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**IN THE SUPREME COURT
OF THE
STATE OF NEVADA**

ROBERT SCOTLUND VAILE,
Appellant,

vs.

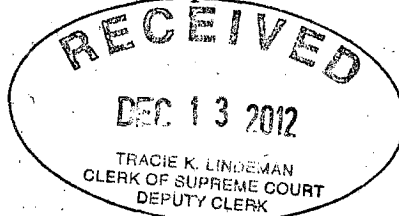
CISILIE A. PORSBOLL,
Respondent.

Supreme Court Case No: 61415

Appeal from
District Court Case No: 98D230385

APPELLANT'S OPENING BRIEF

Robert Scotlund Vaile
2201 McDowell Avenue
Manhattan, KS 66502
(707) 633-4550
Appellant in Proper Person



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I. NRAP 26.1 DISCLOSURE

ROBERT SCOTLUND VAILE,
Appellant,

vs.

CISILIE A. PORSBOLL,
Respondent.

Supreme Court Case No: 61415
District Court Case No: 98D230385

The undersigned proper person Appellant certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. Robert Scotlund Vaile, Appellant in proper person
2. Greta Muirhead, Esq. represented Appellant Vaile unbundled in proceedings in district court prior to 2009
3. Peter Angulo, Esq. of Rawlings, Olsen, Cannon, Gormley, Desruisseaux represented Appellant on appeal between 2000 and 2002
4. Joseph Dempsey, Esq. of Dempsey, Roberts, Smith, Ltd represented Appellant Vaile in proceeding in district court between 1999 and 2000
5. James E. Smith, Esq. represented Appellant Vaile in Divorce proceedings in district court prior in 1998
6. Cisilie A. Porsboll, fka Cisilie A. Vaile is Respondent
7. Marshal S. Willick, Esq. of the Willick Law Group has been attorney for Respondent in all proceedings since 2000

1 8. David A. Stephens, Esq. represented Respondent in divorce proceedings in
2 1998

3
4 Respectfully submitted this 11th day of December, 2012.

5
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7 

8 Robert Scotlund Vaile
9 2201 McDowell Avenue
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12 *Appellant in Proper Person*
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IV. JURISDICTIONAL STATEMENT

This appeal involves three related district court orders involving post-divorce child support. An order reducing child support arrearages and interest to judgment was issued by the district court on July 10, 2012.¹ A notice of appeal of the July 10, 2012 order was filed on July 30, 2012.² An order awarding attorneys fees and costs was entered on August 16, 2012,³ and an order reducing child support penalties to judgment was entered on August 17, 2012.⁴ Appellant's notice of appeal was amended in response to the August orders and resubmitted on August 27, 2012.⁵ This Court held in an order dated October 22, 2012 that the August 17, 2012 order of the district court perfected this Court's jurisdiction under NRAP 4(a)(6).⁶

¹ References to the Record on Appeal will be indicated hereinafter as ROA followed by the page numbers. The reference to this order is ROA4875-4887.

² ROA4902-4917

³ ROA4967-4968

⁴ ROA4969-4970

⁵ ROA4985-5004

⁶ References to Appellant's Appendix will be indicated hereinafter as RSV followed by the page numbers. The instant reference is RSV029.

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V. STATEMENT OF ISSUES

A. May the District Court Refuse to Apply UIFSA Law to Determine the Controlling Order as Directed by This Court?

B. May the District Court Refuse to Apply the Doctrine of Estoppel to Prevent a Party from Denying the Validity of Her Own Judicial Actions?

C. May the District Court Establish and Apply a New Judicial Standard for Waiver and Reject the Defense of Prevention?

D. May the District Court Award Attorney Fees to the Non-Prevailing Party in an Action?

E. May the District Court Avoid a Mandate of the Nevada Supreme Court by Applying the Doctrine of *Res Judicata*?

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VI. STATEMENT OF THE CASE

13 This case is an appeal from three related judgments from the Eighth Judicial
14 District Court, family division, imposing child support principal, interest,
15 penalties, sanctions and attorney's fees against Appellant concerning child support
16 for two grown children living in Norway. These judgments followed hearings on
17 April 9, and June 4, 2012, which were held to address the appropriate district
18 court action following a reversal and remand of the case by this Court on January
19 26, 2012. The central issue on appeal lies in the district court's refusal to follow
20 the mandates contained in this Court's January 26, 2012 decision.

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VII. STATEMENT OF FACTS

29 In April 2002, this Court sent the parties' children to Norway with
30 Respondent Porsboll for custody determinations to be made in that country based
31 on the holding that Norway was the country of the children's habitual residence.⁷
32 At Respondent's request, a Norwegian tribunal entered both a custody order and a
33 separate child support order in her favor with an effective date of April 1, 2002.⁸
34 Although Mr. Vaile was informed by Porsboll (and the Norwegian tribunal) that
35 she would be seeking support through the Norwegian system, Mr. Vaile did not
36 receive the child support order⁹ from Norway at that time, and Porsboll did not
37 provide the order to him.¹⁰ In 2003, Porsboll informed Mr. Vaile that the Nevada
38 divorce decree, which contains the child support provisions, was "void,"¹¹ and

39 ⁷ RSV010

40 ⁸ ROA4246

41 ⁹ Eventual communications from the relevant Norwegian agency indicate that the
42 order was sent to a previous invalid address for Vaile and then returned
43 undelivered.

44 ¹⁰ ROA4644

45 ¹¹ ROA3018 (p.60 of transcript), ROA3061 (p.103), ROA3076 (p.118), ROA3093
46 (p.135)

1 expressed an intent to seek child support exclusively through the Norwegian
2 system.¹² However, at no point did Porsboll provide a copy of any Norwegian
3 child support order to Mr. Vaile.¹³

4 In 2005, Porsboll sought and was granted a modification (an increase) to the
5 Norwegian child support order in Norway, but again, did not provide Mr. Vaile
6 with a copy of the order.¹⁴ In 2007, Porsboll authorized her Nevada attorney to
7 revive the case in Nevada in an attempt to improve on her monetary award
8 contained in the Norwegian child support order.¹⁵ The strategy deployed involved
9 attempting to convince a Nevada district court to retroactively modify the Nevada
10 decree to the benefit of both Porsboll and Nevada counsel.¹⁶ The district court
11 reopened the matter in Nevada, instituted retroactive child support, and ordered
12 interest, penalties and sanctions against Appellant Vaile.¹⁷ While the action was
13 pending in Nevada, Porsboll sought and was granted a second modification
14 (another increase) to the Norwegian child support order in Norway in 2008, still
15 without disclosing the Norwegian child support orders to Mr. Vaile, or the district
16 court in Nevada.¹⁸

