

A09-787

STATE OF MINNESOTA  
IN COURT OF APPEALS



CASE TITLE: CHILD SUPPORT

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Appellant:  
BRIAN ANTHONY HILL

vs.

Respondent:  
JULIE ANN HILL, n/k/a, JULIE ANN GRIMME &  
THE STATE OF MINNESOTA

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APPELLANT'S FORMAL BRIEF AND APPENDIX

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APPELLANT PRO SE

RESPONDENT PRO SE

The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

**APPELLATE COURT CASE NUMBER**

**A09-787**

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

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STATE OF MINNESOTA  
COURT OF APPEALS

Brian Anthony Hill  
5218 Madison 6351  
Wesley AR 72773

**NOTICE OF CASE FILING**  
**Trial Court Case # 27-PA-FA-**  
216741  
**Case Type: Family**

**Case Title: Hennepin County, Respondent, Julie Ann Hill n/k/a Julie Ann Grimme, Respondent, vs. Brian Anthony Hill, Appellant**  
**Case Filed: May 1, 2009**

You are notified that case number A09-787 has been assigned to this matter. Please include this number on all subsequent filings, including correspondence, to this office. Also, please include your attorney registration number on all filings.

The appendix to your brief must have pages numbered consecutively from beginning to end and must contain an index. Failure to comply may result in rejection of the appendix.

This office will send notice to the trial court administrator when transmission of the trial court records and exhibits are required.

Mr. Hill: Enclosed is the transcript received with your notice of appeal. If the transcript has been ordered and prepared for the appeal, the original and one copy of the transcript will be forwarded to this office by the district court along with the remainder of the district court record.

**IF ANY DEFICIENCIES ARE NOTED ABOVE, THEY MUST BE CORRECTED BY THE FILING PARTY (OR AS OTHERWISE NOTED) WITHIN TEN DAYS. FAILURE TO COMPLY WITH THIS NOTICE, ALL APPLICABLE RULES, COURT NOTICES, AND ORDERS MAY RESULT IN THE IMPOSITION OF SANCTIONS.**

Dated: May 1, 2009

BY THE COURT:

Frederick K. Grittner  
Office of the Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
St. Paul, Minnesota 55155

**CASE A0-787**

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FORM 103A. NOTICE OF APPEAL (COURT OF APPEALS)

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

  X   DISTRICT COURT  
           COUNTY COURT  
  FOURTH   JUDICIAL DISTRICT

CASE TITLE: CHILD SUPPORT

Plaintiff.

JULIE ANN HILL n/k/a  
JULIE ANN GRIMME

vs.

Defendant.

BRIAN ANTHONY HILL

NOTICE OF APPEAL TO COURT  
OF APPEALS(X)

TRIAL COURT CASE NUMBER: 27-FA-21674

DATE OF ORDER: NOVEMBER 28, 2008

OR

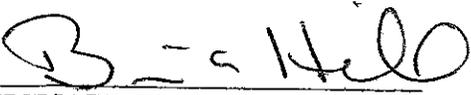
DATE OF MOTION FOR REVIEW  
JUDGEMENT ENTERED: MARCH 02, 2009

TO: Clerk of the Appellate Courts  
Minnesota Judicial Center  
St. Paul, MN 55155

Please take notice that the above-named Defendant, Brian Anthony Hill, appeals to the Court of Appeals of the State of Minnesota from the Order/Judgment, 27-FA-21674, of the Fourth Judicial District Court, Hennepin County, filed on March 02, 2009, as shown above.

DATED: April 28, 2009

BRIAN ANTHONY HILL  
5218 MADISON 6351  
WESLEY, AR 72773

  
SIGNATURE

Pursuant to Rule 377.10 of the Rules of Expedited Child Support Process, a true and correct copy of this Notice of Appeal has been served by U.S. Mail upon each party at his or her last known address, or upon the party's Attorney if represented by one, and upon the County Attorney if party to the case.

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**FORM 133. STATEMENT OF THE CASE**

A09-787

STATE OF MINNESOTA  
COURT OF APPEALS

CASE TITLE: Brian Anthony Hill, Appellant, vs. State of Minnesota and Julie Ann Hill, n/k/a Julie Ann Grimme, Respondent

Appellant,  
BRIAN ANTHONY HILL

STATEMENT OF THE CASE OF  
APPELLANT

vs.

TRIAL COURT CASE NUMBER:  
27-FA-21674 Review Date March 02, 2009

THE STATE OF MINNESOTA and  
JULIE ANN HILL n/k/a  
JULIE ANN GRIMME  
Respondents.

