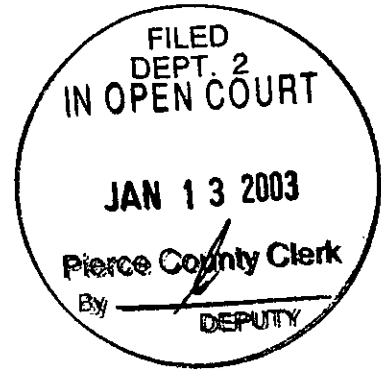


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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

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

Plaintiffs,

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. 99-2-13911-4

ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

NOTED FOR:  
January 10, 2003

ASSIGNED:  
Judge Katherine M. Stolz

**ORIGINAL**

1           THIS MATTER having come on regularly to be heard before the  
2 undersigned judge of the above-entitled court upon the motion of defendants,  
3 for an order granting partial summary judgment to dismiss plaintiff's age  
4 discrimination claim. Defendants represented by and through Shelley M.  
5 Kerslake, Assistant City Attorney, plaintiff represented by John L. Messina, and  
6 the court having considered the records and file herein, in particular the  
7 following documents:

- 8           1.     Defendants' Motion for Partial Summary Judgment to Dismiss  
9                Plaintiff's Age Discrimination Claim;
- 10           2.     Memorandum in Support of Defendants' Motion for Partial  
11                Summary Judgment to Dismiss Plaintiff's Age Discrimination  
12                Claim;
- 13           3.     Affidavit of Shelley M. Kerslake;
- 14           4.     Reply Memorandum in Support of Defendants' Motion for Partial  
15                Summary Judgment to Dismiss Plaintiff's Age Discrimination  
16                Claim;
- 17           5.     Affidavit of Shelley M. Kerslake in Support of Reply  
18                Memorandum;
- 19           6.     Defendants' Motion for Partial Summary Judgment to Dismiss  
20                Philip Arreola, David Brame, and Raymond Roberts;
- 21           7.     Memorandum in Support of Defendants' Motion for Partial  
22                Summary Judgment to Dismiss Philip Arreola, David Brame, and  
23                Raymond Roberts;
- 24           8.     Affidavit of Shelley M. Kerslake;
- 25           9.     Affidavit of Mary Brown;
- 26           10.    Reply Memorandum in Support of Defendants' Motion for Partial  
              Summary Judgment to Dismiss Philip Arreola, David Brame and  
              Raymond Roberts;

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11. Affidavit of Shelley M. Kerslake in Support of Reply Memorandum;
12. Defendants' Motion for Summary Judgment Regarding Plaintiff's Claim of Intentional Infliction of Emotional Distress;
13. Memorandum in Support of Defendants' Motion for Summary Judgment Regarding Plaintiff's Claim of Intentional Infliction of Emotional Distress;
14. Affidavit of Shelley M. Kerslake;
15. Reply Memorandum in Support of Defendants' Motion for Summary Judgment Regarding Plaintiff's Claim of Intentional Infliction of Emotional Distress;
16. Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Disability Discrimination Claim;
17. Memorandum in Support of Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Disability Discrimination Claim;
18. Affidavit of Shelley M. Kerslake;
19. Affidavit of William Woodard;
20. Reply Memorandum in Support of Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Disability Discrimination Claim;
21. Affidavit of Shelley M. Kerslake in Support of Reply Memorandum;
22. Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Claim of Retaliation for Protected Union Activity;
23. Memorandum in Support of Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Claim of Retaliation for Protected Union Activity;
24. Affidavit of Shelley M. Kerslake;

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- 25. Reply Memorandum in Support of Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Claim of Retaliation for Protected Union Activity;
- 26. Affidavit of Shelley M. Kerlake in Support of Reply Memorandum;
- 27. Supplemental Affidavit of Shelley M. Kerlake in Support of Reply Memorandum;
- 28. Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment;
- 29. Declaration of John L. Messina;
- 30. Declaration of Joseph J. Kirby;
- 31. Declaration of Philip G. Lindsay, M.D.;
- 32. Supplemental Declaration of John L. Messina;
- 33. Affidavit of D.P. Van Blaricom;
- 34. Declaration of John L. Messina Re: Civil Rights Claim;
- 35. Plaintiffs' Submission of Additional Authority Re: Motions for Summary Judgment;

plus all attachments and exhibits thereto; and being fully advised in the premises, it is hereby

ORDERED, ADJUDGED and DECREED that Defendants' Motion for Partial Summary Judgment to Dismiss Plaintiff's Age Discrimination Claim is hereby GRANTED; and it is further

ORDERED, ADJUDGED and DECREED that plaintiff's age discrimination claim against defendants is hereby DISMISSED, in its entirety, and with prejudice; and it is further

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ORDERED, ADJUDGED and DECREED that Defendants' Motion for Partial Summary Judgment to Dismiss Philip Arreola, David Brame, and Raymond Roberts is hereby GRANTED; and it is further

ORDERED, ADJUDGED and DECREED that plaintiff's claims against Philip Arreola, David Brame, and Raymond Roberts are hereby DISMISSED, in their entirety, and with prejudice; and it is further

ORDERED, ADJUDGED and DECREED that Defendants' Motion for Summary Judgment Regarding Plaintiff's Claim of Intentional Infliction of Emotional Distress is hereby GRANTED; and it is further

ORDERED, ADJUDGED and DECREED that plaintiff's claim of intentional infliction of emotional distress is hereby DISMISSED, in its entirety, and with prejudice; and it is further

ORDERED, ADJUDGED and DECREED that Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Disability Discrimination Claim is hereby GRANTED; and it is further

ORDERED, ADJUDGED and DECREED that plaintiff's disability discrimination claim is hereby DISMISSED, in its entirety, and with prejudice; and it is further

ORDERED, ADJUDGED and DECREED that Defendants' Motion for Partial Summary Judgment Regarding Plaintiff's Claim of Retaliation for Protected Union Activity is hereby GRANTED; and it is further

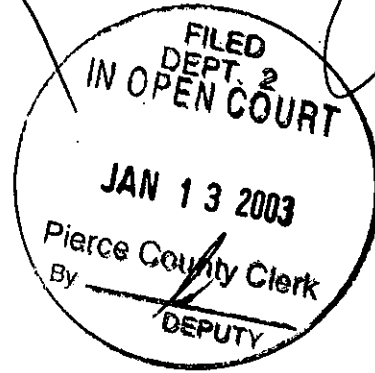
1 ORDERED, ADJUDGED and DECREED that plaintiff's claim of  
2 retaliation for protected union activity is hereby DISMISSED, in its entirety, and  
3 with prejudice.

4 DATED this 13 day of January, 2003.

*Katherine M. Stolz*  
JUDGE KATHERINE M. STOLZ

7 Presented by:

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



10  
11 By: *Shelley M. Kerlake*  
12 SHELLEY M. KERSLAKE  
13 WSBA# 21820  
Attorney for Defendants

14 Approved as to form:

15 MESSINA LAW FIRM

16  
17 By: *John L. Messina*  
18 JOHN L. MESSINA  
19 WSBA# 4440  
Attorney for Plaintiff