

1 That attached hereto and marked as Exhibit "1" is a true and
2 accurate copy of excerpts of the deposition of Charles Meinema.

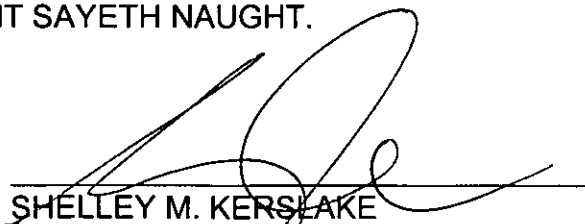
3 2. That attached hereto and marked as Exhibit "2" is a true and
4 accurate copy of excerpts of the deposition of Michael Darland.

5 3. That attached hereto and marked as Exhibit "3" is a true and
6 accurate copy of the correspondence dated January 24, 2001 addressed to
7 John Messina.

8 4. That attached hereto and marked as Exhibit "4" is a true and
9 accurate copy of the correspondence dated January 29, 2001 from John
10 Messina in response to our letter dated January 24, 2001.

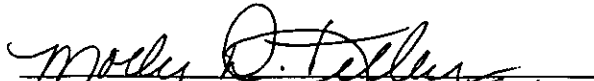
11 5. That attached hereto and marked as Exhibit "5" is a true and
12 accurate copy of the correspondence dated January 31, 2001 addressed to
13 John Messina.
14

15 FURTHER YOUR AFFIANT SAYETH NAUGHT.

16
17
18 
SHELLEY M. KERSLAKE

19 SUBSCRIBED and SWORN to before me this 13th day of
20 September, 2001.



21
22 
Printed Name: Molly D. Kelley
NOTARY PUBLIC in and for the State of
23 Washington, residing at Tacoma
24 My commission expires: 10/25/02
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

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

vs.)

No. C00-5332FDB

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.)

C O P Y

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JAN 31 2001

TACOMA CITY ATTORNEY
CIVIL DIVISION

DEPOSITION OF CHARLES MEINEMA
Thursday, January 18, 2001

APPEARANCES

For Plaintiffs:

JOHN L. MESSINA
Messina Bulzomi
Attorneys at Law
5316 Orchard Street West
Tacoma, Washington 98467-3633

For Defendants:

SHELLEY M. KERSLAKE
Assistant City Attorney
747 Market Street, Room 1120
Tacoma, Washington 98402

Reported by: Fay J. Holme, CSR-RPR
License No. HOLMEFJ374P6

EXHIBIT

4

1/18/01

1 We often investigate someone internally, and if
2 it's considered criminal, we've had officers
3 transferred to criminal jurisdiction, but we don't do
4 criminal investigations in-house for the most part.
5 Not in IA anyway, if you're talking about that kind of
6 investigation.

7 Q Okay. I just wondered if any of those defendants had
8 ever been investigated for criminal matters by any
9 agency you know of.

10 A Yes.

11 Q Who would that be?

12 A Chief Brame was investigated many years ago for an
13 allegation that, had it been substantiated, would have
14 been a criminal matter.

15 Q I take it, then, the outcome was that there was no
16 evidence of criminal activity?

17 A I wasn't involved directly in the investigation, but as
18 far as I know, there was no formal criminal
19 investigation, nor was the complaint substantiated
20 in-house to the degree of discipline against Chief
21 Brame.

22 Q Who was the lieutenant that did the investigation?

23 A That would have been then Lieutenant David Olsen.

24 Q Do you recall if you ever discussed Olsen's opinions
25 regarding this investigation?

1/18/01

- 1 A Yes, I did.
- 2 Q What were Olsen's opinions?
- 3 A Olsen's opinions were that the allegations were
4 sustained, but that because of the witness -- length of
5 time between allegation, investigation, and witness
6 reluctance, et cetera, et cetera, they couldn't be
7 proven.
- 8 Q Okay. The matter was dropped then?
- 9 A Yes.
- 10 Q Okay. Are you aware of any incidents where Chief
11 Hairston has removed records of formal discipline from
12 officer personnel files?
- 13 A Yes, I am.
- 14 Q Who were the officers?
- 15 A I believe it would be Officer Andrew Hankins and
16 Officer Zachary Smalls.
- 17 Q Okay. Were those minority officers?
- 18 A I'm sorry?
- 19 Q Were they minority officers?
- 20 A Yes.
- 21 Q Okay. African-Americans?
- 22 A Yes.
- 23 Q Who originally administered the discipline to them?
- 24 A It came out of the Operations Bureau, I would believe.
25 The formal person that handed them the form would have

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WASHINGTON

3 JOSEPH J. KIRBY and DEBORAH A.)
4 KIRBY, husband and wife,)

5 Plaintiffs,)

6 vs.)

