IN THE COURT OF APPEALS
OF THE
STATE OF NEVADA

ROBERT SCOTLUND VAILE, Appellant, vs. CISILIE A. PORSBOLL, Respondent.	Supreme Court Case Nos: 61415, 62797 Appeal from District Court Case No: 98D230385

APPELLANT'S REPLY BRIEF

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

15-900334

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I. STATEMENT OF RELEVANT FACTS

In 2000, after countless attempts to convince Respondent Porsboll to adhere to her agreement to return the children to the US from their temporary trip to Norway, Appellant Vaile requested the Nevada family court to require Respondent to follow the parties' separation agreement contained in their divorce decree. During the hearing that followed, the district court judge asked Appellant how long the children "lived here" before they left for Norway. Believing that the judge meant "here in the United States," Mr. Vaile answered, "all their lives."[1] The court ordered the children picked-up and returned to the US, since Porsboll was unlawfully retaining them in Norway.

The country of Norway hired a Las Vegas attorney to challenge Vaile's custody in the district court. Following hearing and testimony from the parties, the court clarified that its previous order had indeed been a "pick-up order," and held that neither party intended a fraud on the court as Respondent claimed.[2] The court upheld Appellant's custody and returned the children to his care where they remained until April 2002.

On appeal, Porsboll's counsel misrepresented the exchange that had taken place between Vaile and the district court, arguing that the court asked Vaile how long the children lived in "Las Vegas," suggesting that Vaile lied in his response. The Nevada Supreme Court did not overturn the district court's findings of fact on the matter, however, it chose to recite the inflammatory and unproven facts[3]

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[1] This hearing took place several years before Appellant attended law school and learned the basics of jurisdiction. It was a wholly innocent misunderstanding.

[2] ROA573-577.

[3] Porsboll would later admit that several material facts her counsel asserted on appeal were false.

asserted by Porsboll's counsel[4] as the basis for their decision which ultimately overturned Appellant's custody in favor of Respondent in Norway.

In 2006, Respondent's counsel obtained a default judgment against Vaile in the federal district court during a time when Vaile's oldest child from a new marriage was gravely ill. In the proposed judgment her counsel authored, which the court signed into judgment, Respondent rewrote the facts found by the district court[5] below – effectively overruling the finder of fact in the case. Porsboll's default judgment recited that Vaile not only lied to the district court, but that he even committed perjury and fraud. The order also reflects that Appellant kidnapped the children from Norway by following the district court's pick-up order, and a number of other inflammatory and wholly untrue statements.

Through the art and sophistry of this family lawyer, Respondent's counsel transformed Appellant's misunderstanding into a lie, then into perjury and fraud. Appellant's obedience of the court's pick-up order was transformed into conspiracy, kidnapping and racketeering activity. Porsboll's counsel has used this default judgment as a smear campaign against Vaile in every court since then, in effect, urging the court to rule against "the villian" regardless of the controlling law's mandate. The new family court judge handling this matter since 2007 has embraced Respondent's characterization of Appellant, and has continuously wrested the law to rule against him.

From the beginning, Appellant consciously avoided the mudslinging employed by Respondent, and made little effort to correct the many false assertions, digs and inflammatory twists of the truth asserted in Respondent's filings – choosing instead to focus arguments on the proper application of the law.

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[4] Contrary to Respondent's assertions, the Nevada Supreme Court did not hold that Appellant lied and never once used the word "kidnap" in its decision.

[5] The district court in 2000 was the only court which ever heard testimony and made findings of fact on these issues.

This has proved a wholly ineffective legal technique against an adversary schooled in the art of deception. While Appellant Vaile's legal arguments have been sound and simple to apply, the just application of the law has proved elusive because of Respondent's untruthful representations of Vaile's character. Accordingly, Appellant will correct a number of material facts falsified by Respondent here. These instances will reveal the dishonesty of Respondent's counsel, and may compel the Court to consider the possibility that Appellant has been inaccurately described.

Appellant has sought reconciliation with Porsboll continuously from the start of legal proceedings 17 years ago out of genuine concern for his two children from that marriage. Appellant exhausted every avenue to elicit peace and to mediate reconciliation with Respondent before seeking help from the court system. Appellant's recognition of the children's need to maintain a relationship with both parents, and to prevent the mistreatment[6] of the children at Porsboll's hand was the sole motivating factor in Vaile taking legal action. He has never sought to exercise an unfair advantage over Porsboll or to abuse the legal system in any way.