17 After several years of conflict, Porsboll expelled the oldest child from her
18 home in 2009 to live on her own, while the child was still a minor.¹⁹ The younger
19 child, also a minor, followed shortly thereafter to live with her sibling in order to
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22 ¹² ROA3018 (p.60 of transcript), ROA3061 (p.103), ROA3076 (p.118), ROA3093
23 (p.135)

24 ¹³ ROA4644

25 ¹⁴ ROA4269-4274

26 ¹⁵ ROA1087-1100

27 ¹⁶ ROA4951

28 ¹⁷ ROA1172-1173, ROA2198-2225

¹⁸ ROA4276-4280

¹⁹ ROA4041

1 avoid the strife at home.²⁰ Under the Norwegian child support system, a child
2 who lives on her own shall receive the entirety of the child support, and when a
3 child reaches the age of 18, the child is entitled to any arrearages or interest that
4 may have accrued on that support.²¹ None of the child support Mr. Vaile has paid
5 through the Nevada system flows to the Norwegian child support system and to
6 the children, but rather is split 40/60 between Respondent's Nevada counsel and
7 Porsboll, respectively.²²

8 On January 26, 2012, this Court determined that the district court's
9 retroactive modifications made to the child support provisions of the parties' 1998
10 divorce decree were entered without jurisdiction.²³ This Court also directed the
11 district court to determine whether a Norwegian child support order exists and to
12 assess its bearing on the district court's enforcement of the 1998 decree using
13 NRS 130.207.²⁴ This Court reversed the district court's decisions which had been
14 in favor of Respondent and rejected every one of Respondent's arguments on
15 appeal.²⁵

16 Because of the refusal of the district court to obey its temporary orders, this
17 Court instituted a stay of the entire proceedings on July 20, 2010.²⁶ While the
18 appeal was pending, Appellant inquired and received from the Norwegian
19 authorities the Norwegian child support order with effective date of April 1, 2002,
20 and the subsequent modifications entered in 2005 and 2008. Once this Court
21 lifted the stay and issued its decision in January 2012, Mr. Vaile filed notice and
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24 ²⁰ ROA4828

25 ²¹ ROA4041, ROA4827-28

26 ²² ROA2327, ROA3424, ROA4251

27 ²³ RSV024

28 ²⁴ RSV023

²⁵ RSV018-028

²⁶ RSV016-017

1 copies of the Norwegian orders with the district court on March 6, 2012.²⁷ Mr.
2 Vaile also filed a Notice of Address Change on March 6, 2012 since his address
3 changed while the case was stayed.²⁸ At the same time, Porsboll's attorneys
4 moved to hold Mr. Vaile in contempt of court for not paying the reversed attorney
5 fee awards, for not having paid the post-remand child support amounts (which
6 had not yet been determined), and to sanction Mr. Vaile for not filing his notice of
7 address change while the case was stayed.²⁹

8 The district court held evidentiary hearings on April 9 and June 4, 2012 and
9 allowed supplemental briefing on the topic of the controlling effect of the
10 Norwegian order.³⁰ During the June evidentiary hearing, because Porsboll's
11 counsel had another appointment, the district court cut short and limited the
12 hearing primarily to the issues of the controlling effect of the Norwegian order.
13 The district court communicated that once it determined the controlling effect of
14 the Norwegian order, the Court would hold a follow-up hearing on the proper
15 calculations of child support under the formula contained in the divorce decree.³¹

16 Without holding that follow-up hearing, the district court entered a decision
17 and order on July 10, 2012, adopting Porsboll's proposed (and faulty) calculations
18 without allowing argument or explanation relative to the calculations, providing
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21 ²⁷ ROA4242-4248, ROA4261-4280

22 ²⁸ Mr. Vaile informed Respondent's counsel of the address change, although he
23 did not attempt to violate the stay by filing the notice with the district court until
after the stay was lifted.

24 ²⁹ ROA4048-4180

25 ³⁰ See ROA Minutes of April 9, 2012 and June 4, 2012.

26 ³¹ See ROA Minutes of June 4, 2012 which states in relevant part: "Once the
27 Court has ISSUED a DECISION [on the controlling effect of the Norwegian
28 order], the Judicial Executive Assistant for Department I shall CONTACT the
parties to SCHEDULE a HEARING [on each parties' calculations required to
compute child support under the decree]." (emphasis in context, clarifications
in brackets added).

1 Appellant no opportunity to be heard on that matter, and providing no record on
2 the topic.³² In its order, the district court refused to make a determination under
3 NRS 130.207, as directed by this Court, found the statute "inapplicable," and
4 struck the Norwegian orders from the record.³³ The district court adopted
5 Respondent's defense to Appellant's registration of the Norwegian order, which
6 defense has no precedent or support under Nevada law.³⁴

7 The district court also refused to overturn the attorneys fees it awarded (pre-
8 reversal) to Respondent, the non-prevailing party below, and in fact awarded
9 more than \$57,000 in additional attorneys fees.³⁵ The district court refused to
10 overturn the \$16,000 contempt sanctions which the district court previously
11 imposed against Mr. Vaile for not retroactively adhering to the modifications
12 which this Court reversed.³⁶ The court refused to give credit to Mr. Vaile for
13 child support payments that he made to Porsboll directly when no salary intercept
14 was in place,³⁷ and then levied additional sanctions against him in the amount of
15 \$38,500.³⁸ The district court also held Mr. Vaile in contempt of court and
16 sanctioned him for not filing his notice of change of address while the case was
17 stayed by this Court.³⁹

18 The district court's July 10, 2012 order implemented very significant
19 modifications to the 1998 divorce decree as to both duration and child support
20 amount. Specifically, it imposes a child support obligation on him *while the*
21 *children lived with him* and requires payment far in excess of the amount that the
22

23 ³² ROA4875-4887

24 ³³ ROA4877

25 ³⁴ ROA4876-77

26 ³⁵ ROA4886-87, ROA4967-68

27 ³⁶ ROA4885

28 ³⁷ ROA4878-79

³⁸ ROA4884-85

³⁹ ROA4881

1 formula in the decree provides.⁴⁰ Finally, the district court refused to apply the
2 legal doctrines of waiver, prevention and estoppel to the facts of the case, and
3 instead replaced the waiver standard created by this Court with a standard which
4 would require an attorney-sanctioned written agreement in order for waiver to
5 apply.⁴¹
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⁴⁰ ROA4883

⁴¹ ROA4878, ROA4883

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VIII. SUMMARY OF THE ARGUMENT

The district court has simply refused to follow mandates contained in this Court's January 26, 2012 decision. Instead of applying NRS 130.207 to determine the controlling order as directed by this Court, the district court determined that NRS 130.207 did not apply. The lower court refused to honor the Norwegian orders based on a defense that is unsupported by Nevada law and which federal preemption prohibits. Furthermore, Respondent's challenge to the validity of her own judicial actions in Norway in seeking the child support orders is prohibited by judicial estoppel.

