

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),
Appellant,

vs.

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

SC NO:
DC NO:

Electronically Filed
77070 2019 05:24 p.m.
E1250303 AS Brown
Clerk of Supreme Court

RESPONDENT'S APPENDIX

Attorney for Respondent:
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
WILICK LAW GROUP
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
(702)438-4100
Email: email@willicklawgroup.com

Attorneys for Appellant:
AARON D. FORD
Nevada Attorney General
GREGORY L. ZUNINO
Nevada Bar No. 4805
Deputy Solicitor General
LINDA C. ANDERSON
Nevada Bar No. 4090
Chief Deputy Attorney General
100 N. Carson Street
Carson City, Nevada 89701
(775)684-1237
Gzunino@ag.nv.gov
Landerson@ag.nv.gov

APPENDIX INDEX

DATE ORDER

EXHIBIT	DOCUMENT	FILE STAMP DATE	PAGE NUMBER
1.	Notice of Entry of Order of Mandamus	4/16/2018	RA000001 - RA000008
2.	Court Minutes	6/7/2018	RA000009 - RA000011
3.	Court Minutes	7/24/2018	RA000012 - RA000013
4.	Order for Hearing Held July 24, 2018	8/6/2018	RA000014 - RA000017
5.	Notice of Entry for Hearing Held July 24, 2018	8/7/2018	RA000018 - RA000024
6.	Domestic Notice to Statistically Close Case	9/12/2018	RA000025
7.	Ex Parte Application for an Order to Show Cause Why Dept. of Health and Human SVCS Child Support Enforcement Program and Kiersten Gallagher, Should Not Be Held in Contempt for Their Failure to Comply with the Terms of the Order of Mandamus Filed September 5, 2018	10/9/2018	RA000026 - RA000029
8.	Court Minutes	11/6/2018	RA000030 - RA000031
9.	Estimated Cost of Transcript	12/5/2018	RA000032
10.	Final Billing of Expedited Transcripts	12/24/2018	RA000033
11.	Receipt of Copy	12/24/2018	RA000034 - RA000035

12.	Certification of Transcripts/Notification of Completion	12/24/2018	RA000036
13.	Transcript Re: All Pending Motions; Tuesday, July 24, 2018 Hearing	12/24/2018	RA000037 - RA000098
14.	Order from the November 6, 2018, Hearing	1/4/2019	RA000099 - RA000101
15.	Notice of Entry of Order from the November 6, 2018, Hearing	1/7/2019	RA000102 - RA000107
16.	Report to Court on Order of Mandamus	3/7/2019	RA000108 - RA000110
17.	Report to Court on Order of Mandamus	4/1/2019	RA000111 - RA000113
18.	State of California's Court of Appeal's Unpublished Decision from May 22, 2015	5/22/2015	RA000114 - RA000145

**APPENDIX INDEX
ALPHABETICAL ORDER**

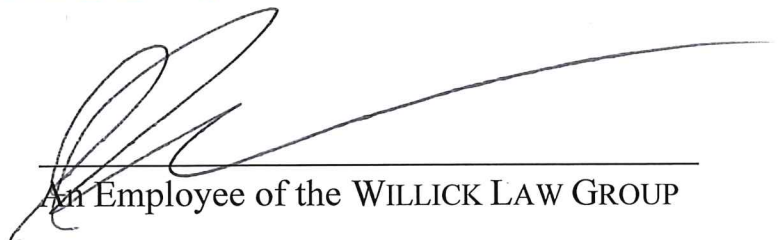
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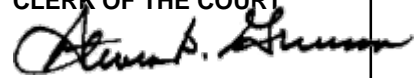
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 16th day of April, 2019, documents entitled *Respondent's Appendix* were e-mailed, and were filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list, to the attorney listed below at the address, email address, and/or facsimile number indicated below:

Aaron D. Ford
Gregory L. Zunino
Linda C. Anderson
100 N. Carson Street
Carson City, Nevada 89701
(775)684-1237
Gzunino@ag.nv.gov
Landerson@ag.nv.gov



An Employee of the WILICK LAW GROUP



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

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

NOTICE OF ENTRY OF ORDER OF MANDAMUS

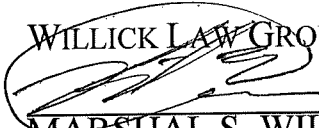
TO: ROBERT SCOTLUND VAILE, Plaintiff, *In Proper Person*,
TO: DEPARTMENT OF HEALTH AND HUMAN SERVICES, and
TO: ADAM LAXALT, ESQ., Attorney General, State of Nevada.

PLEASE TAKE NOTICE that the *Order of Mandamus*, was duly entered by

1 the Court on the 16th day of April, 2018, and the attached is a true and correct copy.

2 **DATED** this 16th day of April, 2018.

3 WILLOCK LAW GROUP

4 
MARSHAL S. WILLOCK, ESQ.

5 Nevada Bar No. 2515

6 RICHARD L. CRANE, ESQ.

7 Nevada Bar No. 9536

8 3591 East Bonanza Road, Suite 200

9 Las Vegas, Nevada 89110-2101

10 *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 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:

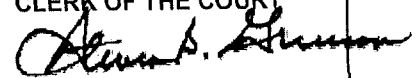
Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

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. 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:
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 no *Opposition* or objections having been filed in the appropriate time, this Court deems the request for a Writ of Mandate

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

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on the 16th day of April, 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

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 3900
11 Las Vegas, NV 89101

12 
13 Employee of the WILLICK LAW GROUP

14 \\wlgserver\company\wp16\VAILE,CINVPLEADINGS\00230567.WPD/ms

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

June 07, 2018

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

June 07, 2018**9:00 AM****All Pending Motions****HEARD BY:** Moss, Cheryl B.**COURTROOM:** Courtroom 13**COURT CLERK:** Sherri Estes**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, present

Marshal Willick, Attorney, present

Raleigh Thompson, Attorney, not present

Pro Se

Linda Anderson, Attorney, present

JOURNAL ENTRIES

-- STATE OF NEVADA'S MOTION TO ALTER OR AMEND ORDER...DEFENDANT'S
OPPOSITION TO MOTION TO ALTER OR AMEND ORDER AND COUNTERMOTION FOR
HEARING FOR DHHS TO SHOW CAUSE WHY THEY SHOULD NOT COMPLY WITH NEVADA
LAW AND PURSUE COLLECTIONS OF CHILD SUPPORT

COURT NOTES there are no pending appeals and is proceeding on the Writ of Mandamus. The
Mother and Father are parties of this case and the Court wants to know if they were served or if there
was attempted service of both the Motion and Opposition/Counter motion. Mr. Crane represented
there was service and Ms. Anderson represented Dad is part of the electronic service. COURT FINDS
Dad did not file a written opposition and FINDS he was served or service was attempted. Ms.

PRINT DATE:	06/13/2018	Page 1 of 3	Minutes Date:	June 07, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA000009

Anderson stated Dad would not have to be served as this is a Writ against the State of Nevada; COURT NOTES it is due process and he would need to be served.

Ms. Anderson represented the Writ is filed through a Petition although opposing counsel feels it could be filed by way of a motion to which Ms. Anderson has an objection. Ms. Anderson stated when done through a motion it would mean that opposing counsel is trying to bring the Attorney General's office into this lengthy case where they are not a party. The State usually gets forty-five (45) days to respond when being sued. Ms. Anderson represented that opposing counseling filed for a Writ 3/12/18.

Discussion regarding the Court filing a minute order. Ms. Anderson represented the minute order was filed as a default and the Ms. Anderson filed a Motion to Alter or Amend Order. COURT NOTES the minute order set it for hearing, the order for mandamus was filed in April and that is Ms. Anderson's objection. The Court issued the order and now Ms. Anderson is requesting to alter or amend. Further discussion regarding same. Ms. Anderson should be given an opportunity to respond to the Writ. Ms. Anderson believes the best remedy would be for the Court to amend the order and it should be an Order to Show Cause. Ms. Anderson believes there is a strong procedural defect since the Court did not give an opportunity for the Attorney General's Office to respond; they were served, but she added they were not a party to the case. Prior to deciding on the Writ, Ms. Anderson believes the Court should hear from all parties prior to making an order. Further arguments by Mr. Crane who represented they can bring in anybody and represented they are a party to the case, and are refusing to enforce both the Supreme Court and this Court's orders. The Court asked how can they be a party if not named as a Defendant; Mr. Crane said they were named in the motion, served and did not object. COURT NOTES you cannot just name anyone; further arguments regarding same. The Court cited statutes on the record stating it does have the authority to issue the Writ.

Pursuant to NRS 4 chapter 41.031, this is not an initial action so this statute does not apply. In terms of NRS 34.160 it sets forth the Court's order and authority to issue these types of Writs. In terms of procedure and a matter of due process the State of Nevada was notified of the original Motion for Mandamus. As far as any intentional action, COURT NOTES the Attorney General was planning on attending the hearing and because this is a substantive issue it was discretionary on the Court to zoom the order based on there being no opposition. The Court does not feel it was willful on either side and it is a matter of making a good record for due process the Court will allow the competitive argument, these are tricky issues and the Court wants a good record.

Upon the Court's inquiry, Ms. Anderson does not feel the Court has any authority over attorney's fees. Mr. Crane stated there was a PERS issue. Further discussion regarding the matter being briefed.

Arguments. COURT ORDERED the following:

PRINT DATE:	06/13/2018	Page 2 of 3	Minutes Date:	June 07, 2018
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1. The April 16, 2019 Order of Mandamus is hereby SET ASIDE.
2. The Court set the matter for a hearing on 7/24/18 to address the substantive issues on the merits.
3. The Motion for Mandamus Writ is still on the table; Ms. Anderson shall have until June 28, 2018 to file an Opposition by the close of business and Mr. Crane shall have until 7/17/18 to file a reply. The Court will require Mr. Vaile to be served as a party although he will not participating.
4. The Court will require a brief as it relates to ATTORNEY'S FEES.

Ms. Anderson shall prepare the order, Mr. Crane to review and sign off.

7/24/18 10:30 A.M. FURTHER PROCEEDINGS (HEARING THE MATTER OF MERITS)

CLERK'S NOTE: A the direction of the Judge a copy of this journal entry was e-mailed to both Ms. Anderson and Mr. Crane this date (613/18 SE).

INTERIM CONDITIONS:

FUTURE HEARINGS:

July 24, 2018 10:30 AM Further Proceedings
Moss, Cheryl B.
Courtroom 13
Carreon, Erica

PRINT DATE:	06/13/2018	Page 3 of 3	Minutes Date:	June 07, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA000011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

July 24, 2018

98D230385

Robert S Vaile, Plaintiff.

vs.

Cisilie A Vaile, Defendant.

July 24, 2018**10:30 AM****All Pending Motions****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, present

Marshal Willick, Attorney, present

Raleigh Thompson, Attorney, not present

Pro Se

Linda Anderson, Attorney, present

JOURNAL ENTRIES

- FURTHER PROCEEDINGS...HEARING: STATE OF NEVADA-RESPONSE TO MOTION FOR WRIT OF MANDAMUS

Chief Deputy Attorney General, Linda Anderson, Bar #4090, present. Attorney Richard Crane, Bar #9536, present from the Willick Law Group with Attorney Marshal Willick, Bar #2515.

Discussion by the parties.

PRINT DATE:	08/03/2018	Page 1 of 2	Minutes Date:	July 24, 2018
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA000012

COURT STATED ITS FINDINGS and ORDERED the following:

1. The Nevada Court Orders are VALID and Nevada is the controlling Order.
2. A Writ of Mandamus shall ISSUE.
3. The Writ of Mandamus shall be enforced by the Attorney General's Office.
4. Defendant's request for ATTORNEY'S FEES is DENIED.
5. The Attorney General's request to Stay today's Order is DENIED.

The Willick Law Group shall prepare the Order from today's hearing; the Attorney General's office shall review and countersign.

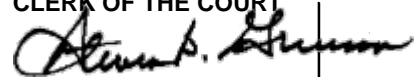
INTERIM CONDITIONS:

FUTURE HEARINGS:

September 12, 2018 2:30 AM Motion
Moss, Cheryl B.
Courtroom 13
Carreon, Erica

PRINT DATE:	08/03/2018	Page 2 of 2	Minutes Date:	July 24, 2018
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ORDR
WILICK LAW GROUP
MARSHAL S. WILICK, 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.

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)

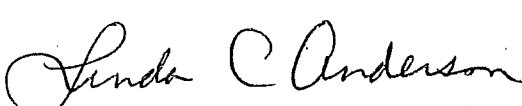
11 DATED this ____ day of AUG 03 2018, 2018.

12 
13 DISTRICT COURT JUDGE *W*

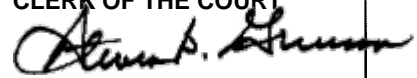
14
15 Respectfully Submitted By:
16 WILICK LAW GROUP

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

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NEOJ
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
Attorneys for *Defendant*

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

1 and correct copy.

2 **DATED** this 7th day of August, 2018.

3 WILICK LAW GROUP

4 
MARSHAL S. WILICK, ESQ.

5 Nevada Bar No. 2515

6 RICHARD L. CRANE, ESQ.

7 Nevada Bar No. 9536

8 3591 East Bonanza Road, Suite 200

9 Las Vegas, Nevada 89110-2101

10 *Attorneys for Defendant*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK 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:

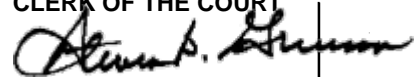
Mr. Robert Scotlund Vaile
812 Lincoln St.
Wamego, Kansas 66547
legal@infosec.privacyport.com
scotlund@vaile.info
Plaintiff in Proper Person

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 WILLICK LAW GROUP

P:\wp16\VAILE\C\NVPLEADINGS\00251072.WPD\jj



ORDR
WILICK LAW GROUP
MARSHAL S. WILICK, 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)

26
27
28

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
26

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)

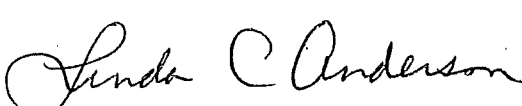
11 DATED this ___ day of AUG 03 2018, 2018.

12 
13 DISTRICT COURT JUDGE *W*

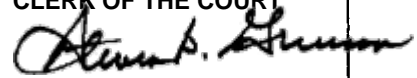
14
15 Respectfully Submitted By:
16 WILICK LAW GROUP

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

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1 NSCC

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 * * *

5
6 Robert S Vaile, Plaintiff.

7 vs.

8 Cisilie A Vaile, Defendant.

CASE NO.: 98D230385

Department I

9 DOMESTIC NOTICE TO STATISTICALLY CLOSE CASE

10 Upon review of this matter and good cause appearing, the Clerk of the
11 Court is hereby directed to statistically close this case for the following
reason:

12 Non-Trial Dispositions:

- 13 ☐ Other Manner Of Disposition
14 ☐ Dismissed – Want of Prosecution
15 ☐ Involuntary (Statutory) Dismissal
16 ☐ Default Judgment
17 ☐ Transferred

18 Settled/withdrawn:

- 19 ☐ Without Judicial Conf/Hrg
20 ☒ With Judicial Conf/Hrg
21 ☐ By ADR

22 Trial Dispositions:

- 23 ☐ Disposed After Trial Start
24 ☐ Judgment Reached by Trial
25 ☒ See Minute Order entered on September 12, 2018.

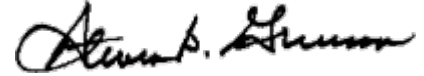
26 DATED this 12th day of September, 2018.

27 HONORABLE CHERYL B. MOSS

28 By: 

Suzanna Zavala

Judicial Executive Assistant



APPL
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
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 VAILE PORSBOLL,
Defendant.

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

DATE OF HEARING:
TIME OF HEARING:

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

**EX PARTE APPLICATION FOR AN ORDER TO SHOW CAUSE
WHY DEPT. OF HEALTH AND HUMAN SVCS CHILD SUPPORT
ENFORCEMENT PROGRAM AND KIERSTEN GALLAGHER,
SHOULD NOT BE HELD IN CONTEMPT FOR THEIR FAILURE TO
COMPLY WITH THE TERMS OF THE *ORDER OF MANDAMUS*
FILED SEPTEMBER 5, 2018**

Defendant, Cisilie Porsboll, by and through her Counsel of the WILICK LAW GROUP, hereby moves this Court to issue an *Order to Show Cause* requiring the Dept. of Health and Human Svcs. Child Support Enforcement Program and Kiersten Gallagher to personally appear and show cause why she should not be found in contempt and sanctioned for her failure to comply with the terms of the *Order of Mandate* filed on September 5, 2018, and why Kiersten Gallagher should not pay a

1 sanction of \$1,000 for her refusal to obey the *Order*. Additionally, the State of
2 Nevada should be liable for the attorney's fees expended in filing this petition and for
3 attending any hearing on this matter.

4 This *Application* is made and based upon the pleadings, papers, and other
5 documents on file herein, and any oral argument of counsel allowed by the Court at
6 the time of hearing this matter.

7 8 POINTS AND AUTHORITIES

9 I. RELEVANT FACTS

10 This Court is aware of the facts leading up to the issuance of the *Order of*
11 *Mandate* so those facts will not be repeated here.

12 The *Order of Mandate* was filed on September 5, 2018, and was properly
13 served on all parties to the action.

14 The *Order of Mandate* required that DHHS and Kiersten Gallagher provide
15 monthly status reports beginning in August 2018.

16 On approximately September 20, 2018, the undersigned attorney contacted
17 Assistant Attorney General Linda Anderson to inquire about the status of the
18 collection effort. Ms. Anderson stated that since the Court had not entered the *Order*
19 *of Mandate* until September 5, no status was due until October. Rather than make an
20 issue of this, we agreed to wait until the beginning of October for the first status
21 report.

22 On October 2, 2018, we received a letter from Kiersten Gallagher informing
23 us that no action had been taken as Ms. Porsboll had not requested services via an
24 application in accordance with 45 CFR 303.2.

25 On October 3, 2018, we spoke with Ms. Anderson who was fully aware of the
26 letter and endorsed the actions of her client. We asked why we had not been told
27 weeks earlier that they would take no action until the application was submitted and
28 received no cogent response.

1 This Application follows.

2
3 **II. LEGAL ANALYSIS**

4 The legal analysis for the contempt and fees requested are set out in the *Motion*.

5 As to this *Application*, EDCR 5.509 states, in relevant part:

6 (b) The party seeking the OSC [Order to Show Cause] shall submit an ex parte
7 application for issuance of the OSC to the court, accompanied by a copy of the
8 filed motion for OSC and a copy of the proposed OSC.

9 (c) Upon review of the motion and application, the court may:

- 10 (1) Deny the motion and vacate the hearing;
11 (2) Issue the requested OSC, to be heard at the motion hearing;
12 (3) Reset the motion hearing to an earlier or later time; or
13 (4) Leave the hearing on calendar without issuing the OSC so as to
14 address issues raised in the motion at that time, either resolving them
15 or issuing the OSC at the hearing.

16 (d) If an OSC is issued in advance of the first hearing, the moving party shall
17 serve it and the application for OSC on the accused contemnor.

18 (e) At the first hearing after issuance of the OSC, the accused contemnor may
19 be held in contempt, or not, or the court may continue the hearing with
20 directions on the issue. At the first or any subsequent hearing after issuance
21 of an OSC, if the accused contemnor does not appear, a bench warrant may be
22 issued to secure attendance at a future hearing, or other relief may be ordered.

23 This *Application* seeks only to have the issuance of an order for a hearing to
24 be held, and is therefore one that may be submitted *ex parte*, the objective being that
25 only a single contested hearing, on notice, should be required for any motion to have
26 a party held in contempt of a prior order.

27 *****

28 *****

1 **III. CONCLUSION**


2 Based on the above, Cisilie respectfully requests the following relief:

- 3 1. For the issuance of an *Order to Show Cause* as to why DHHS and
4 Kiersten Gallagher personally should not be held in contempt, and
5 requiring her to attend the upcoming *Motion* hearing in person. A
6 proposed *Order* is submitted with this *Application*.

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 Attorneys for Defendant

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DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint

COURT MINUTES

November 06, 2018

98D230385 Robert S Vaile, Plaintiff
vs.
Cisilie A Vaile, Defendant.

