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

FILED
OCT 2 2 2012
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY ______ DEPUTY CLERK

PROPER PERSON
RECEIVED/ENTERED
SEP 2 6 2012
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE, Appellant, vs. CISILIE A. PORSBOLL, Respondent.	Supreme Court Case No: 61415 District Court Case No: 98D230385 **MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

I. INTRODUCTION

Although Appellant has not yet received the order from the district court, the district court denied Appellant's motion to proceed *in forma pauperis* on appeal which motion had been made in accordance with NRAP 24(a)(1). Given the district court's denial, Appellant hereby raises the same relief in this Court in accordance with NRAP 24(a)(5). For good cause shown, Appellant requests this Court to grant Appellant his motion.

RECEIVED
SEP 2 6 2012
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

12-30451

II. <u>POINTS AND AUTHORITIES</u>

A. Factual Background

Based on the order of the district court during the April 9, 2012 hearing, Appellant submitted a financial disclosure form on April 23, 2012 which is attached hereto as Exhibit 1. This form demonstrated that Mr. Vaile had fixed monthly expenses of $9,243, the largest portion of which was student loan debt ($2,311),[1] child support ($1,430)[2] and mortgage ($1,323). Mr. Vaile informed the district court during the April 9, 2012 hearing that he had lost his job the week prior, but was seeking new employment.

In the *Motion for Leave to Proceed in Forma Pauperis*, filed August 13, 2012, attached hereto as Exhibit 2, Mr. Vaile's affidavit reiterated his lack of employment, and noted that he had $10 in cash, $672.96 in checking, and $3.31 in savings accounts. Since August, those numbers have changed to $0 in cash, $140.61 in checking, and $3.31 is savings. The motion affidavit also outlines that Mr. Vaile earned $86,878.20 in gross earnings in 2012, which equated to $54,334.90 in net pay. Spread over the nine months of 2012, this is approximately $6037.10 per month, and does not take into account the moving expenses that Mr. Vaile incurred when relocating his family from Michigan back to California. Mr. Vaile has survived his period of unemployment by deferring payment of some debts, cashing in the entirety of his 401k plan, and by accepting state benefits. Mr. Vaile has also sought employment diligently.

Respondent Porsboll[3] opposed Appellant's request to proceed *in forma pauperis*, and the district court denied Appellant's motion on September 18, 2012.

---

[1] Since then, another loan has become due. The Vaile's are currently paying $2,415 in student loan payments each month.

[2] Up to that point, Mr. Vaile had been paying $1,430 in child support and arrearages based on the (overturned) orders by the district court.

See Exhibit 3. Instead of observing the shortfall between Mr. Vaile's income to expenses, his lack of employment, or any of the other factors[4] on the mandatory form,[5] the district court instead focused on the historical financial information during the period prior to Mr. Vaile's job loss in April, 2012. During that period, Mr. Vaile earned enough to meet his family's expenses. The district court also apparently found important Respondent's argument that Mr. Vaile owes substantial attorney's fees which the district court awarded to the non-prevailing party below.

B. Argument

This Court has approved the use of Form 4 in the Appendix of Forms that supplement the NRAP because it contains all the factors that a court should consider in determining whether a litigant is entitled to proceed with prosecuting an appeal without the payment of typical fees and costs. This form requests information relative to a litigant's current financial situation. From the district court's decision, it is obvious that the court did not consider any of the factors on that form. Instead, the district court determined that during a period that ended four months before Appellant filed his notice of appeal, he should have been able

---

[3] The fact that Respondent's counsel would oppose a motion for Appellant to proceed *in forma pauperis* when it neither impositions them or their client in any way shows that Respondent's counsel are litigating for the sake of litigation.

[4] In the previous child support proceedings, even though the district court determined to modify the child support provisions specified in the decree, it refused to consider Mr. Vaile's then-current financial situation or number of his dependents. This time around, the district court mandated that half of his gross income be seized in payment of attorneys fees to Respondent (the non-prevailing party below), and mandated child support roughly three times above the statutory maximum, again without regard to his financial situation or dependents.