APPELLATE COURT CASE NUMBER:  
A09-787

**1. Court or agency of case origination and name of presiding judge or hearing officer:**

(A) District Court, Fourth Judicial District, Hennepin County, Case Type, Child Support, Presiding Judge, Magistrate Brian P. Moehn

(B) District Court, Fourth Judicial District, Hennepin County, Case Type, Child Support, Combined Motion & Motion for Review, Presiding Judge, District Judge John L. Holahan

**2. Jurisdictional statement:**

The Child Support Magistrate, Brian P. Moehn, has jurisdiction over this matter pursuant to Minn. Statute 484.702, subs.1 and 3. Then pursuant to Rules 375-377 of Family Court Procedure, the matter then came before District Judge John L. Holahan on March 02, 2009, based on Respondent's Combined Motion for Review of Findings of Fact, and Conclusions of Law and Order, of Original Hearing held November 25, 2008 and Order filed November 28, 2008.

(A) Appeal from district court: Fourth Judicial District, Hennepin County Case Court File No. 27-FA-216741, IV-D Case No. 0011992401-01

Statute, rule or other authority authorizing appeal: Minn. Civ. P. 54.02.

Date of entry of judgment or date of service of notice of filing of order from which appeal is taken: Order for Hearing of Expedited Child Support Process by Magistrate Moehn filed on November 28, 2008.

Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):  
Minn. R. Civ. 104.01 Appeal must be filed with 60 days of entry of Judgment or Order.

Date of filing any motion that tolls appeal time: Order for Review or Combined Motion filed on December 15, 2008 and ruled on March 02, 2009, by Judge Holahan.

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Date of filing of order deciding tolling motion and date of service of notice of filing: None

(B) Certiorari appeal. None

Statute, rule or other authority authorizing certiorari appeal: None

Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice): None

(C) Other appellate proceedings. Minn State Court of Appeals A05-781, filed May 4, 2006, by Judge Willis, Hennepin County District Court File No. 216741

Statute, rule or other authority authorizing appellate proceeding: Minn. R. Civ. P. 54.02

Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice): Minn. R. Civ. 104.01 Appeal must be filed with 60 days of Notice Order was filed.

(D) Finality of order or judgment. Affirmed in Part, Reversed in Part, and Remanded by Judge Willis

Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes (X) No ( ) This case stems from the Registration of Original Order in Minnesota, setting the support amount and adjusting arrearages. Current Appeal concerns the Emancipation of Mary Ann Hill who turned 20 September 02, 2008.

If no:

Did the district court order entry of a final partial judgment for immediate appeal pursuant to MINN. R. CIV. APP. P. 104.01, Yes (X) No ( ) or

If yes, provide date of order: Original Order October 2003, Minnesota Court of Appeals decision dated May 4, 2006, District Court File No. 27-FA-216741

If no, is the order or judgment appealed from reviewable under any exception to the finality rule? Yes ( ) No (X)

If yes, cite rule, statute, or other authority authorizing appeal:

(E) Criminal only; Does Not Apply

Has a sentence been imposed or imposition of sentence stayed? Yes ( ) No (X)

If no, cite statute or rule authorizing interlocutory appeal: Not Criminal

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3. **State type of litigation and designate any statutes at issue.** Does Not Apply
4. **Brief description of claims, defenses, issues litigated and results below.** Underlying Claim that child covered by Support Order was emancipated on September 02, 2008, and Respondent is no longer obligated to pay support or maintain medical insurance on Mary Ann Hill. The Current Support Order is in violation of Minnesota State Law that defines Emancipation age as 18 years old unless child is attending post secondary education, which then becomes 20 years. Mary is attending the University of Arkansas at present time.
5. **List specific issues proposed to be raised on Appeal.**

**The Primary Issue** is the Emancipation of Respondent's daughter, Mary Ann Hill, who became 20 years old on September 2, 2008. Under Minnesota Statute 518C.604, Choice of Law, (a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order, and the issuing state of current child support order is Minnesota, therefore, Mary became emancipated on September 2, 2008. Respondent has since paid \$14,476, in Child Support that is an "over payment" and this should be paid on account for any arrearages remaining on Respondent's account. Minnesota has established that it has "Continued, Exclusive Jurisdiction, (Minnesota Court of Appeals Case A05-781 Affirms this) and it's Order Dated October, 23, 2003, District Court Case No. SP216741, included the Provision that a child becomes emancipated once the child attains the age of 18 years or the age of 20 years if the child was attending secondary school, which Mary is as a student of the University of Arkansas. At least two State Supreme Courts, Nebraska and Arkansas, have ruled that the State with Continued, Exclusive Jurisdiction, becomes the Issuing State when an order is set there, and the Laws of Those States govern the nature, extent, amount, and

duration of their support orders. Further, based on UIFSA 205(c), "The State that Issues an Order with Continuing, Exclusive Jurisdiction, sets the "Non-Modifiable terms of the Order. In this case, Minnesota Order No. SP216741, filed May 27, 2003, set the duration of the Order as "until the child reaches the age of 18, or the age of 20 if still in secondary school". Clearly based on Minnesota's control of the order, Mary Ann Hill was emancipated on September 2, 2008.

