

RECEIVED
COURT OF APPEALS
DIVISION ONE
NOV 26 2003

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

PAUL TRUMMEL,)	
)	
Appellant,)	No. 48662-4-I
)	
v.)	AMICUS CURIAE <i>SEATTLE</i>
)	<i>WEEKLY'S</i> STATEMENT OF
STEPHEN MITCHELL and)	ADDITIONAL
COUNCIL HOUSE, INC.,)	AUTHORITIES
)	
Respondents.)	

Amicus curiae *Seattle Weekly* offers the following additional authorities pursuant to RAP 10.8, as follows. Copies of out of state authorities are attached hereto as an Appendix.

1. For the elements required to establish that speech is libelous, see:
 - *Robel v. Roundup Corp.*, 148 Wn.2d 35, 55-57 (2002)

2. For the proposition that protected speech is protected speech

regardless of the cause of action under which it is assessed, see:

- Aitken v. Reed, 89 Wn. App. 474, 491, 949 P.2d 441, 449 (1998), review denied, 136 Wn.2d 1004, 966 P.2d 441 (1998)
- Lawson v. Boeing Co., 58 Wn. App. 261, 269, 792 P.2d 545, 550 (1990), review denied, 116 Wn.2d 1021, 811 P.2d 219 (1991)
- Hoppe v. Hearst Corp., 53 Wn. App. 668, 675, 677, 770 P.2d 203, 208 (1989)
- Stidham v. Dep't of Licensing, 30 Wn. App. 611, 615-16, 637 P.2d 970, 973 (1981)
- Leidholdt v. L.F.P. Inc., 860 F.2d 890, 893 n.4, 15 Media L. Rep. 2201 (9th Cir. 1988), cert. denied, 489 U.S. 1080 (1989)
- Carafano v. Metrosplash.com, Inc., 207 F.Supp.2d 1055, 1076 (C.D. Cal. 2002), aff'd on other grounds, 339 F.3d 1119 (9th Cir. 2003)
- Zeran v. AOL, Inc., 129 F.3d 327, 332 (4th Cir. 1997), cert. denied, 524 U.S. 937 (1998)

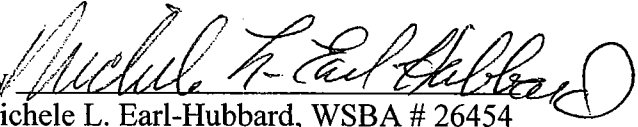
- Chaiken v. VV Publishing Corp., 907 F.Supp. 689, 699 (S.D.N.Y. 1995), aff'd, 119 F.3d 1018 (2nd Cir. 1997), cert. denied 522 U.S. 1149 (1998)
- Levin v. McPhee, 917 F. Supp. 230, 242 (S.D.N.Y. 1996), aff'd, 119 F.3d 189 (2nd Cir. 1997)
- Blatty v. New York Times Co., 42 Cal.3d 1033, 1043, 13 Media L. Rep. 1928 (Cal. 1986), cert. denied, 485 U.S. 934 (1988)
- Reader's Digest Assn. v. Super. Ct., 690 P.2d 610, 624, 11 Media L. Rep. 1065, (Cal. 1984), cert. denied, 478 U.S. 1009 (1986)
- Robert L. Tucker, "And the Truth Shall Make You Free": Truth as a First Amendment Defense in Tortious Interference with Contract Cases, 24 Hastings Const. L.Q. 709, 726 (1997) ("A state may not, by manipulating its definition of the elements of a tort, impose civil liability for constitutionally protected expression")

3. For the limitations on the restraint or punishment of speech when the information published was allegedly obtained through illegal or improper means, see:

- *CBS Inc. v. Davis*, 510 U.S. 1315, 1318 (1994) (J. Blackmun, in chambers)
- *Proctor & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219, 225-27 (6th Cir. 1996)
- *McNally v. Pulitzer Pub. Co.*, 532 F.2d 69, 79 (8th Cir. 1976)
- *In re King World Productions, Inc.*, 898 F.2d 56, 59 (6th Cir. 1990)

DATED this 24th day of November, 2003.

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

By 
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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 26th day of November, 2003, I caused to be served, Amicus Curiae Seattle Weekly's Statement of Additional Authorities, upon:

Eric Broman Nielsen, Broman & Koch 1908 E. Madison Seattle, WA	Richard Dubey Short Cressman Burgess 999 Third Avenue, Suite 3000 Seattle, WA 98104
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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 20th day of November, 2003, at Seattle,

Washington.

Barbara J. McAdams
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