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STATE OF WASHINGTON

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NO. 82229-8

BY RONALD IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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THE YAKIMA HERALD-REPUBLIC,

Appellant,

v.

YAKIMA COUNTY

*Appellant's Reply Brief*

Respondent

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**APPELLANT YAKIMA HERALD-REPUBLIC'S REPLY TO  
RESPONSES OF SANCHEZ AND YAKIMA COUNTY**

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## I. INTRODUCTION

The Yakima Herald-Republic (“Herald”) sought direct review of several orders issued by the trial court in this case. The decision to grant or deny direct review is still pending with this Court. On April 28, 2009, this Court issued an order denying the Herald’s motion to consolidate with *City of Federal Way v. Koenig* (“*Koenig II*”), cause number 82288-3, but also ordered that this Court will retain this case for hearing and decision.

This case involves the expenditure of over \$2 million of tax payer funds, presumably used in the defense of two indigent men charged with first degree murder. One of the men, Mario Mendez, pled guilty to the charges, and the other, Jose Sanchez, was convicted at trial, and his conviction is currently on appeal. Yakima County used a budget judge to authorize the use of county funds for the defenses. The role of the budget judge was to review billing and expense records produced by defense counsel and issue orders authorizing payments. Those determinations were later included in spreadsheets and worksheets that were distributed to County administration offices and checks were written and paid to defense counsel. These records were later “sealed” at the request of defense counsel, and remain “sealed”—despite the conclusion of the cases.<sup>1</sup>

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<sup>1</sup> The Herald uses the term “sealing” as the trial court has done although it is clear many of the records responsive to the Herald’s PRA request are not, nor ever were, in a court file.

The Herald made a Public Records Act (“PRA”) request to several County agencies for the records related to the public funding of the defenses, but the request was denied and the trial court issued an injunction barring disclosure in the instant PRA lawsuit. The trial court interpreted the financial records to be “court records”, and concluded that access to court records was precluded under the PRA.

The Herald seeks a clarification from this Court of the case relied on by the trial court, *Nast v. Michels*, 107 Wn.2d 300, 730 P.2d 54 (1986), specifically whether or not that case means that administrative records related to county payments for defense in criminal cases, submitted for approval by a judge charged only with dealing with budgetary concerns, is out of the reach of the PRA and also whether the “sealing” of such records and the procedures for sealing was proper.

## **II. LEGAL AUTHORITY AND ARGUMENT**

### **A. Respondents Do Not Address the Public’s Constitutional Right to Open Court Access**

In their Responses, Sanchez and Yakima County do not address the public’s constitutional right to open access to court records and proceedings. Yakima County’s responsive brief is silent on the issue, and Sanchez only implies that his constitutional rights outweigh that of the public’s, and therefore alleges the sealing was appropriate. This mischaracterizes the issues before this Court. The Herald is challenging

whether (1) the records here are subject to the PRA; (2) the “sealing” of those records by the budget judge was proper, and complied with the sealing procedures required by *Seattle Times v. Ishikawa*, 97 Wn.2d 30, 640 P.2d 71 (1982) and General Rule (GR) 15; and (3) the trial court erred in refusing to address the sealing issue. These issues are not addressed in Sanchez’s or Yakima County’s Responses.<sup>2</sup>

In order for the sealing of court records to be valid, the trial court must “weigh the competing constitutional interests and enter appropriate findings and conclusions that should be as specific as possible.” *State v. Duckett*, 141 Wn. App. 797, 805, 173 P.3d 948 (2007) (citation omitted). Sanchez and Yakima County fail to address the arguments made by the Herald that demonstrate the procedural improprieties in the sealing of the financial records. First, both parties fail to show why the records should continue to be sealed. The rights of Sanchez would not be in danger if the records were disclosed, as his trial has concluded. Even assuming the release of the records would be a violation of Sanchez’s constitutional rights, he has not met his burden of demonstrating this. Moreover, the Herald has agreed any truly protected material could be redacted to ensure that his constitutional rights would not be violated by disclosure. *See* RP (6/26/08) at 6, 8.

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<sup>2</sup> Please see pages 42-46 of the Herald’s Brief of Appellant for a summary of Article I, Section 10 and the relevant provisions of GR 15.

Second, and more importantly, there is no indication that the budget judge did the requisite five-part analysis mandated by *Ishikawa*, which alone is grounds for reversal. See *Dreiling v. Jain*, 151 Wn.2d 900, 918, 93 P.3d 861 (2004) (remanding to trial to apply test). The rulings of the trial judge, Judge Michael Cooper, indicate that, he too, was uncertain that the budget judge performed the five-part analysis. See CP 17 (stating that “presumably” the budget judge applied *Ishikawa* in deciding to seal the records).

Additionally, in the immediate case, there were a multitude of violations of the court rules for sealing, none of which Sanchez or Yakima County acknowledged or defended in their responsive briefing. GR 15(c)(3) states that “[a] court record shall not be sealed under this section when redaction will adequately resolve the issues presented to the court pursuant to subsection (2).” Failure to comply with GR 15 justifies reversal of a trial court’s decision to seal or unseal. See *In re Marriage of R.E.*, 144 Wn. App. 393, 404-05, 183 P.3d 339 (2008) (remanding trial court refusal to unseal court records, in part, because “there is nothing in the record to suggest that redaction was considered” under GR 15(c)(3)). Moreover, in subsection (4) of GR 15(c), the rule states, in part, that “[t]he order to seal and written findings supporting the order shall also remain accessible to the public [.]” This is reemphasized in subsection (5), where

the rule states, in subpart (C), that “the order to seal and the written findings supporting the order to seal” are to both remain open to the public.

All of these requirements are missing in the immediate case—there are no specific written findings available to the public, no indication that redaction was considered, and the sealing order itself is sealed. Again, neither Sanchez nor Yakima County offers a rebuttal or defense to these errors.<sup>3</sup>

Even if this Court were to conclude that the procedures used by the trial court in the immediate case somehow complied with GR 15, that conclusion would not equate to a finding that such procedures pass the constitutional standard established in *Ishikawa*. See *State v. Waldon*, 148 Wn. App. 952, 202 P.3d 325, 333 (2009). In *Waldon*, the Court of Appeals at Division I concluded that the standard for court closure or sealing, both before and after the significant 2006 amendments to GR 15, was set in *Ishikawa*. *Id.* The court methodically delineated the deviations between GR 15 and *Ishikawa*, and concluded that the revised GR 15 “cannot constitutionally serve as a stand-alone alternative to *Ishikawa*.” *Id.* However, the court also ruled that GR 15 can be harmonized with *Ishikawa* in order to remain constitutional—but in doing so, made clear

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<sup>3</sup> Please see pages 48-49 in the Herald’s Brief of Appellant for a further discussion.

that it is not sufficient for a party advocating closure or sealing to comply only with GR 15. *Id.* Thus, *Ishikawa* is the proper standard for determining whether documents should be sealed or unsealed. To the extent that Sanchez argues that the budget judge complied with GR 15, in wake of *Waldon*, this would not be adequate, even if true.

**B. Respondents Have Not Shown That Disclosure Would Violate Sanchez's Constitutional Rights**

Sanchez spends much of his Response brief establishing that he has a Fifth, Sixth, and Fourteenth Amendment right as a criminal defendant, and argues that the unfettered disclosure of the sealed material would violate those rights. *See* Sanchez Resp. at 6-9. There is no issue as to whether Sanchez is entitled to effective assistance of counsel, or whether that right includes the derivative right to access experts. The issues before this Court are, first, whether the budget judge complied with *Ishikawa* and GR15 in sealing records; second, whether such continued sealing is proper; and third, whether the records are covered by the PRA and not exempt from disclosure.

In wake of new evidence, there is good reason to believe that Sanchez's argument that all of the sealed records pertain to his constitutional right to access expert services is without basis. Specifically, Sanchez's claims about the contents of the records are called into question

by the records produced to the Herald in the companion case of *State v. Mendez*, Yakima County Cause number 05-1-00507-1.<sup>4</sup> In its Appellant Brief, the Herald focused on three categories of records at issue in the PRA request: (1) budget spreadsheets and worksheets; (2) budget judge orders, and (3) attorney billing records. *See* Brief of Appellant at 20-22. This was also discussed at the trial court hearing held on June 26, 2008. *See* RP (6/26/08) at 6. In his Response, Sanchez does not address these records and instead makes the argument, for the first time, that the sealed records are uniformly related to the acquisition of expert services in his defense. *See* Sanchez Resp. at 6-9.

The Herald intervened in *State v. Mendez*, the companion case to *State v. Sanchez*, to unseal the same types of financial records requested regarding Sanchez. After an order unsealing records, the Herald was provided with heavily redacted records. *See* Wixson Decl., App-1—App-99. The Herald filed a Motion for Order Clarifying Work Product and Modifying Proposed Redactions of those records on January 20, 2009, and filed a declaration by one its counsel in support of the motion. Attached to the declaration were nearly 100 pages of examples of the kinds of records

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<sup>4</sup> *See* Declaration of Sarah L. Wixson (“Wixson Decl.”), Attachment A, App-1—App-99. This declaration is attached hereto as **Appendix A**. The Herald filed, on the same day of this brief, a Motion for Judicial Notice or to Supplement the Record Under RAP 9.11. This additional evidence is necessary for the Herald to rebut Sanchez’s argument that all of the records relate to the acquisition of expert services.

that were sealed in the case against Mendez. The records included heavily redacted billing and expense records, including redacted listings of where various persons ate meals (*see id.*, App-68—App-82); redacted billing statements submitted by defense counsel (*see id.*, App-68—App-99); billing records that redacted some, but not all, of those receiving payment in connection with the case against Mendez (*see id.*, App-1—App-35); redacted motions for travel expenses, including redacted copies of flight numbers, locations, rental car confirmation numbers, and completely redacted witness interview records (*see id.*, App-36—App-67); heavily-redacted motions related to the substitution of counsel and redacted attorney billing statements (*see id.*, App-83—App-91); and finally some records related to the qualifications and education of experts that were almost completely redacted, and declarations from one of Mendez's appointed attorneys that were likewise almost completely redacted (*see id.*, App-1-35).

There is no reason to believe that the records sealed in the case of Sanchez are substantially different from the records sealed in the case against Mendez. Sanchez's attorneys, like Mendez's, surely asked to be paid and to be reimbursed for their own work and did not solely ask for the payment of experts. On their face, the release of such records would not endanger a defendant's constitutional rights, specifically his right to

acquire expert services at public expense. Quite simply, travel and meal expenditures are neither work product nor confidential communications, nor are the activities of defense counsel by definition work product.

Sanchez's arguments to the contrary are thus without merit.

**C. The PRA Exemptions Would Protect the Constitutional Rights of Sanchez if Protected Material Was Contained in the Records**

If the Court rules that the PRA applies to the requested records, truly protected information would still be protected. The *Nast* Court was primarily concerned that the early PRA did not contain the exceptions to disclosure that had developed under the common law and based, at least in part, its conclusion that the PRA did not apply to court case files on this concern. *See* Brief of Appellant at 22, n.5. This concern was largely remedied the year after *Nast*, when the Legislature incorporated the "other statute" language into the PRA, now located in RCW 42.56.070(1)—this provision incorporates into the PRA other exemptions from disclosure located in other bodies of law. Even putting aside the Herald's earlier offer for redaction of truly protected material, there are now hundreds of exemptions and prohibitions under the PRA, including the exceptions cited by the *Nast* Court. *See* WAC 44-14-06002.

Although Sanchez alleges various harms from disclosure, he has failed to show how disclosure of financial records will create such harms.

He has not shown how disclosure would chill communications between indigent defendants and their appointed counsel or how disclosure of such information would serve as an involuntary waiver of his constitutionally protected rights. Sanchez Resp. at 10.

Further, while arguing that the records are not covered by the PRA, Sanchez argues that the public records would be exempted from disclosure as work product. Sanchez Resp. at 20. The common law work product limitation for discovery is incorporated into the PRA under RCW 42.56.290.<sup>5</sup> See *Dawson v. Daly*, 120 Wn.2d 782, 789-90, 845 P.2d 995 (1993), rev. 'd other grounds; see also *Overlake Fund v. City of Bellevue*, 60 Wn. App. 787, 795, 810 P.2d 507 (1991). Whether the records are exempt as work product is assessed based on CR 26(b)(4), not the less protective criminal rule version under CrR 4.7(f)(1). See *Limstrom v. Ladenburg*, 136 Wn.2d 595, 608-10, 963 P.2d 869 (1998).<sup>6</sup> What this means is that if the PRA were to apply, a more stringent protection of the disclosures of Sanchez's counsel would occur.

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<sup>5</sup> RCW 42.56.290 exempts: "Records that are relevant to a controversy to which an agency is a party but which incorporates would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts."

<sup>6</sup> Specifically, *Limstrom* stated the civil work product limitation "includes within the definition of work product factual information which is collected or gathered by an attorney, as well as the attorney's legal research, theories, opinions and conclusions." *Id.* at 605-06 (citation omitted). In contrast, the criminal work product limitation under CrR 4.7(f)(1) "is more narrow in its definition of work product, limiting the protection to legal research or documents 'to the extent that they contain the opinions, theories or conclusions of investigating or prosecuting agencies.'" (citation omitted).

However, the burden of establishing that the work product exemption applies is on the party asserting it. *Id.* at 612 (citations omitted). This burden applies with all exemptions under the PRA. RCW 42.56.550(1). An in camera inspection of the sealed records is appropriate in this case if this Court decides that the PRA applies to these records. *See* RCW 42.56.550(3). Merely stating that “[d]etailed explanations supporting a request for why attorneys believed funds were necessary will by definition reveal work product,” besides being conclusory, is insufficient to meet this burden.<sup>7</sup> Moreover, it does not support the withholding of entire records.

The level of detail required for a valid assertion of an exemption was recently clarified in *Rental Housing Authority v. City of Des Moines*, 165 Wn.2d 525, 199 P.3d 393 (2009) (“*RHA*”). Citing *Progressive Animal Welfare Soc’y v. Univ. of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994) (“*PAWS II*”), this Court in *RHA* stated that “[in *PAWS II* we] emphasized the need for particularity in the identification of records withheld and exemptions claimed.” 165 Wn.2d at 537 (citation omitted). This Court concluded that “a valid claim of exemption under the PRA should include the sort of ‘identifying information’ a privilege log

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<sup>7</sup> *See* Brief of Appellant at pages 37-39 for a further discussion of in camera inspection proceedings.

provides.” *Id.* at 538. In describing what this entails, the Court, again citing *PAWS II*, stated that

The identifying information need not be elaborate, but should include the type of record, its date and number of pages, and unless otherwise protected, the author and recipient, or if protected, other means of sufficiently identifying particular records without disclosing protected content.

