RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Nov 13, 2014, 4:11 pm
BY RONALD R. CARPENTER
CLERK

RECEIVED BY E-MAIL

No. 90413-8

SUPREME COURT
OF THE STATE OF WASHINGTON

WASHINGTON STATE PATROL, et al

v.

JOHN DOE A, et al

# BRIEF OF APPELLANTS DONNA AND JEFF ZINK

DONNA ZINK
Pro Se Appellant
P.O. Box 263
Mesa, WA 99343
(509) 265-4417
dzink@centurytel.net

ORIGINAL

# Table of Contents

I. Introduction ..... 1

1. Issues Pertaining To Appellants Assignments of Error ..... 6

Temporary Restraining Order – December 9, 2013 (13-2-41107-5 SEA) ..... 6

Temporary Restraining Order – February 21, 2014 (13-2-41107-5 SEA) ..... 6

Temporary Restraining Order – February 27, 2014 (14-2-05984-1 SEA) ..... 7

Order to Proceed in Pseudonym – December 30, 2013 (13-2-41107-5 SEA) ..... 8

Order to Proceed in Pseudonym – April 3, 2014 (14-2-05984-1 SEA) ..... 9

Order for Preliminary Injunction – December 12, 2013 (13-2-41107-5 SEA) ..... 11

Order for Preliminary Injunction – April 18, 2014 (13-2-41107-5 SEA) ..... 12

Order for Preliminary Injunction – April 18, 2014 (14-2-05984-1 SEA) ..... 13

Order Denying WSP Motion for Summary Judgment Dismissal – May 15, 2014 ..... 14

Order Granting Summary Judgment and Permanent Injunction ..... 14

Order Granting WSP Motion for Clarification in Part June 6, 2014 ..... 18

Order Granting Class Certification 13-2-41107-5 SEA April 18, 2014 ..... 18

Order Granting Class Certification 14-05984-1 SEA April 18, 2014 ..... 20

II. Statement of the case ..... 21

III. Issues Presented For Review ..... 24

IV. Argument ..... 24

1. Plaintiffs to an Action Must Provide Their True Identity to the Court - Assignments 12-22 ..... 25

2. Mandatory Requirements of Chapter 42.56 RCW - Assignments 1-11; 23-64 ..... 27

3. The Trial Court Created a Judicial Exemption by Allowing Anonymous Class Certification to Enjoin Any and All Level I Sex Offender Records - Assignments 65-76 ..... 35

V. Per Diem Penalties ..... 38

VI. Costs ..... 39

VII. Publication ..... 39

VIII. Conclusion ..... 40

IX. Certification of Service ..... 41

# TABLE OF AUTHORITIES

**Washington State Supreme Court**

*Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 259 P.3d 190 (2011) ..... 32

*Koenig v. Thurston County*, 175 Wn.2d 837, 287 P.3d 523 (2012) ..... 1, 29

*Livingston v. Cedeno*, 164 Wn.2d 46, 186 P.3d 1055 (2008) ..... 28

*Mount Adams Sch. Dist. v. Cook*, 150 Wn.2d 716, 81 P.3d 111 (2003) ..... 39

*O'Neill v. City of Shoreline*, 170 Wn.2d 138, 240 P.3d 1149 (2010) ..... 28

*Personal Restraint of Meyer*, 142 Wn.2d 608, 16 P.3d 563 (2001) ..... 30, 32, 35

*Rental Hous. Ass'n of Puget Sound v. City of Des Moines*, 165 Wn.2d 525, 199 P.3d 393 (2009) ..... 27

*Resident Action Council v. Seattle Housing Authority*, 177 Wn.2d 417, 299 P.3d 651 (2013) ..... 33

*Sanders v. State*, 169 Wn.2d 827, 240 P.3d 120 (2010) ..... 28, 29

*Seattle Times Co. v. Serko*, 170 Wn.2d 581, 243 P.3d 919 (2010) ..... 3, 29, 37

*Soter v. Cowles*, 162 Wn.2d 716, 174 P.3d 60 (2007) ..... 3, 39

*State v. Ward*, 123 Wn.2d 488, 869 P.2d 1062 (1994) ..... 16

**Washington State Court of Appeals**

*City of Lakewood v. Koenig*, 160 Wn. App. 883, 250 P.3d 113 (Div. II, 2011) ..... 28

*King County v. Sheehan*, 114 Wn. App. 325, 57 P.3d 307 (Div I, 2002) ..... 2, 27, 29

*Zink v. City of Mesa*, 140 Wn. App. 328, 166 P.3d 738 (2007) ..... 4, 28, 32

**Washington State Constitution**

Washington State Constitution, Article 1, section 10 ..... 25

**Revised Code of Washington**

RCW 10.97.050(1) ..... 1, 31

RCW 10.97.140 ..... 1, 31

RCW 36.28A.040(6) ..... 3

RCW 4.24.550 ..... passim

RCW 4.24.550 Legislative Policy 1990 c 3 § 117 ..... 2

RCW 4.24.550(2) ..... 16

RCW 4.24.550(3)(d) ..... 19, 21

RCW 4.24.550(9) ..... 19, 21

RCW 42.56.010(1) ..... 27

RCW 42.56.010(3)(4) ..... 27

RCW 42.56.050 Notes on Legislative Intent – Session Laws of 1987 c 403 ..... 28

RCW 42.56.070 ..... 18, 27

RCW 42.56.070(1) ..... 29

RCW 42.56.100 ..... 3

RCW 42.56.240(8) ..... 3

RCW 42.56.550(3) ..... 29

RCW 42.56.550(4) ..... 4

RCW 9.94A.030 ..... 1, 31

RCW 9.94A.475(2) ..... 1, 31

RCW 9A.44.130 ..... 31

**Rules of Appellate Procedure**

RAP 14 ..... 39

RAP 14.1 ..... 39

RAP 14.1(a) ..... 39

RAP 14.1(b) ..... 39

RAP 18.1 ..... 39

**Superior Court Civil Rules**

CR 10(a)(1) ..... 5, 25, 26

CR 17(a) ..... 5, 25, 26

CR 23(a)(3) ..... 38

CR 23(a)(4) ..... 37

CR 23(b)(2) ..... 37

CR 23(c)(2) ..... 4, 18, 38

CR 23(c)(2)(A-C) ..... 38

CR 23(c)(3) ..... 38

CR 4(b)(1)(i) ..... 5, 25

CR 65 ..... passim

**Rules of General Application, General Rules**

GR 15 ..... 27

GR 23(2)(A-F) ..... 5

# I. INTRODUCTION

The Washington Public Records Act (PRA), is a strongly worded mandate of the people demanding that members of the public be given **timely access to the "publics" records**[1] in order for the people to remain in control over the instruments they created.[2] Under the strongly worded mandate of the PRA all public agencies in Washington State must provide access to the public records owned, used, created or maintained by that specific public agency unless a specific exemption applies to the requested records even if disclosure of the record causes embarrassment or inconvenience to others.[3]

Records of criminal conviction are mandated by our legislature to be open and available to the public.[4] [5] [6] The trial court's order prohibiting access by the public to an

---

[1] RCW 42.56.080 ; RCW 42.56.100 ; RCW 42.56.520

[2] The people insist on remaining informed so that they may maintain control over the instruments that they have created. RCW 42.56.030.

[3] "[C]ourts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others." *Koenig v. Thurston County*, 175 Wn.2d 837, ¶9, 287 P.3d 523 (2012).

[4] Conviction records may be disseminated without restriction. RCW 10.97.050(1).

[5] Nothing in RCW 40.14.060 or 40.14.070 or chapter 42.56 RCW precludes dissemination of criminal history record information, including nonconviction data, for the purposes of this chapter. RCW 10.97.140.

[6] **Any and all** recommended sentencing agreements or plea agreements and **the sentences for any and all felony crimes shall be made and retained as public records** if the felony crime involves: ...**Any most serious offense as defined in this chapter**... RCW 9.94A.475(2).(emphasis added). "**Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies**: (a) Any felony defined under any law as a class A felony... (d) Child molestation in the second degree... (g) Incest when committed against a child under age fourteen... (h) Indecent liberties... (m) Promoting prostitution in the first degree; (n) Rape in the third degree... (p) Sexual exploitation... (s) Any other class B felony offense with a finding of sexual motivation... (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection; (v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 ... (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) ... (w) Any out-of-state conviction for a felony offense with a finding of sexual motivation ... RCW 9.94A.030 Definitions (emphasis added).

entire category of extremely important public records associated with tens of thousands of convicted sex offenders is err of law and an abuse of the trial courts discretion.[7] The trial court has erroneously determined that the "Community Protection Act," statutes enacted by our legislature to protect the public through mandatory notification of sex offenders by law enforcement agencies, was enacted to conceal the identity of sex offenders from public scrutiny. This is a disturbing interpretation of the "Community Protection Act" from a trial court as it jeopardizes public safety through secrecy of a large population of criminals who use secrecy to commit their crimes.

