBY ORDERED:

1. Petitioner's request for return of the garnished funds is granted;
2. Commerce Bank shall, within 10 days of this order, issue a check payable to Petitioner in the full amount of the garnished funds, including all fees and charges that resulted from the garnishment, and statutory interest from the date of garnishment;
3. Petitioner's request for a permanent injunction is granted; and

1 4. No agency, enforcement officer, employer, financial institution or other entity
2 holding property of Petitioner operating in the State of Kansas, shall demand,
3 collect, or enforce payment from Petitioner contrary to the orders of this court,
4 or based on orders issued by the Nevada courts on this matter.

5
6 Dated this 1 day of April, 2014.

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9 Honorable Meryl D. Wilson
10 Chief Judge
11 RILEY COUNTY DISTRICT COURT
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RECEIVED

MAY 14 2004

THE DISTRICT ATTORNEY
OF CLARK COUNTY
FAMILY SUPPORT DIVISION

EXHIBIT 4



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE
SERVICES

Child Support Enforcement Program
1900 E Flamingo, Suite B-230
Las Vegas, Nevada 89119
(702) 486-1066 • Fax (702) 366-2333

MICHAEL J. WILLDEN
Director

MICHEAL J. McMAHON
Administrator

June 6, 2014

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

RE: PORSBOLL VS. VAILE - 522604100A

Dear Mr. Willick:

The Nevada Child Support Enforcement Program (CSEP) received an order from the State of Kansas confirming a California order determining Mr. Vaile's compliance with the Norway child support order (NCSO). In short, Kansas will not enforce any Nevada order that conflicts with the California determination made regarding Mr. Vaile's compliance with the NCSO. Kansas closed their child support case that was opened based on a transmittal from Nevada.

Further, CSEP's recent attempt to collect the Nevada order triggered additional Kansas court proceedings that resulted in an injunction against any further collection actions against Mr. Vaile that conflict with those findings entered by the California order. The Kansas court stated specifically that Mr. Vaile "fulfilled his child support obligations under the controlling Norwegian order."

Nevada CSEP is closing its child support enforcement case under the federal and state case closure criteria for two reasons: 1. Two responding jurisdictions have determined Mr. Vaile has now paid his Norway child support obligation in full. 2. The Nevada child support order is unenforceable based on the fact that Nevada has no ability to enforce this order outside of Nevada without violating other state orders.

Ms. Porsboll can still attempt to privately enforce the Nevada order. Ms. Porsboll, a citizen and resident of Norway, can work with Norway's child support enforcement agency to directly intervene and request Kansas reconsider its determination of Mr. Vaile's paid in full status. Norway would have this ability because all states agree Norway is the state with continuing exclusive jurisdiction (CEJ) over the child support order and in that capacity Norway has the final say regarding the arrears owed under its order. The Federal Office of Child Support Enforcement published program guidance documents which support this position as best practice.

This letter is your notice that Nevada's CSEP will close their program case in 60 days from the date of this letter. Ms. Porsboll's best course of action is to involve Norway at this

Working for the Welfare of ALL Nevadans

AA 0142

PORSBOLL VS. VAILE - 522604100A

2 | Page

point as mentioned above because Norway is a recognized CEJ state under the Uniform Family Support Act, also known as UIFSA. CSEP hopes you can work with Norway to help collect the child support for Ms. Porsboll.

If you are able to obtain new information from Norway that will directly affect CSEP's ability to enforce Norway's order you may submit the information to the office listed above, but please be sure to include the CSEP case number on all correspondence. CSEP will evaluate all submittals to determine if the information will change CSEP's ability to enforce the case. When the case is closed if Ms. Porsboll attempts to reopen her child support case, she will need to fill out a new application for services.

Sincerely,

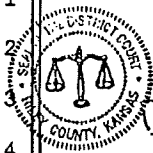


Cynthia Fisher
Field Operations Manager

cc: Cisilie Vaile Porsboll

EXHIBIT 5

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CERTIFIED COPY
The above is a true and correct
copy of the document which is
on file or of record in this Court.
Dated this 5 day of
October, 20 15
Deis Zimmerman, Deputy
Clerk of the District Court of
Riley County, Kansas

FILED

2015 OCT -5 AM 9:49

DISTRICT COURT
RILEY CO. KS.

**TWENTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT FOR RILEY COUNTY, KANSAS**

ROBERT S. VAILE,

Plaintiff/Petitioner,

VS.

CISILIE A. PORSBOLL,

Defendant/Respondent.

CASE NO: 2012-DM-000775

**CLARIFYING ORDER ON
DETERMINATION OF
CONTROLLING ORDER
AND
PERMANENT INJUNCTION**

Judge: Honorable Meryl D. Wilson

Division: II

Hearing Date: 10/05/2015

Hearing Time: 9:00AM

I. INTRODUCTION

On December 17, 2012, Robert Vaile provided this Court with a Norwegian child support order with an effective date of April 1, 2002 which had been requested by Respondent Porsboll for the provision of support of the parties' two

1 daughters. Mr. Vaile also registered a California court order dated November 1,
2 2012 which recognized the Norwegian order as controlling over the child support
3 provisions contained in the parties' 1998 Nevada divorce decree in accordance with
4 the Uniform Interstate Family Support Act (K.S.A. 23-36,601 et. al.) and the Full
5 Faith and Credit of Child Support Orders Act (28 U.S.C. §1738B). Although
6 provided notice of Vaile's petition, Respondent Porsboll did not contest the
7 registration in Kansas under K.S.A. 23-36,606-607 of the order she sought in
8 Norway, or of the California order.

9 Following a hearing on this matter, this Court confirmed the registration of
10 the Norwegian and California support orders on February 11, 2013, and found
11 that the California court properly determined that the Norwegian child support
12 order was indeed controlling over the earlier issued Nevada decree in accordance
13 with the Uniform Interstate Family Support Act (UIFSA) (see K.S.A. 23-36,101 to
14 23-36,903). The Court also determined that Mr. Vaile had fulfilled his support
15 obligations relative to his two children from that marriage according to the
16 Norwegian orders. Furthermore, since a Nevada family court declined to honor
17 the Norwegian child support orders in Nevada, and continued to make conflicting
18 orders, the Court issued an injunction against enforcement of the foreign child
19 support orders in Kansas contrary to this Court's order.

20 Some years after the California lower court's controlling order determination
21 was issued, Respondent successfully appealed to the California Court of Appeals.
22 The appellate court in California determined that Respondent Porsboll required
23 personal service in order for California tribunal to make a controlling child
24 support order determination under UIFSA. The appellate court required the lower
25 court to dismiss the matter there. The California appellate court also required Mr.
26 Vaile to provide this Court with a copy of the appellate court's decision.
27
28

1 Accordingly, Mr. Vaile provided this Court with the California appellate court's
2 decision and requested clarification of this Court's 2013 order.

3 **II. DISCUSSION**

4 **A. NORWAY'S STATUS AS A FOREIGN RECIPROCATING COUNTRY**

5 It is undisputed that the country of Norway has been declared a Foreign
6 Reciprocating Country (FRC) by the U.S. Secretary of State's office (See 73 Fed.
7 Reg. 230, 72555 (November 28, 2008)) under authority granted under 42 U.S.C. §
8 659A(a)(1). This federal statutory scheme intends to grant FRC status similar to
9 that shared between States under UIFSA. As such, state courts are not in a
10 position to contradict or second guess the federal pronouncement of FRC status
11 granted on foreign countries. The Norwegian child support order was honored in
12 Kansas as if it was a State seeking enforcement of its order. Another state's
13 refusal to recognize an FRC's order is not binding on Kansas courts.
14

15 **B. THE AVAILABILITY OF DEFENSES TO REGISTRATION**

16 The defenses available to a party contesting registration of a foreign support
17 order are defined in K.S.A. 23-36,607. None of the defenses to registration appear
18 to be available to a party who actually sought the foreign support order from a
19 foreign state tribunal. Neither has Respondent Porsboll challenged the
20 registration of the Norwegian orders in Kansas during the three years that they
21 have been registered in the State. In accordance with K.S.A. 23-36,607(c), the
22 Norwegian orders were properly confirmed on February 11, 2013 when
23 Respondent failed to establish a defense to registration.
24

25 **C. CONTROLLING ORDER DETERMINATION**

26 In accordance with K.S.A. 23-36,207, this Court is required to make a
27 determination as to the controlling child support order when two or more child
28 support orders have been issued. Specifically, section (b)(1) requires that "[i]f only

1 one of the tribunals would have continuing, exclusive jurisdiction under this act,
2 the order of that tribunal controls and must be so recognized." Although both
3 Norway and Nevada have issued child support orders regarding the same children,
4 binding Mr. Vaile as obligor, it appears that neither the parties nor the children
5 ever permanently resided in Nevada. According to UIFSA § 205, a court retains
6 continuing, exclusive jurisdiction over a child support order only "[a]s long as [the
7 issuing] state remains the residence of the obligor, the individual obligee or the
8 child for whose benefit the support order is issued." See K.S.A. 23-9,205(a)(1),
9 STATE EX REL. SRS v. Ketzel, 275 P. 3d 923 (Kan: Court of Appeals 2012). Since
10 Nevada did not have continuing, exclusive jurisdiction of the children in 2002,
11 when the child support provisions of the Nevada divorce decree were modified by
12 the Norwegian court, Norway's order is controlling.

13 Alternatively, even if both tribunals had continuing, exclusive jurisdiction in
14 2002, K.S.A. 23-36,207(b)(2) requires that an order issued by a tribunal in the
15 current home state of the children controls over the other. Again, the Norwegian
16 order is clearly controlling over the 1998 Nevada decree.

17 The Court reaffirms its order of February 11, 2013 that the Norwegian order
18 is controlling over the 1998 Nevada decree.
19

20 **D. PERMANENT INJUNCTION**

21 Respondent Porsboll sought and obtained a child support order from her
22 native Norway, and Mr. Vaile has fulfilled his obligations under that order.
23 Nevertheless, Respondent has dispatched Nevada counsel to make repeated efforts
24 to garnish or intercept Mr. Vaile's assets in Kansas under color of competing
25 Nevada support orders. As such, the Court's permanent injunction of these efforts
26 will remain in place.
27
28

1 WHEREFORE, IT IS HEREBY ORDERED:

- 2 1. The registration of the Norwegian child support order with effective date of
3 April 1, 2002 was properly confirmed in Kansas with this Court's order of
4 February 11, 2013;
- 5 2. The Norwegian child support order is controlling against the child support
6 provisions contained in the 1998 Nevada divorce decree;
- 7 3. Petitioner Vaile has fulfilled his support obligations under the controlling
8 Norwegian child support order;
- 9 4. The Court's permanent injunction will remain in place; and
- 10 5. No agency, enforcement officer, or employer in the State of Kansas shall
11 threaten, demand or attempt to collect child support, or other fees or costs in
12 the nature of support, from Petitioner contrary to this order, or based on
13 competing orders from other jurisdictions.

14
15 Dated this 5 day of October, 2015.

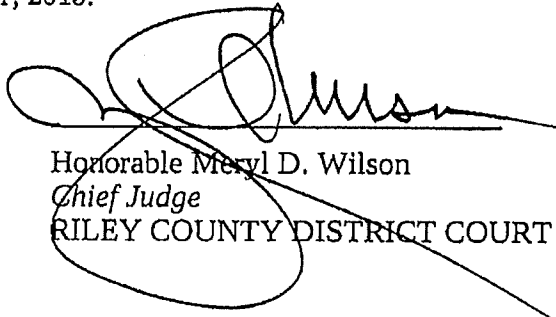
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19 Honorable Meryl D. Wilson
20 Chief Judge
21 RILEY COUNTY DISTRICT COURT
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EXHIBIT 6

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

November 30, 2017

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, Nevada 89110

Re: Vaile v. Porsboll – UPI-522604100A

Dear Mr. Willick:

This letter is to inform you that the Nevada Child Support Enforcement Program (CSEP) is closing this case based on the following:

The request for services, dated on July 6, 2017, does not meet the criteria for a child support application, as it was incomplete and not signed by the applicant. Per 45 CFR 303.2, an application is defined as a written document provided by the state, which indicates the individual is applying for IV-D services and is signed, electronically or otherwise, by the applicant.

On October 5, 2015, a Kansas District Court issued a Clarifying Order reaffirming its February 11, 2013, ruling that the Norwegian order controls and that the permanent injunction will remain in place. This order specifically states, in paragraph five: "No agency, enforcement officer or employer in the State of Kansas shall threaten, demand or attempt to collect child support, or other fees or costs in the nature of support, from Petitioner contrary to this order, or based on competing orders from other jurisdictions." Accordingly, the Kansas IV-D agency will not enforce this case, leaving the Nevada IV-D program unable to provide these services.

As there are no Nevada IV-D services to be provided, this case will close 60 days from the date of this letter. This does not, however, preclude Ms. Porsboll from attempting to privately enforce the Nevada order through Norway's child support enforcement agency.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kiersten Gallagher".

Kiersten Gallagher
Social Services Manager I

*Nevada Department of Health and Human Services
Helping People -- It's Who We Are And What We Do*

AA 0151

EXHIBIT 7

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

January 29, 2018

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

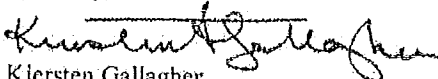
Re: Vaile v. Porsholl – UPI-522604100A

Dear Mr. Crane:

This letter is to inform you that the decision by the Nevada Child Support Enforcement Program (CSEP) to close this case, stands.

From a Program standpoint, the Nevada order is unenforceable outside of Nevada. There is no remedy for this case through the Nevada Child Support Enforcement Program.

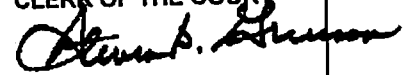
If this order is to be enforced, it must happen through private legal remedies. Further actions cannot and will not be taken by the Nevada Child Support Enforcement Program.

Sincerely, 

Kiersten Gallagher
Social Services Manager I

*Nevada Department of Health and Human Services
Helping People -- It's Who We Are And What We Do*

AA 0153



1 NEO

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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

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9 Robert S Vaile, Plaintiff.
10 vs.
11 Cisilie A Vaile, Defendant.

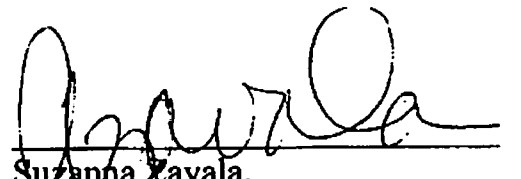
Case No: 98D230385
Department I

12
13 **NOTICE OF ENTRY OF SEPTEMBER 12, 2018 MINUTE ORDER**

14 TO ALL INTERESTED PARTIES:

15
16 **PLEASE TAKE NOTICE** that a Minute Order was entered in the above-
17 entitled matter on the September 12, 2018 a true and correct copy of which is
18 attached hereto.

19
20
21 Dated: September 12, 2018

22
23 
24 Suzanna Zavala,
25 Judicial Executive Assistant to the
26 Honorable Cheryl B. Moss
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CERTIFICATE OF SERVICE

I hereby certify that on the above file stamp date:

☒ I mailed, via first-class mail, postage fully prepaid, the foregoing

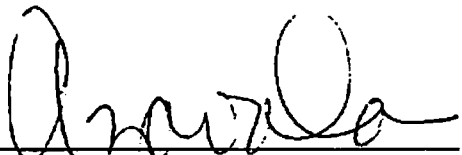
NOTICE OF ENTRY OF SEPTEMBER 12, 2018 MINUTE ORDER to:

ROBERT S. VAILE
812 Lincoln Street
Wamego, KS 66547
Plaintiff In Proper Person

MARSHAL S. WILICK, ESQ.
3591 E. Bonanza Rd. Suite 200
Las Vegas, NV 89110
Attorney for Defendant

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 East Flamingo Road
Las Vegas, Nevada 89119

ADAM LAXALT, ESQ.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101


Suzanna Zavala,
Judicial Executive Assistant to the
Honorable Cheryl B. Moss

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES****September 12, 2018**

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

**September 12,
2018****2:30 AM****All Pending Motions****HEARD BY:** Moss, Cheryl B.**COURTROOM:** Courtroom 13**COURT CLERK:** Erica Carreon**PARTIES:**

Cisilie Vaile, Defendant, not present

Marshal Willick, Attorney, not present

Deloitte & Touche, LLP, Other, 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

State of Nevada, Agency, not present

Linda Anderson, Attorney, not present

JOURNAL ENTRIES

- COURT MINUTE ORDER

On July 26, 2018 Mother's counsel filed a Petition and Motion for Mandamus and set it on the Court's 2:30 a.m. Chambers calendar. On September 6, 2018 the Nevada Attorney General's Office filed their Response.

The Court finds no new arguments. All substantive issues were decided by the Court at the July 24, 2018 hearing and reduced to an Order filed on August 6, 2018 and a Notice of Entry of said Order being filed on August 7, 2018.