*Id.* (citation omitted). The Court added, “[f]ailure to provide the sort of identifying information a detailed privilege log contains defeats the very purpose of the PRA to achieve broad public access to agency records.” *Id.* at 540 (citation omitted). The Court also noted that this level of “specific identifying information” is required as it is the only way for there to be meaningful judicial review of an agency’s claim of exemption. *Id.* at 540-41.

Here, if the PRA applies to the records at issue, Sanchez and the County were required to meet this standard to justify the withholding or redaction of each record by describing with specificity the applicability of this exemption. Merely claiming that the release of any part of the records would violate Sanchez’s rights or that all of the records would be exempt is inadequate. *See Limstrom*, 136 Wn.2d at 613-14 (rejecting argument that work product rule provided a blanket exemption to the entirety of the records sought).

The same is true for the alleged applicability of the attorney-client privilege exemption cited by Sanchez. *See Sanchez Resp.* at 21. Sanchez has not shown that the records contain such communications or why redaction would not suffice to protect his rights. Also, there is no “vital government interest” exemption as alleged by Sanchez. A party opposing disclosure must first show an exemption exists and then meet the injunction standard to justify an injunction under the PRA. *See PAWS II*, 125 Wn.2d at 257-58.

The PRA provides strong protection against a potential violation of anyone’s rights, including criminal defendants. The Respondents have not met their burden of establishing such exemptions apply, but this does not mean the Court should rule the records are outside of the reach of the PRA.

**D. Respondents are Attempting to Artificially Narrow the Issues in this Case**

Sanchez argues that the Herald is trying to expand the immediate case to support a “much broader, and mostly unrelated, agenda to expand the reach of the PRA.” *Sanchez Resp.* at 2. Yakima County likewise argues that the “newspaper [is trying] to broaden the issue currently before the Court well beyond the facts of this particular case.” *Yakima County Resp.* at 10. This argument is unfounded. This case presents an issue of

large public import and confusion amongst the courts—precisely the kind of issue only this Court is fit to remedy. This apparently has been recognized by this Court, as it has recently accepted review of a case addressing the viability of *Nast* directly, the aforementioned *Koenig II*.

Further, Sanchez’s attempt to narrow the issue to merely “whether the PRA reaches the privileged information defense counsel was required to submit in order to provide Sanchez a constitutionally sufficient defense” is at a minimum, a gross misstatement of the issue. Sanchez Resp. at 2. The statement omits any consideration of the public’s right to access records that show how public funds (in this case, over \$ 2 million) were expended, and also presumes that all of the information in the records is “privileged,” which is without basis (see above).

The issues in this case clearly demonstrate the need for a clarification of *Nast*. If judicial records of an administrative nature, such as those at issue here, are inaccessible under the PRA, and also inaccessible by the public under Article I, Section 10 of the State Constitution or the common law because those records are not filed or used by the court, a class of government-produced documents is now immune from public scrutiny. This reality is even more troubling in the context of the budget judge practice, as records that would normally be accessible under the PRA (such as county-subsidized attorney billing

records) are magically transformed into “court records” because of the involvement of a judge.

This problem is manifested in the immediate case, as well as in subsequent cases cited by the Herald in its Brief of Appellant. *Nast* admitted that the entity that held the records at issue in that case fit the definition of “agency” under the PRA, but inferred that because the PRA was silent on whether courts are agencies and court case files are public records, those judicial records were not accessible under the PRA. 107 Wn.2d at 305-06. Ultimately, this Court in *Nast* concluded that the PRA does not apply to court case files. *Id.* at 307.

In *Buehler v. Small*, 115 Wn. App. 914, 64 P.3d 78 (2003)—a case ignored by Yakima County—the court interpreted this rule to include a judge’s personal notes used for sentencing, despite no evidence that those notes were related to a “court case file.” 115 Wn. App. at 918. Instead, the Court of Appeals held that the PRA does not apply to the courts and that the only avenue for access was through the common law. *Id.* The *Buehler* court then ruled that the records were immune from public access either under the common law or Article I, Section 10 of the Washington State Constitution because the judge’s notes were not official court case records. *Id.* at 916, 18-21.

Going even further, in *Spokane & Eastern Lawyer v. Tompkins*, 136 Wn. App. 616, 150 P.3d 158 (2007), the Court of Appeals concluded that mere correspondence between judges and the state bar association was immune from the PRA because the judiciary itself is immune from that statute. 136 Wn. App. at 621.

Likewise here, *Nast* was interpreted to preclude access to court records under the PRA in total, even records for which there is no reason to believe are part of a “court case file.” Instead, it seems the involvement of a judge functioning in an administrative capacity magically transformed the records at issue into “judicial records”, removing them from the reach of the PRA—despite the fact that *Nast* only held court case files immune, not all judicial records.

The uncertainty of the scope of *Nast* is also compounded by conflicting case law. Washington case law has indicated that administrative court records are subject to the provisions of the PRA. *See Smith v. Okanogan County*, 100 Wn. App. 7, 16-17, 994 P.2d 857 (2000) (judge’s oaths deemed to be a public record, and thus subject to the PRA). If *Nast* is interpreted as precluding all judicially-related records because courts are not “agencies” under the PRA, this cannot be reconciled with

*Smith*.<sup>8</sup> Clearly, guidance from this Court is necessary, and this Court is in an ideal position to give such guidance with a clarifying rule.<sup>9</sup> Any argument from Sanchez or Yakima County suggesting the law is “well settled” that the PRA does not apply to these records is thus absurd. *See* Yakima County Resp. at 1, 8.

**E. The Records Sought are Administrative in Nature and Accessible Under the PRA**

Although Yakima County fails to address the issue, Sanchez argues that the role of the “budget judge” is not administrative in nature, and is crucial to ensure impartiality for the defendant, the State, and also the public. *See* Sanchez Resp. at 11-12.

However, Sanchez does not offer any argument indicating exactly how the function of the budget judge is not administrative in nature. The general principles justifying the use of a budget judge is not in dispute, nor is the Herald challenging the use of budget judges in general—the problem with the practice lies in how, in wake of *Nast* and its successors, it precludes access to public financial records normally accessible to the public because someone in a black robe is involved in the process.

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<sup>8</sup> *See also*, The Open Government Internet Manual § 1.3 (“there is authority for the proposition that the Act does not apply to the judicial functions of the courts and *only to its administrative* functions, but there is no clear decision on that point”)(emphasis added).

<sup>9</sup> A more thorough description of the facts and holdings from *Nast*, *Buehler*, and *Spokane & Eastern Lawyer* is contained in the Herald’s Brief of Appellant, pages 16-20.

What is at issue is whether administrative records that in any way involve a judicial officer automatically become immune from disclosure under the PRA because of *Nast*, and if so, if that makes sense some 20 years after that decision. Sanchez argues that the Herald's distinction between the budget judge and the trial judge is a "red herring," because if the trial judge was fulfilling the same functions, the Herald's claims "would plainly fail." Sanchez Resp. at 12-13. Sanchez misconstrues the Herald's argument. The Herald is arguing that administrative records of a public agency, even if related to the judiciary, should be accessible under the PRA, regardless of whether a budget judge or a trial judge is involved. The budget judge's role is unique, however, in that the records in front of him or her are uniformly administrative in nature, as they are related to the expenditure of county funds. Thus, whether or not the budget judge contributes to the overall judicial process in the underlying case is irrelevant—again, the important inquiry is not the nature of who is producing or storing the records, but the nature of the records themselves.<sup>10</sup>

Moreover, while Sanchez and Yakima County rely on *Nast* for the idea that the PRA does not apply to court case files, here they cannot show that the records are, in fact, in a court case file. Instead, Sanchez

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<sup>10</sup> See pages 29-32 of the Herald's Brief of Appellant for a further discussion.

concludes that because the budget judge provides a judicial function, “the records and files presented to that judge are judicial records in precisely the same way as the records at issue in *Nast* and are not subject to the PRA.” *Id.* at 13. Likewise, Yakima County argues that the “attorney billing and expense records of indigent Defendants held in the court’s files are precisely the kind of records the *Nast* court contemplated.” Yakima County Resp. at 2.

There is no basis for the conclusion that the records sought here were anything contemplated by *Nast*. The *Nast* Court provided an exhaustive list of documents that the parties in that case stipulated as what constituted “court case files.”<sup>11</sup> In absence of any indication otherwise, the list should be instructive as to what the *Nast* Court believed its ruling was addressing and there is no reason to believe that the attorney billing records of publicly-financed defense attorneys was excluded from the PRA. Sanchez and Yakima County cite no authority beyond *Nast*, nor could they, supporting the argument that the financial records of such attorneys “are plainly what this Court had in mind in *Nast*.” Sanchez Resp. at 14.<sup>12</sup>

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<sup>11</sup> See page 17 of the Herald’s Brief of Appellant for a citation to the *Nast* Court’s interpretation of “court case file.”

<sup>12</sup> Please see pages 27-30 of the Herald’s Brief of Appellant for a further discussion of these issues.

Even more telling, since *Nast* was decided, the Legislature has expressly included publicly-financed attorney billing records into the PRA. *See* RCW 42.56.904 (indicating attorney invoices may not be withheld by public agency and that agency has the burden of justifying each redaction or withheld record). Sanchez seems to think that the fact that he is a criminal defendant, and thus with elevated constitutional rights at stake, the broad provisions of the PRA do not apply to these records. This is without merit, manifested by the fact that the above statute makes no mention of being inapplicable to criminal law. Simply put, if the records were generated by a public agency, subsidized by public funds, and kept in the files of clearly administrative agencies, they are without question within the broad disclosure provisions of the PRA. Neither Sanchez nor Yakima County provides any briefing rebutting these points.

**F. The Injunction Statute Under the PRA is Only Appropriate When An Agency Is Claiming An Exemption**

Yakima County alleges that it “sought the guidance” of the trial court by seeking an injunction under the PRA to determine whether it was appropriate to disclose the records sought. Yakima County Resp. at 5. First of all, the PRA injunction statute, RCW 42.56.540, is only appropriate when an agency is claiming an exemption under the PRA as to a particular record. *See PAWS II*, 125 Wn.2d at 257-58. Here, Yakima

County was not asserting that any record was exempt from disclosure under a provision in the PRA, but that the PRA does not apply to any and all court records. Even assuming for the sake of argument that an exemption under the PRA applied and an injunction was therefore warranted, the burden is on the party asserting the exemption. There is no indication that the trial court ever recognized this, or that Yakima County or Sanchez met their burdens. *See* RCW 42.56.550(1).

Second, nowhere in its response brief does Yakima County address the propriety of the trial court granting its injunction under the PRA, while at the same time ruling that the PRA does not apply, which makes no logical sense.<sup>13</sup>

**G. Whether or Not the Use of Budget Judges Is Common or Not is Irrelevant**

Sanchez argues in his Response brief that the Herald has failed to establish that the use of a budget judge is unique to Yakima County. Sanchez Resp. at 15. He then argues against several statements made in a Declaration filed in support of the Herald's petition for direct review, specifically assertions that several public defense agencies considered

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<sup>13</sup> Please see pages 39-40 of the Herald's Brief of Appellant for a further discussion of why an injunction under RCW 42.56.540 could not be granted.

themselves subject to the disclosure provisions of the PRA. *Id.* at 15-18.<sup>14</sup>

With respect, these concerns are not relevant to the issues in front of the Court in this case. The uniqueness of the budget judge method is of no moment in contrast to the potential crisis in public access to records if the method becomes even more common place. In that respect, Sanchez's argument that the method is commonplace only hurts his case—if the administrative records that would normally be accessible under the PRA are deemed immune from access to under the PRA because of the tenuous involvement of a judicial officer, but not subject to the common law or constitutional avenues of access because the records do not meet the criteria for access under those doctrines, the public will have no avenue to scrutinize the expenditure of its funds or to scrutinize the conduct of those charged with administering justice on behalf of the public. Moreover, the use of the budget judge method is even more likely in the cases with the most public attention drawn upon them—such as the *Sanchez* and *Mendez* cases—and which inevitably the most expensive to the tax payers.

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<sup>14</sup> Again, Sanchez argues all records at issue here involve apportionments and compensations of experts—the attachments included in the Wixson Declaration make it clear that this is not the case, at least in the companion case of *State v. Mendez*. Sanchez cites no authority for the argument that items such as travel and meal reimbursements and attorney billing records are not subject to the disclosure provisions of PRA.

**H. Attorneys' Fees for the Herald are Warranted if It is the Prevailing Party**

If the Court determines that the PRA applies to these records, the Herald is the prevailing party, and the PRA mandates that attorney's fees are warranted. The Herald agrees that the threshold issue is whether the PRA applies to the records sought in this case. However, it does not agree that the use of the PRA injunction statute somehow diminishes the mandatory penalties that would be imposed if this Court deems the Herald the prevailing party, as implied by Yakima County. *See* Yakima County Resp. at 13. Yakima County sued the Herald, asking for an injunction, and the Herald sued the County for the records' release. If the Court rules that the records are covered by the PRA, the Herald has prevailed and it has prevailed "against" the County, mandating a fee award. RCW 42.56.550(4). Attorney's fees and penalties are mandatory under the PRA, not discretionary. *See PAWS II*, 125 Wn.2d at 272 (holding that the award of a daily penalty, fees, and costs is mandatory, and case law states that "strict enforcement" of this provision "will discourage improper denial of access to public records"). Attorney's fees incurred on appeal are included. *Id.* at 271 (citation omitted).

Again, the injunction statute in RCW 42.56.540 requires that an agency cite a statutory exemption in seeking an injunction against

disclosure. Penalties are mandatory, and not contingent solely on whether the agency withheld records in good faith, nor is it necessary for the aggrieved party show damages. *Amren v. City of Kalama*, 131 Wn.2d 25, 36-38, 929 P.2d 389 (1997) (citation omitted); *see also Yousoufian v. Office of Ron Sims*, 165 Wn.2d 439, 454-55, 200 P.3d 232 (2009) (“The penalty’s purpose is to promote access to public records and governmental transparency.”) (citation omitted). Further, penalties are assessed from the date of the request. *Spokane Research & Defense Fund v. City of Spokane*, 155 Wn.2d 89, 102, 117 P.3d 1117 (2005).

