



IN THE WASHINGTON STATE COURT OF APPEALS  
DIVISION TWO

<b>ANTHONY MEREDITH,</b> <b>Plaintiff/Appellant,</b> vs. <b>DAVID STARKS and</b> <b>JUSTIN SEDELL</b>  <b>Defendants/Appellees.</b>	<b>COURT OF APPEALS NO. 37980-5-II</b>  <b>PIERCE COURT NO. 08-2-07537-6</b>  <b>APPELLANT'S REPLY BRIEF</b>
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**APPELLANT'S REPLY BRIEF**

Pursuant to RAP 10.1(b), Plaintiff/Appellant Anthony Meredith

("Anthony Meredith") files Plaintiff/Appellant's Reply Brief.

**Under Washington Law, Appellant has a legal right to be free from defamation.**

Appellees file 148 pages<sup>1</sup> in their Designation of Clerk's Papers. There is not one shred of evidence anywhere in those 148 pages (or anywhere else) that Anthony Meredith ever committed domestic violence of any kind against his former spouse Jazmin Muriel. No evidence of domestic violence exists because Anthony Meredith never committed domestic violence against Jazmin Muriel. However, the Appellee's out-of-court drafting and publications of false domestic

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<sup>1</sup> Appellees also improperly attach to their brief an April 24, 2008 letter as "Appendix A" to their brief. This "Appendix A" is not properly part of the "record on review" in this case, and is filed by Appellees in violation of RAP 9.1. Appellees repeatedly request the Court of Appeals to sanction the Appellant, but it is the Appellees who violate the rules of the Court of Appeals.

violence allegations are the precise defamation that David Starks and Justin Sedell drafted and published to a third party — the Federal Government — despite the fact that all of the *evidence* establishes that such domestic violence never occurred. The fact that Starks and Sedell were paid handsomely by their client Jazmin Muriel to draft and publish these falsehoods to the Federal Government does not make these third-party publications part of a judicial proceeding, and, therefore, does not invoke the privilege of *McNeal v. Allen*, 95 Wn.2d 265, 621 P.2d 1285 (1980). Nor does Appellees’ false insinuation, raised for the *first* time in their brief to this Court, that attorney Doug Kresl acted alone to publish this defamation, withstand scrutiny. In both the trial court below in this action, as well as in the divorce/custody action, Appellees took the position that they worked together as a team to draft and publish the materials alleging domestic violence. Starks and Sedell (and other attorneys in their firm) drafted large portions of the defamatory materials because Jazmin Muriel could not write, speak, or understand more than perfunctory English. That is the position Appellees took throughout the divorce proceedings when they repeatedly insisted on having a Spanish/English translator for Jazmin Muriel at the trial and at most of the preliminary hearings.

The *McNeal* court held that “Allegedly libelous statements, spoken or written by a party or counsel in the course of a judicial proceeding, are absolutely privileged if they are pertinent or material to the redress or relief sought, whether

or not the statements are legally sufficient to obtain that relief. In *Jeckle v. Crotty*, 120 Wn. App. 374 (2004), the complained-of out-of-court actions were part of the judicial proceeding. That distinguishes those two cases from the instant case, whereby the Appellees' false drafting and publications to the Federal Government were separate and distinct from any judicial proceeding.

As stated in Anthony Meredith's complaint, "Both Defendants' published untrue statements were part of a transparent, but false, initiative to secure a finding of "domestic violence" against me to assist my former wife to fraudulently gain citizenship status through a fraudulent citizenship petition seeking a form of citizenship status that is only issued to immigrant women who allege (falsely in this case) that they have been abused by their spouse." The false filings with the Federal Government (both before and after the divorce trial), however, were separate and distinct from the divorce/custody judicial proceeding in the Pierce County family court and defamed Anthony Meredith to the Federal government (Meredith's employer) and damaged Meredith's reputation, to attempt to achieve an "abused spouse" citizenship petition for Jazmin Muriel. This false filing was libelous and constituted immigration fraud, because it involved making false statements to the Federal Government about events of domestic violence which never transpired. These out-of-court publications were part of a Federal petition seeking Federally granted immigration status; they were not a judicial filing, they were separate and distinct from the

Divorce/Custody litigation, and, therefore, they enjoy zero legal protection from *McNeal* and its progeny.

