

Amicus curiae means, literally, “friend of the court”. The process caters to individuals or organizations with a strong interest in, or views about, the issues contained in the appeal. They do not rank as parties to the action. However, they may file a brief suggesting a rationale consistent with their own views and concerns. *Amicus curiae* briefs commonly address matters of broad public interest and establish the interests of third parties

Amici curiae use their own attorneys licensed in the State of Washington to express professional or ethical concerns based upon the appellate briefs filed with the court. Their briefs support the special interests of the person or organization filing and include supporting case law.

The *amicus curiae* briefs give the appellate court notice of the extraordinary international concern about this case. They also demonstrate how the trial court decision would adversely affect journalists internationally if allowed to set a legal precedent and standard for citation in subsequent cases. These précis relate to *amicus curiae* briefs filed with Washington Court of Appeals (15 Oct 03) and link to full text briefs.

American Civil Liberties Union (ACLU)

Aaron H. Caplan (WSBA 22525), ACLU Counsel.
206 624 2184. <caplan@aclu-wa.org>

Lafcadio H. Darling (WSBA 29963), Attorney-at-Law, Gordon Thomas Honeywell, Seattle.
206 676 7575 <ldarling@gth-law.com>

American Civil Liberties Union of Washington, a statewide, non-partisan, non-profit organization has more than 12,000 members concerned with preservation of constitutional and civil liberties which include freedom of speech and due process rights. ACLU recognizes unlawful harassment as a serious social evil with narrowly tailored antiharassment orders to keep the peace.

Washington civil antiharassment statute has punished protected speech and activities. Paul Trummel actively protested conditions at Council House and strongly voiced objections to its operation. He created a newsletter, web sites and other media, criticizing Council House and Stephen Mitchell its administrator for the treatment of residents and alleged misuse of funds.

Mitchell filed a petition for antiharassment in King County Superior Court although the petition it contains no allegations of threats, physical harassment or stalking. Trummel did not have the opportunity to cross-examine the adverse witnesses, to present witnesses of his own, or to testify on his own behalf. Harassment was found solely on the basis of his writings and conclusory out-of-court statements by residents.

Constitutionally protected activities - like writing a newsletter or a web site - do not count as part of a course of conduct that supports an antiharassment order. The transcripts plainly show a trial court acting without regard for the requirements of the statute, or the constitutional values the statute incorporates. Judge Doerty found unpleasant speech enough to justify an injunction.

Although the statute guaranteed Trummel's right to be represented by private counsel he did not testify because the Court forced him to proceed *pro se* without a meaningful opportunity to challenge the evidence against him and present his case.

[Print Full Text of Brief - LD-03-1015-0000.pdf]

American Society of Journalists and Authors (ASJA)

Claire Safran, Chair, First Amendment Committee.
203 227 6271. <csafran@optonline.net>

Patrick Denis Brown (WSBA 23033), Seattle University School of Law.
206 398 4134. <brownp@seattleu.edu>

The livelihood of ASJA members depends on free exercise of speech and of the press. Consequently, the issues in this case bear directly on the concerns of all ASJA members. The primary issue relates to whether Trummel served as a "journalist" when he wrote the texts in question.

The Court should note that no state requires licensing of journalists. No legal or quasi-legal requirements exist for journalists under the prevailing interpretation of the First Amendment. For government to impose a journalism license or other requirement upon journalists would classify as *de facto* violation of that Amendment.

No person or organization can decide who is or is not a journalist. The act of writing, whether or not the writer belongs to an association or union, remains sufficient to define a journalist.

Trial court noted that Trummel did not use a publisher and ruled that it did not consider him *bona fide* which would allow him protection under the First Amendment. A writer does not need a publisher to serve as a journalist. Some of the most important statements in the history of the United States were self-published or published in small private newsletters.

The First Amendment protects free speech for all people. They need not commit words to paper. Council House would have done better to respond with more speech rather than with an attempt to gag a journalist. Mitchell could have used existing law rather than attempt to exercise prior restraint of free speech.

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International Federation of Journalists (IFJ)

Adian White, General Secretary.

+32 2 235 22 00. <ifj@ifj.org>

Patrick Denis Brown (WSBA 23033), Seattle University School of Law.

206 398 4134. <brownp@seattleu.edu>

International Federation of Journalists, the world's largest journalists' group, confederates journalists' trade unions and associations in 110 countries. It represents more than 500,000 reporters, editors, and creators working in all sectors of media. Based in Brussels, it has regional offices in Europe, Latin America, Asia, and Africa.

Paul Trummel has suffered infringement of his personal freedom of expression through restrictions imposed by a Washington State trial court. This led to his imprisonment and interference with the content of his Internet publication.