### III. CONCLUSION

Sanchez and Yakima County have failed to meaningfully respond to the majority of the Herald’s arguments. The Herald respectfully asserts that this Court is in a unique position to reevaluate its ruling from 1986 that court case files are not disclosable under the Public Records Act, and that if it chooses not to, subsequent interpretations of that case have put the public’s statutory right to access public records in serious danger. To hold that the administrative records of a public agency do not fall under the unusually broad definitions and provisions of the PRA because of some tenuous relationship to some aspect of the judiciary is counter to the PRA’s mandate to interpret its disclosure provisions broadly. Likewise, to sanction the multitude of procedural and constitutional errors in the

sealing of the records at issue is inconsistent with Article I, Section 10 of the Washington State Constitution, and the common law. For the foregoing reasons, the Herald requests that this Court grant it the relief specified.

Respectfully submitted this 6<sup>th</sup> day of May, 2009

By: Greg Overstreet  
Michele Earl-Hubbard, WSBA #26454  
David Norman, WSBA #40564  
Greg Overstreet, WSBA #26682  
Chris Roslaniec, WSBA #40568

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on May 6, 2009, I caused the delivery, by U.S. Mail, of a copy of the foregoing Appellant Yakima Herald-Republic's Reply to Responses of Sanchez and Yakima County to:

Stefanie J. Weigand  
Sr. Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney, Corporate Counsel Division  
Yakima County Courthouse, Room 211  
128 North 2<sup>nd</sup> Street  
Yakima, Washington 98901

Susan F. Wilk and Gregory C. Link  
Washington Appellate Project  
1511 3<sup>rd</sup> Ave., Ste. 701  
Seattle, WA 98101-3635

and by email pursuant to agreement to:

Brendan E. Monahan  
Stokes Lawrence Velikanje Moore & Shore  
1433 Lakeside Ct., Ste. 100  
Yakima, WA 98902-7301  
brendan.monahan@stokeslaw.com

Dated this 6th day of May, 2009 at Olympia, Washington.

  
\_\_\_\_\_  
Greg Overstreet

# APPENDIX A

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IN THE SUPERIOR COURT OF WASHINGTON  
FOR YAKIMA COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

MARIO GILL MENDEZ,

Defendant.

YAKIMA HERALD-REPUBLIC;

Intervenor.

Case No.: 08-2-02337-0

DECLARATION OF SARAH L.  
WIXSON IN SUPPORT OF  
MOTION FOR ORDER  
CLARIFYING WORK PRODUCT  
AND MODIFYING PROPOSED  
REDACTIONS

I, SARAH L. WIXSON, am over the age of 18, have personal knowledge of all the facts stated herein and declare as follows:

1. I am one of the attorneys for the Yakima Herald-Republic in this matter. Attached hereto is a true and correct copy of redacted materials which appear to redact the names of some, but not all individuals receiving payment in connection with the case of *State v. Mendez*. (Attachment A.)

2. Attached hereto is a true and correct copy of redacted materials which appear to redact the location and other details surrounding travel expenses billed in connection with the case of *State v. Mendez*. (Attachment B.)

DECLARATION OF SARAH L. WIXSON IN SUPPORT OF MOTION  
FOR ORDER CLARIFYING WORK PRODUCT AND MODIFYING  
PROPOSED REDACTIONS - 1  
46188-003 \ 399317.doc

APP - 1

STOKES LAWRENCE  
VELIKANJE MOORE & SHORE  
1433 LAKESIDE COURT, SUITE 100  
YAKIMA, WASHINGTON 98902-7354  
(509) 853-3000



# ATTACHMENT A

APP - 3

Redacted

2

CAUTION THIS ORDER IS FILED EX PARTE AND MUST BE MAINTAINED UNDER SEAL

2005 JUN 26 PM 10:00

FILED

CLERK OF SUPERIOR COURT  
TACOMA, WASHINGTON

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR YAKIMA COUNTY

STATE OF WASHINGTON,  
Plaintiff,

v.

MARIO MENDEZ,  
Defendant.

NO. 05-1-00507-1

EX PARTE ORDER FOR PUBLIC FUNDS  
FOR TRAVEL FUNDS

THIS MATTER coming on the ex parte motion of the defendant, by and through his attorneys' of record, the court having reviewed the declaration of counsel and the motion and finding that the services requested are reasonably necessary to ensure that the defendant is provided effective assistance of counsel under the Fifth, Sixth and Fourteenth Amendment to the United States Constitution and Article I, §§ 3 and 22 of the Washington State Constitution it is therefore:

ORDERED that the Yakima Superior Court authorize additional funds for travel [REDACTED]

EX PARTE ORDER FOR PUBLIC FUNDS FOR TRAVEL - 1

EX PARTE ORDER TRAVEL

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

APP - 4

SEALED

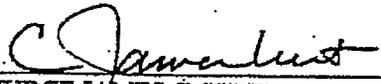
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[REDACTED] expert in the amount of \$1100.00, for defense investigator.  
Benito Cervantes in the amount of \$1100.00, for defense mitigation expert Susan Herrero in  
the amount of \$1100.00 and for attorney Mary Kay High in the amount of \$1100.00 for the  
purpose [REDACTED]

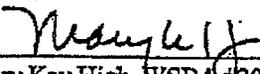
[REDACTED]

DATED this <sup>23</sup>20<sup>th</sup> day of June 2006

  
JUDGE JAMES C. LUST

//  
//  
//

Presented by:

By   
Mary Kay High, WSBA #20123

EX PARTE ORDER FOR PUBLIC FUNDS FOR TRAVEL - 2

EX PARTE ORDER TRAVEL

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

APP - 5

13

2005 MAR 28 PM 3 52

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR YAKIMA COUNTY

11 State of Washington, 13 Plaintiff, 15 vs. 17 Mario Gil Mendez, Defendant.	) Case No. 05-1-00507-1 ) ) MOTION FOR APPOINTMENT OF ) EXPERT AT PUBLIC EXPENSE
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19  
 21 COMES NOW the defendant, by and through his attorney, Charles H. Dold,  
 23 and moves this court for entry of an order appointing [REDACTED] to  
 25 assist [REDACTED] in this proceeding and for an  
 27 order sealing this application and any associated orders. This motion is based on  
 29 the records and files herein, the county's determination that the defendant is  
 31 indigent, that he is charged with two counts of aggravated murder with a potential  
 33 sentence of death, and the attached declaration of counsel. Counsel requests this  
 35 appointment and authorization of public funds under CrR 3.1(f), Ake v. Oklahoma,  
 37 470 U.S. 68, 83, 105 S. Ct. 1087, 1097, 84 L. Ed. 2d 53 (1985) and State v.  
 39 Poulsen, 45 Wn. App. 706, 710, 726 P.2d 1036 (1986), the Washington State  
 41 Constitution and the United States Constitution.

Dated this 27<sup>th</sup> day of March, 2006.

  
 CHARLES H. DOLD WSBA #8668  
 Attorney for Defendant

MOTION FOR EXPERT SERVICES - Weinstein -1

**CHARLES H. DOLD**  
 Box 775  
 Everett, WA 98206-0775  
 (425)823-4123

APP - 6

SEALED

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**DECLARATION OF COUNSEL**

I am the attorney appointed to represent the above named defendant in this proceeding. I certify that the following is true and correct to the best of my knowledge, subject to penalty of perjury and under the laws of the State of Washington:

My client is charged with two counts of aggravated murder and the death penalty is one of the possible sentences that could be imposed. He is also charged with other serious violent and violent felonies.

[REDACTED]

The necessity for this inquiry and professional assistance is highlighted in the American Bar Association Guidelines for the Selection and Performance of Capital Cases. (*HOFSTRA LAW REVIEW* [Vol. 31:1117]). The ABA recognizes the necessity for expert assistance in a variety of fields, [REDACTED]. The importance of this work was captured dramatically in [REDACTED] where a sentence of death was reversed on post-conviction based almost entirely on the

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[REDACTED]

[REDACTED]

[REDACTED] standard rates are set forth below. His rates are substantially lower than the only other [REDACTED] that we were able to identify to assist Mr. Mendez. We have also set out his CV for the court's review. Both are incorporated by this reference. He has indicated his willingness to assist in this case and we are asking the court to authorize up to \$6,000 [REDACTED]

[REDACTED]

[REDACTED]

Signed at Kirkland, Washington this 21st day of March, 2006.

  
CHARLES H. DOLD WSBA #8668  
Attorney for Defendant

[REDACTED]

[REDACTED]

**CURRICULUM VITAE**

**PRESENT PROFESSIONAL ACTIVITIES:**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- Qualified Expert Witness for Federal Court, Superior Court, Family Court, Juvenile Court.
- [REDACTED]
- Consultant and educator in [REDACTED]

**EDUCATION:**

- Quantitative Finance [REDACTED]
- Post-Doctoral Certificate Program in [REDACTED]  
Santa Barbara, California - 1998
- [REDACTED]
- [REDACTED]
- [REDACTED]

**PAST WORK EXPERIENCE:**

- 1992-2000 Baker Elementary School, [REDACTED]
- 1994 - 1996 Adjunct Professor, [REDACTED]
- 1988 - 1989 Children's Therapeutic Communities.  
[REDACTED]
- 1986 - 1988 Home Start Inc.; SOS Program Director  
[REDACTED]
- 1979-1983 Suicide Prevention Center, Los Angeles, California.  
Director of the Hispanic Outreach Program  
[REDACTED]
- Individual and group psychotherapy.
  - Crisis intervention trainer.



[REDACTED]

**RECENT PRESENTATIONS:**

[REDACTED]

Symposium, Association of Family and Conciliation Courts [REDACTED]

Symposium, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

**CURRICULUM VITAE**

**PRESENT PROFESSIONAL ACTIVITIES:**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- Qualified Expert Witness for Federal Court, Superior Court, Family Court, Juvenile Court.
- [REDACTED]
- [REDACTED]

**EDUCATION:**

- [REDACTED]
- Post-Doctoral Certificate Program [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**PAST WORK EXPERIENCE:**

- 1992-2000 Baker Elementary School. [REDACTED]
- 1994 - 1996 Adjunct Professor, [REDACTED]
- 1988 - 1989 Children's Therapeutic Communities.  
[REDACTED]
- 1986 - 1988 Home Start Inc.; SOS Program Director  
• [REDACTED]
- 1979-1983 Suicide Prevention Center, Los Angeles, California.  
Director of the Hispanic Outreach Program  
[REDACTED]
- Individual and group psychotherapy.
  - Crisis intervention trainer.

1978 - 1979

Henry Ford Hospital [REDACTED]  
[REDACTED]

1977 - 1978

Camelback Hospital, Phoenix, Arizona.  
[REDACTED]

1972 - 1976

Management Consultant [REDACTED]  
[REDACTED]

**PROFESSIONAL AFFILIATIONS:**

- National Academy [REDACTED]
- American [REDACTED] Association
- International [REDACTED] Society
- [REDACTED]
- California [REDACTED] Association
- San Diego [REDACTED] Association
- San Diego [REDACTED] Society
- [REDACTED]
- Society for [REDACTED]
- Coalition of Clinical Practitioners [REDACTED]

**PUBLICATIONS:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RECENT PRESENTATIONS:**

[REDACTED]

Symposium, Association of Family and Conciliation Courts [REDACTED]  
[REDACTED]

Symposium [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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**CAUTION THIS MOTION IS FILED EX PARTE  
AND MUST BE MAINTAINED UNDER SEAL**

**FILED**  
JUL 13 2006

*Filed 7/13/06*

RICARDO WEINSTEIN, CLERK

**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR YAKIMA COUNTY**

STATE OF WASHINGTON,  
Plaintiff,  
  
v.  
  
MARIO GIL MENDEZ,  
Defendant.

NO. 05-1-00507-1

**SUPPLEMENTAL EX PARTE MOTION  
AND DECLARATION FOR PUBLIC  
FUNDS FOR NEUROPSYCHOLOGICAL  
EXPERT**

Comes now the defendant, MARIO MENDEZ, by and through his attorney of record, Mary Kay High, and moves this Court pursuant to Article I, §§. 3 & 22 of the Washington State Constitution, the Fifth, Sixth, Eighth and Fourteenth Amendment to the United States Constitution and CrR 3.1 for a Sealed Ex Parte Order requiring the Yakima County Superior Court to pay for the services of expert Dr. Ricardo Weinstein.

This motion is based on the attached declaration of counsel.

SEALED EX PARTE MOTION FOR NEUROPSYCHOLOGICAL  
EXPERT - 1

MOTION separate sealed neuropsychological expert -

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

**SEALED**

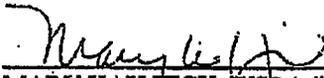
APP - 19

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Dated this 7<sup>th</sup> day of July, 2006.

  
MARY KAY HIGH, WSBA # 20123  
Attorney for Mario Mendez.

DECLARATION OF MARY KAY HIGH

I am one of the appointed attorneys for Mario Mendez, Mr. Mendez is presently facing, among a myriad of other charges, two counts of Aggravated First Degree Murder in Yakima County. The State, through the Yakima County Prosecutor, is considering seeking the death penalty for these two crimes.

Mr. Mendez, as any criminal defendant, has a right to have counsel who are adequately prepared for trial, this applies even more so in a potential death penalty situation. The Court merely has to look at cases like Mak v. Blodgett, 754 F. Supp. 1490 (W.D. Wash. 1991), aff'd, 970 F.2d 614 (9th Cir. 1992), cert. denied, 113 S. Ct. 1363 (1993). Lord v. Wood, or State v. Brett to understand the necessity to have counsel for the defendant fully prepared for trial. All were overturned death penalty cases for ineffective assistance of counsel.

Previously this court authorized \$6000.00 for his services; this amount is inadequate

[REDACTED]

SEALED EX PARTE MOTION FOR NEUROPSYCHOLOGICAL EXPERT - 2

MOTION ex parte sealed neuropsychological expert -

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

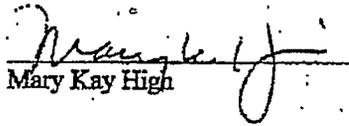
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[REDACTED]

that further authorization may be necessary if the case does not resolve in a negotiated settlement.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THE FOREGOING IS TRUE AND CORRECT

Dated this 7<sup>th</sup> day of July, 2006 in Tacoma, Washington

  
Mary Kay High

SEALED EX PARTE MOTION FOR NEUROPSYCHOLOGICAL EXPERT - 3

MOTION experts sealed neuropsychological expert -

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6863 Facsimile 572-6472

APP - 21

Redacted

14

FILED

2005 NOV 16 PM 1 07

EX PARTE OF  
SUPERIOR COURT OF THE STATE OF WASHINGTON

CAUTION THIS ORDER IS FILED EX PARTE AND MUST BE MAINTAINED UNDER SEAL

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
  
v.  
  
