

EXPEDITE  
 Hearing is set:  
 Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Judge/Calendar: \_\_\_\_\_

FILED  
 SUPERIOR COURT  
 THURSTON COUNTY, WASH.  
 10 MAR -9 AM 9:04  
 BETTY J. GOULD, CLERK  
 BY \_\_\_\_\_  
 DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
 IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,  
 Plaintiff,

NO. 10-1-00275-1

vs.


MOTION TO PROHIBIT FURTHER  
 PRETRIAL PUBLICITY BY  
 PLAINTIFF

JOSEPH A. HYER,  
 Defendant.

COMES NOW the defendant, JOSEPH A. HYER, by and through his attorney,  
 KEN VALZ, and moves the court for entry of an order prohibiting the plaintiff from  
 disseminating allegations about the defendant and this matter to the media.

This motion is based upon the files and records herein, the attached declaration of  
 counsel and Sheppard v. Maxwell, 384 U.S. 333, 86 S. Ct. 1507, 16 L. Ed. 2d 600 (1966).

SUBMITTED this 9<sup>th</sup> day of March, 2010.

  
 KEN VALZ WSBA #12068  
 Valz, Houser, Kogut and Barnes P.S.  
 Attorneys for Defendant

Motion to Prohibit  
 Further PreTrial Publicity by Plaintiff - 1

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KEN VALZ makes the following declaration under penalty of perjury:

I am the attorney for the defendant.

From the beginning of this matter, representatives of the plaintiff have engaged in an almost hourly feeding of inside information and evidence about this case to the media. In fact, only the Deputy Prosecutor assigned to this case, Scott Jackson, has had enough sense to keep quiet.

Several "facts" given to the media by the plaintiff about this case are misleading.

News reports contain the following statements made by employees of the plaintiff: "(Law enforcement officials) heard from a confidential informant.... that Hyer might be involved in drugs" and "An unidentified confidential informant purchased marijuana from Hyer at his home ....".

Based upon investigation by the defense, it appears that there was no "confidential informant" but, instead, one person was obtaining marijuana from Mr. Hyer and that person was an older, trusted political mentor of Councilman Hyer. Unknown to Hyer, this "friend" had concealed a criminal background from Hyer and the public during this "friendship". This "friend", over a period of several months, lured and induced Councilman Hyer to commit a crime that Hyer would not otherwise commit except for the influence of this "friend". This "friend" was able to persuade Hyer to transfer marijuana to this "friend" by persuading Hyer that this "friend" needed the marijuana due

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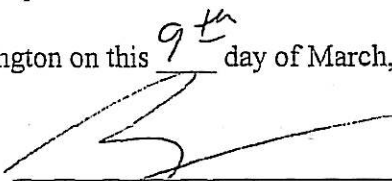
to the "friend's" "depression" and "sexual needs". Based upon defense investigation, it appears that this "friend" was able to persuade, lure and induce Councilman Hyer to transfer no more than a total of less than fourteen grams of marijuana during the entire police operation.

News reports also contain the following statement from employees of the plaintiff:  
"Detectives found small amounts of packaged marijuana in Hyer's home."

Based upon investigation by the defense, it appears that the entire search of Councilman Hyer's home yielded a total of less than 40 grams of marijuana (a misdemeanor amount) and a four inch plant that was unable to produce any usable marijuana.

The defense does not want a change of venue to be forced due to unfair and inaccurate pre trial publicity by the plaintiff. The defense does not want to be forced to respond to further inaccurate media leaks about this case. The defense asks that the court enter an order prohibiting further media disseminations by the plaintiff and imposing sanctions against any employee of the plaintiff who violates such an order.

SIGNED at Olympia, Washington on this 9<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
KEN VALZ