The Appellees cannot argue that their out-of-court defamatory statements are not properly before the Court of Appeals, when the very order being appealed in the instant case expressly summarily dismisses Appellant's right to recover for these same out-of-court defamatory statements. (June 6, 2008 Order – CP 128 - 131).

Appellees cannot overcome or distinguish the controlling case law of *Mohr v. Grant*, 153 Wn.2d 812, (2005), so they ignore *Mohr v. Grant* in their brief. Defamation by implication occurs when a speaker (1) juxtaposes a series of facts so as to imply a defamatory connection between them or (2) creates a defamatory implication by omitting facts. *Mohr v. Grant*, 153 Wn.2d 812, (2005). As shown in Appellant's opening brief and designation, Defendants' defamatory publications to a third party — the Federal Government — omit materials including 1) Pierce Superior Judge Chuschoff's rulings exonerating Anthony Meredith from the false allegations of domestic violence; 2) the Pierce County *Guardian Ad Litem's* report completely exonerating Anthony Meredith from the false allegations of domestic violence; 3) the eyewitness sworn declarations from all the eyewitnesses to the marriage exonerating Anthony Meredith from the false allegations of domestic violence; and 4) the lie detector test results exonerating Anthony Meredith from the false allegations of domestic violence, all of which

completely exonerated Anthony Meredith from all false charges of domestic violence. CP 5 – 127.

Appellees purposely declined to inform the Federal government that, on October 27, 2006, Superior Court Judge Bryan Chuschoff looked at the exact same evidence as was presented at trial. Judge Bryan Chushcoff revised and nullified a protection order, and therefore did exonerate Anthony Meredith of the exact same domestic violence allegations, saying that Jazmin Muriel's domestic violence allegations were "a lot of smoke" and have "not been founded". October 27, 2006 RP<sup>2</sup>, pp. 21-22 [Case No. 06-2-02300-1]. For the ensuing year (until the October 2007 trial before Judge van Doorninck) despite the absence of a protective order, there was no contact or communication between Anthony Meredith and Jazmin Muriel, further validating that the "permanent protection order" issued by Judge van Doorninck was not issued for protection purposes, but was, instead, issued for dramatic effect to bolster Jazmin Muriel's immigration petition to create the illusion that she had been an abused spouse. As shown, Anthony Meredith has done nothing to violate any prong of RCW 26.50.010. There is not one shred of evidence in the entire file that Anthony Meredith has done a single thing to violate RCW 26.50.010 or to commit domestic violence against former spouse Jazmin Muriel.

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<sup>2</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6]

Such purposeful omissions from the Defendants to the Federal government constitute defamation by implication. As such, Pierce Judge Grant improperly dismissed the instant case, and improperly awarded sanctions against Anthony Meredith in the instant case. Accordingly, the Court of Appeals should overturn Judge Grant's rulings.

Appellee's brief (pages 2 through 4) cite to six paragraphs of "findings" of Judge van Doorninck in the dissolution trial. Every single one of those paragraphs — word for word — were drafted by Appellees Starks and Sedell *themselves*, and signed off by Judge van Doorninck, despite the fact that these words contradicted Judge van Doorninck's *own* recorded on-the-record findings.

One week following the divorce/custody trial, Judge van Doorninck conceded, on the record, at her October 10, 2007 oral ruling, that "I don't know exactly what happened between these two people behind closed doors, but I have no doubt about the fear." October 10, 2007 RP, p. 19, lines 1–3 [RP filed with Court of Appeals in Case No. 06-3-02456-6]. When Judge van Doorninck was asked by Anthony Meredith at the November 9, 2007 hearing (entry of orders) for clarification on the discrepancy between Judge van Doorninck's oral ruling of October 10, 2007, and her written rulings of November 9, 2007 (on the same issue

of domestic violence), the following exchange took place, memorialized in the

November 9, 2007 transcript RP<sup>3</sup>, p. 9, line 25 through p. 11, line 1:

**Mr. [Anthony] Meredith:** Finally, Judge, I have a concern about the drafting of your [November 9, 2007] orders. They [Jazmin Muriel's attorneys] make specific findings in their written draft, in their [Jazmin Muriel's attorneys'] orders, that I completed specific acts of physical and sexual abuse against Ms. Muriel. I did not read your [October 10, 2007 post-trial] verbal order, of approximately four weeks ago, as saying that, and I was hoping for clarification on that issue. Are you [now] making specific findings that I have sexually and physically abused Ms. Muriel, and if so, can you tell me what events you're referring to?