MARIO MENDEZ,  
Defendant.

NO. 05-1-00507-1  
  
SUPPLEMENTAL EX PARTE ORDER  
FOR PUBLIC FUNDS  
[REDACTED]

THIS MATTER coming on the supplemental ex parte motion of the defendant, by and through his attorney of record, Mary Kay High, the court having reviewed the declaration of counsel and the motion and finding that the services requested are reasonably necessary to ensure that the defendant is provided effective assistance of counsel under the Fifth, Sixth and Fourteenth Amendment to the United States Constitution and Article I, §§ 3 and 22 of the Washington State Constitution it is therefore:

SUPPLEMENTAL EX PARTE ORDER FOR PUBLIC FUNDS FOR DEFENSE EXPERT - 1

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 216  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

APP - 22

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*Denies*

ORDERED that the Yakima Superior Court authorize <sup>the</sup> services and payment of Susan Herrero, [REDACTED] e  
[REDACTED]  
[REDACTED]. Additional requests may be necessary as the matter proceeds.

DATED this 16 day of November 2006

*James Lust*  
JUDGE JAMES LUST

Presented by:

By Mary Katherine High  
Mary K. High  
WSBA #20123

SUPPLEMENTAL EX PARTE ORDER FOR PUBLIC FUNDS FOR DEFENSE EXPERT - 2

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 216  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

APP - 23

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**CAUTION THIS MOTION IS FILED EX PARTE  
AND MUST BE MAINTAINED UNDER SEAL**

**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR YAKIMA COUNTY**

STATE OF WASHINGTON,  
Plaintiff,  
  
v.  
  
MARIO MENDEZ,  
Defendant.

NO. 05-1-00507-1  
  
EX PARTE MOTION AND  
DECLARATION FOR PUBLIC FUNDS  
FOR [REDACTED]  
[REDACTED]

Comes now the defendant, MARIO MENDEZ, by and through his attorneys of record and moves this Court pursuant to Article I, §§ 3 & 22 of the Washington State Constitution, the Fifth, Sixth, Eighth and Fourteenth Amendment to the United States Constitution and CrR 3.1 for a Sealed Ex Parte Order requiring the Yakima County Superior Court to pay for the services of Susan Herrero.

This motion is based on the attached declaration of counsel.

[REDACTED]  
[REDACTED]

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 216  
TACOMA, WASHINGTON 98402  
253 - 572-6865 Facsimile 253-572-6472

APP - 24



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I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF  
THE STATE OF WASHINGTON THE FOREGOING IS TRUE AND  
CORRECT

Dated this 7<sup>th</sup> day of November, 2006 in Tacoma, Washington

Mary Kay High  
Mary Kay High

[REDACTED]

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 216  
TACOMA, WASHINGTON 98402  
253 - 572-6865 Facsimile 253-572-6472

APP - 26

**SUSAN HERRERO, ESQ.**  
**MITIGATION SPECIALIST/FORENSIC INVESTIGATOR**  
7100 St. Charles Avenue  
New Orleans, LA 70118  
504/864-0709

**PRESENT EMPLOYMENT**

**Legal Investigator**, specializing in capital mitigation and homicide investigations, and forensic science (DNA) investigation in court-appointed cases, both at the trial and post-conviction level since 1989. Many of the mitigation investigations have involved Spanish-speaking clients from Latin American countries. Fluent in Spanish and bi-cultural. In DNA cases, I have assisted trial and post-conviction counsel with experts, independent testing, motions, and briefing.

**Resource Counsel**, co-counsel for El Salvador Capital Assistance Project from July, 2003 to present.

**RELATED LEGAL EXPERIENCE**

**Pro Bono Attorney**, Northwest Immigrant Rights Project, Seattle, Washington, representing Central Americans in Political Asylum cases from 1992-1995.

**Staff Investigator**, Seattle-King County Public Defender. Felony caseload, primarily homicide cases including mitigation and Spanish-speaking clients from 1986 to 1989.

**Social Worker**, worked with developmentally disabled adults and children in non-profit Chicago-area mental health agencies from 1974 to 1981. Deinstitutionalization of state psychiatric and mentally retarded patients involved psychometric testing, behavioral assessment, client placement, and design, training, and supervision of individual treatment plans.

**Behavioral Therapist**, working with violent and self-injurious patients in the Willowbrook State School, Staten Island, New York from 1971 to 1974. Trained ward attendants and developed behavioral treatment plans for psychotic and mentally retarded patients in state hospital.

**EDUCATION**

**B.A.**, City University of New York, in psychology. Graduated with honors, 1974.

**J.D.**, Seattle University School of Law (formerly University of Puget Sound), in Washington. Graduated in December 1992, member of Washington State Bar since 1993.

APP - 27

## PRESENTATIONS

Presented lectures at various CLE programs throughout the country for the past fifteen years. Some recent presentations have included:

*Challenges with High-Tech DNA Evidence*, Administrative Office of the U.S. Courts, 2d National Seminar on Forensic Evidence & Criminal Law, New Orleans, Louisiana, April 2002.

*Death Penalty Mitigation Investigations*, Mexican Capital Legal Assistance Program (two-day conference for the Mexican Diplomatic Corps), Mexico City, Mexico, June 2002.

*Barring Unreliable Evidence: Exposing Shoddy Lab Practices*, NAACP LDF 23<sup>rd</sup> Annual Capital Punishment Training Conference, Airlie Conference Center, Warrenton, Virginia, July 2002.

*Challenging DNA Evidence in Post Conviction*, Administrative Office of the U.S. Courts, Habeas Assistance and Training Conference, Nashville, Tennessee, August 2002.

*Working with Experts to Overcome Cultural and Language Barriers and Nuts and Bolts: Developing and Presenting Challenges to the State's DNA Evidence*, 11<sup>th</sup> Annual Capital Defense Training Seminar, Multi-County Public Defender Office, Jekyll Island, Georgia, February 2003.

*Challenging DNA Evidence*, Death Penalty Defense Seminar, Ohio State Bar Association CLE Institute, Columbus, Ohio, May 16, 2003.

*Mitigation Investigation in Capital Cases*, The National Organization of Forensic Social Work 2004 Annual Conference, Tampa, Florida, May 16, 2004.

*Mitigation for Spanish-Speaking Clients*, NAACP LDF 25<sup>th</sup> Annual Capital Punishment Training Conference, Airlie Conference Center, Warrenton, Virginia, July 24, 2004.

*Challenging DNA Evidence*, Federal Defenders, San Juan, Puerto Rico, August 27, 2004.

*NACDL Death Penalty Mitigation Training Program*, NACDL's 2005 Midwinter Seminar, February 10-11, 2005

*Investigating the Crime Lab*, Third National Seminar on Forensic Evidence and the Criminal Law, San Antonio, Texas, January 27, 2006.

*Mitigation in Central America; MS-13 gang members as capital clients*, Life in the Balance, Philadelphia, PA, March 5, 2006.

*Foreign Nationals: Mental Health Issues; and Foreign Nationals: Investigation*, National Seminar on the Development and Integration of Mitigation Evidence, Washington D.C., April 27-30, 2006.

*Forensics 101*, 11<sup>th</sup> Annual Federal Habeas Corpus Seminar, Pittsburgh, PA, August 25, 2006.

*Mitigation for Spanish speaking clients*, 11<sup>th</sup> Annual Federal Habeas Corpus Seminar, Pittsburgh, PA, August 27, 2006.

*DNA Evidence*, Forsyth Criminal Defense Attorneys Association, Winston-Salem, North Carolina October 11, 2006.

#### PUBLICATIONS

Susan Herrero, "*Legal Issues in Forensic DNA*," FORENSIC SCIENCE: AN INTRODUCTION TO SCIENTIFIC AND INVESTIGATIVE TECHNIQUES, (Stuart H. James & Jon J. Nordby, eds., CRC Press, 2002, 2005).

SEALED 9

2006 NOV 16 PM 1 14

EX. ...  
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SUPERIOR COURT OF WASHINGTON  
IN AND FOR YAKIMA COUNTY

ST. <hr/> Plaintiff / Petitioner (s) Vs. <u>MUNDEZ</u> <hr/> Defendant / Respondent (s)	Case Number: <u>05-1-00507-1</u> <hr/> Title of your document: <u>Funding Documents</u> <hr/> <u>Clerk Action - Sealed</u>
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NOTE: Do NOT write beyond the margins or borders. Please PRINT clearly. If you need additional room, please attach an 8-1/2" x 11" sheet of WHITE paper to this page.

<u>Documents relating to funding</u> <u>&amp; expenditures</u>

Signature: G. Hintze      Dated: 11-16-06  
 PRINT your name: G. HINTZE      APP - 30

Gloria Hintze

From: Mary High [MHIGH@co.pierce.wa.us]  
Sent: Tuesday, November 07, 2006 2:42 PM  
To: Gloria Hintze  
Subject: RE:

[REDACTED]

>>> "Gloria Hintze" <gloria.hintze@co.yakima.wa.us> 11/7/2006 2:20 PM  
>>>

[REDACTED]

Thanks.

-----Original Message-----

From: Mary High [mailto:MHIGH@co.pierce.wa.us]  
Sent: Tuesday, November 07, 2006 2:09 PM  
To: Gloria Hintze  
Subject: RE:

[REDACTED]

>>> "Gloria Hintze" <gloria.hintze@co.yakima.wa.us> 11/7/2006 1:47 PM  
>>>

[REDACTED]

ou.

-----Original Message-----

From: Mary High [mailto:MHIGH@co.pierce.wa.us]  
Sent: Tuesday, November 07, 2006 11:03 AM  
To: herrero1@aol.com; Gloria Hintze; mkhigh@mkhighlaw.com  
Cc: ptconnick@yahoo.com  
Subject: RE:

Ms. Hintze - [REDACTED]

>>> "Gloria Hintze" <gloria.hintze@co.yakima.wa.us> 11/6/2006 10:38 AM

>>>

Ms High: [REDACTED]. Thanks.

---

From: Mary Kay [mailto:mkhigh@mkhighlaw.com]  
Sent: Monday, November 06, 2006 10:32 AM  
To: Gloria Hintze; herrero1@aol.com  
Cc: 'Pete Connick'; mhigh@co.pierce.wa.us  
Subject: RE:

[REDACTED] Gloria - to whom should I direct the email  
- to you or Judge Lust ? And if to Judge Lust could you supply me with his email address.  
Thanks MK

---

From: Gloria Hintze [mailto:gloria.hintze@co.yakima.wa.us]  
Sent: Saturday, November 04, 2006 12:33 PM  
To: herrero1@aol.com  
Cc: Pete Connick; mkhigh@mkhighlaw.com; mhigh@co.pierce.wa.us  
Subject: RE:

Good morning, Susan:

I received your invoice via email; however, in processing it, [REDACTED]  
[REDACTED] 4. (see attached).

---

From: herrero1@aol.com [mailto:herrero1@aol.com]  
Sent: Friday, November 03, 2006 2:33 PM  
To: Gloria Hintze  
Subject:

Hi Gloria,

Gloria Hintze

From: Mary High [MHIGH@co.pierce.wa.us]  
Sent: Monday, November 13, 2006 2:39 PM  
To: Gloria Hintze  
Subject: re: Mendez

Gloria - [REDACTED] MK

>>> "Gloria Hintze" <gloria.hintze@co.yakima.wa.us> 11/10/2006 8:40 AM  
>>>

Good morning.

Now that the death penalty phase of the case is resolved, [REDACTED] g?

Also, can you please make sure all your team submits up to date billings this month so I can make sure we are up to date before the end of the year?

Thank you for your cooperation in advance.

If you have any questions, please let me know.

PS: [REDACTED]

Gloria S. Hintze

Court Manager

Yakima County Superior Court

Yakima County Courthouse, Rm 314-A

Yakima, WA 98901

Email: gloria.hintze@co.yakima.wa.us  
<mailto:gloria.hintze@co.yakima.wa.us>

Telephone: 509-574-1794

Fax: 509-574-2693

Electronic Privacy Notice: This e-mail, and any attachments, contains information that is, or may be, covered by electronic communications privacy laws; and is also confidential, proprietary in nature and not subject to public disclosure. If you are not the intended recipient, please be advised that you are legally prohibited from retaining,



\*Hope you are well. Attached please find bill. (no receipts on this one, just hours).  
I plan to be working in Yakima on Nov. 15th. Is there a chance this will be ready by  
then? Take good care, Thanks so much Susan

---

Check out the new AOL  
<<http://pr.atwola.com/promoclk/1615326657x4311227241x4298082137/aol?redi>

<http://pr.atwola.com/promoclk/1615326657x4311227241x4298082137/aol?redi> . Most comprehensive set of free safety and  
security tools, free access to millions of high-quality videos from across the web, free  
AOL Mail and more.

# ATTACHMENT B

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3 CAUTION THIS MOTION IS FILED EX PARTE  
4 AND MUST BE MAINTAINED UNDER SEAL  
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FILED  
JUN 26 PM 10 00  
KIM M. ECKHART  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA, WASHINGTON

14 SUPERIOR COURT OF THE STATE OF WASHINGTON  
15 FOR YAKIMA COUNTY  
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14 STATE OF WASHINGTON,  
15 Plaintiff,  
16 v.  
17 MARIO MENDEZ,  
18 Defendant.

NO. 05-1-00507-1

EX PARTE MOTION AND  
DECLARATION FOR PUBLIC FUNDS  
FOR TRAVEL

21 Comes now the defendant, MARIO MENDEZ, by and through his attorney of record,  
22 Mary Kay High, and moves this Court pursuant to Article I, §§ 3 & 22 of the Washington  
23 State Constitution, the Fifth, Sixth, Eighth and Fourteenth Amendment to the United States  
24 Constitution and CrR 3.1 for a Sealed Ex Parte Order requiring the Yakima County Superior  
25 Court to pay for travel costs for [REDACTED], mitigation expert Susan  
26 Herrero, investigator Benito Cervantes and attorney High.

SEALD EX PARTE MOTION FOR <sup>TRAVEL</sup> ~~PHYSICS DIRECTOR~~  
-1

MOTION TRAVEL.

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

APP - 37

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This motion is based on the attached declaration of counsel.

Dated this 20<sup>th</sup> day of June, 2006.

MARY KAY HIGH, WSBA # 20123  
Attorney for Mario Mendez.

