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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

CISILIE VAILE PORSBOLL,)
fna CISILIE A. VAILE,)
individually and as Guardian of)
KAIA LOUISE VAILE and)
DAMILLA JANE VAILE, minor children,)
Plaintiff(s),)
vs.)
ROBERT SCOTLUND VAILE,)
Defendant(s).)

2:02-cv-0706-RLH-RJJ

**FINDINGS OF FACT and
CONCLUSIONS OF LAW
and DECISION**

This matter came on for trial, as duly scheduled and noticed, before the Honorable Roger L. Hunt, U.S. District Judge, on February 27, 2006. Plaintiffs were represented by and through their attorneys, the Willick Law Group. Defendant Robert Scotlund Vaile did not appear. He had filed a "Notice of Cessation of Defense" (#303, filed February 21, 2006), noting that he would not oppose an eventual judgment entered against him in this matter, and did not appear at the Calendar Call on February 22, 2006, as ordered by the Court.

Having reviewed all the pleadings, exhibits, written affidavits, and being fully advised of the facts and the law, the Court makes the following Findings of Fact and Conclusions of Law and Decision, and renders the Judgment filed separately herein:

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....

FINDINGS OF FACT

1. The findings of fact contained within the *Opinion* issued by the Nevada Supreme Court on April 11, 2002,¹ are entitled to recognition by this Court; this Court exercises its discretion to take judicial notice of the factual findings contained within that Opinion, which are adopted and relied upon herein to the degree not otherwise specifically addressed in these Findings of Fact.
2. Plaintiff Cisilie Porsboll, formerly known as Cisilie Vaile, is a citizen and resident of Norway. Defendant R. Scotlund Vaile is a citizen of the United States who currently claims residence in the State of Virginia, where he has indicated he is enrolled in law school. Plaintiffs Kaia and Kamilla Vaile are the minor children of Cisilie and Scotlund, and are residents of Norway, having dual citizenship.
3. As of August 1998, when the parties were divorced, Cisilie had physical custody of both children, in Norway.
4. Defendant Scotlund intentionally committed a fraud upon the Eighth Judicial District Court in and for the County of Clark, State of Nevada in his initial “Complaint for Divorce,” in *Vaile v. Vaile*, Case No. D230385. He made further and other false assertions of fact in his later *Motion* filed in that case, under which he fraudulently induced Judge Steel of that court to issue a change in custody. That Order was never domesticated in Norway, and was ultimately set aside by the Nevada courts.
5. Defendant Scotlund violated federal law in seeking and obtaining “replacement” passports for the children that were subsequently utilized as part of their abduction or kidnap from Norway.
6. Defendant Scotlund conspired with his friend, Anne Fonde DeBorggraaf, his brother-in-law, Scott Bishop, and his parents, Buck and Janitye Vaile, to abduct the children from

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See *Vaile v. District Court*, 118 Nev. 262, 44 P.3d 506 (2002).

1 their mother's custody. Scotlund executed his plan in May 2000, kidnaping or abducting
2 both children in Norway and smuggling them across international borders and State lines
3 using the fraudulently-obtained passports, under color of authority of the fraudulently-
4 obtained Nevada State Family Court Order.

5 7. Ultimately, the children were brought by Scotlund to Texas, where they remained until
6 they were recovered and returned to Cisilie in April 2002.

7 8. On April 11, 2002, the Nevada Supreme Court issued its *Opinion in Vaile v. District*
8 *Court*, 118 Nev. 262, 44 P.3d 506 (2002), in which the court found that Scotlund was
9 never a resident of the State of Nevada, and had falsely so claimed in both his original
10 divorce paperwork and his later motion seeking custody of the children. The court also
11 found that the children never lived in Nevada, and that the lower court never had subject
12 matter or personal jurisdiction to enter any kind of order relating to child custody. The
13 court found that the children are habitual residents of Norway, that Scotlund wrongfully
14 removed them from Norway, and that Scotlund took custody of the children under an
15 invalid order. The Nevada Supreme Court issued a writ of mandamus compelling the
16 district court to vacate those portions of its decree relating to custody and visitation and to
17 order the children's return to Norway. The *Order* filed April 12, 2000 (from the hearing
18 of March 29, 2000) was set aside in its entirety as invalid in all respects.²

19 9. On April 16, 2002, the Nevada district court issued its order pursuant to the Writ of
20 Mandamus, stating in part that "all provisions of the *Decree of Divorce* filed August 21,
21 1998, bearing on custody and visitation of the children at issue, or incorporating the
22 custody and visitation terms of the parties' 'agreement' dated July 9, 1998, are hereby
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25 Judge Steel has filed an affidavit in this action, indicating that she never would have issued that
26 *Order* if she had been told the truth, and that she was tricked by the multiple false statements in
Scotlund's written and oral presentation into entering the invalid *Order*.

