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**Superior Court of Washington for Kitsap County.**

In re the Custody, Parenting and  
Support of:  
Miles Tejano Jr.,  
Luis Anthony West,  
Phoenix Reising West

Luis Anthony Ewing  
Proven Father/Defendant/Petitioner

v.

Katherine Anne West aka Katherine  
Anne Gavel  
Respondent

**Case No. 13-7-00248-5, 13-7-00247-7; 13-7-000246-9; 12-5-00202-1, 12-7-00376-9, 12-7-00375-1, 12-7-00374-2**

**Scheidler's CLAIM and DEFENSE  
Related to HIS CR 24 MOTION  
To INTERVENE, and**

**JURY DEMANDED**

**I. JURY DEMANDED**

The issues raised herein concern the conduct of Peter Kay and are factual issues; and FACTS are for a JURY. See RCW 4.40.060-070<sup>1, 2</sup> and RCW 4.44.090<sup>3</sup>

<sup>1</sup> RCW 4.40.060 Trial of certain issues of fact — Jury.  
An issue of fact, in an action for the recovery of money only, or of specific real or personal property shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees. [1893 c 127 § 33; Code 1881 § 204; 1877 p 42 § 208; 1873 p 52 § 206; 1869 p 50 § 208; 1854 p 164 § 183; RRS § 314.]  
<sup>2</sup> RCW 4.40.070 Trial of other issues of fact.  
Every other issue of fact shall be tried by the court, subject, however, to the right of the parties to consent, or of the court to order, that the whole issue, or any specific question of fact involved therein, be tried by a jury, or referred. [1893 c 127 § 34; RRS § 315.]  
<sup>3</sup> RCW 4.44.090

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**II. CLAIMS RE INTERVENTION**

a) Scheidler incorporates by reference his *MEMORANDUM, Motion to Intervene*, as if set forth in full. See CR 10(c).

b) Additional Claims:

i. Forfeiture of office

Controlling Authorities:

RCW 7.56.100 Judgment of ouster or forfeiture.

“Whenever any defendant shall be found guilty of any usurpation of or intrusion into, or unlawfully exercising any office or franchise within this state, or any office in any corporation created by the authority of this state, or when any public officer thus charged shall be found guilty of having done or suffered any act which by the provisions of the law shall work a forfeiture of his or her office, or when any association or number of persons shall be found guilty of having acted as a corporation without having been legally incorporated, the court shall give judgment of ouster against the defendant or defendants, and exclude him, her, or them from the office, franchise, or corporate rights, and in case of corporations that the same shall be dissolved, and the court shall adjudge costs in favor of the plaintiff.”

Article 1, Section 1- re governments’ just power’; RCW 2.48.210 re ‘truth and honor.’ These authorities involve issues of fact and are for a jury to decide. See RCW 4.40.060-070, and RCW 4.44.090 supra. A JURY is DEMANDED.

FACTS: Counsel, Peter Kay, engage in courtroom tactics designed to ‘cheat justice’ using irrelevant evidence – taped internet debates and displayed irrational conduct accusing Luis Ewing of taping the court proceedings – all in the presence of the judge and the parties involved in

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Questions of fact for jury.

All questions of fact other than those mentioned in RCW 4.44.080, shall be decided by the jury, and all evidence thereon addressed to them.

1 this case. Kay’s courtroom tactics are designed to incite the tribunal and  
2 the other parties involved with both irrelevant and untrue accusations so  
3 as to have those parties and judge gang against Luis Ewing. In that way  
4 counsel for the State violates RCW 2.48.210 in presenting truth and  
5 falshoods meant to deceive the court and deny individual rights.

6 “Fraudulent misrepresentations may be effected by half-truths  
7 calculated to deceive; ***and a representation literally true is  
8 actionable if used to create an impression substantially false.***”  
9 **IKEDA v. CURTIS. 43 Wn.2d 449 (1954)**

10 ii. Official misconduct.

11 Controlling Authorities:

12 RCW 9A.80.010 Official misconduct.

13 (1) A public servant is guilty of official misconduct if, with intent to obtain a benefit  
14 or to deprive another person of a lawful right or privilege:

15 (a) He or she intentionally commits an unauthorized act under color of law; or

16 (b) He or she intentionally refrains from performing a duty imposed upon him or  
17 her by law.

18 (2) Official misconduct is a gross misdemeanor.

19 [2011 c 336 § 408; 1975-'76 2nd ex.s. c 38 § 17; 1975 1st ex.s. c 260  
20 §9A.80.010 .]

21 Article 1, Section 1- re governments’ just power’; RCW 2.48.210 re

22 ‘truth and honor’ RCW 18.130.180 <sup>4</sup>-- These controlling authorities

23 \_\_\_\_\_  
24 <sup>4</sup> RCW 18.130.180 Unprofessional conduct. (1) The commission of any act involving moral turpitude,  
25 dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or  
26 not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary  
27 action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing  
28 disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and  
of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes  
all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in  
which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under  
chapter 9.96A RCW; inter alia, (7) Violation of any state or federal statute or administrative rule regulating the  
profession in question, including any statute or rule defining or establishing standards of patient care or  
***professional conduct or practice;***

1 involve issues of fact and are for a jury to decide. See RCW 4.40.060-  
2 070 and RCW 4.44.090, supra.