November 06, 2018 09:00 AM All Pending Motions

HEARD BY: Moss, Cheryl B. COURTROOM: Courtroom 13

COURT CLERK: Castro, Natalie

PARTIES PRESENT:

Robert S Vaile, Plaintiff, Not Present

Pro Se

Cisilie A Vaile, Defendant, Not Present

Marshal S. Willick, Attorney, Present

Richard L. Crane, Attorney, Present

Kaia L Vaile, Subject Minor, Not Present

JAMES E SMITH, Attorney, Not Present

Kamilla J Vaile, Subject Minor, Not Present

JAMES E SMITH, Attorney, Not Present

Deloitte & Touche, LLP, Other, Not Present

Raleigh C Thompson, Attorney, Not Present

Parties Receiving Notice, Other, Not Present

State of Nevada, Agency, Not Present

Linda Christine Anderson, Attorney, Present

JOURNAL ENTRIES

DEFT'S 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...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...DEFT'S 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

Attorney Ryan Sunga, Bar# 10998, present from the Attorney General's Office.

Attorney Richard Crane, Bar# 9536, present as co-counsel with Attorney Marshal Willick for the Defendant.

Attorney Richard Crane represented that Kiersten Gallagher, Social Services Manager 1, is a named party in the Order to Show Cause and is not present for today's hearing.

Further discussion by counsel.

Printed Date: 11/7/2018

Page 1 of 2

Minutes Date:

November 06, 2018

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

RA000030

COURT STATED IT'S FINDINGS and ORDERED the following:

1. Motion for Order to Show Cause (OSC) is DENIED.
2. Defendant shall fill out a new application.
3. The Nevada Order is controlling.
4. Attorney's fees are DENIED.

The State shall prepare the Order from today's hearing, Attorney Willick's office shall review and countersign.

INTERIM CONDITIONS:

FUTURE HEARINGS:

FILED

DEC 05 2018

Sherry Justice
CLERK OF COURT

EOT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ROBERT S. VAILE,)	CASE NO. 98D230385
Plaintiff,)	DEPT. I
vs.)	APPEAL NO. 77070
CISILIE A. VAILE,)	
Defendant.)	ESTIMATED COST
)	of TRANSCRIPT

The office of Transcript Video Services received a request for transcript estimate, for purposes of appeal, from Linda C. Anderson, Chief Deputy Attorney General, on December 05, 2018, for the following proceedings in the above-captioned case:

JULY 24, 2018

for original transcript and one copy.

The estimated cost of the transcript is \$163.40. FEES ARE WAIVED.

DATED this 5th day of December, 2018.

Sherry Justice
SHERRY JUSTICE
Transcript Video Services

Transcript ESTIMATE amount of \$_____ Check#_____ CC_____ Cash_____ Clerk_____
Received this_____ day of_____, 2018.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

RA000032

FILED

DEC 24 2018

Sherry Justice
CLERK OF COURT

1 COST

2
3
4 ORIGINAL

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8 ROBERT S. VAILE,) CASE NO. 98D230385
9 Plaintiff,) DEPT. I
10 vs.) APPEAL NO. 77070
11 CISILIE A. VAILE,) SEALED
12 Defendant.)
_____)

13 FINAL BILLING OF EXPEDITED TRANSCRIPTS

14 The office of Transcript Video Services filed transcripts
15 for Linda C. Anderson, Chief Deputy Attorney General, on
16 December 24, 2018, for the following proceedings in the above-
captioned case:

17 JULY 24, 2018

18 Original transcript and one copy were requested. The
transcript totals 62 pages. Fees are waived.

19 DATED this 24th day of December, 2018.

20 *Sherry Justice*
SHERRY JUSTICE, Transcript Video Services

21
22 Balance of _____ Check# _____ CC# _____ Cash _____ Clerk _____

23 Received by _____ this _____ day of _____, 2018.

24 ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

1 ROC

FILED

DEC 24 2018

3 ORIGINAL

CLERK OF COURT

4 EIGHTH JUDICIAL DISTRICT COURT

5 FAMILY DIVISION

6 CLARK COUNTY, NEVADA

7 ROBERT S. VAILE,
8 Plaintiff,

)

CASE NO. 98D230385

)

DEPT. I

)

9 vs.

)

APPEAL NO. 77070

)

10 CISILIE A. VAILE,
11 Defendant.

)

SEALED

)

)

12
13 RECEIPT OF COPY

14
15 RECEIPT OF COPY of transcript and certification of the
16 July 24, 2018, hearing in the above-captioned case that was
17 filed December 24, 2018, for Linda C. Anderson, Chief Deputy
18 Attorney General, is acknowledged this 31 day of December
19 2018.

20
21 BY

Linda C. Anderson

22 Linda C. Anderson
23 Chief Deputy Attorney General
24 555 E. Washington Avenue, Ste. 3900
Las Vegas, Nevada 89101

ORIGINAL

FILED

DEC 24 2018

Sherry Justice
CLERK OF COURT

CTNC

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ROBERT S. VAILE,)	CASE NO. 98D230385
Plaintiff,)	DEPT. I
)	
vs.)	APPEAL NO. 77070
)	
CISILIE A. VAILE,)	SEALED
Defendant.)	
)	

CERTIFICATION OF TRANSCRIPTS/NOTIFICATION OF COMPLETION

The office of Transcript Video Services received a request for original transcript and one copy, for the purpose of appeal, from Linda C. Anderson, Chief Deputy Attorney General, on December 05, 2018, for the following proceedings in the above-captioned case:

JULY 24, 2018

I do hereby certify that true and accurate copies of the transcript requested in the above-captioned case were filed with the Eighth Judicial District Court on December 24, 2018; and ordering party was notified December 24, 2018.

DATED this 24th day of December, 2018.

Sherry Justice
Sherry Justice
Transcript Video Services

FILED

DEC 24 2018

Sharon D. Blum
CLERK OF COURT

1 TRANS

2
3 ORIGINAL

4
5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 ROBERT S. VAILE,) CASE NO. 98D230385
10 Plaintiff,) DEPT. I
11 vs.) APPEAL NO. 77070
12 CISILIE A. VAILE,) SEALED
13 Defendant.)
14

15 BEFORE THE HONORABLE CHERYL B. MOSS

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 TUESDAY, JULY 24, 2018

18 APPEARANCES:

19 The Defendant: CISILIE VAILE (Not present)
20 For the Defendant: RICHARD L. CRANE, ESQ.
21 MARSHAL S. WILICK, ESQ.
22 3591 E. Bonanza Road
Suite 200
Las Vegas, Nevada 89110
23 Agency: The State of Nevada
24 For the Agency: LINDA CHRISTINE ANDERSON, ESQ.
25 555 East Washington Avenue
#3900
Las Vegas, Nevada 89101

RA000037

1 LAS VEGAS, NEVADA

TUESDAY, JULY 24, 2018

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 10:53:45.)

4 THE COURT: I guess. Okay.

5 THE CLERK: We're on the record.

6 THE COURT: What page? Did you say five? That's not
7 five.

8 THE MARSHAL: That was page ten, Judge. Page ten.

9 THE COURT: Thank you, Martin.

10 THE MARSHAL: You got it, Judge. That'll be the sealed
11 case.

12 THE COURT: This is a sealed case. Case D -- 98D230385,
13 Robert Vaile and Cisilie Vaile.

14 Counsel, your appearances and bar numbers.

15 MS. ANDERSON: Linda Anderson, from the Attorney
16 General's Office. My bar number is 4090. And the folks in
17 the back are actually all with child support. Since they were
18 here, they thought they'd stay and watch.

19 MR. WILLICK: No objection.

20 MR. CRANE: Yep.

21 THE COURT: Child support?

22 MS. ANDERSON: Enforcement program where they were...

23 THE COURT: Oh okay.

24 MS. ANDERSON: ...subpoenaed to be here for the...

25 THE COURT: Could you...

1 MS. ANDERSON: ...other...

2 THE COURT: ...identify yourselves for the record and
3 your division and department you work for?

4 MS. CARLSON: Sure. I work for the Nevada State Child
5 Support Enforcement. My name is Kelly Carlson, supervisor.

6 THE COURT: I think I heard of your name. Kelly Carlson.

7 MS. CARLSON: Yes.

8 THE COURT: Okay. Are you a D.A.?

9 MS. CARLSON: State.

10 THE COURT: State? Oh.

11 MS. CARLSON: So we're state and we're intermingled with
12 the -- the D.A. office.

13 THE COURT: You're more like an umbrella...

14 MS. CARLSON: Yes.

15 THE COURT: ...organization. Okay.

16 Next to you.

17 MS. CUTLER: Good morning, Your Honor. My name is Vickie
18 Cutler. I'm a trainer and a mentor for the (indiscernible)
19 team.

20 THE COURT: Okay.

21 MS. CUTLER: With the child support enforcement program.

22 THE COURT: Who -- who do you train?

23 MS. CUTLER: All the new employees that come
24 (indiscernible).

25 THE COURT: All right. Thank you.

1 And?

2 MS. SILAS (ph): Good morning. My name is Jamie Silas.
3 I work for the State of Nevada Welfare Division on their child
4 support enforcement pro- program (indiscernible).

5 THE COURT: Are you a caseworker or...

6 MS. SILAS: I'm a caseworker.

7 THE COURT: Okay.

8 And next to you.

9 MR. SUNGA: I'm Deputy Attorney General Ryan Sunga. I
10 represent these fine folks. And we were all subpoenaed to be
11 here in the last case. But then my boss, Linda, is here for
12 this case. So we figured we would stick around to root her
13 on.

14 MR. WILLICK: We didn't subpoena them.

15 You don't -- you don't mean this case.

16 MR. SUNGA: The...

17 THE COURT: No, you...

18 UNIDENTIFIED SPEAKER: No, we (indiscernible)...

19 ((Crosstalk))

20 MR. SUNGA: The plaintiff -- the plaintiff...

21 MS. ANDERSON: She knows which -- the Judge knows which
22 case you mean, the last case she heard.

23 MR. SUNGA: In the Naler case.

24 MS. ANDERSON: The Naler case.

25 MR. WILLICK: Okay. It's just I've got enough people mad

1 at me for things I (indiscernible)...

2 THE COURT: I apolo-...

3 Go off the record for a second.

4 (Whereupon the matter was traileed at
5 10:55:47 and recalled at 10:56:32.)

6 THE COURT: You guys have to get more detailed
7 information. Okay.

8 Your appearances.

9 MR. CRANE: Richard Crane, Bar Number 9536, on behalf of
10 Cisilie Vaile. We also have Marshal Willick, 2515, Your
11 Honor.

12 THE COURT: Okay. Very good. So we're doing this on the
13 record. I reviewed -- this is for further proceedings to
14 allow both of you to now file your formal substantive response
15 to the petition for writ -- or motion -- motion for writ
16 amending this.

17 We still have the A.G. raising the issue of NRS 41
18 point -- so many numbers -- 41 point something. And then so
19 is that to be treated sort of as a motion for reconsideration
20 or that you feel it's still properly before the Court because
21 this is still on substantive issues?

22 MS. ANDERSON: Your Honor, I was just...

23 THE COURT: An ongoing proceeding.

24 MS. ANDERSON: I don't anticipate the Court would need to
25 entertain that today. I was preserving...

1 THE COURT: It's service.

2 MS. ANDERSON: ...the issue.

3 THE COURT: Yeah.

4 MS. ANDERSON: But I understand the Court ordered me to
5 respond. And that's what I did.

6 THE COURT: Okay. Well, I still kind of need the
7 clarification of your position because I did make a
8 substantive ruling at the last time on my interpretation of 41
9 -- NRS Chapter 1 -- 41, whether this was an initiating action
10 or not and whether they should have filed a formal petition
11 and prop- and served you or were they proper in filing the
12 motion? And my ruling was, the motion was proper. I don't
13 see the statute as initiating action. If you just want to
14 preserve the record in case there's any appellate review that
15 you still believe it should have been petitioned and formal
16 service.

17 MS. ANDERSON: That's all I was saying, Your Honor.

18 THE COURT: Duly noted. Okay. So that kind of expedites
19 things.

20 Now do we want to hear from the moving party first?
21 Or they really filed their reply and then you filed a reply
22 after?

23 MR. CRANE: They -- they actually filed the motion
24 originally, Your Honor, to set aside the...

25 THE COURT: May I suggest...

1 MR. CRANE: ...the (indiscernible).

2 THE COURT: ...this? May I -- May I -- May I frame the
3 issue on the record?

4 Their issue, from what I read now, is that that
5 they're -- are in -- they are concerned they do not want --
6 want to violate another state's order. We have Nevada orders
7 that came out of here, including three levels, the court of
8 appeals' decisions, prior decisions, and the supreme court's
9 decision. We also have other -- there were other orders that
10 came from other states. So I had to go back and re-review the
11 procedural history in this case.

12 The Kansas' orders have stemmed from going back as
13 far as 2014-2015. And I don't know if it ended there or there
14 was a later clarification order, maybe -- maybe you might
15 know, that was more recent. But it looks like the last order,
16 I remember, was 2015. Okay.

17 And then I went back and reviewed the court of
18 appeals' decision that came subsequent to that when I had to
19 do the remand and from the prior decision on -- on the appeal.
20 And I did a formal remand. And what would have Nevada Supreme
21 Court decisions and Court of Appeals decisions orders? And if
22 those weren't appealed to the U.S. Supreme Court, obviously,
23 then they become particularly final orders.

24 Nobody -- and I'm curious to ask if, was there a --
25 a -- was it -- was it decided that there was good -- was there

1 any issues with participating or decision not to participate
2 in the Kansas proceedings? And was there notice issues? And
3 if they're not, was there any relief? I'm assuming there was
4 no relief requested with the Kansas. I believe it was a
5 female judge that wrote her orders.

6 MR. CRANE: There...

7 THE COURT: Because Mr. Vaile was...

8 MR. CRANE: There was...

9 THE COURT: ...living in Kansas, existing in Kansas and
10 filing these proceedings in Kansas.

11 MR. CRANE: There wasn't notice given on any of the
12 proceedings. The exact same issues that we had in California
13 with Mr. Vaile filing motions and mailing them off to Cisilie
14 without actually following the procedures for ...

15 MR. WILLICK: Serving somebody under Hague.

16 MR. CRANE: ...serving somebody overseas under the Hague
17 Convention...

18 THE COURT: Right.

19 MR. CRANE: ...which is exactly why California said, get
20 out of California. You don't belong here. This is wrong.

21 He did the exact same thing in Kansas. So Kansas,
22 the orders there, are easily overturned on a lack of
23 jurisdiction. According to that jurisdiction, none of the
24 orders have entered.

25 THE COURT: How did the -- how did the plaintiff,

1 Cisilie, know that -- I'm sorry. How did the Willick Law
2 Group on behalf of the mother know about the Kansas orders?
3 You were always aware of the Kansas orders?
4 MR. CRANE: Not all of them. In fact, the...
5 THE COURT: Oh.
6 MR. CRANE: The most recent one that actually says, I
7 don't care what anybody else says, my orders...
8 THE COURT: The clarification one.
9 MR. CRANE: ...stand.
10 THE COURT: And the permanent injunction, yes.
11 MR. CRANE: And the permanent injunction. The first time
12 we saw that was when the A.G. produced it for us. And that --
13 that's the first time...
14 THE COURT: Okay.
15 MR. CRANE: ...we've seen that.
16 THE COURT: So...
17 MR. WILLICK: And it can be set aside for the same reason
18 because there was no notice of the proceeding and no
19 opportunity to participate.
20 THE COURT: Now that you...
21 MR. WILLICK: It merely...
22 THE COURT: ...have -- well, maybe been aware of the
23 orders, are there any proceedings? That's what the A.G.'s
24 kind of asking. Okay? Why you didn't go to Kansas to set
25 aside any of those orders or ask for clarification?

1 MR. WILLICK: That's what we're asking them to do.

2 THE COURT: And it's pos- you're asking?

3 MR. WILLICK: The A.G. should be asking the trial court
4 in Kansas to set aside it's order for lack of jurisdiction to
5 enforce the Nevada Supreme Court order. And that...

6 THE COURT: Supposedly...

7 MR. WILLICK: And if that trial court judge...

8 THE COURT: ...because we have a valid Nevada orders.

9 MR. WILLICK: And if that trial court judge refuses to do
10 so, that should go to the Kansas Appellate Court because they
11 had no jurisdiction to enter the orders they entered.

12 THE COURT: If you see it that way and if the -- and if
13 it goes beyond that.

14 MR. WILLICK: Yeah.

15 THE COURT: I don't see a federal court issue, no
16 diversity issues or anything.

17 MR. CRANE: Well, only if the appellate courts in
18 Kansas...

19 THE COURT: If two states...

20 MR. CRANE: ...refuse...

21 THE COURT: ...have two competing orders, it looks like
22 that would be an issue for -- maybe for the U.S. Supreme
23 Court.

24 MR. WILLICK: Conceivably.

25 THE COURT: Possibly.

1 MR. CRANE: Possibly.

2 MR. WILLICK: But we're anticipating things that are
3 unlikely to happen.

4 THE COURT: I'm just...

5 MR. WILLICK: So even if the trial...

6 THE COURT: I'm just a trial court judge. And there's a
7 trial court judge in Kansas, and so I have to make a decision
8 today, as to make findings on the validity of -- and I don't
9 see any other -- I'm -- I'm not gonna say today the Nevada
10 order -- court orders are valid, not -- you know, I'm not
11 gonna say -- is that a double negative?

12 The Nevada court orders are valid and the supreme
13 court -- Nevada Supreme Court and Court of Appeals have
14 spoken. So the A.G. feels like they're in a bind. And they
15 don't want to violate a Kansas order because you are a Title
16 IV -- well, there's a Title IV...

17 MS. ANDERSON: Right.

18 THE COURT: ...funded act for child support.

19 MS. ANDERSON: And our position basically is, is that
20 Nevada order is valid. The arguments they're all talking
21 about may be made. But the child support enforcement program
22 is unable to enforce.

23 THE COURT: If you look at the -- one of the Vaile
24 decisions, the supreme court wrote one of the citation of law
25 is there. The whole purpose of UIFSA is because there should

1 only be one controlling order. And you have...

2 MS. ANDERSON: I agree.

3 THE COURT: ...two orders now. And we have to make a
4 determination which controls. And if the A.G. gets that
5 determination, they know how -- then they have -- they will
6 know what kind of authority they have to act upon collection
7 efforts.

8 MS. ANDERSON: And, Your Honor, unfortunately because of
9 the way the law is written, it's not been for us to represent.

10 THE COURT: Okay. Do we have any UIFSA expert here in
11 terms of controlling experts -- controlling orders? And what
12 is the citation of, or codification of, the controlling order
13 rule?

14 MR. CRANE: Your Honor, if I may.

15 THE COURT: Yeah.

16 MR. CRANE: First of all, just to make sure that it's
17 part of the record, Mr. Vaile did appeal these -- the -- the
18 Nevada Supreme Court decision...

19 THE COURT: When?

20 MR. CRANE: ...to the United States Supreme Court.

21 THE COURT: When?

22 MR. CRANE: It's already been...

23 THE COURT: Oh cert denied.

24 MR. CRANE: ...cert denied and...

25 THE COURT: Cert denied.

1 MR. CRANE: ...and -- and sent back, so.

2 THE COURT: Then that makes the Nevada Supreme Court
3 order final -- a full and final decision.

4 MR. CRANE: Absolutely, which makes it res judicata.
5 It's been determined...

6 THE COURT: Did he petition for a...

7 MR. CRANE: ...it's decided.

8 THE COURT: ...rehearing with the Nevada Supreme Court?

9 MR. CRANE: That's correct. And...

10 THE COURT: And that was denied as well?

11 MR. CRANE: Mr. -- and Mr. Vaile was actually litigating
12 all of that in this courtroom and in the court of appeals and
13 the supreme court and the United States Supreme Court at the
14 same time that he was doing things in Kansas, which that alone
15 says Kansas should not have been acting.

16 THE COURT: But the purpose of this appeal in the U.S.
17 Supreme Court was only on the Nevada order. This is two
18 competing states controlling the orders.

19 MR. CRANE: Correct.

20 THE COURT: Claiming controlling orders.

21 MR. CRANE: And whenever you look at a -- a competing
22 order, what you have to look at first of all is did you have
23 jurisdiction to make the order? And the Kansas court held in
24 their pleadings that -- that oh Nevada never had jurisdiction.
25 That's not true. We always had jurisdiction over them.