PRINT DATE:	09/12/2018	Page 1 of 2	Minutes Date:	September 12, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

In the Attorney General's Office's latest Response filed on September 6, 2018, there is mention they were awaiting the above-noted Order so an appeal could be filed on the service of process issue. With the Order having been filed, that issue is MOOT.

Therefore, IT IS ORDERED that the July 26, 2018 Petition and Motion for Mandamus is MOOT as the Court already signed the Order for Mandamus which was subsequently filed on September 5, 2018.

The Court FINDS there are no new issues on the merits of this case that need to be resolved. The Court is well aware of the Attorney General's position with regard to the service of process issue, as well as the issue of the Kansas Court Injunction Order conflicting with the Nevada controlling Order (the Nevada Supreme Court previously decided the Nevada Order is a valid Order).

After reviewing the latest round of filings post-July 24, 2018 hearing, the Court FINDS there is nothing else to decide and shall await the outcome of the anticipated appeal from the Nevada Attorney General's Office.

IT IS FURTHER ORDERED that all Orders stemming from the July 24, 2018 hearing STAND AND REMAIN IN EFFECT.

So Ordered. A copy of this Court Minute Order shall be served on the Willick Law Group, Mr. Vaile in Proper Person, and the Nevada Attorney General's Office.

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	09/12/2018	Page 2 of 2	Minutes Date:	September 12, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES****September 12, 2018**

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

**September 12,
2018****2:30 AM****All Pending Motions****HEARD BY:** Moss, Cheryl B.**COURTROOM:** Courtroom 13**COURT CLERK:** Erica Carreon**PARTIES:**

Cisilie Vaile, Defendant, not present

Marshal Willick, Attorney, not present

Deloitte & Touche, LLP, Other, 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

State of Nevada, Agency, not present

Linda Anderson, Attorney, not present

JOURNAL ENTRIES

- COURT MINUTE ORDER

On July 26, 2018 Mother's counsel filed a Petition and Motion for Mandamus and set it on the Court's 2:30 a.m. Chambers calendar. On September 6, 2018 the Nevada Attorney General's Office filed their Response.

The Court finds no new arguments. All substantive issues were decided by the Court at the July 24, 2018 hearing and reduced to an Order filed on August 6, 2018 and a Notice of Entry of said Order being filed on August 7, 2018.

PRINT DATE:	09/12/2018	Page 1 of 2	Minutes Date:	September 12, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

In the Attorney General's Office's latest Response filed on September 6, 2018, there is mention they were awaiting the above-noted Order so an appeal could be filed on the service of process issue. With the Order having been filed, that issue is MOOT.

Therefore, IT IS ORDERED that the July 26, 2018 Petition and Motion for Mandamus is MOOT as the Court already signed the Order for Mandamus which was subsequently filed on September 5, 2018.

The Court FINDS there are no new issues on the merits of this case that need to be resolved. The Court is well aware of the Attorney General's position with regard to the service of process issue, as well as the issue of the Kansas Court Injunction Order conflicting with the Nevada controlling Order (the Nevada Supreme Court previously decided the Nevada Order is a valid Order).

After reviewing the latest round of filings post-July 24, 2018 hearing, the Court FINDS there is nothing else to decide and shall await the outcome of the anticipated appeal from the Nevada Attorney General's Office.

IT IS FURTHER ORDERED that all Orders stemming from the July 24, 2018 hearing STAND AND REMAIN IN EFFECT.

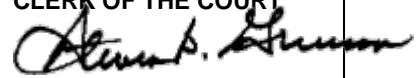
So Ordered. A copy of this Court Minute Order shall be served on the Willick Law Group, Mr. Vaile in Proper Person, and the Nevada Attorney General's Office.

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	09/12/2018	Page 2 of 2	Minutes Date:	September 12, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. PORSBOLL,

Defendant.

Case No.: 98D230385

Dept. No.: I

CASE APPEAL STATEMENT

1. **Name of appellant filing this case appeal statement:** State of Nevada,
Department of Health and Human Services, Division of Welfare and Supportive
Services, Child Support Enforcement Program and Kiersten Gallagher ("State")
2. **Judge issuing the decision, judgment or order appealed from:**
Honorable Cheryl B. Moss, Judge
3. **Name and address of appellant's counsel:**
Linda C. Anderson, Chief Deputy Attorney General
555 E. Washington #3900
Las Vegas, NV 89101
4. **Name and address of respondent's counsel:**
Marshal S. Willick, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
5. **Attorneys not licensed to practice law in Nevada:** None.

- 1 **6. Whether appellant was represented by appointed or retained counsel in the**
2 **district court:** The appellant is a government entity represented by the Attorney
3 General's Office.
- 4 **7. Whether appellant is represented by appointed or retained counsel on appeal:**
5 The appellant is a government entity represented by the Attorney General's Office.
- 6 **8. Whether appellant was granted leave to proceed in forma pauperis:** No.
- 7 **9. Date the proceeding commenced in the district court:** Unknown.
- 8 **10. A brief description of the nature of the action and result in the district court,**
9 **including the type of judgment or order being appealed and the relief granted**
10 **by the district court:** A Motion for Writ of Madamus, directed at the State, was
11 filed on March 12, 2018, in a sealed divorce proceeding where the State was not a
12 party. Prior to the hearing scheduled on May 22, 2018, the Court issued an Order
13 of Mandamus on April 16, 2018. The State filed a motion to alter or amend which
14 was opposed by Defendant. After a hearing on June 13, 2018, the Court set aside
15 the Order of Mandamus and allowed the State to file a response and the Defendant
16 to file an opposition. After a second hearing on July 24, 2018, the Court issued an
17 order which directed Defendant to draft an Order of Mandamus. The Order of
18 Mandamus filed on September 6, 2018, requires the State to overturn or dismiss a
19 Kansas order for permanent injunction against the collection of child support arrears
20 in Kansas and provide monthly status reports to counsel for the Defendant.
- 21 **11. Whether the case has previously been the subject of an appeal to or original**
22 **writ proceeding in the Supreme Court, if so, the caption and Supreme Court**
23 **docket number of the prior proceeding:** The State is not a party to this sealed
24 case but Westlaw reveals previous appeals in *Vaile v. Eight Judicial District Court*,
25 118 Nev 262, 44 P.3d 506 (2011); *Vaile v Porsboll*, 128 Nev. 27, 268 P.3d 1272
26 (2012); and before the Court of Appeals in *Vaile v. Porsboll*, 2015 WL 9594467
27 (2015).
28

1 **12. Whether the appeal involves child custody or visitation:** At this juncture, the
2 case does not involve child custody or visitation.

3 **13. In civil cases, whether this appeal involves the possibility of settlement:** No
4 possibility of settlement.

5 Dated: September 21, 2018.

6 ADAM PAUL LAXALT
7 Attorney General

8 By: /s/ Linda C. Anderson
9 Linda C. Anderson
 Chief Deputy Attorney General

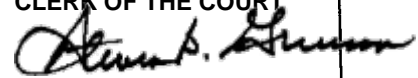
10
11 **CERTIFICATE OF SERVICE**

12 I hereby certify that I electronically filed the foregoing CASE APPEAL
13 STATEMENT by using the electronic filing system on September 21, 2018. The
14 following participants in this case are registered electronic filing system users and will be
15 served electronically:

16 Marshal S. Willick, Esq.
17 3591 E. Bonanza Road, Suite 200
18 Las Vegas, NV 89110-2101

19 Robert Scotlund Vaile
20 8121 Lincoln Street
21 Wamego, Kansa 66547

22 /s/ Linda Aouste
23 Employee of the Office of the Attorney General
24
25
26
27
28



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. PORSBOLL,

Defendant.

Case No.: 98D230385

Dept. No.: I

NOTICE OF APPEAL

TO: CISILE A. PORSBOLL, Defendant;
TO: MARSHAL WILLICK, ESQ. Attorney for Defendant: and
TO: ROBERT SCOTLUND VAILE, Plaintiff.

NOTICE IS HEREBY GIVEN that the State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, Child Support Enforcement Program and Kiersten Gallagher (hereinafter "the State"), by and through ADAM PAUL LAXALT, Attorney General by Chief Deputy Attorney General, LINDA C. ANDERSON, hereby appeals to the Supreme Court of the State of Nevada from the Order of Mandamus filed September 5, 2018, and Order for Hearing Held July 24, 2018, filed on August 6, 2018. A copy of both orders along with the respective notice of entry filed on September 6, 2018, and August 7, 2018, attached as Exhibit "A".

1 Dated: September 21, 2018.

2 ADAM PAUL LAXALT
3 Attorney General

4 By: /s/ Linda C. Anderson
5 Linda C. Anderson
6 Chief Deputy Attorney General

7 **CERTIFICATE OF SERVICE**

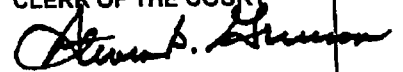
8 I hereby certify that I electronically filed the foregoing *NOTICE OF APPEAL* by
9 using the electronic filing system on September 21, 2018. The following participants in
10 this case are registered electronic filing system users and will be served electronically:

11 Marshal S. Willick, Esq.
12 3591 E. Bonanza Road, Suite 200
13 Las Vegas, NV 89110-2101

14 Robert Scotlund Vaile
15 8121 Lincoln Street
16 Wamego, Kansa 66547

17 /s/ Linda Aouste
18 Employee of the Office of the Attorney General
19
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EXHIBIT A



1 NEOJ
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

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

CISILIE VAILE PORSBOLL,
Defendant.

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING: N/A
TIME OF HEARING: N/A

NOTICE OF ENTRY OF ORDER OF MANDAMUS

TO: ROBERT SCOTLUND VAILE, Plaintiff, *In Proper Person*,
TO: DEPARTMENT OF HEALTH AND HUMAN SERVICES, and
TO: ADAM LAXALT, ESQ., Attorney General, State of Nevada.

PLEASE TAKE NOTICE that the *Order of Mandamus*, was duly entered by
the Court on the 5th day of September, 2018, and the attached is a true and correct

1 copy.

2 DATED this 6th day of September, 2018.

3 WILICK LAW GROUP

4 

5 MARSHAL S. WILICK, ESQ.

6 Nevada Bar No. 2515

7 RICHARD L. CRANE, ESQ.

8 Nevada Bar No. 9536

9 3591 East Bonanza Road, Suite 200

10 Las Vegas, Nevada 89110-2101

11 Attorneys for Defendant

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on the 6th day of September, 2018, I caused the foregoing document to be served as follows:

- [X] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- [X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- [] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- [] by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101


Employee of the WILLICK LAW GROUP

P:\wp16\VAILE,CNV\PLEADINGS\00255841.WPD\jj

Steven D. Grlerson

1 **ORDR**
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 Attorney for Defendant

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

10 ROBERT SCOTLUND VAILE,
11 Plaintiff,

12 vs.

13 CISILIE A. PORSBOLL F.K.A. CISILIE A.
14 VAILE,
15 Defendant.

16 DEPT. OF HEALTH AND HUMAN SVCS
17 CHILD SUPPORT ENFORCEMENT
18 PROGRAM AND KIERSTEN
19 GALLAGHER (SOCIAL SERVICES MGR
20 I)

Real Party In Interest

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

DATE OF HEARING:
TIME OF HEARING:

21 **ORDER OF MANDAMUS**

22
23 **THE COURT FINDS** that the *Writ of Mandamus* having been properly filed
24 and served on all parties to this case and a review of all papers filed and oral
25 argument made by both sides, this Court deems the request for a Writ of Mandate
26 appropriate under the facts and circumstances presented by the Defendant in this case.

IT IS HEREBY ORDERED that the Department of Health and Human Services Child Support Enforcement Program (DHHS) and Kiersten Gallagher (Social Services Manager I) shall immediately begin collection actions of the child support arrearages determined by this Court and affirmed by the Supreme Court of the State of Nevada against Robert Scotlund Vaile in accordance with NRS 130.307.

IT IS FURTHER ORDERED that DHHS shall take "*ALL* necessary steps"¹ to collect all child support due and owing under the Nevada *Orders*, shall take whatever steps are necessary to have the void Kansas order for a permanent injunction overturned or dismissed, and take whatever actions are necessary to have proceedings filed and pursued in Kansas – or any other state or jurisdiction where Mr. Vaile may be found – to nullify any order that is contrary to the orders issued by this Court so as to allow those collections to proceed.

IT IS FURTHER ORDERED that DHHS shall provide a monthly status report of the actions taken and the results of those actions to this Court with a copy provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200, Las Vegas, Nevada, 89110. These status reports are due by the 5th day of each month beginning in August 2018, and shall continue until the total amounts due and owing are collected.

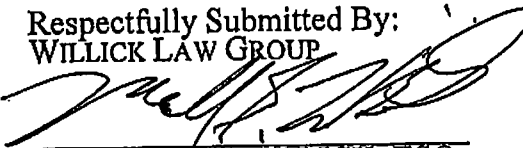
¹ See NRS 130.307.

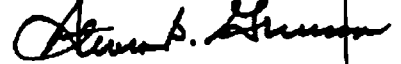
1 **IT IS FURTHER ORDERED** that this Court shall use its contempt powers
2 if any term of this *Mandate* are not followed by DHHS and Kiersten Gallagher.

3 **IT IS SO ORDERED** this ____ day of AUG 31 2018, 2018.

4
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6 
DISTRICT COURT JUDGE w

7
8 Respectfully Submitted By:
9 WILICK LAW GROUP

10 
11 MARSHAL S. WILICK, ESQ.
12 Nevada Bar No. 2515
13 RICHARD L. CRANE, ESQ.
14 Nevada Bar No. 9536
15 3591 E. Bonanza, Suite 200
16 Las Vegas, Nevada 89110-2101
17 Attorney for Plaintiff
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1 NEOJ
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*

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE VAILE PORSBOLL,

Defendant.

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING: N/A
TIME OF HEARING: N/A

NOTICE OF ENTRY FOR HEARING HELD JULY 24, 2018

TO: ROBERT SCOTLUND VAILE, Plaintiff, *In Proper Person*,
TO: DEPARTMENT OF HEALTH AND HUMAN SERVICES, and
TO: ADAM LAXALT, ESQ., Attorney General, State of Nevada.

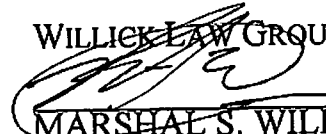
PLEASE TAKE NOTICE that the *Order for Hearing Held July 24, 2018*, was
duly entered by the Court on the 6th day of August, 2018, and the attached is a true

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and correct copy.

DATED this 7th day of August, 2018.

WILICK LAW GROUP


MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 7th day of August, 2018, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.

To the attorney listed below at the address, email address, and/or facsimile number indicated below:


Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101


Employee of the WILICK LAW GROUP

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ORDR

WILICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 002515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
(702) 438-4100
Attorneys for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

CISILIE VAILE PORSBOLL,
Defendant.

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERSTEN GALLAGHER
(SOCIAL SERVICES MGR I)

Real Party In Interest

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

DATE OF HEARING: 07/24/2018
TIME OF HEARING: 10:30 A.M.

ORDER FOR HEARING HELD JULY 24, 2018

This matter came before the Court on the *Motion* filed by the Attorney General of the State of Nevada after briefing on the propriety of the Court's issuance of a *Writ of Mandamus* requiring DHHS to take whatever steps are necessary to collect child support in accordance with the Nevada child support orders.

Defendant, Cisilie A. Porsboll, f/k/a Cisilie A. Vaile was not present as she resides in Norway, but was represented by her attorneys of the WILICK LAW GROUP,

1 and Plaintiff was not present, nor represented by counsel, although he was duly
2 noticed. Real Party in Interest was represented by the State of Nevada Attorney
3 General's Office with Chief Deputy AG Linda Anderson, Esq., present. The Court,
4 having read the papers and briefs on file herein by counsel, having heard oral
5 argument, and being fully advised, and for good cause shown:

6
7 **FINDS AS FOLLOWS:**

8 1. The Nevada Child Support Orders are valid and enforceable. (TI:
9 11:02:40)

10 2. The Nevada Court of Appeals held in this case that a core purpose of
11 UIFSA is to ensure that there will be only one enforceable child support order. (TI:
12 11:03:12)

13 3. There appears to now be two child support orders – one in Nevada and
14 one in Kansas – so a determination as to the controlling order must be made. (TI:
15 11:03:20)

16 4. The Kansas Court has held that the administrative order issued in
17 Norway is “controlling.” However, the Nevada Supreme Court has dispensed with
18 this issue, declaring the Nevada Order as controlling.¹ (TI: 11:04:50 and 11:31:23)

19 5. The Kansas Court never had jurisdiction – *ab initio* – over Cisilie when
20 it was making its orders. (TI: 11:05:10)

21 6. The Attorney General's Office does not represent Cisilie but does
22 represent the State of Nevada and its child support orders. (TI: 11:18:00)

23 7. This Court reiterates its finding that NRS 34 *et seq* does not require a
24 separate petition to request the issuance of a writ and that service upon the State was
25 proper. (TI: 11:26:18)

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¹ The California appellate courts have held identically.