The district court's retroactive imposition of child support on Appellant between 2000 and 2002, when the children lived with him full-time, is contrary to the law, and a significant (and impermissible) modification to the parties' agreement. Even if Norway had not issued a controlling order which began in 2002, Respondent waived child support through her direct verbal claims and her inaction between 2002 and 2007. Furthermore, Porsboll prevented Mr. Vaile from calculating child support in accordance with the parties' agreement by refusing to provide income information required under the decree.

The district court's refusal to follow this Court's mandates include the rejection of NRS 130.207 as directed, the ongoing modification of the parties' agreement, and the direct refusal to reverse its judgments based on this Court overturning the lower court's judgments. Finally, the district court has determined to uphold the attorney fee awards in favor of Respondent despite the fact that she is the non-prevailing party in the litigation thus far.

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IX. ARGUMENT

A. THE DISTRICT COURT REFUSED TO APPLY UIFSA LAW TO DETERMINE THE CONTROLLING ORDER AS DIRECTED BY THIS COURT

This Court noted in its January 26, 2012 decision in this case that although the appellate record alluded to a possible child support order issued by Norway, the order was not contained in the appellate record. The reason that the controlling Norwegian order was not contained in the record is because the district court denied Mr. Vaile's several requests to require Porsboll to disclose the Norwegian orders. Mr. Vaile attempted to resolve the matter (while the case was on appeal) by writing to the Norwegian authorities, obtaining certified copies of the Norwegian order and modifications, and filing the order with the district court on March 6, 2012.

This Court's January, 2012 decision provided a detailed mandate to the district court on this matter, stating that "the district court must determine whether such an [Norwegian] order exists and assess its bearing, if any, on the district court's enforcement of the Nevada support order." The Court also provided explanation on how to assess the Norwegian order's bearing, through application of NRS 130.207. This Court explained:

To facilitate this single-order system, UIFSA provides a procedure for identifying the sole viable order, referred to as the controlling order, required for UIFSA to function. See NRS 130.207 (addressing the recognition and determination of the controlling child support order); Unif. Interstate Family Support Act § 207 cmt. (2001), 9/IB U.L.A. 198-99 (2005) .

Vaile v. Porsboll, 128 Nev. ___, 268 P.3d 1272, 1274 (2012).⁴²

⁴² RSV021-022

1 Despite the clear directive from this Court, on remand, the district court held
2 that, "The Court finds that NRS 130.207 is inapplicable."⁴³ The district court's
3 holding is in error, and in direct defiance of this Court's mandate.

4
5 ***1. NRS 130.207 DOES NOT APPLY EXCLUSIVELY TO***
6 ***SIMULTANEOUSLY ISSUED ORDERS***

7 The district court's explanation as to why NRS 130.207 does not apply is
8 astonishingly vacant of reason. The district court's explanation states that "At the
9 time of the 1998 divorce decree, there was only one child support order issued in
10 Nevada which is the controlling order. There were no multiple competing orders.
11 Therefore, NRS 130.207 does not apply in this case."⁴⁴ Although it is virtually
12 impossible to find any legal logic in the district court's statement, the district court
13 appears to be stating that when the first child support order was issued as a part of
14 the 1998 divorce decree, the second order had not yet been issued?! The only
15 time that one order does not necessarily precede another is when two orders are
16 issued by jurisdictions simultaneously.⁴⁵ The district court appears to hold that
17 NRS 130.207 applies only to simultaneously issued orders. Because one order
18 preceded the other order in time (as has taken place in every known UIFSA case),
19 the district court held that NRS 130.207 does not apply.

20 Section 207 of UIFSA was not intended to apply exclusively to
21 simultaneously issued orders. The text of NRS 130.207(1) is clear that the statute
22 applies when "two or more child-support orders have been issued by tribunals of
23 this State or another state with regard to the same obligor and same child." There
24 is, of course, no support in the wording of the statute or the comments by the

25 ⁴³ ROA4877

26 ⁴⁴ ROA4877

27 ⁴⁵ The district court basically judicially modified the UIFSA statutory test to a
28 "first in time" test, a concept specifically rejected by the Uniform Law
Commission in the production of UIFSA.

1 Uniform Law Commission to support the district court's distortion of the law. If
2 section 207 of UIFSA applied only to simultaneously issued orders, the
3 comprehensive statutory scheme adopted by every jurisdiction in the United
4 States would be critically flawed indeed as it would virtually never apply.

5 In this case, the proper application of NRS 130.207 leads to only a single
6 result – that the Norwegian child support order is indeed controlling.
7 Specifically, NRS 130.207(2) requires that priority be given to the order from the
8 tribunal with continuing and exclusive jurisdiction, which only Norway
9 possesses.⁴⁶ Even if Nevada also had continuing and exclusive jurisdiction,
10 priority goes to the tribunal in the home state of the children (Norway) or
11 secondarily, to the tribunal which most recently issued a child support order
12 (Norway). The only legal result of the just application of NRS 130.207 is that the
13 Norwegian child support order with an effective date of April 1, 2002 is
14 controlling over the child support agreement contained in the parties' 1998
15 Nevada decree of divorce. Appellant requests that this Court direct (again) the
16 district court to apply the law, or alternatively, determine as a matter of law that
17 the Norwegian order is indeed controlling.

18
19 ***2. NORWAY'S ALLEGED FAILURE TO FOLLOW NEVADA LAW IS NOT A DEFENSE***
20 ***TO RECOGNITION OF NORWAY'S CHILD SUPPORT ORDER***

21 Under Nevada law, there are a number of defenses to recognition of a
22 foreign child support order. These defenses are limited to those enumerated
23 under NRS 130.607(1).⁴⁷ According to NRS 130.607(3), when “the contesting
24 party does not establish a defense under subsection 1 to the validity or

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26 ⁴⁶ This Court previously held that Nevada did not have continuing and exclusive
27 (modification) jurisdiction. Norway became the home state of the children
28 when this Court ordered they be sent to Norway in April 2002. It is undisputed
that the Norwegian tribunals have had continuing and exclusive jurisdiction
since that time.