1 THE COURT: If I recall the Kansas orders...

2 MR. CRANE: The Supreme Court has already made that
3 determination that your...

4 THE COURT: Kansas orders said Norway was the controlling
5 order.

6 MR. CRANE: They did.

7 THE COURT: And that has been dispensed with by the
8 Nevada Supreme Court.

9 MR. CRANE: That's absolutely correct. Actually this --
10 the -- the Kansas court did not have jurisdiction to make the
11 orders it made. It did not have jurisdiction over Cisilie.

12 THE COURT: Ab initio.

13 MR. CRANE: Exactly. It did not have jurisdiction over
14 -- over Cisilie. It never had the children living or even...

15 THE COURT: And mom feels it's not...

16 MR. THOMPSON: ...from there.

17 THE COURT: ...her burden to go seek that declaratory
18 type relief in the state of Kansas.

19 MR. CRANE: That's right because Mr. Vaile has proven to
20 run from jurisdiction to jurisdiction filing whatever he can
21 file. He's been in every court except for traffic court in
22 the state of Nevada. The 9th Circuit, the United States
23 Supreme Court, he's been everywhere trying to avoid this. And
24 now we have the State fighting tooth and nail not to do their
25 job. And that's...

1 THE COURT: And this...

2 MR. CRANE: That's what our problem is.

3 THE COURT: This is from the Nevada Supreme Court -- I'm
4 sorry, the court of appeals, decision filed on 12/29/15.
5 UIFSA is designed to ensure that only one child support order
6 is effective at any given time. And the next citation, you're
7 under the UIFSA statutory scheme a court with personal
8 jurisdiction over their obligor has the authority to establish
9 a child support order and to retain that jurisdiction to
10 enforce or modify the order until certain conditions occur
11 that end the issuing state's jurisdiction and confer
12 jurisdiction on another state. Serve also a first and time
13 rule.

14 I mean this case originated here. The whole thing
15 with the divorce, that's a whole 'nother issue and the
16 voidable decree. They submitted to it. Mr. Vaile submitted
17 to the personal jurisdiction. Child support issues were
18 issued here for many years going back to 1998. And then the
19 operating word is, you gotta have personal jurisdiction. We
20 had to act with authority to issue a child support order. And
21 we would retain jurisdiction unless certain other conditions
22 occur. It doesn't impact your question, the A.G.'s question.
23 It's just Kansas is out there. And they've just got this
24 other controlling order.

25 But my -- it seems like my analysis is Nevada's

1 always made orders, finality of the orders because of the U.S.
2 Supreme Court's cert denial, Nevada Supreme Court most recent
3 -- there was a petition for rehearing that was denied. All
4 other avenues have been dealt with for Mr. Vaile. And all
5 orders are final in judgments.

6 And the Kansas order, they're free to issue their
7 orders and do their controlling orders. So as far as the
8 trial court level, the pronouncement is valid orders in the
9 state of Nevada violate the final orders valid judgments.

10 Then I guess the burden would be on the A.G. to
11 either now seek the declaratory relief. They believe that, I
12 don't know, you would go to Kansas or...

13 MS. ANDERSON: See that's the problem, is under the law
14 that's not the -- you know, the way child support...

15 THE COURT: Okay.

16 MS. ANDERSON: ...enforcement program works.

17 THE COURT: That (indiscernible)...

18 MS. ANDERSON: 'Cause we don't -- I don't go and get the
19 bar in Kansas and -- and go in and fight those issues. We
20 have taken it into court in Kansas. We have raised those
21 issues. We are not (indiscernible).

22 THE COURT: You have?

23 MS. ANDERSON: Because they went in before the hearing.
24 The judge ruled. But now the appellate level is going up
25 forward. And that's what they are suggesting that we

1 should...

2 THE COURT: May I make sure to be clear? Did the Nevada
3 A.G.?

4 MS. ANDERSON: Not the Nevada A.G.

5 THE COURT: The Kansas?

6 MS. ANDERSON: Kansas child support enforcement program
7 because...

8 THE COURT: Their district attorney there.

9 MS. ANDERSON: Their -- whatever attorney, agency,
10 attorney, went in with these -- with this case. They put it
11 on for hearing. You saw the ruling the judge did.

12 THE COURT: The clarification order. The clarification
13 order. Okay.

14 MS. ANDERSON: So that was presented. At this point, we
15 -- the time has run. There's no appeal that we can do. I
16 believe mom...

17 THE COURT: Clark County D.A. doesn't...

18 MS. ANDERSON: ...could raise the issues.

19 THE COURT: ...have to participate. They would rely on
20 the Kansas D.A. to make the order because that's their
21 jurisdiction.

22 MS. ANDERSON: Because I -- I have no authority or
23 jurisdiction to go to Kansas and -- and do anything. That's
24 how child support enforcement program works.

25 THE COURT: Wow.

1 MS. ANDERSON: We take their orders.
2 THE COURT: Sounds like we're in a catch...
3 MS. ANDERSON: They take our orders.
4 THE COURT: ...22. A catch-22. All we have is rules and
5 regulations to go by and if you look under the UIFSA act, did
6 Kansas, the court, determine that they are the one and only
7 controlling...
8 MS. ANDERSON: Oh we've had this...
9 THE COURT: ...order?
10 MS. ANDERSON: ...in other places too where it doesn't...
11 THE COURT: Okay.
12 MS. ANDERSON: ...change the Nevada order...
13 THE COURT: Was the mother...
14 MS. ANDERSON: ...that they've determined what they think
15 is controlling. They've made a ruling. We can't...
16 THE COURT: Let's talk about due process.
17 MS. ANDERSON: I agree.
18 THE COURT: Was the mother notified, the obligor --
19 obligee?
20 MS. ANDERSON: And that's why the mom has the stronger...
21 THE COURT: E-E.
22 MS. ANDERSON: ...argument to make, the argument just
23 like she did in California. The child support program can't
24 represent her. We don't...
25 THE COURT: You think there...

1 MS. ANDERSON: ...represent the mom.

2 THE COURT: ...might be a due process issue where mom
3 should've been given the opportunity. I mean it's just an
4 issue out there and that they have that...

5 MS. ANDERSON: But...

6 THE COURT: ...avenue.

7 MS. ANDERSON: But we're bound by the orders that the
8 Kansas child support enforcement program procured.

9 THE COURT: In other words, there's only so much you can
10 do...

11 MS. ANDERSON: Yes.

12 THE COURT: ...when you've got Kansas order.

13 MS. ANDERSON: So we're not questioning...

14 THE COURT: But does that absolve the A.G.'s
15 responsibilities to enforce...

16 MS. ANDERSON: I think under the...

17 THE COURT: ...Nevada orders?

18 MS. ANDERSON: ...statute that they cited that they're
19 looking to enforce in this writ, all we had to do...

20 THE COURT: You...

21 MS. ANDERSON: ...was send it to that jurisdiction, make
22 sure they hold the hearing. And they did those things.

23 THE COURT: But basically you...

24 MS. ANDERSON: We can't represent them.

25 THE COURT: ...have a Kansas D.A. and a Kansas court just

1 telling you they have their order. You are your jurisdiction
2 in the state of Nevada.

3 MS. ANDERSON: Right.

4 THE COURT: What do we do with the Nevada orders? Have
5 you made a -- well, have you made an interpretation or a legal
6 determination from your office...

7 MS. ANDERSON: My...

8 THE COURT: ...that says...

9 MS. ANDERSON: ...legal determinations...

10 THE COURT: ...Kansas is...

11 MS. ANDERSON: ...have no impact...

12 THE COURT: ...superior...

13 MS. ANDERSON: ...in Kansas.

14 THE COURT: ...to Nevada?

15 MS. ANDERSON: So a Kansas court is not going to find the
16 attorney general's office opinion in our state valid or
17 binding on them. They made their decision based on their law.

18 THE COURT: But what does it make of the Nevada orders --
19 enforceable orders? There has to be also a -- a legal
20 determination. Or maybe you're submitting it to the court
21 here.

22 MS. ANDERSON: I'm -- I'm basically saying that mom is
23 going to have to go and not go through the child support
24 enforcement program because we're limited on what we can do
25 and what we can accomplish. So, yes, she can -- and like

1 in...

2 THE COURT: So...

3 MS. ANDERSON: ...California, she would be more
4 successful making that challenge. She could argue, I'm not
5 bound by this court order. I can go and challenge it all I
6 need to. We are bound by that order. We can't make a change
7 based on the rules...

8 THE COURT: D.A.'s do not...

9 MS. ANDERSON: ...of the program.

10 THE COURT: ...represent the mothers. They only
11 represent the -- kind of the orders they have to enforce.

12 MS. ANDERSON: We facilitate child support collection.
13 We don't represent either party. We did our facilitating to
14 the best of the degree that we could in Kansas. But mom's
15 gonna have her own arguments on due process. I can't
16 represent her and make those arguments for her. I won't be
17 successful.

18 THE COURT: Okay. Mr. Crane.

19 MR. CRANE: Yes, ma'am.

20 THE COURT: Should -- the question is, should of mom went
21 to Kansas?

22 MR. CRANE: No.

23 THE COURT: Was -- if she was a real party in interest
24 and she deserved due process to be notified of the hearing if
25 it was gonna potentially impact her, basically leave her in

1 what she is now, a catch-22. Does she have an obligation to
2 seek a 60(b) set aside of an order?

3 MR. CRANE: Actually that's exactly what she is seeking,
4 Your Honor.

5 THE COURT: Did she file a formal...

6 MR. CRANE: No.

7 THE COURT: ...motion?

8 MR. CRANE: No, Your Honor. She's seeking it through the
9 -- the Nevada statute, NRS 130.307, which is not discretionary
10 on the part of child support collection or on the A.G.'s
11 office. It says, shall. Shall. Shall.

12 THE COURT: Collect.

13 MR. CRANE: And it's very -- it's, a support enforcement
14 agency of this state, upon request, shall provide services to
15 a petitioner in a proceeding under this chapter. They have to
16 provide services.

17 First of all, we have no clues...

18 THE COURT: Okay. I get that. But what they're saying
19 is, we don't have a problem with that. But...

20 MR. CRANE: We have...

21 THE COURT: ...we can't violate the law.

22 MR. CRANE: We have no proof...

23 THE COURT: Some other...

24 MR. CRANE: ...whatsoever...

25 THE COURT: ...state's law.

1 MR. CRANE: ...that anybody but Mr. Vaile every walked
2 into a courtroom in Kansas. Mr. Vaile filed the motion for
3 declaratory judgement. Mr. Vaile filed the motion for the
4 permanent injunction.

5 THE COURT: Okay.

6 MR. CRANE: Mr. Vaile did all of that. These people did
7 nothing. There has been nothing done by this A.G.'s office,
8 nothing done by the district attorney's office in Kansas,
9 nothing done (indiscernible).

10 THE COURT: You've heard my...

11 MR. CRANE: Yes, Your Honor.

12 THE COURT: ...inclination to give...

13 MR. CRANE: So...

14 THE COURT: ...you the order, to give you finality on the
15 Nevada orders and acknowledging that in this trial court.

16 MR. CRANE: Your Honor, and then if you go on in the
17 statute, the statute goes on to say, take all, again,
18 underlined, highlighted, steps necessary. And it says, they
19 shall take all necessary steps to enable an appropriate
20 tribunal of this state or another state or a foreign country
21 to obtain jurisdiction over the respondent, all steps. All
22 steps.

23 THE COURT: To obtain jurisdiction over the respondent.

24 MR. CRANE: Over Mr. Vaile and to -- and to deal with
25 this. They are to do (indiscernible) to enforce...

1 THE COURT: Take all steps necessary to obtain
2 jurisdiction. Well...

3 MR. CRANE: To enforce.

4 MR. WILLICK: To enforce.

5 THE COURT: ...here you don't have a problem. We've
6 always had personal jurisdiction.

7 MR. CRANE: We're talking about in another state now.

8 THE COURT: So the A.G. should take all or the child
9 support enforcement division should take all steps necessary
10 to obtain jurisdiction.

11 MR. CRANE: If they had taken this case.

12 THE COURT: Basically to take over -- or jurisdiction
13 over his funds in the state of Kansas.

14 MR. CRANE: Absolutely. And if they had gone all...

15 THE COURT: Okay.

16 MR. CRANE: ...the way to the United States Supreme
17 Court...

18 THE COURT: I get that...

19 MR. CRANE: ...and been told...

20 THE COURT: ...too.

21 MR. CRANE: ...no...

22 THE COURT: But...

23 MR. CRANE: ...then...

24 THE COURT: There is a standing prominent injunction in
25 the state of Kansas.

1 MR. CRANE: Right.

2 THE COURT: So does this take all steps necessary, shift
3 the burden on the Nevada A.G. or Clark County D.A., to go into
4 Kansas? They're saying they've already fulfilled that
5 obligation by asking the Kansas D.A. to get a declaratory
6 order.

7 MR. CRANE: They have -- they didn't do that.

8 THE COURT: A clarification order.

9 MR. CRANE: They did not do that. Mr. Vaile filed
10 everything in Kansas. The A.G.'s office and whoever it is in
11 Kansas...

12 THE COURT: Is it relevant whether who filed? Because
13 the Kansas order still said they have an (indiscernible)
14 injunction of that...

15 MR. CRANE: They have...

16 THE COURT: ...injunction (indiscernible).

17 MR. CRANE: ...never received jurisdiction over Cisilie
18 to be able to make this order, Your Honor. That's -- and it
19 is their responsibility to go in and say, I'm sorry. Your
20 Honor, we are here specifically to enforce child support. And
21 the only child support order that is valid and the only one
22 that had jurisdiction over all parties was in Nevada. You've
23 never had it. California's never had it. Virginia's never
24 had it. Texas...

25 THE COURT: Kansas...

1 MR. CRANE: ...has never had it.

2 THE COURT: ...obligor living and working in the state of
3 Kansas, they would have -- Kansas court would certainly have
4 jurisdiction.

5 MR. CRANE: They have jurisdiction...

6 THE COURT: ...for collection efforts -- efforts, not
7 modification orders.

8 MR. CRANE: That is it. But they modified. They said,
9 oh this is other orders controlling. We've got two appellate
10 courts in two other states that say it's not.

11 THE COURT: Well, depending -- we don't know what the
12 Kansas judge had before her.

13 MR. CRANE: Exactly.

14 THE COURT: If she had the Nevada Supreme Court order
15 saying who was the controlling order and they found out Nevada
16 was the -- they made...

17 MS. ANDERSON: And here...

18 THE COURT: ...a determination Nevada's the...

19 MS. ANDERSON: Here's the brunt.

20 THE COURT: ...controlling order.

21 MS. ANDERSON: If we were representing mom, mom would be
22 bound by that decision. We aren't representing...

23 THE COURT: Yeah.

24 MS. ANDERSON: ...mom.

25 THE COURT: Is this trial court -- Nevada trial court's

1 responsibility to tell you guys where to file, who to file --
2 I mean, against, and what to file because I will pronounce,
3 Nevada is the controlling order.

4 MR. CRANE: No, Your Honor.

5 THE COURT: That will pronounce Nevada has finality in
6 all judgments.

7 MR. CRANE: We -- we -- we know that already.

8 THE COURT: And what...

9 MR. CRANE: We -- we -- we have copies...

10 THE COURT: So...

11 MR. CRANE: ...of all those...

12 THE COURT: ...what court...

13 MR. CRANE: ...orders.

14 THE COURT: ...language or relief...

15 MR. CRANE: What I need...

16 THE COURT: ...are you...

17 MR. CRANE: ...from you...

18 THE COURT: ...either of you...

19 MR. CRANE: ...is an order...

20 THE COURT: ...requesting?

21 MR. CRANE: ...for them to go take care of the business
22 that they're required to do by the statute.

23 THE COURT: If I find Nevada is the...

24 MR. CRANE: They're -- that statute is clear.

25 THE COURT: ...(indiscernible) says the -- the only

1 controlling order, then the writ of mandamus should issue.

2 MR. CRANE: That's absolutely correct.

3 THE COURT: And then they can appeal that.

4 MS. ANDERSON: And the irony though is if you then find
5 that we have this responsibility, we're actually going to be
6 in worse shape of representing mom because you would find that
7 we were...

8 THE COURT: Yeah.

9 MS. ANDERSON: ...supposed to represent her throughout
10 all of that. We didn't appeal. Her better argument is not to
11 go through the child support enforcement program but instead
12 to make her own arguments outside of this realm because she's
13 -- you know, we're bound by that prior court order because we
14 sent it through the child support enforcement program. So we
15 can't -- we're gonna be unsuccessful even if this court orders
16 us...

17 THE COURT: Basically you don't want to get in...

18 MS. ANDERSON: ...to go and appeal.

19 THE COURT: ...trouble and not violate any other -- any
20 state's orders.

21 MS. ANDERSON: I also want to be successful for her.

22 THE COURT: But if you have...

23 MS. ANDERSON: And I'm not gonna be successful for her.

24 THE COURT: I would say if you have the pronouncement of
25 a trial court at least here, the Nevada trial court saying, I

1 -- I declare that Nevada is the only controlling order
2 irrespective any injunctions in another state, that puts you
3 still in a bind?

4 MS. ANDERSON: I'm suggesting to you, Your Honor, that if
5 we go in and try to represent mom when we're not authorized by
6 law to do that...

7 THE COURT: You're gonna catch a lot of things from the
8 Kansas...

9 MS. ANDERSON: We're not...

10 THE COURT: ...courts.

11 MS. ANDERSON: ...gonna catch a lot of things. We're
12 going to be -- it's going to cut into mom's argument. Mom's
13 argument is gonna be much more successful if she's not bound
14 by our limitations. We didn't represent her before.

15 THE COURT: That I'm...

16 MS. ANDERSON: So they want to...

17 THE COURT: ...trying to...

18 MS. ANDERSON: ...say the service...

19 THE COURT: ...understand.

20 MS. ANDERSON: ...wasn't good.

21 THE COURT: Are you telling me mom needs to go in there
22 and void out all the orders?

23 MS. ANDERSON: I'm not telling mom to do anything. But
24 I'm saying mom will be more successful in making her argument
25 just like they did in California rather than through the child

1 support enforcement program. The child support enforcement
2 program, even if you order us to go in there, we're not going
3 to be able to represent her well because we are already under
4 the program and the orders that are in place. And they will
5 take one look at us and say, oh you represent mom even though
6 you don't under child support enforcement? Well, then that's
7 the reason this order's valid against her. We can't represent
8 the mother.

9 MR. CRANE: That's not true, Your Honor.

10 THE COURT: I agree with you. You do not represent the
11 mom. You represent the State of Nevada...

12 MR. CRANE: Thank you, Your Honor.

13 THE COURT: ... who has to enforce its own orders.

14 MR. CRANE: And they're representing the orders.

15 THE COURT: And you can make...

16 MR. CRANE: They're not representing mom.

17 THE COURT: ...clearer and clearer representation on the
18 record. You do not represent mom. Just like the Clark County
19 D.A. technically, they don't represent the mothers...

20 MS. ANDERSON: But -- but mom...

21 THE COURT: ...or the...

22 MS. ANDERSON: ...has the better argument to fight this.

23 THE COURT: That's what I'm trying to...

24 MS. ANDERSON: ...than the State of Nevada does.

25 MR. CRANE: That's not true, Your Honor. They -- they

1 can make the...

2 THE COURT: The...

3 MR. CRANE: ...exact same argument...

4 THE COURT: Would it...

5 MR. CRANE: ...under due process. They can make the

6 exact...

7 THE COURT: You're saying it would...

8 MR. CRANE: ...same argument.

9 THE COURT: ...make her position worse?

10 MS. ANDERSON: Yes.

11 MR. WILICK: No.

12 MR. CRANE: It's -- that's not true. (Indiscernible)

13 that's not...

14 THE COURT: Okay.

15 MR. CRANE: ...true, Your Honor.

16 THE COURT: How do we resolve the -- the issue today on

17 the writ of mandamus? Mom would like to get the writ issued.

18 MR. CRANE: Absolutely, Your Honor.

19 THE COURT: The attorney general will certainly ave- take

20 their appellate avenues and get a declaration or decision from

21 the Nevada Supreme Court whether the writ is valid or not or

22 there was an abuse of discretion and error of law by the trial

23 court. That would be the legal standard. And they will do

24 that review.

