

FILED

JAN 07 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Maccagno
DEPUTY CLERK

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE,
Appellant,

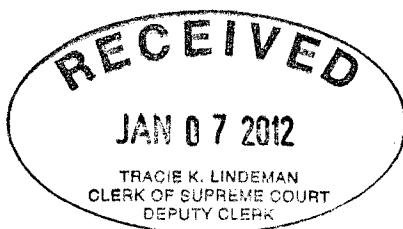
vs.

CISILIE A. PORSBOLL,
Respondent.

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

ACTION REQUIRED
prior to January 21, 2013.

**REPLY BRIEF
IN SUPPORT OF
RENEWED EMERGENCY MOTION
TO STAY PROCEEDINGS AND ENFORCEMENT
IN THIS CASE PENDING APPEAL**



13-00611

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II. CORRECTIONS TO FACTS ASSERTED BY RESPONDENT

³ Respondent now claims that Mr. Vaile lied by asserting that this Court required the lower court to follow the applicable UIFSA statute it cited above. *Opp*, 3.

1 California *did*, however, make a determination of controlling order under
2 section 207 of UIFSA (as instructed by this Court). The Nevada and California
3 courts did not both address this issue. California registered the orders Porsboll
4 sought in Norway, and made a determination of controlling order. That order was
5 proper under UIFSA, and enforceable in Nevada under 28 U.S.C. §1738B.

6 B. RESPONDENT RECEIVED FULL NOTICE OF THE CALIFORNIA ACTION

7 Appellant requested registration of the Norwegian child support orders in
8 California in May 2012, months before the Nevada district court entered its order
9 in July 2012. Porsboll was properly served under California law with the request
10 for registration and request for determination of controlling order. Porsboll
11 provided her Nevada counsel with copies of the pleadings served on her in the
12 California action, which counsel then filed into the record in the Nevada district
13 court. See ROA4814-4837. By the end of July, the Nevada district court had
14 entered its decision, a notice of appeal was filed, and Appellant had filed a
15 petition for writ of mandamus with this Court. On August 9, 2012, Mr. Vaile
16 filed in the California court a *Notice of Nevada Proceedings and Supplemental*
17 *Points and Authorities on Impact on this Case* where the California court was
18 fully updated on the Nevada proceedings and issues, and provided a full copy of
19 the petition for writ of mandamus with all attachments. Porsboll was again
20 provided service of this filing. Finally, when the final California order was issued
21 on November 1, 2012, Porsboll and her counsel received and filed this order in
22 the district court before Vaile even received the order (due to his address change).

23 It is particularly disingenuous for Porsboll to claim lack of notice in the
24 California proceedings when she actually filed evidentiary proof in the Nevada
25 district court that she had, in fact, received full notice. Furthermore, Respondent's
26 vague and unsupported⁴ claims that the California proceedings were somehow

27
28 ⁴ Again, Respondent cannot cite a single fact that was actually withheld from the
California tribunal.

1 secretive or deceptive, or relevant facts withheld, is a fabrication designed to call
2 into question legitimate proceedings which produced an order to which Porsboll
3 now simply objects.

4 C. PERSONAL JURISDICTION OVER PORSBOLL IN CALIFORNIA WAS PROPER

5 On March 26, 2008, ***Porsboll initiated the action in the California court***
6 when her Nevada counsel registered the March 20, 2008 order from the Nevada
7 district court. See Exhibit 1 for the cover page of this filing. Since 2008,
8 Porsboll has requested additional services from the California child support
9 agency, and has also repeatedly garnished his salary from Mr. Vaile's California
10 employer.⁵ Since Porsboll actually initiated the action in California, and took
11 other actions to take advantage of California services, the Superior Court held that
12 its exercise of jurisdiction over Porsboll was proper. It is a desperate and
13 fallacious argument for Porsboll to assert that the California order was improper
14 based on jurisdiction over her person.

15 D. FORUM SHOPPING DEFINED

16 Black's Law Dictionary defines forum shopping as "when a party attempts
17 to have his action tried in a particular court or jurisdiction where he feels he will
18 receive the most favorable judgment or verdict."

19 In 2002, Respondent Porsboll sought and obtained a child support order
20 which superseded the Nevada 1998 divorce decree because she believed that she
21 would receive more favorable results from the Norwegian tribunal. In 2007,
22 when her Nevada counsel convinced her that she (and he) could get even more
23 money through the Nevada system, she returned to this State to obtain a more
24 favorable result, all the while keeping the child support orders from Norway
25

27 ⁵ This unlawful garnishment was the subject of additional litigation in California.
28 Furthermore, Porsboll has three times been enjoined by a federal bankruptcy
court in California.

1 hidden. Porsboll and her Nevada counsel know well that the children,⁶ who live
2 on their own in Oslo, are entitled to the entirety of any child support (including
3 arrearages) through the Norwegian system, whereas in Nevada, Porsboll and her
4 counsel split the proceeds. Porsboll's actions are the epitome of illegitimate
5 forum shopping.