**The Second Issue** to bring up on Appeal is the fact that Respondent reported to the Court that his Federal Tax Return in the amount of \$3,425 and Respondent's Economic Stimulus family payment of \$1,500, had been sitting in the State's Suspense Account over a year now, for the Respondent, and Respondent directed the Court to apply the tax return amount of \$3,425 and \$600 of Respondent's Family Stimulus check to Respondents Account and to copy all on the transfer of funds on Account. Then the remaining \$900 of the Stimulus check should be returned to Respondent since it represents funds for Respondent's wife Melinda in the amount of \$600, and funds for Respondent's daughter, Cheyenne Elizabeth, in the amount of \$300. This has not been done to date.

**The Third Issue** on Appeal is the fact that Respondent has reported that he has experienced a very difficult time financially for the past year which resulted in a "negative" monthly cash flow of \$1,954, which has left Respondent unable to fund his current monthly Support, now Arrearage, Obligation in the Amount of \$1,692. During the November 25<sup>th</sup> Hearing, it was requested by Respondent that The Magistrate use Minnesota's new Law signed by Governor Pawlenty on January 1, 2007, to determine how much Respondents payments will be going forward to service remaining balance on his Account. A Financial Affidavit was presented by both Respondent and Plaintiff, and at that time it was revealed that Plaintiff, Julie Ann Hill,

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n/k/a Julie Ann Grimme, earned \$180,000 last year. Respondent would like Court of Appeals to address incomes of both and determine monthly arrears payment for Respondent, his current service of past due support amounts to \$300 a month. Respondent requests this amount to remain the same until arrearage, if any, is paid in full.

**6. Related appeals.**

List all prior or pending appeals arising from the same action as this appeal. If none, so state. Two Key State Supreme Court cases, Arkansas's Mathews vs. Mathews, No. DR-03-276 and Nebraska's Groseth vs. Groseth, No. S-98-833, very clearly show that when Parties to a Child Support Case move out of Issuing Order State, and no connection remains there, and a new petition to register the initial Child Support Order in the current State of Petitioner, Respondent, or both is made, the new State now has Continued, Exclusive Jurisdiction, and the Order Written there, makes the new home the Issuing State of the Child Support Order and therefore, that State's Laws govern the nature, extent, amount, and duration of payments and other obligations of support and payment of arrearages under the order. The Arkansas Case is noteworthy since the Original Divorce and Support Order of Patricia Suzanne and John Steven Mathews were written in Missouri and later both Appellant and Appellee moved to Arkansas. Arkansas ruled that since both parties left Issuing State and now live in Arkansas, the matter is now an "intrastate" not "interstate" matter, therefore, UIFSA simply does not apply. Arkansas at that point, becomes the Issuing State and the Laws of Arkansas now control the new Support Order. The Nebraska Case is very similar in that Diane and Charles Groseth were Divorced in Massachusetts and the Original Support Order was drawn up there so Massachusetts was the Issuing State. Later Diane moved to Nebraska and Charles

moved to Texas. Diane then filed a Complaint for Modification of the Original Support order due to material change in circumstances, using Massachusetts's law. Nebraska has a similar Choice of Law Statute, 42-739(a) to that of Minnesota's 518C.604, which states the Law of Issuing State governs nature, extent, amount, and duration of current payments of arrearages under the order. In this case Nebraska Ruled that the Choice of Law provision, of the State of Massachusetts governs the nature, extent, amount, and duration of "current" payments and other obligations, or the petition to enforce the "existing" order of the Issuing State and not to subsequent orders resulting from petitions to "modify" child support orders in a Responding State. Indeed, "current payments and other obligations" cease to be "current" once they are modified. Nebraska went on to say, "Moreover, once a responding state assumes continuing, exclusive jurisdiction and modifies an issuing state's support order, the responding State becomes the Issuing State, NE Rule 42-746(d) and UIFSA Act 611, Comment 9 U.L.429 (Supp. 1999) (explaining that one of UIFSA's goals is to eliminate multiple support orders by establishing scheme of continuing, exclusive jurisdiction, and Unif. Interstate Family Support Act 604, comment, 9, U.L.A. 422 (Supp. 1999) (axiomatically stating that loss of continuing, exclusive jurisdiction by issuing state and subsequent modification by responding state results in order becoming "order of responding state") Clearly in this case, Nebraska ruled the use the substantive law of Nebraska was correct in modifying Charles and Diane's Support Order. Both cases compare exactly to my case in that Julie Hill and I were divorced in Mississippi in 1990, Julie moved to Minnesota in 1995, I left Mississippi in 1999 when I moved to Iowa, I then moved to Minnesota in 2002, and when the Order was modified in 2003, both Julie and I lived in Minnesota making our case truly an "intrastate" one in which UIFSA does not control. The Choice Law of Minnesota, 518C.604, now the "issuing state"