Appellant has not lied to any court ***ever***. He has been married to his current wife for 13 years, and is doing all in his power to raise his six additional children from that marriage responsibly and with love and kindness. Appellant teaches youth Sunday school at church, and strives to live what he professes to believe each day. Vaile makes significant contributions of time and effort to his State, local community, church and family. Although he has never claimed to be free of fault, Mr. Vaile is a genuinely good man, with a high level of integrity.

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[6] As noted previously, Porsboll mistreated the children in Norway, and expelled them both from her home in their minority. The children, now 20 and 23 years old, are still in weekly therapy, the oldest child still refusing any contact with her mother.

Porsboll's counsel, the author of the deception concerning Vaile's character, is the opposite type of man. From the beginning of his involvement in this matter, he has fabricated facts, discouraged reconciliation and propagated conflict for his financial benefit. He has intercepted 40% of payments intended to support the children growing up, and has bullied his client into allowing him to litigate against Vaile under threat that she would be required to pay back all attorney fees if she did not comply. A federal district court has found this lawyer to have committed *defamation per se* against Vaile in Virginia. When his law partner was charged with sexual conversion of a minor using a company email account, counsel kept the matter concealed from the state bar association. Despite the subsequent felony conviction, bar suspension, and registration as a sex offender, Respondent's attorney kept this associate employed at his family law firm. Porsboll's counsel cannot be trusted to accurately represent any fact, much less to correctly portray the character of the only *pro se* litigant to ever defy him. As will be shown below, the only avenue available to one who lies, is more lies.

Respondent has asserted that Appellant inaccurately portrayed facts on appeal, but never cited to the record to disprove even a single fact. In the relevant sections below, Appellant will provide notations from the record for each of six *material* facts that Respondent has misrepresented in her appellate brief.

II. RESPONSIVE ARGUMENT

A. The District Court Refused to Apply UIFSA to Determine the Controlling Order

Respondent argues that the district court rightfully ignored the mandate of NRS 130.207 and the directive by the Supreme Court to apply that law. Her logic is that by pretending that Norway's order is unworthy of recognition, it cannot be considered a "competing order" under the law. Respondent offered no counter to

the fact that NRS 130.607 prohibits any such contrived defenses to registration of a support order under UIFSA.

Instead of arguing the law, Respondent invented a new tale about how the Norwegian order came about. She claims now that a Norwegian welfare body issued the order without Respondent's input when Porsboll sought welfare assistance from that country. Respondent further suggests that the Norwegian orders were intended to only have effect within the country of Norway. This complete fabrication is contrary to the record below, and is belied by the orders that Porsboll obtained from the Norwegian tribunal.

The Norwegian order dated March 17, 2003 is titled: "**CHILD SUPPORT ORDER.**"[7] It states: "Reference is made to application dated 20 May 2002,"[8] and "[t]he child support order is to be effective from 1 April 2002, which is the month when the children came back to Norway."[9] The second page of that order states, ***"The custodial parent, Mrs. Porsboll, applied 20 May 2002 for stipulation of child support."*** (emphasis added).[10] If Respondent did not apply for support as her counsel asserts, why would the tribunal state with such precision that she had done so?[11]

Not only did Porsboll apply for support, but she also appealed that support order. The order dated "07/04/2005" states that "On October 28, 2003 the custodial parent appealed the decision."[12] The tribunal actually changed the support amount based on Porsboll's appeal.

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[7] ROA4246.

[8] *Id.*

[9] *Id.*

[10] ROA4247.

[11] Clearly, Respondent's claim that she did not petition Norway for support is a fabrication of fact intended to mislead the Court. This is the first material misrepresentation presented by Respondent's counsel.

[12] ROA4269.

A third Norwegian order was issued on "February 13, 2008."[13] Again, the tribunal states that "[t]he custodial parent submitted a claim for alteration of child support on August 20, 2007."[14] This order was undersigned by two individuals from "NAV National Office for Social Insurance Abroad."[15] Why would Porsboll apply for a support order against Vaile from an internationally-focused tribunal in Norway if the order was intended to have no effect outside of Norway as Respondent now claims?

On August 16, 2012, some months after Appellant contacted the Norwegian authorities and secured the Norwegian support orders, the Norwegian agency sent Appellant a payment demand. The pertinent section states:

> **CONCERNING NON-PAYMENT:**[16]
>
> Should you not pay according to this request, or should your payments cease, we will refer this matter to the authorities in the USA. We will request that the authorities there enforce the collection in accordance with the Agreement between The United States of America and the Government of the Kingdom of Norway for the enforcement of maintenance obligations dated 10 June 2002.[17]

Why would Norway send Appellant[18] a payment request if the order were intended to be strictly "internal" as Respondent's counsel claims? Clearly, Respondent's counsel has fabricated a story based on how he wished the facts to

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[13] The fact that Respondent's Nevada counsel applied for a child support order from the Nevada district court in November 2007, three months after Porsboll applied for a third modification from the Norwegian tribunal, shows that the concealment of the Norwegian proceedings was by design.