1 8. There has been extensive litigation on what order controls in this case.
2 The Nevada Supreme Court has determined that the Nevada Child Support Order is
3 the controlling order. The operative language is Controlling Order. (TI: 11:27:05)

4 9. The Kansas order has no effect on the validity of the Nevada order as I
5 hereby declare the Nevada order as the controlling order. (TI: 11:27:30)

6 10. The AG is required to enforce the Nevada Child Support Order.² (TI:
7 11:29:20)

8 11. The AG/DA/DHHS is required to take all steps necessary to enforce the
9 Nevada orders in accordance with NRS 130.307. (TI: 11:29:35)³

10 12. The AG has the legal authority and obligation under UIFSA to say that
11 there is only one controlling order, and that order is from Nevada. (TI: 11:30:45)

12 13. The filing by the State was not, however, frivolous and this issue is
13 complex legally. (TI: 11:33:09)

14 14. The Court's inclination is to deny any request for a stay of today's
15 decision due to this being a child support case with a six figure outstanding judgment.
16 (TI: 11:37:49)

17

18 CONCLUSIONS OF LAW

19 1. The Nevada Child Support Orders are valid and controlling under
20 UIFSA, which is codified in this State under NRS 130 *et seq.*

21 2. NRS 130.307 is not discretionary and requires the State to take "all steps
22 necessary" to enforce the Nevada Child Support Orders.

23 3. NRS 34 *et seq* does not require a separate petition to request for the
24 issuance of a writ.

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27 ² This is actually the Child Support Enforcement Agency's responsibility to enforce.

28 ³ Reference to the AG, DA, or DHHS shall be construed as the State of Nevada and/or its
agencies.

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IT IS HEREBY ORDERED that:


1. No attorney's fees shall be awarded to either side. (TI: 11:33:29)
2. The Writ of Mandamus shall issue compelling the State to take all steps necessary to collect child support under the Nevada Controlling Orders in accordance with NRS 130.307. (TI: 11:33:45)
3. The oral request by the State for stay of today's orders is denied. (TI: 11:37:49)
4. The WILICK LAW GROUP shall prepare the order and the writ in accordance with the findings and orders issued today. The AG shall approve as to form and content. (TI: 11:33:50)


DATED this ____ day of AUG 03 2018, 2018.


DISTRICT COURT JUDGE

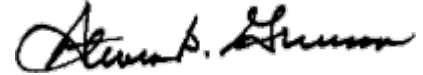
Respectfully Submitted By:
WILICK LAW GROUP

Approved as to Form and ~~Content~~ *LCA*


MARSHAL S. WILICK, ESQ.
Nevada Bar No. 002515
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant


LINDA C. ANDERSON, ESQ.
Nevada Bar No. 4090
Chief Deputy Attorney General
555 E. Washington Ave.
Las Vegas, Nevada 89101
Attorneys for Real Party In Interest

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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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

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

DATE OF HEARING: November 6, 2018
TIME OF HEARING: 9:00 AM

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERTEN GALLAGHER
(SOCIAL SERVICES MGR I)

ORAL ARGUMENT

Yes X No

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**MOTION FOR AN ORDER TO SHOW CAUSE
AS TO WHY DHHS AND KIERSTEN GALLAGHER SHOULD NOT
BE HELD IN CONTEMPT
AND FOR ATTORNEY'S FEES AND COSTS**

1 **I. INTRODUCTION**

2 Though we should not be surprised at the lengths DHHS will go to avoid doing
3 its job, the sheer gall displayed by the agency's waiting until October 2018 to tell us
4 that they still are not obeying this Court's orders unless we file a new application for
5 services is a new low for a State agency.¹

6 This attempt to try to find some loophole to avoid doing their job and to avoid
7 complying with this Court's *Orders* is a direct slap in the face to this Court's
8 authority. What is even more astonishing is that the Attorney General's office claims
9 to endorse this behavior.

10 We can only surmise that they are taking this action in direct defiance of this
11 Court's refusal to stay enforcement of the *Order of Mandate*. We are unfamiliar with
12 any clearer example of contempt for this Court by a government body.

13 As such, we ask this Court to hold DHHS and Kiersten Gallagher in contempt
14 of court with Kiersten ordered to *personally* pay up to a \$1,000 sanction and the State
15 of Nevada (on behalf of DHHS) paying us the entirety of our fees for forcing us to
16 file this *Motion* and for attending the OSC hearing.

17
18 **NOTICE OF MOTION**

19 TO: DHHS, and

20 TO: KIERSTEN GALLAGHER, and

21 TO: ASSISTANT AG LINDA ANDERSON.

22 **PLEASE TAKE NOTICE** that the foregoing *Motion* will be heard at the
23 Eighth Judicial District Court, Family Division, 601 N. Pecos Road, Las Vegas,
24 Nevada 89101-2408, on the **6** day of **November**, 2017, at **9:00**
25 a.m./p.m., or as soon thereafter as counsel may be heard in Department I of said
26 Court.

27
28 _____
¹ See Exhibit A, copy of the letter from Kiersten Gallagher dated October 1, 2018.

POINTS AND AUTHORITIES

II. STATEMENT OF FACTS

The background facts leading up to the issuance of the *Order of Mandate* are well known to the Court and the parties so they will not be repeated here.

On September 5, 2018, this Court issued an *Order of Mandate* to DHHS and Kiersten Gallagher to take “all necessary steps” to begin collection of child support from Robert Scotlund Vaile. The *Order of Mandate* additionally required that DHHS and Kiersten Gallagher provide monthly status reports beginning in August 2018.

On approximately September 20, 2018, undersigned counsel contacted Assistant AG Linda Anderson to inquire about the status of the collection effort. Ms. Anderson stated that since the Court had not entered the *Order of Mandate* until September 5, “no status was due until October.” We did not agree, but rather than make an issue of this, we agreed to wait until the beginning of October for the first status report describing movement toward collection.

On October 2, 2018, we received a letter from Kiersten Gallagher informing us that *no* action had been taken; the excuse *de jour* was that Ms. Porsboll had not “requested services via an application in accordance with 45 CFR § 303.2.” No mention was made of this Court’s direct order to begin collections.

On October 3, 2018, we again spoke with Ms. Anderson who was fully aware of the letter and endorsed the actions of her client. We asked why we had not been told weeks earlier that they would take no action until an “application” was submitted and received no cogent response.

This same day we sent a letter to Ms. Anderson in accordance with EDCR 5.501 in an attempt to avoid further litigation. Due to the duplicitous nature of the AG’s behavior in this regard, we gave them 24 hours in which to comply with this Court’s *Order of Mandate*. We received no response.

This *Motion* follows.

1 **III. LEGAL ARGUMENT**

2 **A. DHHS and Kiersten Gallagher Should Be Held in Contempt and**
3 **Sanctioned for Refusal to Comply with this Court's Order of**
4 **Mandate and the Order for Attorney's Fees and Costs**

5 NRS 34.290 provides in pertinent part:

6 Penalties for refusal or neglect to obey writ; state and county officers.

7 1. When a peremptory mandate has been issued and directed to any inferior
8 tribunal, corporation, board or person, if it appear to the court that any member
9 of such tribunal, corporation or board, or such person, upon whom the writ has
10 been personally served, has, without just excuse, refused or neglected to obey
11 the same, the court may, after notice and hearing, adjudge the party guilty of
12 contempt and upon motion impose a fine not exceeding \$1,000.

13 2. In case of persistence in a refusal of obedience, the court may order the
14 party to be imprisoned for a period not exceeding 3 months and may make any
15 orders necessary and proper for the complete enforcement of the writ.

16 3. If a fine be imposed upon a judge or officer who draws a salary from the
17 State or county, a certified copy of the order shall be forwarded to the State
18 Controller or county treasurer, as the case may be, and the amount thereof may
19 be retained from the salary of such judge or officer. Such judge or officer for
20 such willful disobedience shall also be deemed guilty of a misdemeanor in
21 office.

22 **1. DHHS and Kiersten Gallagher Have Failed to Comply**
23 **with the Terms of the Order of Mandate**

24 This Court entered an unambiguous *Order of Mandate* on September 5, 2018,
25 in which the Court ordered that DHHS take all necessary steps to begin collecting
26 child support from Robert Scotlund Vaile on behalf of Cisilie Porsboll. Specifically:

27 **IT IS HEREBY ORDERED** that the Department of Health and Human
28 Services Child Support Enforcement Program (DHHS) and Kiersten Gallagher
(Social Services Manager I) shall immediately begin collection actions of the
child support arrearages determined by this Court and affirmed by the Supreme
Court of the State of Nevada against Robert Scotlund Vaile in accordance with
NRS 130.307.

IT IS FURTHER ORDERED that DHHS shall take "*ALL* necessary steps"²
to collect all child support due and owing under the Nevada *Orders*, shall take
whatever steps are necessary to have the void Kansas order for a permanent
injunction overturned or dismissed, and take whatever actions are necessary
to have proceedings filed and pursued in Kansas – or any other state or
jurisdiction where Mr. Vaile may be found – to nullify any order that is

² See NRS 130.307.

1 contrary to the orders issued by this Court so as to allow those collections to
2 proceed.

3 **IT IS FURTHER ORDERED** that DHHS shall provide a monthly status
4 report of the actions taken and the results of those actions to this Court with a
5 copy provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200,
6 Las Vegas, Nevada, 89110. These status reports are due by the 5th day of each
7 month beginning in August 2018, and shall continue until the total amounts
8 due and owing are collected.

9 As noted above, DHHS and Kiersten Gallagher have done none of the above.
10 They have taken no action to begin collecting child support; they have not
11 approached Kansas in an attempt to set aside the void child support order in that
12 State; and they purposefully avoided filing any status reports until October for the
13 apparent singular purpose of attempting to further delay following this Court's
14 *Orders*.

15 In fact, it seems pretty apparent that DHHS and the AG's office conspired to
16 avoid following this Court's orders by not informing us that they would take no
17 action under the *Mandate* unless Cisilie "filed a new application for services." It
18 should be remembered that Cisilie *did* apply; it was DHHS and Kiersten Gallagher
19 that closed Cisilie's case even though we protested the action. They can easily
20 reinstate/re-open that case – as this Court has ordered them to do – and begin
21 following this Court's orders, but that would mean they would have to do their job,
22 the avoidance of which has become their top priority.

23 Ms. Gallagher – in her letter attached as Exhibit A – states that they can't
24 proceed without the new application "as required" by 45 CFR 303.2.³ The excuse is
25 nonsense – as stated above, there is no reason for this as they already have all of the
26 information they need by just re-opening the case they unlawfully and improperly
27 closed.⁴

28 ³ See Exhibit B, a copy of 45 CFR 303.

⁴ It was unlawful as they did not comply with NRS 130.307 by taking all necessary steps to
collect the child support.

1 The added irony here is that DHHS and Ms. Gallagher **ARE NOT** complying
2 with the regulation they cite. Specifically 45 CFR 303.2 requires:

3 (2) When an individual requests an application *or IV-D services*, provide an
4 application to the individual on the day the individual makes a request in
5 person or send an application to the individual within no more than 5 working
6 days of a written or telephone request.

7 At the absolute latest, DHHS and Kiersten Gallagher should have forwarded
8 an application to Cisilie – through our offices – within five days of service of the
9 *Order of Mandate*. That would have given us notice on the 12th of September that
10 they did not intend to follow this Court’s orders. However, they did nothing in
11 violation of the exact regulation that they claim we must follow. Calling the agency
12 “duplicitous” would be charitable.

13 The letter we received from Kiersten Gallagher on November 30, 2017,
14 indicates that they **had** an application – though they claim it was “incomplete” – and
15 closed the case because they determined there was “nothing further they could do.”⁵

16 **IF** the application was not complete, it was incumbent upon DHHS and Ms.
17 Gallagher to request whatever additional information was needed from us and/or Ms.
18 Porsboll.⁶

19 DHHS and Ms. Gallagher contend that an application is “not valid” unless it
20 is signed by the person requesting the IV-D services. 45 CFR § 303 does not say any
21 such thing; in fact it is silent about a person with power of attorney signing on their
22 behalf. The agency just apparently made up this “rule.”

23 The bottom line is that DHHS, Kiersten Gallagher, and the AG’s office are
24 actively conspiring to avoid doing what this Court has directly ordered them to do.
25 They all need to be brought back before the Court, sanctioned, and ordered to begin
26 collection immediately.

27 ⁵ The letter was inaccurate. The actual message was that there was nothing further they
28 **WOULD** do.

⁶ See Exhibit B.

1 Lost on the agency is the irony that if they put half the effort into actually
2 trying to collect child support that they are putting in trying to avoid doing so, they
3 could actually be doing some good in accomplishing their stated reason for existing.⁷

4 Based on their duplicitous actions to this point, we suggest that the Court
5 should make the order that we provide as Exhibit C. Failure to comply should result
6 in further monetary sanctions and then the incarceration of Ms. Gallagher for a
7 minimum of 3 months. Child support collection has been delayed for much too long
8 already and should not be extended a day further by intransigent bureaucrats who
9 appear to think that they work for the “Child Support Non-Enforcement Program.”⁸

10
11
12 **B. Cisilie Should Be Awarded the Entirety of Her Attorney’s Fees and
13 Costs**

14 At the last hearing, the Court found insufficient evidence to show that the State
15 (DHHS) opposed our *Motion for Writ of Mandamus* in bad faith. That same finding
16 can’t be made now. It is clear they are trying by all means to avoid complying with
17 this Court’s orders.

18 Refusal to obey a writ of mandate is specifically punishable by a fine of \$1,000
19 and, if disobedience continues, up to three months incarceration. The fine may be
20 collected directly from a public employee’s salary.⁹

21 ⁷ “You will never understand bureaucracies until you understand that for bureaucrats
22 procedure is everything and outcomes are nothing.” Thomas Sowell.

23 ⁸ “Bureaucracies are inherently antidemocratic. Bureaucrats derive their power from their
24 position in the structure, not from their relations with the people they are supposed to serve. The
25 people are not masters of the bureaucracy, but its clients.” Alan Keyes.

26 ⁹ NRS 34.290:

27 1. When a peremptory mandate has been issued and directed to any inferior tribunal,
28 corporation, board or person, if it appear to the court that any member of such
tribunal, corporation or board, or such person, upon whom the writ has been
personally served, has, without just excuse, refused or neglected to obey the same,

1 Attorney's fees may be awarded in a pre-or post-divorce motion under NRS
2 18.010(2) and NRS 125.150(3).¹⁰ Further, EDCR 7.60(b) provides:

3 (b) The court may, after notice and an opportunity to be heard, impose upon
4 an attorney or a party any and all sanctions which may, under the facts of the
5 case, be reasonable, including the imposition of fines, costs or attorney's fees
6 when an attorney or a party without just cause:

- 7 ...
- 8 (3) *So multiplies the proceedings in a case as to increase*
9 *costs unreasonably and vexatiously.* [Emphasis added].
 - 10 (4) Fails or refuses to comply with these rules.

11 The Nevada Legislature amended NRS 18.010, dealing with awards of
12 attorney's fees. The revised rule states that fees may be awarded:

13 (b) Without regard to the recovery sought, *when the court finds that*
14 *the claim, counterclaim, cross-claim or third-party complaint or defense of*
15 *the opposing party was brought or maintained without reasonable ground*
16 *or to harass the prevailing party.* The court shall liberally construe the
17 provisions of this paragraph in favor of awarding attorney's fees in all
18 appropriate situations. It is the intent of the Legislature that the court award
19 attorney's fees pursuant to this paragraph and impose sanctions pursuant to
20 Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations
21 to punish for and deter frivolous or vexatious claims and defenses because
22 such claims and defenses overburden limited judicial resources, hinder the
23 timely resolution of meritorious claims and increase the costs of engaging in
24 business and providing professional services to the public.

25 _____

26 the court may, after notice and hearing, adjudge the party guilty of contempt and
27 upon motion impose a fine not exceeding \$1,000.

28 2. In case of persistence in a refusal of obedience, the court may order the party to be
imprisoned for a period not exceeding 3 months and may make any orders necessary
and proper for the complete enforcement of the writ.

3. If a fine be imposed upon a judge or officer who draws a salary from the State or
county, a certified copy of the order shall be forwarded to the State Controller or
county treasurer, as the case may be, and the amount thereof may be retained from
the salary of such judge or officer. Such judge or officer for such willful
disobedience shall also be deemed guilty of a misdemeanor in office.