[5] NRAP, Form 4.

to afford the appellate fees and costs. The district court erred by applying the wrong test.

The factors on Form 4 consider a litigant's *current financial situation*, including current assets and number of dependents. It does not require information relative to how much a party earned the previous four years, or how that income compares to the average Nevada wage or state poverty guidelines. Neither does Form 4 require a court to estimate whether a litigant is capable of earning substantial income. Form 4 is a tool intended to answer the question as to whether a litigant can currently afford to pay the instant fees and costs required to avoid the dismissal of the appeal. Whether a litigant could have afforded the appellate fees and costs in either the past, or the future, are pointless considerations as they do not reflect current ability to pay.

It is important to note that the district court did not even hint that the appeal was not taken in good faith, or that the issues to be raised on appeal lack merit. All issues that Appellant has raised on appeal revolve around this issue. The issues on appeal have significant merit.

This is not the first time that the district court has changed the legal standard when she has not liked the result that follows by applying the correct standard. These actions are further evidence of the district court's obvious bias against Mr. Vaile. Furthermore, it is not in the district court's interest to have this Court hear the appeal as the actions of the district court in direct defiance of this Court's directives will be made obvious.

C. Conclusion

Mr. Vaile is not currently employed. It requires no imagination to recognize that a large family with significant fixed monthly expenses will quickly deplete available funds when income ceases. Although Mr. Vaile expects to be employed again shortly, he does not currently have the ability to pay the appellate fees and costs as documented in the affidavit prescribed by this Court. As such, Mr. Vaile requests that the Court grant him leave to proceed *in forma pauperis* on appeal. In the alternative, Mr. Vaile requests that the Court defer payment of appellate fees and costs until after he has been employed for one month, with a status check or an updated affidavit due no later than January 1, 2012.

Respectfully submitted this 24th day of September, 2012.

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

AFFIDAVIT IN SUPPORT OF SUPPLEMENTAL BRIEF AND CERTIFICATE OF COMPLIANCE

1. I, Robert Scotlund Vaile, certify that I have authored this motion based on my first-hand knowledge and experience in this case.
2. The averments to facts in the motion above I know to be true, or make based on my information and belief.
3. This filing complies with NRAP Rule 32(a)(4)-(6), and is produced in proportionally space typeface Times New Roman and 14 point font in LibreOffice Writer and does not exceed 10 pages.
4. I make these statements under penalty of perjury.

Robert Scotlund Vaile

CERTIFICATE OF MAILING

I hereby certify that on September 24, 2012, I deposited in the United States Mail, postage prepaid, at Kenwood, California, a true and correct copy of *MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL*, addressed as follows:

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

Signed,

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

Exhibit 1

CODE:________________

____

Nevada Bar No. ____________

____

____

Attorney For________________

IN THE FAMILY DIVISION
OF THE Eighth **JUDICIAL DISTRICT COURT**
IN AND FOR THE COUNTY OF Clark**, STATE OF NEVADA**

Robert Scotlund Vaile
Plaintiff or Petitioner

Case No. D230385

Cisilie A. Porsboll (Vaile)
Defendant or Respondent

Dept. No. I

________________________/

FINANCIAL DISCLOSURE FORM

Financial Statement of: Robert Scotlund Vaile
First name Middle Last name

Occupation: None-Unemployed

Employed by: N/A From: N/A To: N/A

Previously Employed by: Consumers Energy From: 06/20/2012 To: 04/03/2012

Age & Date of Birth: 43 (01/05/1969)

Level of Education: Graduate

Level of Disability, if Any: None

Marriage Date, If Applicable: 06/06/1990 (Cisilie) 03/09/02 (Heather)

Present Home Address: P.O. Box 727, Kenwood, CA 95452

How many adults (over 18) live with you? 1

How much do you receive from each of them each month? $0.00

I have paid my attorney a retainer of $ N/A; and his/her hourly rate is $ N/A

I am the _x_ Plaintiff/Petitioner _____ Defendant/Respondent in the above action. I swear under penalty of perjury, that the contents of this Financial Disclosure Declaration are true to the best of my knowledge as of this date. I understand that by my signature I verify the material accuracy of the contents. I also understand that any willful misstatements may be contemptuous and could result in my punishment by the Court. I understand I have a duty to supplement this form upon discovering additional assets or debts or upon changed circumstances within 10 days of discovery.