[14] ROA4276.

[15] ROA4278.

[16] The Norwegian authorities had not been informed that Vaile had been paying through Nevada far in excess of the amount ordered in Norway.

[17] ROA5211.

[18] Several of the Norwegian orders state that they were sent to Appellant, but they have addresses that did not correspond to where Vaile lived at the time. Respondent did not ever provide any Norwegian orders to Vaile.

be, rather than how they are.[19] In actual fact, Respondent petitioned the Norwegian tribunal for child support with the intent to bind Appellant Vaile in the US, and was granted the relief she sought. As the California and Kansas courts held, Appellant paid 100% of the child support required under the Norwegian orders, and Porsboll received precisely what she requested.

In her brief, Respondent acknowledges that Norway is a Foreign Reciprocating Country,[20] but completely ignores the conclusion that must follow – a Nevada court is not permitted to question Norwegian procedure since the US Secretary of State granted the country an FRC certification as outlined in the authorities provided in Appellant's Opening Brief. The second guessing of foreign law is prohibited by both Nevada statute (NRS 130.607) and federal law.

> Once such a[n FRC] declaration is made [by the US Secretary of State], support agencies in jurisdictions of the United States participating in the program established by Title IV–D of the Social Security Act ... ***must provide*** enforcement services under that program to such reciprocating countries *as if the request for service came from a U.S. State.*
>
> 73 Fed.Reg. 72555 (emphasis added).

Respondent presents not a single case or statute that contradicts this authority. If a lower court were permitted to interrogate a foreign reciprocating country's legal system, it would make the federal scheme a nullity and frustrate the purpose of the federal program. As such, the district court was not permitted to reject the Norwegian orders.

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[19] Respondent's claim that the Norwegian order was not intended to be binding outside the US is the second material misrepresentation made in her brief.

[20] Respondent oddly suggests that if Norway had issued the order based on their procedures, it would have been controlling - but that Norway's modification of the Nevada order at Porsboll's request is somehow not controlling. Respondent supports the absurd assertion with no authority whatsoever.

Even if Norway were required to follow Nevada law, NRS 130.6115 allows a Norwegian tribunal to modify a child support order regardless of which party requests that modification since Nevada "may not modify its orders pursuant to its laws." The full gist of the holding from the Nevada Supreme Court in the last appeal was that the district court was not permitted to modify the child support order because, according to the court, neither the parties nor the children ever lived in the State.[21] Since Nevada could not modify its order, either party was permitted – under even the strictest reading of UIFSA – to seek modification in Norway.

Instead of applying NRS 130.207 as UIFSA and Nevada's high court required, the district court only decided that the Nevada order was the controlling order when it was issued, which of course, was not helpful. Because the district court refused, the California court made the controlling order determination that UIFSA requires when the Norwegian orders were registered there. The Kansas court endorsed the California's decision because it was proper under UIFSA.

B. Estoppel Prevents Respondent from Denying the Validity of Her Own Judicial Actions

Respondent in no way argues that the principle of judicial estoppel does not apply in Nevada courts, or that the elements differ from those precisely laid out by Appellant. Instead, Respondent ***only*** argues that estoppel should not be applied in this case because she alleges that she did not seek the support order in Norway. In other words, she challenges only the first element of estoppel, denying that Respondent ever took two differing legal positions.

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[21] "[S]ince the parties and children do not reside in Nevada and the parties have not consented to the district court's exercise of jurisdiction, the district court lacks subject matter jurisdiction to modify the support order."

As demonstrated above using the words of the Norwegian tribunal, Respondent's claim is completely false. She very specifically requested support from the applicable child support tribunal in Norway.[22] Because the only evidence in the record is that she took the actions recorded in the order that she sought from the Norwegian tribunal, her only basis to oppose the application of judicial estoppel fails. As such, she is not permitted to challenge the validity of the Norwegian order that she sought in Norway, and it must be recognized.

C. The District Court Rewrote the Standard for Waiver, and Wrongly Rejected the Defense of Prevention

Respondent does not dispute that the principles of waiver and prevention apply in child support cases and that they may be implied through one's actions. Respondent's only defense to application of these principles is a meager attempt to reframe the issue on appeal as to whether or not Respondent ***asked*** for support. That has never been the issue.