25 MR. CRANE: If they could -- if their position is that --

1 if they take a position with the appellate court...

2 THE COURT: But...

3 MR. CRANE: ...the -- the petition...

4 THE COURT: Would that help...

5 MR. CRANE: Then...

6 THE COURT: ...mom in any respect otherwise...

7 MR. CRANE: Your Honor, if they take a...

8 THE COURT: ...other than would that...

9 MR. CRANE: If they take a...

10 THE COURT: Yeah.

11 MR. CRANE: ...position, that we needed to file a

12 petition and a new action and serve directly on Carson City...

13 THE COURT: No, I already made that determination...

14 MR. CRANE: True. But if that's part...

15 THE COURT: ...at the last hearing.

16 MR. CRANE: ...of their appellate argument.

17 THE COURT: Oh well...

18 MR. CRANE: ...is that that...

19 THE COURT: ...then it could...

20 MR. CRANE: ...needs to be done, we'll tell 'em we'll do

21 it right now. I'll have it to 'em this afternoon. I'll have

22 a petition. I'll serve the -- the attorney general. And

23 we're back right here (indiscernible) this exact same

24 position.

25 THE COURT: Well, that'd take...

1 MR. CRANE: ...same position.
2 THE COURT: ...care of the service...
3 MR. CRANE: So that ends...
4 THE COURT: ...issue.
5 MR. CRANE: ...that. The only thing that they can take
6 up on appeal is whether or not are our hands tied. And the --
7 and the answer to that is absolutely not. Under this statute,
8 their hands are tied here. You must do this. And taking all
9 steps, all steps...
10 THE COURT: Your...
11 MR. CRANE: ...necessary...
12 THE COURT: ...mandamus has to do an enforcement of the
13 order.
14 MR. CRANE: Absolutely.
15 THE COURT: (Indiscernible).
16 MR. CRANE: They should be doing whatever it takes,
17 including going to the United States Supreme Court to enforce
18 Nevada's orders. It's Nevada that's suffering because of
19 this. But we certainly shouldn't...
20 THE COURT: We've been on this case since...
21 MR. CRANE: ...have to pay...
22 THE COURT: ...well, Judge Steel before, then me. We've
23 been on this case since 1998, numerous proceedings and
24 numerous orders, maybe several remands, supreme -- and the
25 supreme court has issued their final, final decision. Nevada

1 was the originating state. Like I said, from the orders here,
2 is there any basis -- the question in my mind, any legal basis
3 to deny you the writ of mandamus? The best argument the A.G.
4 is -- is enforcement of a federal program that says we
5 cannot...

6 MS. ANDERSON: I -- I'm ar-...

7 THE COURT: ...violate another...

8 MS. ANDERSON: I'm arguing that it's...

9 THE COURT: ...state's orders.

10 MS. ANDERSON: ...futile. Even if you are -- and that's
11 -- when you ask what would I appeal on. Yes.

12 THE COURT: Yeah.

13 MS. ANDERSON: There's all the procedural issues. But
14 the real issue is, is it would be futile to issue a writ
15 against us because there is nothing else that we can do. That
16 order's been in place.

17 THE COURT: That I'd like you to ex- kind of explain that
18 one to me. There's nothing you can do because you're --
19 Kansas has got an order out there?

20 MS. ANDERSON: Kansas got an order that we were part of
21 the facilitating. We sent it over to them to enforce. And it
22 -- now we suddenly say, but mom's got due process issues.
23 They will say to us, you -- you represent mom. Well, then you
24 were here before.

25 THE COURT: One argument is mom can take whatever legal

1 action she can take in the state...

2 MS. ANDERSON: And -- and...

3 THE COURT: ...of Kansas.

4 MS. ANDERSON: So -- yes. We can go through your -- your

5 question was really...

6 THE COURT: And wait...

7 MS. ANDERSON: ...how will this...

8 THE COURT: ...on that.

9 MS. ANDERSON: ...serve mom? I -- we can spend all this

10 time at the supreme court. The supreme court is gonna...

11 THE COURT: And mom here...

12 MS. ANDERSON: ...confirm.

13 THE COURT: ... is not saying she hasn't done nothing

14 about it. There is something they're awaiting in the -- in

15 the Kansas Appellate Court?

16 MR. CRANE: No, no, Your Honor, there's...

17 THE COURT: Nothing pending there.

18 MR. CRANE: ...nothing.

19 THE COURT: There's a...

20 MR. CRANE: It's (indiscernible).

21 THE COURT: ...permanent...

22 MR. CRANE: As you well know, we have gotten hundreds...

23 THE COURT: If you got...

24 MR. CRANE: ...and...

25 THE COURT: a permanent...

1 MR. CRANE: ...hundreds...
2 THE COURT: ...injunction...
3 MR. CRANE: We have hundreds of thousands of dollars in
4 attorney's fees...
5 THE COURT: Okay.
6 MR. CRANE: ...that Mr. Vaile has never paid. We have
7 child support awards that Mr. Vaile has never paid. We have
8 tort...
9 THE COURT: Does mom...
10 MR. CRANE: ...judgments (indiscernible)...
11 THE COURT: ...have any legal obligation to go set aside
12 orders in Kansas?
13 MR. CRANE: We don't believe so. We believe that NRS
14 133.07 says they have that obligation because they have Nevada
15 orders in their hand...
16 THE COURT: Their argument is...
17 MR. CRANE: ...that are valid orders.
18 THE COURT: ...they didn't. They...
19 MR. CRANE: They did not.
20 THE COURT: They asked the Kansas D.A. to make a...
21 MR. CRANE: They did not.
22 THE COURT: They...
23 MR. CRANE: They didn't.
24 THE COURT: You (indiscernible).
25 MR. CRANE: Mr. Vaile filed -- filed a declaration and...

1 THE COURT: Okay.

2 MR. CRANE: ...(indiscernible).

3 THE COURT: And that's why I said irrespective that...

4 MR. CRANE: They...

5 THE COURT: ...the issue was decided.

6 MR. CRANE: They did not. But they did not show up.

7 We've see nothing where anybody ever...

8 THE COURT: So you...

9 MR. CRANE: ...showed up.

10 THE COURT: ...are arguing about their -- the propriety

11 of their actions (indiscernible)...

12 MR. WILLICK: Our position...

13 THE COURT: ...or admissions.

14 MR. WILLICK: Our position in a nutshell...

15 THE COURT: You know.

16 MR. WILLICK: ...is once the Nevada Supreme Court said

17 this is a valid and enforceable order...

18 THE COURT: They've made their pronouncement.

19 MR. WILLICK: ...it is required to be enforced, it is

20 their responsibility to take the Nevada Supreme Court Order,

21 go to the Kansas trial court and say, you were wrong. You

22 never had jurisdiction. The Nevada Supreme Court has ordered

23 us to enforce Nevada's child...

24 THE COURT: And that's where I need to...

25 MR. WILLICK: ...support collection.

1 THE COURT: ...reconcile that they actually took -- if
2 they're telling me that they actually took that...
3 MR. WILLICK: That has never happened.
4 THE COURT: Yeah, see...
5 MR. WILLICK: They have never gone...
6 THE COURT: Difference of...
7 MR. WILLICK: ...anywhere with that.
8 THE COURT: ...perspective here. They're saying that the
9 issue's been decided already.
10 MR. WILLICK: They've never gone.
11 THE COURT: And you say otherwise.
12 MR. WILLICK: They've never presented any of the
13 appellate court...
14 THE COURT: So you're saying...
15 MR. WILLICK: ...arguments...
16 THE COURT: ...you need to file...
17 MR. WILLICK: ...in Nevada to...
18 THE COURT: ...concrete...
19 MR. WILLICK: ...anybody in Kansas.
20 THE COURT: ...proof that they actually filed an action.
21 Well, first of all...
22 MR. WILLICK: We haven't seen it.
23 MR. CRANE: No.
24 THE COURT: A.G. is licensed in Nevada. They are not
25 licensed in the state of Kansas. So they have...

1 MR. WILLICK: They have interstate...
2 THE COURT: ...to work...
3 MR. WILLICK: ...compacts.
4 THE COURT: Maybe their -- yeah. Their -- they have to
5 work with...
6 MR. WILLICK: Mm-hm.
7 THE COURT: ...you know, Kansas A.G. or you --
8 whatever...
9 MS. ANDERSON: (Indiscernible).
10 THE COURT: ...they're called.
11 MR. WILLICK: We're not gonna tell them how to do their
12 job. But they're mandate to do the job is firm. If they go
13 back to the Nevada Supreme Court right now and say...
14 THE COURT: Okay. So...
15 MR. WILLICK: ...by the way, you're not actually going to
16 make us...
17 THE COURT: Do you want me...
18 MR. WILLICK: ...enforce your order.
19 THE COURT: ...to ask...
20 MR. WILLICK: Are you?
21 THE COURT: ...the Nevada...
22 MR. WILLICK: I have a pretty...
23 THE COURT: ...A.G....
24 MR. WILLICK: ...good idea...
25 THE COURT: ...if they've actually asked the Kansas A.G.

1 to do -- file something in the UIFSA case?

2 MS. ANDERSON: I -- I...

3 MR. WILICK: I have...

4 MS. ANDERSON: I can...

5 THE COURT: Just for...

6 MS. ANDERSON: ...provide some more...

7 THE COURT: ...purposes...

8 MS. ANDERSON: ...some...

9 THE COURT: ...of record.

10 MS. ANDERSON: I can provide some more supplemental

11 information about everything that Kansas has done. But that's

12 the limit on what we're...

13 THE COURT: But bottom...

14 MS. ANDERSON: ...able to do...

15 THE COURT: ...line...

16 MS. ANDERSON: ...from Kansas.

17 THE COURT: ...the Nevada A.G. made direct contact with

18 the...

19 MS. ANDERSON: I (indiscernible).

20 THE COURT: Or did child support here, Clark County D.A.,

21 contact Kansas county D.A., okay, to file something?

22 MS. ANDERSON: We've sent the case for enforcement.

23 The...

24 THE COURT: That's what he did.

25 MS. ANDERSON: ...Clark County D.A. actually even

1 tried...

2 THE COURT: Clark County says...

3 MS. ANDERSON: ...to do it on their own.

4 THE COURT: ...you need to enforce this Nevada order.

5 And what did Kansas D.A. do?

6 MS. ANDERSON: And I can provide you all that information
7 because that's when the Clark County...

8 THE COURT: Put it in a nutshell.

9 MS. ANDERSON: ...D.A. was ha- handling it. But I will
10 be happy to provide you more.

11 THE COURT: But see, I'm -- the -- the rub is, they're
12 telling me Mr. Vaile is doing all these filings. And the
13 Kansas D.A. did not...

14 MS. ANDERSON: Mr. Vaile is doing filings. That's --
15 that's...

16 THE COURT: True?

17 MS. ANDERSON: True. I mean...

18 THE COURT: But Kansas...

19 MS. ANDERSON: That's accurate.

20 THE COURT: Who sought the declaratory relief in Kansas?

21 MS. ANDERSON: I -- I'm pretty sure...

22 THE COURT: That...

23 MS. ANDERSON: ...Mr. Vaile did. But that's the limits
24 of what the program can do in defending mom. And that's where
25 we're back to...

1 THE COURT: And the agency usually just sits back and
2 sees what the judge...
3 MR. WILLICK: It's...
4 THE COURT: ...would order.
5 MR. WILLICK: Again...
6 MS. ANDERSON: We are...
7 MR. WILLICK: ...not...
8 MS. ANDERSON: ...facilitating...
9 THE COURT: Okay.
10 MR. WILLICK: ...defending mom.
11 MS. ANDERSON: We are -- we are not here to defend the
12 law. We are here...
13 THE COURT: Right.
14 MS. ANDERSON: ...to facilitate the enforcement of the
15 child support.
16 THE COURT: They just want to know their role.
17 MR. WILLICK: And that requires going to Kansas...
18 THE COURT: Okay.
19 MR. WILLICK: ...directly or indirectly...
20 THE COURT: Okay.
21 MR. WILLICK: ...with the Nevada appellate orders and
22 having an appropriate person, who's licensed to appear in a
23 Kansas courtroom...
24 THE COURT: To litigate.
25 MR. WILLICK: ...tell the judge, Judge, you are dead

1 wrong. You never had jurisdiction. This has been to several
2 appellate courts in several states. You're wrong...

3 THE COURT: At least...

4 MR. WILLICK: ...wrong, wrong.

5 THE COURT: ...raise the issue.

6 MR. WILLICK: Set your orders aside.

7 THE COURT: If there are issues between two competing
8 state's orders, UIFSA was designed to have one controlling
9 order.

10 MR. WILLICK: And if that judge refuses, it is their duty
11 to go to the appellate court to tell that judge that that
12 judge is out of his mind or her mind. That is what their duty
13 is. They don't want to do it because it's work.

14 THE COURT: It's a matter of perception...

15 MR. WILLICK: But if...

16 THE COURT: ...of their...

17 MR. WILLICK: ...they go back to the...

18 THE COURT: ...responsibilities.

19 MR. WILLICK: ...Nevada Supreme Court, I've already
20 talked to several members of the court, not about this case,
21 but about the general process. If they go back to the Nevada
22 Supreme Court and say, Nevada Supreme Court, you've issued an
23 order saying that this is a controlling order and that it
24 ought to be enforced. You're not actually going to make us
25 enforce it. Are you? I have a pretty good idea...

1 THE COURT: Well, I'm thinking, do you know how many...
2 MR. WILLICK: ...what the Nevada Supreme Court is
3 going...
4 THE COURT: ...pro per mothers out there...
5 MR. WILLICK: ...to tell us.
6 THE COURT: ...would figure out how to do that?
7 MR. CRANE: Thank you, Your Honor, that was my next
8 argument.
9 THE COURT: Just a matter of public...
10 MR. CRANE: That was my...
11 THE COURT: That's another...
12 MR. CRANE: ...next argument.
13 THE COURT: ...public policy argument.
14 MR. WILLICK: They did the same thing to PERS just a
15 couple of months ago. So I...
16 THE COURT: A lot of mothers...
17 MR. WILLICK: ...have a pretty good idea...
18 THE COURT: ...would not be able to collect it.
19 MR. WILLICK: ...what the attitude of the court is going
20 to be.
21 THE COURT: Okay. I'm -- fair enough. Did the Willick
22 Law Group submit any post orders?
23 MR. CRANE: No, we have a -- we have a -- a writ of
24 mandamus. All you have to do is re-issue the exist -- the
25 existing writ of mandamus. (Indiscernible).

1 MR. WILLICK: We can give you another copy.

2 THE COURT: (Indiscernible)...

3 MR. CRANE: I can get you...

4 THE COURT: ...clarifications.

5 MR. CRANE: ...a new one. I can get you a new one today.

6 THE COURT: So what would be my findings. Well, the
7 Chapter 41 finding is the same from the last Court hearing.
8 That's the final order. They can appeal that. And if you
9 want to cover yourselves, you do the petition. But does that
10 change anything substantively? No. They've been served. And
11 then the writ will issue. So I'm going to sign the writ.

12 And the -- the substantive finding today is Nevada
13 is the controlling order. The Court reviewed the UIFSA
14 language and the language under the 12 29 15, that says, UIFSA
15 is designed to ensure that only one child support order is
16 effective at any given time.

17 Given the kind of overwhelming facts of this case,
18 we've been on this case since 1998, Nevada was the originating
19 court that issued the controlling child support order. There
20 has been extensive litigation on controlling order. And that
21 issue has been divided -- decided by the Nevada Supreme Court
22 that it's not Norway. It is Nevada is the controlling order.
23 The operative language is controlling order.

24 And so irre- it's -- I think it's of no import for
25 the Court, for the trial court here, what the effect of the

1 Kansas court order is. It -- it appears to me it's of no
2 effect because I declare that Nevada is the controlling child
3 support order only because the supreme court has always stated
4 that in their decisions. We've always been talking about
5 Nevada court orders. We've had litigation about jurisdiction.
6 We've had loto- litigation about who was -- which state, by
7 definition of state, what jurisdiction, could modify the
8 order. But controlling order in and of itself remains in
9 Nevada. It remains in Nevada. And so, unless there's other
10 certain conditions applying with this language and this order
11 have occurred, I'm not aware of any.

12 Is counsel aware of any other certain conditions?

13 MR. CRANE: Actually, Your Honor...

14 THE COURT: In terms of jurisdiction -- continuing
15 jurisdiction.

16 MR. CRANE: And actually, Your Honor, the Nevada Supreme
17 Court order that came out after that order, actually affirmed
18 your findings and your holdings in their entirety. Where that
19 one actually was going to remand it back to you for additional
20 findings.

21 THE COURT: Right.

22 MR. CRANE: But the Nevada Supreme Court did not do that.
23 They actually said, nope, affirmed your order. And...

24 THE COURT: Duly noted.

25 MR. CRANE: ...so and there -- there was that -- Your

1 Honor, as far as additional findings, we would like a finding
2 that the A.G. is responsible under NRS 133.07 to take all
3 steps necessary to obtain jurisdiction for enforcement. That
4 is statute.

5 THE COURT: I would like you to argue against that if you
6 have an argument...

7 MS. ANDERSON: No, I...

8 THE COURT: ...against that.

9 MS. ANDERSON: Actually I would love that you -- and I
10 appreciate that you'd let us make a better record. I think
11 that you should be more specific as to what you're ordering us
12 to do. You're ordering us to go...

13 THE COURT: Your writ of mandamus is to do the enforcement
14 of the Nevada controlling...

15 MS. ANDERSON: 'Cause the enforcement...

16 THE COURT: ...order.

17 MS. ANDERSON: ...we've tried. We sent, the D.A.'s
18 office sent and tried to do it. You're actually asking us to
19 go challenge the Kansas order in Kansas is what you're asking
20 us to do.

21 THE COURT: That's too technical. I'm asking you to
22 enforce the Nevada order. There might be logistics
23 associated...

24 MS. ANDERSON: And if you want to stay with that...

25 THE COURT: ...with what you normally do.

1 MS. ANDERSON: That's fine.
2 THE COURT: Yes, to get...
3 MS. ANDERSON: I -- whatever you...
4 THE COURT: ...more specific...
5 MS. ANDERSON: ...want. You guys want to put in your
6 details. I just appreciate the fuller record...
7 THE COURT: The Clark County D.A....
8 MS. ANDERSON: ...than where we were before.
9 THE COURT: ...will have to take all steps necessary to
10 enforce the Nevada order. So I don't think...
11 MS. ANDERSON: And I would love if it was Clark County
12 D.A. But that's not really...
13 THE COURT: Or Nevada -- through the Nevada A.G. I guess
14 to enforce...
15 MS. ANDERSON: The child support enforcement program.
16 THE COURT: ...the writ of mandamus, is direct your
17 agency or appropriate agencies to enforce the Nevada order
18 based on my finding today that Nevada is the controlling...
19 MS. ANDERSON: And...
20 THE COURT: ...order.
21 MS. ANDERSON: And I would -- I would ask
22 (indiscernible)...
23 THE COURT: Under UIFSA if there is one controlling
24 order. There's only one controlling order. And all other...
25 MS. ANDERSON: And I...

1 THE COURT: ...orders would be...

2 MS. ANDERSON: ...guess that that order...

3 THE COURT: ...treated...

4 MS. ANDERSON: ...he gets the child support

5 enforcement...

6 THE COURT: Yes.

7 MS. ANDERSON: ...program because that's...

8 THE COURT: Does that get the...

9 MS. ANDERSON: ...what the statute (indiscernible).

10 THE COURT: Does that get you in -- in trouble or

11 anything? No, because you have the right to stand behind one

12 controlling order. That means no other orders are in effect

13 or valid as against the agency.

14 MR. WILLICK: We can supply a...

15 THE COURT: ...as against the agency.

16 MR. WILLICK: We can supply a separate order for today

17 making those findings and including another copy of the writ.

18 THE COURT: Correct.

19 MR. WILLICK: So we'll do that...

20 THE COURT: If...

21 MR. WILLICK: ...this week.

22 THE COURT: If the issues are raised, are there any other

23 specific findings that either of you are asking? I'm okay

24 with the 130 language to enforce a Nevada Controlling order.