1 enforcement of the order, the registering tribunal shall issue an order confirming
2 the order.”

3 Respondent did not raise even a *prima facie* defense to registration of the
4 Norwegian order under NRS 130.607(1). Instead, Respondent invented a new
5 defense. Specifically, since a Nevada court is required to follow NRS 130.611⁴⁸
6 when that court modifies a foreign child support order, Respondent argued that
7 the recognition of the Norwegian child support order should also be conditioned
8 on whether the Norwegian court followed the same Nevada statutory law
9 provision when it issued its controlling order. Respondent reasoned that since
10 *she* sought and was granted a modification of the Nevada decree in Norway, not
11 Mr. Vaile (the out-of-state party in the matter), Norway violated Nevada's
12 implementation of UIFSA as contained in NRS 130.611 when it granted
13 Porsboll's request.⁴⁹ The district court adopted Respondent's argument and held
14 that since the Norwegian tribunal did not follow Nevada law, then Norway's
15 modification order “is not enforceable in Nevada under UIFSA laws.”⁵⁰

16 Failure of a foreign court to follow Nevada law is not an enumerated defense
17 to registration of a foreign child support order under NRS 130.607(1). The
18 defense is, therefore, invalid under NRS 130.607(3). The district court's
19 acceptance of this defense to registration of the Norwegian order is invalid on this
20 basis alone.
21

22 ⁴⁷ None of these defenses apply, primarily, because it was Porsboll herself who
23 petitioned and who was granted the issuance of the child support order, and
24 subsequent modifications, in Norway.

25 ⁴⁸ NRS 130.611 and UIFSA generally require that the out-of-state party seek
26 modification within the jurisdiction where the other party resides, although
27 statutory exceptions exist as discussed below.

28 ⁴⁹ Although it is difficult at this juncture to overlook the clear incongruity of
Porsboll's argument that her own deliberate actions should be judicially ignored,
Appellant's estoppel argument is contained in a section below.

⁵⁰ ROA4877

1 **3. FEDERAL LAW PREEMPTS THE DISTRICT COURT'S REJECTION OF THE CHILD**
2 **SUPPORT ORDER ISSUED BY A FOREIGN RECIPROCATING COUNTRY**

3 Even if the district court had found justification for mandating that
4 Norwegian tribunals follow Nevada statute, federal law preempts this result
5 because Norway is a federally-declared Reciprocating Foreign Country.⁵¹ As
6 such, Norway's orders are entitled to recognition as if they were a U.S. State.
7 Federal courts appear to review issues of federal preemption *de novo*. In Re
8 Korean Air Lines Co., Ltd., 642 F.3d 685, 691 (9th Cir. 2011).

9 Section 459A of the Social Security Act (42 U.S.C. 659A) authorizes
10 the Secretary of State with the concurrence of the Secretary of Health
11 and Human Services to declare foreign countries or their political
12 subdivisions to be reciprocating countries for the purpose of the
13 enforcement of family support obligations if the country has
14 established or has undertaken to establish procedures for the
15 establishment and enforcement of duties of support for residents of the
16 United States. These procedures must be in ***substantial conformity***
17 with the standards set forth in the statute.

18 73 Fed.Reg. 72555 (emphasis added). See also 42 U.S.C. 659A.

19 As long as these [standard] elements are satisfied, there is no
20 requirement that the FRC make changes in its procedures for
21 obtaining, recognizing, or enforcing orders for support. ***It is***
22 ***important to note that an FRC does not have to have identical***
23 ***procedures, tools or mechanisms as a U.S. State.***

24 Office of Child Support Enforcement, A Caseworker's Guide to
25 Processing Cases with Foreign Reciprocating Countries
26 [http://www.acf.hhs.gov/programs/css/resource/a-caseworkers-guide-](http://www.acf.hhs.gov/programs/css/resource/a-caseworkers-guide-for-cases-with-foreign-reciprocating-countries)
27 [for-cases-with-foreign-reciprocating-countries](http://www.acf.hhs.gov/programs/css/resource/a-caseworkers-guide-for-cases-with-foreign-reciprocating-countries) (Last visited Dec. 9,
28 2012) (emphasis added).

29 Once such a declaration is made, support agencies in jurisdictions of
30 the United States participating in the program established by Title IV–

31 ⁵¹ The parties and the district court agree that Norway is an FRC:
32 <http://www.acf.hhs.gov/programs/cse/international/index.html>. ROA4876.

1 D of the Social Security Act (the IV-D program) must provide
2 enforcement services under that program to such reciprocating
3 countries as if the request for service came from a U.S. State.

4 73 Fed.Reg. 72555

5 "The law also permits individual states of the United States to establish or
6 continue existing reciprocating arrangements with foreign countries *when there*
7 *has been no Federal declaration.*⁵² *Id.* (emphasis added).

8 The doctrine of federal preemption is rooted in the Supremacy Clause,
9 which provides that "the Laws of the United States . . . shall be the supreme Law
10 of the Land; and the Judges in every State shall be bound thereby, any thing in the
11 Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const.
12 art. VI, cl. 2. Federal statutes and the regulations adopted thereunder have equal
13 preemptive effect. Fid. Fed. Sav. & Loan Ass'n v. de la Cuesta, 458 U.S. 141,
14 153, 102 S.Ct. 3014 (1982). A federal statute or regulation may preempt a state
15 regulatory scheme under the doctrine of field preemption when Congress enacts a
16 regulatory scheme "so pervasive as to make reasonable the inference that
17 Congress left no room for the States to supplement it," Barnett Bank of Marion
18 County, N.A. v. Nelson, 517 U.S. 31, 116 S.Ct. 1103 (1996). In such a case, any
19 state regulation on the topic will be invalid even if it does not directly conflict
20 with federal laws or regulations.

21 The standard established under federal law for the establishment of a
22 bilateral agreement between the U.S. and a foreign country mandates "substantial
23 conformity" with the standard laid out in 42 U.S.C. 659A. The federal program
24

25 ⁵² Prior to the State Department designating Norway as a FRC, the Nevada
26 Attorney General's office also established a reciprocity agreement with Norway,
27 which demonstrates that Norway's procedures meet the standard of
28 "substantially similar" as contained in NRS 130.10179(2). The AG provided
verification of this agreement and Appellant filed it with the court below. See
ROA4852-54.

