

99-2-13911-4 2528021 AMCPT 04-28-03

HON. KAREN L. STROMBOM

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**CERTIFICATION**

I hereby certify that on 4-14-03 I deposited in the mails of the United States of America and/or 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.

Valerie A. DeFrances  
Messina Law Firm

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

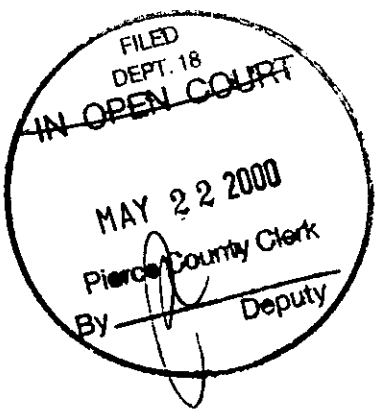
Plaintiffs, )

AMENDED  
COMPLAINT FOR PERSONAL  
INJURIES AND DAMAGES IN  
TORT

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. )



2 MAY 22 2000

PLAINTIFFS ALLEGE:

ORIGINAL

**MESSINA • BULZOMI**

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

## I.

1  
2 Plaintiffs Joseph J. Kirby and Deborah A. Kirby were, at  
3 all times material hereto, husband and wife and residents of  
4 Pierce County, Washington.

## II.

5  
6 2.1 Defendant, The City of Tacoma, is a municipal  
7 corporation duly authorized under the laws of the State of  
8 Washington with its principal place of business located in Pierce  
9 County, Washington.

10 2.2 The Tacoma Police Department is a department of The  
11 City of Tacoma.

12 2.3 Defendant, The City of Tacoma, stood in the  
13 relationship of employer of plaintiff and employed a work force  
14 of a nature and extent to make it subject to the provisions of  
15 RCW 49.60.

## III.

16  
17 3.1 At all times material hereto, defendants Ray Corpuz  
18 and "Jane Doe" Corpuz were husband and wife, and residents of  
19 Pierce County, Washington. All actions hereinafter alleged to  
20 have been performed by defendant Ray Corpuz, were done for and on  
21 his own behalf and for and on the behalf of the marital community  
22 consisting of Ray Corpuz and "Jane Doe" Corpuz.

23 3.2 At all times material hereto, defendants Philip  
24 Arreola and "Jane Doe" Arreola were husband and wife, and  
25 residents of Pierce County, Washington. All actions hereinafter

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1 | alleged to have been performed by defendant Philip Arreola, were  
2 | done for and on his own behalf and for and on the behalf of the  
3 | marital community consisting of Philip Arreola and "Jane Doe"  
4 | Arreola.

5 |         3.3 At all times material hereto, defendants William  
6 | Woodard and Catherine Woodard were husband and wife, and  
7 | residents of Pierce County, Washington. All actions hereinafter  
8 | alleged to have been performed by either William Woodard or  
9 | Catherine Woodard were done for and on each defendant's own  
10 | behalf and for and on the behalf of the marital community  
11 | consisting of William Woodard and Catherine Woodard.

12 |         3.4 At all times material hereto, defendants Raymond  
13 | Roberts and "Jane Doe" Roberts were husband and wife, and  
14 | residents of Pierce County, Washington. All actions hereinafter  
15 | alleged to have been performed by defendant Raymond Roberts, were  
16 | done for and on his own behalf and for and on the behalf of the  
17 | marital community consisting of Raymond Roberts and "Jane Doe"  
18 | Roberts.

19 |         3.5 At all times material hereto, defendants David Brame  
20 | and "Jane Doe" Brame were husband and wife, and residents of  
21 | Pierce County, Washington. All actions hereinafter alleged to  
22 | have been performed by defendant David Brame, were done for and  
23 | on his own behalf and for and on the behalf of the marital  
24 | community consisting of David Brame and "Jane Doe" Brame.  
25 |

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## VI.