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governs the nature, extent, amount, and duration of our Support Order. Clearly, Mary Anne Hill was emancipated on September 2, 2008

List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state. None in Minnesota as to Appellant's knowledge.

**7. Contents of record.**

Is a transcript necessary to review the issues on appeal? Yes (X) No ( )

If yes, full ( X) or partial ( ) transcript?

Has the transcript already been delivered to the parties and filed with the trial court administrator? Yes ( ) No (X)

If not, has it been ordered from the court reporter? Yes (X) No ( )

If a transcript is unavailable, is a statement of the proceedings under Rule 110.03 necessary? Yes ( ) No(X), Transcript was ordered on April 24, 2009, letter is attached.

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04, Yes ( ) No (X), Transcript has been ordered.

**8. Is oral argument requested? Yes ( ) No (X)**

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes ( ) No (X), Does not pertain.

If yes, state where argument is requested: Does not pertain

**9. Identify the type of brief to be filed.**

Formal brief under Rule 128.02. (X)

Informal brief under Rule 128.01, subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). ( )

Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2. ( )

**10. Names, addresses, zip codes and telephone numbers of attorney for appellant and respondent.**

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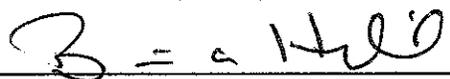
NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY  
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR (APPELLANT)  
(RESPONDENT): Neither Represented by Attorneys.

N/A, None Used – Appellate is Pro Se  
SIGNATURE:

OR, IF NOT REPRESENTED BY COUNSEL:

NAME, ADDRESS, ZIP CODE AND TELEPHONE NUMBER OF (APPELLANT)

Brian A. Hill  
5218 Madison 6351  
Wesley, AR 72773  
479-200-6116(cell)  
479-456-2802(Home)

  
SIGNATURE (OF APPELLANT)

Dated: 4-28-09

(The Statement of Case is not a jurisdictional document, but it is important to the proper and efficient processing of the appeal by the appellate courts. The "jurisdictional statement" section is intended to provide sufficient information for the appellate court to easily determine whether the order or judgment is appealable and if the appeal is timely. The nature of the proceedings below and the notice of appeal determine the jurisdiction of the appellate court. The sections requesting information about the issues litigated in the lower court or tribunal, and the issues proposed to be raised on appeal are for the court's information, and do not expand or limit the issues that might be addressed on appeal. Likewise, the section asking counsel to identify and prior or pending appeals from the same case, and any separate appeals that raise similar issues is intended to provide more information about the procedural history of the case and to ensure that the court has early notice of other pending related matters in case consolidation is appropriate.)

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## Statement of Facts

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Appellant-father Brian A. Hill and Respondent-mother Julie Ann Hill's marriage was dissolved in 1990 by a Divorce/Separation Agreement in Mississippi. By Decree, mother would have primary custody of couple's three minor children and father would pay child support based on the Decree, and it further stated that "Mississippi Law shall continue to control the support of this Agreement". In 1992 mother and children moved to Minnesota and in 1995, mother applied to Minnesota for child support enforcement of the Mississippi agreement. Also in 1995, father quit his job with Hormel Foods and went out and started Hill Transportation Services, Inc., a Trucking Company, and took no salary the first year and lived off of his savings to make ends meet. Father continued this until the Company was closed 1999 due to a non-profitable operation and a huge demand on unavailable cash. Father reported his salary each of these years and subsequently adjusted his child support payments in April each year as the Divorce Decree had spell out. In 1999 father began employment with The Iowa Packing Company in Des Moines, Iowa, and worked there from 1999 until 2002. During this time, Minnesota, through Child Support Services, began to enforce collections of child support due based on Minnesota Law not as the original Decree had spelled out. Father's oldest daughter, Renee, moved in with him in 1998 and stayed with father until she was emancipated in 2000, and father's son, David, was emancipated in 2002. During father's stay in Iowa, Minnesota Support Services continued to attempt to collect child support for remaining child, Mary Anne, at rates three times that owed based on Mississippi Law which would then be 14% of net income for one child. Father continued to pay according to his income based on Mississippi