25 Point number two, Nevada is the controlling order. So

1 whatever is existing in Kansas, they have the authority, the
2 legal authority to say, we have under UIFSA determination that
3 there is one controlling order, as a Nevada agency under the
4 State of Nevada. And the Nevada Supreme Court has pronounced
5 that this is a valid enforceable order. And I -- and I can
6 understand their position that, you know, if you work between
7 the states. But they can -- they can stand behind the order,
8 the Nevada's order, the trial court's order saying this is one
9 -- one original controlling order.

10 Did the Kansas decision ever talk about who they're
11 controlling -- who the controlling order is?

12 MS. ANDERSON: (Indiscernible).

13 MR. CRANE: They said the Norwegian order is the
14 controlling order.

15 MR. WILLICK: The welfare order.

16 THE COURT: That has been dispen- and I make a finding
17 that that has been fully and finally dispensed with or decided
18 by the Nevada Supreme Court in writing that Norway was never a
19 controlling order. Nevada was always the controlling order.
20 If I can recall. There's so many filings in this case. And
21 other specific findings?

22 MR. CRANE: There is the issue of attorney's fees, Your
23 Honor. We had -- we shouldn't have to come in here to
24 force...

25 THE COURT: As against whom? Mr. Vaile?

1 MR. CRANE: Against the State, Your Honor. We should not
2 have had to come in here to force the State...

3 THE COURT: Is there any...

4 MR. CRANE: ...to do their job.

5 THE COURT: ...any -- any laws prohibiting there or any
6 immunity?

7 MS. ANDERSON: Your Honor, I cited in my -- in my
8 response that there's no authority in a writ to get attorney's
9 fees in this type of a case.

10 THE COURT: And do you have any legal authority?

11 MS. ANDERSON: And they -- and they submitted their
12 (indiscernible).

13 MR. CRANE: We did submit our authority, Your Honor.

14 THE COURT: Which...

15 MR. CRANE: It was the PERS, the PERS case. I can look
16 it up real fast for you here. But it's the PERS case. It
17 says that the state of Nevada can be liable for attorney's
18 fees...

19 MS. ANDERSON: They can be.

20 MR. CRANE: ...if -- yep. If ...

21 THE COURT: If...

22 MR. CRANE: ...they can be liable for (indiscernible).
23 We've got admission now so...

24 THE COURT: If they can be...

25 MS. ANDERSON: No, we -- we can be liable for attorney's

1 fees. But not in this particular case. There's no authority
2 in a writ to award attorney's fees.

3 MR. CRANE: This wasn't a writ. This was a motion. We
4 didn't ask for attorney's fees for the...

5 MS. ANDERSON: It's a writ.

6 MR. CRANE: ...filing of the writ. It as for the motions
7 for having to come in to...

8 THE COURT: I might be missing a...

9 MR. CRANE: ...enforce the writ.

10 THE COURT: ...piece of the puzzle here. But what's the
11 distinction?

12 MS. ANDERSON: A writ doesn't a- that's what this -- the
13 only way we can be brought into this case was as a writ. We
14 were not parties to this case. And that's why we're
15 preserving that other issue. We...

16 THE COURT: Correct.

17 MS. ANDERSON: ...were brought in as a writ. And the
18 writ does not provide for any attorney's fees. And
19 (indiscernible) I guess (indiscernible)...

20 THE COURT: Are you subject to 18.010 or seven -- or
21 EDCR 7.60?

22 MS. ANDERSON: And that's where I cited in my argument
23 that we didn't meet either of those criteria. There was no
24 money...

25 THE COURT: Basically I don't find any frivolous

1 positions.

2 MS. ANDERSON: We weren't being frivolous.

3 THE COURT: This was a complex legal question that had to
4 be answered. So under 18.010, no unreasonable frivolous
5 positions; 7.60, the same concept unless there's an actual
6 specific NRS chapter that authorizes the issuance of
7 attorney's fees pursuant to a writ, I can't identify one.

8 MR. CRANE: Very good, Your Honor.

9 THE COURT: And there will be a final...

10 MR. CRANE: We'll include that in that finding as well.

11 THE COURT: ...decision. So denied. And full and final
12 decision would -- I think I need a conclusion of law, findings
13 of fact and final decision and order on your writ, supporting
14 your writ as well.

15 MR. CRANE: Thank you, Your Honor.

16 THE COURT: So it's hereby ordered the writ shall issue.
17 So prepare a separate writ and separate findings.

18 Would you like to sign off, Ms. Anderson?

19 MS. ANDERSON: I would be happy to review but...

20 THE COURT: Thank you.

21 MS. ANDERSON: ...as to form.

22 THE COURT: Very good.

23 MR. CRANE: And -- and, Your Honor, one other issue.

24 Since they've already indicated that they may take their
25 appellate options on this one...

1 THE COURT: Oh it's probably -- I wouldn't be surprised.
2 MR. CRANE: 125.040 authorizes pendente lite fees. And
3 we would ask again, guess we're going to have to defend this.
4 THE COURT: 125, that's the dissolution statutes?
5 MR. CRANE: One -- 040 and...
6 THE COURT: Or 125(b) would be the child support statute.
7 MR. CRANE: 125, Your Honor. 125.040. This is still a
8 divorce action.
9 THE COURT: The duty and obligation of a parent to...
10 MR. CRANE: And it continues to be the...
11 THE COURT: ...support a child?
12 MR. CRANE: It continues to be a divorce action as long
13 as there's anything...
14 THE COURT: And the fees.
15 MR. CRANE: ...on appeal. That's what the supreme court
16 has (indiscernible).
17 THE COURT: I see. Well, that will be as between Miss --
18 the ex-spouses. Not an agency.
19 MR. CRANE: No, Your Honor. If we had to defend against
20 the State and if they...
21 THE COURT: I'm not aware...
22 MR. CRANE: They are now a party.
23 THE COURT: I'm not aware of any precedent...
24 MR. CRANE: They are now a party to this action.
25 THE COURT: ...under 125 for an agency to be liable for

1 fees.

2 MR. CRANE: And they are now a part- they are not a
3 party. It's 125.040.

4 THE COURT: I do know in child support court, if you are
5 behind under 125(b).140, it's mandatory...

6 MR. CRANE: Against...

7 THE COURT: ...attorney's fees...

8 MR. CRANE: Against...

9 THE COURT: ...against the...

10 MR. CRANE: ...Mr. Vaile.

11 THE COURT: ...against the obligor, correct.

12 MR. CRANE: But going -- going up on appeal, getting fees
13 on appeal, the supreme court has held that you can get
14 pendente lite fees if...

15 MS. ANDERSON: And...

16 MR. CRANE: ...they go up on appeal. And we'd...

17 MS. ANDERSON: And I suggest...

18 MR. CRANE: ...ask...

19 MS. ANDERSON: ...we -- we do that at a different --
20 because that was not...

21 MR. CRANE: I -- I...

22 MS. ANDERSON: ...for -- before you...

23 MR. CRANE: I don't...

24 THE COURT: Okay.

25 MS. ANDERSON: ...today.

1 MR. CRANE: If they want -- if they want...

2 THE COURT: I'm aware of 125. And I don't find any
3 application. Inapplicable.

4 MR. CRANE: Your Honor -- Your Honor, we will end up
5 filing something on that because I think you're wrong on that
6 one.

7 THE COURT: 125.

8 MR. CRANE: And I have to make a record in saying that,
9 that I believe...

10 THE COURT: One moment.

11 MR. CRANE: ...that you're wrong on pendente lite fees.
12 And it -- and...

13 MR. WILLICK: But she's right. It hasn't been briefed.

14 MR. CRANE: It has not been briefed. But I don't want
15 you dismissing it out of hand because Griffith...

16 THE COURT: How about...

17 MR. CRANE: Griffith versus Gonzales-Alpizar, 132
18 Nevada...

19 THE COURT: Can it be deferred without prejudice to
20 either party?

21 MR. WILLICK: Yes.

22 THE COURT: Because if you have a supreme court
23 determination or court of appeals determination...

24 MR. CRANE: It has to be -- it has to be...

25 THE COURT: ...we'll know kind of who is right on the

1 law.

2 MR. CRANE: No, Your Honor. You can't do that.

3 THE COURT: No.

4 MR. CRANE: You cannot do...

5 THE COURT: 040.

6 MR. CRANE: You cannot defer it. You cannot defer it.

7 It has to be...

8 MR. WILLICK: Well, she...

9 MR. CRANE: ...pendente lite.

10 MR. WILLICK: She can defer it for today because we
11 haven't got a specific application.

12 THE COURT: Oh it would be...

13 MR. CRANE: Yes.

14 THE COURT: ...preserved retroactively.

15 MR. CRANE: But you cannot...

16 MR. WILLICK: Yeah, yeah.

17 MR. CRANE: You cannot let it go up on appeal without
18 awarding fees.

19 MR. WILLICK: Right. But it's not -- you -- you're
20 correct. She's correct that it's not technically before the
21 court...

22 MR. CRANE: That's correct.

23 MR. WILLICK: ...today because there's not a specific
24 motion for pendente...

25 THE COURT: Orders for support and cost of suit during

1 the pendency of the action.

2 MR. WILLICK: Yeah, there is no motion for that before
3 the court today, I don't believe.

4 MR. CRANE: No, there's not.

5 MR. WILLICK: Because there's no appeal.

6 THE COURT: Once you file a notice of appeal, it would
7 freeze the case unless you have a Honeycutt request. It has
8 to be an independent.

9 MR. WILLICK: The motion for fees can operate outside of
10 the Honeycutt order. It's not part of the Honeycutt
11 proceeding.

12 THE COURT: You're okay with that then?

13 MR. WILLICK: Yeah, well, it's not...

14 THE COURT: You -- you'll fully...

15 MR. WILLICK: ...before the c- I agree with her.

16 THE COURT: You'll brief it.

17 MR. WILLICK: It's not before the court today. It would
18 be probably premature issue at ruling since I haven't yet
19 filed the motion. She hasn't filed...

20 THE COURT: To enable...

21 MR. WILLICK: ...an opposition.

22 THE COURT: ...a party to carry on or defend a suit, a
23 suit for support.

24 MR. WILLICK: Yeah, but -- but that issue is not before
25 the court today.

1 THE COURT: Duly noted. We'll get there when we get
2 there.

3 MR. WILLICK: Yeah.

4 THE COURT: If you file a motion, then you will...

5 MR. WILLICK: Yeah.

6 THE COURT: ...serve all...

7 MR. CRANE: Cer- we certain...

8 THE COURT: ...interested parties.

9 MR. CRANE: We certainly wanted the -- the State to know
10 that we would be seeking at least \$15,000 up front to -- to
11 fund the...

12 THE COURT: From the Nevada State Treasury.

13 MR. CRANE: Absolutely, Your Honor.

14 THE COURT: For eight -- eight for...

15 MR. CRANE: It would be cheaper to go to...

16 THE COURT: Miss...

17 MR. CRANE: ...Kansas and take care of business.

18 THE COURT: Ms. Vaile to...

19 MR. CRANE: Just like it would be...

20 THE COURT: ...carry on...

21 MR. CRANE: ...cheaper than fighting this here.

22 THE COURT: ...to sue for support.

23 MS. ANDERSON: And, Your Honor, can I just phrase one
24 more...

25 THE COURT: That will be a...

1 MS. ANDERSON: ...question?

2 THE COURT: ...very -- probably a case of first
3 impression or...

4 MS. ANDERSON: It would be.

5 THE COURT: ...very novel.

6 MS. ANDERSON: Your Honor, just one more question
7 because...

8 THE COURT: Yes.

9 MS. ANDERSON: ...again, I have to ask before I make any
10 motion, I would ask for a stay of the writ before I file any
11 appeal.

12 THE COURT: Will you be filing an...

13 MS. ANDERSON: I know you...

14 THE COURT: ...emergency writ?

15 MS. ANDERSON: Huh?

16 THE COURT: Will you be filing an emergency writ...

17 MS. ANDERSON: No.

18 THE COURT: ...(indiscernible)?

19 MS. ANDERSON: So that's why I'm asking for a stay of
20 this decision until we pursue our appellate appeal.

21 THE COURT: What are the NRAP rules on stay? Normally
22 you don't -- you have to file this...

23 MR. WILLICK: Have to file a motion.

24 MS. ANDERSON: I -- I have...

25 THE COURT: Of course maybe I have my dis-....

1 MS. ANDERSON: I have to ask this Court...
2 THE COURT: I have my discretion.
3 MS. ANDERSON: ...first.
4 THE COURT: Yes. And I have to state my inclination
5 whether I'm inclined to grant because this is the nature of
6 collection of child support and the amount in controver- well
7 not in controversy. The amount of the judgment is exceeding
8 six figures. As a matter of public policy, support for the
9 children would be denied.
10 MS. ANDERSON: Right. And that's all I'm asking...
11 THE COURT: State denied.
12 MS. ANDERSON: ...for, Your Honor.
13 THE COURT: Thank you, counsel.
14 MR. WILLICK: Okay. Well, if -- if -- if -- if everyone
15 pleases...
16 THE COURT: Are you...
17 MR. WILLICK: ...I'll do that.
18 THE COURT: Enter those findings, too, Mr. Crane...
19 MR. WILLICK: ...in the proposed order...
20 MS. ANDERSON: That would be -- that would be...
21 MR. WILLICK: ...'cause...
22 THE COURT: ...why I'm...
23 MS. ANDERSON: ...great.
24 MR. WILLICK: ...so we don't have to have
25 (indiscernible).

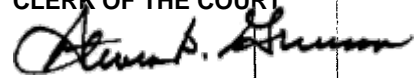
1 THE COURT: ...denying...
2 MR. CRANE: Yes, Your Honor.
3 THE COURT: ...the stay.
4 MR. CRANE: Got it. Thank you.
5 THE COURT: Public policy. Thank you.
6 MR. WILLICK: Thank you for the time and trouble, Your
7 Honor, I appreciate it.
8 THE COURT: Okay. Very good.
9 MS. ANDERSON: You guys have a great day.
10 THE COURT: All right.
11 MR. CRANE: You too.
12 THE COURT: Thank you. No future hearings and no --
13 that's the order of the Court. No future hearings. I'll
14 leave it...

15 (THE PROCEEDING ENDED AT 11:38:13.)
16

17 * * * * *

18 ATTEST: I do hereby certify that I have truly and
19 correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.

20
21 
22 SHERRY JUSTICE,
Transcriber II
23
24
25



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,

CASE NO: 98D230385
DEPT. NO: I

15 vs.

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

DATE OF HEARING:
TIME OF HEARING:

18 Defendant.

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

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: ☐ Without Judicial Conf/Hrg ☒ With Judicial Conf/Hrg ☐ By ADR
☐ Dismissed - Want of Prosecution ☐ Involuntary (Statutory) Dismissal ☐ Default Judgment ☐ 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

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DEC 28 2018

DEPT. I

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
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21 ¹ Time Stamp 9:13:50 - 9:14:20

22 ² Time Stamp 9:14:25 - 9:14:39

23 ³ Time Stamp 9:33:19 - 9:33:29

24 ⁴ Time Stamp 9:36:05 - 9:36:29

25 ⁵ Time Stamp 9:36:30 - 9:36:52

26 ⁶ Time Stamp 9:31:14 - 9:41:26

27 ⁷ Time Stamp 9:48:07 - 9:48:16

1 THE COURT HEREBY ORDERS:

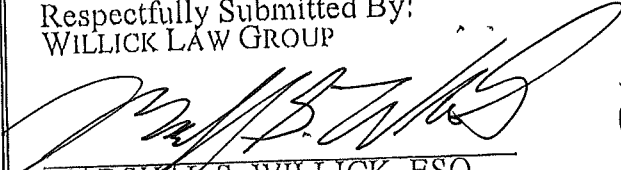
- 2 1. The Defendant's Motion for Order to Show Cause is denied.⁸
- 3 2. The Defendant shall fill out a new application with the help of her counsel and
- 4 be able to electronically sign the application.⁹
- 5 3. The request for Attorney's Fees is denied.¹⁰


6 DATED this ____ day of JAN 02 2019, 2018.

7 
8 DISTRICT COURT JUDGE

9 Respectfully Submitted By:
10 WILLYCK LAW GROUP

Approved as to Form and Content

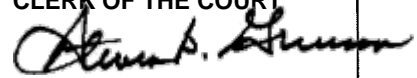
11 
12 MARSHAL S. WILLYCK, ESQ.
13 Nevada Bar No. 2515
14 RICHARD L. CRANE, ESQ.,
15 Nevada Bar No. 9536
16 3591 East Bonanza Road, Suite 200
17 Las Vegas, Nevada 89110-2101
18 Attorneys for Defendant

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



NEOJ
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
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.

CASE NO: 98D230385
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

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

**NOTICE OF ENTRY OF ORDER FROM THE NOVEMBER 6, 2018,
HEARING**

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 from the November 6, 2018,*
Hearing, was duly entered by the Court on the 4th day of January, 2019, and the

1 attached is a true and correct copy.

2 **DATED** this 7th day of January, 2019.

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*
13
14
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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 7th day of January, 2019, 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,C\DRAFTS\00274398.WPD\jj

Steven D. Grierson

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,**

CASE NO: 98D230385
DEPT. NO: I

15 **vs.**

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

DATE OF HEARING:
TIME OF HEARING:

18 **Defendant.**

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

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

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RECEIVED

DEC 28 2018

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1 read the papers and briefs on file herein by counsel, having heard oral argument, and
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3 **THE COURT HEREBY FINDS:**

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- 11 4. It is a simple matter for the Defendant to sign the application and forward it to
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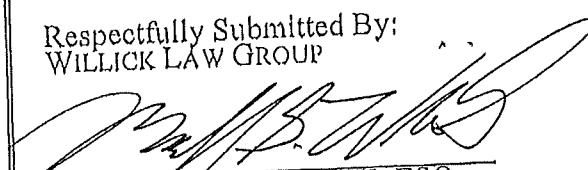
1. The Defendant's Motion for Order to Show Cause is denied.⁸
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3. The request for Attorney's Fees is denied.¹⁰


DATED this ____ day of JAN 02 2019, ~~2018~~


DISTRICT COURT JUDGE

Approved as to Form and Content

Respectfully Submitted By:
WILICK LAW GROUP

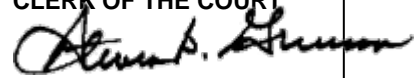

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Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.,
Nevada Bar No. 9536
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Las Vegas, Nevada 89110-2101
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AARON D. FORD
Attorney General
Linda C. Anderson
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.

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, AARON D. FORD, 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.

As previously reported, the State had been corresponding with Porsboll and her counsel to obtain an updated application so they could take all necessary steps under

1 NRS 130.307. After the hearing on the motion for contempt on November 6, 2018,
2 Counsel for Porsboll emailed an application for child support that had been signed by
3 Porsboll on October 23, 2018. The Case was reviewed and opened on November 13,
4 2018 with a request for certified copies of Nevada orders and the case audited beginning
5 with the Nevada Order filed July 10, 2012 for principle and interest judgements and the
6 Nevada Order filed August 17, 2012 for penalties judgement. The State received copies
7 of the certified order on November 14, 2018 and transmitted all necessary information to
8 the other jurisdiction (OJUR) in Kansas.

9 The report to the Court that was due on December 5, 2018 was filed early on
10 November 19, 2018 and no report was filed on January 5, 2019. On December 20, 2018,
11 the State received a request from Kansas requesting certified copies of additional orders.
12 The State requested three orders from the District Court and four orders from the Nevada
13 Supreme Court. On January 18, 2019, all orders were received and forwarded to OJUR.

14 In February of 2019, the State responded to a request from Kansas to provide a
15 missing page. In a phone call on February 25, 2019, Kansas indicated that it will
16 attempt to have the injunction set aside. If Vaile files an objection, they plan to request a
17 bond that could be applied toward the arrears. The State will continue to monitor and
18 report to the Court.

19 Dated: March 7, 2019

20 AARON D. FORD
21 Attorney General

22 By: /s/ Linda C. Anderson
23 Linda C. Anderson
24 Chief Deputy Attorney General
25
26
27
28

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: March 7, 2019

5 AARON D. FORD
6 Attorney General

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

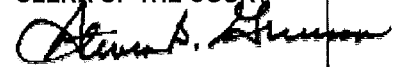
10
11 **CERTIFICATE OF SERVICE**

12 I hereby certify that I electronically filed the foregoing *REPORT TO COURT ON*
13 *ORDER OF MANDAMUS* by using the electronic filing system on March 7, 2019. The
14 following participants in this case are registered electronic filing system users and will
15 be served electronically:

16 Marshall 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



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.