Respondent did not merely fail to request support. She specifically 1) claimed that the initial Nevada child support judgment was void[23]; 2) testified that she would seek child support through the Norwegian system; 3) refused to provide the resultant Norwegian judgment to Appellant; and 4) refused to provide her income information[24] upon which the child support calculations were based. None of these facts were disputed below or on appeal. Respondent does not explain how these actions do not support waiver and prevention.

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[22] In the district court, Porsboll's attorney vehemently opposed production of the Norwegian orders because they make so very clear that Porsboll sought modification of the Nevada order there.

[23] ROA3018 (p.60 of transcript), ROA3061(p.103), ROA3076 (p.118), ROA3093 (p.135).

[24] ROA4647.

Respondent did invent that Vaile's proper course would have been to pay anyway in light of her actions, and "complain." Respondent's theory is not supported by case law because waiver and prevention never arise when a party pays anyway. All cases where the principles of waiver and prevention are applied have the effect of negating monies otherwise due because of one party's actions such as those named above.

Regardless, Respondent did not attempt to defend the district court's theory that waiver required *written agreements* in order to be applied – a theory never supported by an appellate court. As such, both parties agree that the district court's ruling on this matter was inconsistent with the law.

D. The District Court Refused to Overturn Attorney Fees Previously Awarded to the Non-prevailing Party

Respondent has no answer to the case law that represents that an unqualified reversal in an appellate court nullifies a lower court's judgment completely. Respondent devised the alternative theory that even if an appellate court rejects each and every argument that a respondent presents on appeal, (which the Nevada Supreme Court did to Respondent here), unless that court specifically finds that Respondent is not entitled to child support, then Respondent is still the prevailing party on appeal. Respondent's theory would encourage unethical attorneys to hide relevant evidence, file serial motions in the lower court, and assert all manner of legally indefensible claims – because they would be entitled to fees for those actions even after losing on every claim on appeal, provided their client is still entitled to ten cents in child support. This result is absurd.

No Nevada statute makes mandatory the award of fees to an attorney whose positions are wholly rejected on appeal. All fee awards ordered temporarily or in a final decision are overturned when the final judgment is overturned. Once a judgment is voided by action of the Nevada Supreme Court, no act by the parties

or court may render it valid; it remains without force or effect. Mortimer v. Pacific States Sav. & Loan Co., 62 Nev. 147, 163 (1944). The district court acted contrary to the law in reinstituting the attorney fee awards to the non-prevailing party when its judgment was reversed by the Nevada Supreme Court.

E. The District Court Continued to Modify the Parties' Agreement After Being Prohibited by This Court

Respondent has not even attempted to defend the district court's assertion that the principle of *res judicata* trumps an appellate court's reversal, as the lower court held. Respondent's only justification for the district court defying the supreme court in ordering Vaile to pay Porsboll child support while the children lived with him is that his custody was not "legitimate" because it was eventually overturned. In actual fact, Appellant was granted custody of the children in April, 2000, and that custody order was upheld again by the district court in October of 2000. Just because a custody and pick-up order is eventually overturned on appeal does not make the obedient party a kidnapper, or change the fact that he was exercising legitimate custody in accordance with both the parties' agreement and a repeated *order* of the district court.

Appellant Vaile paid 100% of the costs to support the children who resided with him between May 2000 and April 2002, when the Nevada Supreme Court came to a conclusion different than the district court. Child support is not intended to be a punitive measure, or unjustly enrich a party who has zero support costs during the applicable period. No case law supports Respondent's proposition that a residential parent should ever be required to retroactively pay child support to a non-residential parent as punishment for having their custody overturned on appeal. No amount of name-calling justifies the district court defying the Nevada Supreme Court's mandate not to modify the parties' agreement in this manner.

F. The District Court Abused its Discretion by Entering a Default Against Vaile

The district court abused its discretion by changing its earlier order at the last minute, by refusing to grant Appellant's request for a continuance or to admit him to the hearing, and by entering a default against him. Respondent defends the district court denying Appellant an appearance at the January 22, 2013 hearing by claiming that the court did not ever grant Appellant permission to attend evidentiary hearings telephonically. In so doing, Respondent contradicts the court's own records. The minutes from the April 9, 2012 hearing states, "Plaintiff's request for telephonic appearances is GRANTED. Court prefers a landline telephone with a handset." The minutes from the June 4, 2012 hearing states, "If Plaintiff wishes to appear TELEPHONICALLY in the future he must FILE a Notice of Intent to Appear by Telephone at least THREE (3) DAYS prior to the hearing." Clearly, the district court granted Appellant's request to attend the hearings telephonically.[25]

Respondent further hedges by suggesting that any permission the district may have granted applied only to non-evidentiary hearings. This claim is also not supported by the record, or the judge's order. The ***only*** matter before the court in the April and June, 2012 hearings was a Show Cause[26] action initiated by Respondent, necessitating evidentiary hearings. Furthermore, the only hearing set on the April and June minutes to which Vaile's request could have applied was

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[25] This is Respondent's third material misrepresentation of facts contradicted by the record itself. Respondent's tale of Vaile's telephonic appearance in 2008 is false. The district court announced that its audio system malfunctioned that day preventing Vaile and the district court from communicating.