I declare under penalty of perjury that the foregoing and following are true and correct.

Executed on 04/23/2012 - /s/ Signature________________

Case No. D230385
Dept. No. I

PERSONAL INCOME SCHEDULE

IF SELF-EMPLOYED OR BUSINESS OWNER PLEASE FILL IN THE BUSINESS INCOME/EXPENSE SCHEDULE

	YOUR OWN INCOME	AMOUNT
	EMPLOYMENT INCOME (if paid weekly multiply by 52 and divide by 12, if paid every two weeks, multiply by 26 and divide by 12)	NOTE: ATTACH COPIES OF YOUR THREE MOST RECENT PAY STUBS
1	Average Gross Monthly Income from Employment (all employment income including salary $ 0 + bonuses $ 0 + overtime $ 0 + commissions $ 0 + tips $ 0 + other $ 0 =	0.00
2	**Average Monthly Paycheck Deduction** – Income Taxes	0.00
3	**Average Monthly Paycheck Deduction** – Social Security	0.00
4	**Average Monthly Paycheck Deduction** – Medicare	0.00
5	**Average Monthly Paycheck Deduction** – Health Insurance	0.00
6	**Average Monthly Paycheck Deduction** – Retirement Plan or 401(k)	0.00
7	**Average Monthly Paycheck Deduction** – Savings Account	0.00
8	**Average Monthly Paycheck Deduction(s)** – Other	0.00
9	**Total Paycheck Deductions Per Month** (Add lines 2-8 above)	0.00
10	**Average Net Monthly Income from Employment** (Subtract line 9 from line 1)	0.00
	OTHER INCOME	
11	**Monthly Spousal Support/Alimony Awarded by a Court**	0.00
12	**Monthly Child Support:** court ordered $ 0.00 + other/voluntary child support $ 0 =	0.00
13	**Investment Income** (Dividends, interest and capital gains)	0.00
14	**Rental Income** (Enter the Amount of Depreciation Claimed in Computing Rental Income Here: $ 0.00)	0.00
15	**Retirement Income Including Defined-Benefit Distributions, 401(k) Distributions, military retirement**	0.00
16	**Social Security Retirement**	0.00
17	**Social Security Disability/military disability**	0.00
18	**Supplemental Security Income (SSI)**	0.00
19	**Unemployment Benefits**	0.00
20	**Workers Compensation Payments**	0.00
21	**Other Sources of Income** (Describe: such as direct contributions from roommates or indirect payment of expenses by roommates)	0.00
22	**Total Other Income Per Month (Add lines 11-21)**	0.00
23	***TOTAL INCOME PER MONTH*** *(Add lines 10 and 22)*	0.00