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## Statement of Facts (Continued)

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Law. Also while in Iowa, The Mississippi Department of Human Services wrote to father on March 8, 2000, and reported that his case was closed and reported to the Credit Bureaus in "Good Standing". Father then moved to Minnesota in 2002 to work for GFI America in Minneapolis. In 2003, father went to Court to have Withholding Order registered for enforcement, in attempt to get the State to enforce Mississippi Law as the Decree had required. Magistrate Deborah Kraus heard the case May 7, 2003 and ruled that the Mississippi Order was registered and as a part of her order, it was spelled out that the duration of the order would be until age 18 or 20 if child is in secondary education. Later that year in October, Magistrate Sangeeta Jain, heard the continuation of the case to set the support amount and she set the monthly amount at \$1,182.50 a month along with \$300 a month towards arrearages based on Minnesota Law for the previous years. These rates compare to the initial \$1,000 a month father was order to pay by Decree for 3 children or \$333 a month for just one child based on these rates. At that time father filed Motion for Review on the case to determine why Mississippi Support rates were not used and eventually, father filed appeal with Minnesota Court of Appeals and they ruled on May 4, 2006, Case A05-781, that father's support rates were based on Minnesota Statute since Minnesota now has Continuing, Exclusive Jurisdiction over the matter. Father accepted this and prior to September 2, 2008, when remaining child, Mary Anne, turned 20, father contacted Hennepin County Child Support Service, to inform them that Mary Anne would be emancipated on September 2, 2008, and that the monthly support charges should stop by Minnesota Law. Child Support Services informed father that he would have to

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**Statement of Facts (Continued)**  
**A09-787**

file a Motion for Review to stop the child support withholding and get a court date set. The soonest court date was November 25, 2008, so father locked in that date, prepared for court, and the case was heard by Magistrate Moehn, with mother present, and Assistant Hennepin County Attorney, Ms Theresa Farrell-Strauss. At the time father argued that based on Minnesota Law, his child support for Mary Anne ended and Ms Farrell-Strauss argued that the duration was based on Mississippi Law even though the State had been charging father Minnesota support amounts. During the hearing Magistrate Moehn questioned Ms Farrell-Straus how she could charge support based on Minnesota Law but then hold the duration to Mississippi Law, and further said, "you can't have it both ways". Magistrate Moehn ruled on this case No. 27-FA-216741, November 28, 2008, that there was no Appellate Decision in Minnesota surrounding this case type in which an original State set the terms of the order and later the order was modified and issued under Minnesota Law, so he did not rule in favor of father. Father then filed a Motion for Review with the District Court, and District Judge John Holahan reviewed the lower court file and ruled that the order would remain as is. Father has appealed this case to the Minnesota Court of Appeals based the fact that he has been treated unfairly by the Minnesota Lower Courts since they have in affect, charged triple the child support that would be based on Mississippi Law and then when the Support should have ended based on this Minnesota Law, the duration is then set at 21 which is a Mississippi Child Support Law. Father will provide sufficient proof through this proceeding with attached

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## Statement of Facts (Continued)

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documentation that under UIFSA's One Controlling Order rule and Minnesota's Statute 518.26 that defines emancipation at 18, or 20 if child is attending secondary education, and Minnesota's Statute 518C604, Choice of Law, that states; Issuing State governs the nature, extent, amount, and duration of current payments and the payments of arrearages under the Order. Clearly, Minnesota Law supports the fact that Mary Anne is now emancipated and father's ongoing support should have ended on September 2, 2008 as argued by father in this and the previous two proceedings. Father also stated during the November 25, 2008, hearing that certain monies were held in "escrow" for father's Account and to this day, father's 2007 Income Tax refund of \$3,426 and father's \$600 of family's 2008 Economic Stimulus check is still in escrow along with the remaining \$900 of the Stimulus check for father's wife and child; these funds need to be returned to the family. Applying the \$4,026 to father's arrearages would certainly help the Case, but neither the Magistrate or Judge ruled on this matter. Father finally stated in the 2008 hearing that he was struggling financially and that the Court should take this into consideration, along with mother, Petitioner's income, in order to set remaining arrearage payments at the Court Ordered amount of \$300 a month. The review of both incomes is based on 2007 Minnesota Legislation signed into Law by Governor Pawlenty which takes into consideration both father and mother's incomes in determining level of future child support or arrearage payments. Clearly here, neither Magistrate Moehn or Judge Holahan ruled on this matter, and Appellant believes all issues need to be addressed by the Minnesota Judicial System and prays the Minnesota Court of Appeals will do just that.