¹⁰ See *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998); *Wright v. Osburn*, 114 Nev. 1367,
970 P.2d 1071 (1998); *Halbrook v. Halbrook*, 114 Nev. 1455, 971 P.2d 1262 (1998); *Korbel v.*
Korbel, 101 Nev. 140, 696 P.2d 993 (1985); *Fletcher v. Fletcher*, 89 Nev. 540, 516 P.2d 103 (1973);
Leeming v. Leeming, 87 Nev. 530, 490 P.2d 342 (1971).

1 [Emphasis added].¹¹

2 And the Nevada Supreme Court has clarified that fees may be assessed against
3 a State agency that considers itself above those pesky rules that govern everyone
4 else.¹²

5 NRS 125B.140 also **mandates** an award of reasonable attorney's fees whenever
6 child support arrears are involved. Significant time and attention has been given to
7 this particular issue by counsel, and the statute is silent as to *who* is responsible to pay
8 the attorney's fees. This is not a discretionary provision in the law. The State
9 (DHHS) has taken a stance that has made collection of the child support impossible.
10 The child support is due and owing and both the fact that it is owed and the amount
11 have been endorsed by the Nevada Supreme Court. By taking a position contrary to
12 those orders, the State (DHHS) **must** be liable for our attorney's fees.

13 With specific reference to Family Law matters, the Court has adopted
14 "well-known basic elements," which in addition to hourly time schedules kept by the
15 attorney, are to be considered in determining the reasonable value of an attorney's
16 services qualities, commonly referred to as the *Brunzell*¹³ factors:

- 17 1. *The Qualities of the Advocate*: his ability, his training, education,
18 experience, professional standing and skill.
- 19 2. *The Character of the Work to Be Done*: its difficulty, its intricacy, its
20 importance, time and skill required, the responsibility imposed and the
21 prominence and character of the parties where they affect the
22 importance of the litigation.
- 23 3. *The Work Actually Performed by the Lawyer*: the skill, time and
24 attention given to the work.
- 25 4. *The Result*: whether the attorney was successful and what benefits were
26 derived.

25 ¹¹ See also *Trustees v. Developers Surety*, 120 Nev. 56, 84 P.3d 59 (2004) (discussing the
26 legislative intent of the quoted language).

27 ¹² See *Pub. Employees' Ret. Sys. of Nev. v. Gitter*, 133 Nev. ___, ___ P.3d ___, (Adv. Opn.
28 18, Apr. 27, 2017).

¹³ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

1 Each of these factors should be given consideration, and no one element should
2 predominate or be given undue weight.¹⁴ Additional guidance is provided by
3 reviewing the “attorney’s fees” cases most often cited in Family Law.¹⁵

4 The *Brunzell* factors require counsel to rather immodestly make a
5 representation as to the “qualities of the advocate,” the character and difficulty of the
6 work performed, and the work actually performed by the attorney.

7 First, respectfully, we suggest that the supervising counsel is A/V rated, a
8 peer-reviewed and certified (and re-certified) Fellow of the American Academy of
9 Matrimonial Lawyers, and a Certified Specialist in Family Law.

10 Richard Crane, Esq., the person primarily responsible for drafting this *Motion*,
11 has practiced exclusively in the field of family law under the direct tutelage of
12 supervising counsel.

13 As to the “character and quality of the work performed,” we ask the Court to
14 find our work in this matter to have been adequate, both factually and legally; we
15 have diligently reviewed the applicable law, explored the relevant facts, and believe
16 that we have properly applied one to the other.

17 The fees charged by paralegal staff are reasonable, and compensable, as well.
18 The tasks performed by staff in this case were precisely those that were “some of the
19 work that the attorney would have to do anyway [performed] at substantially less cost
20 per hour.”¹⁶ As the Nevada Supreme Court reasoned, “the use of paralegals and other
21 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”
22

23
24 ¹⁴ *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

25 ¹⁵ Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within
26 the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89
27 Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v.*
Hybarger, 103 Nev. 255, 737 P.2d 889 (1987).

28 ¹⁶ *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013) citing to *Missouri v. Jenkins*,
491 U.S. 274 (1989).

1 so “reasonable attorney’s fees . . . includes charges for persons such as paralegals
2 and law clerks.”

3 The work actually performed will be provided to the Court upon request by
4 way of a *Memorandum of Fees and Costs* (redacted as to confidential information),
5 consistent with the requirements under *Love*.¹⁷
6

7 IV. CONCLUSION

8 The actions of the State agency in this matter are embarrassing to every citizen
9 of Nevada. They should be working to collect child support, not working to avoid
10 doing their job. If they can’t comply with the requirements of their job, they should
11 move on and let someone that is willing to work for the people of this State take over.

12 Based on the above, Cisilie respectfully requests the Court issue the following
13 orders:

14 1. Holding Kiersten Gallagher in contempt for her violations of the *Order*
15 *of Mandate*.

16 2. Sanctioning Kiersten Gallagher \$1,000 for her refusal to comply with the
17 orders of this Court.

18 3. Awarding Cisilie the entirety of her attorney’s fees and costs to be paid
19 by the State of Nevada.

20 *****

21 *****

22 *****

23 *****

24 *****

25 *****

26 *****

27
28

¹⁷ *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

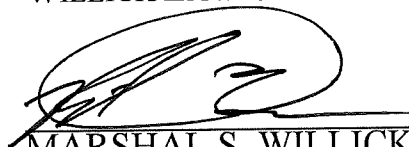
1 4. An admonition that failure to comply with the *Order of Mandate* and any
2 other orders of this Court will result in further personal financial sanctions and a term
3 of incarceration.

4 5. For such other and further relief as the Court deems just and proper.

5 DATED this 9th day of October, 2018.

6 Respectfully Submitted By:

7 WILLICK LAW GROUP

8 

9 MARSHAL S. WILLICK, ESQ.

10 Nevada Bar No. 2515

11 RICHARD L. CRANE, ESQ.

12 Nevada Bar No. 9536

13 3591 E. Bonanza Road, Suite 200

14 Las Vegas, Nevada 89110-2101

15 (702) 438-4100

16 Attorneys for Defendant

1 **DECLARATION OF RICHARD L. CRANE, ESQ.**

2 1. I, Richard L. Crane, Esq., declare that I am competent to testify to the
3 facts contained in the proceeding filing.

4 2. I have read the preceding filing, and I have personal knowledge of the
5 facts contained therein. Further, the factual averments contained therein are true and
6 correct to the best of my knowledge, except those matters based on information and
7 belief, and as to those matters, I believe them to be true.

8 3. On September 5, 2018, this Court issued an *Order of Mandate* to DHHS
9 and Kiersten Gallagher to take all necessary steps to begin collection of child support
10 from The *Order of Mandate* required that DHHS and Kiersten Gallagher provide
11 monthly status reports beginning in August 2018.

12 4. On approximately September 20, 2018, the undersigned attorney
13 contacted Assistant AG Linda Anderson to inquire about the status of the collection
14 effort. Ms. Anderson stated that since the Court had not entered the *Order of*
15 *Mandate* until September 5, no status was due until October. Rather than make an
16 issue of this, we agreed to wait until the beginning of October for the first status
17 report.

18 5. On October 2, 2018, we received a letter from Kiersten Gallagher
19 informing us that no action had been taken as Ms. Porsboll had not requested services
20 via an application in accordance with 45 CFR 303.2.

21 6. On October 3, 2018, we spoke with Ms. Anderson who was fully aware
22 of the letter and endorsed the actions of her client. We asked why we had not been
23 told weeks earlier that they would take no action until the application was submitted
24 and received no cogent response.

25 7. This same day we sent a letter to Ms. Anderson in accordance with
26 EDCR 5.501 in an attempt to avoid further litigation. Due to the duplicitous nature
27 of the AG's behavior in this regard, we gave them 24 hours in which to comply with
28 this Court's *Order of Mandate*. We received no response.

1 8. Within the unambiguous *Order of Mandate* issued on September 5,
2 2018, the Court ordered that DHHS take all necessary steps to begin collecting child
3 support from Robert Scotlund Vaile on behalf of Cisilie Porsboll. Specifically, the
4 Court *Ordered*:

5 Page 2, lines 1 through 5 –

6 **IT IS HEREBY ORDERED** that the Department of Health and Human
7 Services Child Support Enforcement Program (DHHS) and Kiersten Gallagher
8 (Social Services Manager I) shall immediately begin collection actions of the
9 child support arrearages determined by this Court and affirmed by the Supreme
10 Court of the State of Nevada against Robert Scotlund Vaile in accordance with
11 NRS 130.307.

12 It is undisputed that DHHS and Kiersten Gallagher have done nothing to begin
13 collection against Robert Scotlund Vaile. In fact, they waited nearly two months after
14 this Court's oral pronouncement before informing our office that they would not
15 proceed until we submitted a new application. There is nothing in this provision of
16 the Court's *Order* that requires us or Cisilie to do anything to initiate the collection.
17 They just ignored the Court's *Order*.

18 Page 2 lines 6 through 12 –

19 **IT IS FURTHER ORDERED** that DHHS shall take "***ALL*** necessary steps"¹⁸
20 to collect all child support due and owing under the Nevada *Orders*, shall take
21 whatever steps are necessary to have the void Kansas order for a permanent
22 injunction overturned or dismissed, and take whatever actions are necessary
23 to have proceedings filed and pursued in Kansas – or any other state or
24 jurisdiction where Mr. Vaile may be found – to nullify any order that is
25 contrary to the orders issued by this Court so as to allow those collections to
26 proceed.

27 Again, it is undisputed that DHHS and Kiersten Gallagher have done nothing
28 to overturn or set aside the void Kansas order. They have completely ignored this
29 *Order* of the Court.

30 Page 2, lines 13 through 18 –

31 **IT IS FURTHER ORDERED** that DHHS shall provide a monthly status
32 report of the actions taken and the results of those actions to this Court with a
33 copy provided to Marshal S. Willick, Esq., 3591 E. Bonanza Rd. Suite 200,

34 ¹⁸ See NRS 130.307.

1 Las Vegas, Nevada, 89110. These status reports are due by the 5th day of each
2 month beginning in August 2018, and shall continue until the total amounts
3 due and owing are collected.

4 It is clear that the first report sent by DHHS and Kiersten Gallagher was not
5 sent until October 2018. They were aware that the reports were due since August as
6 the original *Order of Mandamus* included the same provision. They avoided sending
7 the report until October in an attempt to delay having to take any action knowing full
8 well of their obligations under the *Order of Mandate*.

9 9. DHHS and Kiersten Gallagher have violated Nevada law by not
10 complying with NRS 130.307 and not taking all the necessary steps to collect child
11 support and by ignoring the requirements under 45 CFR 303.2 by not informing us
12 sooner that they would not be enforcing the child support absent some action by
13 Cisilie.¹⁹

14 10. DHHS and Kiersten Gallagher impose additional requirements on
15 litigants that are not delineated in the governing IV-D regulations. This again allows
16 them a loophole to avoid having to actually do their job.

17 11. That Cisilie has incurred significant fees and costs for having to force
18 the State to do their job and under NRS 18.010, NRS 125B.140, and EDCR 7.60, she
19 is entitled to be made whole by an award of attorney's fees in the full amount of our
20 billing in this matter.

21 **I declare under penalty of perjury under the laws of the State of
22 Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is
23 true and correct.**

24 **EXECUTED** this 7th day of October, 2018.

25 
26
27

28 RICHARD L. CRANE, ESQ.

¹⁹ Had they complied, we would have been able to be back before the Court sooner to compel their compliance.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 9th day of October, 2018, I caused the foregoing document to be served as follows:

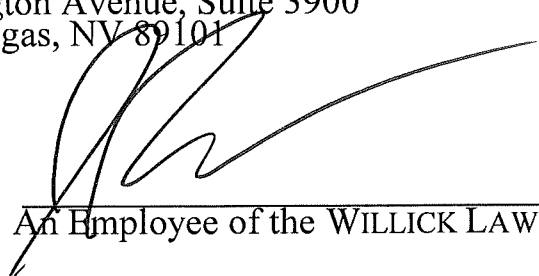
- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.
- ☐ by placing same to be deposited for mailing in the United States Mail, Certified, Return Receipt Requested, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

To the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

1 Adam Laxalt, Esq.
2 Attorney General State of Nevada
3 Office of the Attorney General
4 Grant Sawyer Building
5 555 E. Washington Avenue, Suite 3900
6 Las Vegas, NV 89101

7 
8 An Employee of the WILICK LAW GROUP

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff/Petitioner

-v.-

CISILIE A. PORSBOLL f/k/a,

CISILIE A VAILE,

Defendant/Respondent

Case No. 98D230385

Department I

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

☐ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

-Or-

☒ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:

☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.

☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-Or-

☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-Or-

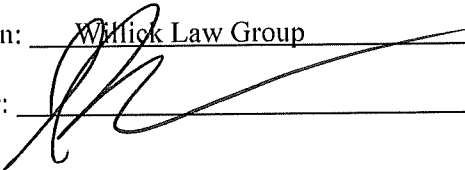
☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☒ **\$0** ☐ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willick Law Group Date: 10/9/2018

Signature of Party or Preparer:  P:\wp16\VAILE,C\NVPLEADINGS\00227056.WPD\

1 **EXHS**

2 WILICK LAW GROUP
3 MARSHAL S. WILICK, ESQ.
4 Nevada Bar No. 2515
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 Attorney for Defendant

10
11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**

14 ROBERT SCOTLUND VAILE,

15 Plaintiff,

16 vs.

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

19 Defendant.

20 DEPT. OF HEALTH AND HUMAN SVCS
21 CHILD SUPPORT ENFORCEMENT
22 PROGRAM AND KIERTEN GALLAGHER
23 (SOCIAL SERVICES MGR I)

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

DATE OF HEARING:
TIME OF HEARING:

24 **EXHIBITS TO**
25 **MOTION FOR AN ORDER TO SHOW CAUSE**
26 **AS TO WHY DHHS AND KIERSTEN GALLAGHER SHOULD NOT**
27 **BE HELD IN CONTEMPT**
28 **AND FOR ATTORNEY'S FEES AND COSTS**

Cisilie Porsboll, by and through her attorneys, the WILICK LAW GROUP, submits the attached documents as Exhibits to her *Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should Not Be Held in Contempt and for Attorney's Fees and Costs*, filed October 9, 2018.


1 **Exhibit A-** Copy of the letter from Kiersten Gallagher dated October 1, 2018.
2 (Bates Stamp - 000001CP)

3 **Exhibit B-** Copy of 45 CFR 303.
4 (Bates Stamps - 000002CP - 000003CP)

5 **Exhibit C-** Proposed Order.
6 (Bates Stamps - NONE)

7 DATED this 9th day of October, 2018.

8 Respectfully Submitted By:
9 WILLICK LAW GROUP

10 
11 MARSHAL S. WILLICK, ESQ.
12 Nevada Bar No. 2515
13 RICHARD L. CRANE, ESQ.
14 Nevada Bar No. 9536
15 3591 E. Bonanza Road, Suite 200
16 Las Vegas, Nevada 89110-2101
17 (702) 438-4100
18 Attorneys for Defendant
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 9th day of October, 2018, I caused the foregoing document to be served as follows:

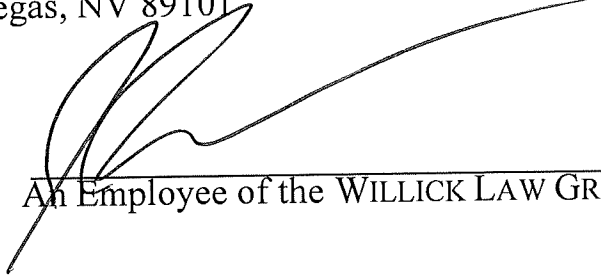
- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.
- ☐ by placing same to be deposited for mailing in the United States Mail, Certified, Return Receipt Requested, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

To the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101



An Employee of the WILICK LAW GROUP

P:\wp16\VAILE,CDRAFTS\00261448.WPD\j

EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

October 1, 2018

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

Re: Vaile v. Porsboll – UPI-522604100A

Dear Mr. Crane:

This letter is to provide you with a monthly status update, from the Child Support Enforcement Program, on the above case, which was appealed to the Nevada Supreme Court on September 21, 2018.

The Program has not received a request for services, from Ms. Porsboll. Per 45 CFR 303.2, the IV-D agency must "accept an application as filed on the day it and the application fee are received. An application is a record that is provided or used by the State, which indicates that the individual is applying for child support enforcement services under the State's title IV-D program and is signed, electronically or otherwise, by the individual applying for IV-D services."

Sincerely, .

A handwritten signature in cursive script that reads "Kiersten Gallagher".
Kiersten Gallagher
Social Services Manager I

EXHIBIT “B”

EXHIBIT “B”

EXHIBIT “B”

(i) The waiver request meets the criteria set forth in section 1115(c)(1), (2) and (3) of the Act; or

(ii) The State provides written assurances that steps will be taken to otherwise improve the State's Child Support Enforcement program.

