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MESSINA LAW FIRM

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JUN 0 2000
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FILED
PIERCE COUNTY CLERK'S OFFICE
A.M. JUN - 7 2000 P.M.
PIERCE COUNTY WASHINGTON
TED RUTT, COUNTY CLERK
BY *[Signature]* DEPUTY

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

Plaintiffs,

v.

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.

No. **C00-5332 FDB**
(Superior Court of the State of Washington County of Pierce No. 99-2-13911-4)

NOTICE OF REMOVAL OF ACTION FROM STATE COURT

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(b), defendants, City of Tacoma, Ray Corpuz and Jane Doe Corpuz, Philip Arreola and Jane Doe Arreola, William Woodard and Catherine Woodard, Raymond Roberts and Jane Doe Roberts, David Brame and Jane Doe Brame, James

COPY

2 JUN - 7 2000

1 Hairston and Jane Doe Hariston, hereby remove this action from the Superior
 2 Court of the State of Washington, County of Pierce, to the United States District
 3 Court for the Western District of Washington at Tacoma. Defendants appear
 4 solely for the purpose of removal and for no other purpose, reserving all other
 5 defenses available to them and allege on information and belief as follows:

6 1. Plaintiff filed the above captioned action against defendants in the
 7 Superior Court of the State of Washington, County of Pierce, on December 20,
 8 1999. Each of the defendants have been served with, or accepted service of a
 9 copy of the Complaint. A copy of the Complaint is attached hereto as Exhibit A.
 10 Plaintiff filed the Amended complaint against defendants in the Superior Court
 11 of the State of Washington, County of Pierce, on May 22, 2000. Defendant City
 12 of Tacoma has been received a copy of the Amended Complaint and attaches
 13 a copy hereto as Exhibit B.
 14

15 2. This Notice of Removal is being filed within 30 days after the first
 16 receipt by any defendant of the Amended Complaint and thus is timely filed
 17 pursuant to 28 U.S.C. § 1446(b).
 18

19 3. This is a civil action for which the United States District Court has
 20 original jurisdiction pursuant to 28 U.S.C. § 1331 as the plaintiff has asserted, in
 21 his Amended Complaint, a cause of action pursuant to 42 U.S.C. § 1983 for an
 22 alleged violation of his constitutional and civil rights.
 23

24 4. Plaintiff has also asserted various state tort actions. Defendants
 25 request that all claims be removed from the Superior Court of the State of
 26

1 Washington, County of Pierce, and that this Court exercise supplemental
2 jurisdiction over these claims pursuant to 28 U.S.C. § 1367(a) and 28 U.S.C.
3 § 1441(c).


4 5. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings,
5 and orders served upon defendants to date are attached.

6 5. The defendants will promptly file a copy of this Notice in the Superior
7 Court of the State of Washington, County of Pierce, and will serve a copy of the
8 same on the plaintiff in accordance with 28 U.S.C. § 1446(d).

9 WHEREFORE, the defendants give notice that the above-captioned
10 action commenced against them in the Superior Court of the State of
11 Washington, County of Pierce, has been removed to this Court.

12 DATED this 25 day of May, 2000.

13
14
15 ROBIN S. JENKINSON, City Attorney
16 ELIZABETH A. PAULI, Ch. Asst. City Atty.

17
18 
19 SHELLEY M. KERSLAKE, WSB #21820
20 Assistant City Attorney
21 Of Attorneys for Defendants
22
23
24
25
26

RECEIVED

1999 DEC 23 PM 2:47

CITY CLERK'S
OFFICE

FILED
IN COUNTY CLERK'S OFFICE
A.M. 11-11-20 1999 P.M.
PIERCE COUNTY, WASHINGTON
TED ROTT COUNTY CLERK
BY _____ DEPUTY

RECEIVED

DEC 23 1999

TACOMA CITY ATTORNEY
CIVIL DIVISION

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,)

vs.)

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.)

No. 99 2 13911 4

COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES IN
TORT

PLAINTIFFS ALLEGE:

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

I.

1
2 Plaintiffs Joseph J. Kirby and Deborah A. Kirby were, at
3 all times material hereto, husband and wife and residents of
4 Pierce County, Washington.

II.

5
6 2.1 Defendant, The City of Tacoma, is a municipal
7 corporation duly authorized under the laws of the State of
8 Washington with its principal place of business located in Pierce
9 County, Washington.

10 2.2 The Tacoma Police Department is a department of The
11 City of Tacoma.