1  
2 For a cause of action against the defendants, plaintiff  
3 Joseph J. Kirby claims that he was harassed and discriminated  
4 against by the employees of defendant, The City of Tacoma, at  
5 which time defendant's employees had authority over him and that  
6 such harassment and discrimination were condoned by defendant The  
7 City of Tacoma, which wrongfully and negligently failed to act to  
8 protect plaintiff and to prevent further abuse. Said harassment  
9 and discrimination made plaintiff's work environment hostile,  
10 unpleasant and unbearable, and violated his rights.

## VII.

11  
12 For another cause of action against defendants, plaintiff  
13 claims that said defendants retaliated against him for exercising  
14 his rights under RCW 49.60.

## VIII.

15  
16 For another cause of action against defendants, plaintiff  
17 claims that said defendant The City of Tacoma was negligent in  
18 the hiring, retention and supervision of the above-named  
19 individual defendants.

## IX.

20  
21 For another cause of action against defendants, plaintiff  
22 claims that said defendants violated his rights under 42 U.S.C.  
23 §1983, by discriminating against him based on his race.  
24  
25

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## 1 X.

2 A Claim for Damages has been duly filed with the Division  
3 of Risk Management of the City of Tacoma, for the injuries and  
4 damages sustained by Joseph J. Kirby. Said claim has neither  
5 been admitted nor denied.

## 6 XI.

7 As a direct and proximate result of the negligent and  
8 unlawful conduct of the defendants, plaintiff Joseph J. Kirby  
9 sustained personal injuries, both physical and mental, which will  
10 continue for an indefinite period of time in the future; he has  
11 suffered mental pain and psychological disability, together with  
12 a loss of earnings; plaintiff has further been rendered highly  
13 susceptible to further injury in the future, which susceptibility  
14 will persist for an indefinite period of time, if not perma-  
15 nently.

## 16 XII.

17 As a direct and proximate result of the defendants'  
18 negligence and other unlawful conduct, plaintiff Deborah A. Kirby  
19 has lost and continues to lose the services and consortium of  
20 plaintiff Joseph J. Kirby, her husband, to her damage in such sum  
21 of money as will reasonably compensate her for such loss, past,  
22 present, and future.

## 23 XIII.

24 As a direct and proximate result of the negligence and  
25 unlawful conduct of defendants, plaintiffs have been specially

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1 and generally damaged in an amount to be fully proven at the time  
2 of trial.

3 XIV.


4 Under the provisions of RCW 49.60, plaintiffs are entitled  
5 upon prevailing, to an award of reasonable attorneys' fees, and  
6 request the same in an amount to be determined at the conclusion  
7 of the trial.

8 WHEREFORE, plaintiffs pray for judgment against the defen-  
9 dants, for such sums of money as will reasonably and justly  
10 compensate them for their damages sustained as hereinbefore  
11 alleged, together with their costs and disbursements herein to be  
12 taxed, and for prejudgment interest.

13 MESSINA BULZOMI

14  
15 DATED: 4-13-00

16 BY   
JOHN L. MESSINA 4440

17 BY   
JEFFREY H. SADLER 27136  
18 Attorneys for Plaintiffs

19  
20 STATE OF WASHINGTON )  
21 : ss.  
22 County of Pierce )

23 JOSEPH KIRBY, being first duly sworn upon oath, deposes and  
24 says:

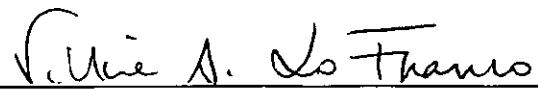
25 That he is one of the plaintiffs above-named; that he has  
read the foregoing Amended Complaint for Personal Injuries and

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1 Damages in Tort, knows the contents thereof and believes the same  
2 to be true.

3  
4   
5 JOSEPH KIRBY

6 Signed and sworn to before me on the 14<sup>th</sup> day of April,  
7 2000, by Joseph Kirby.

8   
9 Notary Public in and for the State of  
Washington, residing at Tacoma.  
My appointment expires 4-15-01.

10 **THE PLAINTIFF WILL NOT**  
11 **ACCEPT SERVICE OF PLEADINGS**  
12 **OR MOTIONS VIA FAX.**  
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