3 **FACTS:** Counsel, Peter Kay, engage in courtroom tactics  
4 designed to ‘cheat justice’ using irrelevant evidence – taped internet  
5 debates and displayed irrational conduct accusing Luis Ewing of taping  
6 a public hearing – all in the presence of the judge and the parties involved  
7 in this case. Kay’s courtroom tactics are designed to incite the tribunal  
8 and the other parties involved so as to gang against Luis Ewing. In that  
9 way counsel for the State violates RCW 2.48.210 in presenting half-  
10 truths meant to deceive the court and deny individual rights.

11 “Fraudulent misrepresentations may be effected by half-truths  
12 calculated to deceive; and a representation literally true is  
13 actionable if used to create an impression substantially false.”  
14 IKEDA v. CURTIS. 43 Wn.2d 449 (1954)

15 **III. DECLARATION OF RIGHTS AND RELATIONS**  
16 **THIS COURT IS TO DECLARE RIGHTS, STATUS OR OTHER LEGAL**  
17 **RELATIONS UNDER THE FOLLOWING STATUTE:**

18 **RCW 7.24.020 Rights and status under written instruments, statutes, ordinances.**

19 A person interested under a deed, will, written contract or other writings constituting a  
20 contract, or whose rights, status or other legal relations are affected by a statute,  
21 municipal ordinance, contract or franchise, may have determined any question of  
22 construction or validity arising under the instrument, statute, ordinance, contract or  
23 franchise and obtain a declaration of rights, status or other legal relations thereunder.

24 **RCW 7.24.090 Determination of issues of fact.**

25 When a proceeding under this chapter involves the determination of an issue of fact,  
26 such issue may be tried and determined in the same manner as issues of fact are tried  
27 and determined in other civil actions, in the court in which the proceeding is pending.

28 **RCW 7.24.120 Construction of chapter.**

1 This chapter is declared to be remedial; its purpose is to settle and to afford relief from  
2 uncertainty and insecurity with respect to rights, status and other legal relations; and is  
3 to be liberally construed and administered.

3 **RCW 7.56.010 Against whom information may be filed.**

4 An information may be filed against any person or corporation in the following cases:

5 (1) When any person shall usurp, intrude upon, or unlawfully hold or exercise any  
6 public office or franchise within the state, or any office in any corporation created by  
7 the authority of the state.

8 (2) When any public officer shall have done or suffered any act, which, by the  
9 provisions of law, shall work a forfeiture of his or her office.

10 (3) When several persons claim to be entitled to the same office or franchise, one  
11 information may be filed against any or all such persons in order to try their respective  
12 rights to the office or franchise.

13 (4) When any association or number of persons shall act within this state as a  
14 corporation, without being legally incorporated.

15 (5) Or where any corporation do, or omit acts which amount to a surrender or a  
16 forfeiture of their rights and privileges as a corporation, or where they exercise powers  
17 not conferred by law.

18 **RCW 7.56.020 Who may file.**

19 The information may be filed by the prosecuting attorney in the superior court of the  
20 proper county, upon his or her own relation, whenever he or she shall deem it his or her  
21 duty to do so, or shall be directed by the court or other competent authority, or by any  
22 other person on his or her own relation, whenever he or she claims an interest in the  
23 office, franchise, or corporation which is the subject of the information.

24 **RCW 2.28.030 Judicial officer defined — When disqualified.**

25 A judicial officer is a person authorized to act as a judge in a court of justice. Such  
26 officer shall not act as such in a court of which he or she is a member in any of the  
27 following cases:

28 (1) In an action, suit, or proceeding to which he or she is a party, or in which he or she  
is directly interested.

(2) When he or she was not present and sitting as a member of the court at the hearing  
of a matter submitted for its decision.

(3) When he or she is related to either party by consanguinity or affinity within the  
third degree. The degree shall be ascertained and computed by ascending from the  
judge to the common ancestor and descending to the party, counting a degree for each  
person in both lines, including the judge and party and excluding the common ancestor.

1 (4) When he or she has been attorney in the action, suit, or proceeding in question for  
2 either party; but this section does not apply to an application to change the place of  
trial, or the regulation of the order of business in court.

3 In the cases specified in subsections (3) and (4) of this section, the disqualification may  
4 be waived by the parties, and except in the supreme court and the court of appeals shall  
be deemed to be waived unless an application for a change of the place of trial be made  
as provided by law.


5 [2011 c 336 § 39; 1971 c 81 § 11; 1895 c 39 § 1; 1891 c 54 § 3; RRS § 54.]  
6

#### 7 IV. CONCLUSION

8 The conduct of Mr. Kay is reckless and in violation of his oath and  
9 directly opposed to his duty to protect and maintain individual rights and he  
10 must be held accountable and the proceedings must be dismissed for prejudice  
and bias.

11 "I declare AND affirm under penalty of perjury under the laws of the  
12 State of Washington that the foregoing is true and correct": See GR 13.  
13

14 Dated: June 12, 2014

15 By:   
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