DECLARATION OF MARY KAY HIGH

I am one of the appointed attorneys for Mario Mendez, Mr. Mendez is presently facing, among a myriad of other charges, two counts of Aggravated First Degree Murder in Yakima County. The State, through the Yakima County Prosecutor, is considering seeking the death penalty for these two crimes.

Mr. Mendez, as any criminal defendant, has a right to have counsel who are adequately prepared for trial, this applies even more so in a potential death penalty situation. The Court merely has to look at cases like Mak v. Blodgett, 754 F. Supp. 1490 (W.D. Wash. 1991), aff'd, 970 F.2d 614 (9th Cir. 1992), cert. denied, 113 S. Ct. 1363 (1993). Lord v. Wood, or State v. Brett to understand the necessity to have counsel for the defendant fully prepared for trial. All were overturned death penalty cases for ineffective assistance of counsel.

[REDACTED]

SEALED EX PARTE MOTION FOR PRIVATE INVESTIGATOR  
-2

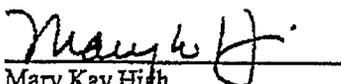
MOTION TRAVEL -

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865 Facsimile 572-6472

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I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF  
THE STATE OF WASHINGTON THE FOREGOING IS TRUE AND  
CORRECT

Dated this 20<sup>th</sup> day of June, 2006 in Tacoma, Washington

  
Mary Kay High

SEALED EX PARTE MOTION FOR PRIVATE INVESTIAGTOR  
-3

MOTION TRAVEL-

MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
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(253) 572-6865 Facsimile 572-6472

APP - 39

*Redacted*

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2006 JAN 10 PM 4 06

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
EX OFFICIO CLERK  
SUPERIOR COURT FOR YAKIMA COUNTY  
YAKIMA, WASHINGTON**

State of Washington,	) Case No. 05-1-00507-2
Plaintiff,	)
vs.	) MOTION FOR TRAVEL EXPENSE -
Mario Gil Mendez,	) <span style="background-color: black; color: black;">[REDACTED]</span>
Defendant.	)

COMES NOW the defendant, by and through his appointed counsel, CHARLES H. DOLD, and moves this court for reimbursement for the cost of travel to and from [REDACTED] including air fare of \$224 and car rental expense of \$83.95 and for an Order Sealing this motion, the attached declaration and the resulting order. This motion is based on the finding the defendant is indigent, the records and files herein and the attached declaration of counsel.

Dated this 2<sup>nd</sup> day of January, 2005.

*Charles H. Dold*  
\_\_\_\_\_  
CHARLES H. DOLD WSBA #8668  
Attorney for Defendant

APP - 40

MOTION FOR TRAVEL COSTS

**CHARLES H. DOLD**  
Box 775  
Everett, WA 98206-0775  
(425)823-4123

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**DECLARATION OF COUNSEL**

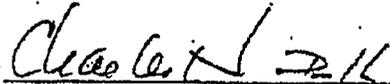
I am the attorney appointed to represent the above named defendant in this proceeding. I certify that the following is true and correct to the best of my knowledge, subject to penalty of perjury and under the laws of the State of Washington:

My client is charged with two counts of aggravated murder and the death penalty is one of the possible sentences that could be imposed. He is also charged with other serious violent and violent felonies.

[REDACTED]

I have purchased air travel and rented a car to accomplish these tasks. The billing information is attached. There will be no cost for lodging. I have tried to minimize the cost consistent with efficient, but economical, travel.

Signed at Kirkland, Washington this 2<sup>nd</sup> day of January, 2005.

  
CHARLES H. DOLD WSBA #8668  
Attorney for Defendant

MOTION FOR TRAVEL COSTS

**CHARLES H. DOLD**  
Box 775  
Everett, WA 98206-0775  
(425)823-4123  
APP - 41

TICKET INFORMATION

Passenger: CHAD DOLD

Orbitz record locator: [REDACTED]

Alaska Airlines record locator: [REDACTED]

Airline ticket number(s):  
[REDACTED]

Thursday, January 5, 2006  
[REDACTED]

Seattle/Tacoma Intl (SEA) to [REDACTED]  
Departure (SEA): January 5, 7:56 PM PST (evening)  
[REDACTED]: January 5, 10:33 PM PST (evening)

Class: Economy

Monday, January 9, 2006  
Alaska Airlines [REDACTED]

[REDACTED] to Seattle/Tacoma Intl (SEA)  
[REDACTED]  
Arrival (SEA): January 9, 11:27 PM PST (evening)

Class: Economy

PURCHASE CONFIRMATION

\*\*\*\*\*

Passenger: CHAD DOLD

Airline ticket number(s): [REDACTED]

Fare type: Adult

Ticket type: electronic (e-ticket)

Total airfare: \$228.40 (including taxes)  
Service fee: \$5.99  
Total trip cost: \$234.39 USD

Unless otherwise specified, all costs are provided in US dollars.

BILLING INFORMATION

Credit card holder's name: CHAD DOLD

Credit card type: [REDACTED]

Credit card number: xxxxxxxxxx0169  
[REDACTED]

United States

**Travel Confirmation**

Thank you for booking your trip with WWTE (Hotel and Car partner for alaskaair.com).  
View this itinerary online for the most up-to-date information.

<b>Car: San Diego</b>	
Reservation has been sent to Fox Rental Cars. Remember to cancel this car reservation if your plans change.	
WWTE (Hotel and Car partner for alaskaair.com) itinerary number: [REDACTED]	<b>Main contact:</b> Charles H.Dold E-mail: cdold@
WWTE (Hotel and Car partner for alaskaair.com) booking ID: [REDACTED]	Home phone: (425)
Fox Rental Cars confirmation number: [REDACTED]	
<b>Traveler and cost summary</b>	<b>Rental rate</b>
Driver: Charles Dold	Economy Car
	\$18.50/Day/Unlimited mileage/Extra hour
	\$10.00/Extra day
	\$23.50
	Base price \$74.00
	Estimated taxes and fees \$9.24
	<b>Car rental total* \$83.24</b>
* Includes estimated taxes and fees. Car charges are billed at time of rental.	
<b>Specials</b>	
Thu Jan-5-2006	
<b>Fox Rental Cars Economy Car:</b> Air conditioning, automatic transmission, unlimited mileage.	
<b>Pick up:</b> Thu Jan-5-2006 6:00 PM	<b>Drop off:</b> Mon Jan-9-2006 6:00 PM
<b>Location:</b> shuttle to counter and car, [REDACTED]	
<b>Hours of operation:</b> 1/5/2006: 5:00 am - 12:30 am, 1/9/2006: 5:00 am - 12:30 am	

*Redacted* 6

FILED

SEALED

INTERVIEW OF MARIO GIL-MENDEZ

2005 NOV 17 PM 3 16

05-1-00507-2

Client: Sanchez  
Attorney: Walsh and Witchley  
Investigator: Freeman  
Interview Date/Time: November 4, 2005 / 1:20 p.m.  
Interview location: 12<sup>th</sup> fl meeting room, MCC, San Diego  
Report Date/Time: November 5, 2005 / 9:10 a.m.  
Witness Contact Info:

[REDACTED]

122

[REDACTED]

*Redacted*

SEALED 8

FILED

INTERVIEW OF MARIO GIL-MENDEZ

NOV 17 PM 3 16

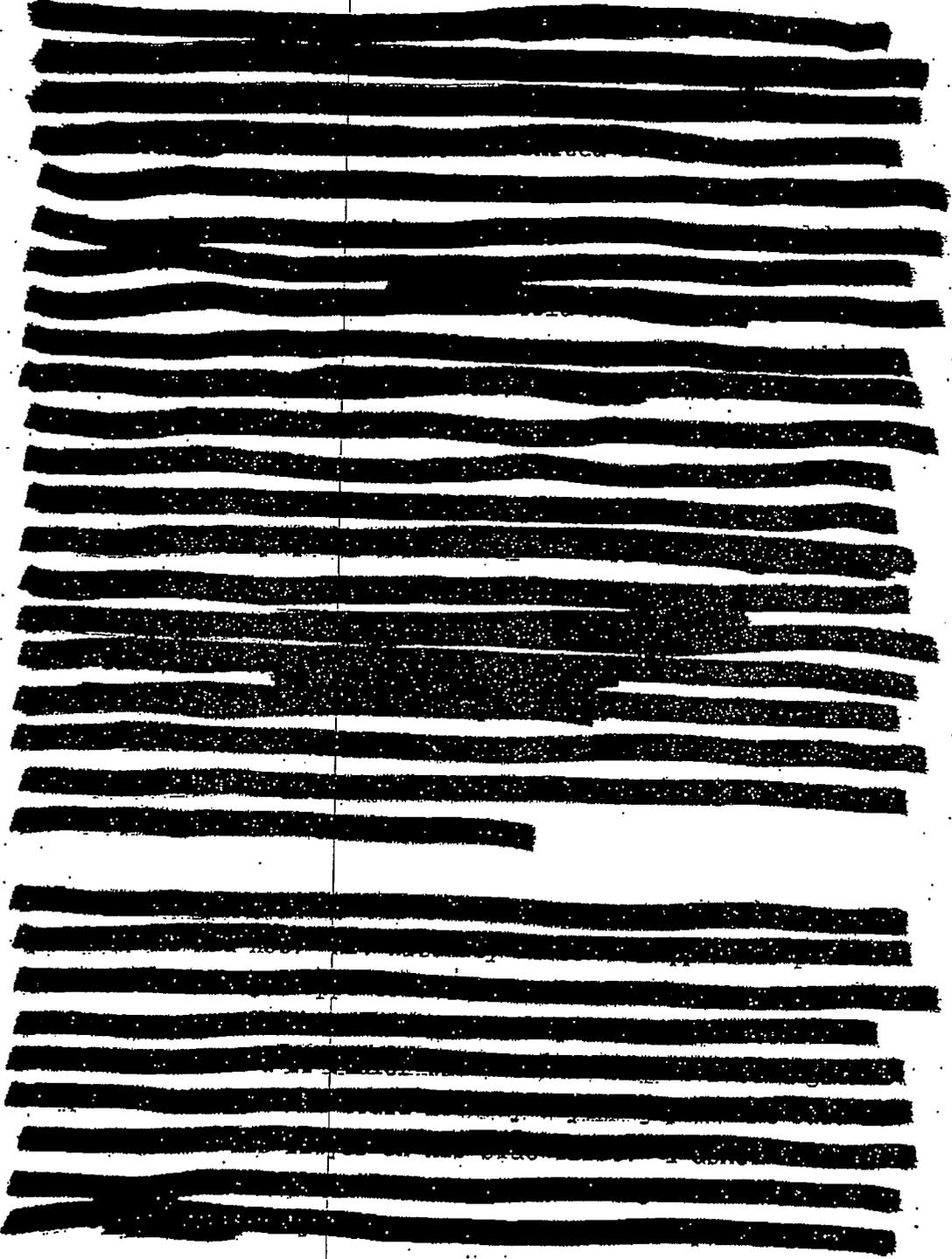
05-1-00507-2

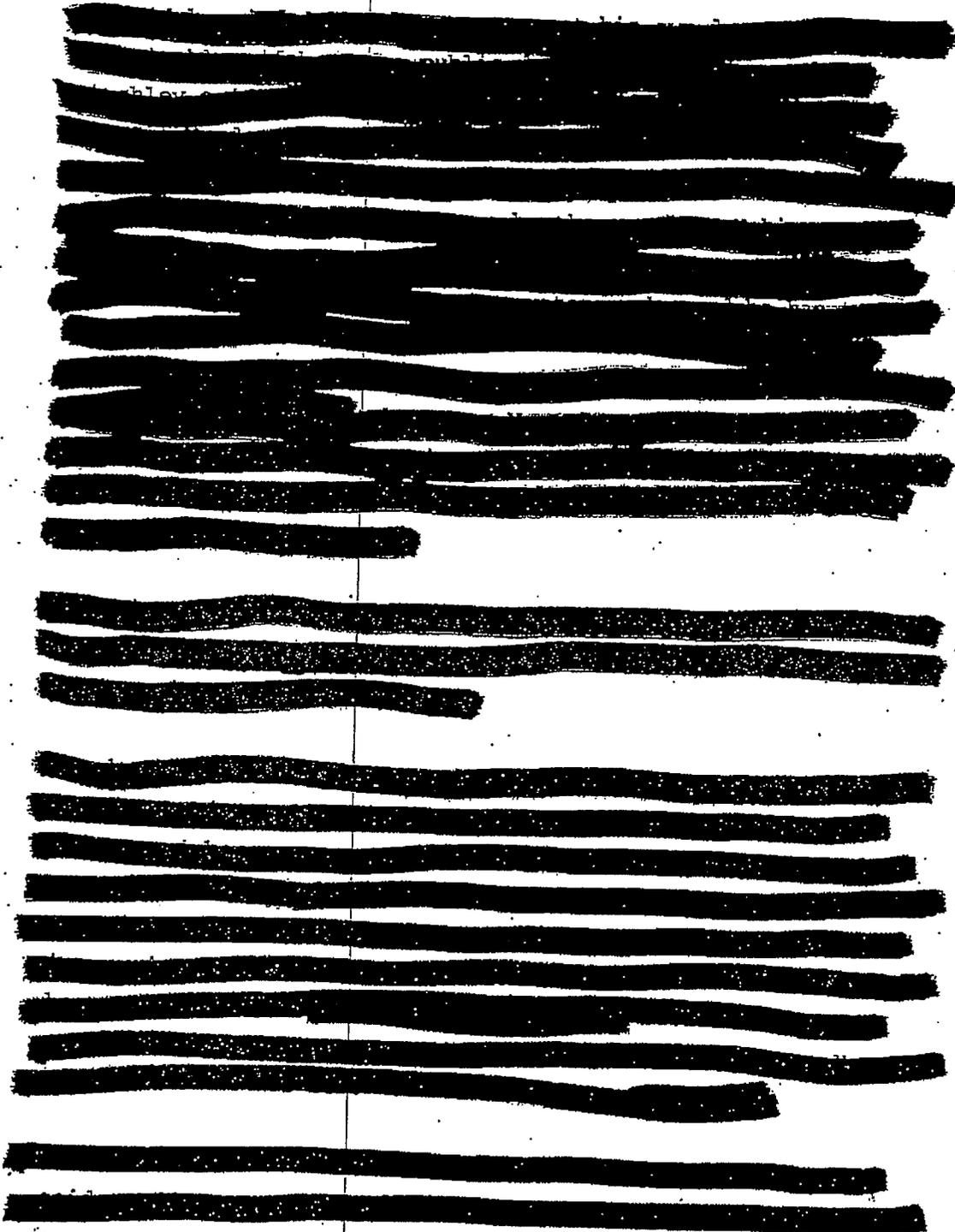
Client: Sanchez  
Attorney: Walsh and Witchley  
Investigator: Freeman  
Interview Date/Time: November 3, 2005 / 4:45 p.m.  
Interview location: legal visit room, 12<sup>th</sup> fl MCC, San Diego  
Report Date/Time: November 4, 2005 / 10:40 a.m.  
Witness Contact Info: YCJ