**The Court:** I made specific findings that I found Ms. Muriel's testimony to be credible, and so I think that encompasses all of the allegations that she testified about, and the incidents of both physical and sexual abuse and verbal abuse and psychological abuse that she talked about. So it's spelled out a little differently. Maybe not exactly the words I used in the [October 10, 2007 post-trial] oral ruling, but I think it's appropriate for my findings.

**Mr. Meredith:** Could I – is there any way we can specify specific dates and events that you're alleging I committed sexual and physical abuse against Ms. Muriel –

**The Court:** No.

**Mr. Meredith:** -- for clarity?

**The Court:** No.

Judge van Doorninck's judicial philosophy was further exposed by Judge van Doorninck's on-the-record comments at the dissolution trial (speaking to Jazmin Muriel's counsel regarding their requested gag order against Anthony Meredith), memorialized in RP<sup>4</sup>, p.579, lines 6 – 10:

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<sup>3</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6].

<sup>4</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6].

**The Court:** Do you have some authority that allows me to do that? You asked for it before, and I thought, I wonder if I can do that? I like to think I can do anything, but I don't know. [Emphasis supplied].

Judge van Doorninck violated mandatory Judicial Canons 1 through 5, along with governing Washington statutes, controlling case law, and the evidence of the case, to achieve a desired outcome consistent with her undisclosed activist agenda to facilitate fraudulently obtained citizenship status for illegal alien Jazmin Muriel. Judge van Doorninck concluded that she was not bound by the rule of law in her decisions, but by her own moral whim. Judge van Doorninck's conduct is profoundly antithetical to the proper role of a judge, which is to disclose conflicts, weigh the evidence before her and make rulings on that evidence and on the true events of a case, not on a preordained desired outcome, which is completely contrary to said evidence and truth. As such, her November 9, 2007 rulings (cited by Appellees in pages 2 through 4 of their brief) were false, and are properly before this Court of Appeals [in Case No. 06-3-02456-6] to be overturned.

This Court recently held in *Kauzlarich v. Yarbrough*, 105 Wn. App. 632, 653 (Feb. 2001) that:

The Code of Judicial Conduct provides that "[j]udges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned." CJC Canon 3(D)(1)..... the "CJC recognizes that where a trial judge's decisions are tainted by even a mere suspicion of partiality, the effect on the public's confidence in our judicial system can be debilitating." Graham, 91 Wn. App. at 669 (quoting *Sherman v. State*, 128 Wn.2d 164, 205, 905 P.2d 355 (1995)). "The test for determining whether the judge's impartiality might

reasonably be questioned is an objective test that assumes that "a reasonable person knows and understands all the relevant facts." Graham, 91 Wn. App. at 669 (quoting Sherman, 128 Wn.2d at 206). We noted that judges should be encouraged "to view the Canons of Judicial Conduct in a broad fashion and to err, if at all, on the side of caution." Graham, 91 Wn. App. at 670.

**RCW 4.12.040 states, in pertinent part:**

(1) No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court.

Judge van Doorninck did not disqualify herself in the divorce/custody case, nor did she make a disclosure on the record — nor to Anthony Meredith as a party — prior to the trial, of her financial involvement with illegal immigrant groups, as she is required to do by Judicial Canon 3. Had Judge van Doorninck made such disclosure, than Anthony Meredith would have immediately moved that Judge van Doorninck recuse and disqualify herself from presiding over the divorce/custody case. Due to the Judge's failure to disclose these conflicts, Anthony Meredith was denied the opportunity to know about them, and to have his case heard by an impartial, unbiased judge. Even after bringing these conflicts to Judge van Doorninck's attention on December 11, 2007, and moving for Judge van Doorninck to disclose on the record, and to the parties, all financial and in-kind contributions that she and any "member of the judge's family residing in the judge's household [Canon 3]" have made to any group or organization that deals with assisting immigrants to obtain citizenship benefits and/or rights, Judge van

Doorninck denied this motion and refused to recuse herself from the case.