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, AARON D. FORD, 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.

As previously reported, the State had been corresponding with Porsboll and her counsel to obtain an updated application so they could take all necessary steps under

1 NRS 130.307. After the hearing on the motion for contempt on November 6, 2018,
2 Counsel for Porsboll emailed an application for child support that had been signed by
3 Porsboll on October 23, 2018. The case was opened on November 13, 2018 with a
4 request for certified copies of Nevada orders. The case was audited beginning with the
5 Nevada Order filed July 10, 2012 for principle and interest judgements and the Nevada
6 Order filed August 17, 2012 for penalties judgement. The State received copies of the
7 certified order on November 14, 2018 and transmitted all necessary information to the
8 other jurisdiction (OJUR) in Kansas.

9 The report to the Court that was due on December 5, 2018 was filed early on
10 November 19, 2018 and no report was filed on January 5, 2019. On December 20, 2018,
11 the State received a request from Kansas requesting certified copies of additional orders.
12 The State requested three orders from the District Court and four orders from the Nevada
13 Supreme Court. On January 18, 2019, all orders were received and forwarded to OJUR.

14 In February of 2019, the State responded to a request from Kansas to provide a
15 missing page. In a phone call on February 25, 2019, Kansas indicated that it will
16 attempt to have the injunction set aside. If Vaile files an objection, they plan to request a
17 bond that could be applied toward the arrears.

18 Kansas reports that the petition to set aside the injunction has been filed and sent
19 to the local sheriff's department for service on Robert Vaile. The State will continue to
20 monitor and report to the Court.

21 Dated: April 1, 2019.

22 AARON D. FORD
23 Attorney General

24 By: /s/ Linda C. Anderson
25 Linda C. Anderson
26 Chief Deputy Attorney General
27
28

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: April 1, 2019

5 AARON D. FORD
6 Attorney General

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

10
11
12 **CERTIFICATE OF SERVICE**

13 I hereby certify that I electronically filed the foregoing *REPORT TO COURT ON*
14 *ORDER OF MANDAMUS* by using the electronic filing system on April 1, 2019. The
15 following participants in this case are registered electronic filing system users and will
16 be served electronically:

17 Marshall S. Willick, Esq.
18 3591 E. Bonanza Road, Suite 200
19 Las Vegas, NV 89110-2101

20 Robert Scotlund Vaile
21 8121 Lincoln Street
22 Wamego, Kansa 66547

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

Filed 5/22/15

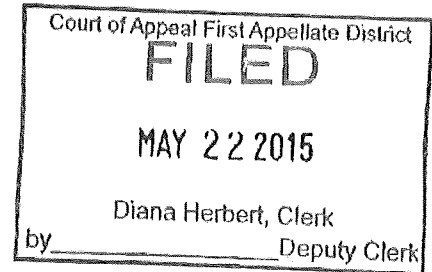
NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR



ROBERT SCOTLUND VAILE,
Plaintiff and Respondent,

v.

CISILIE A. PORSBOLL,
Defendant and Appellant.

A140465

(Sonoma County
Super. Ct. No. SFL-49802)

I.**INTRODUCTION**

This case arises out of a long-running child support dispute that has spawned litigation in California, Nevada, Norway, England, Texas, Virginia, Michigan and Kansas, in federal and state courts, including the Nevada Supreme Court, with attempts to involve the California Supreme Court and the United States Supreme Court. Unsurprisingly, the multiple jurisdictions have produced an array of conflicting support orders, with California and Kansas holding that a 2003 child support document from Norway governs the father's financial obligations, while Nevada continues to proclaim its 1998 support order controlling. The underlying dispute concerns the proper application of the Uniform Interstate Family Support Act (UIFSA), adopted in California as Family Code section 4900¹ et seq. (§ 4911.) But we resolve the appeal on the basis that the California court did not have, and could not, acquire personal jurisdiction over

¹ Statutory references are to the Family Code unless otherwise indicated.

Norwegian resident Cisilie Porsboll when it decided in November 2012 that the Norway order was controlling. Therefore, we reverse the Sonoma County Superior Court's order refusing to set aside the controlling order determination and remand with an instruction to dismiss the case.

II.

FACTUAL AND PROCEDURAL BACKGROUND

In 1989, Robert Scotlund Vaile, a United States citizen, met Porsboll in her native Norway when both were 20 years old. They returned to the United States together and were married in Utah in 1990. They settled in Ohio, where their two daughters were born in 1991 and 1995. The children have dual United States and Norwegian citizenship.

After Vaile finished graduate school in 1996, the family moved to Virginia, where Vaile was employed as an engineer. Vaile's employer transferred him to London in August 1997, and the family was living in London when the marriage broke down. The couple agreed to divorce in the spring of 1998.

In June 1998, fearing Vaile would try to take the children to the United States, Porsboll filed an action in a London court to prohibit removal of the children. On the day before the scheduled hearing, Vaile presented Porsboll with a 23-page separation agreement that covered, among other things, child custody, support and visitation, and also stipulated to their getting a divorce in Nevada, where Vaile's mother and stepfather were then living. Porsboll signed the agreement. The court in England entered an order granting Porsboll physical custody of both children and permission to remove them from the country. Vaile returned to the United States, and Porsboll took the children to Norway.

On July 14, 1998, five days after returning to the United States, Vaile signed a verified complaint asserting that he was "a resident of Nevada and that he had been physically present in Nevada for more than six weeks prior to the filing of the complaint." None of this was true. Eight days after signing the complaint, Vaile left Nevada, vacationed briefly in California, and then returned to his job in London. The complaint for divorce was filed in Las Vegas on August 7, 1998, with the parties'

separation agreement attached. A pro se answer signed by Porsboll was filed the same day. Three days later a divorce decree was entered by the Nevada family court without a hearing.² Porsboll was given initial custody of the children and child support was ordered in accordance with a formula contained in the separation agreement.³ The agreement acknowledged that Porsboll would initially live in Norway with the children until at least July 1, 1999, and after that would live with the girls in the United States within 20 miles of Vaile's residence, which could be anywhere within the metropolitan area of seven named cities.

In November 1999, Porsboll informed Vaile that she planned to remarry. Vaile told her he was moving from London back to the United States and demanded that she and the children also relocate. Porsboll refused and initiated legal steps to be allowed to remain in Norway with the children.

Vaile then filed a motion in the Nevada family court seeking physical custody of the children. Before the court in Norway ruled, the Nevada court awarded custody to Vaile, while holding Porsboll in contempt of court for refusing to return with the children to the United States. The Nevada court's ruling was based on an in-court statement by Vaile that the children had lived "here" "all their lives." Vaile's lawyer also falsely told the Nevada family court the children "lived in Las Vegas prior to leaving."

In May 2000, Vaile took the Nevada custody order to Norway to reclaim the children. He did not file the order with any government body in Norway to have it enforced, however. Rather, he left the order with a desk clerk at a hotel where the children were staying with their mother and kidnapped them from the hotel. Vaile got

² The trial court was the Nevada District Court for the Eighth Judicial District, Family Court Division, Clark County. For ease of reference we shall call it the Nevada family court or some variant.

³ The formula designated 25 percent of the parties' combined income for support of the children while both were minors and 18 percent when only one minor child remained. The noncustodial parent was to pay child support in an amount bearing the same relationship to the total amount of child support as that parent's income bore to the parties' combined income.

them out of the country despite Porsboll's efforts to stop him via the Norwegian police and courts. Vaile took the children back to the United States, where they settled on a farm in West Texas. After the kidnapping, Vaile paid no further child support to Porsboll until his salary was attached in July 2006.

It took Porsboll two years to regain custody of the children through the courts in Nevada and Texas. In September 2000, she filed in the Nevada family court motions seeking return of the children, and to set aside the "fraudulently obtained divorce." The Nevada family court acknowledged that its earlier custody order favoring Vaile had been based on misrepresentations but, exercising emergency custody jurisdiction, it left custody temporarily with Vaile.

Porsboll filed a petition for a writ of mandamus in the Nevada Supreme Court, challenging Nevada's subject matter and personal jurisdiction. (*Vaile v. Eighth Judicial Dist. Court* (2002) 118 Nev. 262, 265-266.) In April 2002, the Nevada Supreme Court held the family court lacked both personal and subject matter jurisdiction because Vaile's residency requirement had not been met. (*Id.* at p. 268.) The Nevada Supreme Court concluded that Vaile "had never lived in Nevada, and had not even been physically present in Nevada for the requisite six-week period," and his contrary statements in his verified complaint for divorce were "false." (*Id.* at pp. 268, 270.)

The court noted the children had never been to Nevada and held the child custody and visitation orders were made without jurisdiction and were void. (*Vaile v. Eighth Judicial District Court, supra*, 118 Nev. at p. 275.) However, because there was a "colorable case for jurisdiction," the court held the remainder of the divorce decree was voidable, but not void. (*Id.* at p. 272.) It implicitly found Vaile had voluntarily submitted to Nevada's jurisdiction by filing the complaint for divorce, and explicitly found Porsboll was estopped to deny Nevada's jurisdiction because her answer also falsely affirmed Vaile's residence in Nevada. (*Id.* at pp. 273-274.)

The court further concluded, or at least implied, that because the family court had "colorable personal jurisdiction over the parties and the subject matter of their marital status," both the divorce itself and the child support provision remained enforceable.

(*Vaile v. Eighth Judicial Dist. Court*, *supra*, 118 Nev. at p. 275.) It remanded the case to the family court with instruction to order the children returned to Norway. (*Id.* at p. 277.) The two children are now 20 and 24 years old, and custody is no longer in controversy, although the parties continue to litigate the issue of arrearages in past-due child support.⁴

After Porsboll and the children returned to Norway, a child support calculation was rendered by a Norwegian agency called Folketrygdkontoret for utenlandssaker, or “National Office for Social Insurance Affairs.” That agency issued a document entitled “Child Support Order” dated March 17, 2003.⁵ The document states that a copy was sent to both parties.⁶

Porsboll insists she did not seek a child support order in Norway. Rather, “the child support order issued in Norway was an administrative action taken by the child support agency pursuant to that country’s ‘welfare’ laws to give the agency an entry on which to base requests to recoup money it was providing for the support of the children due to Mr. Vaile[’s] refusing to support his children.” Yet, the Norwegian order itself states that Porsboll “applied” on May 20, 2002, “for stipulation of child support.” No statement under oath by any participant in the Norway proceedings explains how the

⁴ While it appears that Vaile never paid child support in accordance with the formula in the separation agreement, he did pay \$1,300 per month from the time of the divorce until approximately April 2000. Wage withholding commenced in July 2006, and as of May 2012, Vaile had paid a total of approximately \$90,000 in child support.

⁵ The exact nature of the Norwegian agency is not clear, but the caption suggests it was an administrative agency rather than a court of law. Still, the agency could potentially be a child support “tribunal” for purposes of UIFSA. (§ 4901, subd. (v).)

⁶ We place no credence in Vaile’s repeated assertion that Porsboll “intentionally” “concealed” the Norwegian orders from him. The Norwegian support order itself recites the agency’s efforts to contact Vaile, including by means that appear to comply with The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965) 20 U.S.T. 361, T.I.A.S. No. 6638 (Hague Service Convention). According to the document, Vaile wrote a letter in November 2002 asking for an extension of time. He ultimately failed to provide the agency with any financial information, forcing it to make its support award based on the average income for an engineer in the United States, which, Porsboll alleged, was less than Vaile’s actual income.

Norwegian order came into existence, and no expert testimony was introduced regarding the nature, origin or purpose of the Norwegian document or the procedures employed in Norway for issuing child support orders consistent with UIFSA.⁷

The child support amount was twice modified by the Norwegian National Office for Social Insurance Abroad. That agency's documents recite, "The question of child support can be handled by the national insurance Service or a Norwegian court of law b) [*sic*] if one of the parties or the child resides in Norway." There is no evidence that Vaile ever made support payments under the Norwegian orders.

In November 2007, Porsboll asked the Nevada family court to set a fixed amount of monthly child support based on Nevada statute, rather than on the formula in the 1998 separation agreement, and also to render into a judgment the arrearage owed for child support. The Nevada family court issued several temporary support orders, culminating in an order in October 2008 granting Porsboll the requested relief. The court calculated the arrearage based on a support obligation of \$1,300 per month. (See fn. 4, *ante*.) Vaile appealed.

In late April 2008, Vaile was then living in Sonoma County. At that time, he was notified by a representative of the California Department of Child Support Services (DCSS) that Porsboll had requested the agency to "open . . . a child support case" against him. After Vaile's employer notified him that it intended to start salary withholding, Vaile sued his employer in San Francisco City and County Superior Court for abuse of process and conversion, also naming Porsboll and her lawyers as defendants. In March 2010 the San Francisco court dismissed the action against Porsboll for lack of personal jurisdiction, and stayed the action against her lawyers on grounds of forum

⁷ Norway has been a foreign reciprocating country under 42 U.S.C. § 659a since June 10, 2002. (Notice of Declaration of Foreign Countries as Reciprocating Countries for the Enforcement of Family Support (Maintenance) Obligations, 73 Fed. Reg. 72555 (Nov. 28, 2008); see generally, *Willmer v. Willmer* (2006) 144 Cal.App.4th 951, 956-957.)

non conveniens, deferring to the Nevada courts. Vaile's appeal to this court was dismissed.

In February 2010, Vaile filed a request for a hearing in Sonoma County Superior Court on the earnings assignment. (§ 4945.) On the same date he also filed a separate request for registration in the Sonoma County court, attaching several of the Nevada child support orders. He sought to register only the 1998 Nevada order, claiming the later modifications were made without UIFSA modification jurisdiction. He asked the court to change the "venue" of the support proceedings to California, to declare all of the Nevada orders void for lack of personal and subject matter jurisdiction, or alternatively, to register and modify the 1998 Nevada order. Porsboll was served with the registration documents only by mail in Norway.

A hearing was held in March 2010, not attended by Porsboll or her counsel, but attended by an attorney from DCSS, which had intervened in the action. (See § 17400, subd. (k).) The DCSS attorney told the court the case should be transferred to Nevada, reciting her discussion with Vaile that the wage garnishment issue would be decided in California, while other issues would be decided in Nevada.

In April 2010, the Nevada family court held that Vaile had no valid cause of action. It ordered attachment of Vaile's wages and awarded Porsboll attorney fees.

On September 27, 2010, the Sonoma County court issued an order vacating Vaile's attempted registration of the 1998 Nevada order. It held Nevada did not have continuing, exclusive jurisdiction to modify its 1998 support order, so the more recent Nevada support orders were not in compliance with UIFSA or the federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) (28 U.S.C. § 1738B). The court also refused to modify the 1998 Nevada order, concluding that California had no jurisdiction to do so. Vaile's remedies, it said, were "elsewhere."

On January 26, 2012, the Nevada Supreme Court issued its opinion on Vaile's appeal of the October 2008 order, which addressed whether the Nevada family court could properly enforce or modify its 1998 child support order. (*Vaile v. Porsboll* (2012))

268 P.3d 1272.) Without evidence of the Norwegian orders before it,⁸ the court concluded the 1998 order could still be enforced. (*Id.* at pp. 1274-1275; Nev. Rev. Stat. Ann. § 130.207(1) (2014); § 4911.) It held, however, that Nevada did not have modification jurisdiction because the parties did not reside in Nevada and had not consented to Nevada’s modification jurisdiction. (See Nev. Rev. Stat. Ann. § 130.205(1)(a), (b) (2014); §§ 4909, 4960; *In re Marriage of Haugh* (2014) 225 Cal.App.4th 963, 970-971.) Because the October 2008 order constituted an unauthorized modification, it was unenforceable. (*Vaile v. Porsboll, supra*, 268 P.3d at pp. 1275-1278.)

The Nevada Supreme Court remanded the matter to the Nevada family court to calculate the amount due in arrearage, interest and penalties using the formula contained in the 1998 support order. It further ordered the family court to determine whether a Norwegian child support order “exists and assess its bearing, if any, on the district court’s enforcement of the Nevada support order.” (*Vaile v. Porsboll, supra*, 268 P.3d at p. 1275, fn. 4.) Although the court’s remand did not instruct the family court to make a controlling order determination under section 207 of UIFSA, that was its practical effect.

In March 2012, Vaile registered the Norwegian orders in the Nevada family court. On July 10, 2012, the Nevada family court found it unnecessary to determine which order was “controlling” because there was only one UIFSA-compliant child support order, not two. (See § 4911, subd. (a); Nev. Rev. Stat. Ann. § 130.207(1) (2014).) The court held the Norwegian orders were not issued in compliance with UIFSA’s requirements for modification jurisdiction, and thus had “no bearing” on the enforceability of the 1998 Nevada order. It ordered Vaile’s “notice of controlling Norwegian child support order” stricken from the record.

The Nevada family court recalculated Vaile’s arrearage applying the formula from the parties’ separation agreement. It concluded the principal amount of child support

⁸ The Norwegian support orders were alluded to by the parties but were not before the court.

arrears, after all payments were credited, was more than \$126,000, with interest of more than \$62,000, for a total of more than \$188,000. Vaile was held in contempt for failing to pay child support from April 2000 to July 2006 and was sanctioned \$38,000. He was ordered to pay \$15,000 in attorney fees to Porsboll. Finally, Vaile was ordered to pay \$2,870 per month going forward until all current support and all arrearages were paid.

Vaile's petition to the Nevada Supreme Court for a writ of mandamus was denied. He also appealed the July 2012 family court order. The Nevada Supreme Court ordered the entire trial record transmitted to it (docket no. 61415), and on January 6, 2015, that court ordered the matter transferred to the newly created Court of Appeals for decision.

Meanwhile, in May 2012, Vaile had filed a "notice of motion" in the Sonoma County docket, which attached points and authorities requesting registration of the Norwegian support orders and a determination that they were "controlling" under UIFSA. (§ 4911.) Again, Porsboll was served by mail in Norway.

On November 1, 2012, despite having been made aware of the ongoing proceedings in Nevada, the court in Sonoma County entered its order finding the Norwegian orders were controlling. (§ 4911.) Given the payments Vaile had made, the Sonoma County court calculated he had a remaining support arrearage of only \$3,919 under the Norwegian orders, considerably less than he owed under the Nevada decree. The court also ordered: "No agency, enforcement officer, or employer shall collect or demand child support from [Vaile] contrary to this order, or based on child support orders other than the 2003 Norwegian child support order registered in Sonoma County pursuant to this order." There is no proof that the November 1, 2012 order was served on Porsboll.

Also in November 2012, Vaile moved to Kansas. He registered the California order in Kansas and obtained a similar order from a Kansas court, which held the California order (and thus the Norwegian order) was controlling. In February 2013, the Kansas court concluded, without Porsboll's input, that "the Nevada court lost jurisdiction in this matter when the Norwegian order sought by Porsboll in Norway became effective on April 1, 2002." The Kansas order was later filed in the Nevada family court. In the

meantime, in January 2013, the Nevada family court had found Vaile in contempt and issued a bench warrant for his arrest.

On June 10, 2013, Porsboll filed a request in Sonoma County for an order setting aside the controlling order determination of November 1, 2012, accompanied by the declaration of her attorney setting forth the history of the dispute and attaching multiple exhibits. She argued: (1) the California court had no personal jurisdiction over her; (2) Nevada retained jurisdiction to enforce its 1998 order; and (3) the doctrines of comity and abstention counseled deference to the Nevada courts. The motion was denied by written order and findings on September 11, 2013. Porsboll filed a motion for reconsideration on October 1, 2013, supported by additional exhibits. Porsboll invoked both Code of Civil Procedure section 473 and the court's inherent power to reconsider its own prior determinations.⁹ Porsboll appeals the denial of her request for reconsideration.

III.