Freedom of expression, as set out in Article 19 of the Universal Declaration of Human Rights (UDHR), remains the professional right of journalists except in the most extreme cases. The agencies of the United Nations and within the democratic community of nations recognize self-regulation. The use of law remains minimal and only applies when a danger to the safety and welfare of individuals and the public at large exists. UDHR clearly articulates this in the Press Freedom Declaration of the Inter-American Human Rights Commission, and in the European Convention on Human Rights.

Definition of the term "journalist" varies. In some countries, the law defines the term professional journalist, establishes criteria for persons wishing to enter the profession, and sets out the legal rights and responsibilities of persons carrying out this work. We strongly dispute the attempt to discredit Trummel as a journalist. The trial court's reasoning represents a real and direct threat to the freedom of thought and expression on which journalism depends.

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National Union of Journalists (NUJ)

Phil Sutcliffe, Treasurer, London Freelance Branch.

+44 20 8333 2152. <greyhair@nildram.co.uk>

Patrick Denis Brown (WSBA 23033), Seattle University School of Law.

206 398 4134. <brownp@seattleu.edu>

National Union of Journalists represents 35,000 journalists (including writers, editors, photographers, cartoonists, public relations workers, etc.) working in all media, including about 6000 freelancers. London Freelance Branch has about 3,000 members working internationally. A

Washington State trial court infringed the freedom of expression of freelance member Paul Trummel by imprisoning him for exercising his journalistic and personal freedom of expression.

Internationally notorious, this case presents an appalling spectacle. The court threw an elderly journalist into jail and forced him to endure several weeks in solitary confinement for exercising rights guaranteed by the United States' First Amendment, the United Nations' Universal Declaration of Human Rights, and the United Kingdom's Human Rights Act. The case raises troubling questions about freedom of expression and Internet publication.

Trummel, a veteran journalist, public relations worker, and media academic, worked for many years in London and then moved to USA. NUJ contends that the trial court committed a gross error of judgment in restricting freedom of expression by jailing a journalist because he would not submit to restriction of free expression enshrined in documents universally recognized by the civilized world.

United Nations' Universal Declaration of Human Rights declares: "Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." United Kingdom Human Rights Act addresses the same issue in nearly the same terms.

The trial court appeared to rule that Trummel does not rank as a journalist because he self-published some of his work. If this characterization is even remotely accurate then it seems far removed from national and international standards governing freedom of speech and journalism. It takes little imagination to recognize how the damaging implications in this case affect all publishing media. Even under the law of defamation a court cannot order the unconscionable sort of abuse meted to Trummel by the trial court.

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Seattle Weekly

Chuck Taylor, Managing Editor, Seattle Weekly
206 623 0500. <ctaylor@seattleweekly.com>

Michele L. Earl-Hubbard, Davis Wright Tremaine, Seattle.
206 622 3150. <micheleearlhubbard@dwt.com>

Todd W. Wyatt, Davis Wright Tremaine, Seattle.
206 622 3150. <toddwyatt@dwt.com>

As Seattle's largest alternative newspaper *Seattle Weekly* has a weekly circulation of 101,000 through its news racks and an average of 197,000 Internet readers each month. It has represented

a significant and respected journalistic force in the Seattle community for over 28-years. Its award-winning coverage and independent voice have made it a guide to Seattle's civic and cultural life.

Trummel created a web site in Europe on which he posted articles critical of Council House and advised Washington readers to go to a separate web site where he had posted redacted versions. The trial court held that the European web site constituted a violation of the anti-harassment order and immediately incarcerated him. He remained in jail for more than 100 days until he removed names, photos, and other personal information from the foreign web site.

Distinctions drawn on qualifications or perceived worth of a speaker defy history which teaches that important ideas can derive from unknown and previously unheralded voices. In effect, silencing them silences vital ideas. Whistle blowers publish "inside" and sometimes "private" information of alleged misdeeds. Society relies upon them to shed light where the government and "traditional" media cannot.

Content-based restrictions on speech must serve a compelling state interest. No compelling interest exists for state-ordered removal from the Internet of otherwise available information. Privacy interests cannot abrogate First Amendment rights to publish. Privacy does not trump free speech.

Even if a reporter gathers information through acts constituting "surveillance," subsequent speech regarding the information remains constitutionally protected. The same standard does not apply to speaking or writing about a crime as to committing the crime.

Content-based prior-restraint must survive the strictest scrutiny known to First Amendment jurisprudence. Washington constitution has broader interpretation than the US First Amendment and absolutely prohibits prior restraints of constitutionally protected speech. Prior restraint bears a "heavy presumption against . . . constitutional validity," and proponents must carry a "heavy burden of showing justification for the imposition of such a restraint."

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Feedback: Webspinner@ContraCabal.org