12 2.3 Defendant, The City of Tacoma, stood in the
13 relationship of employer of plaintiff and employed a work force
14 of a nature and extent to make it subject to the provisions of
15 RCW 49.60.

III.

16
17 3.1 At all times material hereto, defendants Ray Corpuz
18 and "Jane Doe" Corpuz were husband and wife, and residents of
19 Pierce County, Washington. All actions hereinafter alleged to
20 have been performed by defendant Ray Corpuz, were done for and on
21 his own behalf and for and on the behalf of the marital community
22 consisting of Ray Corpuz and "Jane Doe" Corpuz.

23 3.2 At all times material hereto, defendants Philip
24 Arreola and "Jane Doe" Arreola were husband and wife, and
25 residents of Pierce County, Washington. All actions hereinafter

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 | alleged to have been performed by defendant Philip Arreola, were
2 | done for and on his own behalf and for and on the behalf of the
3 | marital community consisting of Philip Arreola and "Jane Doe".
4 | Arreola.

5 | 3.3 At all times material hereto, defendants William
6 | Woodard and Catherine Woodard were husband and wife, and
7 | residents of Pierce County, Washington. All actions hereinafter
8 | alleged to have been performed by either William Woodard or
9 | Catherine Woodard were done for and on each defendant's own
10 | behalf and for and on the behalf of the marital community
11 | consisting of William Woodard and Catherine Woodard.

12 | 3.4 At all times material hereto, defendants Raymond
13 | Roberts and "Jane Doe" Roberts were husband and wife, and
14 | residents of Pierce County, Washington. All actions hereinafter
15 | alleged to have been performed by defendant Raymond Roberts, were
16 | done for and on his own behalf and for and on the behalf of the
17 | marital community consisting of Raymond Roberts and "Jane Doe"
18 | Roberts.

19 | 3.5 At all times material hereto, defendants David Brame
20 | and "Jane Doe" Brame were husband and wife, and residents of
21 | Pierce County, Washington. All actions hereinafter alleged to
22 | have been performed by defendant David Brame, were done for and
23 | on his own behalf and for and on the behalf of the marital
24 | community consisting of David Brame and "Jane Doe" Brame.
25 |

MESSINA • BULZOMI

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Tacoma, WA 98467-3633
(253) 472-6000

1 3.6 At all times material hereto, defendants James
 2 Hairston and "Jane Doe" Hairston were husband and wife, and
 3 residents of Pierce County, Washington. All actions hereinafter
 4 alleged to have been performed by defendant James Hairston, were
 5 done for and on his own behalf and for and on the behalf of the
 6 marital community consisting of James Hairston and "Jane Doe"
 7 Hairston.

8 IV.

9 The individual defendants mentioned hereinabove were
 10 employees of defendant The City of Tacoma and held supervisory
 11 authority over the plaintiff Joseph J. Kirby during his
 12 employment with The City of Tacoma.

13 V.

14 5.1 Plaintiff, Joseph J. Kirby, was employed by The City
 15 of Tacoma's Police Department from approximately January of 1983
 16 through the present.

17 5.2 During said employment, plaintiff was subjected to
 18 continued harassment and discrimination, including discriminatory
 19 remarks, offensive language, disparate treatment, adverse
 20 employment decisions and unjustified disciplinary actions, by the
 21 individual defendants named above.

22 5.3 Further, this harassment and discrimination was
 23 targeted at plaintiff because of his age, known disability and
 24 participation in protected union activities.

25

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 5316 Orchard St. W.
 Tacoma, WA 98467-3633
 (253) 472-6000

VI.

1
2 For a cause of action against the defendants, plaintiff
3 Joseph J. Kirby claims that he was harassed and discriminated
4 against by the employees of defendant, The City of Tacoma, at
5 which time defendant's employees had authority over him and that
6 such harassment and discrimination were condoned by defendant The
7 City of Tacoma, which wrongfully and negligently failed to act to
8 protect plaintiff and to prevent further abuse. Said harassment
9 and discrimination made plaintiff's work environment hostile,
10 unpleasant and unbearable, and violated his rights.

VII.

11
12 For another cause of action against defendants, plaintiff
13 claims that said defendants retaliated against him for exercising
14 his rights under RCW 49.60.

VIII.

15
16 For another cause of action against defendants, plaintiff
17 claims that said defendant The City of Tacoma was negligent in
18 the hiring, retention and supervision of the above-named
19 individual defendants.

IX.

