

HON. KATHERINE M. STOLZ



99-2-13911-4 10940782 DCLR 01-03-02

FILED  
IN COUNTY CLERK'S OFFICE  
PIERCE COUNTY, WASHINGTON  
AM. JAN - 2 2002 P.M.  
BOB SAN SOUCIE  
COUNTY CLERK  
BY A DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

JOSEPH J. KIRBY and DEBORAH A. )  
KIRBY, husband and wife, )  
Plaintiffs, )

No. 99 2 13911 4

vs. )

DECLARATION OF  
JOSEPH KIRBY

THE CITY OF TACOMA, a municipal )  
corporation; RAY CORPUZ and )  
"JANE DOE" CORPUZ, husband and )  
wife; PHILIP ARREOLA and "JANE )  
DOE" ARREOLA, husband and )  
wife; WILLIAM WOODARD and )  
CATHERINE WOODARD, husband and )  
wife; RAYMOND ROBERTS and "JANE )  
DOE" ROBERTS, husband and wife; )  
DAVID BRAME and "JANE DOE" )  
BRAME, husband and wife; and )  
JAMES HAIRSTON and "JANE DOE" )  
HAIRSTON, husband and wife, )  
Defendants. )

JOSEPH KIRBY certifies as follows:

I am over the age of eighteen and competent to testify to  
the matters contained in this declaration. I am the plaintiff

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1 in this case and make this declaration based upon my personal  
2 knowledge.

3 I am a Lieutenant in the Tacoma Police Department (TPD).  
4 While working at the TPD, I became aware that I was being  
5 treated differently than other officers similarly situated. I  
6 believe this disparate treatment was a result of discrimination  
7 based upon my age, disability, and my engagement in union  
8 activities.

9 I decided that my treatment was unlawful and hired the  
10 Messina Bulzomi Law Firm to represent me in a suit against the  
11 City of Tacoma. I filed a complaint alleging that I had been  
12 unlawfully discriminated against based upon my age, disability,  
13 and participation in union activities. My complaint was based  
14 on the disparate treatment I received as compared to other  
15 officers in similar positions.

16 At the time of my hiring, the Department requested  
17 considerable information. This information was compiled into  
18 a pre-hiring file. I was assured this file was to be used only  
19 for the purpose of evaluating candidates for entry into the  
20 Department. I was told that once I was hired, this file would  
21 be kept separate from my employment file, and the pre-hiring  
22 file would not be used for any purpose.

23 Before the filing of my lawsuit, I learned that the  
24 Department had not been completely truthful regarding the pre-  
25 hire file. Although generally not used, the files were used

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1 | for some purposes after hiring. The Department would  
 2 | occasionally use the files to defend officers in lawsuits.

3 | After the filing of my lawsuit, I became aware that the  
 4 | Department was attempting to access my pre-hiring file.  
 5 | Detective Steve Shake of the TPD informed me that he had been  
 6 | asked to turn my pre-hiring file over to the Defendant City of  
 7 | Tacoma's Legal Department. Detective Shake was the custodian  
 8 | of the pre-hiring files. Later he was ordered by Deputy Chief  
 9 | Darland to turn my pre-hiring file over to the City Attorney's  
 10 | Office. Obviously since I had already been hired by the City,  
 11 | the Defendant intended to use the pre-hiring file for some  
 12 | purpose other than evaluating me for entry into the Department.

13 | I believe the City is attempting use my pre-employment  
 14 | file to prove that I was not similarly situated to other  
 15 | officers, and therefore did not receive disparate treatment.  
 16 | Since the Dependant has access to my pre-hiring file, the only  
 17 | way that I can prove that I received disparate treatment is if  
 18 | I have access to other Officers' pre-hiring files.

19 | I certify under penalty of perjury under the laws of the  
 20 | State of Washington that the foregoing is true and correct.

21 | DATED this 31 day of DECEMBER 2001, at  
 22 | Tacoma, Washington.

23 |   
 24 | \_\_\_\_\_  
 25 | JOSEPH KIRBY

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