1 void and unenforceable, and have been vacated. All aspects of the *Orders* entered April
2 12, 2000, and October 25, 2000, are invalid and void in their entirety.”

3 10. The April 16 Nevada *Order* was domesticated in Texas on April 17, 2002, and given full
4 faith and credit by the Texas Court; Cisilie was given custody of the children and
5 permission to return to Norway with them. Scotlund was assessed \$45,419 (attorney’s
6 fees of \$20,359 and costs of \$25,060), which were to incur interest at 10% per year
7 compounded annually, in compensation for the damages he caused Cisilie to incur in
8 Texas in recovering the children. Scotlund has never complied with any part of that court
9 order to make payment.

10 11. Scotlund filed further Petitions in the appellate courts of Texas, which were finally denied
11 on May 9, 2002. On June 13, a “Rule 11 Agreement” was filed, in which Scotlund
12 stipulated to the costs Cisilie had incurred in responding to his Petitions in Texas. The
13 Texas trial court denied his motion for a new trial on June 18, 2002, and assessed
14 Scotlund \$23,797.90 in additional fees, in accordance with the Rule 11 Agreement, to
15 incur interest at 10% per year compounded annually. To date, Scotlund has never
16 complied with any part of the court order to make those payments, either.

17 12. On December 3, 2002, Scotlund filed a *Petition for Writ of Certiorari* in the United States
18 Supreme Court, attacking the Nevada Supreme Court *Opinion*.

19 13. On March 10, 2003, the United States Supreme Court denied Scotlund’s *Writ*.

20 14. On May 15, 2003, the Texas Court of Appeals dismissed Scotlund’s appeal as untimely.

21 15. In July, 2003, the Nevada Family Court issued an *Order* requiring that Scotlund pay
22 \$116,732.09 to Cisilie in compensation for the costs and fees incurred in Nevada for the
23 recovery of the children. Scotlund has never complied with any part of that court order.

24 16. The Nevada *Decree of Divorce* required Scotlund to pay child support on a monthly basis
25 to Cisilie, under a complex formula. Scotlund never supplied the income and other
26 information necessary for such calculations, but he consistently earned income in excess

1 of \$100,000 per year.

2 17. Scotlund unilaterally determined that the formula in the *Decree* required him to pay
3 11,000 Norwegian Kroners in child support, a sum equivalent to approximately \$1,300
4 (U.S.) per month. He paid that amount to Cisilie from August 1998, through March
5 2000, but has not paid any support for the children since that time.

6 18. No valid United States court order has ever altered the obligation imposed by the Nevada
7 *Decree of Divorce*, and the Nevada Supreme Court *Opinion* verified that, as a matter of
8 State law, when a person such as Scotlund has submitted himself to the jurisdiction of a
9 court, such a support obligation can and does stay in effect even if the court entering it did
10 not have jurisdiction to make an award of custody of the subject children.

11 19. Assuming that Scotlund correctly calculated the amount of child support due under the
12 Nevada order back in 1998, and disregarding the cost of living adjustment called for in
13 that order, and Scotlund's various increases in salary over the years, a minimum sum of
14 \$138,500 in arrears in child support principal, interest, and penalties has accrued under
15 the Nevada child support order from the time Scotlund stopped paying child support in
16 March 2000, through February 2006.

17 20. After the recovery of the children, Norway independently issued temporary custody,
18 support, and visitation orders (effective as of April 2002). Scotlund has acknowledged
19 receipt of those orders, but has not paid any support for the children in accordance with
20 those orders, either. Even without taking into account the cost of living adjustment in the
21 Norwegian orders, the minimum amount of arrears that accrued thereunder between April
22 2002, and February 2006, converted into U.S. dollars, is approximately \$48,000.

23 21. Beginning with the kidnaping or abduction of the children, and continuing for the two
24 years required to recover the children, and thereafter, Cisilie experienced severe emo-
25 tional and psychological trauma, including physical symptoms requiring medical atten-
26 tion. She missed many weeks of work as a result of both the resulting symptoms, and as

1 a matter of time necessary to deal with the American legal proceedings, incurring further
2 financial loss.

3 22. Beginning with the kidnaping or abduction of the children, and continuing for the two
4 years required to recover them, and thereafter, the children experienced emotional and
5 psychological trauma as a result of Scotlund’s removal of them from their home, family,
6 and country, including nightmares and severe anxiety attacks. The children have been in
7 counseling and therapy, and have exhibited ongoing symptoms of psychological trauma,
8 including physical manifestations of stress. The expert psychological opinion is that the
9 damage was significant and can reasonably be expected to require continuing therapeutic
10 intervention indefinitely into the future.