DISCUSSION

A. The parties' contentions

Porsboll raises the following issues on appeal: (1) the court that issued the November 2012 order lacked personal jurisdiction over her; (2) it lacked subject matter jurisdiction over the controversy; (3) the Sonoma County court's earlier September 2010 order dismissing registration of the Nevada orders for lack of jurisdiction was a final order binding on the same court; (4) Nevada had continuing jurisdiction over issues of child support, whereas Norway did not; and (5) as a matter of comity, abstention, res judicata, or full faith and credit, the California court should have deferred to the courts in Nevada. Due to these deficiencies, she argues, the November 2012 order should have been set aside at her request, and her request for reconsideration should have been granted.

⁹ Vaile claims section 3691 governs this appeal. We have considered that section and conclude it does not prevent our reversal of the order here under review for lack of personal jurisdiction over Porsboll in the controlling order proceedings. (See *County of San Diego v. Gorham* (2010) 186 Cal.App.4th 1215, 1228-1229, 1232 (*Gorham*).)

Because we resolve this case based on lack of personal jurisdiction, we address that issue only. Porsboll contends the court in Sonoma County lacked personal jurisdiction over her in part because she was not properly served in compliance with the Hague Service Convention. More fundamentally, she claims she did not have the minimum contacts with the forum necessary for exercise of jurisdiction over her in compliance with due process. (*Kulko v. Superior Court* (1978) 436 U.S. 84, 92-94 (*Kulko*).)

Vaile responds that: (1) service in accordance with the Hague Service Convention was not required; (2) personal jurisdiction over Porsboll was not required; and (3) even assuming personal jurisdiction over Porsboll were required, she voluntarily submitted to California's jurisdiction by (a) seeking the assistance of Solano County DCSS in having the Nevada support order enforced in California, (b) seeking to attach Vaile's salary in California, and (c) making arguments in her motion to set aside the November 2012 order that amounted to a general appearance rather than a special appearance.

B. Standards of review

A motion for reconsideration is ordinarily reviewed for abuse of discretion. (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212; *Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1457.) Here, however, the nature of the ruling for which reconsideration was sought requires a different standard of review. A motion to set aside an order filed more than six months after the order was entered may be granted on statutory grounds if the underlying order was void on its face (Code Civ. Proc., § 473, subd. (d); *Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1441), which is an issue of law subject to de novo review.¹⁰ (*Ramos v. Homeward Residential, Inc.* (2014) 223 Cal.App.4th 1434, 1440-1441 & fn. 5 (*Ramos*); *Cruz v. Fagor America, Inc.* (2007) 146 Cal.App.4th 488, 495-496 (*Cruz*).)

¹⁰ To be void on its face, the error must appear in the judgment roll. (*Ramos, supra*, 223 Cal.App.4th at p. 1441; *Cruz, supra*, 146 Cal.App.4th at p. 496.) Because Porsboll never appeared in the action, the judgment roll included the proof of service. (Code Civ. Proc., § 670, subd. (a).)

A default order made without proper service of process, even if proved by extrinsic evidence, is likewise void and may be challenged as a violation of due process after the six-month period. (*Gorham, supra*, 186 Cal.App.4th at pp. 1226-1228.) Such a determination, to the extent it does not turn on the trial court's resolution of factual issues, is subject to de novo review. (*Id.* at pp. 1228-1229; *BBA Aviation PLC v. Superior Court* (2010) 190 Cal.App.4th 421, 429.) If the facts are disputed, we review the lower court's factual determinations for substantial evidence, but still review its legal conclusions de novo. (*BBA Aviation PLC v. Superior Court, supra*, 190 Cal.App.4th at p. 429.) Similarly any issue of statutory interpretation is subject to de novo review. (*In re Marriage of Pearlstein* (2006) 137 Cal.App.4th 1361, 1371-1372; *In re Marriage of Crosby & Grooms* (2004) 116 Cal.App.4th 201, 205.) A motion to set aside a prior order or judgment may also be granted after the six-month period for equitable reasons and will be reviewed for abuse of discretion. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 981.)

C. UIFSA and federal laws regarding enforcement of child support orders

1. UIFSA

We begin with a brief overview of UIFSA, which governs the underlying dispute. UIFSA was intended to establish an efficient, fair and uniform means of enforcing support orders across jurisdictional lines. One of its core concepts is that only one support order may be in force at any given time, which is enforceable but not modifiable by other states. (9 U. Laws Ann. (2005) Interstate Family Support Act (1996) Prefatory Note to Background Information, p. 284; *de Leon v. Jenkins* (2006) 143 Cal.App.4th 118, 124.) This was a significant departure from earlier law, under which multiple and conflicting child support orders were both possible and problematic. (9 U. Laws Ann., *supra*, Prefatory Note to Establishing a Support Order, p. 287; see also Pub.L. 103-383 (Oct. 20, 1994) § 2, 108 Stat. 4063.) UIFSA was unanimously approved by the National Conference of Commissioners on Uniform State Laws in August of 1992, and has since

been adopted by all 50 states.¹¹ (9 U. Laws Ann., *supra*, Interstate Family Support Act (1991) Prefatory Note to Background Information, pp. 161-162.)

UIFSA includes several jurisdictional provisions designed to work together to implement the one-order system. Once personal jurisdiction has been acquired over the parties, it continues for the life of the order (§ 4906). A state or country¹² that acquires personal and subject matter jurisdiction to issue an initial support order under UIFSA has continuing and exclusive jurisdiction to modify that order until all parties and any children for whose benefit the order was issued have left the state or the parties have consented to assumption of jurisdiction by a different state (§§ 4909, 4960). Even if all parties and children have left the issuing state so that it loses jurisdiction to modify a support order, it retains continuing jurisdiction to enforce the order (§ 4910); (4) a state other than an issuing state may (indeed, must) enforce an out-of-state support order if it was issued in accordance with UIFSA's jurisdictional requirements or a "substantially similar" law (§ 4909, subds. (b), (c), 4952, subd. (c)). But, the court may not modify an out-of-state order unless it has acquired modification jurisdiction under the provisions of UIFSA (§§ 4909, subd. (d), 4952, 4960).

¹¹ UIFSA was amended in 1996, 2001 and 2008. (9 U. Laws Ann., *supra*, Interstate Family Support Act (2001), Prefatory Note to Background Information, pp. 161-162, (2014 Supp.) Interstate Family Support Act (2008), Prefatory Note to History of Uniform Family Support Acts, pp. 100-102.) California currently follows the 1996 version, while Nevada now follows the 2001 version, with the 2008 version adopted but not yet effective. (9 U. Laws Ann. (2014 Supp.) Uniform Interstate Family Support Act (2008), p. 99; see History and Statutory Notes, 29F, pt. 2, West's Ann. Fam. Code (2013 ed.) preceding § 4900, p. 6; Nev. Rev. Stat. Ann. § 130.0902 (2014), Ed. Note.) California adopted the 2001 version in 2002, but its effective date is contingent upon acts by the federal government that apparently have not yet been taken. (*In re Marriage of Haugh*, *supra*, 225 Cal.App.4th at p. 968, fn. 2.) California has not yet adopted the 2008 version of UIFSA.

¹² "State" is defined to include foreign countries that have procedures for issuance and enforcement of support orders "substantially similar" to the procedures under UIFSA. (§ 4901, subd. (s)(2).) Federal law provides that the federal government may establish a reciprocating agreement with any foreign country. (42 U.S.C. § 659a(a).)

Modification jurisdiction is proper only where (a) the parties have agreed to have the tribunal assume modification jurisdiction (§ 4960, subd. (a)(2)) , or (b) the obligor, individual obligee and children have all left the issuing jurisdiction, a nonresident seeks modification in the forum state, and the other party is subject to personal jurisdiction in the forum state. (§ 4960, subd. (a)(1).) In either case, the preexisting order must first be registered with the appropriate tribunal in the state where modification is sought. (§ 4958.) Once a proper modification has been ordered, that tribunal assumes continuing, exclusive jurisdiction over the question of child support, and the preexisting order is unenforceable. (§ 4960, subd. (d).)

These provisions strictly limit the power of courts to modify preexisting support orders from other states, thereby helping to ensure that only one enforceable order prevails at any given time. The registration requirement puts the modifying tribunal on notice that it is being asked to modify another state's order, not to issue an initial order. The tribunal will thus be alerted to make sure it has jurisdiction under UIFSA to modify a preexisting order.

In addition, UIFSA forces the party who seeks modification to “ ‘play an away game on the other party's home field’ ” so as to ensure the modifying state has personal jurisdiction over both parties. (9 U. Laws Ann., Interstate Family Support Act (2001) com. foll. § 611, p. 256.) In practice, this usually means the parent seeking modification must make any request for modification in the state of the other parent's residence. Even under preexisting uniform laws a modifying order had to be identified on its face as such, or it was not enforceable. (*In re Marriage of Gerkin* (2008) 161 Cal.App.4th 604, 617 [enforceable under prior law only “if the modification was litigated and noted explicitly on the new order”]; *Lundahl v. Telford* (2004) 116 Cal.App.4th 305, 317-318 [applying UIFSA and comparing its procedures to prior law].)

A modification not issued in accordance with UIFSA jurisdictional principles is not entitled to enforcement. (§ 4952, subd. (c) [state must enforce out-of-state order “if the issuing tribunal had jurisdiction”].) “[U]nder the one-order-at-a-time system, the validity and enforceability of the controlling order continues unabated until it is fully

complied with, *unless it is replaced by a modified order issued in accordance with the standards established by [UIFSA]*. That is, even if the individual parties and the child no longer reside in the issuing State, the controlling order remains in effect and *may be enforced by the issuing State or any responding State* without regard to the fact that the potential for its modification and replacement exists.” (9 U. Laws Ann., Interstate Family Support Act (2001), com., § 206, p. 196, italics added; accord, Uniform Interstate Family Support Act Com. (2001), 29F, Pt. 2, West’s Ann. Fam. Code (2013 ed.) foll. § 4910, pp. 50-51.)

2. Federal Law

Federal law specifically requires state adoption of UIFSA in order to receive certain federal funds. (42 U.S.C. § 666(f); 9 U. Laws Ann., Interstate Family Support Act (1996) Prefatory Note to Background Information, pp. 284-285; see generally Social Security Act Title IV-D, 42 U.S.C. §§ 651-669b (Title IV-D).) One reason for the federal law was to lighten the public burden of supporting children whose parents were not supporting them. (42 U.S.C. §§ 651, 652; § 17400, subd. (a).) The federal legislation requires states to create or designate an organizational unit devoted to collection and distribution of child support payments. (42 U.S.C. § 654(3), (4).) Only support orders “issued by a court or an administrative agency of competent jurisdiction” qualify for enforcement under Title IV-D. (42 U.S.C. § 653(p).)

3. California Law

In California, DCSS was established in 1999 to more effectively administer the state’s Title IV-D program. (§ 17303, subd. (a).) DCSS and its local child support agencies (LCSA) are authorized broadly to establish, modify and enforce child support orders and to collect and distribute child support payments, including by enforcement of out-of-state support orders. (42 U.S.C. §§ 651, 654(4)(A)(i), (ii), 654b; §§ 4921, 17200, 17202, 17208, 17400, subd. (a), 17500.) The law requires LCSA’s to provide services to assist members of the public, including both recipients of public assistance and families whose children have never received public assistance, in determining parentage and locating noncompliant parents, as well as in collecting child support payments.

(42 U.S.C. §§ 651, 654A(8); § 17400, subd. (a).) Child support agencies are expected to work cooperatively with other states to enforce child support orders against obligors located within their states. (42 U.S.C. § 654A(9).)

An LCSA may initiate court action to establish an initial child support order, “to increase an existing child support order,” or to respond to a motion “brought by an obligor parent to decrease an existing child support order.” (§ 17400, subd. (h)(2), (3).) It is not, however, authorized to seek independently an order to decrease an existing child support order. An LCSA may also “intervene . . . in any action under this code, or other proceeding in which child support is an issue,” as it has done in this case. (§ 17400, subd. (k).)

An LCSA is also authorized to enforce child support orders by nonjudicial means, such as wage withholding (§ 17400, subd. (j)(1)), tax refund interception (42 U.S.C. § 664), withholding of unemployment benefits (§ 17518), administrative levies on bank accounts (§§ 17453-17456), suspension of licenses (§ 17520), placing holds on passports (42 U.S.C. § 652(k)), and other collection methods. (California Child and Spousal Support: Establishing, Modifying and Enforcing (CEB 2010) §§ 10.2, 10.6-10.15.) It must take such action, if requested, on behalf of both children who receive public assistance and those who do not and never have. (§ 17400, subd. (a); 42 U.S.C. § 651.) Indeed, an LCSA is required to initially use any authorized “administrative procedure” to enforce an out-of-state child support order without registering it. (§ 4946, subd. (b).)

In addition to the foregoing, Congress enacted the FFCCSOA in 1994 to regulate enforcement of child support orders across state boundaries. Within the United States, an out-of-state child support order that purports to modify an earlier support order is enforceable only to the extent it complies with the jurisdictional requirements for modification under FFCCSOA, which closely track the requirements of UIFSA, including that a party seeking modification must file in a state that has personal jurisdiction over the opposing party and must register the preexisting order prior to seeking modification. (See 28 U.S.C. § 1738B(a), (c), (e), (f), (i); *Holdaway-Foster v. Brunell* (Nev. 2014) 330 P.3d 471, 473-474.)

4. The conflicting California and Nevada rulings on enforceability of the Norwegian orders.

Under UIFSA, when more than one support order has been issued, a request may be filed in an appropriate tribunal in the state of residence of either the obligor or individual obligee for an order determining which order is “controlling.” (§ 4911.) Such a determination is necessary to effectuate UIFSA’s one-order policy. In theory, however, there should be no reason to use this provision in cases where the support orders both were issued purportedly in compliance with UIFSA, since UIFSA contains jurisdictional limitations designed to prevent the issuance of competing orders. In fact, the controlling order provision was included in UIFSA for the express purpose of resolving priority of preexisting conflicting orders issued under prior law. (Uniform Family Support Act Com. (2001), 29F, Pt. 2, West’s Ann. Fam. Code (2013 ed.) foll. § 4911, pp. 60-61.)

The jurisdictional rules under UIFSA makes it appropriate for a court considering a controlling order determination to inquire into whether the tribunals that made the vying support orders had jurisdiction under UIFSA to do so. (See *Stone v. Davis* (2007) 148 Cal.App.4th 596, 602 [concluding state that issued subsequent support order did not have modification jurisdiction under UIFSA].) As discussed, the Nevada Supreme Court has already decided that its state’s 1998 support order is enforceable.

When the case was remanded to the Nevada family court, that court looked into the propriety of Norway’s assertion of modification jurisdiction when it issued its July 2012 order. This was the first order to consider the question of the enforceability of Norway’s orders under UIFSA. The Nevada family court concluded that Norway had no proper modification jurisdiction under UIFSA. It reasoned that the agency in Norway could only have validly assumed modification jurisdiction if either (1) Vaile as a nonresident of Norway had petitioned for modification in Norway; or (2) both parties had filed written consents in the Nevada court allowing the Norway tribunal to modify the child support order and assume jurisdiction. (Nev. Rev. Stat. Ann. § 130.611(1)(a), (b) (2014); § 4960, subd. (a)(1), (2).) Neither of those provisions applied because it was Porsboll, not Vaile, who had sought the Norwegian orders, and the parties never agreed

to jurisdiction in Norway.¹³ Thus, the Nevada family court enforced the 1998 Nevada support order.

Yet, four months later, the Sonoma County court appears to have accepted the Norwegian orders at face value, without examining whether the Norwegian agency had properly assumed modification jurisdiction under UIFSA. It proceeded directly to the question of which order should control and ruled in favor of the Norwegian orders because (1) Norway was the children's home state; (2) the Nevada family court did not have continuing jurisdiction to modify the 1998 child support order; and (3) Norway had "continuing and exclusive jurisdiction."

Of course, Porsboll was not present or represented by counsel so as to alert the court to the potential jurisdictional defects in Norway. Because we conclude that the Sonoma County court did not have personal jurisdiction over her when it made its controlling order determination, we need not decide whether the Norwegian orders were enforceable in California.

D. Personal jurisdiction over Porsboll was required for a "controlling order" determination under section 4911.

At the most fundamental level, Vaile flatly asserts that personal jurisdiction over Porsboll was not required, despite the fact that his request for a controlling order determination sought to reduce the past-due child support owed to Porsboll. Precisely because the decision on such a motion will generally benefit one parent and adversely affect the other, the request must be made in a tribunal having personal jurisdiction over both parties.

Section 4911, subdivision (c) requires a party seeking a controlling order determination to give "notice of the request to each party whose rights may be affected

¹³ We note, as well, there is no evidence to suggest that Porsboll registered the 1998 Nevada support order in Norway before the Norwegian agency rendered its support order, as would have been required under UIFSA for a valid modification. (§ 4958; UIFSA § 609.) She explained under oath that she believed the Nevada decree was void at that time based on the Nevada Supreme Court's opinion in April 2002.

by the determination.” Thus, a party who has not sought a controlling order determination and “may be affected” by it is entitled to notice and an opportunity to be heard.

This requirement is no doubt intended in part to ensure the court has jurisdiction over the parties. Section 4911, subdivision (b) currently in force provides: “If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction[.]” It then lists the rules that must be followed in making the controlling order determination. Significantly, the 2002 version of section 4911 (not yet in effect; see fn. 11, *ante*) added language making it clear that such a determination may only be made if the court can acquire personal jurisdiction over both parties: “If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and same child, a tribunal of this state *having personal jurisdiction over both the obligor and individual obligee* shall apply the following rules and by order shall determine which order controls,” and then lists the relevant factors. (§ 4911, as amended 2002, operative date contingent, italics added.)

We are confident the not-yet-operative 2002 amendment to section 4911 merely clarified a requirement already existing in the then-current version. This view is confirmed by the official comment to UIFSA section 207 (correlative to § 4911): “The 2001 amendment to Subsection (b) [of section 207] *clarifies* that a tribunal requested to sort out the multiple orders and determine which one will be prospectively controlling of future payments *must have personal jurisdiction* over the litigants in order to ensure that its decision is binding on all concerned. For UIFSA to function, one order must be denominated as the controlling order, and its issuing tribunal must be recognized as having continuing, exclusive jurisdiction.” (Uniform Interstate Family Support Act Com. (2001), 29F, pt. 2, West’s Ann. Fam. Code, § 4911, p. 61, italics added; see generally *In re Marriage of Crosby & Grooms*, *supra*, 116 Cal.App.4th at p. 206, fn. 3 [noting

relevance of Commissioners' comments]; *Smith v. Superior Court* (1977) 68 Cal.App.3d 457, 463 [Commissioners' comments entitled to " "substantial weight in construing the statutes" ' "].)

This is dispositive of Vaile's claim. His contrary position is untenable.

E. Porsboll was not properly served in Norway

Vaile states without elaboration that Porsboll was "properly served," yet he has made no effort to show he complied with the Hague Service Convention. The proof of service on the controlling order request shows that Vaile served Porsboll by mail in Norway. Likewise, the earlier registration action showed only service by mail in Norway.

Vaile argues that compliance with the Hague Service Convention is not required in UIFSA "registration" actions, apparently suggesting we treat his "motion" for a controlling order determination as a continuation of his earlier vacated "registration" action, rather than an initial filing. He cites no case to support his position. We conclude service by mail in Norway was inadequate, especially because Vaile's intervening attempt to register and modify the Nevada orders in California had been vacated.

The Hague Service Convention requires each member nation to designate a central authority to receive documents that a foreign party wants to serve on one of its residents. That central authority then effectuates service on its resident in accordance with local law and returns a proof of service. (Hague Service Convention, arts. 2, 5 & 6; see generally, *Volkswagenwerk Aktiengesellschaft v. Schlunk* (1988) 486 U.S. 694, 698.) When a party has not previously appeared in an action, service of process on a resident of a member nation in a civil or commercial matter must comply with the Hague Service Convention.¹⁴ (Code Civ. Proc., § 413.10, subd. (c); see *In re Vanessa Q.* (2010) 187 Cal.App.4th 128,

¹⁴ Norway is a signatory of the Hague Service Convention. <http://www.hcch.net/index_en.php?act=conventions.status&cid=17> (as of May 22, 2015.) It has objected to article 10, which means service by ordinary mail is not authorized. (<www.hcch.net/index_en.php?act=text.display&tid=44> ("Table Reflecting Applicability of Articles 8(2), 10(A)(B) and (C), 15(2) and 16(3) of The Hague Service Convention" [as of May 22, 2015].)