Case No. D230385
Dept. No. I

	PERSONAL EXPENSE SCHEDULE (NOTE: ALL EXPENSES LISTED BELOW SHOULD BE ON AN AVERAGE MONTHLY BASIS annual payments divided by 12, semiannual payments divided by 6, and quarterly payments divided by 3)	TOTAL AMOUNT
1	**Mortgage or Rent**: 1st Mtg. $ 1047 + 2nd Mtg. $ 0 + line of credit $ 0 + taxes $ 225 + insurance $51 =	1,323
2	**Utilities:** Gas/Oil $ 150 + electricity $ 250 + TV/cable $ 6 + water & 0 + garbage 35 =	441
3	**Telephone:** landline $ 25 + cellular $ 15 + Internet $ 65 + fax $ 0 + other $ 0 =	105
4	**Food, Groceries & Incidentals** (not including entertainment or dining out)	800
5	**Transportation:** monthly payment/lease $ 743 + gas and oil 500 + repairs and maintenance, tires $ 0 + insurance $ 110 + license/registration $ 90 + parking $ 0 + public transportation $ 0 + other $ 0	1,443
6	**House Maintenance:** housekeeping $ 0 + garden/lawn care $ 0 + snow removal $ 0 + repairs & maintenance $ 300 + other $ 0	300
7	**Entertainment:** dining out $ 100 + movies, shows $ 0 + music/videos $ 0 + other $ 0 =	100
8	**Dues, Memberships, Fees**: Professional $ 30 + memberships (health club, country club) $ 0 homeowners $ 0 fraternal $ 0 + business $ 0 + other $ 0 =	30
9	**Health/exercise**: clothing/shoes $ 0 + fees/passes (health clubs etc.) $ 0 + other $ 0 =	0
10	**Clothing:** self $ 25 + children $ 100 + cleaning $ 50 =	175
11	**Vacations**	0
12	**Pets:** Food $ 0 + boarding $ 0 + healthcare $ 0 + grooming $ 0 + other $ 0 =	0
13	**Healthcare:** Insurance $ 0 + unreimbursed; medical $ 250 + dental $ 0 + orthodontic $ 0 + medications $ 100 + counseling $ 0 + physical therapy $ 0 + chiropractic $ 0 + other $ 0 =	350
14	**Appearance:** hair $ 20 + nails $ 0 + facials/massage $ 0 + cosmetics $ 15 + other $ 0 =	35
15	**Insurance:** life $ 0 + disability $ 0 + other $ 0 =	0
16	**Books, Newspapers & Magazines**	15
17	**Church/Charitable**	0
18	**Accounting & Tax Preparation**	30
19	**Support of Others:** Ordered Child Support $ 1430 + voluntary child support $ 0 + court-ordered spousal support $ 0 + eldercare $ 0 =	1,430
20	**Miscellaneous:** Gifts $ 50 + storage $ 0 + flowers $ 0 + savings $ 0 + Lawyers fees $ 200 + other $ 0 =	250
21	**Education:** Tuition, Books & Fees $ 0 + extracurricular $ 0 + sports $50 + music $ 0 + other $ 0 =	50
22	**Childcare:** day care $ 0 + preschool $ 0 + other $ 0 =	0
23	**Minimum Charge Card Payments and other consumer/installment debt**: credit card #1 $ 50 + credit card #2 $ 0 + credit card #3 $ 0 + credit card #4 $ 0 + other debt $ 2,311 =	2,361
24	**TOTAL MONTHLY EXPENSES (Add lines 1-23 above)**	9,238

Case No. D230385
Dept. No. I

INCOME/EXPENSE SUMMARY SCHEDULE

Total Monthly Income from Personal Income Schedule Line 23	0
Add: Total Average Net Monthly Income from Self-Employment or Business Schedule Line 30	0
Less: Total Monthly Expenses from Personal Expense Schedule line 24	9,238
Net Monthly Income or (Loss)	(9,238)