1 was designed such that the experts within the Department of State make the
2 determination as to whether the country's procedures are in "substantial
3 conformity" based on that agency's investigation. The federal statutory scheme
4 does not require foreign countries to adhere to any particular state law, or even to
5 UIFSA as a whole. Most importantly, the federal program does not provide for
6 state court judges to second-guess or overrule the federal determinations. In
7 short, the regulatory scheme adopted by the federal government and mandated on
8 the states prohibits a state court's determination that Norway's child support order
9 is not entitled to recognition.

10 **4. NORWAY ACTUALLY DID FOLLOW UIFSA PRECISELY**

11
12 Even though it was not required to do so, Norway followed the tenets of
13 UIFSA with exactness in issuing its controlling order, because a statutory
14 exception to the application of NRS 130.611 applies in this matter. The version
15 of NRS 130.6115 currently in effect creates the very clear exception to the
16 application of 130.611:

17 1. If a foreign country or political subdivision that is a state will not or
18 may not modify its order pursuant to its laws, a tribunal of this State
19 may assume jurisdiction to modify the child-support order and bind all
20 natural persons subject to the personal jurisdiction of the tribunal
21 whether or not the consent to modification of a child-support order
22 otherwise required of the natural person pursuant to NRS 130.611 has
23 been given or ***whether the natural person seeking modification is a***
24 ***resident of this State or of the foreign country or political***
25 ***subdivision.***

26 2. An order issued pursuant to this section is the controlling order.
27 (Emphasis added).

28 This Court has already held that Nevada does not have continuing and
exclusive jurisdiction, and therefore, cannot modify the 1998 child support order
under UIFSA law. Under NRS 130.6115, when a state (Nevada) "may not
modify its order pursuant to its laws," another tribunal with jurisdiction (Norway)

1 may modify regardless of whether the person seeking modification (Porsboll) is
2 within the jurisdiction or not. The strictures of NRS 130.611 which Respondent
3 attempts to use to challenge her own judicial actions in Norway do not apply
4 since Nevada may not modify the 1998 decree and the exception to NRS
5 130.6115 applies. Even though Norway was not required to follow UIFSA law as
6 contained in the NRS, it has done so precisely.

7 The district court below conditioned recognition of the Norwegian order on
8 whether Norway followed one section of Nevada law, specifically NRS 130.611,
9 but then rejected the applicability of the statutory exception to that law as applied
10 to Norway because "Nevada is not a foreign country."⁵³ Again, it is difficult to
11 read any logic into the district court's decision. The district court held that "this
12 statute [NRS 130.6115] specifically refers to modification of a child support order
13 of a foreign country. Here, the child support order sought to be modified was
14 issued in Nevada. Nevada is not a foreign country." *Id.*

15 The district court's reasoning is fatally flawed for at least two reasons.
16 Firstly, the statutory exception specifically refers to not just a foreign country as
17 the district court noted, but also "a political subdivision that is a state." Nevada is
18 a political subdivision of a country, known as a state. Secondly, Nevada's
19 implementation of UIFSA contained in Nevada Revised Statutes was intended to
20 apply to Nevada, not Norway. The district court imposed one part of Nevada's
21 statute on Norway as a condition for recognition because it was the only way the
22 court could rule in favor of Respondent. If Norway's tribunal is a foreign
23 country's tribunal to Nevada, Nevada is certainly a foreign country's tribunal to
24 Norway. If all applicable tenets of Nevada law had been mandated on Norway's
25 tribunal, then Norway would have been found to have followed the tenets of
26
27
28

⁵³ ROA4877

1 UIFSA precisely when it allowed Porsboll to modify the Nevada child support
2 order, because Nevada courts lacked jurisdiction to do so under UIFSA.

3 As an FRC, Norway's order is to be treated as an order from a sister state. In
4 the same manner that Nevada's procedural law cannot be imposed on sister states,
5 it likewise cannot be imposed on Norway. On equal footing with a sister state,
6 Norway is entitled to have its orders recognized according to the Full Faith and
7 Credit of Child Support Orders provisions of 28 U.S.C. 1738B which in section
8 (a)(1), generally requires that "[t]he appropriate authorities of each State **shall**
9 **enforce** according to its terms a child support order made consistently with this
10 section by a court of another State." (Emphasis added). The district court should
11 be required to enforce the Norwegian order from its effective date based on
12 federal fiat.

13
14 B. ESTOPPEL PREVENTS RESPONDENT FROM DENYING THE
15 VALIDITY OF HER OWN JUDICIAL ACTIONS

16 The application of judicial estoppel is a question of law which this Court
17 reviews de novo. Marcuse v. Del Webb Communities, Inc., 163 P.3d 462, 468,
18 123 Nev. 278 (2007). Judicial estoppel applies when the following five criteria
19 are met: (1) the same party has taken two positions; (2) the positions were taken
20 in judicial or quasi-judicial administrative proceedings; (3) the party was
21 successful in asserting the first position (i.e., the tribunal adopted the position or
22 accepted it as true); (4) the two positions are totally inconsistent; and (5) the first
23 position was not taken as a result of ignorance, fraud, or mistake. *Id.* at 468-469.
24 In 2002, in this very case,⁵⁴ this Court noted that "one of the rule's purposes is to
25 prevent parties from deliberately shifting their position to suit the requirements of
26

27 ⁵⁴ This Court's pronouncement ten years ago was also in response to Porsboll's
28 attempt to invalidate her judicial actions when she thought she might improve
her legal position later.

1 another case concerning the same subject matter. ” Vaile v. Vaile, 118 Nev. 262,
2 273 (2002).⁵⁵ In the district court below, Mr. Vaile argued the applicability of the
3 doctrine of judicial estoppel to this matter, but the district court's orders do not
4 reflect any ruling on this topic.⁵⁶

5 In this case, Respondent argued that although the Norwegian court granted
6 Porsboll's request to issue a new controlling order effective April 1, 2002, and
7 then granted Porsboll's request to modify that order, in 2005 and 2008, the child
8 support order should be ignored in Nevada. In the proceedings in Norway,
9 Porsboll petitioned for child support, requesting Norway to take jurisdiction of
10 the matter. Porsboll asked for modification of the Norwegian order in Norway
11 *even after* she set her Nevada counsel on convincing the Nevada district court to
12 take jurisdiction in the matter.⁵⁷ Clearly, Porsboll has taken inconsistent positions
13 in the two judicial proceedings. Her efforts in Nevada have been deliberately
14 aimed at attempting to improve upon the child support judgments she was granted
15 in Norway. Because Porsboll was successful in convincing the Norwegian
16 tribunal to adopt her position, all criteria for applying the doctrine of judicial
17 estoppel are met.

