

NO. 75977-4

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

PAUL TRUMMEL,

Appellant,

v.

STEPHEN MITCHELL and COUNCIL HOUSE, INC.,

Respondents.

SEATTLE WEEKLY'S MOTION TO FILE AMICUS CURIAE BRIEF

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Weekly*

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I. RELIEF REQUESTED

Seattle Weekly hereby requests permission to file an *amicus curiae* brief in the above-captioned case pursuant to RAP 10.6. The brief will be in support of the position of Appellant Paul Trummel.

II. IDENTITY AND INTEREST OF AMICUS CURIAE

Amicus Curiae Seattle Weekly has been a significant and respected journalistic force in the Seattle community over its 28-year history. The paper's award-winning coverage and independent voice have made it the guide to Seattle's civic and cultural life, providing readers with intelligent, provocative, and challenging insights on local politics, entertainment, media and culture. *Seattle Weekly* is Seattle's largest alternative newspaper, circulating 109,000 copies per week through its news racks and reaching an average of 230,000 readers each month on the Internet at www.seattleweekly.com. It is a member of Village Voice Media, whose properties include *The Village Voice*, *LA Weekly*, *Seattle Weekly*, *City Pages* (in Minneapolis-St. Paul), *OC Weekly* (in Orange County, CA), and the *Nashville Scene*.

Seattle Weekly is known for aggressive investigations and reporting and for tackling unpopular and difficult issues. *Seattle Weekly's* interest in this case stems from its concern that content-based censorship,

prior restraint and punishment of unpopular messages and unpopular people erodes the freedom of speech for all.¹ *Seattle Weekly* as a publisher of a newspaper and web site will be directly impacted by the decision in this case. It thus has a legitimate interest in addressing these issues and assuring that the Court is adequately informed on the matter when considering the case and arguments.

III. FAMILIARITY WITH ISSUES

Seattle Weekly stands in the shoes of approximately 300,000 readers who rely upon *Seattle Weekly* to inform them about current affairs. Counsel for *Seattle Weekly* has represented *Seattle Weekly* and numerous other media entities for several years and has firsthand experience with the First Amendment and Article 1, Section 5 issues involved here. Counsel has reviewed the briefs of the parties and the authorities cited therein.

IV. SPECIFIC ISSUES TO BE ADDRESSED

The *Amicus Curiae* brief will address the errors in the lower courts' holdings as they relate to the censorship, restraint, and punishment of speech and posting of information on the Internet. *Seattle Weekly* will

¹ Indeed, the trial court acknowledged that its decision would apply to journalists working for newspapers such as *Seattle Weekly*: "Even if Mr. Trummel was a salaried employee of a world class newspaper and the recipient of a Pulitzer Prize, he would not be able to behave the way he behaved at Council House." RP (6/17/02) at 4.

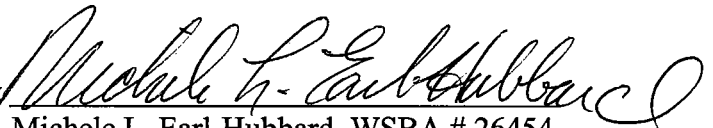
also illustrate the likely negative consequences for journalists and Internet publishers in the future if the lower court's rationale is adopted.

V. NEED FOR ADDITIONAL ARGUMENT

Seattle Weekly believes that its experience reporting on controversial and unpopular subjects and publishing information on a web site will assist the Court in deciding this case by providing an important perspective on the impact of the appellate court's decision and the implicit holdings within that decision. This perspective cannot be provided by the parties. *Seattle Weekly* therefore urges this Court to grant it leave to file an *Amicus Curiae* Brief in support of the position of Paul Trummel.

DATED this 24th day of May, 2005.

Davis Wright Tremaine LLP
Attorneys for *Amicus Curiae Seattle Weekly*

By 
Michele L. Earl-Hubbard, WSBA # 26454

CERTIFICATE OF SERVICE

I, Barbara J. McAdams, hereby certify and declare:

1. I am over the age of 18 years and am not a party to the within cause;
2. I am employed by the law firm of Davis Wright Tremaine. My business and mailing address are 2600 Century Square, 1501 Fourth Avenue, Seattle, Washington 98101;
3. On the 24th day of May, 2005, I caused the attached Motion to File Amicus Curiae Brief, to be served by email and first-class postage prepaid U.S. Mail, upon:

Eric G. Broman Nielsen, Broman & Koch 1908 E. Madison Seattle, WA 98122 <i>Via email & U.S. Mail per agreement</i>	Richard A. Du Bey Paul Dayton Short Cressman Burgess 999 Third Avenue, Suite 3000 Seattle, WA 98104 <i>Via email & U.S. Mail per agreement</i>
Elena Luisa Garella William Crittenden 927 N. Northlake Way Suite 301 Seattle, WA 98103 <i>Via email & U.S. Mail per agreement</i>	Patrick Denis Brown 6112 – 24 th Avenue NE Seattle, WA 98115-7029 <i>Via email & U.S. Mail per agreement</i>
Aaron Caplan ACLU 705 Second Avenue, Suite 300 Seattle, WA 98104 <i>Via email & U.S. Mail per agreement</i>	

I declare under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge and belief.

EXECUTED this 24th day of May, 2005, at Seattle, Washington.

Barbara J. McAdams
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