Case No. D230385
Dept. No. I

ASSET AND DEBT SCHEDULE

			PROPERTY VALUE (List all assets and debts @ current values)			
	NOTE: PLEASE USE ADDITIONAL ASSET AND DEBT SCHEDULES, AND CARRY TOTALS TO THIS SCHEDULE IF YOU NEED TO LIST ADDITIONAL ASSETS AND DEBTS BEYOND THE LINES PROVIDED ON THIS SCHEDULE.					
	Note: In general, Separate Property is defined as that acquired before marriage, or after marriage by gift or inheritance.			COMMUNITY	SEPARATE	
			TOTAL		HUSBAND	WIFE
	ASSETS					
	CASH: Include the last four numbers of the account, and the name and location including the branch of the institution, including CDs.					
1	5410 - Patelco Checking, Santa Rosa		260	260		
2	5400 - Patelco Savings, Santa Rosa		3	3		
3						
4	**Subtotal**		263	263		
	INVESTMENTS: Include mutual funds, stocks, bonds, brokerage accounts, and other investment accounts. Provide the last four numbers of the account, and the name and location including the branch of the institution.					
5	N/A		0			
6						
7						
8	**Subtotal**		0			
	BUSINESS INTERESTS: If you own all or part include. Indicate percentage of ownership here.					
9	N/A					
10						
11	**Subtotal**		0			
	RECEIVABLES & DEPOSITS					
12	N/A					
13	**Subtotal**		0			
	REAL PROPERTY. Provide common address and type of property, e.g., condominium, townhouse, single-family residence, commercial or retail.					
14	1435 Adobe Canyon Rd, Kenwood CA		175,000			175,000
15						
16						
17						
18	**Subtotal**		175,000			175,000
	AUTOS & RECREATIONAL VEHICLES. Provide make, model, mileage, and vehicle identification number.					
19	2012 Honda Odyssey (3,500 mi) - VIN 5FNRL5H65CB081359		35,483		35,483	
20	2011 Ford Escape (7,000 mi) - VIN 1FMCU9E71CKA89867		24,315	24,315		
21						
22						
23						
24	**Subtotal**		59,798	24,315	35,483	
	PERSONAL PROPERTY. Provide information on furniture, electronics, household goods, tools, computers, artwork, precious metals and jewelry having value of $500 or greater.					
25	Heather's Wedding Ring		2,500			2,500
26						
27						
28						
29						
30						
31						
32						
32						
34						
35	**Subtotal**		2,500			2,500

Case No. D230385
Dept. No. I

ASSET AND DEBT SCHEDULE

	NOTE: PLEASE USE ADDITIONAL ASSET AND DEBT SCHEDULES, AND CARRY TOTALS TO THIS SCHEDULE IF YOU NEED TO LIST ADDITIONAL ASSETS AND DEBTS BEYOND THE LINES PROVIDED ON THIS SCHEDULE.		PROPERTY VALUE (List all assets and debts @ current values)			
	Note: In general, Separate Property is defined as that acquired before marriage, or after marriage by gift or inheritance.			COMMUNITY	SEPARATE	
			TOTAL		HUSBAND	WIFE
	CASH VALUE OF LIFE INSURANCE. Provide information on any loans against the cash rounder value of a life insurance policy					
36	N/A					
37						
38	**Subtotal**					
	RETIREMENT ACCOUNTS. Provide the name of the account, account number, an administrator. Provide any information on loans against retirement assets.					
39	Consumers Energy 401K		7,000	7,000		
40						
41						
42						
43	**Subtotal**		7,000	7,000		
44	**TOTAL ASSETS (add Lines 4,8,11,13,18,24,35,38 and 43)**		244,561	31,578	35,483	177,500
	DEBT					
	LONG TERM DEBT. Provide information on mortgages, notes & deeds of trust, home equity loans and lines of credit, and automobile, recreational vehicle loans and leases.					
45	Mortgage - Betty Vess		165,258			165,258
46	Honda Financial Services - Robert Vaile		35,442		35,442	
47	Ford Motor Credit - Robert & Heather Vaile		26,022	26,022		
48	ACS/Sallie Mae Student Loan - Robert Vaile		157,182		157,182	
49	AES/ACS Student Loan - Heather Vaile		130,983			130,983
50	**Subtotal**		349,629	26,022	192,624	130,983
	OTHER DEBT. Charge accounts, credit cards, medical debts, and other short-term debts. Provide the name of the lender, and the last four numbers of the account.					
51	Capital One - 3079		748	748		
52	US Bank - 1088		216		216	
53	Santa Rosa Hospital - 1974		679	679		
54	Hill-Rom - 5992		293	293		
55	Florida Hospital - 2217		250	250		
56						
57						
58						
59	**Subtotal**		2186	1970	216	
60	**TOTAL DEBT (add lines 50 and 59)**		351,815	27,992	192,840	296,241
61	**NET WORTH (TOTAL ASSETS, line 44 MINUS TOTAL DEBT, line 60)**		(107,254)	3,586	(157,357)	(118,741)