Further, the trial court's decision and findings were based on the identity of the requester and the perceived intended use of the requested records.[8] Under the strong language of the PRA blanket exemption of public records, releasing public records based on the identity of the requester and releasing public records based on the intent of the

---

[7] "**The legislature finds that sex offenders pose a high risk of engaging in sex offenses** even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. **The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety.** Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. **Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.** Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

Therefore, **this state's policy as expressed in RCW 4.24.550 is to require** the exchange of relevant information about sexual predators among public agencies and officials and to authorize **the release of necessary and relevant information about sexual predators to members of the general public.**" [1990 c 3 § 116.] RCW 4.24.550 Legislative Policy 1990 c 3 § 117 **(emphasis added).**

[8] Therefore, Sheehan's **intended use of the information cannot be a basis for denying disclosure.** To conclude otherwise would be to allow agencies to deny access to public records to its most vocal critics, while supplying the same information to its friends. *King County v. Sheehan*, 114 Wn. App. 325, 341, 57 P.3d 307 (2002)(emphasis added).

requester (except in very limited circumstances not at issue here) are forbidden.[9] In determining whether to provide access to public records, public agencies and the courts are mandated to release the records absent an exemption as established by our legislature. If there is no legislative mandate of exemption, the records must be released as expeditiously as possible.

Although public agencies have the option of notifying third parties of a request for public records,[10] notifications must be based on a good faith belief that an exemption applies to the record.[11] To find otherwise is in direct opposition to RCW 42.56.030; RCW 42.56.080; RCW 42.56.100 and RCW 42.56.520 which mandates rapid responses, narrow exemptions, broad access to the "public's" records and subject the agency to penalties for failure to release non-exempt public records in a timely fashion.[12]

---

[9] Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request...RCW 42.56.080.

[10] The records requested from WSP and WASPC are the subject of RCW 36.28A.040(6). As such the release of: 1) the information a request had been made; and 2) the identity and contact information of the requester (including e-mail address) were prohibited pursuant to RCW 42.56.240(8).

[11] The respondents attempt to recast the significance of RCW 42.56.540 by arguing that the May 20 order properly relied on the provision in barring production of the documents because the prosecutor "failed to assert available exemptions despite his constitutional and ethical obligations" to do so.... Even if the prosecutor's office was the agency to which this request for records had been made, **there is no support for the argument that it has an obligation under the PRA to claim exemptions to production.** Indeed, such a requirement would run counter to the PRA's policy of openness, as evinced by its mandate that exemptions be narrowly construed. *See* RCW 42.56.030. *Seattle Times Co. v. Serko*, 170 Wn.2d 581, ¶29, 243 P.3d 919 (2010).

[12] Per Diem Penalties: We take this opportunity to clarify our holdings with regard to per diem penalties. The Court of Appeals implied that the agency can be spared per diem penalties if it initiates an action in superior court. Soter, 131 Wn. App. at 907. That reasoning does not coincide with our holding that **once a court determines that a requester was entitled to inspect public records, the trial court is required to impose a penalty within the statutory range for each day records were withheld.** Koenig v. City of Des Moines, 158 Wn.2d 173, 189, 142 P.3d 162 (2006). The trial court may not reduce the penalty period, even if the requester could have filed suit against the agency sooner than it did. Yousoufian, 152 Wn.2d at 438. As amici explain, the advantage to going to court is that the agency can obtain quick judicial review, curbing, but not eliminating, the accumulation of the per diem penalties. Br. of Amici Schools Risk Mgmt. Pool at 18. *Soter v. Cowles*, 162 Wn.2d 716, ¶63, 174 P.3d 60 (2007).

Allowing agencies to frivolously notify third parties without just cause is not only an erroneous interpretation of the strict requirements of the PRA, [13] the decision has a chilling effect on the public's ability to access the "public's" records under the PRA. Allowing agencies to use third party notification when an agency has no exemption allows the agency to delay and deny release of the "public's" records through: 1) economic loss to the requester who is forced to fight for the legal right to the record in a judicial action without the protections of RCW 42.56.550(4); and 2) harassment and intimidation of a requester if they refuse to relinquish their right to the public records (RP (May 2, 2014) 18:18-22:6).[14] The trial court's decisions and orders are clearly error of law and violate the principle of our strongly worded public mandate that the public be given access to the "publics" records as expeditiously as possible.

Finally, the trial court has abused its discretion in allowing six totally anonymous parties to initiate these actions without verifying standing as a party of interest and appointing them to represent a class of approximately 13,000 convicted sex offenders (RP (December 12, 2013) 5:23) without notification to any of the class members.[15] Under our Washington State Constitution Art. 1 sec. 10, state statutes and established court

---

[13] *Zink v. City of Mesa*, 140 Wn. App. 328, 337, 166 P.3d 738 (2007).

[14] Without just cause or reasonable belief that an exemption applies to the requested records, law enforcement notified thousands of convicted criminals of Ms. Zink's request, providing them with Ms. Zink's name and address and threatening them with release of their "personal information" absent court action to enjoin the records from release.

[15] In any class action maintained under subsection (b)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that (A) the court will exclude him from the class if he so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if he desires, enter an appearance through his counsel. CR 23(c)(2).

rules, the true names of parties to an action are to be included in both the summons[16] and complaint[17] unless compelling reasons for sealing court records from public scrutiny exists (GR 23(2)(A-F)). The trial court did not seal any of the records as required by court rules, statutes or our constitution. Instead the trial court simply found that the party's identities was not necessary and concealing their identities, even from the court, did not prejudice the parties or the public (CP 1578; 1597). The trial court found that the unsigned anonymous declarations from the individual Plaintiffs to be "credible and compelling evidence" of the need for the court to conceal sex offender registration information and that anonymous declarations clearly show irreparable harm will result from blanket disclosure of sex offender records (CP 1625 *Finding* 12). The trial court abused its discretion when it: 1) ordered the parties to a judicial action to file in anonymity without sealing the records; 2) determined credibility of an anonymous party without knowing the individual parties identity; and 3) did not verity that any of the anonymous parties have actual interest in this legal action pursuant to CR 17(a)[18] and RCW 42.56.540.[19]

---

[16] The summons for personal service **shall contain: ... the names of the parties to the action**, plaintiff and defendant...CR 4(b)(1)(i)(emphasis added).

[17] Every pleading shall contain a caption setting forth the... (1) Names of Parties. In the complaint the title of the action **shall include the names of all the parties**... CR 10(a)(1)(emphasis added).

[18] Every action shall be prosecuted in the name of the real party in interest. CR 17(a).

[19] The examination of **any specific public record** may be enjoined if, **upon motion and affidavit by** an agency or its representative or **a person who is named in the record or to whom the record specifically pertains...** RCW 42.56.540(emphasis added)

1. Issues Pertaining To Appellants Assignments of Error

**Temporary Restraining Order – December 9, 2013 (13-2-41107-5 SEA)**

***Assignment 1 – Finding of Fact No. 1 (CP 1569)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents, as a Class of Level I sex offenders, have right to a TRO to preserve the status quo and protect Respondents from the harm resulting from imminent disclosure by the Washington State Patrol (WSP) of the sex offender database showing their sex offender information and crime of conviction to a member of the public?

***Assignment 2 – Finding of Fact No. 2 (CP 1570)***

a. Did the trial court err in finding, pursuant to CR 65, the WSP sex offender database exempt pursuant to RCW 4.24.550, release of the database is wrongful and irreparable harm would result if the WSP database was released to the public?

***Assignment 3 - Order (CP 1570)***

a. Did the trial court abuse its discretion, pursuant to CR 65, in ordering WSP to not disclose or disseminate any records or information pertaining to Level I sex offenders, except as permitted by RCW 4.24.550 pursuant to Ms. Donna Zink's Public Records Act request received by WSP on November 1, 2013 and modified on November 20, 2013?

**Temporary Restraining Order – February 21, 2014 (13-2-41107-5 SEA)**

***Assignment 4– Finding of Fact No. 1 (CP 1585)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders:

1. they have a clear legal and equitable right to enjoin records of conviction from the general public;
2. the disclosure of their conviction records will cause immediate and irreparable harm;
3. release of the requested sex offender records is not in the public interest; and

4. the Class of Level I sex offenders showed a likelihood of prevailing on the merits of their claims?

***Assignment 5 – Finding of Fact No. 2 (CP 1585)***

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders have a well-grounded fear of immediate invasion of their right to enjoin release of their registration records if any records maintained by the WSP were released prior to a determination on the merits?

***Assignment 6 – Finding of Fact No. 3 (CP 1585)***

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders release of their conviction records by WSP would result in substantial and irreparable injury?

***Assignment 7 – Order (CP 1585)***

a. Did the trial court abuse its discretion in ordering the WSP to not disclose or disseminate any records or information pertaining to Level I sex offenders except as permitted by RCW 4.24.550 in response to Ms. Donna Zink's PRA request received by the WSP on November 28, 2013?

**Temporary Restraining Order – February 27, 2014 (14-2-05984-1 SEA)**

***Assignment 8– Finding of Fact No. 1 (CP 1589/1831)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders:

1. they have a clear legal and equitable right to enjoin records of conviction from the general public;
2. the disclosure of their conviction records will cause immediate and irreparable harm;
3. release of the requested sex offender records is not in the public interest; and
4. the Class of Level I sex offenders showed a likelihood of prevailing on the merits of their claims?