[57 FR 47002, Oct. 14, 1992, as amended at 61 FR 67241, Dec. 20, 1996; 63 FR 44814, Aug. 21, 1998]

PART 303—STANDARDS FOR PROGRAM OPERATIONS

Sec.

- 303.0 Scope and applicability of this part.
- 303.1 Definitions.
- 303.2 Establishment of cases and maintenance of case records.
- 303.3 Location of noncustodial parents.
- 303.4 Establishment of support obligation.
- 303.5 Establishment of paternity.
- 303.6 Enforcement of support obligations.
- 303.7 Provision of services in interstate IV-D cases.
- 303.8 Review and adjustment of child support orders.
- 303.10 [Reserved]
- 303.11 Case closure criteria.
- 303.15 Agreements to use the Federal Parent Locator Service (PLS) in parental kidnapping and child custody or visitation cases.
- 303.20 Minimum organizational and staffing requirements.
- 303.21 Safeguarding and disclosure of confidential information.
- 303.30 Securing medical support information.
- 303.31 Securing and enforcing medical support obligations.
- 303.32 National Medical Support Notice.
- 303.35 Administrative complaint procedure.
- 303.52 Pass-through of incentives to political subdivisions.
- 303.69 Requests by agents or attorneys of the United States for information from the Federal Parent Locator Service (FPLS).
- 303.70 Requests by the State Parent Locator Service (SPLS) for information from the Federal Parent Locator Service (FPLS).
- 303.71 Requests for full collection services by the Secretary of the Treasury.
- 303.72 Requests for collection of past-due support by Federal tax refund offset.
- 303.73 Applications to use the courts of the United States to enforce court orders.
- 303.100 Procedures for income withholding.
- 303.101 Expedited processes.
- 303.102 Collection of overdue support by State income tax refund offset.
- 303.104 Procedures for posting security, bond or guarantee to secure payment of overdue support.

303.106 Procedures to prohibit retroactive modification of child support arrearages.

303.107 Requirements for cooperative arrangements.

303.108 Quarterly wage and unemployment compensation claims reporting to the National Directory of New Hires.

303.109 Procedures for State monitoring, evaluation and reporting on programs funded by Grants to States for Access and Visitation Programs.

AUTHORITY: 42 U.S.C. 651 through 658, 659, 659A, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k.

EFFECTIVE DATE NOTES: 1. At 73 FR 56443, Sept. 26, 2008, the authority citation of part 303 was revised, effective March 23, 2009. At 74 FR 23798, May 22, 2009 the amendment was delayed until December 30, 2010. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(o), 1396b(p) and 1396(k).

2. At 75 FR 38642, July 2, 2010, the authority citation of part 303 was revised, effective Jan. 3, 2011. For the convenience of the user, the added and revised text is set forth as follows:

AUTHORITY: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

EDITORIAL NOTE: Nomenclature changes to part 303 appear at 64 FR 6249, Feb. 9, 1999.

SOURCE: 40 FR 27164, June 26, 1975, unless otherwise noted.

§ 303.0 Scope and applicability of this part.

This part prescribes:

(a) The minimum organizational and staffing requirements the State IV-D agency must meet in carrying out the IV-D program, and

(b) The standards for program operation which the IV-D agency must meet.

[41 FR 55348, Dec. 20, 1976, as amended at 54 FR 32309, Aug 4, 1989]

§ 303.1 Definitions.

The definitions found in § 301.1 of this chapter also are applicable to this part.

§ 303.2 Establishment of cases and maintenance of case records.

(a) The IV-D agency must:

(1) Make applications for child support services readily accessible to the public;

(2) When an individual requests an application or IV-D services, provide an application to the individual on the day the individual makes a request in person or send an application to the individual within no more than 5 working days of a written or telephone request. Information describing available services, the individual's rights and responsibilities, and the State's fees, cost recovery and distribution policies must accompany all applications for services and must be provided to title IV-A, Medicaid and title IV-E foster care applicants or recipients within no more than 5 working days of referral to the IV-D agency; and

(3) Accept an application as filed on the day it and the application fee are received. An application is a written document provided by the State which indicates that the individual is applying for child support enforcement services under the State's title IV-D program and is signed by the individual applying for IV-D services.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must, within no more than 20 calendar days of receipt of referral of a case or filing of an application for services under § 302.33, open a case by establishing a case record and, based on an assessment of the case to determine necessary action:

(1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, if appropriate; and

(2) If there is inadequate location information to proceed with the case, request additional information or refer the case for further location attempts, as specified in § 303.3.

(c) The case record must be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made and results in a case.

[54 FR 32309, Aug. 4, 1989]

§ 303.3 Location of noncustodial parents.

(a) *Definition.* Location means information concerning the physical whereabouts of the noncustodial parent, or the noncustodial parent's employer(s),

other sources of income or assets, as appropriate, which is sufficient and necessary to take the next appropriate action in a case.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must attempt to locate all noncustodial parents or sources of income and/or assets when location is necessary to take necessary action. Under this standard, the IV-D agency must:

(1) Use appropriate location sources such as the Federal PLS; interstate location networks; local officials and employees administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the State or a political subdivision); relatives and friends of the noncustodial parent; current or past employers; the local telephone company; the U.S. Postal Service; financial references; unions; fraternal organizations; and police, parole, and probation records if appropriate; and State agencies and departments, as authorized by State law, including those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records and other sources;

(2) Establish working relationships with all appropriate agencies in order to utilize locate resources effectively;

(3) Within no more than 75 calendar days of determining that location is necessary, access all appropriate location sources, including transmitting appropriate cases to the Federal PLS, and ensure that location information is sufficient to take the next appropriate action in a case;

(4) Refer appropriate cases to the IV-D agency of any other State, in accordance with the requirements of § 303.7 of this part. The IV-D agency of such other State shall follow the procedures in paragraphs (b)(1) through (b)(3) of this section for such cases, as necessary, except that the responding State is not required to access the Federal PLS under paragraph (b)(3) of this section;

(5) Repeat location attempts in cases in which previous attempts to locate

EXHIBIT “C”

EXHIBIT “C”

EXHIBIT “C”

1 **ORDR**

2 WILICK LAW GROUP
3 MARSHAL S. WILICK, ESQ.
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 (702) 438-4100
8 Attorneys for Defendant
9

10
11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**
14

15 ROBERT SCOTLUND VAILE,

16 Plaintiff,

17 vs.

18 CISILIE VAILE PORSBOLL,

19 Defendant.
20

21 DEPT. OF HEALTH AND HUMAN SVCS
22 CHILD SUPPORT ENFORCEMENT
23 PROGRAM AND KIERSTEN GALLAGHER
24 (SOCIAL SERVICES MGR I)
25

26 Real Party In Interest
27

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

DATE OF HEARING:
TIME OF HEARING:

28 **ORDER**

This matter came before the Court on an *Order to Show Cause*.

THE COURT FINDS

DHHS and Kiersten Gallagher have willfully refused to comply with this Court's *Orders* concerning the collection of child support from Robert Scotlund Vaile.

1 DHHS and Kiersten Gallegher did willfully delay in reporting to the Willick
2 Law Group that they had no intention in beginning collection actions against Mr.
3 Vaile.

4 DHHS and Kiersten Gallegher have not made any contact with the State of
5 Kansas concerning the set aside of the void order concerning child support in that
6 State.

7 DHHS and Kiersten Gallagher have willfully ignored their specific
8 requirements under 45 CFR 303.2.

9 DHHS and Kiersten Gallegher, in her official position within DHHS, have
10 vexatiously increased litigation in this matter by forcing Cisilie and her attorneys to
11 file this OSC.

12 13 **CONCLUSIONS OF LAW**

14 1. The Nevada Child Support Orders are valid and controlling under
15 UIFSA, which is codified in this State under NRS 130 *et seq.*

16 2. NRS 130.307 is not discretionary and requires the State to take “all steps
17 necessary” to enforce the Nevada Child Support Orders.

18 3. That 45 CFR 303.2 requires DHHS to make specific inquiries if
19 additional information is needed.

20 4. That nowhere in 45 CFR 303.2 does it require that the person requesting
21 services can’t have a person with valid power of attorney sign the application on their
22 behalf.

23 24 **IT IS HEREBY ORDERED** that:

25 1. Kiersten Gallagher is in contempt of this court’s *Orders* and shall
26 personally pay a \$1,000 sanction to Cisilie Porsboll c/o the Willick Law Group.

1 2. That DHHS shall reinstate the case passed to them by the District
2 Attorney's Office and shall affirmatively acknowledge that it has been reopened
3 within 24 hours of this *Order*.

4 3. Within 72 hours, DHHS and/or Kiersten Gallegher shall produce a Plan
5 of Action and Milestones (POA&M) indicating how they are going to proceed. The
6 POA&M will be considered incomplete unless it has a specific name attached to each
7 and every required action along with the estimated completion date. To avoid further
8 delay, it is expected by this Court that at a minimum, a suit will be filed in Kansas to
9 nullify the void order within 90 days. Cisilie can file a further OSC if DHHS and
10 Kiersten Gallegher fail to meet this simple requirement.

11 4. Due to the duplicitous actions displayed by DHHS, Kiersten Gallegher,
12 and the Assistant Attorney General, written status reports are now due every two
13 weeks beginning on the Monday following entry of this *Order* and every other
14 Monday thereafter until collection of all money owed by Robert Scotlund Vaile is
15 complete or further order of this Court.

16 5. That should DHHS, Kiersten Gallegher, or the Assistant Attorney
17 General attempt to machinate another improper delay, Attorney General Adam Laxalt
18 shall be summoned to personally appear and explain the actions of his agency.

19 6. That the State of Nevada shall be liable for the entirety of Cisilie's
20 attorney's fees from the date of issuance of the *Order of Mandate* through the entry
21 of this *Order*, with a memo of those fees to be filed by the Willick Law Group within
22 7 days of this *Order*.

23 *****

24 *****

25 *****

26 *****

27 *****

28 *****

7. That should DHHS or Kiersten Gallagher fail to comply with these orders, further financial sanctions shall be levied and Kiersten Gallagher will be subject to incarceration for not more than 90 days.

DATED this ____ day of _____, 2018.

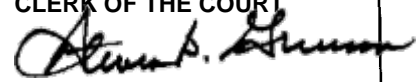
DISTRICT COURT JUDGE

Respectfully Submitted By:
WILLICK LAW GROUP



MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 002515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

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ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
Ryan D. Sunga
Deputy Attorney General
Nevada Bar No. 10998
555 E. Washington Ave., #3900
Las Vegas, NV 89101
P: (702) 486-3077
F: (702) 486-3871
E-mail: landerson@ag.nv.gov
E-mail: rsunga@ag.nv.gov

DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE PORSBOLL,

Defendant.

Case No.: 98-D-230385-D

Dept. No.: I

**OPPOSITION TO MOTION FOR AN ORDER TO SHOW CAUSE AS TO WHY
DHHS AND KIERSTEN GALLAGHER SHOULD NOT BE HELD IN
CONTEMPT AND FOR ATTORNEY'S FEES AND COSTS**

The State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, Child Support Enforcement Program (CSEP) and Kiersten Gallagher (collectively referred to as "the State"), by and through counsel, ADAM PAUL LAXALT, Attorney General, Chief Deputy Attorney General, LINDA C. ANDERSON, and Deputy Attorney General, RYAN D. SUNGA, hereby files this Opposition to Motion for an Order to Show Cause as to Why DHHS and Kiersten Gallagher Should not be Held in Contempt and for Attorney's Fees and Costs.

The State received Notice of Entry of Order of Mandamus on September 6, 2018 and Notice of Entry of the Minute Order on September 12, 2018 (where this Court found that "there is nothing else to decide and shall await the outcome of the anticipated

1 appeal from the Nevada Attorney General's Office."). The State filed an appeal on
2 September 21, 2018, but decided not to seek a stay at this time. CSEP provided its first
3 monthly status report to the office of Marshall Willick with a reminder that federal
4 regulations require CSEP to have an application signed by the Defendant Porsboll. *See*,
5 Exhibit 1. CSEP has previously notified counsel for Defendant Porsboll that a signed
6 application is required. *See*, Exhibit 2. CSEP has mailed an application to the last
7 known address of Defendant Porsboll on October 4, 2018. *See*, Exhibit 3. The State
8 submits that an order to show cause is premature at this time. The State has not refused
9 or neglected to obey the Order of Mandamus and instead is acting in good faith to
10 comply with Order of Mandamus. If this Court disagrees, the State requests time to seek
11 a stay from the Nevada Supreme Court of the Order of Mandamus while the appeal is
12 pending.

13 **A. Federal Law Requires A Signed Application.**

14 In order for the State to take all necessary steps to collect child support required
15 by the Order of Mandamus, the State cannot run afoul of Federal child support law. In
16 1996, the Federal Government enacted the Personal Responsibility and Work
17 Opportunity Reconciliation Act (PRWORA). *See*, Pub. L. No. 104-193, 110 Stat. 2105
18 (1996). Among PRWORA's key features were changes to Title IV-D of the Social
19 Security Act, which governs the CSEP program. *See generally*, 42 USC 651-669. The
20 changes included matching block grant funding for the CSEP and TANF in States who
21 adopt[ed] the Uniform Interstate Family Support Act (UIFSA) by 1998. *See*, 42 USC
22 666. Nevada adopted UIFSA in 1997 and codified it as NRS Chapter 130.

23 The separate States administer their own CSEP programs. However, "Title III of
24 PRWORA details a mandatory child support collection structure that must be
25 established and operated if a state is to remain eligible for the full TANF grant." *State v.*
26 *U.S.*, 24 F.Supp.2d 1192, 1194 (1998). Pursuant to Title IV-D, the Federal Office of
27 Child Support Enforcement (OCSE) conducts oversight of the State programs in the

28 ///

form of audits (reinforced by penalties) to ensure they abide by Federal statutes and regulations. Title IV-D of the Social Security Act states, in pertinent part:

A State plan for child and spousal support must –

(4) provide that the State will –

(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to-

(i) each child for whom [public assistance is provided];

(ii) **any other child, if an individual applies for such services with respect to the child** (except that, if the individual applying for the services resides in a foreign reciprocating country or foreign treaty country, the State may opt to require the individual to request the services through the Central Authority for child support enforcement in the foreign reciprocating country or the foreign treaty country, and if the individual resides in a foreign country that is not a foreign reciprocating country or a foreign treaty country, a State may accept or reject the application)...

42 USC 654(4) (emphasis added). Moreover, 45 CFR 302.33(a)(1) states, in pertinent part with emphasis added:

The State plan must provide that the services established under the plan **shall be made available to any individual who files an application** for the services with the IV-D agency...

CSEP must follow both this Court's Order and the Federal child support law that governs its functioning. The Court's Order of Mandamus requires the State to comply with NRS 130.307. But before the State can undertake any action under NRS 130.307, the Federal child support laws and regulations require the "individual" requesting child support services to file an application for services. The State's program is overseen and audited by the Federal Office of Child Support Enforcement (OCSE) and is subject to penalties for "data reliability errors" when it does not maintain a signed application in the case file. The State has taken this important first step in compliance and is now awaiting the completed and signed application.

B. The Order of Mandamus Does is Void for Vagueness.

A person may not be held in contempt of an order that is void for vagueness. An order cannot properly form the basis for a subsequent contempt order if it, "fail[s] to spell out the details of compliance in clear, specific, and unambiguous terms so that the person whose compliance is required will readily know exactly what duties or

obligations are imposed upon him.” *Southwest Gas Corp. v. Flintkote Co.*, 99 Nev. 127, 131, 659 P.2d 861, 864 (1983).

Here, the Order of Mandamus fails to spell out exactly what duties it is attempting to impose upon the State. The Order instructs the State to, “**take whatever actions are necessary** to have proceedings filed and pursued in Kansas – or any other state or jurisdiction where Mr. Vaile may be found – to nullify any order that is contrary to the orders issued by this Court.” (emphasis added). The State cannot be found to be in contempt, if the Order does not make clear the exact duties the Court is attempting to impose upon it.

C. UIFSA does not Create any Enforceable Individual Rights.

In filing this motion seeking contempt, Defendant Porsboll does not appear to accept that CSEP does not represent her interests. Individuals do not have a personal right to force a state CSEP program to do its bidding. As stated above, Nevada adopted UIFSA in 1997 in the wake of changes to Title IV-D enacted as part of PRWORA. One of the main public policy considerations behind PRWORA was to diminish the expanding number of custodial parents seeking welfare assistance. PRWORA attempts to accomplish this by increasing the incidence of child support payments by non-custodial parents through better IV-D services. In Title I of PRWORA, Congress stated:

The number of individuals receiving aid to families with dependent children (in this section referred to as “AFDC”) has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present...