[REDACTED]

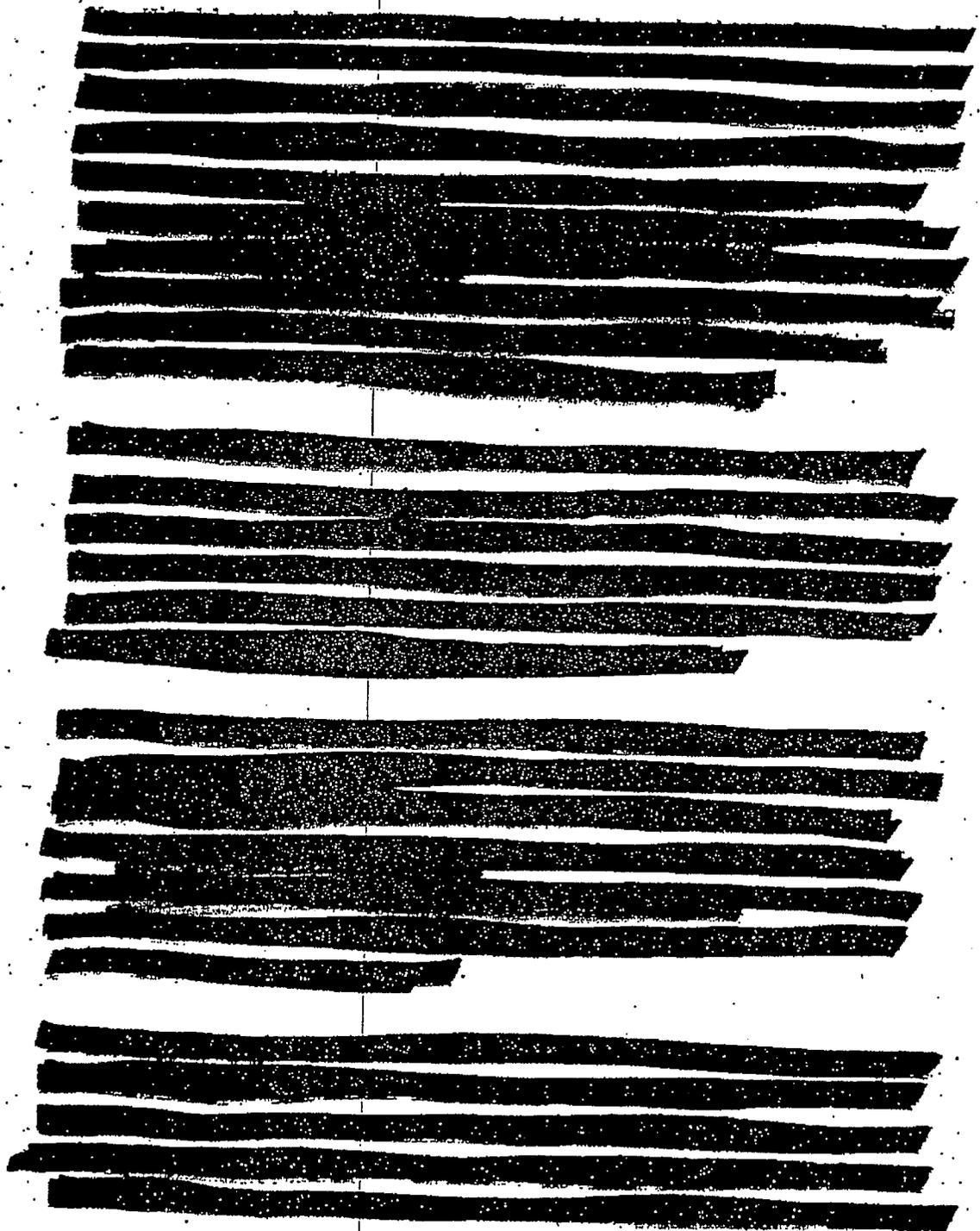
APP - 50

[REDACTED]





[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

END.

*Redacted*

**SEALED**

10

FILED

**INTERVIEW OF MARIO GIL-MENDEZ**

2005 NOV 17 PM 3 16

05-1-00507-2

Client: Sanchez  
Attorney: Walsh & Witchley  
Investigator: Freeman  
Interview Date/Time: November 16, 2005 / 9:05 a.m.  
Interview Location: visiting booth off booking, Y.C.J.  
Report Date/Time: November 18, 2005 / 9:12 a.m.  
Witness Contact Info:

[REDACTED]

END

# ATTACHMENT C

APP - 68

*Redacted*

SEALED

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2007 JUN 3 PM 1 27

CLERK OF SUPERIOR COURT  
YAKIMA COUNTY

Judge Lust to Sign

Auditors Copy / Pat Signs.

IN THE SUPERIOR COURT OF THE STATE WASHINGTON  
IN AND FOR YAKIMA COUNTY

CASE NUMBER: 05-1-00507-1

**\*\*SEALED\*\***

**COST BILL FOR  
PROFESSIONAL SERVICES**

Pay To:

Mary K. High  
917 Pacific Avenue, Suite 216  
Tacoma, Washington 98402

Services: \$20,222.37

TOTAL: \$20,222.37

VENDOR NO. H-1335

GL CODE: 115-191-4102

Comments:

Original Invoice #10125 dated 12/18/06 (for 8/2-12/16, 2006) permanently maintained in court file.

Documents sealed by Court Order.

Funding Order No. 70

APP - 69

132E

~~132E~~

Mary Kay High, Attorney at Law

216  
917 Pacific Avenue, Suite 406 Tacoma, WA 98402

253-572-6865

Invoice submitted to:  
Ms. Gloria Hintze, Manager  
Yakima County Superior Court  
128 N 2nd Street  
Yakima WA 98901-2639

December 18, 2006

In Reference To: State v. Mario Mendez, Cause No.: 05-1-005-07-1

Invoice #10125

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
<u>Professional Services</u>		
8/2/2006 [REDACTED] [REDACTED] [REDACTED]	0.90 100.00/hr	90.00
8/3/2006 [REDACTED] [REDACTED]	0.40 100.00/hr	40.00
8/5/2006 [REDACTED]	3.80 100.00/hr	380.00
8/6/2006 [REDACTED]	4.10 100.00/hr	410.00
8/7/2006 [REDACTED] [REDACTED]	5.70 100.00/hr	570.00
8/8/2006 [REDACTED] [REDACTED] [REDACTED]	5.30 100.00/hr	530.00
8/9/2006 [REDACTED] [REDACTED] [REDACTED]	9.90 100.00/hr	990.00
8/10/2006 [REDACTED]	3.20 100.00/hr	320.00

APP - 70

	<u>Hrs/Rate</u>	<u>Amount</u>
8/11/2006 [REDACTED]	8.10 100.00/hr	810.00
8/12/2006 [REDACTED]	0.60 75.00/hr	45.00
8/13/2006 [REDACTED]	0.40 75.00/hr	30.00
8/19/2006 [REDACTED]	4.60 75.00/hr	345.00
8/20/2006 [REDACTED]	8.20 75.00/hr	615.00
8/23/2006 [REDACTED]	3.20 75.00/hr	240.00
8/24/2006 [REDACTED]	8.30 75.00/hr	622.50
8/25/2006 [REDACTED]	8.00 75.00/hr	600.00
8/29/2006 [REDACTED]	0.70 75.00/hr	52.50
9/8/2006 [REDACTED]	0.70 75.00/hr	52.50
9/9/2006 [REDACTED]	4.20 75.00/hr	315.00
9/10/2006 [REDACTED]	6.90 75.00/hr	517.50
9/11/2006 [REDACTED]	8.30 75.00/hr	622.50
9/12/2006 [REDACTED]	12.40 75.00/hr	930.00
9/21/2006 [REDACTED]	6.70 75.00/hr	502.50
9/28/2006 [REDACTED]	8.20 75.00/hr	615.00

APP - 71

	<u>Hrs/Rate</u>	<u>Amount</u>
9/30/2006 [REDACTED]	7.10 75.00/hr	532.50
10/2/2006 [REDACTED]	1.10 75.00/hr	82.50
10/9/2006 [REDACTED]	0.90 75.00/hr	67.50
10/13/2006 [REDACTED]	0.20 75.00/hr	15.00
10/18/2006 [REDACTED]	0.80 75.00/hr	60.00
10/19/2006 [REDACTED]	1.80 75.00/hr	135.00
10/20/2006 [REDACTED]	0.20 75.00/hr	15.00
10/22/2006 [REDACTED]	1.60 75.00/hr	120.00
10/23/2006 [REDACTED]	0.50 75.00/hr	37.50
10/24/2006 [REDACTED]	13.50 75.00/hr	1,012.50
10/27/2006 [REDACTED]	0.60 75.00/hr	45.00
10/31/2006 [REDACTED]	0.50 75.00/hr	37.50
11/1/2006 [REDACTED]	0.40 75.00/hr	30.00
11/2/2006 [REDACTED]	2.10 75.00/hr	157.50
11/3/2006 [REDACTED]	0.70 75.00/hr	52.50
11/4/2006 [REDACTED]	5.60 75.00/hr	420.00
11/5/2006 [REDACTED]	0.80 75.00/hr	60.00

APP - 72

	<u>Hrs/Rate</u>	<u>Amount</u>
11/6/2006 [REDACTED]	0.40 75.00/hr	30.00
11/7/2006 [REDACTED]	1.10 75.00/hr	82.50
11/8/2006 [REDACTED]	2.60 75.00/hr	195.00
11/10/2006 [REDACTED]	5.80 75.00/hr	435.00
11/11/2006 [REDACTED]	6.20 75.00/hr	465.00
11/12/2006 [REDACTED]	8.50 75.00/hr	637.50
11/13/2006 [REDACTED]	4.90 75.00/hr	367.50
11/14/2006 [REDACTED]	2.70 75.00/hr	202.50
11/15/2006 [REDACTED]	3.10 75.00/hr	232.50
11/16/2006 [REDACTED]	5.30 75.00/hr	397.50
11/17/2006 [REDACTED]	14.50 75.00/hr	1,087.50
11/27/2006 [REDACTED]	1.10 75.00/hr	82.50
11/30/2006 [REDACTED]	1.30 75.00/hr	97.50
12/1/2006 [REDACTED]	0.40 75.00/hr	30.00
12/2/2006 [REDACTED]	7.90 75.00/hr	592.50

APP - 73

Ms. Gloria Hintze, Manager

	Hrs/Rate	Amount
12/3/2006 [REDACTED]	1.30 75.00/hr	97.50
12/11/2006 [REDACTED]	0.30 75.00/hr	22.50
12/12/2006 [REDACTED]	0.60 75.00/hr	45.00
12/14/2006 [REDACTED]	0.70 75.00/hr	52.50
12/17/2006 [REDACTED]	3.90 75.00/hr	292.50
12/18/2006 [REDACTED]	0.50 75.00/hr	37.50

SUBTOTAL:

234.30 18,607.50

For professional services rendered

234.30 \$18,607.50

Additional Charges :

Meals

8/20/2006 Meal in Yakima.		5.95
8/25/2006 Meal at hotel 8/25/06		12.77
11/16/2006 Dinner - MK High & K. Lee (on Hilton bill)	\$ 20.66	<del>53.82</del>
11/17/2006 Lunch at Mel's - P. Connick, MK High & K. Lee.	\$ 31.84	<del>95.52</del>
11-17-06 - DINNER - JACK IN THE BOX	4.08	

SUBTOTAL:

81.30 167.90

Mileage

8/11/2006 Travel to and from Yakima [REDACTED]	154.42
8/20/2006 Travel to and from Yakima. [REDACTED]	154.42
8/24/2006 Travel to and from Yakima. [REDACTED]	155.75
9/11/2006 Travel to and from Yakima. - 353 miles	157.09
9/21/2006 Travel to and from Seattle to work at P. Connick's office. - 34 miles	15.13

Ms. Gloria Hintze, Manager

Page 6

	Amount
9/28/2006 Travel to and from Yakima. - 349 miles	155.31
10/24/2006 travel to and from Yakima. - 352 miles	157.09
11/12/2006 Travel to and from Yakima. - 347 miles	154.42 <del>157.09</del>
11/16/2006 Travel to and from Yakima with paralegal K. Lee - 353 miles	157.09

SUBTOTAL:

1360.69

[ 1,649.21 ]

hotel

8/24/2006 Hotel expense room & tax.	68.22
9/11/2006 Lodging in Yakima.	68.22
11/16/2006 Hotel expense for MK High and paralegal K. Lee.	136.44

SUBTOTAL:

[ 272.88 ]

Total costs

~~62,089.88~~

Total amount of this bill

\$20,697.15

Previous balance

\$15,858.71

8/2/2006 Payment - Thank You. Check No. 436684

(\$6,171.38)

9/6/2006 Payment - Thank You (adjusted 10,033.86)

(\$9,687.33)

Total payments and adjustments

(\$15,858.71)

Balance due

~~\$20,697.15~~

# 20,222.37

Time 18:50 - 50+

Miles 1:260 69+

Hotel 272.88+

Misc 81.30+

20,222.37

APP - 75



0-20+  
 0-80+  
 1-80+  
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 1-60+  
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 0-445+  
 1-260-69+

*Miles*

192-9+  
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 14-467-50+

0+\*  
 68-22+  
 68-22+  
 136-44+  
 272-88+

*Hotel*

*Time*

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 14-467-50+  
 4-140-00+  
 18-607-50+

0+\*  
 5-95+  
 12-77+  
 26-66+  
 31-84+  
 4-08+  
 81-30+

*Miles*



*Meadow*

401 East Yakima Avenue • Yakima, WA 98901  
 Phone (509) 454-1111 • Fax (509) 248-3344  
 Reservations  
 www.StayHGI.com or 1 877 STAY HGI

Name & Address

HIGH, MARY KAY  
 917 PACIFIC AVE  
 SUITE 408  
 TACOMA, WA 98402  
 US

Room 401/K1RZ.  
 Arrival Date 08/24/08 8:59PM  
 Departure Date 08/25/08 8:28AM |  
 Adult/Child 1/0  
 Room Rate 60.00

RATE PLAN LV3

HH# 711803128 BLUE  
 AL: AS #19090746  
 CAR:

*Folio*

CONFIRMATION NUMBER : 3250748553

08/25/08 PAGE 1

DATE	DESCRIPTION	ID	REF. NO.	CHARGES	CREDITS	BALANCE
08/24/08	GUEST ROOM	DAVID	85681	\$60.00		
08/24/08	OCCUPANCY TAX	DAVID	85681	\$4.92		
08/24/08	CITY TAX	DAVID	85681	\$1.80		
08/24/08	COUNTY TAX	DAVID	85681	\$1.50		
08/25/08	*GREAT AMERICAN GRILL	LINTR	85795	\$12.77		
08/25/08	AX *1003	DAVID	85795		\$80.99	
	BALANCE					\$0.00
EXPENSE REPORT SUMMARY						
		08/24/08	08/25/08	STAY TOTAL		
ROOM & TAX	\$68.22	\$0.00	\$68.22			
FOOD & BEVERAGE	\$0.00	\$12.77	\$12.77			
DAILY TOTAL	\$68.22	\$12.77	\$80.99			
<p><i>You have earned approximately 600 Hilton points and approximately 60 miles with ALASKA AIRLINES for this stay. For reservations and to check your point balance, visit hiltonfamily.com.</i></p> <p><i>Thank you for staying with us, your business is greatly appreciated. If for any reason your expectations have not been met, please notify one of our staff members before departing.</i></p>						



ACCOUNT NO.  
AX \*1003

CARD MEMBER NAME  
HIGH, MARY KAY

ESTABLISHMENT NO. & LOCATION

CARD MEMBER'S SIGNATURE  
X

DATE OF CHARGE  
08/24/08

FOI/O NO./CHECK NO.  
36252, A

AUTHORIZATION  
585007

PURCHASES & SERVICES

TAXES

TIPS & MISC.