*Assignment 9 – Finding of Fact No. 2 (CP 1589/1831)*

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders have a well-grounded fear of immediate invasion of their right to enjoin release of their registration records if any records maintained by the Washington Association of Sheriffs and Police Chiefs (WASPC) were released prior to a determination on the merits?

*Assignment 10 – Finding of Fact No. 3 (CP 1589/1831)*

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders release of their conviction records by WASPC would result in substantial and irreparable injury?

*Assignment 11 – Order (CP 1589/1831)*

a. Did the trial court abuse its discretion in ordering the WASPC to not disclose or disseminate any records or information pertaining to Level I sex offenders except as permitted by RCW 4.24.550?

**Order to Proceed in Pseudonym – December 30, 2013 (13-2-41107-5 SEA)**

*Assignment 12 – Finding of Fact No. 1 (CP 956/1577)*

a. Did the trial court err in finding that Civil Plaintiffs can file suit under a pseudonym if their need for anonymity outweighs the public's interest in knowing their identities?

*Assignment 13 – Finding of Fact No. 2 (CP 956/1577)*

a. Did the trial court err in finding that Respondents need for anonymity outweighs that of the public interest in access to their identities for the purpose of this litigation?
b. Did the evidence show Plaintiffs' need for anonymity outweighs the public's interest in knowing the identities of parties to an action in open court?
c. Did the trial court err in finding that Plaintiffs have a vested right under the Public Records Act to seek an injunction of public records anonymously?

d. Did the trial court err in finding that disclosure of Plaintiffs' identities would eviscerate their ability to enjoin the requested records?

***Assignment 14 – Finding of Fact No. 3 (CP 957/1578)***

a. Did Plaintiffs meet their burden of proof that they would suffer genuine and significant risk of physical, mental, economic, and emotional harm if their identities are disclosed?

b. Did the trial court err in finding that because Plaintiffs have taken steps to protect against public dissemination of their sex offender status they are entitled to anonymity?

c. Did the trial court err in finding that Defendants would not be prejudiced if Plaintiffs are allowed to proceed in pseudonym?

***Assignment 15 – Order (CP 957/1578)***

a. Did the trial court abuse its discretion in granting Respondents, as a Class of Level I sex offenders, to obscure their true identities through use of pseudonym in place of their true legal names without legal authority or application of the Ishikawa Factors to seal court records?

b. Did the trial court abuse its discretion by not requiring Plaintiffs to file signed declaratory affidavits supporting their complaint and request for declaratory relief?

**Order to Proceed in Pseudonym – April 3, 2014 (14-2-05984-1 SEA)**

*Assignment 16 – Finding of Fact No. 1 (CP 1597)*

a. Did the trial court err in finding that Civil Plaintiffs can file suit under a pseudonym if their need for anonymity outweighs the public's interest in knowing their identities?

***Assignment 17 – Finding of Fact No. 2 (CP 1597)***

a. Did the trial court err in finding that Respondents have a vested right under the Public Records Act to seek an injunction of records anonymously?

b. Did the trial court err in finding that disclosure of Plaintiffs' identities would eviscerate their ability to enjoin the requested records?

***Assignment 18 – Finding of Fact No. 3 (CP 1597)***

a. Did Plaintiffs meet their burden of proof that they would suffer genuine and significant risk of physical, mental, economic, and emotional harm if their identities are disclosed?

b. Did the trial court err in finding that because Plaintiffs have taken steps to protect against public dissemination of their sex offender status they are entitled to anonymity?

***Assignment 19– Finding of Fact No. 4 (CP 1597)***

a. Did the trial court err in finding that the public's right to access the proceedings will not be compromised apart from its ability to ascertain the names of individual Plaintiffs?

***Assignment 20– Finding of Fact No. 5 (CP 1597)***

a. Did the trial court err in finding that Defendants would not be prejudiced if Plaintiffs proceed in pseudonym?

***Assignment 21 – Finding of Fact No. 6 (CP 1597)***

a. Did the trial court err in finding Respondents interest in proceeding in anonymity outweighs the public interest in knowing the partys' names?

***Assignment 22 – Order (CP 1597)***

a. Did the trial court abuse its discretion in granting Respondents, as a Class of Level I sex offenders, to obscure their true identities through use of pseudonym in place of their true legal names without legal authority or application of the Ishikawa Factors to seal court records?

b. Did the trial court abuse its discretion by not requiring Plaintiffs to file signed declaratory affidavits supporting their complaint and request for declaratory relief?

**Order for Preliminary Injunction – December 12, 2013 (13-2-41107-5 SEA)**

***Assignment 23 – Finding of Fact No. 1 (CP 1573)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders:

   1. they have a clear legal and equitable right to enjoin records of conviction from the general public;
   2. the disclosure of their conviction records will cause immediate and irreparable harm; and
   3. the Class of Level I sex offenders showed a likelihood of prevailing on the merits of their claims?

***Assignment 24– Finding of Fact No. 2 (CP 857/1574)***

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders they have a well-grounded fear of immediate invasion of their right to enjoin release of their registration records if any records maintained by the WSP are released prior to a determination on the merits?

***Assignment 25– Finding of Fact No. 3 (CP 857/1574)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents as a Class of Level I sex offenders would sustain substantial injury if the WSP sex offender database is released to a member the public?

***Assignment 26 - Order (CP 1574)***

a. Did the trial court abuse its discretion, pursuant to CR 65, in ordering WSP to not disclose or disseminate any records or information pertaining to Level I sex offenders, except as permitted by RCW 4.24.550 pursuant to Ms. Donna Zink's Public Records Act request received by WSP on November 1, 2013 and modified on November 20, 2013?

**Order for Preliminary Injunction – April 18, 2014 (13-2-41107-5 SEA)**

*Assignment 27 – Finding of Fact No. 1 (CP 1601)*

a. Did the trial court err in finding, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders:

1. they have a clear legal and equitable right to enjoin records of conviction from the general public;
2. the disclosure of their conviction records will cause immediate and irreparable harm;
3. the requested conviction records are not in the public interest; and
4. the Class of Level I sex offenders showed a likelihood of prevailing on the merits of their claims that RCW 4.24.550 is an exemption to the PRA?

***Assignment 28– Finding of Fact No. 2 (CP 1601)***

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders they have a well-grounded fear of immediate invasion of their right to enjoin release of any records maintained by the WSP if they are released prior to a determination on the merits?

***Assignment 29– Finding of Fact No. 3 (CP 1601)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents as a Class of Level I sex offenders would sustain substantial injury if the WSP released the records to a member the public?

*Assignment 30 – Finding of Fact No. 4 (CP 1601)*

a. Did the trial court err in finding that, pursuant to CR 65, permitting Respondents to amend their Class Action complaint to encompass the November 28, 2013 request by Ms. Zink would be in the interests of justice?

***Assignment 31 – Finding of Fact No. 5 (CP 1601)***

a. Did the trial court err in finding that, pursuant to CR 65, permitting Respondents to amend their Class Action complaint to encompass any records regarding sex offender

registration pertaining to Level I sex offenders in response to pending or future PRA request by Ms. Zink would be in the interests of justice?

***Assignment 32 – Order 1 (CP 1602)***

a. Did the trial court abuse its discretion in ordering the complaint be amended and ordering WSP to not disclose or disseminate any records regarding sex offender registration pertaining to individuals identified as class members in the order granting class certification as to records retained by the WSP in response to pending or future PRA requests by Ms. Donna Zink?

***Assignment 33 - Order 2 (CP 1602)***

a. Did the trial court abuse its discretion in ordering the complaint be amended?

**Order for Preliminary Injunction – April 18, 2014 (14-2-05984-1 SEA)**

***Assignment 34 – Finding of Fact No. 1 (CP 1612)***

a. Did the trial court err in finding, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders:
   1. they have a clear legal and equitable right to enjoin records of conviction from the general public;
   2. the disclosure of their conviction records will cause immediate and irreparable harm pursuant to RCW 42.56.540;
   3. the requested conviction records are not in the public interest; and
   4. the Class of Level I sex offenders showed a likelihood of prevailing on the merits of their claims that RCW 4.24.550 is an exemption to the PRA?

***Assignment 35– Finding of Fact No. 2 (CP 1612)***

a. Did the trial court err in finding that, pursuant to CR 65, Respondents met their burden of proof that as a Class of Level I sex offenders they have a well-grounded fear of immediate invasion of their right to enjoin release of registration records maintained by the WASPC if any records are released prior to a determination on the merits?

*Assignment 36– Finding of Fact No. 3 (CP 1612-13)*

a. Did the trial court err in finding, pursuant to CR 65, Respondents as a Class of Level I sex offenders would sustain substantial and irreparable injury if the WASPC released the records to a member the public?

*Assignment 37 – Order (CP 1602)*

a. Did the trial court abuse its discretion in ordering WASPC not to disclose or disseminate any records pertaining to the individuals identified as class members in the order granting class certification as to records retained by the WASPC?

**Order Denying WSP Motion for Summary Judgment Dismissal – May 15, 2014**

*Assignment 38 – Order (CP 1634)*

a. Did the trial court abuse its discretion in denying WSP summary judgment dismissal of this cause of action pursuant to the Public Records Act without written findings or conclusion of law justifying and clarifying its decision?