20
21 A Claim for Damages has been duly filed with the Division
22 of Risk Management of the City of Tacoma, for the injuries and
23 damages sustained by Joseph J. Kirby. Said claim has neither
24 been admitted nor denied.
25

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Tacoma, WA 98467-3633
(253) 472-6000

X.

1
2 As a direct and proximate result of the negligent and
3 unlawful conduct of the defendants, plaintiff Joseph J. Kirby
4 sustained personal injuries, both physical and mental, which will
5 continue for an indefinite period of time in the future; he has
6 suffered mental pain and psychological disability, together with
7 a loss of earnings; plaintiff has further been rendered highly
8 susceptible to further injury in the future, which susceptibility
9 will persist for an indefinite period of time, if not perma-
10 nently.

XI.

11
12 As a direct and proximate result of the defendants'
13 negligence and other unlawful conduct, plaintiff Deborah A. Kirby
14 has lost and continues to lose the services and consortium of
15 plaintiff Joseph J. Kirby, her husband, to her damage in such sum
16 of money as will reasonably compensate her for such loss, past,
17 present, and future.

XII.

18
19 As a direct and proximate result of the negligence and
20 unlawful conduct of defendants, plaintiffs have been specially
21 and generally damaged in an amount to be fully proven at the time
22 of trial.

XIII.

23
24 Under the provisions of RCW 49.60, plaintiffs are entitled
25 upon prevailing, to an award of reasonable attorneys' fees, and

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 request the same in an amount to be determined at the conclusion
2 of the trial.

3 WHEREFORE, plaintiffs pray for judgment against the defen-
4 dants, for such sums of money as will reasonably and justly
5 compensate them for their damages sustained as hereinbefore
6 alleged, together with their costs and disbursements herein to be
7 taxed, and for prejudgment interest.

8 MESSINA BULZOMI

9
10 DATED: 12/4/99

11 BY *John L. Messina*
12 JOHN L. MESSINA 4440
13 Attorneys for Plaintiffs

14 STATE OF WASHINGTON)
15 : ss.
16 County of Pierce)

17 JOSEPH KIRBY, being first duly sworn upon oath, deposes and
18 says:

19 That he is one of the plaintiffs above-named; that he has
20 read the foregoing Complaint for Personal Injuries and Damages in
21 Tort, knows the contents thereof and believes the same to be
22 true.

23 *Joseph Kirby*
24 JOSEPH KIRBY

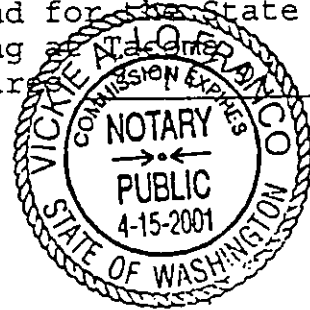
25 Signed and sworn to before me on the 10th day of Dec.,

MESSINA • BULZOMI
5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 1999, by Joseph Kirby.

Patricia A. DeFano

2 Notary Public in and for the State of
3 Washington, residing at [redacted]
4 My appointment expires [redacted]



5 **THE PLAINTIFF WILL NOT**
6 **ACCEPT SERVICE OF PLEADINGS**
7 **OR MOTIONS VIA FAX.**

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MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

002012 2739

orig. claim filed 9-1-99

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CITY CLERK'S OFFICE

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DEC 23 1999

TACOMA CITY ATTORNEY CIVIL DIVISION

FILED IN COUNTY CLERK'S OFFICE A.M. 11-10 2 0 1999 PIERCE COUNTY WASHINGTON TED ROTT COUNTY CLERK BY

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,

vs.

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.

No. 99 2 13911 4

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

A lawsuit has been started against you in the above-entitled court by the above-named plaintiffs. Plaintiffs' claim

MESSINA • BULZOMI

5316 Orchard St. W. Tacoma, WA 98467-3633 (253) 472-6000

1 is stated in the written complaint, a copy of which is served
upon you with this Summons.

2
3 In order to defend against this lawsuit, you must respond
4 to the complaint by stating your defense in writing, and serve a
5 copy upon the person signing this summons within 20 days after
6 the service of this summons, if served within the State of
7 Washington, and 60 days if served outside the State of
8 Washington, excluding the day of service, or a default judgment
9 may be entered against you without notice. A default judgment is
10 one where plaintiffs are entitled to what they ask for because
11 you have not responded. If you serve a notice of appearance on
12 the undersigned person, you are entitled to notice before a
13 default judgment may be entered.