[26] Because Appellant made child support payments directly to Porsboll, Respondent's counsel was unable to intercept his collection fee of 40%, and asked that none of Vaile's payments count and that he be held in contempt of court for non-payment.

the evidentiary hearing in January 2013. Respondent's suggestion that Appellant should have filed his notice to appear telephonically months before the hearing also contradicts the order of the district court requiring only three days.

Finally, Respondent suggests that the district court was justified in requiring Vaile to appear to provide testimony, but not Porsboll because she "was not listed as a required witness and had no testimony to give on the subject of the hearing."[27] Yet, in Vaile's *Request for Continuance* dated January 19, 2013, Appellant specifically listed Porsboll as a required witness:[28]

> Furthermore, if the Court requires Mr. Vaile to appear in person to testify, Plaintiff requests that the Court require Porsboll to similarly appear in person to testify. Porsboll's testimony that she did, in fact, receive child support payments during the relevant period is essential to Mr. Vaile's proof and clearly demonstrates why Mr. Vaile should not be held in contempt for non-payment. [29]

Respondent's further claim that testimony required of Porsboll had been stipulated is also untrue, and Respondent made no cite to the record for the proposition.

The district court abused its discretion by giving Appellant permission to appear by telephone, and then withdrawing permission one business day before the hearing, refusing a continuance, and then entering a default against him. This appears to be an intentional attempt to find a justification to punish Vaile under a circumstance contrived by Porsboll's counsel, and accepted by the district court.

G. The District Court Erred in Holding Mr. Vaile in Contempt of Court for Not Notifying the Court of a Change in Employment

Respondent's assertion that the district court could hold Appellant in contempt of court for an alleged violation of a local court rule is just plain wrong.

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[27] The district court had ***never*** required Porsboll to appear in any manner other than telephonically even when her testimony was required.

[28] This is the fourth material misrepresentation by Porsboll in her brief.

[29] ROA5223-5224.

> An order for civil contempt must be grounded upon one's disobedience of ***an order*** that spells out the details of compliance in clear, specific and unambiguous terms so that such person will readily know exactly what duties or obligations are imposed on him.
>
> State Dept of Indus. Rel. v. Albanese, 919 P.2d 1067 (Nev. 1996) (emphasis added).

Under binding precedent, one cannot be held in contempt for not adhering to a local rule, only a direct order of the court. And there simply was no order that required Appellant to inform the court of a change in employment which Vaile could have violated. Furthermore, since the Nevada Supreme Court prohibited the district court from altering the child support order contained in the parties' divorce decree, there would have been no reason for the district court to require Vaile to provide another financial disclosure form that could not be used. As it has done consistently since 2007, the district court signed Respondent's proposed order without reviewing whether the relief was justified under the law.

H. The District Court Erred in Holding Mr. Vaile in Contempt of Court for Not Timely Notifying the Court of his Change in Address

The district court held Appellant in contempt of court for allegedly missing the change of address date by two days. Respondent claims that the district court was justified in the contempt finding because Appellant was under a "valid court order" to update his address. Respondent fails to mention the fact that the "valid court order" was overturned by the Nevada Supreme Court on appeal. Respondent's proposition that all temporary orders, and any part of the final district court order not specifically named by Nevada Supreme Court in its reversal survive a reversal on appeal, is a concept unsupported by Nevada case law, statute, or by any other state in the Union.

Unsurprisingly, Respondent attempts to misrepresent the record to bolster her point; she claims that Vaile provided no evidence to support the date that the

actual change in address took place. Respondent pretends that Appellant did not submit a notice of address change with the actual address change date, yet it also exists in the record.[30] In actual fact, Vaile's signed change of address notification is the only evidence in the record as to when his address changed.

Respondent suggested that a position announcement dated several weeks before he was to begin, that contained Appellant's expected employment start date, was determinative of his change of address. Of course, an anticipated start date is not an *actual* employment start date. And an employment start date is not the same as a change to one's residence. The district court had neither reason nor conflicting evidence to dispute Appellant's submission as to when he *actually changed his residence*, and that notice was timely.