To this end, PRWORA made changes to Title IV-D and required states to adopt UIFSA. Both IV-D and UIFSA created guidelines and requirements for the state CSEP programs to follow. However, none of these guidelines and requirements can be construed as personal rights, nor are they judicially enforceable.

In *Blessing v. Freestone*, several Arizona mothers filed a civil rights lawsuit against the director of the Arizona CSEP office on the grounds that the agency did not take adequate steps to obtain child support for them. *See*, 117 S.Ct 1353, 520 US 329

(1997). The Supreme Court held, "Title IV-D contains no private remedy – either judicial or administrative – through which aggrieved persons can seek redress. The only way that Title IV-D assures that States live up to their child support plans is through the Secretary's oversight..." See, 117 S.Ct 1353, 1355, 520 US 329, 331 (1997). Title IV-D and UIFSA do not create a binding obligation towards any particular person. Title IV-D and UIFSA are for the public good. Again, the stated public policy behind PRWORA was not to create an individual entitlement to services, but to reduce the overall number of custodial parents seeking welfare. Thus, CSEP is answerable to the Federal government for its performance, not any particular parent or child.

Here, as in *Blessing*, an individual is attempting to transform the IV-D program into an individual entitlement to services. Thus, this Court's Order of Mandamus appears to be incompatible with the stated intent of Title IV-D of the Social Security Act, UIFSA, and the holding in *Blessing*. Therefore, the State should not be held in contempt for failing to follow the Order of Mandamus, which is on appeal.

D. UIFSA does not Require the State to Litigate Cases in Foreign Jurisdictions.

Defendant Porsbol may also have unrealistic expectations of the actions that CSEP can take in Kansas. Although UIFSA creates a procedure for mutual enforcement of child support orders, it does not require the State to litigate child support cases in the other states or foreign countries. "No part of a statute should be rendered nugatory, nor any language turned to mere surplusage if such consequences can properly be avoided." *Valenti v. State, Dep't of Motor Vehicles*, 362 P.3d 83, 87-88 (2015) (citing, *Paramount Ins., v. Rayson & Smitley*, 86 Nev. 644, 649, 472 P.2d 530, 533 (1970)). This being the case, NRS 130.307(2)(a) should be read as but one small part of an overarching statutory scheme designed to increase the overall frequency of child support payments through enforcement of child support orders – not to create an individual right to demand any specific services or action from the State. NRS 130.307(2)(a) needs to be read in conjunction with all the other parts of NRS 130. NRS 130.307(6) states:

1 This chapter does not create or negate a relationship of attorney and client
2 or other fiduciary relationship between a support-enforcement agency or
the attorney for the agency and the natural person being assisted by the
agency.

3 Further, NRS 130.309 states:

4 A natural person may employ private counsel to represent him or her in
5 proceedings authorized by this chapter.

6 When taken as a whole, NRS 130 creates a system whereby a person seeking
7 child support enforcement can employ a private attorney or request assistance from
8 either CSEP. NRS 130.307 requires CSEP to "take all steps necessary to enable an
9 appropriate tribunal of this State, another state or a foreign country **to obtain**
10 **jurisdiction over the respondent.**" (emphasis added) NRS 130 does not require CSEP
11 to litigate cases in foreign jurisdictions on behalf of individual obligees. It only requires
12 CSEP to take steps to enable the other state to "obtain jurisdiction over the respondent."
13 Nor does NRS 130 create an attorney-client relationship or a fiduciary relationship
14 between the person seeking assistance and CSEP or its attorneys. To hold otherwise is
15 to render NRS 130.307(6) and .309 as mere surplusage.

16 **E. The Order of Mandamus May Violate Separation of Powers.**

17 If this Court is ordering the State to file and pursue legal action in a foreign state,
18 the Court has acted in excess of its jurisdiction under the Nevada State Constitution.
19 "The Constitution of the State of Nevada distributes governmental power into the
20 Legislative, Executive, and Judicial Departments; and each department is separate from
21 the others." *Del Papa v. Steffen*, 112 Nev. 369, 377 (1996) (string cites omitted).
22 "Legislative power is the power of law-making representative bodies to frame and enact
23 laws, and to amend and repeal them... The executive power extends to the carrying out
24 and enforcing the laws enacted by the legislature... Judicial power is the authority to
25 hear and determine justiciable controversies [and] the authority to enforce any valid
26 judgment, decree, or order." *Id.* The State of Nevada's Executive Department includes
27 the Department of Health and Human Services and its Division of Welfare and
28 Supportive Services. *See generally*, NRS Title 18, Chapter 232.

1 In *Del Papa v. Steffan*, several members of the Nevada Supreme Court ordered an
2 investigation into leaks of information to the media in violation of its orders of
3 confidentiality. *Del Papa* at 377-78. The Nevada Supreme Court held that its own
4 members had improperly exercised the function of the executive branch by ordering an
5 investigation, which had nothing to do with the power of the judicial branch to hear and
6 determine justiciable controversies. *Del Papa* at 378. Similarly, the question of
7 whether to commence litigation is quintessentially a function of the executive branch.

8 Here, as in *Del Papa*, the power to initiate child support services under NRS 130
9 is an executive function reserved exclusively for the executive branch. By mandating
10 the State to "file and pursue" litigation for the purposes of invalidating a permanent
11 injunction in Kansas, the judiciary has overstepped its judicial function and improperly
12 exercised the functions of the executive branch. This issue is on appeal, and therefore,
13 the State should not be held in contempt.

14 **F. Defendant Porsboll is not Entitled to Fees and Costs.**

15 Defendant Porsboll is not entitled to attorney's fees and costs against the State
16 under 18.010(2), 125B.150(3) or EDCR 7.60. The opposition to this motion does not
17 meet the criteria under 18.010(2) nor is vexatious as set forth in EDCR 7.60. Finally,
18 this is not the execution for enforcement of a judgment for arrears under NRS 125B.140.
19 Therefore, the request for attorney's fees here should also be denied.

20 **CONCLUSION**

21 Although, the State has filed an appeal with the Nevada Supreme Court, the State
22 is acting in good faith to comply with the Order of Mandamus. Therefore, the State
23 should not be held in contempt.

24 ///

25 ///

26 ///

27 ///

28 ///

1 Dated this 22nd day of October, 2018.

2 ADAM PAUL LAXALT
3 Attorney General

4 By: /s/ Linda C. Anderson
5 Linda C. Anderson
6 Chief Deputy Attorney General
7 Ryan Sunga
8 Deputy Attorney General
9 555 E. Washington, Suite 3900
10 Las Vegas, Nevada 89101

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that I electronically filed the foregoing *OPPOSITION TO*
13 *MOTION FOR AN ORDER TO SHOW CAUSE AS TO WHY DHHS AND KIERSTEN*
14 *GALLAGHER SHOULD NOT BE HELD IN CONTEMPT AND FOR ATTORNEY'S*
15 *FEES AND COSTS* by using the electronic filing system on October 22, 2018. The
16 following participants in this case are registered electronic filing system users and will
17 be served electronically:

18 Marshal S. Willick, Esq.
19 3591 E. Bonanza Road, Suite 200
20 Las Vegas, NV 89110-2101

21 Robert Scotlund Vaile
22 8121 Lincoln Street
23 Wamego, Kansa 66547

24 /s/ Linda Aouste
25 Employee of the Office of the Attorney General
26
27
28

INDEX OF EXHIBITS

Exhibit 1: Letter to Marshal Willick from Kiersten Gallagher dated October 1, 2018

Exhibit 2: Letter to Marshal Willick from Kiersten Gallagher dated November 30, 2017

Exhibit 3: Letter to Cisilie Porsboll from Rebecca Lindelow dated October 4, 2018.

EXHIBIT 1

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

October 1, 2018

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, NV 89110

Re: Vaile v. Porsboll – UPI-522604100A

Dear Mr. Crane:

This letter is to provide you with a monthly status update, from the Child Support Enforcement Program, on the above case, which was appealed to the Nevada Supreme Court on September 21, 2018.

The Program has not received a request for services, from Ms. Porsboll. Per 45 CFR 303.2, the IV-D agency must "accept an application as filed on the day it and the application fee are received. An application is a record that is provided or used by the State, which indicates that the individual is applying for child support enforcement services under the State's title IV-D program and is signed, electronically or otherwise, by the individual applying for IV-D services."

Sincerely, .

A handwritten signature in cursive script, appearing to read "Kiersten Gallagher".
Kiersten Gallagher
Social Services Manager I

EXHIBIT 2

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

STEVE H. FISHER
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, NV 89119
Telephone (702) 486-1095 • Fax (702) 366-2333
<http://dwss.nv.gov>

November 30, 2017

Mr. Marshal Willick
Willick Law Group
3591 E. Bonanza Road
Suite 200
Las Vegas, Nevada 89110

Re: Vaile v. Porsboll – UPI-522604100A

Dear Mr. Willick:

This letter is to inform you that the Nevada Child Support Enforcement Program (CSEP) is closing this case based on the following:

The request for services, dated on July 6, 2017, does not meet the criteria for a child support application, as it was incomplete and not signed by the applicant. Per 45 CFR 303.2, an application is defined as a written document provided by the state, which indicates the individual is applying for IV-D services and is signed, electronically or otherwise, by the applicant.

On October 5, 2015, a Kansas District Court issued a Clarifying Order reaffirming its February 11, 2013, ruling that the Norwegian order controls and that the permanent injunction will remain in place. This order specifically states, in paragraph five: "No agency, enforcement officer or employer in the State of Kansas shall threaten, demand or attempt to collect child support, or other fees or costs in the nature of support, from Petitioner contrary to this order, or based on competing orders from other jurisdictions." Accordingly, the Kansas IV-D agency will not enforce this case, leaving the Nevada IV-D program unable to provide these services.

As there are no Nevada IV-D services to be provided, this case will close 60 days from the date of this letter. This does not, however, preclude Ms. Porsboll from attempting to privately enforce the Nevada order through Norway's child support enforcement agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Kiersten Gallagher".
Kiersten Gallagher
Social Services Manager I

*Nevada Department of Health and Human Services
Helping People -- It's Who We Are And What We Do*

AA 0223

EXHIBIT 3



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF WELFARE AND SUPPORTIVE SERVICES
Child Support Enforcement Program
1900 E. Flamingo Road, Suite 115
Las Vegas, NV 89119
(702) 486-1095 • Fax (702) 366-2333

RICHARD WHITLEY
Director

STEVE H. FISHER
Administrator

October 4, 2018

CISILIE VAILE PORSBOLL
NORDASSLOYFA 29A
1251 OSLO NO*

Re: Cisilie Vaile Prosboll vs. Robert Vaile
Our case no.: UPI-522604100A
Your case no.:

Dear Cisilie Vaile Prosboll:

Enclosed you will find an Application for Child Support Services which is being provided to you per the request of Willick Law Group. If you would like to apply for our services, please complete and return the application to the address above.

Sincerely,

Rebecca Lindelow
Family Services Supervisor

Working for the Welfare of ALL Nevadans

MULTI

AA 0225

FOR OFFICIAL USE ONLY**DATE STAMP**

DATE APPLICATION REQUESTED _____

DATE APPLICATION PROVIDED _____

DATE APPLICATION RECEIVED _____

**DIVISION OF WELFARE AND SUPPORTIVE SERVICES
APPLICATION FOR CHILD SUPPORT SERVICES**

CASE NUMBER: _____

PLEASE CAREFULLY READ THE FOLLOWING INFORMATION.

Child Support Enforcement (CSE) Program Services:

- Locate all noncustodial parents and/or sources of income and/or assets;
- Enforce financial and medical support;
- Establish paternity (determine who is the father of the child(ren));
- Review and adjust existing child support orders;
- Establish financial and medical support;
- Collect and distribute financial and medical support payments.

The CSE program:

- must provide all the above services to all individuals, unless the individual is a Medicaid recipient and the Medicaid recipient notifies the CSE program in writing they only want medical support services;
- has sole discretion in determining which legal remedies are used to provide the above services and cannot guarantee success;
- may request assistance of another state and, thereby, be subject to the laws of that state. It may take ninety (90) days, or more, after the other state receives the request for services before any information is available;
- **does not** provide services involving custody, visitation or unpaid medical bills. However, these services may be available through a private attorney;
- will close your cases upon written request from you or when your case meets closure rules established by federal and state regulation.

Important Information You Should Know:

The CSE program:

- will impose a \$25 annual fee in each case where an individual has never received TANF cash assistance and for whom the State has collected at least \$500 of child support.
- represents the State of Nevada when providing services and no attorney-client privilege exists;
- is authorized to endorse and cash checks, money orders and/or other forms of payment made payable to you for support payments;
- child support payments will be made as a direct deposit into your bank account, or by a Nevada Debit Card. A Nevada Debit Card will be issued to you unless you request payments by direct deposit. For more information regarding direct deposit, please call toll free to the Child Support Customer Service Unit at (800) 992-0900 or check the Child Support Enforcement State Collections and Disbursement Unit (SCaDU) website at [https://dwss.nv.gov/uploadedFiles/dwssnv.gov/content/Home/Features/Forms/1116-MEC Direct %20Deposit%20Info%20English.pdf](https://dwss.nv.gov/uploadedFiles/dwssnv.gov/content/Home/Features/Forms/1116-MEC%20Direct%20Deposit%20Info%20English.pdf) to print a Direct Deposit Authorization Agreement.
- may collect past-due support by intercepting an IRS tax refund or other federal payment. If a tax intercept occurs, the CSE program has the authority to hold a joint tax refund for a period of six (6) months before distributing the funds. No interest is paid on the held funds. Funds collected from tax intercept are applied first to pay off any past-due support assigned to the State of Nevada. A nonrefundable fee is deducted by the federal government for any tax or federal payments intercepted by the CSE program.

By accepting cash or medical assistance for yourself or the child in your custody, you have made an assignment to the Division of Welfare and Supportive Services of all rights to support from any person. Any unpaid support assigned to the State of Nevada may be enforced and collected until paid in full.

(Page 1 of 7) 4000 - EC (7/15)

AA 0226

If you receive cash assistance, support payments are kept by the State of Nevada to pay off any past-due support assigned to the state. When you are off cash assistance, support payments are sent to you until you request case closure in writing. However, any unpaid support assigned to the State of Nevada may be enforced and collected until paid in full.

All support payments are sent to and processed by the CSE program and distributed according to federal and state regulations.

The CSE program is required by Chapter 42 of the United States Codes, federal regulations, and state laws that established the CSE program to obtain the social security numbers (SSN) for those individuals receiving child support services. The SSN is needed to properly establish and enforce child support obligations based on program services and comply with reporting requirements contained in the federal and state laws and regulations previously mentioned. Any individual who fails to disclose this information may result in the denial of child support services. The CSE program will use these SSNs only for the purpose of providing services outlined in the federal law, federal regulations, state laws, and state regulations that govern the CSE program.

In accordance with federal law and U.S. Department of Health and Human Services (HHS) policy, the Division of Welfare and Supportive Services is prohibited from discriminating on the basis of race, color, national origin, sex, age or disability. To file a complaint of discrimination, write HHS, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (800) 368-1019 (voice) or (800) 537-7697 (TDD).

Responsibilities:

You are responsible for:

- providing all available information requested by the CSE program. This may include certified copies of a divorce decree and/or all existing support orders, copies of the children's birth certificates, and a photograph of the noncustodial parent;
- participating in genetic testing to establish paternity. If the genetic test proves the person named is not the father, you may be required to pay the cost of the genetic test;
- reporting when any of the following changes happen;
 1. Name change, new address or telephone number for home or work;
 2. A private attorney or collection agency is hired;
 3. Another child support or paternity legal action is filed;
 4. Filing for divorce;
 5. Receive support payments directly from the noncustodial parent;
 6. New address, telephone number, employment or health insurance for the noncustodial parent;
 7. Child(ren) no longer live with you;
 8. Child(ren) still in high school **after** age 18;
 9. Child(ren) become disabled **before** age 18;
 10. Child(ren) come to live with you or birth of another child;
 11. A child marries, is adopted, joins the armed forces or is declared an adult by court order.
- requesting a review and adjustment of the existing support order once every three years or if there is a significant change in circumstances;
- turning in support payments you receive directly from the noncustodial parent when you are receiving cash assistance;
- repayment of support amounts received in error, including support payments from an IRS tax refund which are adjusted by the IRS. If you fail to enter into a repayment agreement with the CSE program, the outstanding balance may be reported to a credit reporting agency and money collected on your behalf by the CSE program may be withheld for repayment. Additionally, legal action may be initiated against you.

