

No. 942030

SUPREME COURT OF THE STATE OF WASHINGTON

JOHN DOE G, JOHN DOE I, and JOHN DOE H,
as individuals and on behalf of others similarly situated,

Respondents,

v.

DEPARTMENT OF CORRECTIONS, STATE OF WASHINGTON

Appellant,

v.

DONNA ZINK, a married woman,

Appellant.

SUPPLEMENTAL BRIEF OF PETITIONER DONNA ZINK

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I. ARGUMENT

Our Penal and Justice Systems serve the purpose of punishing those who violate our laws and constitution and their records are open to the public. Our Penal and Justice Systems cannot be transformed into a health-related agency simply because a “professional” mental healthcare provider, is used by the court to determine whether an offender is a danger to a community if released into community custody under a suspended sentence.

The SSOSA evaluation benefits our communities by determination of the risk factors affecting community custody, benefits our penal system in reduced costs of custody and benefits our mental health professionals tasked with the job of treatment. All of these functions are done for the public’s benefit and the public has the right to scrutiny.

Once the decision was made to commit a sex crime, a heinous offense, the offender is subject to public scrutiny and oversight. Any harm suffered by those convicted of sex offenses are harms of their own doing.

1. ..Special Sex Offender Sentencing Alternative (SSOSA) Evaluations Are Not Exempt From Disclosure Under the Public Records Act (PRA)

a) SSOSA Evaluation Is a Legislatively Created Court Record Used for Sentencing Those Convicted of Sex Offenses

Our legislature enacted statutes under the Sentencing Reform Act of 1981, Chapter 9.94A RCW, to develop a system structuring the sentencing of felony offenders in order to make the criminal justice system accountable to the public as well as to protect the public from offenders (RCW 9.94A.015(4)). The SSOSA

evaluation is a part of that enactment and, is a legislatively created document, used by the trial court to determine whether any given offender is eligible for alternative sentencing (RCW 9.94A.670).

In *Koenig v. Thurston County*, 175 Wn.2d 837, 287 P.3d 523 (2012) this Court determined that while SSOSA evaluation serves many important functions (*Id.* ¶24), the primary purpose and reason for the existence of a SSOSA and evaluation is as a sentencing document to help a trial court determine whether an offender is safe to be released into the community with treatment (*Id.* ¶31).

Although our judicial system is not subject to the PRA,¹ our state constitution mandates that all court records be open to public review and scrutiny.² (*State v. Chen*, 178 Wn.2d 350, ¶8, 309 P.3d 410 (2013)). As trial court records are required to be maintained and available for public inspection and copying in our Superior Courts, there can be no issues of privacy concerning a SSOSA evaluation submitted to the court for sentencing purposes.³

¹ Because the common law provides a right of access to court case files and because of the language of the public records section of the PDA, we hold the PDA does not provide access to court case files. *Nast v. Michels*, 107 Wn.2d 300, 304, 730 P.2d 54 (1986).

² There is a common law right to make photocopies of court case files. See *United States v. Criden*, 648 F.2d 814, 823 (3d Cir. 1981); *In re NBC*, 653 F.2d 609, 612 (D.C. Cir. 1981); *Moore v. Board of Chosen Freeholders*, 76 N.J. Super. 396, 184 A.2d 748 (1962). *Nast v. Michels*, 107 Wn.2d 300, 308, 730 P.2d 54 (1986).

³ Many Superior Courts have public access to court records on-line at reduced copy costs for electronic copies and court records can be obtained by any person anywhere.

b) A SSOSA Evaluation Must Assess the Relative Danger Any Given Sex Offenders Poses to the Community if Their Sentence is Served in Community Custody Instead of Prison

In order to determine whether an offender is a danger to the public and sentenced under RCW 9.94A.507 (RCW 9.94A.670(4)) or low risk of danger to the community with treatment and given a suspended sentence up to 10 years (RCW 9.94A.670(2)(f)) with a mandatory 12 months of confinement/partial confinement (RCW 9.94A.670(5)(a)), an offender must be assessed (RCW 9.94A.670(3)(b)). The assessment criteria set out by our Legislature includes: (i) The offender's version of the facts and the official version of the facts; (ii) The offender's offense history; (iii) An assessment of problems in addition to alleged deviant behaviors; (iv) The offender's social and employment situation; and (v) Other evaluation measures used. RCW 9.94A.670(3)(i-v). Nowhere in the language of RCW 9.94A.670(3) does the mandatory assessment include a diagnosis of a mental health condition.