14 You may demand that the plaintiffs file this lawsuit with
15 the court. If you do so, the demand must be in writing and must
16 be served upon the person signing this summons. Within 14 days
17 after you serve the demand, the plaintiffs must file this lawsuit
18 with the court, or the service on you of this summons and
19 complaint will be void.

20 If you wish to seek the advice of an attorney in this
21 matter, you should do so promptly so that your written response,
22 if any, may be served on time.

23 This summons is issued pursuant to Rule 4 of the Superior
24 Court Civil Rules of the State of Washington.

25 DATED this 6 day of Dec., 1999.

MESSINA BULZOMI

By 
JOHN L. MESSINA 4440

Attorneys for Plaintiffs

MESSINA • BULZOMI
5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

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

4/28/2003 14345 00048

TACOMA CITY ATTORNEY
CIVIL DIVISION

DEC 23 1999

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KIRBY

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1999 DEC 23 PM 2:47

CITY CLERK'S
OFFICE

No. 99-2-13911-4
ORDER SETTING
CASE SCHEDULE

CITY OF TACOMA

Type of Case: MSC
Track Assignment: Standard
Assigned Department: 18 - Judge Karen L. Stromborn
Docket Code: ORSCS

Confirmation of Service	01/17/00
Confirmation of Joinder of Parties, Claims and Defenses	04/17/00
Jury Demand	04/24/00
Obtain Settlement Conf Judge/Comm from Commissioners' Services (See PCLR 3(c) 2(b) & 94.04 (f))	Week Of 05/15/00
Status Conference (Contact Court for Specific Date)	Week Of 05/15/00
Plaintiff's Disclosure of Primary Witnesses	06/12/00
Defendant's Disclosure of Primary Witnesses	07/10/00
Disclosure of Rebuttal Witnesses	08/28/00
Deadline for Filing Motion to Adjust Trial Date	09/25/00
Discovery Cutoff	10/30/00
Exchange of Witness and Exhibit Lists and Documentary Exhibits	11/13/00
Deadline for Hearing Dispositive Pretrial Motions	11/20/00
Settlement Conference (Contact Court for Specific Date)	Week Of 11/20/00
Joint Statement of Evidence	11/20/00
Pretrial Conference (Contact Court for Specific Date)	Week Of 12/04/00
Trial	12/18/00 9:30

NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/petition: Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 1.

NOTICE TO ALL PARTIES

All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 1 does not apply while the case is in arbitration.

DATED: 12/20/99



Judge Karen L. Stromborn
Department 18

HON. KAREN L. STROMBOM

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MAY 24 2000
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TACOMA CITY ATTORNEY
CIVIL DIVISION

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.)

STIPULATION AND ORDER
AMENDING COMPLAINT

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.)

FILED
DEPT. 18
~~IN OPEN COURT~~
MAY 22 2000
Pierce County Clerk
By _____ Deputy

Plaintiffs and defendants, by and through their attorneys
of record, hereby stipulate that plaintiffs may amend their

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 complaint to add a claim based on 42 U.S.C. §1983.

2 DATED this 12th day of MAY 2000.

3 MESSINA BULZOMI

4 By [Signature]
5 JEFFREY H. SADLER 27136
6 Attorneys for Plaintiffs

7 [Signature]
8 SHELLEY M. KERSLAKE # 21820
9 Attorney for Defendants

10 ORDER

11 Based upon the foregoing stipulation, it is hereby
12 ORDERED that plaintiffs' may amend their complaint to add
13 a claim based on 42 U.S.C. §1983.

14 DONE IN OPEN COURT this ___ day of _____ 2000.

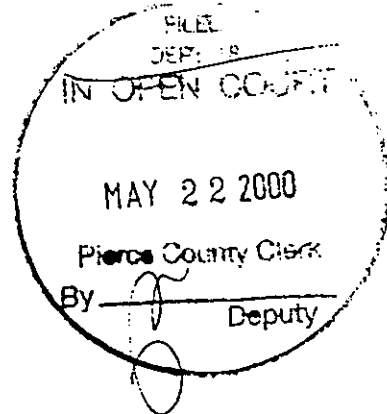
15
16
17 KAREN L. STROMBOM
18 JUDGE

18 Presented by:
19 MESSINA BULZOMI

20 By [Signature]
21 JEFFREY H. SADLER 27136
22 Attorneys for Plaintiffs

22 Copy received, notice of
23 presentation waived:

24 [Signature]
25 SHELLEY M. KERSLAKE # 21820
Attorney for Defendants



MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

HON. KAREN L. STROMBOM

CERTIFICATION

I hereby certify that on 4-14-00 I deposited in the mails of the United States of America and/or placed with Legal Messengers and/or faxed a copy of the document to which this certificate is attached, for delivery to all counsel of record.