6 Ironically, Porsboll argues that a stay in favor of Appellant should be denied,
7 because he is forum shopping – or more specifically, he registered in his home
8 state the child support orders *which Porsboll obtained* from the forum of her
9 choice. Application of the doctrine of judicial estoppel will address Porsboll's
10 deceptive forum shopping in this action. However, Appellant's registration of a
11 foreign order and a request for determination of the controlling order remain
12 proper and mandatory procedures under UIFSA.

13 E. SERIOUS INJURY TO VAILE WILL RESULT FROM NOT STAYING THE ACTION

14 Respondent's only assertion that the collection of \$8,870.13 (\$5k in
15 attorney's fees plus \$2,870.13 in child support) per month is in any way mitigated
16 is that actual collection of *child support* will likely be much lower. This assertion
17 is defied by the actual withholding order (attached as Exhibit 1 to the motion)
18 which requires collection of the full \$2,870.13 for support, as well as the actual
19 collection which has now been instituted against Mr. Vaile's salary. Furthermore,
20 Respondent proposes nothing which would actually mitigate the additional
21 \$5,000 in monthly collection of attorneys fees ordered by the district court.
22 Payment of either or both amounts will have devastating effect on Mr. Vaile.

23 F. THE SCOPE OF THE DISTRICT COURT CONTEMPT HEARING

24 Respondent has asserted that Mr. Vaile has not paid a penny toward his child
25 support obligation since August. This assertion is wholly false. Mr. Vaile is
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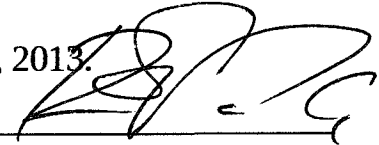
27 ⁶ It is particularly disgusting that Porsboll invokes injury to the children as reason
28 not to grant the stay, when she well knows that the children only receive benefit
through enforcement of the Norwegian child support orders.

1 current in the payments required under the California order.⁷ Respondent has also
2 falsely asserted that if Mr. Vaile had made an attempt to pay his support as
3 ordered by the Nevada district court, he would not be subject to contempt. As
4 briefed on appeal, the district court's contempt hearing is based (in part) on
5 payments that Mr. Vaile actually made directly to Porsboll, but which the district
6 court determined "did not count." The district court is poised to hold Mr. Vaile in
7 contempt for not paying Porsboll's attorney fees awards. Respondent in no way
8 disputes that these matters are before this Court and significantly impacted by the
9 issues on appeal. As such, they are no longer within the lower court's jurisdiction
10 to determine. They should be stayed based on that fact alone.

11 **III. CONCLUSION**

12 Respondent in no way disputes that the Norwegian tribunal has made clear
13 its demand for child support under the orders which Porsboll sought there. The
14 California court has properly honored the Foreign Reciprocating Country's order
15 in accordance with federal law, and Mr. Vaile has paid support as proscribed in
16 those orders. The children are also best served in honoring the Norwegian order
17 as the proceeds will actually flow to them. Appellant will clearly suffer serious
18 injury if the stay is not implemented, while Respondent cites no injury to her if
19 the stay is implemented.

20 Respectfully submitted this 3rd day of January, 2013.

21 
22 Robert Scotlund Vaile
23 2201 McDowell Avenue
24 Manhattan, KS 66502
25 (707) 633-4550
Appellant in Proper Person

26 ⁷ Because the California order was delayed in arriving at Mr. Vaile's new
27 residence, he was unsure of how the California court would order payments to
28 be made - through California DCSS or directly to the Norwegian tribunal. In
December, Mr. Vaile paid both November and December payments according
to the instructions provided by the Norwegian tribunal. See Exhibit 2.

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. I believe that I will suffer irreparable injury if this stay is not granted.
4. This motion complies with NRAP Rule 32(a)(4)-(6), is produced in proportionally space typeface Times New Roman and 14 point font in LibreOffice Writer, and does not exceed 5 pages (excluding cover page, affidavit, and certificate of mailing) and does not exceed 1941 words.
5. I make these statements under penalty of perjury.

Exhibit 1

REGISTRATION STATEMENT

Responding IV-D Case No. _____ Initiating IV-D Case No. _____

Responding Tribunal No. _____ Initiating Tribunal No. _____

I. Case Summary (Background of this Matter: Court / Administrative Actions)

Date of Support Order	State and County Issuing Order	Tribunal Case No.	
03/20/2008	Nevada	98-D-230385-D / CV0706	
Support Amount/Frequency	Date of Last Payment	Amount of Arrears	Period of Computation
\$ 1,300.00 per month	05/01/2007	\$ 160,252.46	02/01/06 thru 01/15/08
			Date Date

II. Mother Information [] Obligor ☒ Obligee
 Full Name and Aliases Address (Street, City, State, Zip) Employer (Name, Street, City, State, Zip)
 (First, Middle, Last)
 Cisilie A. Porsboll, fka Cisilie A. Vaile, Nordassloyfa 29A, 1251 Oslo Norway

