

1 I am over the age of eighteen years and competent to
2 testify to the matters stated herein. I make this declaration
3 based upon personal knowledge.

4 I am a 55-year-old man working in the Tacoma Police
5 Department (TPD) as a police lieutenant since January 3, 1983.
6 I have, throughout my years of service, received scores of
7 awards, commendations, and "outstanding" evaluations. By
8 virtue of competitive testing, I placed #1 on the civil service
9 captain's list and was made temporary captain for 6 months. In
10 addition, I have recently received supervision and management
11 certifications from the Washington State Criminal Justice
12 Training Commission.

13 In the TPD, all decisions affecting the officers are the
14 responsibility of the command staff. The command staff is
15 comprised of the chief and three assistant chiefs. The command
16 structure is such that where the chief is an ineffective or
17 weak leader, greater responsibility and authority falls upon
18 the assistant chiefs. Under Chief Arreola, authority was
19 monopolized and often abused by him. Accordingly, the
20 assistant chiefs did not take a significant role in the
21 decisions.

22 Under Chief Hairston, who was a weaker leader, the
23 assistant chiefs had pivotal roles. The assistant chiefs under
24 Hairston included defendants Roberts and Brame. Thus, from 10-
25 1-96, when Arreola started, through 1-14-02, when Hairston

MESSINA • BULZOMI

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

1 finished, the three pivotal figures with authority included the
2 three named defendants, Arreola, Brame, and Roberts.

3 Throughout this period I had been an active union
4 advocate and an executive union officer for the police
5 officers. I often criticized the TPD and spoke out against
6 several TPD practices that affected my fellow officers and the
7 public. On one occasion, I brought up an issue of officer
8 safety with regard to warrant service and potential TPD
9 liability issues. In response, Phillip Arreola seized my email
10 account and initiated a warrantless search of my emails, which
11 is prohibited by TPD policy.

12 Another time, I brought up the issue of disparate
13 treatment and discipline and the length of time it took to
14 administer the discipline. Arreola told me to stand down and
15 then threatened to terminate my employment because I had the
16 audacity to challenge him.

17 On yet another occasion, I came forward with information
18 regarding a TPD officer named James Walker, who was allegedly
19 bribing a complaining citizen with Seahawk tickets in exchange
20 for her silence regarding a stalking charge against a fellow
21 officer. After doing so, I was subjected to investigation
22 proceedings and counseling. The pretext for this action was
23 that I had delayed notifying the chief, when in fact I notified
24 an assistant chief the moment I received evidence of the
25 transgression. ("Seahawk incident") There is greater detail

MESSINA • BULZOMI

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

1 about this in the declaration of John L. Messina, excerpting my
2 deposition.

3 My criticism of the TPD angered the command staff and on
4 one occasion led Arreola to say, "Do you still work here?"
5 This comment was made in front of all my peers and designed to
6 demean and intimidate me.

7 Along with my exercise of free speech in outspoken
8 criticism of the TPD and my role as a union officer, my
9 disability and age played a substantial role in retaliatory
10 measures taken against me. Specifically, the various adverse
11 actions taken against me, described herein, substantially
12 increased after the command staff became aware of my disabil-
13 ity. Furthermore, the various adverse actions were also
14 motivated by my age since the command staff had expressed a
15 policy to remove older officers. The command staff was trying
16 to get rid of what was called the "old guard." In fact,
17 Arreola was heard saying, "Now if I can just get some of these
18 grey-haired old captains to leave..." Moreover, I was passed
19 over for promotion twice and both times the position was given
20 to younger, less qualified officers. The officers promoted
21 were Mark Langford (DOB August 15, 1957) and Kathryn Woodard
22 (DOB May 23, 1954). The facts as a whole suggest that my age,
23 disability, outspoken criticism, and my role as a union officer
24 played substantial factors in the retaliatory measures taken
25 against me.

MESSINA • BULZOMI

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

1 Retaliation took the form of unnecessary and repeated
2 psychiatric examinations, initiation of internal affairs
3 investigations, removal from leadership positions in special
4 units (see below), and two promotion denials.

5 Most of the Internal Affairs investigations were
6 initiated without any first-hand knowledge and without any
7 factual confirmation. Moreover, it had been TPD policy prior
8 to the command of the named defendants, to only initiate
9 Internal Affairs investigations when the conduct was egregious
10 since the discipline was severe, namely economic sanction and
11 suspension from work. Most of the Internal Affairs investiga-
12 tions against me dragged on for months and some lasted up to
13 two years.

14 Internal affairs investigations were initiated for not
15 divulging protected and confidential union conversations, for
16 presenting proof of a bribery, for writing a letter to the TPD
17 declining an offer to present an award, and for expressing my
18 concerns regarding officer safety and potential TPD liability
19 issues. The conduct, which precipitated the investigations
20 against me, were always either trivial or statutorily protected
21 activities.

22 The psychiatric examinations were repeatedly initiated
23 even though I had, at the time, a perfect evaluation from my
24 own physician.

25

MESSINA • BULZOMI

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

1 The TPD also retaliated against me by applying disparate
2 treatment, treatment which was obvious to me, as well as other
3 officers. Some examples of disparate treatment are as follows:
4

5 1) I was investigated for months for providing bribery
6 information (Seahawk incident, supra), while the officer who
7 was actually involved in the bribery was not formally
8 disciplined in any way. Moreover, although action was taken
9 against me for allegedly not notifying the chief soon enough,
10 defendant Brame had similarly not notified the chief yet was
11 not investigated.

12 2) I was disciplined for throwing a notebook in the hall.
13 This trivial event led to a big internal investigation.
14 However, later when I had brought forward proof that Captain
15 Bill Meeks had stolen property during the service of warrants,
16 there was no formal disciplinary action taken against him.
17 Interestingly, Meeks is a close friend of the current chief.

18 3) I was disciplined for expressing my opinion as to the
19 department's decision to retain only one secretary in the
20 Special Investigations Division (S.I.D.). I was told that I
21 had to display "...public support for the goals and policies of
22 the city of Tacoma..." At the same time, when Meeks expressed
23 his outright criticism of the City's light rail project, no
24 discipline was administered.

25

MESSINA • BULZOMI

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

1 4) I was removed from the clandestine lab (CLT) team
2 where I served for 6-7 years. I was told that the removal was
3 based on the fact that I was not in the S.I.D. Yet, Lieutenant
4 Ramsdell was allowed to remain on the team even though he was
5 not assigned to S.I.D.

6 5) I was passed over for a promotion twice, even though
7 I had placed #1 on the civil service captain's list and was
8 temporary captain for 6 months. Prior to my promotion denials,
9 no other lieutenant, who had placed #1 on the civil service
10 captain's list, had ever been passed over for a promotion.

11 6) I was sent out for countless psychiatric evaluations,
12 even though at the time my physician had concluded that I was
13 in excellent condition. No other officer was harassed in this
14 manner.

15 I believe the harassing conduct and disparate treatment
16 by the TPD command staff was initiated because of several
17 overlapping factors, my disability, my age, and my outspoken
18 criticism of the TPD.

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 6 day of December 2002, at Tacoma,
22 Washington.

23
24 
25 JOSEPH J. KIRBY

MESSINA • BULZOMI

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