Judge van Doorninck financially invested in Northwest Immigration Rights Project (NWIRP), Centro Latino, and other pro-illegal immigration groups.<sup>5</sup> CP 5 – 127. [CP 797-798; CP 799 – 802 in Case No. 06-3-02456-6]. On May 1<sup>st</sup>, 2006, NWIRP turned out and organized more than 30,000 people to march for illegal immigrant rights — the largest illegal immigrant rights march in Washington State history. CP 797-798; CP 799 – 802. NWIRP boasts of its “critical responsibility to serve the ever-increasing number of immigrants and refugees in our community.” CP 797-798; CP 799 – 802. In Fiscal Year 2006, NWIRP managed 1,162 applications for immigration benefits and raised \$150,000.00 for immigrant rights at their annual gala. CP 797-798; CP 799 – 802. NWIRP helps illegal immigrants “apply for asylum or other forms of relief from removal.” CP 797-798; CP 799 – 802; NWIRP website (for all above citations): **<http://www.nwirp.org/Documents/NWIRP2006AnnualReport.pdf>**

Judge van Doorninck brought her pro-illegal immigration biases and prejudices into the dissolution trial (in which Jazmin Muriel’s immigration fraud became a primary issue) and made a baseless and false finding of domestic

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<sup>5</sup> Judicial notice: Judge van Doorninck’s financial contributions to NWIRP, referenced in CP 797-798 and CP 799 - 802, are memorialized at:

**<http://www.nwirp.org/Documents/NWIRP2006AnnualReport.pdf>**

Judge van Doorninck’s financial contributions to Centro Latino, referenced in CP 797-798; CP 799 - 802, are memorialized at: **<http://www.clatino.org/donate2.html>**

violence against Anthony Meredith, in order to further the efforts of Jazmin Muriel to fraudulently obtain legal citizenship status. RP<sup>6</sup> p. 499, lines 16 through 25; RP, p. 500, line 1; RP p. 508, lines 17 – 25, and p. 509, lines 1 – 5 (Judge van Doorninck asking Jazmin Muriel’s immigration attorney how Judge van Doorninck can facilitate Jazmin Muriel’s legal immigration status).

It is inconceivable that Judge van Doorninck did not recognize the inherent conflict of her subsidizing the aforementioned pro-illegal immigration groups, and simultaneously making rulings on the immigration fraud of Jazmin Muriel. Judge van Doorninck’s failure to disclose her financing of, and involvement with, these groups constitutes deceptive behavior and is a clear violation of the governing Canons of Judicial Conduct. Inasmuch as the trial before Judge van Doorninck was a complete sham, the *Robinson v. Hamed*, 62 Wn. App. 92 (1991) case cited by Appellees is unavailing.

Renee Morioka testified that Anthony Meredith never made comments to Jazmin Muriel following the July 28, 2006 hearing, but, instead, made comments to her attorney David Starks. RP<sup>7</sup> 252, lines 22-25; RP 253, lines 1 – 3. Renee Morioka further conceded that Anthony Meredith did nothing to interfere with baby Daliana being returned to Jazmin Muriel. RP, lines 4 – 10. Nowhere in Renee Morioka’s testimony at the trial does Renee Morioka testify that Anthony Meredith acted in “a physically aggressive manner” toward Jazmin Muriel, as

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<sup>6</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6]

Appellees' brief (p. 4) falsely states. Officer of the Court and Assistant District Attorney (Colorado) Khoury Dillon who was an eyewitness at the July 28, 2006 hearing before Judge Hickman, declared under penalty of perjury that he witnessed Anthony Meredith conduct himself "as a professional in that courtroom" and, at no time, did Anthony Meredith either approach or threaten Jazmin Muriel, yell, nor do or say anything improper during, or after, the hearing that day. Declaration of Khoury (William) Dillon on record filed in the divorce case. Renee Morioka might have maintained some professional credibility and integrity if she had not been sitting with Jazmin Muriel and David Starks both before and after the hearing, laughing and joking with them, shedding even the pretense of impartiality that would have been appropriate for a State's attorney.

