

HON. KATHERINE M. STOLZ

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FILED
IN COUNTY CLERK'S OFFICE
A.M. FEB 04 2003 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY [Signature] DEPUTY

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,)

NOTICE OF APPEAL TO
COURT OF APPEALS

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.)

Plaintiffs seek review by the designated appellate court
of the following Orders:

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

RECEIVED
JAN 14 2003
MESSINA LAW FIRM

FILED
DEPT. 2
IN OPEN COURT
JAN 13 2003
Pierce County Clerk
By _____ DEPUTY

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,

ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

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,

NOTED FOR:
January 10, 2003

ASSIGNED:
Judge Katherine M. Stolz

Defendants.

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;

- 1 11. Affidavit of Shelley M. Kerslake in Support of Reply Memorandum;
- 2 12. Defendants' Motion for Summary Judgment Regarding Plaintiff's
- 3 Claim of Intentional Infliction of Emotional Distress;
- 4 13. Memorandum in Support of Defendants' Motion for Summary
- 5 Judgment Regarding Plaintiff's Claim of Intentional Infliction of
- 6 Emotional Distress;
- 7 14. Affidavit of Shelley M. Kerslake;
- 8 15. Reply Memorandum in Support of Defendants' Motion for
- 9 Summary Judgment Regarding Plaintiff's Claim of Intentional
- 10 Infliction of Emotional Distress;
- 11 16. Defendants' Motion for Partial Summary Judgment Regarding
- 12 Plaintiff's Disability Discrimination Claim;
- 13 17. Memorandum in Support of Defendants' Motion for Partial
- 14 Summary Judgment Regarding Plaintiff's Disability Discrimination
- 15 Claim;
- 16 18. Affidavit of Shelley M. Kerslake;
- 17 19. Affidavit of William Woodard;
- 18 20. Reply Memorandum in Support of Defendants' Motion for Partial
- 19 Summary Judgment Regarding Plaintiff's Disability Discrimination
- 20 Claim;
- 21 21. Affidavit of Shelley M. Kerslake in Support of Reply
- 22 Memorandum;
- 23 22. Defendants' Motion for Partial Summary Judgment Regarding
- 24 Plaintiff's Claim of Retaliation for Protected Union Activity;
- 25 23. Memorandum in Support of Defendants' Motion for Partial
- 26 Summary Judgment Regarding Plaintiff's Claim of Retaliation for
- Protected Union Activity;
24. Affidavit of Shelley M. Kerslake;

1 25. Reply Memorandum in Support of Defendants' Motion for Partial
Summary Judgment Regarding Plaintiff's Claim of Retaliation for
2 Protected Union Activity;

3 26. Affidavit of Shelley M. Kerslake in Support of Reply
Memorandum;

4 27. Supplemental Affidavit of Shelley M. Kerslake in Support of Reply
5 Memorandum;

6 28. Plaintiffs' Opposition to Defendants' Motion for Partial Summary
7 Judgment;

8 29. Declaration of John L. Messina;

9 30. Declaration of Joseph J. Kirby;

10 31. Declaration of Philip G. Lindsay, M.D.;

11 32. Supplemental Declaration of John L. Messina;

12 33. Affidavit of D.P. Van Blaricom;

13 34. Declaration of John L. Messina Re: Civil Rights Claim;

14 35. Plaintiffs' Submission of Additional Authority Re: Motions for
15 Summary Judgment;

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

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

21 ORDERED, ADJUDGED and DECREED that plaintiff's age
22 discrimination claim against defendants is hereby DISMISSED, in its entirety,
23 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

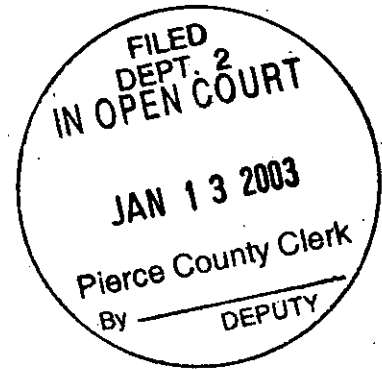
1 ORDERED, ADJUDGED and DECREED that plaintiff's claim of
2 retaliation for protected union activity is hereby DISMISSED, in its entirety, and
3 with prejudice.