Lastly, [a] sanction for civil contempt is characterized by the court's desire to compensate the contemnor's adversary for the injuries which result from the non-compliance, and an award to an opposing party is limited to that party's actual loss. State Dept of Indus. Rel. v. Albanese, 919 P.2d 1067 (Nev. 1996) (quoting Ninth Circuit). Here, Respondent did not ever claim that receiving notice of Appellant's address change two days later inflicted any damage of any kind. No contempt can be found where no injury resulted. Again, it is abundantly clear that the district court accepted Respondent's counsel's proposed order simply to punish Appellant unjustly.

I. The District Court Erred by Failing to Enforce a Sister-state Child Support Order in Accordance with Federal Law

Respondent argues that the district court was justified in not honoring California's judgment as a sister-state judgment because of her allegations that: 1) the Nevada district court already held the Norwegian order unenforceable, 2)

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[30] ROA5198.

Appellant committed a fraud by not informing the California court of the Nevada proceedings; and 3) the California court did not have personal and subject matter jurisdiction over her.

In actuality, the district court refused to honor the California court order based on none of those reasons. Instead, the district court refused to offer the California order full faith and credit because Respondent "***argued*** that the Court *Order* from California stating that a child support order from Norway was controlling, was obtained by fraud by Mr. Vaile"[31] (emphasis added). Merely "arguing" fraud can never meet the higher evidence standard required to actually find fraud. Regardless of Respondent's *post hoc* justification, the district court's finding was in error.

Respondent's first assertion to justify the district court is untrue – because that court specifically *refused* to apply section 207 to determine a controlling order – calling it "inapplicable." Since this section contains the *only* method under UIFSA to make a controlling order determination when two competing orders exist, Respondent's claim that the district court made a controlling determination cannot be true. Furthermore, even if the Nevada court had properly made that determination, Respondent did not register the district court's decision with any California court. Respondent's first justification is without basis.

Respondent's second claim that Vaile actually committed fraud on the California court is supported by *zero* evidence of that fact.[32] Respondent did not point to any evidence in the record of this alleged "fraud" because Respondent's counsel did not even argue "fraud" in hearings before the district court. Not only did Respondent not present a single shred of *proof* of fraud below, but the district

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[31] ROA5264.

[32] As noted previously, the propensity of Respondent's counsel to falsely attach crimes to Appellant is what earned him a judgment for *defamation per se* from a federal district court in Virginia.

court did not even hear testimony on the topic. Counsel simply inserted the language into the proposed order, and the district court again blindly signed.

Respondent now defends her fraud story by suggesting the filings in the California court were made without her knowledge - her adjectives specifically include "un-noticed," "surreptitious," and "covert." The reason that Respondent did not point to the record to support this new claim on appeal is because she knows that she was properly served and had full knowledge of the California proceedings. In fact, Respondent actually filed on June 6, 2012 in the district court below the registration documents that Vaile filed in the California court days after she received them![33]

Almost six months after Respondent filed Vaile's California registration documents in the district court, the California Superior Court entered a final judgment on November 1, 2012. According to the California docket sheet, the lower court served a copy of its order on Respondent Porsboll on November 5, 2012. On November 26, 2012, Respondent filed the California court's order in the Nevada district court, as she had done previously.[34] Respondent's district court filings containing Appellant's California filings directly contradict her claim that she did not know about the California proceedings while they were taking place. This is another obvious attempt (the fifth so far) by Respondent's counsel to misrepresent the actual facts to this Court.

Before the California court's order was issued, the Nevada district court entered its decision refusing to make a controlling order determination under UIFSA. Appellant filed a brief in the California Superior Court titled *Notice of Nevada Proceedings and Supplemental Points & Authorities on Impact on this Case*. That 85-page brief contained a thorough recitation of the events that had

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[33] ROA4813-4837.

[34] ROA5188-5197.

recently taken place in Nevada, included a copy of the district court's order, as well as Appellant's writ petition outlining the appealable points argued now on appeal.[35] The California Superior Court conducted a hearing on October 12, 2012 where the situation in Nevada was discussed in open court. These facts disprove Respondent's claims that Appellant Vaile "never told the California court about the Nevada proceedings."[36]

Even if the standard of fraud could be met by failing to argue the willfully-absent party's position to a court, Respondent's argument that Appellant committed fraud in the California court is without evidence. Respondent and her counsel know that Appellant thoroughly informed the California court of the Nevada proceedings. Respondent's claims to the contrary are intentional material misrepresentations of fact.