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## LEGAL ISSUES

A09-787

### **I. Does Minnesota have Continuing, Exclusive Jurisdiction over the Order Originating in Mississippi and the Ability to Enforce and modify it?**

Yes, Minnesota Court of Appeals ruled Affirmative under Minn Statute 518C.205 and UIFSA Sections 611 and 613(codified in Minnesota as Minn Statutes 518C.611 and 518C.613., and

Hill vs. State of Minnesota & Hill, Minnesota Court of Appeals Case A05-781, Filed May 4, 2006

### **II. Has Minnesota Issued the Controlling Order?**

Yes, Under UIFSA and Minn Statute 518C.207(b)1, "If only one of the Tribunals would have Continuing, Exclusive Jurisdiction under this Chapter, the order of that Tribunal is Controlling and must be recognized". Minnesota Magistrate Deborah V. Kraus filed Court Order SP 216741 on May 27, 2003 which Registered Mississippi Order for Enforcement and Modification and Minnesota Court of Appeals, Case A05-781, Ruled that Minnesota has Continuing, Exclusive Jurisdiction with this Initial Order and the Modification of this Order through Subsequent Court Proceedings. Further, UIFSA Section 205(c) States that the Controlling Order sets the Non-Modifiable Terms (Principally duration of the Obligation), and in this Case, Minnesota Order Controls.

Hill vs. State of Minnesota & Hill, Minnesota Court of Appeals Case A05-781, Filed May 4, 2006

Hill vs. State of Minnesota & Hill, Case SP216741, Filed May 27, 2003

### **III. Does UIFSA apply to the Current, Controlling Order?**

No, Under UIFSA Section 611(e), "If parties have left the Issuing State and now reside in this State, such a fact situation does not present an Interstate matter and UIFSA does not Apply, and the Forum State, as the Residence of the Parties, should apply local law without regard to the Interstate Act" This was Affirmed in Minnesota Court of Appeals Case A05-781 and further Affirmed in Arkansas Supreme Court Case No. 05-1090

Hill vs. State of Minnesota & Hill, Court of Appeals Case A05-781

Mathews vs. Mathews, Arkansas Supreme Court Case 05-1090, filed September 21, 2006

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## LEGAL ISSUES (Continued)

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### **IV. Did Mary Anne Hill become Emancipated on 20<sup>th</sup> birthday, September 2, 2008?**

Yes, Under Minnesota Statute 518.26, a "child" is defined and an individual under 18 years of age or under age 20 if still attending post secondary education and Minnesota issued the Controlling Order that must follow these Guidelines. Further, Minnesota's Choice of Law Statute 518C.604 states "The Law of the Issuing State Governs the Nature, Extent, Amount, and Duration of Current Payments under the Order" and this was stressed by Ms. Theresa Farrell Straus during the November 25, 2008 hearing. And finally, Controlling Order filed May 27, 2003, by Magistrate Kraus, item No. 4, states "Child Support shall continue until the child reaches the age of 18, the age of 20 if still in secondary school, becomes Emancipated or dies, or until further order of the Court".

Minn Statute 518.26

Minn Statute 518.604

Minnesota Hill vs. The State of Minnesota & Hill, Case SP216741, Filed May 27, 2003 by Magistrate Kraus

### **V. Does Minnesota Child Support Court Administrator have the Authority to apply current items in Obligor's Suspense Account, including Federal Tax refund in the Amount of \$3,425, and Obligor's \$600 portion of Federal Economic Stimulus check for \$1,500, and return the balance of Stimulus check to Obligor's wife and minor child?**

Yes, under Minnesota's Continuing, Exclusive Jurisdiction over this Child Support Case, Magistrate Moehn and District Judge John Holahan had the Authority to do so in preceding hearings but did not exercise the right

Minnesota Hill vs. The State on Minnesota & Hill, 27-FA-216741, Filed Nov 28, '08

### **VI Does Minnesota Child Support Court Administrator have the Authority to Continue to enforce Obligor's \$300 a month payment towards Arrears until Arrears are paid in full as Controlling Order specifies?**

Yes, under Minnesota's Continuing, Exclusive Jurisdiction over this Child Support Case, The Court Administrator has the Authority to enforce Obligor's current \$300 a month payment towards Arrears as set by the November 28, 2008 order by Magistrate Moehn.