SSN: 522-60-4100A

III. Father Information ☒ Obligor [] Obligee
 Full Name and Aliases Address (Street, City, State, Zip) Employer (Name, Street, City, State, Zip)
 (First, Middle, Last)

Robert Scotlund Vaile, 1435 Adobe Canyon Road, Kenwood, California 95452

SSN: 519-02-6087

IV. Caretaker (If Not a Parent) Relationship to Child(ren) _____
 Full Name and Aliases Address (Street, City, State, Zip)
 (First, Middle, Last)

SSN: _____

V. Additional Case Information

This order is registered in the following states: Nevada

Description and location of any property not exempt from execution:

Other: _____

VI. Verification / Certification

Under penalties of perjury, all information and facts concerning the arrearage accrued under this order are true to the best of my knowledge and belief.

03/26/2008

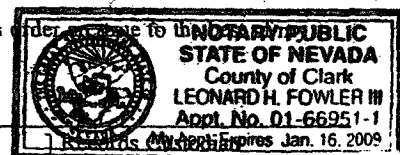
Date

RICHARD L. CRANE, ESQ.

☒ Party Seeking Registration

NOTARY PUBLIC

Notary Public, Court/Agency Official and Title



JANUARY 16, 2009

Commission Expires

Exhibit 2

Wire Transfer Request

Commerce Employee Accepting Wire Instructions					
*Employee Name		*Branch or Department Name		*Date	*Time
KIMBERLY FLETCHER		MHTNKSU - 2812		12/21/2012	1:11 P.M.
*Employee with Required Wire Transfer Authority (may be same as above)		*Phone Number of Authorized Employee		*Sequence Number	PIN (Wire Dept Use ONLY)
KIMBERLY FLETCHER		31664		KIERRA - 4817	
Wire Request Method					
* <input checked="" type="checkbox"/> In Person <input type="checkbox"/> Fax <input type="checkbox"/> Email <input type="checkbox"/> Mail <input type="checkbox"/> Other (identify):					
*Exception to Policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," approval of Retail Market Manager or Group Manager required.			Signature or description of documented approval (attach document, if no signature)		
Call-Back Details (required for any exceptions)		Individual Called	Phone Number Used	Signature of Employee Completing Customer Call-Back	
Originator Information					
*Originator (Wire transfer is FROM this name)				*Requestor's Name (if different than originator)	
ROBERT S VAILE					
*Street Address		*City		*State	*Zip
2201 MCDOWELL AVE		MANHATTAN		KS	66502
Customer Identification (Must be a Commerce Bank customer; we do not complete wires for non-customers.)					
* <input checked="" type="checkbox"/> Signature Card <input type="checkbox"/> Known Customer <input checked="" type="checkbox"/> Documentary Identification (list below)					
*Identification Type		*Identifying Numbers or other information			
1. TXDL		34686874			
2.					
Amount and Funding					
*Amount of Transfer				*Account Type to Debit	
\$1682.00 + \$60.00 = \$1742.00				<input checked="" type="checkbox"/> DDA <input type="checkbox"/> SAV <input type="checkbox"/> FCA (Foreign Currency Account)	
*Purpose of Wire				*Account Number to Debit	
PAYMENT				[REDACTED]	
Beneficiary Bank Information					
*Beneficiary Bank Name				*Beneficiary Bank's Routing Number	
DnBNOR BANK ASA					
*Beneficiary Bank City		*Beneficiary Bank Country		*SWIFT Code	
NO-0021 OSLO		NORWAY		DNBANOKK	
Intermediary Bank Information (Complete this section if customer provides this information; otherwise leave blank.)					
*Intermediary Bank Name				*Intermediary Bank's Routing Number	
*Intermediary Bank City		*Intermediary Bank Country		*SWIFT Code	
Beneficiary Information					
*Name of Beneficiary (the Wire Transfer is TO this name)				*Beneficiary's Account Number (IBAN – Europe, CLABE – Mexico)	
NAV INNKREVIING				NO8882760101636	
*Street Address				*Additional Address Information	
GRUBEVEIEN 4, BJORNEVATN					
*City	*State	*Zip	*Country	*Any other special Wire Transfer Instructions	
KIRKENES	N/A	NO-9917	NORWAY	CASE NUMBER 0008744 - NOV & DEC PYMTS	
International Foreign Currency Transfer Use ONLY - Additional Information (Work with International Ops to Complete)					
*Currency Type		*Amount of Transfer		*Value Date	*U.S. Equivalent
*Rate	*FX Contract/Rate Sheet No		*Per Trader	*Fee	*Account Analysis
					<input type="checkbox"/> Yes <input type="checkbox"/> No
Customer Authorization					
*Printed/Typed Name		*Signature		*Date	
ROBERT VAILE				12/21/2012	