Respondent's third and final argument on this point, that the California court lacked personal or subject matter jurisdiction, was not an argument that Respondent made in the court below, is unsupported by the record, and is completely removed from the district court's reasoning for rejecting the California order. In actual fact, the proceedings in California began in 2008 when Porsboll's counsel submitted one of the temporary orders from the district court to the California Department of Child Support Services in the county where Appellant lived. Respondent's willful submission to the California tribunal makes her arguments challenging the jurisdiction of that court particularly disingenuous.

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[35] For obvious reasons, Respondent did not file this particular California filing with the district court below as it clearly disproves her claim that Vaile did not not fully inform that court of the Nevada proceedings. Because it is not a part of the record below, Appellant hesitates to include the documents here. At the Court's request, Appellant would be happy to file this document and the associated docket sheet.

[36] Respondent's claim that Appellant did not fully inform the California court of the Nevada proceedings is the sixth material and intentional misrepresentation.

J. The District Court Erred in Holding Mr. Vaile in Contempt of Court for Failing to Pay Child Support

Since the supreme court stayed the district court orders modifying the payment arrangements while the matter was on appeal, Appellant continued to pay Respondent support directly. Respondent acknowledges that Appellant[37] paid support for all eleven months – yet the court held him in contempt for *not* paying during that period. Respondent justified the district court considering his support payments "gifts" because he did not send payments through her attorneys. Respondent did not claim that she was injured in any way by receiving child support payments directly. Neither does she contend that she did not receive the entire amount of child support owed during the period under either the Nevada or Norwegian orders. Although her counsel may have been hampered in his ability to intercept funds intended for the support of the children – a practice prohibited by the Rules of Professional Conduct in most states – the real party in interest received all support due. Labeling support payments "gifts," and then holding Appellant in contempt for non-payment of support is an obvious artifice intended to punish Vaile – and must not be allowed to stand.

K. Opposition to Respondent's Various Retributive Requests

Respondent has requested that the Court inflict various forms of punishment on Appellant for bringing this appeal. The first is that he be imprisoned for contempt, and that his appeal not be heard until jail time has been served. Respondent's proposition would allow a district court to order criminal contempt in civil proceedings, and remain immune from appellate oversight. The propensity of the district court below to sign any proposed order by Respondent's

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[37] Appellant has never "professed the belief that that he can violate the orders of all court with impunity."

vindictive counsel would go wholly unchecked – a particularly unjust result when the contempt order is the subject of appeal.

> The Nevada Supreme Court has directed that:
>
> [C]ivil contempt is said to be remedial in nature, as the sanctions are intended to benefit a party by coercing or compelling the contemnor's future compliance, not punishing them for past bad acts. Moreoever, a civil contempt order is indeterminate or conditional; the contemnor's compliance is all that is sought and with that compliance comes the termination of any sanctions imposed.
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> Rodriguez v. Eighth Judicial District Court of State of Nevada, 120 Nev. Adv. Op. 87, (Nev. 2004).

In this case, the district court's order from the January 22, 2013 hearing (prepared and submitted by Respondent's counsel) is purely punitive.[38] It states that "The Court issued a Bench Warrant for Mr. Robert Scotlund Vaile to serve 275 days of incarceration in the Clark County Detention Center, ***without bail***, on the accumulated charges of CONTEMPT." (emphasis added).[39] The district court's order falls far outside civil contempt – as it imposes criminal sanctions without an inkling of due process. There can be no clearer example of the abuse of judicial power than when a court is willing to defy the law and oust a man's liberty simply to assuage a favored party's attorney.

Although Appellant has not been hyper-diligent about defending his character against the lawyerly attacks of Respondent's counsel, he has been diligent about defending his legal position. The record shows that Respondent's counsel has used the district court as a bully pulpit by filing motion after motion in serial fashion requesting meaningless relief, requiring Appellant to travel from out-of-state for each hearing, and requesting tens of thousands in attorney's fees each time. Because Appellant has opposed Respondent's motions, and appealed

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[38] Respondent endorses the punitive nature of the order, and openly encourages this Court to reject his filings until Appellant "surrenders for punishment."

[39] ROA5265.

orders unsupported under the law, Respondent's counsel hypocritically labels Vaile "vexatious", and requests a prohibition on future filings. Obviously, Respondent's objective is to continue to be granted unlimited relief by the district court without the burden of actual law that an appellate court might require.

Under the prompting of Respondent's counsel, the district court has refused to obey both temporary orders and remands by the Nevada Supreme Court. On three different occasions, the high court has instituted a stay of the district court proceedings.[40] In every appeal that the Nevada Supreme Court has heard[41] since Appellant has represented himself, the Court has rejected each and every argument presented by Respondent's counsel in favor of Appellant's position. And even though the lower court has been willing to grant Respondent's counsel virtually any relief requested, the district court has consistently refused to label Vaile "vexatious," and has acknowledged in open court that Vaile's arguments have "merit."