Case No. D230385
Dept. No. I

	BUSINESS INCOME/EXPENSE SCHEDULE (Skip this schedule if you are not self-employed or do not own a business)	AMOUNT PER MONTH
1	Average Monthly Gross Receipts from Self-Employment, Business or Businesses	
2	Cost of Sales or Cost of Goods Sold (if applicable)	
3	Gross Profit (Subtract Line 2 from Line 1)	
4	Advertising	
5	Car and truck	
6	Commissions and fees	
7	Deductible meals	
8	Depletion	
9	Depreciation and section 179	
10	Employee benefit programs	
11	Entertainment	
12	Insurance (other than health)	
13	Interest	
14	Legal and professional	
15	Mortgage on building or office space (paid to banks, etc.)	
16	Office expense	
17	Other	
18	Pension and profit-sharing plans	
19	Rent	
20	Repairs and maintenance	
21	Supplies	
22	Taxes and licenses	
23	Travel	
24	Meals	
25	Utilities	
26	Wages	
27	Total Business Expenses Per Month Including Cost of Sales (Add Lines 4-26)	
28	Average Gross Monthly Income from Self-Employment or Business (Subtract Line 27 from Line 3)	
29	Average Estimated Tax Payments on a Monthly Basis (Estimated Tax Payments are made on a quarterly basis. As a result, the required quarterly payment would be divided by three to calculate the average monthly estimated tax payment.)	
30	Average Net Monthly Income from Self-Employment or Business (Subtract Line 29 from Line 28)	

Exhibit 2

Electronically Filed
08/13/2012 04:23:04 PM

CLERK OF THE COURT

MPFP
Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 833-2350
Plaintiff in Proper Person

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

ROBERT SCOTLUND VAILE, Plaintiff, vs. CISILIE A. PORSBOLL, fka CISILIE A. VAILE, Defendant.	CASE NO: 98 D230385 DEPT. NO: I

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Plaintiff, Robert Scotlund Vaile, hereby requests leave to proceed *in forma pauperis* on appeal of this *Court's Decision and Order*, dated July 10, 2012. As this Court was fully briefed on April 9, 2012, Mr. Vaile lost his job in April, and has not yet secured employment. As attested by the attached affidavit, Mr. Vaile is unable to pay further fees, costs and bonds required on appeal.

Dated this 13th day of August, 2012.

/s/ R. S. Vaile
Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 833-2350
Plaintiff in Proper Person

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

State of Nevada }

}ss.

County of Clark. }

I, Robert Scotlund Vaile, being first duly sworn, depose and say that I am the Plaintiff in the above-entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, cost or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

1. Whether the district court is required to apply NRS 130.207 to make a determination as to the priority of the superseding Norwegian child support orders issued by the foreign country home state of the children which was previously declared a foreign reciprocating country by both the State of Nevada and the federal Department of State.
2. Whether the district court may apply a new standard for waiver of child support.
3. Whether the district court may modify the child support provisions contained in the 1998 decree of divorce.
4. Whether the district court must reverse the award of attorney's fees and sanctions in support of district court awards in judgments reversed by the Nevada Supreme Court.
5. Whether the district court allowed the parties an opportunity to be heard and correctly calculated the appropriate amount of child support due for two children (now grown) based on the formula in the 1998 decree of divorce.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. **Are you presently employed?** I am not presently employed. The date of my last employment was April 3, 2012. My wages had been approximately $11,900 per month with my last employer. I received a total of $86,878.20 in gross earnings in salary and wages in 2012 prior to my position being eliminated. This includes severance pay and health care allowance provided by the company.

