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INDEX OF EXAMINATION

WITNESS DR CR RDR RCR

(None presented.)

INDEX OF EXHIBITS

NO. DESCRIPTION PAGE/LINE

(None presented.)

1 THE COURT: These are Cause Nos.
2 13-7-00248-5, 13-7-00247-7, and 13-7-00246-9. Matter's
3 on today regarding William Scheidler's motion to
4 intervene and jury demand.

5 Mr. Scheidler, I'll hear from you first. I have
6 read your materials. I've also read the memorandum in
7 opposition to the motion to intervene submitted by
8 Mr. Kay. But, Mr. Scheidler, what would you like me to
9 know about your motion?

10 MR. SCHEIDLER: Okay, Judge. I think there's
11 a preliminary matter we need to get out of the way
12 before we reach the merits of the motion.

13 THE COURT: Okay.

14 MR. SCHEIDLER: The underlying issue relates
15 to attorney conduct under RCW 2.48.210. You also take
16 an oath to uphold the law under RCW 2.48.210. Mr. Kay
17 is the individual whose conduct I am concerned with.
18 Mr. Kay's the attorney general, member of the
19 Washington State Bar. You're also a member of the
20 Washington State Bar. Mr. Kay's conduct occurred in
21 your presence. You're a witness, and you're likely to
22 be named a party.

23 Under law -- and this would be RCW 2.28.030 -- you
24 have a direct interest in this matter, and you are
25 disqualified. So I object to the fact that I do not

1 have a qualified judge sitting on this case and request
2 that this matter be set before a judge who is either
3 free of conflict with the statute, the membership or
4 the issues that are at -- or the facts at issue in this
5 case.

6 THE COURT: You're asking then that I remove
7 myself from this matter?

8 MR. SCHEIDLER: I think the law is demanding
9 you remove yourself. It is not a question of me
10 asking; it's a question of you following the law.

11 THE COURT: I see. Okay.

12 Does any counsel want to comment on that request?

13 MS. CRUIKSHANK: No position, Your Honor.

14 MR. KAY: I'm not sure I understand
15 Mr. Scheidler's position given that he's not even a
16 party to this case to begin with.

17 MR. SCHEIDLER: Object.

18 MR. KAY: So --

19 MR. SCHEIDLER: We're --

20 THE COURT: Hold on a second. Let Mr. Kay
21 finish, and then I'll --

22 MR. KAY: What he's seeking is to gain
23 entrance into a case which is governed by Civil Rule
24 24, and that is a necessary precondition for him to be
25 involved in the case; otherwise, he's just a general

1 member of the public.

2 Now, in terms of when a judge is disqualified, he
3 has yet to show that -- Mr. Scheidler's yet to show why
4 he should be even allowed in to address the issue. So
5 I think the first issue is Mr. Scheidler's standing,
6 which would be as to whether or not he can intervene.
7 If he can then intervene, then he can address whatever
8 his issues are.

9 THE COURT: Okay. Anything else,
10 Mr. Scheidler? You get the last word on that.

11 MR. SCHEIDLER: Yeah. Well, Mr. Kay's
12 argument is upside down. He's asking you to rule on
13 the merits, the value of my argument, and I'm saying
14 you don't have the right to be here. So --

15 THE COURT: Okay.

16 MR. SCHEIDLER: -- where's he getting his
17 authority for you to ignore law, rule on the issues he
18 wants you to decide upon when you're not even a
19 qualified -- or you're disqualified under law?

20 And if -- you know, I -- let me read that statute.
21 I could pass it up to you, but it says -- this is RCW
22 2.28.030, judicial officer defined, when disqualified:

23 "A judicial officer is a person authorized to act
24 as a judge in a court of justice. Such officer shall
25 not act as such in a court of which he or she is a

1 member in any of the following cases: In an action,
2 suit, or proceeding to which he or she is a party or in
3 which he or she is directly interested."

4 I noted on the outset why you are a party. You're
5 a witness, and you have a direct interest under the
6 statutes that Mr. Kay has violated. So -- I'll pass
7 the authority up.

8 THE COURT: We'll make it part of the court
9 file as well. Okay.

10 Anything else on that point, Mr. Scheidler?

11 MR. SCHEIDLER: No, not on that point. Thank
12 you.

13 THE COURT: Okay. Okay.

14 I'm going to at this point decline the opportunity
15 to recuse myself from the matter, Mr. Scheidler. So I
16 will hear the merits of the motion to intervene. If
17 you want, based on my decision to keep -- to stay in
18 the case, do you want to continue with your motion to
19 intervene?

20 MR. SCHEIDLER: What are my options? I
21 objected and --

22 THE COURT: Okay. Your objections are
23 certainly part of the record for sure, so I understand
24 that. But I'm not going to recuse myself. Do you want
25 to argue the --

1 MR. SCHEIDLER: This isn't a matter of
2 recusing yourself. You're disqualified.

3 THE COURT: Okay. I don't agree with that
4 analysis, so I'm not going to remove myself from the
5 case. Do you want to continue with your motion to
6 intervene?

7 MR. SCHEIDLER: If I continue with my motion
8 to intervene, I don't want it to be noted as a waiver
9 of a law that applies to you directly.

10 THE COURT: I don't think it would be
11 interpreted that way. I'm just declining to agree with
12 you as relates to your articulation of the law. So I'm
13 not going to recuse myself or disqualify myself, but I
14 will certainly hear the merits of your motion if you
15 like. I've read the materials.

16 MR. SCHEIDLER: All right. In the -- if I
17 don't want to continue, what's my option after that?

18 THE COURT: Well, I can't give you legal
19 advice. I'm prepared to hear the merits of the case,
20 but I'm not removing myself or disqualifying myself.
21 So you can either strike the motion, or we can go ahead
22 and address the merits of it.

23 MR. SCHEIDLER: I think I'm going to protest
24 and strike the motion, Judge.

25 THE COURT: Okay. All right. Anything else

1 you want to take up this afternoon, Mr. Scheidler?

2 MR. SCHEIDLER: No. I'm not going to -- I'm
3 not going to plead my arguments to a judge who's not
4 qualified.

5 THE COURT: Okay. All right. Thank you.

6 (Hearing concluded.)

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