**Order Granting Summary Judgment and Permanent Injunction**

*Assignment 39 – Finding of Fact No 2 (CP 1623)*

a. Did the trial court err in finding that the requested records specifically pertain to members of the Classes?

*Assignment 40 - Findings of Fact No 3 (CP 1624)*

a. Did the trial court err in finding that disclosure of the sex offender registration records under the PRA is governed by RCW 4.24.550?

*Assignment 41 – Finding of Fact No 5 (CP 1624)*

a. Did the trial court err in not finding WASPC to be a "public agency" while at the same time finding the records maintained by WASPC are "public records?"

*Assignment 42 – Finding of Fact No 6 (CP 1624)*

a. Did the trial court err in finding that RCW 4.24.550 is an exemption to the Public Records Act?

*Assignment 43 – Finding of Fact No 10 (CP 1625)*

a. Did the trial court err in finding that as a Class of Level I sex offenders named in extracts of the WASPC and WSP registration databases the records pertain to the Classes?

***Assignment 44 – Finding of Fact No 11 (CP 1625)***

a. Did the trial court err in finding there are no material facts in dispute?

***Assignment 45 – Finding of Fact No 12 (CP 1625)***

a. Did the trial court err in finding that declarations filed anonymously by convicted felons are credible?
b. Did the trial court err in finding that the anonymous declarations contained compelling evidence of irreparable harm?

***Assignment 46 – Finding of Fact No 13 (CP 1625)***

a. Did the trial court err in finding that the experts provided by Respondents provided credible and compelling evidence that the records are exempt under the PRA?

***Assignment 47 – Finding of Fact No 14 (CP 1626)***

a. Did the trial court err in finding the evidence submitted clearly showed that sex offenders identified by public disclosure face physical violence, stigmatization, mental and emotional distress, and loss of economic opportunity?
b. Did the trial court err in finding that Level I sex offender information is exempt from disclosure to the public to allow sex offenders to integrate into their communities?

***Assignment 48 – Finding of Fact No 15 (CP 1626)***

a. Did the trial court err in finding the release of conviction records of Level I sex offenders undermines the legislative scheme outlined in the "Community Protection Act," would be detrimental to the public and is not in the public's best interest?

***Assignment 49 – Conclusions of Law No 17 (CP 1626)***

a. Did the trial court err in concluding that WASPC is only a public agency for the purpose of responding to requests for public records?

***Assignment 50 – Conclusions of Law No 19 (CP 1627)***

a. Did the trial court err in concluding RCW 4.24.550 is an "other statute" exemption which prohibits disclosure of sex offender registration records to the public except under certain circumstances?

***Assignment 51 – Conclusions of Law No 20 (CP 1627)***

a. Did the trial court err in concluding our Legislature enacted the Community Protection Act (RCW 4.24.550) to limit release or disclosure of sex offender information to the general public?

***Assignment 52 – Conclusions of Law No 21 (CP 1627)***

a. Did the trial court err in concluding RCW 4.24.550(2) limits disclosure of sex offender records to: 1) the risk posed by the offender to the community; b) the locations where the offender resides, expects to reside, or is regularly found; and c) the need to protect the needs of the affected community members to enhance their individual and collective safety?

***Assignment 53 – Conclusions of Law No 22 (CP 1627)***

a. Did the trial court err in concluding this Court in *State v. Ward*, 123 Wn.2d 488, 869 P.2d 1062 (1994) specifically relied on the exemption under RCW 4.24.550 as a basis for upholding the constitutionality of sex offender registration statutes?

***Assignment 54 – Conclusions of Law No 23 (CP 1627)***

a. Did the trial court err in concluding that Section 9 of RCW 4.24.550, although indicating the legislative intent to make registration information non-confidential, it does not mean RCW 4.24.550 is not an exemption, it means only relevant and necessary information can be released; not blanket or generalized disclosure under the PRA?

***Assignment 55 – Conclusions of Law No 24 (CP 1628)***

a. Did the trial court err in concluding that "Blanket" disclosure of Level I sex offender records would substantially and irreparably harm the Class of Level I sex offenders?

b. Did the trial court err in concluding that generalized release of sex offender information would make it more difficult for Class members to safely integrate into their communities?

***Assignment 56 – Conclusions of Law No 25 (CP 1628)***

a. Did the trial court err in concluding that Blanket disclosure of sex offender information is not in the public's interest?

b. Did the trial court err in determining that the Legislature enacted the "Community Protection Act" to specifically limit disclosure of sex offender information to members of the general public unless an offender presents a threat to public safety?

***Assignment 57 – Conclusions of Law No 26 (CP 1628)***

a. Did the trial court err in concluding "Blanket" or generalized disclosure on Level I sex offender information does not advance public safety of governmental interest and will undermine the efficacy of the current system of targeted disclosure?

***Assignment 58 – Conclusions of Law No 27 (CP 1629)***

a. Did the trial court err in concluding that WSP and WASPC must recognize the exemption contained in RCW 4.24.550 and deny release of sex offender records?

b. Did the trial court err in concluding that a Class of all Level I sex offenders have a clear legal and equitable right to enjoin the release of their records of conviction?

***Assignment 59 – Conclusions of Law No 28 (CP 1629)***

a. Did the trial court err in concluding that the Class of Level I sex offenders have a well-grounded fear of immediate invasion of their right to privacy of their conviction records?

***Assignment 60 – Conclusions of Law No 29 (CP 1629)***

a. Did the trial court err in concluding the evidence showed that release of records pertaining to members of the Class of Level I sex offenders would result in actual or substantial injury?

***Assignment 61 – Order 1 (CP 1629)***

a. Did the trial court abuse its discretion in declaring that RCW 4.24.550 is an "other statute" exemption pursuant to RCW 42.56.070 and is the exclusive means for public disclosure of sex offender registration records?

b. Did the trial court abuse its discretion in ordering all Level I sex offender registration records exempt from public disclosure pursuant to RCW 4.24.550?

***Assignment 62 – Order 2 (CP 1629)***

a. Did the trial court abuse its discretion in ordering that WSP and WASPC could not make a "blanket" or generalized production of sex offender records of Class members in response to Ms. Zink's requests for public records; including pending and future requests made during the duration of this litigation (including appeals)?

***Assignment 63 – Order 3 (CP 1629)***

a. Did the trial court abuse its discretion in ordering that WSP and WASPC could only disclose "relevant and necessary" Level I sex offender records in response to a request from a member of the public pursuant to RCW 4.24.550?

**Order Granting WSP Motion for Clarification in Part June 6, 2014**

***Assignment 64 – Order 3 (CP 1639)***

a. Did the trial court abuse its discretion in ordering that the "sex offender records" mean the source documents submitted by local law enforcement agencies to the WSP, the WSP's Sex and Kidnapping Offender Registration Database (database), any extracts from the database, and names of the class members in emails, to or from employees of the WSP's Criminal Records Division, that relate to the source document or the database are exempt from disclosure to the public?

**Order Granting Class Certification 13-2-41107-5 SEA April 18, 2014**

***Assignment 65 – Finding of Fact 1 (CP 1606)***

a. Did the trial court err in finding that the Class is so numerous joinder of all members is impracticable since CR 23(c)(2) requires notification of all class members so they can opt out and RCW 42.56.540 requires that a party can only enjoin records naming or pertaining to that particular party?

***Assignment 66 – Finding of Fact 2 (CP 1606)***

a. Did the trial court err in finding that RCW 42.56.540 allows for a Class of persons (Level I sex offenders) to exempt all records associated with a particular subject matter (records of conviction) held by all public agencies (law enforcement)?

b. Did the trial court err in determining that there are numerous common questions of law and fact affecting the class as a whole?

***Assignment 67 – Finding of Fact 3 (CP 1606)***

a. Did the trial court err in finding that the claims of the Class are typical because they arise from the same event or course of conduct that gives rise to the claims of other members of the Class?

***Assignment 68 – Finding of Fact 4 (CP 1606)***

a. Did the trial court err in finding that four anonymous Plaintiffs are real parties of interest and will fairly and adequately protect the interest of the class?

b. Did the trial court err in finding none of the anonymous parties have interests adverse to or conflicting with the members of the proposed Class?

***Assignment 69 – Finding of Fact 5 (CP 1607)***

a. Did the trial court err in finding that Class Certification is appropriate because WSP and WASPC have failed to perform a legal duty generally applicable to the class?

***Assignment 70 – Order 10 (CP 1608)***

a. Did the trial court abuse its discretion in ordering the Certification of a Class of Level I sex offenders pursuant to RCW 42.56.540.

b. Does the Class Certification membership ordered by the court meet the requirements of notification by law enforcement of sex offender information pursuant to RCW 4.24.550(9)?

c. Did the trial court abuse its discretion in including transient Level I sex offenders or those Level I offenders found to be a danger to a particular community into the Class of protected sex offenders (RCW 4.24.550(3)(d))?

**Order Granting Class Certification 14-05984-1 SEA April 18, 2014**

***Assignment 71 – Finding of Fact 1 (CP 1617)***

a. Did the trial court err in finding that the Class is so numerous joinder of all members is impracticable since CR 23(c)(2) requires notification of all class members so they can opt out and RCW 42.56.540 requires that a party can only enjoin records naming or pertaining to that particular party?