Vilkie A. DeFrances
Messina Law Firm

RECEIVED

MAY 24 2000
VIP
A9-30
A-30

TACOMA CITY ATTORNEY
CIVIL DIVISION

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,)

vs.)

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.)

No. 99 2 13911 4

AMENDED
COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES IN
TORT

FILED
DEPT. 8
IN ORDER
MAY 22 2000
By [Signature] Clerk
Deputy

PLAINTIFFS ALLEGE:

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(252) 472-3000

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I.

Plaintiffs Joseph J. Kirby and Deborah A. Kirby were, at all times material hereto, husband and wife and residents of Pierce County, Washington.

II.

2.1 Defendant, The City of Tacoma, is a municipal corporation duly authorized under the laws of the State of Washington with its principal place of business located in Pierce County, Washington.

2.2 The Tacoma Police Department is a department of The City of Tacoma.

2.3 Defendant, The City of Tacoma, stood in the relationship of employer of plaintiff and employed a work force of a nature and extent to make it subject to the provisions of RCW 49.60.

III.

3.1 At all times material hereto, defendants Ray Corpuz and "Jane Doe" Corpuz were husband and wife, and residents of Pierce County, Washington. All actions hereinafter alleged to have been performed by defendant Ray Corpuz, were done for and on his own behalf and for and on the behalf of the marital community consisting of Ray Corpuz and "Jane Doe" Corpuz.

3.2 At all times material hereto, defendants Philip Arreola and "Jane Doe" Arreola were husband and wife, and residents of Pierce County, Washington. All actions hereinafter

1 | alleged to have been performed by defendant Philip Arreola, were
2 | done for and on his own behalf and for and on the behalf of the
3 | marital community consisting of Philip Arreola and "Jane Doe"
4 | Arreola.

5 | 3.3 At all times material hereto, defendants William
6 | Woodard and Catherine Woodard were husband and wife, and
7 | residents of Pierce County, Washington. All actions hereinafter
8 | alleged to have been performed by either William Woodard or
9 | Catherine Woodard were done for and on each defendant's own
10 | behalf and for and on the behalf of the marital community
11 | consisting of William Woodard and Catherine Woodard.

12 | 3.4 At all times material hereto, defendants Raymond
13 | Roberts and "Jane Doe" Roberts were husband and wife, and
14 | residents of Pierce County, Washington. All actions hereinafter
15 | alleged to have been performed by defendant Raymond Roberts, were
16 | done for and on his own behalf and for and on the behalf of the
17 | marital community consisting of Raymond Roberts and "Jane Doe"
18 | Roberts.

19 | 3.5 At all times material hereto, defendants David Brame
20 | and "Jane Doe" Brame were husband and wife, and residents of
21 | Pierce County, Washington. All actions hereinafter alleged to
22 | have been performed by defendant David Brame, were done for and
23 | on his own behalf and for and on the behalf of the marital
24 | community consisting of David Brame and "Jane Doe" Brame.

25 |

VI.

1
2 For a cause of action against the defendants, plaintiff
3 Joseph J. Kirby claims that he was harassed and discriminated
4 against by the employees of defendant, The City of Tacoma, at
5 which time defendant's employees had authority over him and that
6 such harassment and discrimination were condoned by defendant The
7 City of Tacoma, which wrongfully and negligently failed to act to
8 protect plaintiff and to prevent further abuse. Said harassment
9 and discrimination made plaintiff's work environment hostile,
10 unpleasant and unbearable, and violated his rights.

VII.

11
12 For another cause of action against defendants, plaintiff
13 claims that said defendants retaliated against him for exercising
14 his rights under RCW 49.60.

VIII.

15
16 For another cause of action against defendants, plaintiff
17 claims that said defendant The City of Tacoma was negligent in
18 the hiring, retention and supervision of the above-named
19 individual defendants.

IX.

20
21 For another cause of action against defendants, plaintiff
22 claims that said defendants violated his rights under 42 U.S.C.
23 §1983, by discriminating against him based on his race.
24
25

MESSINA • BULZOMI

5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 X.

2 A Claim for Damages has been duly filed with the Division
3 of Risk Management of the City of Tacoma, for the injuries and
4 damages sustained by Joseph J. Kirby. Said claim has neither
5 been admitted nor denied.

