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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

DEFENDANT CITY OF TACOMA'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT FOR PERSONAL INJURIES AND DAMAGES IN TORT

FILED  
IN COUNTY CLERK'S OFFICE  
A.M. JAN 26 2000 P.M.  
PIERCE COUNTY, WASHINGTON  
BY TED RUTT, COUNTY CLERK  
DEPUTY

3 JAN 26 2000

COMES NOW the defendant, City of Tacoma, by and through its undersigned attorneys and by way of answer to plaintiff's Complaint for Personal Injuries and Damages in Tort admits, denies and alleges as follows:

DEFENDANT CITY OF TACOMA'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT FOR PERSONAL INJURIES AND DAMAGES IN TORT - Page 1 of 7  
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ORIGINAL

Tacoma City Attorney  
Civil Division  
747 Market Street, Room 1120  
Tacoma, Washington 98402-3767  
(253) 591-5885/FAX 591-5755

## I.

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2 In answer to paragraph 1 of plaintiff's Complaint, these defendants are  
3 without knowledge or information sufficient to form a belief as to the truth of the  
4 remaining allegations contained therein, and therefore, denies the same.

## II.

6 2.1 In answer to paragraph 2.1 of plaintiff's Complaint, these defendants  
7 admit that the City of Tacoma is a municipal corporation duly authorized under the  
8 laws of the State of Washington with its principal place of business located in  
9 Pierce County, Washington.

11 2.2 In answer to paragraph 2.2 of plaintiff's Complaint, these defendants  
12 admit that the Tacoma Police Department is a department of the City of Tacoma.

13 2.3 In answer to paragraph 2.3 of plaintiff's Complaint, these defendants  
14 admit that the City of Tacoma is the plaintiff's employer and the City of Tacoma  
15 employs more than eight people.

## III.

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18 3.1 In answer to paragraph 3.1 of plaintiff's Complaint, these defendants  
19 state that at all times herein, defendant Ray Corpuz, was acting in his official  
20 capacity, and therefore deny the same.

21 3.2 In answer to paragraph 3.2 of plaintiff's Complaint, these defendants  
22 state that at all times herein, defendant Philip Arreola, was acting in his official  
23 capacity, and therefore deny the same.  
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2 3.3 In answer to paragraph 3.3 of plaintiff's Complaint, these defendants  
3 state that at all times herein, defendants William Woodard and Catherine  
4 Woodard, were acting in their official capacity, and therefore deny the same.

5 3.4 In answer to paragraph 3.4 of plaintiff's Complaint, these defendants  
6 state at all times herein, defendant Raymond Roberts, was acting in his official  
7 capacity, and therefore deny the same.

8 3.5 In answer to paragraph 3.5 of plaintiff's Complaint, these defendants  
9 state at all times herein, defendant David Brame, was acting in his official capacity,  
10 and therefore deny the same.

11 3.6 In answer to paragraph 3.6 of plaintiff's Complaint, these defendants  
12 state at all times herein, defendant James Hairston, was acting in his official  
13 capacity, and therefore deny the same.

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16 IV.

17 In answer to paragraph 4 of plaintiff's Complaint, these defendants admit  
18 that Ray Corpuz, Philip Arreola, William Woodard, Raymond Roberts, David  
19 Brame and James Hairston were employees of the City of Tacoma and at various  
20 times held supervisory authority over the plaintiff, Joseph J. Kirby, during his  
21 employment with the City of Tacoma. As to Catherine Woodard, these defendants  
22 deny the same.

## V.

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2 5.1 In answer to paragraph 5.1 of plaintiff's Complaint, these defendants  
3 admit that plaintiff, Joseph J. Kirby, was employed by the City of Tacoma's Police  
4 Department from approximately January of 1983 through the present.

5 5.2 In answer to paragraph 5.2 of plaintiff's Complaint, these defendants  
6 deny the same.

7 5.3 In answer to paragraph 5.3 of plaintiff's Complaint, these defendants  
8 deny the same.  
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## VI.

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11 In answer to paragraph 6 of plaintiff's Complaint, these defendants deny the  
12 same.

## VII.

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14 In answer to paragraph 7 of plaintiff's Complaint, these defendants deny the  
15 same.  
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## VIII.

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18 In answer to paragraph 8 of plaintiff's Complaint, these defendants deny the  
19 same.

## IX.

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21 In answer to paragraph 9 of plaintiff's Complaint, these defendants admit  
22 that a Claim for Damages was filed with the Division of Risk Management on  
23 December 19, 1997; and are without knowledge and information sufficient to form  
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1 a belief as to the truth of the remaining allegations contained therein, and  
 2 therefore, deny the same.

3 X.

4 In answer to paragraph 10 of plaintiff's Complaint, these defendants deny  
 5 the same.

6 XI.

7 In answer to paragraph 11 of plaintiff's Complaint, these defendants deny  
 8 the same.

9 XII.

10 In answer to paragraph 12 of plaintiff's Complaint, these defendants deny  
 11 the same.

12 AFFIRMATIVE DEFENSES

13 XIV.

14 14.1 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
 15 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants state that there is no  
 16 causation between the acts alleged as against these defendants and the damages  
 17 claimed to have been sustained by the plaintiff.

18 14.2 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
 19 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants allege that plaintiff  
 20 has failed to state a claim upon which relief can be granted.

1 14.3 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
2 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants allege that plaintiff's  
3 injuries, if any, were a proximate result of the actions of the plaintiff thereby barring  
4 and/or diminishing any award or judgment against these defendants.

5 14.4 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
6 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants state that the plaintiff  
7 lacks standing to sue for some or all of the relief sought therein.

8 14.5 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
9 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants allege that if the  
10 plaintiff suffered injury or damages, then the risk of said injuries or damages was  
11 assumed by the plaintiff.  
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13 14.6 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
14 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants allege that they are  
15 immune from the instant suit pursuant to the principles of discretionary immunity.  
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17 14.7 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
18 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants allege that the  
19 plaintiff's suit is subject to dismissal on the basis that it contains only conclusory  
20 allegations and does not set forth facts necessary to support a cause of action  
21 against the defendants, or to overcome immunity of the defendants.  
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23 14.8 FOR FURTHER ANSWER, AND BY WAY OF AN AFFIRMATIVE  
24 DEFENSE TO PLAINTIFF'S COMPLAINT, these defendants reserve the right to  
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add additional affirmative defenses, cross-claims, counterclaims and third party defendants, as further information becomes known and available.

WHEREFORE, having fully answered plaintiffs' Complaint, these defendants pray for judgment as follows:

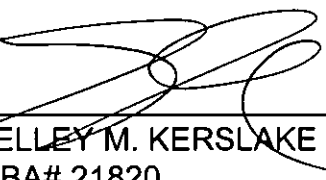
1. For judgment ordering that plaintiff's complaint against these defendants be dismissed with prejudice and plaintiff take nothing thereby.

2. For judgment awarding the defendants any and all relief, including, but not limited to, their costs and reasonable attorney's fees.

3. For such other and further relief as the Court deems just and equitable.

DATED this 24 day of January, 2000.

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

By:   
\_\_\_\_\_  
SHELLEY M. KERSLAKE  
WSBA# 21820  
Assistant City Attorney  
Of Attorneys for Defendants