***Assignment 72 – Finding of Fact 2 (CP 1617)***

a. Did the trial court err in finding that RCW 42.56.540 allows for a Class of persons (Level I sex offenders) to exempt all records associated with a particular subject matter (records of conviction) held by all public agencies (law enforcement)?
b. Did the trial court err in determining that there are numerous common questions of law and fact affecting the class as a whole?

***Assignment 73 – Finding of Fact 3 (CP 1617)***

a. Did the trial court err in finding that the claims of the Class are typical because they arise from the same event or course of conduct that gives rise to the claims of other members of the Class?

***Assignment 74 – Finding of Fact 4 (CP 1618)***

a. Did the trial court err in finding that four anonymous Plaintiffs are real parties of interest and will fairly and adequately protect the interest of the class?
b. Did the trial court err in finding none of the anonymous parties have interests adverse to or conflicting with the members of the proposed Class?

***Assignment 75 – Finding of Fact 5 (CP 1618)***

a. Did the trial court err in finding that Class Certification is appropriate because WSP and WASPC have failed to perform a legal duty generally applicable to the class?

***Assignment 76 – Order 10 (CP 1619)***

a. Did the trial court abuse its discretion in ordering the Certification of a Class of Level I sex offenders pursuant to RCW 42.56.540.

b. Does the Class Certification membership ordered by the court meet the requirements of notification by law enforcement of sex offender information pursuant to RCW 4.24.550(9)?

c. Did the trial court abuse its discretion in including transient Level I sex offenders or those Level I offenders found to be a danger to a particular community into the Class of protected sex offenders (RCW 4.24.550(3)(d)?

## II. STATEMENT OF THE CASE

On November 1, 2013, Ms. Zink requested sex offender records from the Washington State Patrol (WSP). On November 20, 2013, Ms. Zink's request was modified to be for a copy of the Washington State Patrol's Sex and Kidnapping Offender Database (CP 1623 FOF 1). On November 28, 2013, Ms. Zink requested e-mails from the WSP (CP 1585).

Upon notification that a request had been made for sex offender conviction records, two anonymous parties filed suit on December 6, 2013, requesting class action certification and declaratory relief to enjoin any and all Level I sex offender records from production to a member of the public (CP 630-642). On December 9, 2014, a TRO was issued by the King County Superior Court restraining the WSP from releasing any records or information pertaining to level I sex offenders, except as permitted by RCW 4.24.550, in response to Ms. Zinks requests (CP 1570).

On December 12, 2013, the trial court, finding that Level I sex offenders have a great fear of immediate invasion of their rights and will sustain substantial injury if their identity as sex offenders is known, granted a preliminary injunction ordering WSP to not disclose or disseminate any records or information pertaining to level I sex offenders except as permitted by RCW 4.24.550 pursuant to Ms. Zink's requests (CP 1573-1574).

On December 30, 2013, the King County trial Court found that Does A and B demonstrated a significant risk of physical, mental, economic, and emotion harm if their

identities as registered sex offenders were known. The trial court granted Plaintiffs' motion to file suit anonymously but did not seal the records (CP 1579). On January 26, 2014, the trial court ordered Ms. Zink to be joined as a party (CP 1581-1582).

On February 21, 2014, the trial court granted Plaintiffs' motion for a TRO to restrain WSP from disclosing or disseminating any records or information pertaining to level I sex offenders, except as permitted by RCW 4.24.550, in response to Ms. Zink's request of November 28, 2013 (CP 1584-1585).

On February 24, 2014, John Does and Roes C, D, E and F filed suit to enjoin records requested from WASPC (CP 1641-1649). On February 27, 2014, the King County trial court issued a TRO, enjoining WASPC from disclosing or disseminating any records or information pertaining to level I sex offenders, except as permitted by RCW 4.24.550 (CP 1588-1590).

On March 5, 2014 both causes of action were consolidated (CP 1592-1593).

On April 3, 2014, the King County trial Court found that Does and Roes C, D, E, and F demonstrated a significant risk of physical, mental, economic, and emotion harm if their identities as registered sex offenders were known. The trial court granted Plaintiffs' motion to file suit anonymously but did not seal the records (CP 1597).

On April 18, 2014, the trial court certified a Class as "All individuals who are named in the December 6, 2013 extract from the Washington State Patrol's Sex and Kidnapping Offender Registry Database, classified as risk level I and not designated in the status of "fail to verify address" or "fail to register upon release." (CP 1668). The trial court ordered WSP to not disclose of disseminate any records regarding sex offender registration pertaining to the individuals identified as class member in the order granting class certification as to records retained by the WSP in response to any pending or future Public Records Act request by Ms. Zink (CP 1601-1602).

On April 18, 2014, the trial court certified a Class as "All individuals with last names beginning with the letters "A" or "B" who are named in the March 25, 2014 extract from the Washington Association of Sheriffs and Police Chiefs database, classified at risk level I, and not designated in the status of "fail to verify address" or "fail to register" upon release." (CP 1619). The trial court ordered WASPC to not disclose of disseminate any records pertaining to the individuals identified as class member in the order granting class certification as to records retained by WASPC (CP 1612-1613).

On May 15, 2014, the King County trial court entered findings, conclusions and orders in these two consolidated cases. (CP 1623-1631) ordering a blanket exemption and enjoining any and all records requested by Ms. Zink pertaining to Level I sex offenders exempt from disclosure except as allowed pursuant to RCW 4.24.55 as the exclusive mechanism for public disclosure of sex offender registration records. The trial court also denied WSP motion of Summary Judgment Dismissal without cause (CP 1634).

On June 6, 2014, the King County Superior Court clarified its decision and order of May 15, 2014 ordering the "For the purposes of the permanent injunction or, "sex offender records" mean the source documents submitted by local law enforcement to the WSP, the WSP's Sex and Kidnapping Offender Registration Database (database), any extracts from the database, and names of the class members in emails, to or from employees of the WSP's Criminal Records Division, that relate to a source document or the database." (CP 1639).

On June 12, 2014, the WSP appealed for direct review to the Supreme Court. On June 20, 2014, the Zinks filed appeal of all decisions concerning the enjoining of records through TRO, preliminary injunction and permanent injunction, allowing Plaintiffs to proceed anonymously, and certification of classes of sex offenders to enjoin records pursuant to RCW 42.56.540.

## III. ISSUES PRESENTED FOR REVIEW

1. Whether a trial court has discretion to allow parties to file suit anonymously without sealing the records and application of the Ishikawa factors;
2. Whether convicted criminals have privacy rights in their criminal convictions as sex offenders;
3. Whether the trial court erred in law and/or abused its discretion in certifying class actions under RCW 42.56.540;
4. Whether the PRA allows a Court to enjoin all future records not yet requested;
5. Whether the PRA allows a trial court to order a broad blanket exemption of any and all records, pending or future, identifying Level I sex offenders;
6. Whether the PRA allows for a blanket exemptions;
7. Whether law enforcement agencies have the right to determine what records will be released to which members of the public and which records can be withheld depending on who is requesting the records and the intentions of the request;
8. Whether the PRA allows for third party notification without an existing exemption;
9. Whether agencies can be held liable for notifying third parties to seek injunction under RCW 42.56.540 when they know the requested records are not exempt and only notify third parties to prevent release;
10. Whether RCW 4.24.550 is an "other statute" exemption; and
11. Whether penalties against the agencies must be assessed?

## IV. ARGUMENT

Citing no applicable legal authority, the King County Superior Court ordered that: 1) Plaintiffs are allowed to file action in the Court without providing their true identities; 2) Plaintiffs can enjoin the public records of others through class certification; and 3) Level I sex offenders are entitled to a blanket exemption of all records identifying them as sex offenders: from both pending and future requests. The trial court has abused its discretion by creating an exemption under the PRA that does not exist. Our courts are required to follow state law, case law, and our constitution and must not legislate from the bench.

1. Plaintiffs to an Action Must Provide Their True Identity to the Court - Assignments 12-22

The Washington State Constitution, Article 1, section 10 mandates that "justice in all cases shall be administered openly, and without unnecessary delay." The trial court disregarded our constitution and an entire body of case law concerning the vital role open justice plays in public confidence of our judicial system when it allowed Plaintiffs to file legal action in total secrecy. Not only did the trial court allow Plaintiffs to file their complaint and summons anonymously, the trial court allowed Plaintiffs to file their supporting affidavits to the court anonymously. Neither the public nor the Court has access to the true identity of these Plaintiffs in this cause of action.

The trial court's action is extraordinary. There is no legal argument that can be made justifying allowing parties to file anonymously without providing their true identities to the Court of record. Yet that is exactly what the trial court did in this cause of action.

This is an error of law and abuse of the court's discretion. Specifically the trial court's orders for use of pseudonym in place of party name are a violation of CR 4(b)(1)(i), 10(a), CR 17(a), RCW 42.56.540, and our Washington State constitution Art. 1 sec. 10.

CR 4(b)(1)(i) requires all summons, summoning a defendant into legal action must contain the names of all parties.

> The summons for personal service **shall** contain: (i) the title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and **the names of the parties to the action, plaintiff and defendant;**

(*Id.*)(emphasis added). CR 10(a)(1) requires all complaints filed in the court contain the true identity of the complaining party.