Each of Appellant's legal filings in any forum in the last 15 years involving Respondent have involved an attempt to simply defend his legal position, and to encourage the rightful application of the law. Unlike Respondent's counsel, Vaile has never encouraged any court to adopt a tortured reading of the law, to create an exception to settled law, or to otherwise fabricate a new interpretation of uniform law.[42] Respondent's various requests for the Court to label Vaile an aggressor or the propagator of frivolous filings is unjustified.

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[40] Likewise, the federal bankruptcy court in the Northern District of California has three times enjoined Respondent and her counsel for unlawful collection attempts against Appellant.

[41] The Nevada Supreme Court has not heard every appeal or writ that Vaile has filed, finding that some matters could be heard on regular appeal and that other orders appealed from were temporary in nature, and therefore, not appealable.

[42] Appellant has never stated, implied or acted in accordance with Respondent's claims that Appellant seeks to maximize legal filing or has any purpose other than the legal settlement of the issues before the court.

III. CONCLUSION

This is really an easy case. If Respondent Porsboll had been seeking registration of the Norwegian child support order that she obtained in Norway, then no court, either district or appellate, would have hesitated to grant the relief. The only hesitation of courts to apply the law as written is the possibility that Vaile may, as Respondent claims, be worthy of punishment for bad character. The district court has attempted to exact that punishment through institution of retroactive arrearages, interest, penalties, attorneys fees and now incarceration.

Appellant humbly requests that the Court consider that the same attorney who has blatantly misrepresented facts contradicted by the record, is that same assassin of Vaile's character. Furthermore, Appellant requests that the Court intervene to prevent the district court from becoming the enforcer of Respondent's illegitimate objectives.

Appellant Vaile has provided all child support that Respondent requested from the Norwegian tribunal. She and her Nevada counsel received this support for years after she actually refused to provide for the children who were the intended recipients! A decision in Respondent's favor will simply reward Respondent's behavior – concealment of the Norwegian order, unending duplication of litigation below, and the misrepresentation of innumerable material facts in these proceedings. It would also unjustly enrich her and her Nevada counsel with no support actually flowing to the children.

Conversely, a decision that Vaile did not owe child support while the children lived with him, and that the Norwegian order became controlling on April 1, 2002, will effectively put an end to this litigation and allow Mr. and Mrs. Vaile to focus on sending eight children to college. In order to avoid a likely attempt to distort this Court's opinion, Appellant requests the following holdings as a matter of law:

1) Mr. Vaile was the residential parent of the children from March 2000 through April 2002 and does not owe child support to Mrs. Porsboll during that period;

2) The Norwegian child support order became the controlling child support as of April 1, 2002;

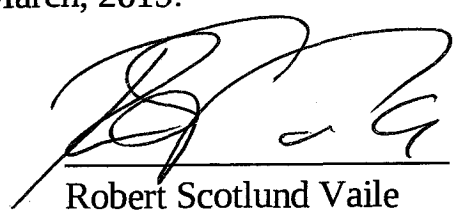
3) Appellant fulfilled his child support obligations under the Nevada divorce decree and under the Norwegian child support orders as found by the Riley County Kansas Court;

4) All previous district court orders, judgments, sanctions, warrants, awards of attorneys fees, or other relief issued after April 2002 are null and void;

5) The parties shall bear their own costs on appeal; and

6) Remand to enter orders consistent with this decision and with instruction to dismiss this case will be made to an alternate district court judge in the Eighth Judicial District Court.

Respectfully submitted this 26th day of March, 2015.



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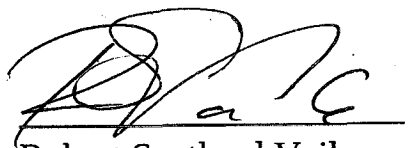
STATEMENT IN COMPLIANCE WITH NRAP 28.2

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 contains 6,989 words as reported by LibreOffice.
3. Finally, I hereby certify that I have written and read this reply 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.



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CERTIFICATE OF MAILING

I hereby certify that on March 26, 2015, I deposited in the United States Mail, postage prepaid, at Manhattan, KS, a true and correct copy of *Appellant's Reply Brief* addressed as follows:

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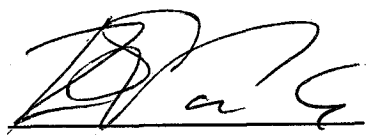
Dated this 26th day of March, 2015.



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