

99-2-13911-4 3419920 AMCPT 04-28-03

HON. KAREN STROMBOM

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CERTIFICATION

I hereby certify that on 7/2/01 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.

Vickie A. DeFrances
Messina Law Firm

FILED
IN COUNTY CLERK'S OFFICE
A.M. JUL 02 2001 P.M.
PIERCE COUNTY WASHINGTON
TED RUTTY 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,)

Plaintiffs,)

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.)

No. 99 2 13911 4
SECOND AMENDED
COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES IN
TORT

PLAINTIFFS ALLEGE:

JUL 03 2001

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

1 I.

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.

5 II.

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.

16 III.

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.

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1 VI.

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.

11 VII.

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.

15 VIII.

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.

20 IX.

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.

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1 X.

2 The actions of the defendants and defendants' agents and/or
3 employees constitute intentional infliction of emotional distress
4 against plaintiff Joseph Kirby.

5 XI.

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

10 XII.

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

20 XIII.

21 As a direct and proximate result of the defendants'
22 negligence and other unlawful conduct, plaintiff Deborah A. Kirby
23 has lost and continues to lose the services and consortium of
24 plaintiff Joseph J. Kirby, her husband, to her damage in such sum

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1 of money as will reasonably compensate her for such loss, past,
2 present, and future.

3 XIV.

4 As a direct and proximate result of the negligence and
5 unlawful conduct of defendants, plaintiffs have been specially
6 and generally damaged in an amount to be fully proven at the time
7 of trial.

8 XV.


9 Under the provisions of RCW 49.60, plaintiffs are entitled
10 upon prevailing, to an award of reasonable attorneys' fees, and
11 request the same in an amount to be determined at the conclusion
12 of the trial.

13 WHEREFORE, plaintiffs pray for judgment against the defen-
14 dants, for such sums of money as will reasonably and justly
15 compensate them for their damages sustained as hereinbefore
16 alleged, together with their costs and disbursements herein to be
17 taxed, and for prejudgment interest.

18 MESSINA BULZOMI

19
20 DATED: 5/14/01

21 BY  27136 For
JOHN L. MESSINA 4440

22 BY  27136
JEFFREY H. SADLER 27136
23 Attorneys for Plaintiffs

24
25
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5316 Orchard St. W.
Tacoma, WA 98467-3633
(253) 472-6000

1 STATE OF WASHINGTON)
2 County of Pierce) : ss.

3 JOSEPH KIRBY, being first duly sworn upon oath, deposes and
4 says:

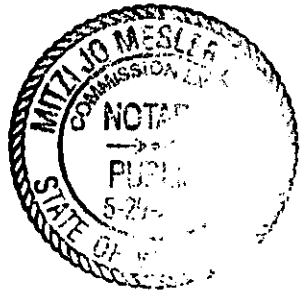
5 That he is one of the plaintiffs above-named; that he has
6 read the foregoing Amended Complaint for Personal Injuries and
7 Damages in Tort, knows the contents thereof and believes the same
8 to be true.

9
10 *Joseph Kirby*
11 JOSEPH KIRBY

12 Signed and sworn to before me on the 15 day of May
13 2001, by Joseph Kirby.

14 *M M Draz*
15 Notary Public in and for the State of
16 Washington, residing at Tacoma.
17 My appointment expires 5/29/03

18 **THE PLAINTIFF WILL NOT**
19 **ACCEPT SERVICE OF PLEADINGS**
20 **OR MOTIONS VIA FAX.**



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