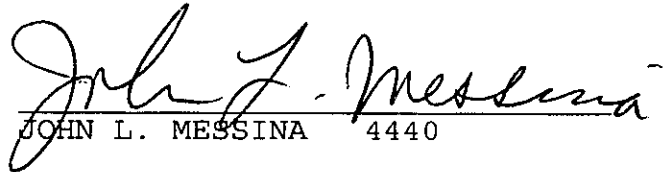


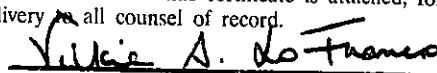
1 I am the attorney for plaintiffs herein. I make this
2 declaration based upon personal knowledge and in support of
3 Plaintiffs' Motion for Reconsideration.

4 Attached hereto are true and correct pages of the
5 deposition of Joseph Kirby, plaintiff, taken in this case on
6 February 15, 2001. These pages document the filing of unfair
7 labor practice complaints against the City of Tacoma by the
8 plaintiff.

9 I certify under penalty of perjury under the laws of the
10 State of Washington that the foregoing is true and correct.

11 DATED this 15 day of January 2003, at Tacoma,
12 Washington.

13 
14 JOHN L. MESSINA 4440

17 CERTIFICATION
18 I hereby certify that on 1-15-03 I deposited
19 in the mails of the United States of America and/or
20 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.

21 Messina Law Firm

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23
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1 he made the comments. And after that, my relationship
2 with Arreola deteriorated. I think that was the
3 opening event.

4 Q When you said he threatened to terminate you, do you
5 recall exactly what he said?

6 A "I'll fire his ass if he thinks he can challenge me in
7 an open forum like this."

8 Q Did you have any action taken against you for those
9 comments?

10 A Subsequent to that I believe a good portion of what
11 happened to me in the department was a direct result
12 of those comments. Was any overt action taken?
13 Probably yes, and it spun into later discipline.

14 Q What discipline are we talking about?

15 A The follow-up to that, which was what we characterized
16 as the Ramirez incident where I was ordered to divulge
17 the nature of a private conversation I had with a
18 member of Local 6 which did not occur in the city. It
19 occurred in the city of Lakewood on the telephone off
20 duty.

21 I was told basically if I didn't divulge that, I
22 was in jeopardy of being terminated again, which is
23 not my understanding about what the RCW said.
24 Subsequently that led to PERC decision where the city
25 was sanctioned for interfering with union activities

1 of that nature.

2 And most recently the filing of a second unfair
3 label practice where Washington State Patrol did the
4 very same thing to me as an agent of the city of
5 Tacoma.

6 Q So you filed a grievance based on the Ramirez
7 incident?

8 A I think the union filed the grievance. I believe I
9 was the precipitating -- I filed a grievance.

10 Q And the outcome of that was what?

11 A My understanding that eventual was Bob Blystone, the
12 union president also filed a grievance for a similar
13 incident and the merged outcome of those grievances
14 were that the city was sanctioned by PERC and forced
15 to post under Ray Corpuz's signature a statement that
16 said you will not do this to these people anymore,
17 which they subsequently chose to disregard.

18 Q So your understanding of the Blystone grievance and
19 the one which you were named were determined together?

20 A My understanding is that the outcome was that when
21 Bob's was adjudicated that the same set of facts and
22 principles applied to mine and that therefore, since
23 they were correlary [sic] actions, grievances, they
24 pretty much conceptually proceeded through the process
25 together. That was my understanding.

1 you indicate that Ray Corpuz had full knowledge of
2 actions that Philip Arreola -- strike that.

3 "Ray Corpuz had full knowledge of the actions of
4 Philip Arreola in violating my civil rights." What
5 did Ray know about that?

6 A I can't tell you because I don't know the
7 conversations that occurred between Arreola and Ray.

8 Q Do you know the conversations did occur about that
9 topic?

10 A I have no personal knowledge. I might expand that
11 answer to say that certainly the unfair labor practice
12 that arose out my being compelled to do that by Bob
13 Blystone's union activities, certainly had to come to
14 the attention of Ray Corpuz. He signed the document.
15 He was compelled to sign the document and post it.

16 I would posit that Ray was very familiar with
17 the violations of the RCW that had to do with Joe
18 Kirby and that he's still got one in front of him
19 today on a ULP that they most recently fired. Ray
20 knows exactly what the department has done to me.

21 Q Generally, to your knowledge, do ULPs go to the city
22 manager with the exception of the Blystone --

23 A Did I personally?

24 Q Yes.

25 A For what?

1 Q Just as a general matter. Does Ray get a copy of ULPs
2 that are filed or grievances that are filed?

3 A The union files an unfair labor practice with PERC,
4 the city attorney's office gets involved in answering
5 it, do you brief Ray on those things?

6 Q I'm asking what your understanding is.

7 A I would hope if you represent Ray Corpuz you would
8 brief him. My understanding is yes he gets briefed on
9 these matters. I would find it absurd to believe that
10 Ray Corpuz didn't know all the nuances of this unfair
11 labor practice, considering it's the second one on the
12 same issue.

13 Q So you're not claiming negligent hiring of Ray Corpuz,
14 Bill Woodard, Catherine Woodard, Ray Roberts, David
15 Brame, or James Hairston?

16 A No. I think the center of my problems and my
17 subsequent problems initiated and continued as a
18 result of Arreola.

19 Q What about "negligent retention and supervision," does
20 that apply to any of the people besides Philip
21 Arreola?

22 A Conceptually negligent supervision, if I thought the
23 discipline was unfair, somebody had to supervise those
24 people.

25 MR. SADLER: Let me interject for the