11 23. The actual damages caused by Scotlund’s actions have been extraordinary. Cisilie
12 incurred \$116,732.09 in costs, fees, and expenses in the Nevada State court proceedings
13 to recover the children, another \$95,819.47³ in the Texas proceedings, another \$20,395⁴
14 in the proceedings in the United States Supreme Court, and a sum equal to some \$15,512
15 in the courts of Norway. Scotlund has never paid any part of any judgment of any court
16 that has found him liable.

17 24. The litigation expenses incurred by Cisilie in bringing the current action in this Court
18 purportedly include \$26,939 in costs, and more than \$312,000 worth of attorney and staff
19 time. Travel and other costs have totaled an additional approximate \$10,000.

20 25. Scotlund’s conduct and actions were intended to and did cause the infliction of emotional
21 distress upon all three Plaintiffs, and were the actual and proximate cause of that damage.

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25 \$69,398.90 reduced to judgment by the Texas courts, and simple interest at 10%, in accordance
26 with those orders from entry, through February 27, 2006.

⁴
\$16,548 in fees, and \$3,847 in costs.

1 26. Scotlund had a duty to Plaintiffs, including but not limited to not abducting the children,
2 and not giving false testimony to and abusing the process of the courts. Scotlund
3 breached all those duties.

4 27. Scotlund's conduct and actions negligently caused the infliction of emotional distress
5 upon all three Plaintiffs, and were the actual and the proximate cause of that damage.

6 28. Scotlund intentionally confined the children without actual or implied consent by the
7 children or Cisilie, and without legitimate authority, constituting the false imprisonment
8 of the children.

9 29. Scotlund's planning and execution of the kidnap, and subsequent false imprisonment of
10 the children, intentionally interfered with the custodial rights of Cisilie.

11 30. Scotlund had a duty not to violate the law, abuse process, abduct the children, conceal
12 the children, and withhold the children from Cisilie's custody. Scotlund's violations of
13 those duties were the actual and the proximate cause of Plaintiffs' damages.

14 31. Scotlund has committed, or aided and abetted the commission of, acts with the same or
15 similar pattern, intents, results, accomplices, victim, or methods of commission, and/or
16 which are otherwise interrelated by distinguishing characteristics and are not isolated
17 incidents, and which would constitute crimes related to a pattern of racketeering activity
18 including at least two racketeering acts. These acts include Scotlund's kidnap of the
19 children, and Scotlund's obtaining passports for the children with falsified documenta-
20 tion.

21 32. Scotlund's conduct constituted willful and malicious injury to Cisilie and the children,
22 which conduct is encompassed by within the range set out in 11 U.S.C. § 523(6).

23 33. Scotlund failed to comply with the *Order Regarding Trial* filed February 13, 2006, since
24 he (1) failed to timely file trial briefs, suggested voir dire questions and proposed jury
25 instructions, as prescribed by the Pretrial Order; (2) failed to appear for Calendar Call
26 without first having been excused by the Court; and (3) failed to timely comply with

1 orders scheduling deadlines for trial preparation.

2 34. Scotlund filed a “Notice of Cessation of Defense” on February 21, 2006, and explained
3 that he would not oppose a default, although that document further claims that an appeal
4 is an eventuality.

5 35. Scotlund was required to attend Calendar Call in this action on February 22, 2006, and
6 produce documents pertaining to trial preparations for this Court’s review prior to trial.
7 The mandatory nature of his attendance at Calendar Call was telephonically verified with
8 Scotlund. Scotlund nevertheless failed to appear at Calendar Call.

9 36. Scotlund’s actions, failures to act, and communications have amply demonstrated
10 contempt of this Court and its processes, as well as contempt for the orders of various
11 courts in the United States and elsewhere in the world.

12 37. Scotlund has knowingly refused to provide support for his children for a period of some
13 six years. Under any conceivable mathematics, the sum he owes in arrearages exceeds
14 the thresholds set out in NRS 201.020(2)⁵ and Title 18, Chapter 11A, Section 228 of the
15 United States Code (“Failure to pay legal child support obligation”)⁶ for felony non-
16 support under state and federal law.

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20 On multiple grounds. There is a court ordered support obligation that Scotlund has knowingly
21 failed to pay, arrearages in the amount of \$10,000 or more have accrued since the time a court first
22 ordered him to pay support, there has been a second or subsequent violation in that additional
23 arrearages totaling \$5,000 or more have accrued since the time a court first ordered him to provide
24 support, and arrearages totaling \$5,000 or more have accrued since the time a court in another
25 jurisdiction first ordered him to provide support.

26 ⁶
Again, on multiple bases. The child to whom support is owed resides in another state, there is a
court-ordered support obligation, there has been a willful failure to pay the support obligation for a
period longer than two years, and there are arrearages of more than \$10,000. Scotlund has used
interstate or foreign commerce with the intent to evade a support obligation that has been unpaid
for over a year and that is greater than \$5,000.