A mental health diagnosis is not a requirement for the commission of sex offenses, and not all convicted sex offenders have a mental health diagnosis or even the same mental health issue if any. However, should any particular offender have a mental health condition, that information would be of public interest for safety reasons as well as government oversight.

A SSOSA evaluation does not necessarily have to be performed by a certified treatment provider pursuant to RCW 9.94A.820(1). SSOSA evaluations are submitted to the trial court to determine whether the offender is safe (not a danger to reoffend) and can be returned to the community with treatment. RCW 9.94A.820(1) is specific to the examination and treatment **after** an offender has

been court ordered into community custody with treatment.⁴ The only statutory requirement mandating who can perform SSOSA evaluation is that the evaluator cannot be the same person providing community treatment (RCW 9.94A.670(13)).

Whether this Court determines that only a professional can evaluate a sex offender, it is beneficial to the community and helpful to the courts to have a licensed professional, rather than a lay person, evaluate offenders to determine any threats to the community as well as the amenability to treatment. That does not mean that a sex offender is a “patient” or that the evaluation is providing “healthcare,” especially in light of the fact that no health diagnosis is necessary for any given sex offender to be given the alternative sentence. However, if the evaluator is not required to be “mental health professional” and the offender is not required to be given a mental health diagnosis, a SSOSA evaluation cannot be considered health care information simply because a professional, with training, is administering a court ordered evaluation to determine any dangers to the community if the treatment option is utilized.

Although this Court in *Koenig v. Thurston County*, found that SSOSA evaluation serves many important functions, the reason for the existence of a SSOSA evaluation and its primary purpose is as a sentencing document to aid a

⁴ Sex offender **examinations and treatment ordered as a special condition of community custody under this chapter** shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW... RCW 9.94A.820(1)(emphasis added).

trial court in determining whether an offender is safe to be released into the community with treatment instead of prison.

A SSOSA evaluation is maintained as a public record in the trial court and must be available in its entirety for inspection and copying (see above). The evaluations do not become “private health care records” simply by virtue of being held in the prosecuting attorney’s office rather than in the court (RCW 9.94A.475, .480). The evaluations cannot be “mental health” records simply because a “professional” rather than a “lay person” is used to evaluate any dangers to the community with community custody and the offenders amenability to treatment.

c) Sentencing Reform Act of 1981 Mandates Disclosure

The purpose of the PRA’s exemptions is to protect privacy rights or vital governmental interests (RCW 42.56.050). As previously discussed, records of conviction of a crime are open to public inspection and copying in unredacted form in the trial court and therefore have no privacy issues to protect (RCW 42.56.050). Further, under the Sentencing Reform Act of 1981, the “Sentencing Court” and “Prosecutor’s Office” must each retain a copy of each SSOSA evaluation in their official record (RCW 9.94A.480(1)) open to public inspection (RCW 9.94A.475(2)). When these provisions of the Sentencing Reform Act are read together and harmonized, our Legislature clearly intended SSOSA evaluations to be available for public inspection not only in the court of sentencing but also in the associated prosecutor’s office.

Under the Sentencing Reform Act of 1981 our legislature mandated that:

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:

(2) Any most serious offense as defined in this chapter.

RCW 9.94A.475(2). The Does fall within the definition of RCW 4.75.030(32) as convicted sex offenders.

Pursuant to Chapter 9.94A RCW, our legislature requires law enforcement agencies to maintain and disclose any and all recommended sentencing agreements or plea agreements and the sentences of convicted sex offenders which must be maintained and accessible to the public. *Koenig v. Thurston County*, 175 Wn.2d 837, ¶31, 287 P.3d 523 (2012). A prosecutor often factors a SSOSA evaluation in negotiations with the defendants (*Id.* ¶25, *fn.* 6) and an evaluation is mandatory in order for a convicted sex offender to receive an alternative sentence in the court (RCW 9.94A.670(3)) allowing a convicted sex offender to receive substantially reduced prison time in exchange for community supervision with mandatory treatment RCW 9.94A.670(4),(5)(*Koenig.* ¶26). A SSOSA is a part of the sentencing document.