18 While Porsboll's Nevada counsel was arguing that the district court had
19 jurisdiction in 2007, he well knew that Porsboll had already successfully procured
20 a child support order in Norway and even had it further modified in her favor.
21 Through counsel, Respondent intentionally withheld these facts and the
22 Norwegian orders from the district court in order to further her guise. Clearly,
23 there is no mistake involved here, but rather an intentional deception to further
24 unjust monetary gain by Porsboll and her Nevada counsel. Appellant requests
25

26 ⁵⁵ RSV006

27 ⁵⁶ ROA4842, ROA4257

28 ⁵⁷ Porsboll's latest modification in Norway was done in 2008, while her most recent action in Nevada to convince the district court to take jurisdiction of the matter began in November 2007.

1 that the Court justly apply the doctrine of judicial estoppel to prevent Porsboll
2 from challenging her own legal actions in Norway.

3 C. THE DISTRICT COURT REWROTE THE STANDARD FOR WAIVER,
4 AND WRONGLY REJECTED THE DEFENSE OF PREVENTION
5

6 Even without the intervention of a controlling Norwegian child support
7 order, Porsboll waived child support between April 2002 and November 2007.⁵⁸

8 This Court has held that “while a waiver may be the subject of express
9 agreement, it may also be implied from conduct which evidences an intention to
10 waive a right, or by conduct which is inconsistent with any other intention than to
11 waive a right.” Parkinson v. Parkinson, 106 Nev. 481, 796 P.2d 229, 231 (1990).
12 See also, State of Montana v. Lopez, 112 Nev. 1213, 925 P.2d 880 (1996)
13 (enforcing child support waiver by conduct). On the issue of prevention, this
14 Court has held:

15 [A]ny acts, conduct, or declarations of the party, evincing a clear
16 intention to repudiate the contract, and to treat it as no longer binding,
17 is a legal prevention of performance by the other party. It seems clear
18 both upon principle and by authority, that where one party to an
19 executory contract refuses to treat it as subsisting and binding upon
20 him, or, by his act and conduct, shows that he has renounced it, and no
21 longer considers himself bound by it, there is, in legal effect, a
22 prevention of performance by the other party.

23 Cladianos v. Friedhoff, 69 Nev. 41, 240 P.2d 208, 210 (1952).
24
25
26

27 ⁵⁸ The issue of waiver came before this Court on appeal previously. Because the
28 Court ruled that the district court had improperly modified the child support
provisions contained in the parties' 1998 divorce decree, the Court did not reach
a decision on the waiver defense.

1 During the April 9, 2012 hearing, Mr. Vaile again⁵⁹ provided testimony that
2 Respondent directly and clearly communicated that she would pursue child
3 support through the Norwegian system because the Nevada child support
4 provisions were "void" according to her belief.⁶⁰ Porsboll made these assertions
5 to Vaile in the presence of her current counsel.⁶¹ After disclaiming the validity of
6 the Norwegian decree, Porsboll focused her efforts exclusively on obtaining child
7 support through the Norwegian system. She never so much as mentioned child
8 support under the 1998 decree to Mr. Vaile (let alone request payment in
9 accordance with the agreement) for over nine years until her Nevada counsel
10 initiated action in November 2007, claiming that Nevada was the only jurisdiction
11 that had entered valid child support orders.

12 In September 2008, Mr. Vaile provided evidence to the district court (and
13 resubmitted it during the April 9, 2012 hearing),⁶² that he had communicated a
14 willingness to follow the Nevada decree if Porsboll would simply provide the tax
15 information required. Porsboll testified that she refused Mr. Vaile's request to
16 continue to honor the 1998 decree and refused to provide her income
17 information,⁶³ effectively preventing Mr. Vaile from calculating support under the
18 decree.⁶⁴

19 In neither the previous nor the recent proceedings did Respondent offer any
20 evidence to counter prevention and waiver of child support under the Nevada
21

22 ⁵⁹ Both Mr. Vaile and Ms. Porsboll provided testimony on this topic in the
23 September 2008 hearing, which evidence was previously presented to this
24 Court, and is not in dispute. Porsboll has not appeared for any hearing held
25 since 2008.

26 ⁶⁰ ROA3018 (p.60 of transcript), ROA3061(p.103), ROA3076 (p.118), ROA3093
(p.135)

27 ⁶¹ ROA3084 (p.127 of transcript)

28 ⁶² ROA4647

⁶³ ROA3085-3086 (p.128-129 of transcript), ROA3110-3111 (p.153-154)

1 decree. Because Porsboll's waiver was clear and unequivocal, the district court
2 changed the waiver standard. The court refused to find that Porsboll had waived
3 support because "Mrs. Porsboll signed no written agreements for waiver of child
4 support."⁶⁵ Of course, this is an incorrect legal standard. Signed written
5 agreements are not required in order for waiver to be effective as *Parkinson*
6 holds.

7 In this case, Porsboll went well beyond implication; she verbally
8 acknowledged that she *would not* seek child support under the Nevada order, took
9 no action to seek child support under the Nevada system, and then refused to
10 provide the income information as required in the decree. Porsboll's active
11 prevention tactics exist on the opposite end of the spectrum from the standard of
12 "mere implication," which is sufficient to support a waiver defense. Porsboll's
13 actions are much more than sufficient to support Mr. Vaile's defense that Porsboll
14 waived child support during this period. Again, the district court avoided the just
15 application of the law by changing the legal standard to reach a particular result
16 and in so doing abused the discretion of the court.

17
18 D. THE DISTRICT COURT REFUSED TO OVERTURN ATTORNEY FEES
19 PREVIOUSLY AWARDED TO THE NON-PREVAILING PARTY

20 "The effect of a general and unqualified reversal of a judgment, order or
21 decree is to nullify it completely and to leave the case standing as if such
22 judgment, order or decree had never been rendered, except as restricted by the
23 opinion of the appellate court." Odlum v. Duffy, 219 P.2d 785 (Cal. 1950); Hall

24 ⁶⁴ Porsboll did not provide this income information until 2012 after this Court's
25 remand. When she did provide it, she submitted documents in the Norwegian
26 language (unreadable), which were based on her *net* income (not gross as
27 required in the separation agreement) and which did not cover all applicable
28 periods (she submitted mere representative records). ROA4257, ROA4048-
4180.