1 38. As a direct and proximate result of Scotlund's wrongful acts, Cisilie has been caused to
2 expend hundreds of thousands of dollars to locate, visit, and ultimately litigate to recover
3 custody of her children. Scotlund's disregard of all orders entered by all courts to date
4 purportedly required the expenditure of costs and time worth over \$349,000 to bring this
5 matter to trial.

6 39. If any of these Findings of Fact are more properly considered Conclusions of Law, they
7 should be so construed.

8 **CONCLUSIONS OF LAW**

- 9 1. Scotlund has committed fraud, conspiracy, kidnaping or abduction, intentional and
10 negligent infliction of emotional distress upon all three Plaintiffs, false imprisonment of
11 the children, and intentional interference with Cisilie's custodial rights.
- 12 2. Scotlund's intentional perjury and offering false evidence in the Eighth Judicial District
13 Court, in and for the County of Clark, State of Nevada, in *Vaile v. Vaile*, Case No.
14 D230385, his kidnaping or abduction of the children, and his obtaining passports for the
15 children with falsified documentation, renders Scotlund liable for punitive damages.
- 16 3. This judgment shall be considered non-dischargeable in bankruptcy pursuant to 11 U.S.C.
17 § 523(6) as Scotlund has, by virtue of his conduct, committed a willful and malicious
18 injury against all three Plaintiffs.
- 19 4. Scotlund is guilty of non-support of his children under applicable state and federal law.
- 20 5. Scotlund is in direct contempt of this Court for violation of the Orders of Judge Hunt
21 regarding Calendar Call, and for violation of directions set forth in the Order Regarding
22 Trial.
- 23 6. Scotlund's course of conduct in the actions noted above, and the amount of economic and
24 other harm inflicted by Scotlund, is shocking to the conscience and demonstrates a
25 wanton and malicious conduct, or a conscious disregard for the wrongfulness of his
26 actions, entitling Plaintiffs to imposition of punitive damages.

1 7. Plaintiffs are entitled to an award of attorney's fees and costs in this action.

2 8. If any of these Conclusions of Law are more properly considered Findings of Fact, they
3 should be so construed.

4 DECISION

5 Based upon the foregoing Findings of Fact, Conclusions of Law, and the evidence
6 elicited at trial, it is the decision of the Court that judgment enter in favor of the Plaintiffs and
7 against Defendant Robert Scotlund Vaile as follows:

8 1. Plaintiff Cisilie Vaile Porsboll is awarded \$150,000.00 as and for injury, pain and
9 suffering, including emotional and psychological pain, suffering and distress caused by R.
10 Scotlund Vaile's abduction or kidnaping, false imprisonment, acts of fraud and conspir-
11 acy, and negligent or intentional infliction of emotional distress.

12 2. Minor Plaintiff Daia Louise Vaile is awarded \$150,000.00 as and for injury, pain and
13 suffering, including emotional and psychological pain, suffering and distress caused by R.
14 Scotlund Vaile's abduction or kidnaping, false imprisonment, acts of fraud and conspir-
15 acy, and negligent or intentional infliction of emotional distress.

16 3. Minor Plaintiff Kamilla Jane Vaile is awarded \$150,000.00 as and for injury, pain and
17 suffering, including emotional and psychological pain, suffering and distress caused by R.
18 Scotlund Vaile's abduction or kidnaping, false imprisonment, acts of fraud and conspir-
19 acy, and negligent or intentional infliction of emotional distress.

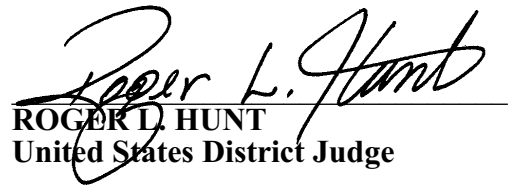
20 4. Plaintiff Cisilie Vaile Porsboll is awarded damages of attorneys fees and costs, awarded
21 in other cases as a result of her having to come to the United States to recover her
22 children, overturn fraudulently obtained orders, and regain custody of her children, in the
23 amount of \$272,255.56, plus interest until paid.

24 5. Plaintiff Cisilie Vaile Porsboll is awarded judgment against Defendant R. Scotlund Vaile
25 for arrears in child support payments, including interest and penalties, as of February
26 2006, in the amount of \$138,500.00.

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6. Plaintiff Cisilie Vaile Porsboll is awarded punitive damages against Defendant R. Scotlund Vaile in the amount of \$100,000.00.
7. Plaintiff Cisilie Vaile Porsboll is awarded attorneys fees and costs in this action in an amount to be determined upon submission of sufficient documentation and verification as required by the Local Rules.

Dated: March 13, 2006.



ROGER D. HUNT
United States District Judge