RCW 9.94A.401 to .480 are “prosecutorial standards” that are “intended solely for the guidance of prosecutors [and] are not intended to ... create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state” RCW 9.94A.401 (*Zink v. John Doe P*, No. 48000-0-II, ___ Wash. App. ___, ___ P.3d ___ (2017) WL _____ (June 20, 2017). The law being enforced in this case is the PRA and not RCW 9.94A.401 to .480. However, the prosecutorial standards under RCW 9.94A.475 and .480, demand that the trial

court and the Prosecutor's office maintain copies of sentencing documents as public records which, in the Prosecutor's Office, would be subject to the PRA when requested.

d) Criminal Records Act

Records of criminal conviction must be available to the public under the Washington State Criminal Records Privacy Act. Conviction records may be disseminated without restriction. RCW 10.97.050(1). "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject. RCW 10.97.030(3). "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, **informations**, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, **sentences, correctional supervision, and release**. RCW 10.97.030(1)(emphasis added).

All records requested by Zink are records of conviction and sentencing which are required to be available for public inspection. A SSOSA evaluation is a criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject RCW 10.97.030(3). In other words, the SSOSA evaluation was created (related to) solely because of a crime (incident) being committed for which an offender was convicted (led to a conviction as a sex offender) under the SSOSA program. The evaluations are used by the trial court to recommend a SSOSA sentence or discourage a court from

imposing the sentencing alternative. Therefore, a SSOSA evaluation contains **information concerning sentencing and correctional supervision** and is a document directly incidental to a conviction and is a conviction record as defined by RCW 10.97.030.

SSOSA evaluations are to be maintained in the court file and must also be maintained in the prosecutor's office as criminal history records and available for public scrutiny.

2. ..Sex Offenders are Not Considered to Have a Mental Health Condition, a SSOSA Evaluation Does Not Require A Mental Health Diagnosis, Evaluation a Sex Offender for Sentencing Purposes is Not Providing Mental Health Care and SSOSA Evaluations are Not Mental Health Records

Respondents argue that RCW 70.02.230 requires all information and facts of admission to a mental health provider for treatment be kept confidential.

[U]nder RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

Id. This argument fails for the same reason that SSOSA evaluations are not health care records. Further, the argument fails because it is already known by numerous persons, including the media, that a SSOSA evaluations has been order by the trial court for sentencing. During sentencing, in open court, the trial court announces that an SSOSA evaluation was performed and makes a determination on sentencing. Therefore, under RCW 70.02.230 sex offender evaluations cannot be considered as admission to mental health services.

Finally, the primary purpose of a SSOSA evaluation is for the protection of the community, to decrease costs in our penal system and to provide rehabilitation treatment in the hope of reducing recidivism. Commission of a sex crime is not dependent on having a mental health disease and the convicted sex offender is not admitted to a mental health facility for treatment until after sentencing has occurred. Any records generated after the sex offender enters the treatment program may be considered mental health records. But those records have not been requested in this case and are not at issue.

As RCW 70.02.230 states, it is the nature of the records that determines their exemption. In the case of SSOSA evaluations, they are compiled for the penal system to determine punishment for a sex crime and not to diagnose or treat mental health disease.

3. RCW 42.56.540 Controls In the Case of Third Party Injunction of Public Records

This Court has mandated that the question of whether an issue will be heard for the first time on appeal lies in the determination of:

1. Whether one party has the right to waive compliance with the provisions of a mandatory statute;
2. Whether it affects the present welfare of the people at large and or a substantial portion thereof;
3. Whether a departure from the general rule is warranted; and
4. Whether the court is authorized in its discretion to direct its attention to the general welfare, rather than the interests of the parties to the immediate cause.

Maynard Inv. Co. v. McCann, 77 Wn.2d 616, 622-23, 465 P.2d 657 (1970). A court's decision to enjoin the public's records is of great public concern, affects

the public's ability to access public records and therefore affects the welfare of the public at large rather than just the interests of the parties in this cause.

The exception to the rule is a salutary one. **Courts are created to ascertain the facts in a controversy and to determine the rights of the parties according to justice.** Courts should not be confined by the issues framed or theories advanced by the parties if the parties ignore the mandate of a statute or an established precedent. **A case brought before this court should be governed by the applicable law even though the attorneys representing the parties are unable or unwilling to argue it.**

(*Id.* 623)(emphasis added).