> In the complaint the title of the action **shall include the names of all the parties**...

(*Id.*)(emphasis added). CR 17(a) requires that all actions must be "prosecuted in the name of the real party in interest." These three court rules require the true identity of the parties in a judicial action be known. Furthermore, RCW 42.56.540 requires:

> The examination of any specific public record may be enjoined if, **upon motion and affidavit** by an agency or its representative or **a person who is named in the record or to whom the record specifically pertains,** the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

(*Id.*)(emphasis added). The required affidavits supporting their motion to the court for enjoinment of the records pursuant to RCW 42.56.540 are unsigned. Based on unsigned declarations of unknown convicted criminals the trial court found that:

1. Typically civil plaintiffs must file suit in their names;
2. Plaintiffs may file under pseudonym to obscure their identities if the need for anonymity outweighs public interest.
3. Forcing Plaintiffs to reveal their identity would eviscerate their ability to seek relief under the PRA to enjoin release of their sex offender information;
4. As a class of Level 1 registered sex offenders (CP 524-528; 529-533), plaintiffs demonstrated a significant risk of physical, mental, economic and emotional harm would occur if their identities as sex offenders was known.

5. Plaintiffs have taken steps to protect against public dissemination of their registration status;

6. The public's right to access the proceedings will not be compromise;

7. Individual names have little bearing on the public's interest in the dispute or its resolution;

8. Defendants are not prejudiced by use of pseudonym by Plaintiffs; and

9. Plaintiffs' interest in proceeding anonymously outweighs that of the public's interest in knowing their true names.

(CP 1578-79) (FOF 1-3 and order). The trial court did not order the records to be sealed pursuant to GR 15 nor did it apply the Ishikawa factors as required. Furthermore the trial courts findings are general rather than specific and have no substance.

The trial court has no authority to allow parties to an action to summon parties into court in anonymity. The trial court has no authority to allow plaintiffs to file a complaint and class action request for declaratory relief to enjoin public records in anonymity. The trial court has no authority to allow the parties to file affidavits under RCW 42.56.540 in anonymity. The trial courts actions are a violation of our Washington State Constitution and must be reversed.

**2.** Mandatory Requirements of Chapter 42.56 RCW - Assignments 1-11; 23-64

The Washington Public Records Act is a powerful tool of the people to maintain control of all branches and agencies of government[20] through access to public records.[21] In order for the people to maintain control over government conduct, production of public records must be liberally construed and exemptions to production must be narrowly

---

[20] RCW 42.56.010(1); RCW 42.56.070; *King County v. Sheehan*, 114 Wn. App. 325 57 P.3d 301(Div. I, 2002); *Rental Hous. Ass'n of Puget Sound v. City of Des Moines*, 165 Wn.2d 525, 527, 199 P.3d 393 (2009).

[21] RCW 42.56.010(3)(4); *O'Neill v. City of Shoreline*, 170 Wn.2d 138, ¶14-15, 240 P.3d 1149 (2010).

construed.[22] Our broad PRA exists to ensure that the public maintains control over their government, and the Courts will not deny the citizenry access to a whole class of possibly important government information.[23]

Public agencies are required to release all records created, owned, used, and/or retained by their respective agencies as expeditiously as possible.[24] Public agencies are not to distinguish amongst requesters.[25] Public agencies cannot exempt records from production based on the identity of the requester.[26] Public agencies in responding to a request for records cannot inquire as to the motivation of the requester.[27]

All public records created, owned, used and/or retained by public agencies are public and must be disclosed.[28] All non-exempt public records must be produced.[29] All exemptions claimed by public agencies resulting in non-production of public records, in whole or in part, must be justified, in writing, identifying the document withheld, the exemption allowing the withholding of the record, and an explanation of how that exemption applies to the withheld document or portion of the document.[30]

---

[22] RCW 42.56.030; *Livingston v. Cedeno*, 164 Wn.2d 46, ¶6, 186 P.3d 1055 (2008).

[23] *O'Neill v. City of Shoreline*, 170 Wn.2d 138, ¶15, 240 P.3d 1149 (2010).

[24] RCW 42.56.100.

[25] *Zink v. City of Mesa*, 140 Wn. App. 328, ¶24, 166 P.3d 738 (Div. III, 2007).

[26] **The intent of this legislation is to make clear that:** (1) Absent statutory provisions to the contrary, **agencies** possessing records **should** in responding to requests for disclosure **not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records**, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. RCW 42.56.050 Notes on Legislative Intent – Session Laws of 1987 c 403. (emphasis added).

[27] RCW 42.56.080. *City of Lakewood v. Koenig*, 160 Wn. App. 883, ¶16, 250 P.3d 113 (Div. II, 2011)

[28] *Sanders v. State*, 169 Wn.2d 827, ¶3, 240 P.3d 120 (2010).

[29] *Sanders v. State*, 169 Wn.2d 827, ¶4, 240 P.3d 120 (2010).

[30] RCW 42.56.210(3); RCW 42.56.520.

A claimed exemption is invalid if it does not in fact cover the requested document.[31] Agencies are under no obligation to claim exemption.[32] Conflict between the Washington State Public Records Act and any other statute, rule or law shall be decided under the statutory requirements of the Public Records Act.[33] Courts are to take into account that examination of public records is in the public interest, even though such examination my cause embarrassment to others.[34] Agencies are not to make privacy interest determinations on the basis that it identifies a person or a particular class of persons.

RCW 42.56.540 is a procedural provision of the PRA and is not a standalone exemption.[35] RCW 42.56.540 allows a court to enjoin the release of a specific record(s) pertaining to a specific person named in the record(s) if that record(s) or the information within the record(s) fall within a specific exemption found in any state statute.[36] Only if, an exemption is found does the court turn its attention to the question of whether the record(s) are of public interest.[37] If the records are clearly **not in the public's interest and** would irreparably harm that party the Court has the discretion to enjoin the records

---

[31] *Sanders v. State*, 169 Wn.2d 827, ¶5, 240 P.3d 120 (2010).

[32] *Seattle Times Co. v. Serko*, 170 Wn.2d 581, ¶29, 243 P.3d 919 (2010).

[33] RCW 42.56.030.

[34] RCW 42.56.550(3). *Koenig v. Thurston County*, 175 Wn.2d 837, ¶9, 287 P.3d 523 (2012); *King County v. Sheehan*, 114 Wn. App. 325, 336, 57 P.3d 307 (Div I, 2002).

[35] *Seattle Times Co. v. Serko*, 170 Wn.2d 581, ¶28, 243 P.3d 919 (2010)

[36] Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, **unless the record falls within the specific exemptions of *subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records.** To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing. RCW 42.56.070(1)(emphasis added).

[37] The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, **finds that such examination would clearly not be in the public interest and** would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice. RCW 42.56.540(emphasis added).

from disclosure to a requesting member of the public. The trial court determined that Level I sex offenders, under RCW 4.24.550, have a privacy interest in their public criminal convictions and that right outweighs the public interest and right to know the identity of thousands of convicted sex offenders. This is in error of State Statutes and established case law.

RCW 4.24.550 is a mandate of the legislature that law enforcement must, at a minimum, post all level II and III sex offenders, and level I sex offenders when out of compliance with registration requirements, to an official public web site for public access. Law enforcement is also mandated to consider posting all transient sex offenders but it is not mandatory. "Sex offenders and kidnapping offenders — Release of information to public — Web site." RCW 4.24.550. RCW requires proactive action by law enforcement and is not dependent on whether a request for information has been made. Each section of RCW 4.24.550 discusses what law enforcement must do to provide information concerning sex offenders to the public without any request for the information being requested prior to release.

In contrast to the proactive requirements of RCW 4.24.550, under the PRA, release of conviction and sentencing records by law enforcement is not mandatory unless a request is made for specific public record(s). Under the notification requirements of RCW 4.24.550, the legislature clearly and unequivocally stated sex and kidnapping offenders have a diminished right to privacy and confidentiality while at the same time clearly and unequivocally stating the public's right to know is of paramount importance and that lack of knowledge is a danger to the public.[38] The trial courts determinations in issuing a TRO, Preliminary Injunction and Permanent Injunction did not consider the strong public

---

[38] Persons have a limited right of confidentiality in the nondisclosure of criminal information, Id. at 124; O'Hartigan v. Department of Personnel, 118 Wn.2d 111, 821 P.2d 44 (1991), but such a right of **confidentiality in the context of convicted sex offenders is essentially one of avoiding stigma or protecting reputation.** But reputational interest does not give rise to a liberty interest. *Personal Restraint of Meyer*, 142 Wn.2d 608, 620, 16 P.3d 563 (2001)(emphasis added).

mandate that all records be open unless clearly exempt and it did not take into consideration the interest of the public under RCW 42.56.540. This is err and an abuse of discretion and the trial court must be reversed.

Convicted sex offenders are required by state statute to register in particular counties within Washington State as part of their conviction and sentencing requirements.[39] Conviction records of convicted criminals are to be freely disseminated without restriction.[40] [41] **Sentencing records are required to be retained as public records.**[42] Sex offenses are considered to be "most serious felonies."[43] Clearly our legislature intended sex offender registration and other records identifying sex offenders are of public interest and must be available for public scrutiny if a request is made under the

---

[39] Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person. RCW 9A.44.130.