2. **Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?** Other than my salary, I have not received income from any other source in the last twelve months. I have cashed in the entirety of my 401k from my last employer (my only retirement savings) in order to meet the family's ongoing expenses during my unemployment.

3. **Do you own any cash or checking or savings account?** I have a total of $10 in cash, $672.96 in checking, and $3.31 in savings accounts.

4. **Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?**

I do not own any real estate, stocks, bonds, notes, automobiles or other valuable property. I am currently leasing two vehicles whose values are each less than the respective payoff amount.

5. **List the persons who are dependent upon you for support and state your relationship to those persons.** I am my family's only source of income. The following persons are dependent on me for support:

Heather Vandygriff Vaile – wife
Robert Lunden Vaile – son
Alexa Liberty Vaile – daughter
Madison Elizabeth Vaile – daughter
Mark Austin Vaile – son

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

Signed: ______________________

Robert Scotlund Vaile

SUBSCRIBED AND SWORN to before me this 13 day of August, 2012.

KAREN J. ARMSTRONG
Commission # 1867391
Notary Public - California
Sonoma County
My Comm. Expires Nov 4, 2013

____
Notary Public

CERTIFICATE OF SERVICE

Plaintiff Robert Scotlund Vaile hereby certifies that I served a true and correct copy of the foregoing *Motion to for Leave to Proceed In Forma Pauperis* by depositing a true and correct copy in the U.S. Mail at Kenwood, California in a sealed envelope, with first-class postage pre-paid and addressed as follows:

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

Dated this 13th day of August, 2012.

/s/ R.S. Vaile
Robert Scotlund Vaile
PO Box 727
Kenwood, CA 95452
(707) 833-2350
Plaintiff in Proper Person

Exhibit 3

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint	COURT MINUTES	September 18, 2012

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

September 18, 2012 1:30 PM Minute Order

HEARD BY: Moss, Cheryl B COURTROOM: Courtroom 13

COURT CLERK: Valerie Riggs

PARTIES:

Cisilie Vaile, Defendant, not present	Marshal Willick, Attorney, not present
Deloitte & Touche, LLP, Other, not present	Raleigh Thompson, Attorney, not present
Kaia Vaile, Subject Minor, not present	
Kamilla Vaile, Subject Minor, not present	
Parties Receiving Notice, Other, not present	
Robert Vaile, Plaintiff, not present	Pro Se

JOURNAL ENTRIES

- COURT'S MINUTE ORDER

On 8/13/12, Plaintiff filed a Motion for Leave to Proceed In Forma Pauperis. On 8/23/12, Defendant filed an Opposition. Plaintiff states in his motion that the purpose of requesting an In Forma Pauperis is for him to proceed with filing an appeal. The trial court denies Plaintiff's motion. Plaintiff admits he earned $86,878.20 in gross wages through April 3, 2012, or approximately $11,900.00 per month. Defendant argues that Plaintiff earned in excess of $130,000.00 per year for four years prior to the Court's last Decision and Order filed July 10, 2012. Defendant also argues that Plaintiff owes Defendant substantial attorney's fees and sanctions that he has not paid over many years of litigation. The Court finds Plaintiff is not indigent. His recent historical earnings are well above the Nevada average wage and extremely above the state poverty guidelines. Plaintiff has a college degree and a law degree. Plaintiff worked jobs that paid well in excess of over $100,000.00 for several years. Given Plaintiff's educational and employment background, Plaintiff is capable of earning substantial income. Plaintiff's motion and request for an Order In Forma Pauperis is denied.

Attorney Willick to submit an order in accordance with the findings herein.

INTERIM CONDITIONS:

FUTURE HEARINGS:

October 22, 2012 1:30 PM Evidentiary Hearing
Moss, Cheryl B
Courtroom 13
Riggs, Valerie