7 No. C00-5332 FDB

8 THE CITY OF TACOMA, a municipal)
9 corporation; RAY CORPUZ and "JANE)

10 DOE" CORPUZ, husband and wife;)

11 PHILIP ARREOLA and "JANE DOE")

12 ARREOLA, husband and wife; WILLIAM)

13 WOODARD and CATHERINE WOODARD,)

14 husband and wife; RAYMOND ROBERTS)

15 and "JANE DOE" ROBERTS, husband and)

16 wife; DAVID BRAME and "JANE DOE")

17 BRAME, husband and wife; and JAMES)

18 HAIRSTON and "JANE DOE" HAIRSTON,)

19 husband and wife,)

20 Defendants.)

21 DEPOSITION OF MICHAEL J. DARLAND

22 Wednesday, February 7, 2001

23 APPEARANCES

24 For Plaintiffs:

25 JEFFREY H. SADLER

 Messina Bulzomi

 5316 Orchard Street West

 Tacoma, Washington 98467

 For Defendants:

 SHELLEY M. KERSLAKE

 Tacoma City Attorney

 Civil Division

 747 Market Street, Room 1120

 Tacoma, Washington 98402

 Also present:

 Joseph J. Kirby

 Reported by: Cindy Sanderson, RMR, CRR

 License No. 299-06

1 Q Are you aware of who the named defendants in this
2 lawsuit are?

3 A I think I have an idea, but not specifically.

4 Q I'm going to hand you the caption, which has the named
5 defendants listed. This is a caption for your Notice
6 of Oral Deposition. If you could, just take a look and
7 read through the named defendants, please.

8 A (Examining.)

9 Q You can take this question in two parts.

10 Are you aware of any criminal investigations
11 against any of those named defendants?

12 A Yes.

13 Q Who?

14 A Well, specifically, Jane Doe Corpuz.

15 Q Which would be --

16 A The previously --

17 Q Linda Corpuz?

18 A Linda Corpuz. The previously discussed incident.

19 Q How about any others?

20 A I'm not -- I don't have any direct knowledge. You
21 know, I've heard a thirdhand report.

22 Q Of --

23 A You know, a thirdhand report of a criminal
24 investigation that involved David Brame.

25 Q What did you hear about that investigation?

1 MS. KERSLAKE: I'm going to object and
2 instruct the witness not to answer, pending the motion
3 that we filed today.

4 MR. SADLER: That's not your option.

5 MS. KERSLAKE: It is my option, and we will
6 stop the deposition until we get a ruling from the
7 judge on that motion.

8 MR. SADLER: I'll just continue my
9 questioning, and we'll move for sanctions along -- with
10 the judge for cancelling the deposition at this time.

11 Q What's the department's policy on criminal allegations
12 against its lieutenants and captains?

13 A I'm not -- it's the same as it would be for any of our
14 personnel, which would be if there's a criminal
15 allegation, it's investigated and a determination made
16 to whether there's any validity to it.

17 If it's an allegation that occurs within our
18 jurisdiction and there's potential for conflict, quite
19 often another agency is asked to come in and handle the
20 investigation.

21 And if the -- if the accused has, let's say, a
22 working relationship with the prosecutor's office,
23 depending upon whether the crime is a misdemeanor or a
24 felony, they may ask for it to be reviewed by an
25 outside prosecutor's office.

1 Q Are you aware of any investigations by internal affairs
2 against any of the named defendants that could have
3 resulted in a criminal charge?

4 A The question again? An investigation by internal
5 affairs?

6 Q Yes. And I want to exclude any complaints, for
7 instance, of somebody calling up and saying, "I didn't
8 like the way the officer talked to me when he pulled me
9 over for a ticket." I'm talking about any criminal --
10 any internal investigations -- internal affairs
11 investigations that have the potential to result in a
12 criminal charge.

13 A Nothing comes to mind, no.

14 Q Does the department have a policy on domestic
15 allegation charges against -- domestic violence
16 allegations against its officers?

17 A Does it have a policy?

18 Q Yes.

19 A We have several policies, probably, that would cover
20 that. One is, you know, the duty to essentially obey
21 the law.

22 We've had officers that -- where there's been an
23 allegation of, quote, domestic violence. That
24 investigation or those complaints are investigated, and
25 we let the court make a determination.



