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

7
8 In re the Custody, Parenting and
9 Support of:
10 Miles Tejano Jr.,
11 Luis Anthony West,
12 Phoenix Reising West

13
14 Luis Anthony Ewing
15 Proven Father/Defendant/Petitioner

16 v.

17 Katherine Anne West aka Katherine
18 Anne Gavel
19 Respondent

)
) 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

)
) **William Scheidler's**
) **CR 24 MOTION To INTERVENE**

20 **IDENTITY OF INTERVENOR**

21 William Scheidler, hereby moves to intervene in this action. Proposed
22 Intervenor submits that neither party will be prejudiced by this intervention
23 because the issue at the vortex of the case has just presented itself in the
24 course of the proceedings that demand intervenors involvement. Proposed
25 Intervenor also submits that he is a true party in interest with respect to the
26 issues raised herein.

27 Pursuant to CR 24(a)(1) and 24(a)(2), proposed Intervenor hereby
28 moves this Court for leave to intervene in this action as of right, as Third

1 Party Plaintiff. The grounds for this Motion are set forth in the Memorandum
2 below.

3 **MEMORANDUM**

4 **I. Background**

5
6 Plaintiff's lawsuit arises under Title 13, and is prosecuted by PETER
7 KAY, AAG, OFFICE OF THE ATTY GNRL. Peter Kay is a public official
8 who's conduct is governed by the WA Constitution as his oath requires. See
9 RCW 2.48.210 and APR 5. Peter Kay in the exercise of his official duties is
10 also bound by law, RCW 18.130.180(1 and 7).

11 Peter Kay's conduct falls far below the obligations of a state officer
12 and officer of the court and threatens the judicial process – an issue of public
13 importance.

14 **II. Argument**

15
16 **A. The Intervenor Satisfies the Requirements for Intervention as of**
17 **Right as Set Forth in CR 24(a)(1) and CR 24(a)(2)**

18 CR 24 provides:

19
20 (a) Intervention of Right. Upon timely application anyone shall be
21 permitted to intervene in an action: (1) when a statute confers an
22 unconditional right to intervene; or (2) when the applicant claims an interest
23 relating to the property or transaction which is the subject of the action and
24 he is so situated that the disposition of the action may as a practical matter
25 impair or impede his ability to protect that interest, unless the applicants
26 interest is adequately represented by existing parties.

1 CR 24(a), which provides for intervention in an action as a matter of
2 right, is liberally construed to favor intervention. See **OLVER v. FOWLER**
3 **161 Wn.2d 655 (2007)**. Each of these requirements for intervention as of
4 right are addressed below.

5 1. The Intervenor, by Statute, has an Unconditional Right to
6 Intervene per CR 24(a)(1).

7
8 The Intervenor’s unconditional right to intervene comes from the
9 plain language of Article 1, SECTION 4 RIGHT OF PETITION AND
10 ASSEMBLAGE. The right of petition and of the people peaceably to
11 assemble for the common good *shall never be abridged*.

12 “All constitutional provisions are self-executing”, **PEDERSON v.**
13 **MOSER 99 Wn.2d 456, 662 P.2d 866**; “The broad language of the
14 constitutional provision is self-executing”, **STATE EX REL. CLARK**
15 **v. HOGAN. 49 Wn. (2d) 457, 461.**

16 The conduct of Peter Kay, at issue, is an issue of common good
17 because his role is an “officer of the court” and our courts are to protect and
18 maintain individual rights.

19 2. The Intervenor Has an Interest *relating* to the transactions subject
20 of the action, per CR 24(a)(2).

21 The transactions subject of the action specifically concerns
22 governments’ conduct towards the people they serve. Article 1, Section 1,
23 clearly establishes that governments’ *just powers* are established to protect
24 and maintain individual rights. The “transactions” embodied in the action
25 concern the legal tactics employed by Lawyer Peter Kay which raise the
26 following questions of fact. Are his legal tactics consistent with “just
27 powers” or is Mr. Kay in violation Article 1, Section 1, in violation of RCW
28 2.48.210, RCW 18.130.180(1and 7), and cr 11. Is Mr. Kay trying to ‘incite’

1 and further prejudice the litigants and judge by playing an irrelevant tape
2 recording of a public discussion between Luis Ewing and his radio audience
3 which is strongly worded criticism of the judge and the other parties to the
4 litigation. What possible relevance of this recording pertains to title 13
5 issues? Is Mr. Kay's conduct to abruptly accuse Luis Ewing in front of all
6 parties, the judge and those in public attendance as myself, of taping the
7 hearing with a device that Mr. Kay inspected and found no such tape
8 recording?" Mr. Kay's conduct is reprehensible.

9 "The judicial system and the administration of justice is dependent on
10 the honesty of attorneys as officers of the court". **In re Disciplinary
11 Proceeding Against Poole 156 Wn.2d 196, 201 (2006).**

12 3. The Intervenor's Interests Will Be Impaired If Not Permitted to 13 Intervene

14 It remains at best uncertain whether the current parties arguments will
15 encompass all possible issues related to the underlying principles expressed
16 in sections 1 and 2 above. The parties in this case will only develop the
17 limited issues pertaining to their individual situation and therefore only seek
18 the relief that would provide them their individual remedy.

19 Intervenor Scheidler will bring to the case a variety of fact patterns
20 involving both constitutional and statutory matters germane to the notion of
21 "just powers" of WA State's 'officers of the court'. Allowing Scheidler's
22 intervention will thus sharpen the argument on both sides and provide the
23 Court with a more useful framework of advocacy from which to issue its
24 decision.

25 4. The Intervenor's Application for Intervention is Timely

26 The motion is timely because the conduct of Mr. Kay, which is at
27 issue, has only now occurred.
28

1 “A cause of action... is ripe immediately because the harm occurs at the
2 time of the violation as does the cause of action. See *Zinermon v. Burch*,
3 494 U.S. 113, 125, 110 S. Ct. 975, 983, 108 L. Ed. 2d 100 (1990) (“[T]he
4 constitutional violation actionable under § 1983 is complete when the
5 wrongful action is taken.”). **MISSION SPRINGS v. CITY OF**
6 **SPOKANE 134 Wn.2d 947,965 954 P.2d 250 Apr. 1998**

7 B. In the Alternative, Intervenor Satisfies the Requirements for
8 Permissive Intervention as Set Forth in CR 24(b)(2)

9 The decision whether to allow permissive intervention is committed
10 to the sound discretion of the trial court.

11 “A court may allow a party to intervene in an action under CR 24 [b] on
12 the grounds that the party has a separate and distinct interest in the
13 proceedings and that the party's participation is likely to be of assistance
14 to the court in focusing on the issues in dispute.” **RECALL OF**
15 **BUTLER-WALL 162 Wn.2d 501, (2007)**

16 The Intervenor clearly has an interest in WA State’s standard of
17 justice and the conduct of ‘officers of the court’. The proposed intervention
18 cannot and will not prejudice or delay the rights of any of the existing
19 parties unnecessarily. The Intervenor therefore requests that the Court grant
20 permissive intervention under Civil Rule 24(b), should the Court decide not
21 to grant intervention as of right.

22 III. Conclusion

23 For the foregoing reasons, proposed Intervenor William Scheidler
24 respectfully requests that his motion be GRANTED and permitted to
25 intervene in the instant action.

26 “I declare AND affirm under penalty of perjury under the laws of the
27 State of Washington that the foregoing is true and correct”: See GR 13.
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Dated: April 20, 2014

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