RCW 42.56.540 is the sole statute giving a court the authority to enjoin public records. In *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, ¶12, *fn.* 2, 423, 259 P.3d 190 (2011), this Court opined that as RCW 42.56.540 is specific to enjoining public records. The issue of whether a third party meets all requirements of RCW 42.56.540 is a necessary decision of a reviewing court.

This court generally reviews only those issues raised by the parties in their petition and answer. RAP 13.7(b). This rule is subject to numerous exceptions. *Maynard Inv. Co. v. McCann*, 77 Wn.2d 616, 621, 465 P.2d 657 (1970). One such exception provides that "[t]his court has the inherent discretionary authority to reach issues not briefed by the parties if those issues are necessary for decision." *City of Seattle v. McCready*, 123 Wn.2d 260, 269, 868 P.2d 134 (1994).

Blaney v. Int'l Ass'n of Machinists & Aerospace Workers, Dist. No. 160, 151 Wn.2d 203, 213, 87 P.3d 757 (2004)(footnotes omitted)(emphasis added).

4. Public Interest in Access to Public Documents Relates to Government Scrutiny of Our Government Agencies

The PRA is strict mandate for the public's right to transparent government and our courts are to construe its provisions liberally in favor of production and its exemptions narrowly. *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 408, 259 P.3d 190 (2011). In order to determine whether to enjoin public records from production under RCW 42.56.540, a reviewing court must find the records are exempt from production and, if an exemption applies, the public has no interest in the records. *Yakima County v. Yakima Herald-Republic*, 170 Wn.2d 775, 808, 246 P.3d 768 (2011).

In determining whether the records are of public interest under RCW 42.56.540 our courts are directed to be mindful that the basic purpose of the PRA is to provide a means by which the public can be assured that its public officials are honest and impartial in the conduct of their public offices. *Amren v. City of Kalama*, 131 Wn.2d 25, 31, 929 P.2d 389 (1997). See also *Cowles Pub. Co. v. State Patrol*, 109 Wn.2d 712, 748 P.2d 597 (1988) and *In Re Rosier*, 105 Wn.2d 606, 717 P.2d 1353 (1986).

The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.

RCW 42.56.030(emphasis added). Our penal system is an instrument created by the people to enforce our laws and punish those who would violate them. The Department of Corrections is a large part of our penal system. The public's

interest in records held by our penal system is to scrutinize its workings to ensure the sovereignty of the people and the accountability of this governmental agency. *Newman v. King County*, 133 Wn.2d 565, 570, 947 P.2d 712 (1997). Without the scrutiny and oversight of our penal system, the people have no way of knowing whether the SSOSA program is working for the people. It is not enough that those persons operating the programs tell the people how well they are working. The people must have the opportunity for independent oversight outside those affected. That is the only way to assure that the people are truly being protected.

The stated purpose of the Public Records Act is nothing less than the preservation of the most central tenets of representative government, namely, the sovereignty of the people and the accountability to the people of public officials and institutions. RCW 42.17.251. Without tools such as the Public Records Act, government of the people, by the people, for the people, risks becoming government of the people, by the bureaucrats, for the special interests. In the famous words of James Madison, "A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both." Letter to W.T. Barry, Aug. 4, 1822, 9 *The Writings of James Madison* 103 (Gaillard Hunt, ed. 1910).

Progressive Animal Welfare Soc'y v. Univ. of Wash., 125 Wn.2d 243, 251, 884 P.2d 592 (1994).

a) Harm to the Sex Offenders

Only after determining that a record is exempt and that the public has no interest in access to the record, can a reviewing court turn to the question of whether a third party would suffer any substantial or irreparable harm. *Yakima County v. Yakima Herald-Republic*, 170 Wn.2d 775, 808, 246 P.3d 768 (2011). The only evidence of harm shown by the sex offenders are declarations from

persons working in our penal system who are responsible for the punishment of sex offenders. These experts identify the injury to the sex offenders in release of the SSOSA evaluations as a potential injury that might have an effect on sex offenders and others.

A potential for harm is not substantial and irreparable harm. It is merely a fear that something “might” happen. Although this might be an issue of first impression, it is not enough to simply claim substantial and irreparable harm “might” occur. A blanket declaration of harm is not specific enough in light of the fact that these same records are available to the public in the trial court, in unredacted form, in their entirety.