[40] Conviction records may be disseminated without restriction. RCW 10.97.050(1).

[41] Nothing in RCW 40.14.060 or 40.14.070 or chapter 42.56 RCW precludes dissemination of criminal history record information, including nonconviction data, for the purposes of this chapter. RCW 10.97.140.

[42] **Any and all** recommended sentencing agreements or plea agreements and **the sentences for any and all felony crimes shall be made and retained as public records** if the felony crime involves: ...**Any most serious offense as defined in this chapter**... RCW 9.94A.475(2).(emphasis added).

[43] "**Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies**: (a) Any felony defined under any law as a class A felony... (d) Child molestation in the second degree... (g) Incest when committed against a child under age fourteen... (h) Indecent liberties... (m) Promoting prostitution in the first degree; (n) Rape in the third degree... (p) Sexual exploitation... (s) Any other class B felony offense with a finding of sexual motivation... (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection; (v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 ... (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) .... (w) Any out-of-state conviction for a felony offense with a finding of sexual motivation ... RCW 9.94A.030 Definitions (emphasis added).

PRA.[44] The trial court's decision otherwise is an abuse of discretion and must be reversed.

A government for the people can only operate through transparency. Furthermore, RCW 42.56.030 clearly and unequivocally states that [i]n the event of conflict between the provisions of this chapter and any other act, **the provisions of this chapter shall govern** (emphasis added). The plain language of the PRA cannot be disputed. It is the controlling legal authority our courts are required to follow.

The documents enjoined from production by the trial court are:

- The WSP sex offender database;
- E-mails between WSP and Benton County between dates certain;
- All sex offender registration forms whose last names begin with the letter A maintained by WSP; and
- All sex offender registration files whose last names begin with the letter B maintained by WSP.

Each of these requests produces a different public record. Each record must be individually determined to be exempt using the strict compliance standard scheme set out by our legislature. *Zink v. City of Mesa*, 140 Wn. App 328, ¶14, 166 P.3d 738 (2007).

The trial court in issuing a TRO, preliminary injunction and permanent injunction did not follow the guidelines set out by our legislature and case law authority. RCW 42.56.540 is the exclusive means for enjoining public records under the PRA. *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.d2 398, ¶12, fn. 2, 259 P.3d 190 (2011). RCW 42.56.540 requires that a record, subject to an exemption, must be enjoined by a party named in that specific record if: 1) **the record specifically pertains to that person**; 2) **the public has no interest in the record(s)**; and 3) actual injury to that person will occur.

---

[44] The Court ruled **"reputation alone, apart from some more tangible interests" is not deserving of protection.** Id. at 701. This holding has come to be known as the "stigma-plus" requirement. *Personal Restraint of Meyer*, 142 wn.2d 608, 620, 16 P.3d 563 (2001)(emphasis added).

Furthermore any exemption must be applied to each requested record. *Resident Action Council v. Seattle Housing Authority*, 177 Wn.2d 417, 299 P.3d 651 (2013).

Here the Court has allowed unknown sex offenders to enjoin records that do not specifically pertain to those sex offenders through use of class certification and completely ignored the publics interest. The trial court ordered a blanket exemption of any and all, pending and future, records identifying convicted sex offenders. The trial court, focusing exclusively on unsubstantiated injury and embarrassment to the registered sex offenders, has prevented the public from access to thousands of records of criminal activity, conviction and sentencing data. The trial court has invalidated RCW 42.56.540 in favor of protecting criminal records under the Community Protection Act. The trial courts decision must not be allowed to stand.

The trial court's decision that agencies can utilize RCW 42.56.540 to prevent release of criminal conviction of sex offenses under the PRA is an absurd reading by the trial courts of State Statutes and well established Case Law. The identity, conviction and sentencing of all criminals is of great public concern and the trial court disregard or misinterpret the requirements of the PRA in favor of non-production of sex offender criminal records to protect sex offenders from discovery by the public when RCW 4.24.550 was enacted to help the public identify convicted sex offenders in order to keep their families and children safe. *Personal Restraint of Meyer*, 142 Wn.2d 608, 613, 16 P.3d 563 (2001) COSTS

Furthermore, the injury complained of by the convicted sex offenders is nothing more than conjecture and the fear of the stigma of being a convicted sex offender. This court has already determined that a reputational interest does not give rise to a liberty interest.

> Persons have a limited right of confidentiality in the nondisclosure of criminal information, id. at 124; O'Hartigan v. Department of Personnel, 118 Wn.2d 111, 821 P.2d 44 (1991), but such a right of confidentiality in the

context of convicted sex offenders is essentially one of avoiding stigma or protecting reputation. But reputational interest does not give rise to a liberty interest. In Paul v. Davis, 424 U.S. 693, 712, 96 S. Ct. 1155, 47 L. Ed. 2d 405 (1976), the United States Supreme Court found an indi-vidual had no right to due process before police officers posted his picture with an identification as an "Active Shoplifter" in various retail establishments. That individual filed a 42 U.S.C. § 1983 action, alleging his procedural due process rights were violated and claiming a protected interest in reputation and future employment opportunities. Paul, 424 U.S. at 701. Justice Rehnquist examined a long line of decisions in which the Court had protected an interest in reputation, and then wrote an interest in reputation is "neither liberty' nor 'property' guaranteed against state deprivation without due process of law." Id. at 712. The Court reasoned if the government's conduct is to be actionable, it must not only affect the individual's reputation but must be accompanied by some other injury. Paul, 424 U.S. at 708-10. The Court ruled "reputation alone, apart from some more tangible interests" is not deserving of protection. Id. at 701. This holding has come to be known as the "stigma-plus" requirement.

**The statutes at issue here do not meet the Paul "stigma-plus" requirements. The information disclosed to the public is largely, if not entirely, available from public sources like the court files on these individuals as well as their correctional release plans. The information disclosed is not subject to any specific confidentiality protection. See RCW 10.97.010; RCW 4.24.550(7). Conviction records may be released without restriction. RCW 10.97.050(1); Ward, 123 Wn.2d at 502.**

Moreover, the public interest in information about potentially dangerous individuals in local neighborhoods is legitimate. This Court, the federal courts, and the Legislature all have recognized the validity of Washington's sex offender registration laws and the important role registration and community notification play in the protection of the public.

*Personal Restraint of Meyer*, 142 Wn.2d 608 620- 621 16 P.3d 563 (2001)(emphasis added). Clearly a blanket exemption of any and all records identifying Level I sex offenders is not in the publics interest and is not allowed under the strict requirements of the Washington State Public Records Act. The trial courts decision that these records are exempt for all Level I sex offenders must be reversed and the records properly made accessible to any member of the public requesting access to them.

### 3. The Trial Court Created a Judicial Exemption by Allowing Anonymous Class Certification to Enjoin Any and All Level I Sex Offender Records - Assignments 65-76

The trial court's findings, conclusions, and orders do not address the issue of whether the legislative scheme outlined under RCW 42.56.540 allows a court to certify a class of persons and thereby exempt all records pertaining to that class from production to a requester. This is error and an abuse of the Courts discretion.

The PRA controls in all questions of law.[45] The correct standard of review requires an analysis of RCW 42.56.540 to determine whether a person can form a Class and motion the court for exemption of an entire set of public records (blanket exemption of public records through class action), in this case any record identifying the class members as convicted sex offenders, under the strict requirements of RCW 42.56.540. RCW 42.56.540 states:

> The examination of any specific public record may be enjoined if, upon **motion and affidavit by** an agency or its representative or **a person who is named in the record or to whom the record specifically pertains**, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or

[45] In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern. RCW 42.56.030.

> would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

(*Id.*)(emphasis added). Assuming for the sake of this legal argument, Respondents are Level I sex offenders who are named in at least one of the requested records, respondents are not named in all of the thousands of records requested. RCW 42.56.540 is specific to a "**person** who is **named in the record** or to whom **the record specifically pertains.**" RCW 42.56.540 specifically requires the person named in the record or to whom the record pertains **must file a motion and affidavit** to the court. Class action certification would make this requirement superfluous, creating a judicial exemption of all records.

Under the plain meaning of the legislative intent in RCW 42.56.540, the trial court erred in not identifying which records at issue in this cause of action contain the name(s) of the parties filing motion and affidavit. Instead the trial court determined that it has the authority to create a judicial exemption through class certification; exempting all records identifying all Level I sex offenders under the guise of a class action. This is an absurd reading of the plain meaning of RCW 42.56.540. The trial court abused its discretion when it determined and ordered that six anonymous persons could enjoin the records of thousands of other persons under the strict requirements of RCW 42.56.540 and the trial court's order certifying two separate classes of sex offenders whose identities are protected from disclosure to the public must be reversed.

The trial court determined that Class Certification is appropriate because WSP and WASPC failed to perform a legal duty generally applicable to the class. Neither WSP nor WASPC have a legal duty to withhold non-exempt records.