City of Tacoma
Office of the City Attorney

January 24, 2001

John L. Messina
MESSINA BULZOMI
5316 Orchard Street West
Tacoma, WA 98467

Re: Kirby, et. al. v. City of Tacoma, et. al.
United States District Court Cause No. C00-5332FDB

Dear Mr. Messina:

At the deposition of Captain Charles Meinema, you inquired into criminal allegations logged against Assistant Chief David Brame. This line of inquiry is neither relevant nor admissible. Although you did not inquire into the nature of the allegation, I am sure the topic will come up in future depositions, especially that of Assistant Chief Brame. The only purpose of this area of questioning is to annoy and embarrass Assistant Chief Brame, and as such, I would like to propose a protective order be entered to limit the scope of inquiry.

Please review the proposed stipulated order and sign the same if it meets with your approval. If you do not agree, please let me know as soon as possible, and I will motion the court pursuant to FRCP 26(c).

Thank you for your attention to this matter.

Very truly yours,



SHELLEY M. KERSLAKE
Assistant City Attorney

SMK/jhy

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HONORABLE FRANKLIN D. BURGESS

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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

STIPULATION AND
PROTECTIVE ORDER

STIPULATION

COMES NOW the defendants by and through their attorney, Shelley M.
Kerslake, and the plaintiff, by and through his attorney, John L. Messina, and
stipulate that a protective order will be entered by the court in this matter.

This order is required to protect information sought by the plaintiff which if disclosed, or inquired about, will annoy and embarrass a named party, and has no relevance to this case, nor is calculated to lead to any admissible evidence.

MESSINA BULZOMI

ROBIN S. JENKINSON, City Attorney
ELIZABETH A. PAULI, Ch. Asst. City Atty.

By: _____
JOHN L. MESSINA
WSBA# 4440
Attorney for Plaintiffs

By: _____
SHELLEY M. KERSLAKE
WSBA# 21820
Attorney for Defendants

ORDER

Based upon the foregoing stipulation, the court hereby enters an order precluding further inquiry, mentioning in front of a jury or further discovery into criminal allegations raised against Assistant Chief David Brame, which were neither sustained, nor charged in a criminal court.

Furthermore, any information received to date on this subject will be restricted from public dissemination by any party to this action.

DATED this _____ day of _____, 2001.

HONORABLE FRANKLIN D. BURGESS

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Presented by:

ROBIN S. JENKINSON, City Attorney
ELIZABETH A. PAULI, Ch. Asst. City Atty.

By:

SHELLEY M. KERSLAKE
WSBA# 21820
Assistant City Attorney
Attorney for Defendants

Approved as to form; Notice of
Presentment Waived:

MESSINA BULZOMI

By:

JOHN L. MESSINA
WSBA# 4440
Attorney for Plaintiff

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**MESSINA • BULZOMI
ATTORNEYS AT LAW**

Stephen L. Bulzomi
John R. Christensen
John L. Messina
Cynthia M. Morgan
Jeffrey H. Sadler

JAN 30 2001

5316 Orchard Street West
Tacoma, WA 98467-3633 MessinaLaw@aol.com

**TACOMA CITY ATTORNEY
CIVIL DIVISION**

January 29, 2001

SHELLEY M KERSLAKE, ESQ
OFFICE OF THE CITY ATTORNEY
747 MARKET ST, RM 1120
TACOMA WA 98402-3767

Re: Brame Protective Order

Dear Ms. Kerslake:

I will not agree to the proposed protective order, unless I am advised as to the nature of the criminal allegations, any investigation conducted and the results of the investigation. At this point the inquiry seems justified, given the department's double standards and disparate treatment of different officers. Thank you.

Sincerely yours,



John L. Messina

/jl



City of Tacoma
Office of the City Attorney

January 31, 2001

John L. Messina
MESSINA BULZOMI
5316 Orchard Street West
Tacoma, WA 98467

Re: Kirby, et. al. v. City of Tacoma, et. al.
United States District Court Cause No. C00-5332FDB

Dear Mr. Messina:

I am in receipt of your January 29, 2001 correspondence regarding the proposed protective order. It is unnecessary to advise you as to the nature of the allegations that were made against Assistant Chief Brame. Your client's complaint does not allege that he was disciplined for allegations of criminal activity, while other similarly situated members of the department were not. Thus, your inquiry into this area has no relevance to your client's case, and only serves the purpose of harassing and embarrassing Assistant Chief Brame. Please let me know if you are still unwilling to agree to the protective order.

I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "SK", written over a horizontal line.

SHELLEY M. KERSLAKE
Assistant City Attorney

SMK/jhy

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