TOTAL AMOUNT



PAYMENT DUE UPON RECEIPT

APP - 78



401 East Yakima Avenue • Yakima, WA 98901  
 Phone (509) 454-1111 • Fax (509) 248-3344  
 Reservations  
 www.StayHGI.com or 1 877 STAY HGI

Name & Address

HIGH, MARY KAY  
 917 PACIFIC AVE SUITE 216

TACOMA, WA 98402  
 US

LAW OFFICE OF MARY KAY HIGH

Room 405/K1RZ  
 Arrival Date 11/16/06 9:03PM  
 Departure Date 11/17/06

Adult/Child 1/0  
 Room Rate 80.00

RATE PLAN L-GV

hi# 387038319 BLUE

AL:

BONUS AL:

CAR:

CONFIRMATION NUMBER : 3257438999

11/17/06 PAGE 1

DATE	DESCRIPTION	ID	REF. NO.	CHARGES	CREDITS	BALANCE
11/16/06	*GREAT AMERICAN GRILL	LINTR	102592	\$26.68		
11/16/06	GUEST ROOM	DAVID	102652	\$80.00		
11/16/06	OCCUPANCY TAX	DAVID	102652	\$4.92		
11/16/06	CITY TAX	DAVID	102592	\$1.80		
11/16/06	COUNTY TAX	DAVID	102652	\$1.50		
	WILL BE SETTLED TO AX *1003					\$84.88
	EFFECTIVE BALANCE OF					\$0.00
EXPENSE REPORT SUMMARY						
	11/16/06 STAY TOTAL					
ROOM & TAX	\$68.22	\$68.22				
FOOD & BEVERAGE	\$26.68	\$26.68				
DAILY TOTAL	\$94.88	\$94.88				
<p>Hilton Honors (R) stays post to your account within 72 hours of checkout. To check your earnings for this stay or any other stay at more than 2,700 hotels worldwide visit <a href="http://www.hiltonhonors.com">www.hiltonhonors.com</a></p> <p>Thank you for staying with us, your business is greatly appreciated. If for any reason your expectations have not been met, please notify one of our staff members before departing.</p>						

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### Zip-Out Check-Out®

Good Morning! We hope you enjoyed your stay. With Zip-Out Check-Out® there is no need to stop at the Front Desk to check out.

- Please review this statement. It is a record of your charges as of late last evening.
- For any charges after your account was prepared, you may:
  - + pay at the time of purchase.
  - + charge purchases to your account, then stop by the Front Desk for an updated statement.
  - + or request an updated statement be mailed to you within two business days.

If the statement meets with your approval, simply press the Zip-Out Check-Out button on your guest room telephone. Your account will be automatically checked out and you may use this statement as your receipt. Feel free to leave your key(s) in the room. Please call the Front Desk if you wish to extend your stay or if you have any questions about your account.

DATE OF CHARGE	FOLIO NO./CHECK NO. 44105 - A
AUTHORIZATION	INITIAL
PURCHASES & SERVICES	
TAXES	
TIPS & MISC.	
TOTAL AMOUNT	

PAYMENT DUE UPON RECEIPT

APP - 79



401 East Yakima Avenue • Yakima, WA 98901  
 Phone (509) 454-1111 • Fax (509) 248-3344  
 Reservations  
 www.StayHGI.com or 1 877 STAY HGI

Name & Address

LEE, KEVIN  
 917 PACIFIC AVE SUITE 216

TACOMA, WA 98402  
 US

LAW OFFICE OF MARY KAY HIGH

Room 408/Q2  
 Arrival Date 11/16/06 9:05PM  
 Departure Date 11/17/06

Adult/Child 1/0  
 Room Rate 60.00

RATE PLAN L-GV

F#: 387038519 BLUE

AL:

BONUS AL:

CAR:

CONFIRMATION NUMBER : 3257439999

11/17/06 PAGE 1

DATE	DESCRIPTION	ID	RTE. NO	CHARGES	CREDITS	BALANCE
11/16/06	GUEST ROOM	DAVID	102656	\$80.00		
11/16/06	OCCUPANCY TAX**	DAVID	102656	\$4.92		
11/16/06	CITY TAX	DAVID	102656	\$1.80		
11/16/06	COUNTY TAX	DAVID	102656	\$1.50		
WILL BE SETTLED TO AX #1003						\$88.22
EFFECTIVE BALANCE OF						\$0.00
EXPENSE REPORT SUMMARY						
11/16/06 STAY TOTAL						
ROOM & TAX	\$68.22	\$68.22				
DAILY TOTAL	\$68.22	\$68.22				

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**Zip-Out Check-Out®**

Good Morning! We hope you enjoyed your stay. With Zip-Out Check-Out® there is no need to stop at the Front Desk to check out.

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DATE OF CHARGE	FOLIO NO./CHECK NO. 44113 A	
AUTHORIZATION	INITIAL	
PURCHASES & SERVICES		
TAXES		
TIPS & MISC.		
TOTAL AMOUNT		

PAYMENT DUE UPON RECEIPT

APP - 80



*Mendez*

401 East Yakima Avenue • Yakima, WA 98901  
 Phone (509) 454-1111 • Fax (509) 248-3344  
 Reservations  
 www.StayHGI.com or 1 877 STAY HGI

Name & Address

HIGH, MARY KAY  
 917 PACIFIC AVE  
 SUITE 406  
 TACOMA, WA 98402  
 US  
 MARY KAY HIGH ATTORNEY

Room 408/K1RZ  
 Arrival Date 09/11/08 10:32PM  
 Departure Date 09/12/08  
 Adult/Child 1/0  
 Room-Rate 80.00

RATE PLAN L-GV

HH# 711803126 BLUE  
 AL: AS #19090748

BONUS AL: CAR:

CONFIRMATION NUMBER : 3251004281

09/12/08 PAGE 1

DATE	DESCRIPTION	ID	REF. NO.	CHARGES	CREDITS	BALANCE
09/11/08	GUEST ROOM	DAVID	72880	\$60.00		
09/11/08	OCCUPANCY TAX	DAVID	72880	\$4.82		
09/11/08	CITY TAX	DAVID	72880	\$1.80		
09/11/08	COUNTY TAX	DAVID	72880	\$1.50		
	WILL BE SETTLED TO AX *1003					\$88.22
	EFFECTIVE BALANCE OF					\$0.00
EXPENSE REPORT SUMMARY						
	09/11/08 STAY TOTAL					
ROOM & TAX	\$88.22	\$88.22				
DAILY TOTAL	\$88.22	\$88.22				
<p>You have earned approximately 800 Hilton points and approximately 60 miles with ALASKA AIRLINES for this stay. For reservations and to check your point balance, visit <a href="http://hiltonfamily.com">hiltonfamily.com</a>.</p> <p>Thank you for staying with us, your business is greatly appreciated. If for any reason your expectations have not been met, please notify one of our staff members before departing.</p>						

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**Zip-Out Check-Out®**

Good Morning! We hope you enjoyed your stay. With Zip-Out Check-Out® there is no need to stop at the Front Desk to check out.

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- For any charges after your account was prepared, you may:
  - + pay at the time of purchase.
  - + charge purchases to your account, then stop by the Front Desk for an updated statement.
  - + or request an updated statement be mailed to you within two business days.

If the statement meets with your approval, simply press the Zip-Out Check-Out button on your guest room telephone. Your account will be automatically checked out and you may use this statement as your receipt. Feel free to leave your key(s) in the room. Please call the Front Desk if you wish to extend your stay or if you have any questions about your account.

DATE OF CHARGE	FOLIO NO./CHECK NO. 40211 A
AUTHORIZATION	INITIAL
PURCHASES & SERVICES	
TAXES	
TIPS & MISC.	
TOTAL AMOUNT	

PAYMENT DUE UPON RECEIPT

APP - 81

**JACK IN THE BOX**

*High +  
Low Diner*

CARRY OUT # 316

Tel (509) 452-8250  
11/17/06

JIB# 8315  
06:58:05 PM  
EMP CERVANTES

1 Jumbo + FF (HG)  
Pls SH Fry  
Sml Drink

Subtotal	3.77
Tax	0.31
Total	4.08
CASH	20.00
Change	15.92

Thank you for your visit  
302516

J B05

Thank You!

Date

Amount \$

**MEL'S DINER**

2889-842(605)  
314 North 1st Street • Yakima, WA 98901

*Mel's Diner  
Lunch - Dinner*  
YOUR RECEIPT

THANK YOU

*3 meals  
@ 12.00*

11-17-06  
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\* 12-47

# ATTACHMENT D

APP - 83

*Redacted*

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**CAUTION THIS MOTION IS FILED EX PARTE AND  
MUST BE MAINTAINED UNDER SEAL**

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR YAKIMA COUNTY

2006 JUN 23 PM 4 09  
**FILED**  
KIM H. EATON  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA, WASHINGTON

STATE OF WASHINGTON,  
Plaintiff,  
v.  
MARIO MENDEZ,  
Respondent.

NO. 05-1-00507  
SEALED EX PARTE MOTION,  
WITHDRAWAL AND SUBSTITUTION  
OF APPOINTED COUNSEL

COMES NOW court appointed counsel, Mary Kay High, and moves this Court for an order for withdrawal and substitution of Peter T. Connick, WSBA No. 12560, for Chales H. Dold as court appointed counsel and reassignment of Ms. High as lead counsel and substitute counsel as second chair counsel. Furthermore, Defendant requests that Mr. Dold be directed to turn over his complete case files to Ms. High no later than June 27, 2006.

This motion is based on the records and files herein, Wa. Const. Art. I § 22 (amend. 10); U.S. Const. Sixth amend.; U.S. Const. Fourteenth amend § 1; CrR 3.1(e) and RPC 1.15(a)(3) and the declaration of Mary Kay High.

**SEALED**

MOTION TO WITHDRAW - 1  
[MOTION TO withdraw]

LAW OFFICES  
MARY KAY HIGH  
108 TACOMA AVENUE NORTH  
TACOMA, WASHINGTON 98403  
PHONE 253-8382

APP - 84

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DATED: June 21, 2006.

LAW OFFICE OF MARY KAY HIGH

By Mary Kay High  
Mary Kay High  
WSBA No. 20123  
Attorney for Defendant Mendez

APP - 85

MOTION TO WITHDRAW - 2  
[MOTION TO withdraw]

LAW OFFICES  
MARY KAY HIGH  
109 TACOMA AVENUE NORTH  
TACOMA, WASHINGTON 98403  
PHONE 253 8366

9

CAUTION THIS PLEADING IS FILED EX PARTE AND MUST BE MAINTAINED UNDER SEAL

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SUPERIOR COURT OF THE STATE OF  
WASHINGTON  
FOR YAKIMA COUNTY

2006 JUN 23 PM 4 09  
FILED  
KIM M. EATON  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA, WASHINGTON

STATE OF WASHINGTON,  
Plaintiff,

v.

MARIO GIL MENDEZ,  
Defendant.

NO. 05-1-00507-1

SEALED MEMORANDUM  
AND DECLARATION IN  
SUPPORT OF WITHDRAWAL  
AND SUBSTITUTION OF  
COUNSEL

FACTS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - I

LAW OFFICES  
MARY KAY HIGH  
817 PACIFIC AVENUE, SUITE 408  
TACOMA, WASHINGTON 98402  
(253) 572-8885

[Mendez sealed ex parte memo & declaration in support of  
withdrawal]

APP - 86

SEALED

**CAUTION THIS PLEADING IS FILED EX  
PARTE AND MUST BE MAINTAINED  
UNDER SEAL**

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Mr. Mendez's timely request for the substitution of new counsel will not delay trial or the submittal of his mitigation package, due September 2, 2006.

[REDACTED]

**AUTHORITY**

The request for the substitution of is supported by the Wa. Const. Art. 1 § 22 (amend. 10); U.S. Const. Sixth amend.; U.S. Const. Fourteenth amend § 1, CrR 3.1(e) and RPC 1.15(a)(3) and the attached declaration of counsel.

SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - 2

[Mendez sealed ex parte memo & declaration in support of  
withdrawal]

LAW OFFICES  
MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 408  
TACOMA, WASHINGTON 98402  
(253) 572-8855

APP - 87

CAUTION THIS PLEADING IS FILED EX  
PARTE AND MUST BE MAINTAINED  
UNDER SEAL

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3 As this Court is acutely aware, the penalty of death is qualitatively  
4 and profoundly different from any other sentence. e.g. Ford v.  
5 Wainwright, 477 U.S. 399, 411, 106 S.Ct. 2595, 91 L.Ed.2d 335 (1986)  
6 ("In capital proceedings generally, this Court has demanded that fact  
7 finding procedures aspire to a heightened standard of reliability. This  
8 especial concern is a natural consequence of the knowledge that execution  
9 is the most irremediable and unfathomable of penalties; that death is  
10 different." (citations omitted)); California v. Ramos, 463 U.S. 992, 998-99,  
11 103 S.Ct. 3446, 77 L.Ed.2d 1171 (1983) (recognizing "the qualitative  
12 difference of death from all other punishments"); Eddings v. Oklahoma,  
13 455 U.S. 104,110,118, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982) ("the  
14 imposition' of death by public authority is. . . profoundly different from all  
15 other penalties").  
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18 CrR 3.1(e) permits withdrawal of an attorney where good and  
19 sufficient reason is shown. The standard of review is whether the trial  
20 court has abused its discretion in granting the withdrawal. State v.  
21 Rosborough, 62 Wn. App. 341, 346, 814 P.2d 679, review denied, 118  
22 Wn.2d 1003, 822P.2d 287 (1991). [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25  
26 SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - 3

[Memorandum sealed ex parte memo & declaration in support of  
withdrawal]

LAW OFFICES  
MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 408  
TACOMA, WASHINGTON 98402  
(253) 572-8865

APP - 88

CAUTION THIS PLEADING IS FILED EX  
PARTE AND MUST BE MAINTAINED  
UNDER SEAL

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[REDACTED]

CONCLUSION

[REDACTED]

[REDACTED] withdrawal and substitution of  
counsel is appropriate and prudent.

DATED: June <sup>23</sup> 23, 2006

By Mary Kay High  
Mary Kay High  
Attorney for Defendant  
WSBA No. 20123  
917 Pacific Avenue, Suite 406  
Tacoma, Washington 98402  
(253) 572-6865

DECLARATION OF MARY KAY HIGH

I. I am the appointed counsel in this matter, assigned to  
represent Mr. Mendez. I am capital qualified counsel recognized by the  
State Supreme Court under the SPRC 2 listing.

SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - 4

[Mendez sealed ex parte memo & declaration in support of  
withdrawal]

LAW OFFICES  
MARY KAY HIGH  
817 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865

APP - 89

CAUTION THIS PLEADING IS FILED EX  
PARTE AND MUST BE MAINTAINED  
UNDER SEAL

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2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

6. Michael Iaria and Neil Fox, representing the Mexican  
National Government, [REDACTED]

[REDACTED]

[REDACTED]

7. SPRC 2 mandates that those accused of aggravated murder  
and possibly facing the death penalty be afforded two attorneys.

SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - 5

[Mendez sealed ex parte in support of  
withdrawal]

LAW OFFICES  
MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 408  
TACOMA, WASHINGTON 98402  
(253) 572-4865

APP - 90

CAUTION THIS PLEADING IS FILED EX  
PARTE AND MUST BE MAINTAINED  
UNDER SEAL

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8. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS  
OF THE STATE OF WASHINGTON THAT THE FOREGOING IS  
TRUE AND CORRECT.

DATED: June 13<sup>23</sup>, 2006 at Tacoma, Washington.

By Mary Kay High  
Mary Kay High  
WSBA No. 20123  
917 Pacific Avenue, Suite 406  
Tacoma, Washington 98402  
(253) 572-6865

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SEALED MEMORANDUM &  
DECLARATION IN SUPPORT RE  
WITHDRAWAL AND SUBSTITUTION  
OF COUNSEL - 6

[Content sealed ex parte re: & declaration in support of  
withdrawal]

LAW OFFICES  
MARY KAY HIGH  
917 PACIFIC AVENUE, SUITE 406  
TACOMA, WASHINGTON 98402  
(253) 572-6865

# ATTACHMENT E

APP - 92

Red

7

FILED

Judge Lust to Sign & Return to Sheila 31

Auditors Copy / Pat Signs.

IN THE SUPERIOR COURT OF THE STATE WASHINGTON  
IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON )  
Plaintiff, )  
vs. )  
MARIO GIL MENDEZ )  
Defendant. )

NO. 05-1-00507-1

**\*\* UNDER SEAL \*\***

**COST BILL FOR  
PROFESSIONAL  
SERVICES**

Services \$ 8,320.00  
570.05

Charles H. Dold  
Box 775  
Everett WA 98206-0775

TOTAL \$8,890.05

ORDERS dated 12/9/2005

Not To Exceed amount: \$100.00 per hour / No "not to exceed" amount listed.

Previous Cost Bills / Amounts Paid to this party: SEE NEXT PAGE.

SEALED

GL# 1 451-4102 PROFESSIONAL SERVICES

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36

9 11/18/2005	\$100/hr as Death Penalty Case: \$75/hr after that	Charles H. Dold	Lead Defense Atty	
25 01-10-2005	Air Fair Amt Specific	Charles H. Dold		
		Charles H. Dold	3-1-06	10,490.00
		Charles H. Dold	3-1-06	542.05
		Charles H. Dold	3-16-06	8,320.00
		Charles H. Dold	3-16-06	570.05

Gloria Hintze

From: Chad Dold [cdold@speakeasy.net]  
Sent: Thursday, March 16, 2006 7:20 AM  
To: Gloria Hintze  
Subject: 2-16 to 3-16 billing for vendor

FILED  
2006 MAR 16 AM 11 16  
KIP ELLIOTT  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA, WASHINGTON

**CHARLES H. DOLD**  
Attorney at Law  
Box 775  
Everett, WA 98206-0775  
425-823-4123 cdold@speakeasy.net

March 16, 2006

Gloria Hintze  
Court Administrator  
Yakima County Superior Court  
Yakima, WA

RE: Feb-March Billing for Services  
State v. Mario Mendez  
Vendor #D1078

Date	Time	Object	Miles
2/16	5	[REDACTED]	31
	3	[REDACTED]	
2/17	5	[REDACTED]	
	0.4	[REDACTED]	
	0.6	[REDACTED]	
	1	[REDACTED]	
	2	[REDACTED]	
2/18	6	[REDACTED]	300
	8	[REDACTED]	
2/19	1	[REDACTED]	
	0.5	[REDACTED]	
	0.3	[REDACTED]	
2/21	3	[REDACTED]	
2/27	0.9	[REDACTED]	
2/28	2.8	[REDACTED]	
3/1	0.9	[REDACTED]	
3/2	6	[REDACTED]	350
	1.5	[REDACTED]	
	1	[REDACTED]	
	0.8	[REDACTED]	
3/3	2	[REDACTED]	
	2.2	[REDACTED]	

83-2x  
100-00=  
8,320-00\*

0-#  
0-31+  
3-00+  
3-50+  
3-00+  
3-00+  
12-81\*

mileage 1,281-x  
0-7x5=  
570-05\*

0-#

**APPROVED**

3-16-06  
GH

3/16/2006

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3/4	0.7	[REDACTED]			
3/6	6	[REDACTED]	300		5.00+
3/7	1.7	[REDACTED]			3.00+
	0.5	[REDACTED]			5.00+
3/8	1.7	[REDACTED]		3/8	0.40+
	0.6	[REDACTED]			0.60+
3/9	0.5	[REDACTED]		3/9	1.00+
	0.3	[REDACTED]			2.00+
	0.6	[REDACTED]			6.00+
3/10	6	[REDACTED]	300	3/10	8.00+
	1.2	[REDACTED]			1.00+
	1	[REDACTED]			0.50+
	0.4	[REDACTED]			0.30+
3/13	1	[REDACTED]		3/13	3.00+
	2	[REDACTED]			0.90+
3/14	0.6	[REDACTED]		3/14	2.80+
	0.5	[REDACTED]			0.90+
	0.8	[REDACTED]			6.00+
	1.5	[REDACTED]			1.50+
3/15	0.5	[REDACTED]		3/15	1.00+
	0.6	[REDACTED]			0.80+
	0.4	[REDACTED]			2.00+
	0.6	[REDACTED]			2.20+
Totals	83.2 hours		1281 miles		0.70+

*Time*

Time: \$8,320  
Mileage: \$570.05

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3/16/2006

83.20\*

FILED

2005 NOV 18 PM 3 32

KIM M. EATON  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA COUNTY, WASHINGTON  
IN THE SUPERIOR COURT OF YAKIMA COUNTY, WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

vs.

MARIO GIL MENDEZ,,

Defendant.

No. 05-1-00507-1

ORDER APPOINTING ATTORNEY  
AT PUBLIC EXPENSE

NATURE OF CHARGE(S): COUNT 1: AGGRAVATED FIRST DEGREE MURDER  
COUNT 2: AGGRAVATED FIRST DEGREE MURDER  
COUNT 3: ATTEMPTED FIRST DEGREE MURDER  
COUNT 4: ATTEMPTED FIRST DEGREE MURDER  
COUNT 5: FIRST DEGREE ROBBERY 1  
COUNT 6: FIRST DEGREE BURGLARY  
COUNT 7: UNLAWFUL POSSESSION FIREARM

THIS MATTER having come on before this court upon the [ X ] advice and request of the county public defender/ agency [ ] its own motion [ ] on motion of the defendant for the appointment of alternate counsel, and the court finding that the defendant is indigent and cannot afford to pay the cost of counsel and/or defense and that an order providing such services is necessary, now therefore:

ORDER

IT IS HEREBY ORDERED: CHARLES HENRI DOLD, WSBA#8868, PO Box 775, Everett, WA 98208-0775 telephone 425 828-4123 is appointed AS LEAD COUNSEL to represent the defendant at public expense and is substituted for currently appointed counsel. The Lead Attorney shall be compensated for reasonable and necessary professional services at a rate of \$100/hour so long as death remains a possible sanction in the above case and if not then at the rate of \$75/hour.

IT FURTHER ORDERED: A second attorney will be appointed AS SECOND COUNSEL to represent the defendant at public expense on the nomination of the LEAD COUNSEL. The Attorney shall be compensated for reasonable and necessary professional services at a rate to be determined by the court after consultation with counsel, not less than \$75/hour, so long as death remains a possible sanction in the above case and if not, then at a rate to be determined by the court after consultation with counsel.

All normal office expenses and general overhead expenses are included in the attorney's hourly rate/ compensation set above. Reasonable and necessary out of pocket expenses will be paid upon proof of

ORDER APPOINTING ATTORNEY  
AT PUBLIC EXPENSE - PAGE 1

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FILED

1 the cost accrued or expended. All extraordinary expenses must be requested in writing and approved in  
2 advance.

3 Reasonable and necessary expense for travel by vehicle in the State of Washington (more than twenty  
4 (20) miles from attorney's principal place of business) will be compensated at the hourly rate above plus  
5 mileage at the then current rate allowed by Yakima County travel policy. Reasonable and necessary cost  
6 of overnight accommodations and meals while traveling are subject to the per diems allowed under the  
7 Yakima County Superior Court "Travel Expense Policy" dated March 8, 2005. Travel out of state by the  
8 attorney is subject to advance authorization.

9 The Court may allow additional compensation when it is determined that further compensation is  
10 reasonable and necessary under the circumstances of the case and/or warranted to prevent undue  
11 financial hardship to the attorney.

12 **OTHER INDIGENT DEFENSE SERVICES:**

13 *Investigators:* Reasonable and necessary investigative services may be requested from the court  
14 under CrR 3.1 or other authority and if granted will be administered by the court.

15 *Interpreting Services:* Reasonable and necessary interpreting services for out of court purposes may be  
16 requested from the court under CrR 3.1 or other authority and if granted will be administered by the  
17 court or advanced by the attorney as an out of pocket expense and reimbursed as part of the interim or  
18 final billing subject to approval by the court. The court will provide interpreting services for court  
19 proceedings.

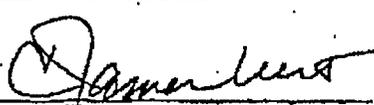
20 *Transcripts/Court Reporter Services:* Reasonable and necessary court reporting services and  
21 transcripts, for trial court purposes only, may be requested and provided through the court or advanced by  
22 the attorney as an out of pocket expense and reimbursed as part of the interim or final billing subject to  
23 approval by the court. Transcripts for appeals are by separate order under the appropriate rule.

24 *Experts and Other Services:* Expert witness services and any other services shall be by motion to the  
25 appropriate court pursuant to CrR 3.1 or other authority and, if granted, shall be administered and paid by  
26 the court.

27 **ADMINISTRATION OF ORDER:**

28 All billings are subject to the approval by the court. Interim billings will be made on a monthly basis.  
29 At a minimum, billings must include: a statement of hours kept to the nearest tenth of an hour with a  
30 description of services in sufficient detail to allow review by the Court, a certification or attestation of  
31 the attorney and proof of out of pocket expenses accrued or expended.

32 DATED this 10 day of Nov, 2005.

33   
34 JUDGE

35 Presented by:

36   
37 \_\_\_\_\_ WSBA # \_\_\_\_\_  
38 Director/Assignment Senior Attorney  
39 Yakima County Department of Assigned Counsel

40 ORDER APPOINTING ATTORNEY  
41 AT PUBLIC EXPENSE - PAGE 2

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

**CERTIFICATE OF PROSECUTING ATTORNEY**

I HEREBY CERTIFY, That I have examined the foregoing Cost Bill and that the same is just and correct.

\_\_\_\_\_  
RONALD ZIRKLE  
Prosecuting Attorney  
\_\_\_\_\_  
Deputy

**CERTIFICATE OF PRESIDING JUDGE**

I HEREBY CERTIFY, That I have examined the foregoing Cost Bill and the same is hereby allowed and order paid as therein set out.

\_\_\_\_\_  
*[Signature]*  
Judge Superior Court

**CERTIFICATE OF CLERK**

I, KIM M. EATON, Clerk of the above entitled Court, do hereby certify that the above is a true copy of the original Cost Bill as the same now appears in the records of my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the SEAL of said Court this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
KIM M. EATON  
County Clerk of Superior Court  
\_\_\_\_\_  
Deputy Clerk

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

**CERTIFICATE FOR COURT ADMINISTRATOR**

I, KIM M. EATON, County Clerk and Clerk of the above entitled Court, do hereby certify that the above and foregoing Cost Bill is a true and correct copy of so much of the original cost bill as is chargeable to and payable by the State of Washington and that the defendant herein has been convicted and sentenced as follows:

IN TESTIMONY WHEREOF, I have set my hand and affixed the SEAL of said Court this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
KIM M. EATON  
County Clerk of Superior Court  
\_\_\_\_\_  
Deputy Clerk

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