> The respondents attempt to recast the significance of RCW 42.56.540 by arguing that the May 20 order properly relied on the provision in barring

> production of the documents because the prosecutor "**failed to assert available exemptions despite his constitutional and ethical obligations" to do so**... Even if the prosecutor's office was the agency to which this request for records had been made, **there is no support for the argument that it has an obligation under the PRA to claim exemptions to production**. Indeed, such a requirement would run counter to the PRA's policy of openness, as evinced by its mandate that exemptions be narrowly construed. *See* RCW 42.56.030.

*Seattle Times Co. v. Serko*, 170 Wn.2d 581, ¶29, 243 P.3d 919 (2010)(emphasis added). The trial court erred in finding the WSP and WASPC had any duty to the class and the class does not meet the requirements of CR 23(b)(2).

The trial court erred in finding that anonymous parties are real parties of interest who will adequately protect the interest of the class. The parties are unknown even to the Court. The Court can't verify the identity of the parties or whether the parties are legitimate parties. As such the trial court cannot possibly determine whether the parties will fairly and adequately protect the interest of the class. Furthermore, since it is unknown who the actual party of interests is, there is no way a trial court can determine that the interests of the parties filing suit would not be adverse or conflict with the members of the Class. CR 23(a)(4).

The trial court erred in finding that the claims of the Class are typical because they arise from the same event or course of conduct. Except for the fact that the certified class members are all convicted sex offenders required by law to register in a particular County in Washington State, each offender was convicted of various and different sex crimes for on different dates and served different lengths of time in prison or jail. Some of the offenders committed more than one offense. Some class members committed their offense decades ago while others have recently been released into the general public. Many of the class members committed their crime(s) out of state. None of the offenses for which the Class members are now required to register arise from the same event or

course of conduct. The trial court erred in finding the Class is typical because they were each convicted of a sex offense requiring them to register in the State of Washington when in fact each conviction is different and not typical of any particular member of the class. (CR 23(a)(3)).

Finally, the trial court erred in finding that the Class is so numerous that it is impractical to notify all class members. Under CR 23(c)(2) the trial court is required to determine what arrangements are to be made to notify all identified class members and advise each member that the court will exclude them from the class if requested by a specific date. The notice must inform the class member that if they do not respond by a certain date and request exclusion the member will be included. Finally the notice is to inform the class member that they may enter an appearance through counsel (CR 23(c)(2)(A-C). The trial court in maintaining a class certification and entering judgment must include and specify or describe those to whom the notice provided in subsection (c)(2) was directed, and who have not requested exclusion, and whom the court finds to be members of the class. CR 23(c)(3). The trial court did not require notification of any class members, did not allow for exclusion by choice and did not include the required statement of notification in its order and judgment. This is error and an abusive of the trial court's discretion in certifying a class of Level I sex offenders and must be reversed.

## V. PER DIEM PENALTIES

The Zink's respectfully either assess mandatory per diem penalties against WSP and WASPC or remand the matter back to the trial court form assessment of penalties based on the Yousoufian Factors and each agencies role in notifying convicted criminals and providing them with Ms. Zinks personal contact information so that they would sue to prevent release of records the agency knew were not exempt and that they should not be notifying third parties.

> *Per Diem Penalties:* We take this opportunity to clarify our holdings with regard to per diem penalties. The Court of Appeals implied that the agency can be spared per diem penalties if it initiates an action in superior court. *Soter*, 131 Wn. App. at 907. That reasoning does not coincide with our holding that once a court determines that a requester was entitled to inspect public records, the trial court is *required* to impose a penalty within the statutory range for each day records were withheld. *Koenig v. City of Des Moines*, 158 Wn.2d 173, 189, 142 P.3d 162 (2006). The trial court may not reduce the penalty period, even if the requester could have filed suit against the agency sooner than it did. *Yousoufian*, 152 Wn.2d at 438. As amici explain, the advantage to going to court is that the agency can obtain quick judicial review, curbing, but not eliminating, the accumulation of the per diem penalties. Br. of Amici Schools Risk Mgmt. Pool at 18.

*Soter v. Cowles*, 162 Wn.2d 716, ¶63, 174 P.3d 60 (2007)(emphasis added). See also RCW 42.56.550(4). The court shall award penalties not to exceed one hundred dollars for each day a requester is denied the right to inspect or copy said public records.

## VI. COSTS

The Zink's request this Court to award them fees and costs under RAP 14. Pursuant to RAP 14.1 the appellate court which accepts review and makes final determination (RAP 14.1(b)) decides costs in all cases (RAP 14.1(a)). As the substantially prevailing party in this cause of action, the Zinks respectfully request this Court to award them fees and costs for this appeal. See *Mount Adams Sch. Dist. v. Cook*, 150 Wn.2d 716, 727, 81 P.3d 111 (2003).

## VII. PUBLICATION

The Zink's respectfully request the court to publish its decision on this matter as the issues addressed herein are all of great public importance.

## VIII. CONCLUSION

Without access to these records, law enforcement agencies across Washington State are preventing the public from scrutinizing their actions concerning felony sex offenses. Offenses so heinous that our legislature enacted laws requiring those convicted of a sex offense to register as a sex offender in order to protect the community.

Allowing civil parties to file suit anonymously is in direct conflict with well-established rules of the court requiring a party to file both a summons and a complaint in their true legal names. Furthermore a party must show they have interest in the legal action in order to file legal action. Without knowing the identity of the individuals filing suit, the trial court has no way of verifying whether the plaintiffs have interest or this cause of action and the trial court erroneously relied on anonymous declarations of convicted criminals as credible. Allowing parties to file anonymously without providing the court with some reference to their identity is a violation of our Washington Constitution. Judicial proceedings are of great public importance and must be open to the public in order for the public to have confidence in our judicial system.

RCW 42.56.540 specifically mandates that only a party named in the record or to which the record pertains can enjoin the release of a specific record. Even if these six anonymous persons might be named in a small portion of the 13,000 requested records. But they are not named in all of the requested records making the trial court's decision that six anonymous persons may represent a class of Level I sex offenders an absurd and strained reading of our laws under the PRA.

Records of conviction and sentencing are of great public importance and must be freely available to the public. The trial courts determination that every record identifying

compliant Level I sex offenders violates our strongly worded PRA. Blanket exemptions are not allowed. Blanket disclosure is allowed.

For all of the reasons stated herein Appellants respectfully request this Court to reverse the trial court, order the parties to provide their true names, dissolve the classes certified by the trial court and award costs to the Zinks as the prevailing party.

RESPECTFULLY SUBMITTED this 13th day of November 2014

By _____
Donna Zink
Pro se

## IX. CERTIFICATION OF SERVICE

I declare that on the 13th day of November, 2014, I did send a true and correct copy of appellant's "BRIEF OF APPELLANTS DONNA AND JEFF ZINK" via e-mail service to the following addresses as agreed upon by all parties to this matter:

- VANESSA T. HERNANDEZ @ vhernandez@aclu-wa.org;
- SARA A. DUNNE @ dunne@aclu-wa.org;
- DAVID B. EDWARDS @ dedwards@corrcronin.com;
- STEVEN W. FOGG @ sfogg@corrcronin.com;
- DONNA PATTERSON @ dpatterson@corrcronin.com;
- GINA PAN @ gpan@corrcronin.com;
- SHELLY WILLIAMS @ ShelleyW1@atg.wa.gov and to CJDSeaEF@atg.wa.gov;
- ELIZABETH JACKSON @ ElizabethJ@atg.wa.gov;
- MICHAEL E. MCALEENAN @ mmc@smithalling.com; and
- JULIE PEREZ @ julie@smithalling.com.

Dated this 13th day of November, 2014

By _____
Donna Zink
Pro se

## OFFICE RECEPTIONIST, CLERK

**To:** Donna Zink
**Cc:** Jeff Zink; vhernandez@aclu-wa.org; dunne@aclu-wa.org; 'Edwards, David'; 'Fogg, Steven'; dpatterson@corrcronin.com; gpan@corrcronin.com; Williams, Shelley (ATG); 'CJDSeaEF@atg.wa.gov'; 'Jackson, Elizabeth (ATG)'; mmc@smithalling.com; 'Julie Perez'; ewixler@aclu-wa.org
**Subject:** RE: Initial Brief of Jeff and Donna Zink - Washington State Patrol et al v. John Doe A et al Cause #90413-8

Received 11-13-2014

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

---

**From:** Donna Zink [mailto:dzink@centurytel.net]
**Sent:** Thursday, November 13, 2014 3:46 PM
**To:** OFFICE RECEPTIONIST, CLERK
**Cc:** Jeff Zink; vhernandez@aclu-wa.org; dunne@aclu-wa.org; 'Edwards, David'; 'Fogg, Steven'; dpatterson@corrcronin.com; gpan@corrcronin.com; Williams, Shelley (ATG); 'CJDSeaEF@atg.wa.gov'; 'Jackson, Elizabeth (ATG)'; mmc@smithalling.com; 'Julie Perez'; ewixler@aclu-wa.org
**Subject:** Initial Brief of Jeff and Donna Zink - Washington State Patrol et al v. John Doe A et al Cause #90413-8

To the Clerk of the Supreme Court:

Please find attached our initial Briefing in Supreme Court Cause #90413-8 – Washington State Patrol et al v. John Doe A, et al.

The briefing is being submitted by

Donna Zink acting pro se
509-265-4417
dzink@centurytel.net

Thank you

Donna L.C. Zink