Appellee's brief alleges that Anthony Meredith intimidated George Meredith and Paddy Canon. This is false. Nowhere in the divorce trial, nor in the entire court record below, did either George Meredith nor Paddy Canon ever claim that they were intimidated by Anthony Meredith. By contrast, George Meredith specifically testified that the prospect of additional litigation with Anthony Meredith did not concern him. RP<sup>8</sup> 418. Appellees neglected to inform the Court of Appeals in their brief that Appellee Starks previously moved for sanctions against Anthony Meredith on these exact same false allegations of "witness intimidation" in the divorce/custody case; that Starks' motion for

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<sup>7</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6]

<sup>8</sup> [RP filed with Court of Appeals in Case No. 06-3-02456-6]

sanctions against Anthony Meredith was denied by the reviewing Commissioner, and that Starks' false allegations of "witness intimidation" were denounced by that court as being completely meritless. This order is on file in the divorce/custody case. David Starks' material omission denotes a serious lack of candor to the Court of Appeals.

Paddy Canon left a voice message retracting the allegations in his initial declaration. This phone message was submitted to the *Guardian ad Litem*. Paddy Canon later said he was pressured by David Starks' law firm and rushed into signing his declaration, and that Starks' firm drafted the declaration in their words not his. Paddy Canon declined to testify on Jazmin Muriel's behalf after he privately met with Jazmin's former roommates who reported Jazmin Muriel's adultery with numerous people in the house, and the fact that Jazmin had lied to Paddy Canon about said adultery. The Guardian ad Litem formally found that Jazmin Muriel committed adultery, following the GAL's in-person interviews with seven eyewitnesses of Jazmin Muriel's adultery. See GAL report, CP 5 – 127.

The undisputed evidence in the divorce/custody case is that George Meredith has been estranged from Anthony Meredith for most of the past 25 years; has never once seen Anthony Meredith and Jazmin Muriel together as a married couple, and had never spoke to Jazmin Muriel one time during the couple's four-month marriage together. George Meredith refused to pay over \$50,000.00 dollars in child support for his own three children over the course of

seven years. George Meredith has repeatedly tried to renege on his promise under penalty of perjury to pay Jazmin Muriel's attorney fees. George Meredith simply has no credibility on any issue in this case.

On May 5th, 2008, Anthony Meredith propounded legitimate discovery requests to both Appellees (CP 5 – 127), which included the following interrogatories (along with corresponding requests for production of documents):

“14. Please identify every person, agency, and entity to which you have communicated, in writing or orally, any facts about the dissolution of marriage/child custody/protective order litigation between Anthony Meredith and Jazmin Eliana Muriel Suarez. Please describe the dates of each such communication, the substance of each such communication, and the identity and contact information for every person, agency, and entity to which you have communicated this information.”

“15. Please identify every person, agency, and entity to which you have communicated, in writing or orally, any allegations that Anthony Meredith has committed domestic violence against, physically abused, and/or sexually abused, Jazmin Eliana Muriel Suarez. Please describe the dates of each such communication, the substance of each such communication, and the identity and contact information for every person, agency, and entity to which you have communicated this information.”

Neither Appellee Starks nor Sedell objected to, nor responded to, these discovery requests. Appellant Anthony Meredith was not permitted to depose either Appellee, despite the fact that Appellant notified both Appellees in writing on May 5, 2008, that he wished to depose both of them. CP 5 - 127. The summary dismissal of Anthony Meredith's case by Judge Grant was, therefore, abuse of discretion. Because no requested discovery was provided to the Appellant, the summary judgment dismissal was indistinguishable from a CR

12(b)(6) dismissal. CR 12(b)(6) motions are granted sparingly and with care and only in the unusual case in which the plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief. *Paradise, Inc. v. Pierce County*, 124 Wn. App. 759 (2004).