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## ARGUMENT

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### **I Minnesota has Continuing, Exclusive Jurisdiction over Order Originating in Mississippi, and the ability to Enforce and Modify it.**

#### **Argument**

Since 1994, Minnesota has followed the Uniform Interstate Family Support Act, called UIFSA, and codified it as Minn Statute 518C. This law introduced the concept of Continuing, Exclusive Jurisdiction or CEJ. The purpose of this is to have a single, Controlling Order, which states that only one State at a time has authority to Modify an Order. Under the previous law, URESA, multiple States could have different Child Support Orders covering the same parties, thus CEJ eliminates the possibility of confusion. The parties in this case, signed a Separation/Divorce Decree in Mississippi, filed in Washington County Mississippi on January 25, 1990, that set the controls of Child Support in place for the Obligor based on Mississippi Chapter 439 of the 1989 Legislative Session. Under this Law, Obligor would report his income to Obligee no later than April 15<sup>th</sup> each year and Support for upcoming year was based on this amount and could go up or down. Obligor abided by this rule until the Mississippi Case was closed March 8, 2000, and reported to Credit Bureaus in Good Standing. Then on May 27, 2003, Minnesota registered the Mississippi Order for enforcement and Modification while Obligor, Obligee, and Minor child lived in Minnesota, under UIFSA Sections 611 and 613, and under Minn Statutes 518C.205, 518C.611, and 518C.613. This gave

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Minnesota Continuing, Exclusive Jurisdiction over the matter and this was upheld in Court of Appeals Case A05-781, involving the same parties filed on May 4, 2006

**II Minnesota has issued the Controlling Order in this case**

**Argument**

Under UIFSA and Minn Statute 518C.207(b)1, only one Tribunal in this Case has Continuing, Exclusive Jurisdiction and the Order of that Tribunal is Controlling and must be Recognized. Clearly as stated above, Minnesota as has Continuing, Exclusive Jurisdiction in this matter and Magistrate Kraus's Child Support Order dated May 27, 2003 was issued as the Controlling Order for Enforcement and Modification in subsequent Court Hearings. Further, UIFSA Section 205(c) States that the Controlling Order sets the Non-Modifiable Terms of the Order(Principally Duration of the Obligation), and in this case, Minnesota has Controlling Order and Controls Duration.

**III UIFSA does not apply to Current, Controlling Minnesota Order.**

**Argument**

Under UIFSA Section 611(e), "If parties have left the Issuing State and now reside in this State, this fact does not present an Interstate matter and UIFSA does not apply, and the Forum State, as the Residence of the parties, should apply local law without regard

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to the Interstate Act". Clearly at the time of the registration of the Mississippi Order, all parties resided in Minnesota and Minnesota had Continuing, Exclusive Jurisdiction. This was Affirmed in Court of Appeals Case, A05-781, which involved current parties to this Appeal Case. This was also Affirmed in Arkansas Supreme Court Case, 05-1090, in which initial Support Order was written in Missouri and later all parties moved to Arkansas, in which the Supreme Court ruled there that UIFSA does not pertain here since all parties live in this State and this is an Intrastate matter, not an Interstate matter. Again, all parties agreed, the Obligor through his Attorney, that Minnesota had Continuing, Exclusive Jurisdiction and that this was an Intrastate matter.

**IV Mary Anne Hill, minor child who this Support Cases centers on, was Emancipated on her 20<sup>th</sup> birthday, September 2, 2008.**

**Argument**

Here as stated above, Minnesota clearly has issued the Controlling Order and Minnesota Statute 518.26 defines a child as an individual under 18 years of age or 20 if attending post secondary education. Since Mary is currently attending the University of Arkansas, she became emancipated at age 20, on September 2, 2008. Ms. Theresa Farrell-Strauss, County Attorney for Minnesota has further stressed that Minnesota Choice of Law Statute 518C.604 states that "The Law of Issuing State, in this case Minnesota, Governs the Nature, Extent, Amount, and Duration of Current Payments under the Order, which

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would be age 20 for Mary Anne Hill. Ironically, during the November 25, 2008, hearing, Ms Farrell-Strauss tried to use Choice of Law Statute to hold that Mississippi Law Controls the Duration of the Support agreement and Magistrate Moehn told her, "you are charging him on the Minnesota rates and want the Mississippi duration, you can't have it both ways!" Clearly, the Controlling Order sets the duration of the Support Obligation, and in this case it is Minnesota Law which is 20 years of age. Also, the May 27, 2003, Controlling Order specified emancipation age at 18 or 20 if child was attending post secondary school.

**V Minnesota Child Support Administrator through the Child Support Payment Center has the Authority to apply certain items in Obligor's Suspense Account to his Arrears balance**

**Argument**

Obligor has a \$3,425 Federal Tax Refund and \$600 of a \$1,500 Economic Stimulus check in his Suspense Account and it has been there for over a year. Obligor has directed the Court to apply the Federal Tax refund to his arrears balance along with \$600 of the Stimulus Check, and return the remaining \$900 to Obligor's wife and minor child. Both Magistrate Moehn and District Judge John Holahan have failed to do as Obligor directed, which is in their Jurisdiction and Authority to do so. Certainly, the Obligee would agree that this move would be in her best interest as well.

