

65379-2

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No. 65379-2-I  
No.10-2-00409-2.SEA

**COURT OF APPEALS.  
DIVISION I  
OF THE STATE OF WASHINGTON**

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**RONALD SABANDO AND KRISTEENA SABANDO,  
Respondents**

**V**

**THOMAS OFNER, Appellant**

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**RESPONDENTS BRIEF**

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**Ronald Sabando  
Kristeena Sabando  
1916 Pike Pl STE12-33  
Seattle, WA 98101**

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COURT OF APPEALS  
DIVISION I  
FILED  


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## **I. Assignments of Error**

- 1 Superior court should have quizzed council as to whether means, alternative to checking the Computerized docket, had been explored by my lawyer, in an effort to locate time and place of the Missed hearing, and if not why.
- 2 Because of this failure, Superior court was unable to establish that my council was being Mute on this crucial factor in the case, despite my instructions.
- 3 My council's performance caused a pivotal point to be withheld from the and therefore fell below and objective standard of reasonableness. But for my council's stubborn will to act against my specific instruction, which was to tell about my formers attorney's culpability in causing me to miss the hearing, I am confident that the Superior Court's finding would have been in my favor. State V Brett 126 Wn2d 136, 199, 829 P.2d 179(1955) After all, I was, and am, only asking that my right to my day in court be restored.

## **II. Issues Pertaining to Assignments of Error**

1. The Superior Court did not error - It is not the job of a sitting judge to quiz the attorney that is in court representing the defendant
2. The Attorney was given an opportunity to speak on behalf of Mr. Ofner during the hearing in question.
3. Mr. Ofner had the opportunity to show up in court with his lawyer. Mr. Ofner opted to have his attorney represent him in court instead of coming to court himself. This is his right to be represented by council – it was Mr. Ofner who made the choice to not be present during the proceedings but this does not mean he did not have his day in court. Mr. Ofner had a team of competent attorneys present representing him.

## **III. Statement of the Case**

### **1. Introduction**

Mr. Ofner has been harassing my husband and me for almost 5 years – via email (which he obtained on my website) and in person. At the end of our rope the Pike Place Market Security and the Seattle Police Department told us the only way to be safe is to have an anti harassment order. Under

the direction of the Pike Place Market and the Seattle Police Department this is what we did.

## 2. Facts

- On 02-1-2010 I went to the Superior court and got a temporary protection order and services papers with a court date of 02-16-2010 with instruction that Mr.Ofner had to be served with two weeks notice.
- On 02-10-2010 I realized that Mr. Ofner was out of town and would not have enough time to respond to the court date of 02-16-2010 so I went back to the court house that day 02-10-2010 and filed a motion to Modify the court date to give Mr.Ofner the two weeks. The judge granted the motion to change the date of court to 02-23-2010.
- Mr.Ofner was served with these papers on that same day 02-10-2010 with service papers with a court date if 02-23-2010.
- On 02-23-2010 Ronald Sabando and Kristeena Sabando went to court - the Judge had notified us that the records system had been down and everyone would have to have copies of the Service Papers – I did not have the record from Seattle Police Department – and found out that the Motion to change the date had not been entered into the court system with the new court date. The judge reinstated the protection ordered and vacated the prior judgment of 02-16-2010 to dismiss the case. I was given new service papers with a new court date of 03-09-2010.
- Mr. Willie Rosenthal served Mr. Ofner again with paper to appear in court on 03-09-2010 on 02-23-2010 at 12:12 pm at the Pike Place Market.
- On 03-09-2010 Mr. Ofner's attorney appeared in court for Mr.Ofner. The Judge gave Mr. Ofner's attorney the opportunity to present his side with Mr. Ofner's Declaration.
- The Judge ruled and granted the Protection Order.
- On 03-30-2010 Ronald Sabando and Kristeena Sabando were served with Notice to Appear on -4-13-2010. Mr.Ofner Filed a Motion to Terminate due to the fact he cannot operate his business due to the restraints of the Order of Protection.
- On 04-13-2010 we appeared in court and an attorney represented Mr. Ofner again. The attorney had her opportunity to present her case and the Judge dismissed the Motion to Terminate the Protection Order.

#### IV. Summary of Argument

1. Mr. Ofner claims he did not get his day in court because he lost the papers served to him by uniformed Seattle police officers on 02-10-2010 for the court date of 02-23-2010.
2. Mr. Ofner also states that he lost his case on that day because he was not present. In fact the case was continued on -2-23-2010 due to the fact that I did not have a copy from the Seattle Police Office of Return of Service – The court date was moved to 03-09-2010 and Mr. Willie Rosenthal served new papers to Mr. Ofner at the Pike Place Market that same day 02-23-2010 at 12:12.

#### V. Argument

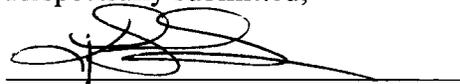
Mr. Ofner claims he lost his paper work and did not know when to appear in court .In fact Mr. Ofner had many opportunities to appear in court. And was served with Notices to appear twice and Mr. Ofner served us with a notice to appear. Mr. Ofner was represented by an attorney at these hearings and was given the opportunity to state his case.

#### VI. Conclusion

No new facts were brought to light. Mr. Ofner hired competent attorneys to represent him. Neither my husband nor I have a PhD like Mr. Ofner but we were able to read and show up for court without representation when we were served with a Notice to Appear. I even called the courthouse the day before the hearing to ask the clerk to check the time and room number. This is just common sense. I feel that this is just more harassment from Mr. Ofner. I just want him to leave me alone he is obsessed with my husband and me. Is it abnormal for someone to try and get closer to a person when the tell you to stay away. I fear for our safety and I hope that the court will not allow Mr. Ofner to continue his ongoing harassment. This is my place of business and we have suffered for 5 years. Every day when I go to work it makes me physically sick knowing that I have to deal with Mr. Ofner.

08-25-2010

Respectfully submitted,



Kristeena Sabando



Ronald Sabando

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**COURT OF APPEALS  
DIVISION 1  
OF THE STATE OF WASHINGTON**

THOMAS OFNER Appellant  
Vs

RONALD SABANDO AND  
KRISTEENA SABANDO  
Respondent(s).

65379-2  
NO:10-2-004009-2.SEA  
**DECLARATION OF SERVICE**

I, Kristeena Sabando, hereby declare as follows:

1. My business/residence address is: 1916 Pike PL STE12-33 Seattle, WA 98101

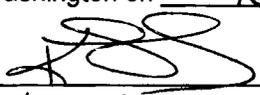
2. On 10-01-10 (Date), I served THOMAS OFNER  
with the following documents:  
**Respondents Brief**

3. Address(es) of service: 8037 NE 169<sup>th</sup> St. Kenmore, WA 98028

4. Service was made as indicated below:  
 By delivery to the person named by a peace officer.  
 By mailing to the person named at the address(es) of service.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Seattle, Washington on 10-01-10  
(Place) (Date)

  
Signature Kristeena Sabando  
Type or Print Name