Any harm suffered by sex offenders is of their own doing. Once they chose to commit a sex crime, they lost a portion of their privacy rights. Furthermore, the victims, friends and family members have not come forward to prevent release of the SSOSA evaluation. The certified class only affects the sex offenders.

Finally, even if the SSOSA evaluation could be classified as a mental health record, which it is not, it would only contain the medical information relating to the offender and not victims or friends and family and cannot be considered an exemption under Chapter 70.02 RCW.

5. ..Use of Pseudonym is Sealing Court Records requiring due process

a) Washington State Constitution Article I, section 10

Our Washington State Constitution is designed to prevent secrecy in our judicial system and mandates that justice must be administered openly in all cases, including this cause of action. Washington State Constitution, Article I, §10

(emphasis added). Our State Constitution mandates that it applies to every single individual.

All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and **are established to protect and maintain individual rights.**

Washington State Constitution, Article I, §1(emphasis added). Our State Constitution assures that all litigants must be treated equally in our judicial system.

No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, **privileges or immunities which upon the same terms shall not equally belong to all citizens,** or corporations.

Washington State Constitution, Article I, §12 (emphasis added). Our State Constitution guarantees that:

No person shall be deprived of life, liberty, or property, without due process of law.

Washington State Constitution, Article I, §3. As a citizen of the State of Washington Zink has an individual Constitutional right to know who summons her into litigation as do all other litigants. Furthermore, secrecy in our judicial system affects the public at large. If these litigants are allowed to secret their identity simply by virtue of being “chilled” by public knowledge of their true identity, what other litigants would be allowed to file anonymously in our courts and what legal authority controls those decisions.

b) Civil Court Rules Apply to All Litigants and All Courts

The principles used to determine the meaning of statutes also applies to the interpretation of court rules *State v. McEnroe*, 174 Wn.2d 795, 800, 279 P.3d 861

(2012). In order to interpret the constitution, statute or rule, each of its provisions "should be read in relation to the other provisions, and construed as a whole." *Weyerhaeuser Co. v. Tri*, 117 Wn.2d 128, 133, 814 P.2d 629 (1991) (citing *State v. Sommerville*, 111 Wn.2d 524, 531, 760 P.2d 932 (1988)). Court rules and State statutes must be interpreted and construed in such a fashion as to give all the language used effect, and no portion may be rendered meaningless or superfluous in the interpretation. *G-P Gypsum Corp. v. Dep't of Revenue*, 169 Wn.2d 304, 309, 237 P.3d 256 (2010)(see also *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003)).

Court rules must be followed by every court in the State of Washington without exception (Washington State Constitution, Article I, §3). If court rules dictate that a court must perform a task, a court does not have the option to do otherwise absent due process. The requirements for identification of a true party of interest being named in the caption of court records is found at CR 4(b)(1)(i), 10(a)(1) and 17(a). Each of these court rules contain language stating that the party initiating legal action against another party must provide their true legal name and be identified as the true party of interest.

Court rules require the identification of a true party of interest be named in the court record.

[T]he 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...**

CR 4(b)(1)(i)(emphasis added).

In the complaint **the title of the action shall include the names of all the parties**, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

10(a)(1)(emphasis added).

Every action **shall be prosecuted** in the name of the real party in interest.

17(a)(emphasis added). Three different and separate court rules require that all parties must be named and identified with their true identity in order to initiate an action in the court. Allowing a litigant to file anonymously or under false names without due process (GR 15 and an *Ishikawa* analysis) simply cannot be allowed. The decision that the records are not sealed is error and an abuse of discretion. The decision and order must be overturned and remanded back the trial court to apply the *Ishikawa* factors. *John Doe v. WSP*, 185 Wn.2d 363, ¶36, *fn.* 6, 374 P.3d 63 (2016)

c) This Court's Decision In *Hundtofte v. Encarnacion* Mandates Application of GR 15 and an *Ishikawa* Analysis in Order to Use Pseudonyms to Obscure the Identity of a Party

The importance of openness in our judicial system was revisited in a recent Supreme Court decision, *Hundtofte v. Encarnación*, 181 Wn.2d 1, 330 P.3d 168 (2014).