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**ARGUMENT(Continued)**  
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**VI Minnesota Child Support Court Administrator has Authority to Continue to Enforce Obligor's \$300 a month payment through a wage withholding order, towards Arrears until Arrears are paid in full.**

Minnesota Child Support Administrator, Court Magistrates, and Judges, under Minnesota's Continuing, Exclusive Jurisdiction have the Authority to enforce Obligor's current monthly payment of arrears at \$300, which was set by earlier Orders and left intact during the November 25, 2008, hearing with Magistrate Moehn. Obligor at that time had presented to the Court that in 2007, his net income was only \$42,493, and that he had paid \$19,308 to Obligees for Child Support. Year 2008 would be virtually the same since Obligor started a Beef Cattle Operation in attempts to make more money in 2 to 3 years. At present, this Operation has not yielded a positive cash flow and the \$300 monthly arrears payment is all Obligor can afford.

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## CONCLUSION

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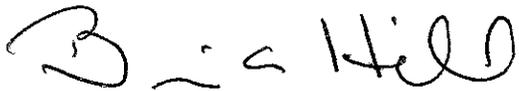
For the past 20 years I have worked in Good Faith with The States of Mississippi and Minnesota on paying child support towards my dependent children, and Mississippi's close of my Account on February 6, 2000 and reporting to Credit Bureaus as the Account "in good standing", reflects that. Any arrearages on my Account stemmed from when I self administered my support payments and paid by my income based on Mississippi Law. Any arrearages on my Account now stem from when Minnesota applied their State Child Support Laws on my gross income rather than use those laws of Mississippi on my net income as our Divorce Decree had spelled out. Through the many years of Court Proceedings on this case, and my relocation to Minnesota in 2002, I have finally come to realize that Minnesota, has the Controlling Order and My child support amount and the duration of my obligation, is based on Minnesota Law, not Mississippi Law, and this is truly an "intrastate" matter. This comes with a certain amount of reservation though, since I have paid to Minnesota, to date, in excess of \$40,000 over what my obligation would have been based on Mississippi Child Support Laws. I feel that I have proven without a doubt that based on Minnesota's Controlling Order and it's Continuing, Exclusive Jurisdiction over the matter, that my Child Support Obligation ended on September 2, 2008, when the only remaining child covered by the current Child Support Order, my daughter Mary Anne, was emancipated at age 20. I ask that the Court Modify the Current Withholding Order with my Employer Butterball, LLC, to reflect just the \$300 a month payment towards arrearages as the current Support Order specifies, until any arrearage is paid in full. At present, \$831.16 is taken bi-weekly from my wages for a total annual support amount of \$21,610, which represents 51% on my net wages for the past two years and I simply cannot afford that amount and had stated that in past two Minnesota Court Proceedings. I wish to pay the \$300 a month towards arrearages and also apply the \$15,000+ withheld from my wages after the Mary's emancipation on September 2, 2008, to my arrearages as well. Then as directed in previous hearings, please apply suspense amounts of my 2007 Federal Tax refund

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of \$3,425 and my \$600 of the Economic Stimulus Check for \$1,500 to my arrears and return the balance for my wife and minor child. I would also ask that when all these monies have been applied to my Account, the Court and I are forwarded a Certified Statement of my Account for the past year showing how all amounts were applied and what the remaining arrearage is. I pray that the Minnesota Court of Appeals agrees to grant the relief I have sought in this proceeding and will also accept my Formal Brief and Appendix as is, since I am not an Attorney and cannot afford one, so my filing was from information I acquired on your website concerning Court of Appeals forms and procedures, and this represents the best of my ability on Law work.



Respectfully submitted,  
Brian Anthony Hill  
Appellant, Pro Se

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STATE OF MINNESOTA  
IN COURT OF APPEALS

CASE TITLE: Child Support

Appellant,  
Brian Anthony Hill

CERTIFICATION OF BRIEF LENGTH

vs.

Respondent.  
Julie Ann Hill  
n/k/a, Julie Ann Grimme  
The State of Minnesota

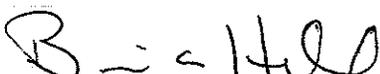
APPELLATE COURT CASE NUMBER:  
A09-787

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds.1 and 3, for a brief produced with a proportional font, and the length of this Formal brief is 25 pages long, less than the 45 page maximum set by the Court and less than the 14,000 word limit. This brief was prepared using Microsoft Word 97 with 13 pt. line/font spacing.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY  
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR PETITIONER

None, Appellant Pro Se

  
SIGNATURE

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Dated: May 17, 2009

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