134-136; *Dahya v. Second Judicial Dist. Court* (2001) 117 Nev. 208, 211-213.) A party's actual knowledge of the proceeding, without proper service, does not confer personal jurisdiction. (*Lebel v. Mai* (2012) 210 Cal.App.4th 1154, 1160-1161.)

The parties have not cited and our research has not disclosed any case deciding whether a request for a controlling order determination must be served in accordance with the Hague Service Convention. (But see *Zwerling v. Zwerling* (N.Y. Sup. 1995) 167 Misc.2d 782, 785-786, 636 N.Y.S.2d 595, 598-599 [compliance with Hague Service Convention necessary in divorce proceeding for purpose of child support].) Although the answer seems to depend on the circumstances in which the controlling order determination is requested, we conclude such compliance was required here because the request for a controlling order determination was a new request for relief by Vaile as to which notice was expressly required and personal jurisdiction over Porsboll had not previously been established.

The closest analogy we have found is to dependency proceedings, where it has been generally recognized that the initial petition filed in the action—the document that summons the parties into court—must be served in accordance with the Hague Service Convention (*In re Vanessa Q.*, *supra*, 187 Cal.App.4th at pp. 134-136; *In re Alyssa F.* (2003) 112 Cal.App.4th 846, 852 [failure to comply “renders all subsequent proceedings void” as to the improperly served party]; *In re Jorge G.* (2008) 164 Cal.App.4th 125, 134), whereas later documents filed in the same action after personal jurisdiction over the parties has been acquired may be served by less formal means (*Kern County Dept. of Human Services v. Superior Court* (2010) 187 Cal.App.4th 302, 309-311 [personal jurisdiction acquired through personal appearance at detention hearing; court not required to comply with Hague Service Convention for subsequent and supplemental petitions]; *In re Jennifer O.* (2010) 184 Cal.App.4th 539, 545-548 [where jurisdiction over father was obtained by general appearance, not necessary to comply with serve him in Mexico in accordance with Hague Service Convention with notice of subsequent periodic review hearings].) This is true even though in dependency actions “there is no service of process in the technical sense.” (*Id.* at p. 547.)

But even if Vaile were correct that compliance with the Hague Service Convention is not required in the case of a simple registration and enforcement action,¹⁵ his motion to make a controlling order determination was more: it was a new request for relief that carried with it the prospect of adversely affecting Porsboll's rights. As such, it required proper international service to acquire jurisdiction over Porsboll. Because the defect in service was apparent from the judgment roll, the court erred as a matter of law in denying the request to set aside the November 1, 2012 order, and reversal is required. (*Honda Motor Co., Ltd. v. Superior Court* (1992) 10 Cal.App.4th 1043, 1048.) Even if extrinsic evidence were required to show the lack of proper service, the default order would have to be set aside. (*Gorham, supra*, 186 Cal.App.4th at pp. 1226-1227.)

F. California did not have general or specific personal jurisdiction over Porsboll

1. The Sonoma County court did not have general jurisdiction over Porsboll.

We proceed beyond the question of improper service because Vaile contends Porsboll's actions subjected her to personal jurisdiction in California regardless of whether she was properly served. We conclude Porsboll had insufficient contacts with California to allow the Sonoma County court to assert jurisdiction over her, and even if her contacts were deemed sufficient to subject her to specific personal jurisdiction, there are strong public policy reasons for declining to assume jurisdiction.

"Personal jurisdiction may be either general or specific. A nonresident defendant may be subject to the general jurisdiction of the forum if his or her contacts in the forum state are 'substantial . . . continuous and systematic.' [Citations.] In such a case, 'it is not necessary that the specific cause of action alleged be connected with the defendant's

¹⁵ When enforcement of an out-of-state support order is the only remedy sought, the parties have already had their day in court when the order was issued. Therefore, "an enforcement remedy may be summarily invoked" (9 U. Laws Ann., *supra*, Interstate Family Support Act (1992) com. foll. § 611, p. 514), with or without prior registration, and with or without personal jurisdiction over the obligor. (*Gingold v. Gingold* (1984) 161 Cal.App.3d 1177, 1183 [decided under prior law].) "On the other hand, modification of an existing order presupposes a change in the rights of the parties," and UIFSA therefore imposes "explicit and restrictive" jurisdictional requirements to ensure personal jurisdiction over both parties. (9 U. Laws Ann., *supra*, com. foll. § 611, p. 514.)

business relationship to the forum.’ [Citations.] Such a defendant’s contacts with the forum are so wide-ranging that they take the place of physical presence in the forum as a basis for jurisdiction. [Citation.]” (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 445-446, italics omitted (*Vons Companies*).)

The requirement of minimum contacts with the forum must be met if a court’s order is to comply with due process. (*Kulko, supra*, 436 U.S. at p. 94; *Internat. Shoe Co. v. Washington* (1945) 326 U.S. 310, 316-317 (*Internat. Shoe*).) Thus, a New York resident who had never lived in or traveled to California, except to be married here nearly 20 years earlier, was not subject to California’s jurisdiction merely because he permitted his children to live here with his ex-wife. (*Kulko, supra*, 436 U.S. at p. 94.)

Likewise, it is abundantly clear that Porsboll did not subject herself to general personal jurisdiction in California. She never lived in California, never traveled to California, and never had any other contacts with this state, except to enforce her Nevada judgment here administratively. Without such minimal contacts, exercising general jurisdiction over her would have violated due process. (*Kulko, supra*, 436 U.S. at pp. 91-92.)

2. *Porsboll’s efforts to have the Nevada order enforced by non-judicial means in California and her efforts to attach Vaile’s salary here did not subject her to specific personal jurisdiction in California.*

A closer question is whether Porsboll voluntarily submitted to the specific jurisdiction of California by seeking the assistance of DCSS/LCSA in enforcing the March 20, 2008 Nevada support order. “If the nonresident defendant does not have substantial and systematic contacts in the forum sufficient to establish general jurisdiction, he or she still may be subject to the *specific* jurisdiction of the forum, if the defendant has purposefully availed himself or herself of forum benefits [citation], and the ‘controversy is related to or “arises out of” a defendant’s contacts with the forum.’ [Citations.]” (*Vons Companies, supra*, 14 Cal.4th at p. 446, original italics.) “[T]he purposeful availment prong is only satisfied when the defendant ‘“purposefully and voluntarily directs his activities toward the forum so that he should expect, by virtue of

the benefit he receives, to be subject to the court's jurisdiction based on" his contacts with the forum.' [Citation.]" (*Shisler v. Sanfer Sports Cars, Inc.* (2006) 146 Cal.App.4th 1254, 1260.) The concept is further circumscribed by the requirement that the assertion of personal jurisdiction must comport with fair play and substantial justice. (*Id.* at p. 1258.)

“ “[O]nce it has been decided that a defendant purposefully established minimum contacts within the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal jurisdiction would comport with “fair play and substantial justice.” ’ [Citation.] Courts may evaluate the burden on the defendant of appearing in the forum, the forum state’s interest in adjudicating the claim, the plaintiff’s interest in convenient and effective relief within the forum, judicial economy, and ‘the “shared interest of the several States in furthering fundamental substantive social policies.” ’ [Citation.]” (*Vons Companies, supra*, 14 Cal.4th at pp. 447-448.)

Vaile claims Porsboll voluntarily submitted to the state’s jurisdiction because she (1) sought “services” from the California DCSS and “sought to register” the March 2008 Nevada order in California; (2) attempted to attach Vaile’s salary in California; and (3) made a general appearance in California (even though denominated a “special appearance”). (See generally, *In re Vanessa Q., supra*, 187 Cal.App.4th at p. 135 [general appearance or consent to jurisdiction cures defective service under Hague Service Convention].)

Vaile relies largely on *In re Marriage of Aron* (1990) 224 Cal.App.3d 1086 (*Aron*), decided by this division, which held that by registering a foreign support order in California and seeking a writ of execution, a nonresident wife subjected herself to personal jurisdiction in California. *Aron* involved a Texas resident who had obtained a divorce and child support order in Texas and later brought an action in a California court seeking to enforce the Texas order. Though she had no other California contacts, this division held she submitted to the jurisdiction of California by registering the Texas support order here and then by requesting and receiving a writ of execution. (*Id.* at pp. 1089, 1094-1096 [“By bringing the registration action in California, [wife] placed the

issue of enforcement of support before the court and personally submitted to its jurisdiction for that cause”].) *Aron* held the California court acquired jurisdiction not only to enforce the Texas order, but to modify it downward on the California husband’s motion. (*Id.* at pp. 1091-1092.)

Firstly, we note that *Aron* was decided before UIFSA was in effect. In the ensuing years, state and federal lawmakers have redoubled their efforts to improve interstate collection of child support payments based on the overriding national need for such innovation. (Pub.L. 103-383 (Oct. 20, 1994) § 2, 108 Stat. 4063.) UIFSA’s one-order system has completely replaced the preexisting uniform laws (see generally, 9 U. Laws Ann., Interstate Family Support Act (2001), Prefatory Note to Background Information, pp. 161-162; *In re Marriage of Gerkin* (2008) 161 Cal.App.4th 604, 611-612) and now works hand-in-hand with the federal Title IV-D program to make inter-jurisdictional collection of support payments more efficient. Had UIFSA been in effect when *Aron* was decided, the California court would not have had modification jurisdiction, although it could have enforced the Texas support order. (§§ 4952, 4960.) And while the panel that decided *Aron* thought it proper for California to exercise modification jurisdiction, doing so under the present regime would cast into disarray UIFSA’s one-order system and the Title IV-D plan for nationwide enforceability.

In addition, we find *Aron* distinguishable factually from our case. To begin with, Porsboll’s contacts with California appear to have been less substantial and more indirect than those of the Texas wife in *Aron*. In *Aron* the wife initiated legal action in the superior court in California, whereas Porsboll neither initiated any court action in California nor appeared in the actions initiated by Vaile. Porsboll never “registered” the Nevada orders in California. Rather, it was Vaile who registered the Nevada orders in superior court, simultaneously requesting their modification. (See §§ 4901, subds. (n), (p) [registration occurs when order is filed in superior court], 4902 [superior court is California’s child support “tribunal”], 4952, subd. (a).)

Because he initiated the action in California, it was Vaile’s burden to establish by a preponderance of the evidence the facts showing that Porsboll had sufficient contacts

with California to allow the Sonoma County court to exercise personal jurisdiction over her. (See *Shisler v. Sanfer Sports Cars, Inc.*, *supra*, 146 Cal.App.4th at p. 1259; *Dill v. Berquist Construction Co.*, *supra*, 24 Cal.App.4th at p. 1441.) If Vaile were to carry that burden, it would become Porsboll's burden to demonstrate that the exercise of jurisdiction would be unreasonable. (*Vons Companies*, *supra*, 14 Cal.4th at p. 449.) We conclude that Vaile failed to meet his burden of proof, and Porsboll, if she had a burden at all, satisfied it.

Documents in the record show that in late March 2008, one of Porsboll's attorneys filled out a UIFSA "registration statement" for a temporary Nevada child support order entered March 20, 2008. In filling out the form, Porsboll's attorney provided the addresses of the parties and their Social Security numbers to the child support enforcement authorities, as well as identifying information concerning the Nevada order to be enforced and the amount of monthly support and arrearage established by the order. The parties do not dispute that the registration statement ended up in the hands of the DCSS in Sonoma County, but they do dispute how it got there. Vaile suggests it was "submitted" by Porsboll's attorneys. Porsboll claims it was sent by the district attorney's office in Nevada in an administrative effort to enforce the Nevada order in California under Title IV-D.

While it can be inferred from the signing of the "registration statement" that one of Porsboll's attorneys may have known that the Nevada order was to be enforced in California, we find no evidence in the record that her attorneys transmitted the registration statement to California or directly contacted DCSS or the LCSA to have the order enforced. We also see nothing in the record to suggest that Porsboll sought any assistance in California beyond administrative efforts to collect the Nevada support obligation, thereby requesting only such assistance from California DCSS as federal law required of it. (42 U.S.C. §§ 651, 654A(4)(A)(i), (ii); see also, §§ 4921, 17500.)

On the other hand, the record shows collection efforts were actively pursued by Nevada authorities through a wage withholding notice. By early April 2008, they were communicating directly with Vaile's employer about wage withholding. (§ 4940.) By

statute, neither the Nevada authorities nor DCSS and its attorneys represented Porsboll in its collection efforts, or when it intervened in Vaile's action. Instead the Title IV-D agents operated in their respective states by representing the "public interest" of those states in the mutual enforcement of child support orders. (§ 17406, subd. (a); see also § 4921, subd. (c).)

Thus, we find no substantial evidence in the record to show that Porsboll or her attorneys purposefully availed themselves of any benefit in California. The actions by Porsboll's attorneys in March 2008 were as a matter of law insufficient to subject her to California's jurisdiction for purposes of Vaile's request for a controlling order determination in mid-2012.

But even if we were to consider Porsboll's contacts with California sufficient to exercise specific personal jurisdiction over her, we find countervailing considerations counseling against such action to overshadow the justifications for exercising jurisdiction. This factor—the interstate interest in child support collection—weighs heavily in our analysis that, even if Porsboll's actions were deemed sufficient to potentially warrant the exercise of specific jurisdiction over her, it would not comport with "fair play and substantial justice" to do so. (*Internat. Shoe, supra*, 326 U.S. at p. 316.) Examining the factors identified in *Vons Companies, supra*, we find the burden on Porsboll in appearing in California, the judicial economy achieved by allowing Nevada to continue to litigate this matter without California's interjection, and most importantly, " " "the shared interest of the several States in furthering fundamental substantive social policies" ' ' ' (*Vons Companies, supra*, 14 Cal.4th at p. 448) outweigh any interest that California may have had in the resolution of the dispute in the relatively short time when Vaile lived here, and those factors certainly outweigh California's interest now that none of the parties lives here.

Likewise, the convenience to Vaile in litigating the matter in California was of questionable weight when the decision was before the Sonoma County court in November 2012, and has completely dissipated now that he has moved to Kansas. Especially since Vaile sought his remedy in California after seeking the same remedy in

Nevada, and continued to encourage California to issue a conflicting order even after Nevada had resolved the issue, we place little or no weight on the convenience factor. Therefore, the balance of the factors identified in *Vons Companies, supra*, dictate beyond doubt that the Sonoma County court should not exercise personal jurisdiction over Porsboll upon remand.

The use of wage attachment and other non-judicial means of support collection across state boundaries benefits both individual obligees and the state and federal governments. The use of such interstate remedies must not be allowed to open up the matter of support for renewed litigation in every state where enforcement is sought. To hold as Vaile suggests would subject an individual obligee to personal jurisdiction in any state to which his or her ex-spouse happened to move, work, buy property, or open a bank account. Such a rule would work at cross-purposes to the integrated state and federal statutory scheme for expedited collection of child support under UIFSA, FFCCSOA and Title IV-D. We conclude that Porsboll did not submit to personal jurisdiction in California merely by seeking assistance from an administrative agency in Nevada to enforce a Nevada support order by nonjudicial means in California.

For the same reasons, to the extent that an effort was made to attach Vaile's salary in California through the administrative offices of Title IV-D agents, that action did not subject Porsboll to personal jurisdiction in California courts, because we conclude that by this contact Porsboll did not "purposefully avail" herself of the judicial processes of our state, but rather, at most, sought help through an interstate enforcement mechanism by contacting the Title IV-D agency in Nevada. (42 U.S.C. §§ 654, 666(a)(8)(A); 28 U.S.C. § 1738B.) Under the circumstances, the California superior court did not acquire personal jurisdiction over Porsboll.

3. *Porsboll did not make a general appearance in California.*

Porsboll has denominated her appeal a "special appearance," and she made a similar statement in her papers filed in the superior court. Vaile nevertheless contends Porsboll subjected herself to personal jurisdiction in California by making arguments on the merits in her briefs in addition to opposing personal jurisdiction. As Vaile argues, if a

party who disputes personal jurisdiction nevertheless appears in the action personally or through counsel in such a manner as to recognize the authority of the court to proceed, he or she may be deemed to have made a general appearance, thereby negating any deficiency in personal service. (*Dial 800 v. Fesbinder* (2004) 118 Cal.App.4th 32, 52-53.)

That is not what happened here. Porsboll took none of the actions recognized as a general appearance in Code of Civil Procedure section 1014 [a defendant makes a general appearance when he or she “answers, demurs, files a notice of motion to strike, files a notice of motion to transfer pursuant to Section 396b, moves for reclassification pursuant to Section 403.040, gives the plaintiff written notice of appearance, or when an attorney gives notice of appearance for the defendant”].

It is true that Porsboll’s briefs contain argument related to the California court’s lack of subject matter jurisdiction, as well as arguments about comity and abstention. But all of Porsboll’s arguments were directed toward convincing the California court *not* to exercise jurisdiction over the matter. Porsboll did not voluntarily submit to the court’s jurisdiction by making a general appearance.

Vaile cites *Wolfe v. City of Alexandria* (1990) 217 Cal.App.3d 541, 549 for the proposition that “a non-resident defendant who challenges the subject matter jurisdiction of the court makes a general appearance.” The case actually held that the defendants did not make a general appearance and “the true issue was that of personal jurisdiction.” (*Id.* at p. 550.) The same is true here.

In fact, Vaile’s argument on this point was explicitly rejected by the California Supreme Court many years ago. *Goodwine v. Superior Court* (1965) 63 Cal.2d 481, 484 (*Goodwine*) held: “An answer, a demurrer, and a motion to strike constitute a general appearance (Code Civ. Proc., § 1014), since a court does not decide questions raised by such pleadings at the behest of persons over whom it has no jurisdiction. A court need not have jurisdiction over the person, however, to dismiss for lack of subject-matter jurisdiction. Indeed, the court must dismiss on that ground on its own motion. [Citations.] Thus, a challenge to the subject-matter jurisdiction of the court is not

inconsistent with a challenge to personal jurisdiction. Moreover, since the court must dismiss on its own motion, an appropriate challenge to subject-matter jurisdiction aids the court in performing its duty. The defendant should therefore be allowed to point out lack of subject-matter jurisdiction without making a general appearance.”

Vaile further argues that Porsboll “requested relief that could only be granted if the Court had authority to proceed on the merits with personal jurisdiction of the parties.” We disagree. The only affirmative relief Porsboll sought was to set aside the earlier order for lack of jurisdiction and a “clear order stating that this [c]ourt lacked jurisdiction both over the subject matter and the person of Cisilie Porsboll . . . to ensure that Mr. Vaile [cannot] further attempt to mis-use the *Order* in other jurisdictions.” (Original italics.) A court may issue a statement that it has no jurisdiction without first having obtained jurisdiction. (*Goodwine, supra*, 63 Cal.2d at p. 484.) This is not the type of request for affirmative relief that would subject Porsboll to personal jurisdiction in California. (See *Renoir v. Redstar Corp.* (2004) 123 Cal.App.4th 1145, 1154.) Porsboll also requested attorney fees in connection with her motion for reconsideration, but making such a request does not amount to a general appearance. (*Shisler, supra*, 167 Cal.App.4th at p. 8.) And finally, Porsboll requested that Vaile be reported to the State Bar of California.¹⁶ Again, such a request did not amount to a request for affirmative relief and did not transform Porsboll’s special appearance into a general appearance.

Thus, we conclude not only that Porsboll was not properly served, but the jurisdictional problems run deeper. They require not just that the November 2012 order be set aside, but that the action be dismissed.

¹⁶ During this protracted litigation, Vaile attended and graduated from law school and sat for and passed the California bar exam. He has not been admitted to the state bar on fitness grounds.

IV.

DISPOSITION

The Sonoma County Superior Court's order denying Porsboll's renewed motion to set aside the November 1, 2012 order is reversed. The case is remanded to the superior court which, after setting aside the November 1, 2012 order, shall dismiss the action for lack of personal jurisdiction. Porsboll is entitled to costs on appeal.

Vaile is ordered to file a copy of this opinion in the District Court for the Twenty-First Judicial District, Riley County, Kansas (docket no. 2012-DM-775). Porsboll's attorneys are ordered to file a copy of this opinion in the Nevada family court and the Nevada Court of Appeals, and with the agencies in Norway that issued the child support orders there.

RUVOLO, P. J.

We concur:

REARDON, J.

RIVERA, J.

A140465, *Vaile v. Porsboll*