4 DATED this 13 day of January, 2003.

5 **KATHERINE M. STOLZ**
6 JUDGE KATHERINE M. STOLZ

7 Presented by:

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



10 By:

11 *[Signature]*
12 SHELLEY M. KERSLAKE
13 WSBA# 21820
Attorney for Defendants

14 Approved as to form:

15 MESSINA LAW FIRM

16 By:

17 *[Signature]*
18 JOHN L. MESSINA
19 WSBA# 4440
Attorney for Plaintiff

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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

JUDGMENT FOR DEFENDANTS

SUMMARY OF JUDGMENT

Pursuant to RCW 4.64.030, the following information should be entered
in the Clerk's Execution Docket:

1. Judgment Creditor: City of Tacoma
2. Judgment Creditor's Attorney: Robin S. Jenkinson, City Attorney.
3. Judgment Debtor: Joseph J. Kirby and Deborah A. Kirby
4. Amount of Judgment: \$401.25
5. Amount of Interest Owed to Date of Judgment: N/A
6. Total of Taxable Costs and Attorney Fees: \$401.25

JUDGMENT

Defendants' motions for summary judgment, were heard on Friday, January 10, 2003, before the Honorable Katherine M. Stolz. Plaintiffs, Joseph Kirby and Deborah Kirby, appeared personally and through their attorney of record, John L. Messina. Defendants appeared personally and through its attorneys of record, Shelley M. Kerslake, Assistant City Attorney.

The parties presented oral argument, and Judge Stolz granted summary judgment in favor of defendants, dismissing plaintiffs' complaint in its entirety.

The Court enters judgment as follows:

1. Plaintiff's age discrimination claim is dismissed with prejudice.
2. Plaintiff's claims against Philip Arreola, David Brame, and Raymond Roberts are dismissed with prejudice.
3. Plaintiff's claim of intentional infliction of emotional distress is dismissed with prejudice.
4. Plaintiff's disability discrimination claim is dismissed with prejudice.

1 5. Plaintiff's claim of retaliation for protected union activity is
2 dismissed with prejudice.

3 6. Plaintiffs' Motion for Reconsideration is denied.

4 7. Defendants are awarded statutory attorney fees in the amount of
5 \$125.00.

6 8. Defendants incurred deposition costs to prevail, and the pro rata
7 amount due is \$276.25.

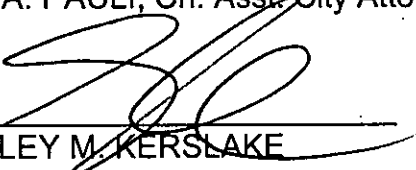
8 DATED this 24 day of January, 2003.

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11 KS
THE HONORABLE KATHERINE STOLZ

12 Presented By:

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

15
16 By:


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

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19 Approved as to form:

20 MESSINA BULZOMI

21
22 By:

JOHN L. MESSINA
WSB# 4440
Attorney for Plaintiffs

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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 DENYING PLAINTIFFS'
MOTION FOR RECONSIDERATION
OF COURT'S SUMMARY
JUDGMENT RULING AND ORDER
GRANTING SUMMARY JUDGMENT
AND BRIEF IN SUPPORT OF
MOTION

NOTED FOR:
January 24, 2003

ASSIGNED:
Judge Katherine M. Stolz

COPY

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

- 8 1. Motion for Reconsideration of Court's Summary Judgment Ruling
 9 and Order Granting Summary Judgment and Brief in Support of
 Motion;
- 10 2. Declaration of John L. Messina in Support of Plaintiffs' Motion for
 11 Reconsideration;
- 12 3. Defendants' Response to Plaintiffs' Motion for Reconsideration of
 13 Court's Summary Judgment Ruling and order Granting Summary
 Judgment and Brief in Support of Motion;

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

16 ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion for
 17 Reconsideration of Court's Summary Judgment Ruling and Order Granting
 18 Summary Judgment and Brief in Support of Motion is hereby DENIED; and it is
 19 further

20 ORDERED, ADJUDGED and DECREED that the above-entitled action is
 21 hereby DISMISSED, in its entirety, and with prejudice.


22 DATED this 24 day of January, 2003.

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 25 _____
 26 JUDGE KATHERINE M. STOLZ

Presented by:

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


By:


SHELLEY M. KERSLAKE
WSBA# 21820
Attorney for Defendants

Approved as to form:

MESSINA LAW FIRM

By:


JOHN L. MESSINA
WSBA# 4440
Attorney for Plaintiff

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