Application Instructions:

You must answer all questions. Please PRINT OR TYPE answers in black or blue ink. Check Yes, No, Unknown or write N/A (not applicable) in any space which does not apply. Use a separate sheet of paper if you need more room for any answer or if you have additional information regarding the noncustodial parent which is not covered by the questions on this form. **(Attach copies of all support court orders.) The application must be signed on pages 6 and 7. Services could be delayed if your application is not complete and signed.**

COMPLETE THE FOLLOWING ABOUT YOU, THE CUSTODIAN (CST), OF THE CHILD(REN):

Name (Last, First, Middle)		Other Last Names Used	
Resident Address (City, County, State & Zip Code)			How long lived in Nevada?
Mailing Address (If different than above)			
Home Phone No. ()		Work Phone No. ()	
Cell Phone No. ()		E-Mail Address:	
Social Security No.	Birth Date	Birth Place	<input type="checkbox"/> Male <input type="checkbox"/> Female
Height ft in	Weight lbs	Hair Color: Eye Color:	Race:
Employer Name & Address (City, State, & Zip Code)			Job Title
Are you: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Living with a boyfriend or girlfriend			
What is your relationship to the children? (Mother, father, grandparent, etc.)			
Date children began living with you (month/year)?			

MEDICAL/HEALTH INSURANCE INFORMATION:

Do you and the children have satisfactory medical/health insurance (not Medicaid)? <input type="checkbox"/> Yes <input type="checkbox"/> No Monthly cost?	
Is medical/health insurance available with your employer? <input type="checkbox"/> Yes <input type="checkbox"/> No Monthly cost?	Please attach a copy of your medical/health insurance card.

PUBLIC ASSISTANCE (DIVISION OF WELFARE AND SUPPORTIVE SERVICES) INFORMATION:

Did you apply for TANF cash assistance? <input type="checkbox"/> No	If Yes, where? (City, State)
When? (Month/Year)	
Have you or the children received TANF cash assistance in the past? <input type="checkbox"/> Yes <input type="checkbox"/> No	What year(s)?
If Yes, where? (City, State)	

CHILDREN INFORMATION:

Child's Name (Last, First, Middle)		<input type="checkbox"/> Male <input type="checkbox"/> Female	Pregnancy began in what state?
Social Security No.	Birth Place: Birth Date:	Race	How long has child lived in Nevada?
Child's Parents: <input type="checkbox"/> Never married <input type="checkbox"/> Lived together <input type="checkbox"/> Married <input type="checkbox"/> Divorced			
Date mother stopped living with child:		Date father stopped living with child:	
Date Parents Married: City, State:		Date Parents Divorced: City, State:	
Mother's Name:		Father's Name: On birth record? <input type="checkbox"/> Yes <input type="checkbox"/> No	

CHILDREN INFORMATION Continued:

Child's Name (Last, First, Middle)		<input type="checkbox"/> Male <input type="checkbox"/> Female	Pregnancy began in what state?
Social Security No.	Birth Place: Birth Date:	Race	How long has child lived in Nevada?
Child's Parents: <input type="checkbox"/> Never married <input type="checkbox"/> Lived together <input type="checkbox"/> Married <input type="checkbox"/> Divorced			
Date mother stopped living with child:		Date father stopped living with child:	
Date Parents Married: City, State:		Date Parents Divorced: City, State:	
Mother's Name:		Father's Name: On birth record? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Child's Name (Last, First, Middle)		<input type="checkbox"/> Male <input type="checkbox"/> Female	Pregnancy began in what state?
Social Security No.	Birth Place: Birth Date:	Race	How long has child lived in Nevada?
Child's Parents: <input type="checkbox"/> Never married <input type="checkbox"/> Lived together <input type="checkbox"/> Married <input type="checkbox"/> Divorced			
Date mother stopped living with child:		Date father stopped living with child:	
Date Parents Married: City, State:		Date Parents Divorced: City, State:	
Mother's Name:		Father's Name: On birth record? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Child's Name (Last, First, Middle)		<input type="checkbox"/> Male <input type="checkbox"/> Female	Pregnancy began in what state?
Social Security No.	Birth Place: Birth Date:	Race	How long has child lived in Nevada?
Child's Parents: <input type="checkbox"/> Never married <input type="checkbox"/> Lived together <input type="checkbox"/> Married <input type="checkbox"/> Divorced			
Date mother stopped living with child:		Date father stopped living with child:	
Date Parents Married: City, State:		Date Parents Divorced: City, State:	
Mother's Name:		Father's Name: On birth record? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Child's Name (Last, First, Middle)		<input type="checkbox"/> Male <input type="checkbox"/> Female	Pregnancy began in what state?
Social Security No.	Birth Place: Birth Date:	Race	How long has child lived in Nevada?
Child's Parents: <input type="checkbox"/> Never married <input type="checkbox"/> Lived together <input type="checkbox"/> Married <input type="checkbox"/> Divorced			
Date mother stopped living with child:		Date father stopped living with child:	
Date Parents Married: City, State:		Date Parents Divorced: City, State:	
Mother's Name:		Father's Name: On birth record? <input type="checkbox"/> Yes <input type="checkbox"/> No	

COMPLETE THE FOLLOWING ABOUT THE NONCUSTODIAL PARENT (NCP) (parent who is absent from the children)

Name (Last, First, Middle)				Other Names Used:			
Resident Address (City, County, State & Zip Code)						<input type="checkbox"/> Current Address <input type="checkbox"/> Last Known Address <input type="checkbox"/> Relative's Address	
Mailing Address (If different than above)						<input type="checkbox"/> Current Address <input type="checkbox"/> Last Known Address <input type="checkbox"/> Relative's Address	
Home Phone No. ()				Work Phone No. ()			
Cell Phone No. ()				E-Mail Address			
Social Security No.		Birth Date		Birth Place City, State		<input type="checkbox"/> Male <input type="checkbox"/> Female	
Height ft in	Weight lbs		Hair Color Eye Color		Race		
Describe any scars, birthmarks or tattoos:							
Is the parent: <input type="checkbox"/> Mother <input type="checkbox"/> Father Is the parent: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Living with a boyfriend or girlfriend							
Has the parent been in jail or prison? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, where? (City, State) When?							
At any time was the mother married to this non-custodial parent? <input type="checkbox"/> Yes <input type="checkbox"/> No				Date of Marriage		Date of Divorce	
Was the mother married to someone else? <input type="checkbox"/> Yes <input type="checkbox"/> No				Are there other possible fathers? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Existing Child Support Order? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, from what City, State? Attach a copy							
Last support payment date: <input type="checkbox"/> direct to you <input type="checkbox"/> from another child support office; City, State:							

EMPLOYMENT/INCOME INFORMATION:

Employer Name & Address (City, State)		Type of work:	
<input type="checkbox"/> Current Employer <input type="checkbox"/> Former Employer			
Union Member <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, what union?		Local #:	
Union Address (City, State) and phone no.:			
Military Service <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, what branch? <input type="checkbox"/> Army <input type="checkbox"/> Navy <input type="checkbox"/> Air Force <input type="checkbox"/> Marines <input type="checkbox"/> Coast Guard <input type="checkbox"/> Reserves			
Other Income: <input type="checkbox"/> Unemployment <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Social Security <input type="checkbox"/> Retirement <input type="checkbox"/> Self-employed			

MEDICAL/HEALTH INSURANCE INFORMATION:

Does the parent have medical/health insurance for the children? <input type="checkbox"/> Yes <input type="checkbox"/> No		Are the children covered? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Name & address of insurance company (City, State)			
Policy No.		Group No.	

RESOURCE INFORMATION:

Vehicles (car, boat, trailer, RV, etc.)? Make: Model: Year: License #: State:				
Property Owned (home, land, buildings, etc.)? Address/Location (City, State):				
Bank Accounts (Checking, Savings, CD, IRA, Retirement, etc.)? Location (Bank name, City, State)				

PAYMENT HISTORY FOR NONCUSTODIAL PARENT (NCP) (starting with most recent month)

NCP's Name: _____

YEAR: _____

YEAR: _____

YEAR: _____

Month	Amount Due	Amount Paid	Month	Amount Due	Amount Paid	Month	Amount Due	Amount Paid
Jan			Jan			Jan		
Feb			Feb			Feb		
Mar			Mar			Mar		
Apr			Apr			Apr		
May			May			May		
June			June			June		
July			July			July		
Aug			Aug			Aug		
Sept			Sept			Sept		
Oct			Oct			Oct		
Nov			Nov			Nov		
Dec			Dec			Dec		
TOTAL			TOTAL			TOTAL		

YEAR: _____

YEAR: _____

YEAR: _____

Month	Amount Due	Amount Paid	Month	Amount Due	Amount Paid	Month	Amount Due	Amount Paid
Jan			Jan			Jan		
Feb			Feb			Feb		
Mar			Mar			Mar		
Apr			Apr			Apr		
May			May			May		
June			June			June		
July			July			July		
Aug			Aug			Aug		
Sept			Sept			Sept		
Oct			Oct			Oct		
Nov			Nov			Nov		
Dec			Dec			Dec		
TOTAL			TOTAL			TOTAL		

DECLARATION

I declare under penalty of perjury the information I have provided on this application is true and correct to the best of my knowledge and belief and the statements contained herein are made for the purposes stated herein including, but not limited to, obtaining assistance in paternity and order establishment, and the enforcement and distribution of child support. By signing this application, I acknowledge the responsibilities as listed and agree to the services the Child Support Enforcement Program provides.

Name of Applicant (please print) _____

Signature of Applicant _____

Date _____

Case Name: _____

Case Number: _____

DOMESTIC OR FAMILY VIOLENCE STATEMENT

I believe the release of my and/or the child(ren)'s address and/or other identifying information would unreasonably put me and/or the child(ren)'s health, safety, or liberty at risk.

☐ NO

☐ YES. Explain fully and attach filed copies of all relevant court orders and other documentation.

(If additional space is needed, continue on a separate sheet of paper.)

Disclosure of Information:

Any information contained in this application can be used in other cases in which you are involved, such as a change in child custody where you become a noncustodial parent. Information contained in CSE program cases is not given to anyone not directly involved in the administration of the program.

If the CSE program requests assistance of another state, the Uniform Interstate Family Support Act of 1996 (UIFSA) requires personal identifying information be provided to that state about you and the children in your custody, such as resident address. Nevada law provides protection for you and the children in your custody if there is serious risk of family violence or child abduction. A court can order personal identifying information not be given if the health, safety or liberty of you or the children in your custody would be at risk.

Declaration:

I declare under penalty of perjury that the information I have provided on this statement is true and correct.

Name of Applicant (Please Print)

Signature of Applicant

Date

TRACKING ID

432000882237

MULTIPLE TRACKING NUMBERS · NEED HELP?



Delivered

Monday 10/08/2018 at 5:52 pm



DELIVERED

Signed for by AJETILPOREBOL

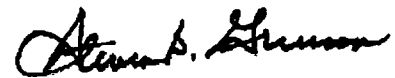
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FROM

United Parcel

TO

United Parcel



RPLY
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@willicklawgroup.com
Attorney for Defendant

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

ROBERT SCOTLUND VAILE,
Plaintiff,

vs.

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

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

DATE OF HEARING: 11/6/18
TIME OF HEARING: 9:00 a.m.

DEPT. OF HEALTH AND HUMAN SVCS
CHILD SUPPORT ENFORCEMENT
PROGRAM AND KIERTEN GALLAGHER
(SOCIAL SERVICES MGR I)

**REPLY TO
"OPPOSITION TO MOTION FOR AN ORDER TO SHOW CAUSE
AS TO WHY DHHS AND KIERSTEN GALLAGHER SHOULD NOT
BE HELD IN CONTEMPT
AND FOR ATTORNEY'S FEES AND COSTS"**

I. INTRODUCTION

The *Opposition* misrepresents controlling case law, strains past breaking any rational reading of statutes, and grossly mis-states the separation of powers. It does not appear possible that such misrepresentations could be accidental.

1 The *Opposition* filed by the State is at best conclusory with little actual
2 reference to the applicable law. When the State does refer to a case or statute, it adds
3 unsupported and unsupportable commentary on what the case allegedly stands for.

4 The bottom line is that the *Opposition* is just more excuse-making and delay.
5 The State's *Opposition* should be dismissed out of hand by the Court and, even
6 though it includes a request for relief without actually making a counter motion, that
7 relief should be denied with prejudice.

8 9 II. LEGAL ARGUMENT

10 This *Reply* will address each issue raised by the State in turn. The fact that the
11 State has appealed the *Writ of Mandate* does not affect the enforcement of this
12 Court's Orders.

13 14 A. Federal Law Says Nothing About a Client Signing an Application

15 The State attempts to "read into" all of its governing statutes and regulations
16 convenient "requirements" that just aren't there. The language quoted in the
17 *Opposition* has *no* requirement that Ms. Porsboll file a new application for services
18 and certainly does not say that she must personally sign that application.

19 The Supreme Court has held in *P.S. v. The State of Nevada*,¹

20 This case raises issues of statutory interpretation, which this court reviews de
21 novo. *MGM Mirage v. Nev. Ins. Guar. Ass'n*, 125 Nev. 223, 226, 209 P.3d
22 766, 768 (2009). "This court has established that when it is presented with an
23 issue of statutory interpretation, it should give effect to the statute's plain
24 meaning." *Id.* at 228, 209 P.3d at 769. "Thus, when the language of a statute
25 is plain and unambiguous, such that it is capable of only one meaning, this
26 court should not construe that statute otherwise." *Id.* at 228-29, 209 P.3d at
27 769.

28 Here, the State cites to 45 CFR 302.33(a)(1) that services "*SHALL* be made
available to any individual who files an application for the services with the IV-D

¹ *P.S. v. The State of Nevada*, 131 Nev. ___, P.3d ___ (Adv. Op. 95 December 24, 2015).

1 agency..." [Emphasis added]. They *have* an application – if they didn't, they would
2 not have had an open case that they improperly decided to close.

3 Nothing in this citation says anything about Ms. Porsboll having to personally
4 sign anything. In this case, the regulation is clear, upon application, DHHS *SHALL*
5 provide services to the requesting individual. And that's all it says.

6 So we agree that an application for services is required. The State fails to
7 admit that they have a valid application that was being enforced by the District
8 Attorney – another IV-D Agency – *or* that the same application was forwarded to
9 them for enforcement. They closed that case even though we objected to that closure.
10 All they need to do is reopen the case – an administrative task for which a "new
11 application" is irrelevant. This is *prima facie* evidence of intent to delay and a desire
12 to defy the authority of this Court.

13 As a side note, but significant to this case, is the representation that the State
14 sent a new application directly to Ms. Porsboll claiming that *WE* requested that they
15 do so. This is an outright lie. We never asked them to contact Ms. Porsboll and the
16 Court never instructed them to do so.

17 We have a valid power of attorney and have signed the original application for
18 services. The State has just decided that they won't enforce that application, in
19 defiance of both the controlling statute and this Court's direct *Order*. The *only*
20 purpose for their actions is to avoid doing their job.

21 22 **B. The Order of Mandate is not Vague**

23 The State's *Opposition* correctly cites to the language in the *Order of Mandate*.
24 It says: "take whatever actions are necessary to have proceedings filed and pursued
25 in Kansas...." They have done nothing in over two months.

26 We have dealt with the application issue above. What have they done in
27 Kansas? Nothing. The Order is clear and unambiguous. The status report was to tell
28 us what they were doing to enforce the order, in response, they said they sent a wholly

unnecessary and irrelevant application form to Norway to be signed by our client. This is not doing anything in Kansas. DHHS is in contempt of this Court's clear order.

The State cites to *Southwest Gas Corp.*² This is good case law, but it does not support the State's argument because they never even try to explain how the order of this Court is "unclear." They knew exactly what they were required to do. Since they have done *nothing*, they are obviously ignoring the mandate which is contemptuous on its face.

It is never required for a Court to provide step by step instructions on how to comply with an order. DHHS "does this for a living"; they know perfectly well what steps to follow to actually collect child support. They just need to start doing it.

C. UIFSA and 45 CFR 302.33(a)(1) Require DHHS to Act

When analyzing UIFSA, this Court is required to look no further than the Statutes that codify the law. Nevada codified the uniform law under NRS 130 *et seq.* Our statute requires collection of child support from an obligor and requires that the State – DHHS – collect that support. There is *no discretion* under NRS 130.307:

1. A support-enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under this chapter.
2. A support-enforcement agency of this State that is providing services to the petitioner shall:
 - (a) Take all steps necessary to enable an appropriate tribunal of this State, another state or a foreign country to obtain jurisdiction over the respondent;
 - (b) Request an appropriate tribunal to set a date, time and place for a hearing;
 - (c) Make a reasonable effort to obtain all relevant information, including information as to the income and property of the parties;
 - (d) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of notice in a record from an initiating, responding or registering tribunal, send a copy of the notice to the petitioner;
 - (e) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of communication in a record from the respondent or his or her attorney, send a copy of the communication to the petitioner; and
 - (f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

² *Southwest Gas Corp. v. Flintkote Co.*, 99 Nev. 127, 131 659 P.2d 861, 864 (1983).