⁶⁵ ROA4884

1 v. Superior Court, 289 P.2d 431 (Cal. 1955). Upon the hearing of an appeal, the
2 supreme court may reverse, affirm, or modify a judgment, or affirm it as to some
3 issues and reverse as to others. Sorge v. Sierra Auto Supply Company, 47 Nev.
4 222, 224 (1924). Once a judgment is voided by action of the Nevada Supreme
5 Court, no act by the parties or court may render it valid; it remains without force
6 or effect. Mortimer v. Pacific States Sav. & Loan Co., 62 Nev. 147, 163 (1944).

7 Attorneys fees are not recoverable otherwise except when authorized by
8 statute or rule. Sun Realty v. Eighth Judicial Dist. Ct. Cty of Clark, 91 Nev. 774,
9 542 P.2d 1072, 1074 (1975). NRS 18.010 allows attorney's fees to be granted
10 only to a prevailing party unless the parties have agreed to the contrary. NRS
11 130.313 allows a UIFSA court to assess fees only "[i]f an obligee prevails . . ."
12 in the relevant litigation. This Court reviews a District Court's award of attorney's
13 fees for an abuse of discretion. See County of Clark v. Blanchard Constr. Co., et
14 al., 98 Nev. 488, 492, 653 P.2d 1217, 1220 (1982).

15 Porsboll initiated this round of litigation over five years ago in an effort to
16 convince the district court to stray far from the relevant law by granting Porsboll
17 significant (and retroactive) modifications to the parties' separation agreement as
18 contained in the 1998 divorce decree. At all times, she and her Nevada counsel
19 concealed the fact that she had already sought and been granted a child support
20 order in Norway, as well as two subsequent modifications in her favor there.
21 Because Porsboll's Nevada counsel earned no legal fees from Porsboll's
22 undisclosed legal forays in Norway, she authorized her Nevada counsel to
23 improve on Norway's judgment if he could in order to benefit them both.⁶⁶ In the
24 litigation over the last five years, Porsboll's counsel has been awarded over
25

26
27 ⁶⁶ Clearly, the the Norwegian child support system would directly benefit the US-
28 born children of whom Porsboll has rid herself in Norway. Contrarily, the
primary objective of Porsboll and Nevada counsel in maintaining the action in
Nevada is to avoid the Norwegian system for their personal monetary gain.

1 \$200,000 in attorneys fees, in addition to intercepting 40% of all child support
2 payments that the district court has ordered over the same time frame.⁶⁷

3 On March 31, 2008, Mr. Vaile filed a Motion for Reconsideration and to
4 Amend Order or Alternatively, for a New Hearing and Request to Enter
5 Objections and Motion to Stay Enforcement of the March 3, 2008 Order,⁶⁸
6 wherein:

7 ... Mr. Vaile requests discovery to investigate the type and extent with
8 which the Norwegian system has instituted child support orders (as
9 Ms. Porsboll claims), so that the Court can make a determination
10 under NRS 130.204 and 130.207 relative to whether it can enter a
controlling order.⁶⁹

11 The district court denied Mr. Vaile's request. Following Porsboll's
12 testimony during the hearing on September 18, 2008 which revealed the existence
13 of the Norwegian child support orders, Mr. Vaile twice asked the district court to
14 take judicial notice of the existence of the Norwegian orders. The court refused
15 to do so.⁷⁰ Had Porsboll been willing to follow the parties' 1998 agreement *or* to
16 produce the Norwegian child support orders,⁷¹ the entire litigation from 2007 to
17 present (together with the associated attorneys fees) would have been avoided.

18 In January 2012, this Court made an unqualified reversal of the district
19 court's judgment and denied Respondent each and every claim for relief on her
20 appeal. This Court overturned all relief previously granted to Respondent
21 through the district court's unlawful modification of the decree and vacated the
22 lower court's order. This Court's decision required the lower court to take the
23

24 ⁶⁷ ROA4967-4968

25 ⁶⁸ ROA1352-1380

26 ⁶⁹ ROA1359

27 ⁷⁰ ROA3087-3090, 3093 (pp.130-133, 137 of transcript)

28 ⁷¹ Respondent's attorney is a self-proclaimed expert in UIFSA. As such, there can
be little doubt that he has, at all times, recognized the materiality of the
Norwegian child support orders.

1 action that Mr. Vaile advocated in the lower court almost five years prior,
2 effectively moving the child support dispute back to square one. At the point that
3 this Court issued its decision on January 26, 2012, Respondent became the non-
4 prevailing party in this litigation.

5 On remand, however, the district court refused to give effect to this Court's
6 decision and let stand the district court's previous orders on virtually every
7 point.⁷² From a monetary standpoint, the most significant impact of the district
8 court's rejection of this Court's decision on Mr. Vaile is the refusal of the district
9 court to overturn the attorney fees awarded to Respondent in those previous
10 proceedings, even though Respondent's position was legally unsupportable and
11 her conduct fully culpable. The district court held that despite this Court's
12 reversal, the district court's prior awards of attorneys fees and costs were already
13 reduced to judgment and collectible by all lawful means.⁷³ The district court then
14 awarded Respondent another \$57,483.38 post-remand for their request to enforce
15 the judgment (including attorney fees awards contained in temporary orders of the
16 district court) vacated by this Court.⁷⁴

17 As the non-prevailing party, Respondent is not entitled to attorneys fees in
18 the litigation. Awarding fees to the non-prevailing party is contrary to the
19 statutory law, and in this case, rewards the party who has significantly and
20 needlessly drawn out this litigation through intentionally deceptive conduct.
21 Appellant requests that the Court remedy the district court's abuse of discretion by
22 explicitly overturning all attorney fee awards in favor of Respondent below.
23

24
25 ⁷² The only change that the district court made after this Court's decision was to
26 increase Appellant's child support amount from \$1,300 to over \$2,800 a month
27 based on Porsboll's flawed interpretation of the formula contained in the divorce
28 decree.

⁷³ ROA4886-87

⁷⁴ ROA4967-68

1 E. THE DISTRICT COURT CONTINUED TO MODIFY THE PARTIES'
2 AGREEMENT AFTER BEING PROHIBITED BY THIS COURT

3 This Court's January 2012 decision provided history, case law, thorough
4 analysis and reasoning to assist the district court to understand that "since the
5 parties and children do not reside in Nevada and the parties have not consented to
6 the district court's exercise of jurisdiction, the district court lacks subject matter
7 jurisdiction to modify the support order."⁷⁵ Nevertheless, in continued defiance
8 of this Court, the district court maintained the significant modifications it made to
9 the parties' decree. Most significantly, the district court imposed retroactive child
10 support on Mr. Vaile while the children lived with him 100% of the time.