A party's failure to respond to a discovery request, or the giving of evasive or misleading responses, violates CR 26. CR 26 requires that a person who violates the requirements of the rule be sanctioned. *Physicians Ins. Exch. V. Fisons Corp.*, 122 Wn.2d 299, P.2d 1054, (1993). A trial court must manage the discovery process under CR 26 in a fashion that promotes full disclosure of relevant information but that protects against harmful side effects, such as undue burden or expense. *Demelash v. Ross Stores*, 105 Wn. App. 508 (2001). The requirements of CR 26(b)(4) for obtaining discovery of documents or other tangible things prepared in anticipation of litigation are satisfied where the documents or things provide the only means for the party seeking discovery to prove an element of a claim and the documents or things are in the exclusive possession of the opposing party. *Demelash v. Ross Stores*, 105 Wn. App. 508 (2001). The *Gross v. Sunding* case, cited by the Appellees, is inapposite because the party moving for discovery (Gross) in that case made the discovery request for the first time in his Motion for Reconsideration. In the instant case, Appellant Anthony Meredith timely propounded his legitimate discovery requests mere days after filing the lawsuit, yet those proper discovery requests were improperly

ignored by both the Appellees and by Judge Grant in violation of CR 26 and the aforementioned case law.

### CONCLUSION

In sum, Defendants Starks and Sedell drafted and published false unprivileged allegations to a third party, the Federal Government (Meredith's employer), in filings outside of the custody litigation — and outside of any judicial proceeding — falsely accusing Meredith of domestic violence, and damaging Meredith's reputation. Defendants did not simultaneously publish the aforementioned substantial exonerating materials establishing that Meredith did not commit said domestic violence, in violation of controlling case law of *Mohr v. Grant*, 153 Wn.2d 812, (2005).

Superior Judge Bryan Chuschoff's rulings, the Pierce County *Guardian ad Litem*'s report, the eyewitness testimony of all the eyewitnesses to the marriage, and the lie detector results, all prove that Meredith never committed domestic violence against Muriel. CP 5 – 127.

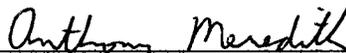
Meredith's lawsuit was brought in good faith to seek recovery for Defendants' false publications both to the Federal Government (Meredith's employer), and to the Pierce County Superior Court during the divorce/custody case, that Meredith committed domestic violence against Muriel. Judge van Doorninck did not properly disclose her own impermissible conflicts and financial

entanglements with illegal alien groups, despite controlling case law, statutes, and Judicial Canons that mandate such disclosure. The trial before her was a sham.

Meredith is legally entitled to reasonable discovery in the instant case. Meredith has been denied any discovery at all, and been wrongfully denied the opportunity to depose the Appellees, contrary to case law and court rules.

Meredith respectfully asks the Court of Appeals to overturn Judge Grant's aforementioned two orders (CP 128-131; CP 134-135), including the award of sanctions (CP 136 – 142).

Respectfully Submitted this 21st day of January, 2009,



Anthony Meredith

*Pro se*

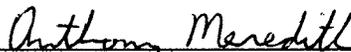
25 Pacifica #5429

Irvine, CA. 92618

Home Phone: (949) 333-3167

CERTIFICATE OF SERVICE

I certify that I sent, via e-mail and first-class mail, on January 21, 2009, a true copy of the foregoing, to Justin Sedell, Esq., and David Starks, Esq. Defendants/Appellees, at McKinley Irvin, PLLC, 425 Pike St., Suite 500, Seattle, WA 98101. Phone: 206-625-9600. I certify that I sent a true copy of the entire Report of Proceedings by first-class mail, on November 24, 2008, to Justin Sedell, Esq., and David Starks, Esq. Defendants/Appellees, at McKinley Irvin, PLLC, 425 Pike St., Suite 500, Seattle, WA 98101. Phone: 206-625-9600.



Anthony Meredith

*Pro se*

25 Pacifica #5429

Irvine, CA. 92618

Home Phone: (949) 333-3167