Article I, section 10 of our constitution states that “[j]ustice in all cases shall be administered openly, and without unnecessary delay.” Const. art. I, § 10. The openness of our courts “is of utmost public importance” and helps “foster the public's understanding and trust in our judicial system.” *Dreiling v. Jain*, 151 Wn.2d 900, 903, 93 P.3d 861 (2004). Thus, we must start with

the presumption of openness when determining whether a court record may be sealed from the public. *Rufer*, 154 Wn.2d at 540. Any exception to this “vital constitutional safeguard” is appropriate only in the most unusual of circumstances. *In re Det. of D.F.F.*, 172 Wn.2d 37, 41, 256 P.3d 357 (2011) (plurality opinion). The party moving to override the presumption of openness and seal court records usually has the burden of proving the need to do so. *Rufer*, 154 Wn.2d at 540.

(*Id.* ¶10). This Court clarified that redaction of court records is sealing court records.

An order to redact a court record is treated as an order to seal. GR 15 (b)(4)..

(*Id.* ¶9). In this case the litigants submitted their complaint and summons already under pseudonym and redacted. In allowing litigants to initiate this action in the courts in secrecy, the court violated three separate and distinct court rules requiring their true identities to be known. In *Hundtofte* this Court mandated that all sealing of records must be justified under GR 15 with an *Ishikawa* analysis and each litigant must be assessed on a case-by-case basis (*Id.* ¶13).

Under the General Rules, a court record may be sealed if a court “enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.” GR 15 (c)(2). **“Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records.”** *Id.* But GR 15 is not, by itself, sufficient—the rule must be harmonized with article I, section 10 of our constitution. *State v. Waldon*, 148 Wn. App. 952, 966-67, 202 P.3d 325 (2009). Thus, **a court must analyze a motion to redact using both GR 15 and the five-step framework**

for evaluating a closure outlined in *Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 37-39, 640 P.2d 716 (1982). Waldon, 148 Wn. App. at 967.

(*Id.* ¶11)(emphasis added). Respondents argued that other state and our federal courts have allowed for use of pseudonym if the parties need for anonymity outweighs prejudice to the opposing party and the public's interest in knowing the parties identity, citing to *Bodie v. Connecticut*, 401 W.S. 371, 91 S.Ct. 780, 785, 28 L.Ed.2d 113 (1971) and *Does I thru XXIII v Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000)(CP 85-115).

Federal preemption of state law may not occur unless Congress passes a statute expressly preempting state law. *Physicians Ins. Exch. V. Fisons Corp.*, 122 Wn.2d 299, 326-27, 858 P.2d 1054 (1993). Courts are instructed to be very reticent to preempt state regulations and laws based on an ambiguous implication of a federal law. *Inlandboatmen's Union of Pac. v. DOT*, 119 Wn.2d 697, 702, 836 P.2d 823 (1992) (footnote removed).

Further, it is unknown whether any criteria has been set forth in other state or federal court to show that a parties need for anonymity outweighs any prejudice to the opposing party and the public's interest in knowing the parties identity. In Washington State, our courts are required to apply GR 15 and do an *Ishikawa* analysis in order to make that determination.

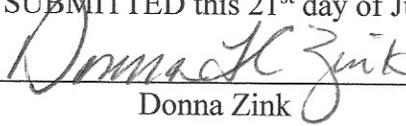
Zink as a mandatory party (*Burt v. Dep't of Corr.*, 168 Wn.2d 828, ¶24, 231 P.3d 191 (2010)) has the right to know those who seek to prevent her right to access public documents.

II. CONCLUSION

For all of the reason set forth here as well as all other argument made in this cause of action, Zink respectfully requests this court to reverse Division I on the issue of exemption, remand back to the trial court for proper application of the Ishikawa factors, and order the requested SSOSA to be released to Zink.

RESPECTFULLY SUBMITTED this 21st day of July 2017.

By



Donna Zink

Pro se

III. CERTIFICATE OF MAILING

I, Donna Zink, declare that on July 21, 2017, I did send a true and correct copy of Appellant Zink's request for "*Supplemental Brief of Petitioner Donna Zink*" to the following parties via e-mail to the following e-mail Service Addresses:

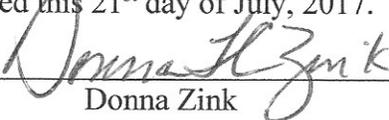
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Dated this 21st day of July, 2017.

By



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Pro Se

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Transmittal Information

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