11 The parties' agreement, in Article IV(2)(c) defines the child support
12 percentage to be incorporated into the child support formula.

13 The term "**Appropriate Child Support Percentage**" shall mean (i)
14 twenty-five percent (25%) for any period during which Cisilie is the
15 Residential Parent for two-unemancipated Children, (ii) eighteen
16 percent (18%) for any period during which Cisilie is the Residential
17 Parent for one unemancipated Child but clause ([i]) is not satisfied
18 and (iii) zero percent (0%) for any period during which neither clause
19 (i) nor clause (ii) is satisfied.⁷⁶

20 The term "Residential Parent" is defined in section Article IV(2) of the
21 agreement as "the party with whom the such Child has primary residence." There
22 is no dispute that between May 2000⁷⁷ and April 2002, Mr. Vaile was the
23 Residential Parent for the children. During that period, under the unambiguous
24 terms of the agreement, Mr. Vaile should have paid zero child support. This is
25 also the logical result given that Mr. Vaile provided 100% of the children's care
26 during this period with zero contribution from Porsboll.

26 ⁷⁵ RSV019

27 ⁷⁶ ROA37-63

28 ⁷⁷ There is no dispute that Mr. Vaile paid full child support in accordance with
agreement between the parties from 1998 to May 2000.

1 Instead of enforcing the decree of divorce unmodified as directed by this
2 Court, the district court refused to overturn its previous modification of decree.
3 The court reasoned that “[a]t the hearing on July 21, 2008, the court denied Mr.
4 Vaile's request. . . . Accordingly, the court's decision is *res judicata*⁷⁸ (sic).”⁷⁹ It is
5 undisputed that the children lived with Mr. Vaile between May 2000 and April
6 2002 in accordance with the custody order of the previous district court.
7 However, as a punishment for Mr. Vaile's custody decree eventually being
8 overturned by this Court, the district court found justification to impose a child
9 support obligation of 25% (along with interest, penalties, and sanctions⁸⁰) during
10 the period when his children actually lived *with him*.⁸¹

11 The district court continues to defy this Court by implementing significant
12 modifications⁸² to the child support provisions contained in the parties' divorce
13 decree. Not only is this modification precisely the type of alteration which this
14 Court informed the district court was impermissible under the law, it is also
15 contrary to public policy. To allow a court to impose child support as a punitive
16 measure wholly unrelated to ensuring the best interests of the child fundamentally
17 changes the purpose and focus of the law. No legal doctrine (including *res*

18 ⁷⁸ ROA4878

19 ⁷⁹ Appellant could find no case law where a lower court asserted that the doctrine
20 of “*res judicata*” prevails over an appellate court's reversal of an issue. Even if
21 the doctrine could be applied to avoid this Court's mandate, Mr. Vaile has
22 asserted and maintained his position on this issue at all relevant times, and the
issue has not yet been addressed on appeal.

23 ⁸⁰ The district court actually found Mr. Vaile *in contempt* retroactively for not
24 paying child support to Porsboll *while the children lived with him*. ROA4883-
84.

25 ⁸¹ Even if the district court could find justification for sanctioning Mr. Vaile for
26 following a 2000 district court order which was eventually overturned in 2002,
27 it is particularly unjust to impose retroactive child support where none was due
28 as that sanction because of the compounding effect of principal, interest,
penalties, sanctions and attorneys fees which the district court attached to that
punitive child support requirement.

1 *judicata*) or other excuse justifies the district court's disobedience of this Court's
2 mandates. Appellant requests that the Court hold as a matter of law that child
3 support may not be used as a punitive measure against residential parents.


4 5 **X. CONCLUSION**

6 The parties were divorced in Nevada in August 1998. Between 1998 and
7 May 2000, Appellant paid child support in full as agreed between the parties.
8 Between May 2000 and April 2002, the parties' children lived full-time with
9 Appellant. On April 1, 2002, the Norwegian child support order which
10 Respondent sought in Norway became the controlling child support order.
11 Appellant requests the Court to explicitly find these facts and, as such, to hold as
12 a matter of law that Appellant has fulfilled his child support obligations under
13 Nevada law. Appellant requests that the Court prohibit the district court from
14 enforcing the child support provisions contained in the 1998 divorce decree.
15 Appellant further requests that attorneys fees, sanctions, awards or judgments in
16 favor of Respondent be overturned. In the event that any issues require remand,
17 Appellant requests remand to an alternate district court judge in the Eighth
18 Judicial District Court with explicit directions to vacate all orders, judgments, and

19
20 ⁸² The district court implemented a number of additional modifications to the
21 parties' agreement post-remand as well, including refusing to modify downward
22 Mr. Vaile's child support percentage to 18% upon emancipation of the oldest
23 child, allowing the use of Porsboll's net as opposed to gross income in the
24 calculations, implementing interest and penalties contrary to the provisions in
25 the agreement, and adopting Porsboll's "interpretation" of the calculations
26 without an opportunity to be heard on the matter, which interpretation results in
27 child support principal significantly higher than that provided for in the
28 agreement itself. Because the district court's attitude of defiance in continuing
to modify the decree is obvious based on the lower court's decision on the point
raised above, Mr. Vaile does not offer extensive argument on every minor point
of modification. Any pronouncement by this Court that modification is still
impermissible would presumably apply to all modifications made by the district
court. ROA4875-4887.

1 awards previously entered by the district court after April 2002. Lastly,
2 Appellant requests that the Court direct the Clark County District Attorney to
3 cease withholding of Mr. Vaile's salary and to remove any related tax return or
4 other federal intercepts in place.

5
6 Respectfully submitted this 11th day of December, 2012.

7
8
9 

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14 *Appellant in Proper Person*
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XI. STATEMENT IN COMPLIANCE WITH NRAP 28.2

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP(a)(6) because it has been prepared in a proportionally spaced typeface using LibreOffice in 14-point size Times New Roman type style.
2. I further certify that this brief complies with the page limitations of NRAP32(a)(7) because, excluding the parts of the brief exempted by NRAP32 (a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and does not exceed 30 pages.
3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e) (1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page number, if any, of the record on appeal or to the appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Bağcı

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CERTIFICATE OF MAILING

I hereby certify that on December 11, 2012, I deposited in the United States Mail, postage prepaid, at Manhattan, KS, a true and correct copy of *Appellant's Opening Brief*, together with *Appellant's Appendix*, addressed as follows:

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Dated this 11th day of December, 2012.



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