1 3. A support-enforcement agency of this State that requests registration of a
2 child-support order in this State for enforcement or for modification shall
3 make reasonable efforts:

4 (a) To ensure that the order to be registered is the controlling order; or

5 (b) If two or more child-support orders exist and the identity of the controlling
6 order has not been determined, to ensure that a request for such a
7 determination is made in a tribunal having jurisdiction to do so.

8 A support-enforcement agency of this State that requests registration and
9 enforcement of a support order, arrears or judgment stated in a foreign
10 currency shall convert the amounts stated in the foreign currency into the
11 equivalent amounts in dollars under the applicable official or market exchange
12 rate as publicly reported.

13 5. A support-enforcement agency of this State shall request a tribunal of this
14 State to issue a child-support order and an income-withholding order that
15 redirect payment of current support, arrears and interest if requested to do so
16 by a support-enforcement agency of another state pursuant to a law similar to
17 NRS 130.319.

18 First, there is nothing ambiguous about this statute. It clearly defines what
19 DHHS is required under State Law to do. Since the State clearly is required – and
20 they admit this requirement³ – to collect child support from any individual that
21 applies for their services – and Ms. Porsboll has applied for their services – DHHS
22 is in contempt for not doing what is required under the statute.⁴

23 The Court need not look beyond the plain reading of that statute.⁵

24 Next the State cites to *Blessing v. Freestone*⁶ to support their position that “no
25 one” can force them to do their job. This is a deliberate misrepresentation of the law
26 and an attempt to deceive the Court as to its authority in this case. *Blessing*
27 specifically says that no one has a “federal right” to force a state agency to
28 substantially comply with Title IV-D.

Not having a federal right is substantially different than having a state right.
The *Blessing* holding confirms that you can’t sue the State in federal court to enforce

³ See the State’s *Opposition* at lines 8 through 10 on page 6.

⁴ The quoted language in lines 13 and 14 on page 3 of the *Opposition* indicate that DHHS’s
action in this case is mandatory.

⁵ *P.S. v. The State of Nevada*, 131 Nev. ___, P.3d ___ (Adv. Op. 95 December 24, 2015).

⁶ *Blessing v. Freestone*, 117 S.Ct 1353, 520 US 329 (1997).

1 the provision of Title IV-D. It does not hold that you can't sue the state agency in
2 state court for violations of state law, or that a Nevada district court cannot require
3 a Nevada administrative agency to take an action, which it obviously can order, and
4 *has* ordered.

5 Here, DHHS has violated Nevada State law by not complying with NRS
6 130.307. To accept the State's argument would be granting them permission to never
7 do their job with no recourse. It would also place DHHS above the law of the State,
8 giving them immunity to suit on functions that are not discretionary, and renounce the
9 general jurisdiction authority of the district courts of Nevada.

10 All agree that the language of NRS 130.307 is not discretionary as the use of
11 the word "shall" has been defined by the Nevada Supreme Court as mandatory
12 language.⁷ "NRS 41.032(2) precludes an action against the state or a political
13 subdivision "[b]ased on the exercise or performance or the failure to exercise or
14 perform a discretionary function or duty ... whether or not the discretion involved is
15 abused."⁸ However, when the action by the State agency is mandatory, they can be
16 sued for failing to act.⁹

17 To attempt to muddy the water by claiming that no individual can actually force
18 the agency to do their job is ludicrous and a deliberate misrepresentation of the
19 controlling law.

20
21 **D. "All Steps Necessary" Includes Litigation, if Necessary**

22 How the State can claim that they are not required to litigate in a foreign State
23 when that may be a necessary step to collect child support is beyond reason.

24
25
26 ⁷ *Fouchier v. McNeil Const. Co.*, 68 Nev. 109, 122, 227 P.2d 429, 435 (1951).

27 ⁸ *Foley v. City of Reno*, 100 Nev. 307, 680 P. 2d 975 1984.

28 ⁹ *Id.*, citing to *State v. Webster*, 88 Nev. 690, 504 P.2d 1316 (1972).

1 The State quotes *Valenti*¹⁰ claiming that no language in a statute is to be
2 rendered nugatory, nor any language turned to mere surplusage. We agree
3 wholeheartedly. What that legal principle has to do with litigating in a foreign
4 jurisdiction is anybody's guess. There is nothing in the statute that says they don't
5 have to litigate in another state; that is far more relevant.

6 We also agree with the State's citation to NRS 130.309 as authority for a
7 litigant to hire their own attorney. But that same statute allows the litigant to select
8 DHHS to represent them as well. Since Ms. Porsboll can't afford an attorney in
9 Kansas, and since it is DHHS's job, she selects them to represent her there.

10 Doing as DHHS purports to request – looking at the statute as a whole – DHHS
11 is in contempt for failure to comply with this Court's orders.

12
13 **E. The Order of Mandamus Does Not Violate "Separation of Powers"**

14 This case has nothing whatever to do with *Del Papa v. Steffan*.¹¹ In that case,
15 several members of the Nevada Supreme Court over stepped their constitutional
16 authority by demanding an investigation of an Executive Branch agency. Here, this
17 Court is ordering a State Agency to do their statutorily-mandated job. As has been
18 briefed in our *Motion* it is completely within the jurisdiction of the Court and the
19 controlling statutes to hold both DHHS and Kiersten Gallagher in contempt for
20 refusing to perform the duties of their office or agency.

21 Nothing further need be discussed here.
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27 ¹⁰ *Valenti v. State, Dep't of Motor Vehicles*, 131 Nev. ____, 362 P.3d 83, (2015).

28 ¹¹ *Del Papa v. Steffan*, 112 Nev. 369, 377 915 P.2d 245 (1996).

1 **F. Ms. Porsboll Is Entitled to Fees and Costs**

2 Based on the quality of the *Opposition* alone, Ms. Porsboll is entitled to fees
3 and costs under EDCR 7.60 for having to respond to a frivolous filing. The State
4 provides no explanation as to why NRS 18.010, 125B 150(3), or 125B.140 is
5 inapplicable to this case, and we've already cited the authority holding agencies to
6 the same statutes that govern other parties to litigation.

7 We should not need to point out that EDCR 5.503 requires more than just bare
8 citation to rules and statutes.¹² Since that is exactly what they are doing, this part of
9 their *Opposition* should be struck as non-meritorious.

10 We stand by our argument in our *Motion* as to why the State should be paying
11 the entirety of our fees and costs. Since they provided no cogent argument opposing,
12 we ask the Court to grant our request in its entirety.

13
14 **III. CONCLUSION**

15 The State claims to have acted in "good faith." Their *Opposition* belies that
16 contention *on its face*. It is clear that they still hold this Court's ruling in contempt
17 and simply refuse to do their job.¹³

18 Not one argument in their *Opposition* holds any water. The law asserted is
19 wrong, the logic is wrong, and the argument is conclusory and specious. Since they
20 have not properly opposed our *Motion*, both DHHS and Kierten Gallagher should be
21 held in contempt of this Court's clear and unambiguous orders.

22
23
24 ¹² EDCR 5.503(a) Every motion, opposition, countermotion, and reply shall include points
25 and authorities supporting each position asserted. Points and authorities lacking citation to relevant
26 authority, or consisting of bare citations to statutes, rules, or case authority, do not comply with this
rule.

27 ¹³ If they applied the manpower and effort that they have expended in opposing our initial
28 *Motion* to actually doing their mandated job, we might actually see Mr. Vail paying some of his
massive child support arrearages.

1 We ask the Court to find the State's arguments without merit and to grant our
2 *Motion* in its entirety.

3 DATED this 1st day of November, 2018.

4 Respectfully Submitted By:

5 WILICK LAW GROUP

6 

7 MARSHAL S. WILICK, ESQ.
8 Nevada Bar No. 2515
9 RICHARD L. CRANE, ESQ.
10 Nevada Bar No. 9536
11 3591 E. Bonanza Road, Suite 200
12 Las Vegas, Nevada 89110-2101
13 (702) 438-4100
14 Attorneys for Defendant
15
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 1st day of November, 2018, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.
- ☐ by placing same to be deposited for mailing in the United States Mail, Certified, Return Receipt Requested, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

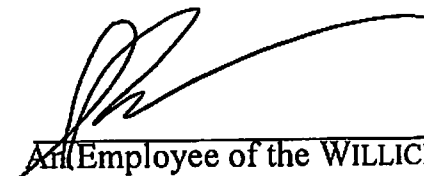
To the address, email address, and/or facsimile number indicated below:

Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

Department of Health and Human Services
Division of Welfare and Supportive Services
Child Support Enforcement Program
1900 E. Flamingo Road
Las Vegas, Nevada 89119

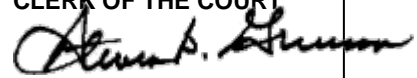
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Adam Laxalt, Esq.
Attorney General State of Nevada
Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101



Attorney of the WILICK LAW GROUP

P:\wp16\VAILE,CDRAFTS\00265400.WPD



ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
(702) 486-3077
Fax: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILE A. PORSBOLL,

Defendant.

Case No.: 98D230385

Dept. No.: I

REPORT TO COURT ON ORDER OF MANDAMUS

The State of Nevada, Department of Health and Human Services, Division of Welfare and Supportive Services, Child Support Enforcement Program and Kiersten Gallagher (hereinafter "the State") by and through counsel, ADAM PAUL LAXALT, Attorney General, and Chief Deputy Attorney General, LINDA C. ANDERSON, hereby files this report pursuant to the Order of Mandamus filed on September 5, 2018. The State is ordered to provide a monthly status report of the actions taken and the results of those actions to the Court with a copy to counsel.

///

1 The State had been corresponding with Porsboll and her counsel to obtain an
2 updated application so they could take all necessary steps under NRS 130.307. After the
3 hearing on the motion for contempt on November 6, 2018, Counsel for Porsboll emailed
4 an application for child support which had been signed by Porsboll on October 23, 2018.
5 The case was reviewed and opened on November 13, 2018 with a request for certified
6 copies of Nevada orders and the case audited beginning with the Nevada Order filed July
7 10, 2012 for principle and interest judgements and the Nevada Order filed August 17,
8 2012 for penalties judgement. The State received copies of the certified order on
9 November 14, 2018 and transmitted all necessary information to the other jurisdiction in
10 Kansas.

11 **AFFIRMATION PURSUANT TO NRS 239B.030**

12 The undersigned does hereby affirm that the preceding document does not contain
13 the social security number of any person.

14 Dated: November 19, 2018

15 ADAM PAUL LAXALT
16 Attorney General

17 By: /s/ Linda C. Anderson
18 Linda C. Anderson
19 Chief Deputy Attorney General
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Marshall S. Willick, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101

Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansa 66547

/s/ Linda Aouste
Employee of the Office of the Attorney General

1 **ORDER**
2 WILICK LAW GROUP
3 MARSHAL S. WILICK, ESQ.
4 Nevada Bar No. 2515
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 Attorney for Defendant

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

13 ROBERT SCOTLUND VAILE,
14 Plaintiff,

15 vs.

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

18 Defendant.

19 DEPT. OF HEALTH AND HUMAN
20 SVCS CHILD SUPPORT
21 ENFORCEMENT PROGRAM AND
22 KIERSTEN GALLAGHER (SOCIAL
23 SERVICES MGR I)

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

24 **ORDER FROM THE NOVEMBER 6, 2018, HEARING**

25 This matter came before the Court on for Defendant's Motion for an Order to
26 Show Cause. Defendant, Cisilie A. Porsboll, f/k/a Cisilie A. Vaile was not present
27 as she resides in Norway, but was represented by her attorneys, Marshal S. Willick,
28 Esq., and Richard L. Crane, Esq. of the WILICK LAW GROUP, and Plaintiff was not
present, nor represented by counsel, although he was duly noticed. Real Party in
Interest was represented by the State of Nevada Attorney General's Office with Chief
Deputy AG Linda Anderson, Esq., and Ryan Sunga, Esq., present. The Court, having

Non-Trial Dispositions: ☐ Other ☐ Settled/Withdrawn: ☐ Dismissed - Want of Prosecution ☐ Without Judicial Conf/Hrg ☐ Involuntary (Statutory) Dismissal ☒ With Judicial Conf/Hrg ☐ Default Judgment ☐ By ADR ☐ Transferred
Trial Dispositions: ☐ Disposed After Trial Start ☐ Judgment Reached by Trial

WILICK LAW GROUP
3591 East Bonanza Road
Suite 200
Las Vegas, NV 89110-2101
(702) 438-4100

RECEIVED

DEC 28 2018

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1 read the papers and briefs on file herein by counsel, having heard oral argument, and
2 being fully advised, and for good cause shown:

3 **THE COURT HEREBY FINDS:**

- 4 1. Defendant's Counsel represented that Kiersten Gallagher, Social Service
5 Manager 1, is a named party in the Order to Show Cause and is not present for
6 the hearing.¹
- 7 2. This matter is on appeal from the last court order, so this court cannot make
8 any decisions except for a request for enforcement of an order.²
- 9 3. The State is entitled to enforce the executive function to receive updated
10 information.³
- 11 4. It is a simple matter for the Defendant to sign the application and forward it to
12 her Attorneys who can then forward the application to the State.⁴
- 13 5. If acceptance of an electronic signature is acceptable by the Supreme Court
14 Rules, it acceptable to the State in terms of maintaining an electronic signature
15 in the file.⁵
- 16 6. The Nevada Supreme Court found that the Nevada Order is the controlling
17 order.⁶
- 18 7. There were no frivolous arguments made.⁷
- 19
20

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24 ⁴ Time Stamp 9:36:05 - 9:36:29

25 ⁵ Time Stamp 9:36:30 - 9:36:52

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1 THE COURT HEREBY ORDERS:

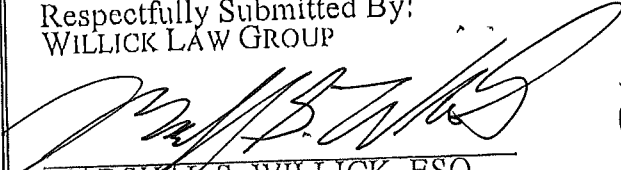
- 2 1. The Defendant's Motion for Order to Show Cause is denied.⁸
- 3 2. The Defendant shall fill out a new application with the help of her counsel and
- 4 be able to electronically sign the application.⁹
- 5 3. The request for Attorney's Fees is denied.¹⁰


6 DATED this ____ day of JAN 02 2019, 2018.

7 
8 DISTRICT COURT JUDGE

9 Respectfully Submitted By:
10 WILICK LAW GROUP

Approved as to Form and Content

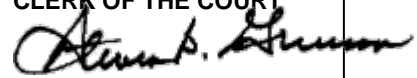
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12 MARSHAL S. WILICK, ESQ.
13 Nevada Bar No. 2515
14 RICHARD L. CRANE, ESQ.,
15 Nevada Bar No. 9536
16 3591 East Bonanza Road, Suite 200
17 Las Vegas, Nevada 89110-2101
18 Attorneys for Defendant

19 
20 LINDA C. ANDERSON, ESQ.
21 Nevada Bar No. 4090
22 RYAN SUNGA, ESQ.,
23 Nevada Bar No. 10998
24 Chief Deputy Attorney General
25 555 E. Washington Ave.
26 Las Vegas, Nevada 89101
27 Attorneys for Real Party In Interest

28 ⁸ Time Stamp 9:36:55 - 9:36:58

⁹ Time Stamp 9:37:14 - 9:37:26

¹⁰ Time Stamp 9:48:07 - 9:48:16



AARON D. FORD
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
P: (702) 486-3077
F: (702) 486-3871
E-mail: landerson@ag.nv.gov

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

ROBERT SCOTLUND VAILE,

Plaintiff,

vs.

CISILIE A. PORSBOLL,

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7 with the Nevada Order filed July 10, 2012 for principle and interest judgements and the
8 Nevada Order filed August 17, 2012 for penalties judgement. The State received copies
9 of the certified order on November 14, 2018 and transmitted all necessary information to
10 the other jurisdiction (OJUR) in Kansas.

11 The report to the Court that was due on December 5, 2018 was filed early on
12 November 19, 2018 and no report was filed on January 5, 2019. On December 20, 2018,
13 the State received a request from Kansas requesting certified copies of additional orders.
14 The State requested three orders from the District Court and four orders from the Nevada
15 Supreme Court. On January 18, 2019, all orders were received and forwarded to OJUR.

16 **AFFIRMATION PURSUANT TO NRS 239B.030**

17 The undersigned does hereby affirm that the preceding document does not contain
18 the social security number of any person.

19 Dated: February 4, 2019.

20 AARON D. FORD
21 Attorney General

22 By: /s/ Linda C. Anderson
23 Linda C. Anderson
24 Chief Deputy Attorney General
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Robert Scotlund Vaile
8121 Lincoln Street
Wamego, Kansas 66547

/s/ Linda Aouste
Employee of the Office of the Attorney General