6 XI.

7 As a direct and proximate result of the negligent and
8 unlawful conduct of the defendants, plaintiff Joseph J. Kirby
9 sustained personal injuries, both physical and mental, which will
10 continue for an indefinite period of time in the future; he has
11 suffered mental pain and psychological disability, together with
12 a loss of earnings; plaintiff has further been rendered highly
13 susceptible to further injury in the future, which susceptibility
14 will persist for an indefinite period of time, if not perma-
15 nently.

16 XII.

17 As a direct and proximate result of the defendants'
18 negligence and other unlawful conduct, plaintiff Deborah A. Kirby
19 has lost and continues to lose the services and consortium of
20 plaintiff Joseph J. Kirby, her husband, to her damage in such sum
21 of money as will reasonably compensate her for such loss, past,
22 present, and future.

23 XIII.

24 As a direct and proximate result of the negligence and
25 unlawful conduct of defendants, plaintiffs have been specially

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1 and generally damaged in an amount to be fully proven at the time
2 of trial.

3 XIV.

4 Under the provisions of RCW 49.60, plaintiffs are entitled
5 upon prevailing, to an award of reasonable attorneys' fees, and
6 request the same in an amount to be determined at the conclusion
7 of the trial.

8 WHEREFORE, plaintiffs pray for judgment against the defen-
9 dants, for such sums of money as will reasonably and justly
10 compensate them for their damages sustained as hereinbefore
11 alleged, together with their costs and disbursements herein to be
12 taxed, and for prejudgment interest.

13 MESSINA BULZOMI

14
15 DATED: 4-13-00

16 BY 
17 JOHN L. MESSINA 4440

18 BY 
19 JEFFREY H. SADLER 27136
20 Attorneys for Plaintiffs

21 STATE OF WASHINGTON)
22 : ss.
23 County of Pierce)

24 JOSEPH KIRBY, being first duly sworn upon oath, deposes and
25 says:

26 That he is one of the plaintiffs above-named; that he has
27 read the foregoing Amended Complaint for Personal Injuries and

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1 Damages in Tort, knows the contents thereof and believes the same
2 to be true.

3
4 *Joseph Kirby*
JOSEPH KIRBY

5 Signed and sworn to before me on the 14th day of April,
6 2000, by Joseph Kirby.

7 *V. Lee A. De Franco*
8 Notary Public in and for the State of
Washington, residing at Tacoma.
9 My appointment expires 4-15-01.

10 **THE PLAINTIFF WILL NOT**
11 **ACCEPT SERVICE OF PLEADINGS**
12 **OR MOTIONS VIA FAX.**
13

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HON. KAREN L. STROMBOM

CERTIFICATION

I hereby certify that on 4-7-00 I deposited in the mails of the United States of America and/or placed with Legal Messengers and/or faxed a copy of the document to which this certificate is attached, for delivery to all counsel of record.

[Signature]
 Messina Law Firm

RECEIVED

APR 17 2000
 VIA NBC
 1:30
 3

TACOMA CITY ATTORNEY
 CIVIL DIVISION

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,)

No. 99 2 13911 4

Plaintiffs,)

SUMMONS ON AMENDED
 COMPLAINT FOR PERSONAL
 INJURIES AND DAMAGES IN
 TORT

vs.)

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.)

TO THE DEFENDANTS ABOVE NAMED:

A lawsuit has been started against you in the above-entitled court by the above-named plaintiffs. Plaintiffs' claim

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 (253) 472-6000

02012 2752

1 is stated in the written amended complaint, a copy of which is
 2 served upon you with this Summons.

3 In order to defend against this lawsuit, you must respond
 4 to the amended complaint by stating your defense in writing, and
 5 serve a copy upon the person signing this summons within 20 days
 6 after the service of this summons, if served within the State of
 7 Washington, and 60 days if served outside the State of
 8 Washington, excluding the day of service, or a default judgment
 9 may be entered against you without notice. A default judgment is
 10 one where plaintiffs are entitled to what they ask for because
 11 you have not responded. If you serve a notice of appearance on
 12 the undersigned person, you are entitled to notice before a
 13 default judgment may be entered.

14 If you wish to seek the advice of an attorney in this
 15 matter, you should do so promptly so that your written response,
 16 if any, may be served on time.

17 This summons is issued pursuant to Rule 4 of the Superior
 18 Court Civil Rules of the State of Washington.

19 DATED this 13th day of April, 2000.

20 MESSINA BULZOMI

21 By 

22 JOHN L. MESSINA 4440

23 By 

24 JEFFREY H. SADLER 27136

25 Attorneys for Plaintiffs

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