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FILED
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PIERCE COUNTY, WASHINGTON
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BOB SAN SOUCIE
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,

v.

AFFIDAVIT OF SHELLEY M.
KERSLAKE IN SUPPORT OF
DEFENDANTS' MOTION FOR
ORDER ADJUSTING TRIAL DATE
AND CIVIL CASE SCHEDULE

3 OCT 12 2001

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.

Noted For: October 19, 2001

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

SHELLEY M. KERSLAKE, being first duly sworn on oath, deposes and
states as follows:

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1. That I am the attorney of record for the defendants in the above-captioned action, and am over the age of eighteen and competent to testify herein.

2. That I am one of two litigators who do this type of work for the City of Tacoma.

3. That I have doctor's restrictions that will prevent me from trying this case on January 7, 2002. (See Exhibit 1, Declaration of Theresa Froelich, D.O.)

4. That the other litigator is conflicted out of this case, as she represents Mr. Kirby in his individual capacity in another matter. (See Exhibit 2, waiver of conflict, precluding Ms. Homan from providing legal services on this case.)

5. That I have provided a minimum of medical testimony regarding my condition; however, should the court want more detailed information, it can certainly be provided by my physician, under court seal, or for an in camera review.

6. That my maternity leave will end in August, 2002, and this case can be set for trial anytime in late September, 2002, or thereafter.

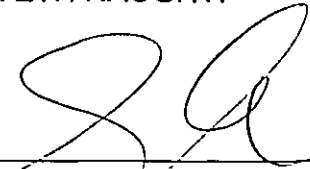
7. That I ask the court's indulgence in granting this motion for continuance due to extenuating circumstances beyond my control.

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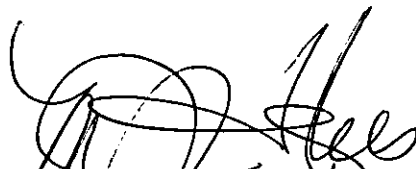
FURTHER YOUR AFFIANT SAYETH NAUGHT.

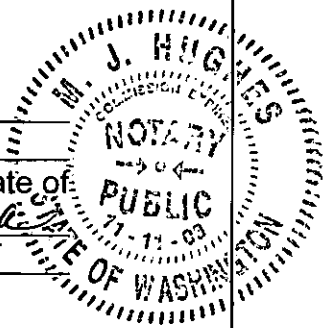
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SHELLEY M. KERSLAKE

SUBSCRIBED and SWORN to before me this 11th day of October,
2001.


Printed Name: M. J. HUGHES
NOTARY PUBLIC in and for the State of
Washington, residing at: TACOMA
My commission expires: 11-11-03



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Waiver of Potential Conflict/Appearance Issue

Jean P. Homan, Assistant City Attorney with the Tacoma City Attorney's Office, is counsel of record for the defendants in Phillips v. City of Tacoma and "John Doe," Pierce County Superior Court Cause No. 97-2-10893-0. Lt. Joseph Kirby has been identified as the currently unnamed "John Doe" in that matter. Phillips v. City of Tacoma, et. al. is a civil rights case brought by George Phillips, stemming from the 1995 execution of a search warrant on plaintiff's home. The City of Tacoma is defending and indemnifying Lt. Kirby in this matter pursuant to TMC 1.12.920.

Shelley M. Kerslake, Assistant City Attorney with the Tacoma City Attorney's Office, is counsel of record for the defendants in Joseph & Deborah Kirby v. City of Tacoma, et. al., Pierce County Superior Court Cause No. 99-2-13911-4. Lt. Joseph Kirby is the plaintiff in that matter. Kirby v. City of Tacoma, et. al. is an employment discrimination case brought against the City and numerous individually named defendants.

The matters referenced above are not substantially related and do not involve common issues of fact or law. Moreover, the Tacoma City Attorney's Office will keep the representation in the above matters segregated. Jean Homan will not perform legal services in the matter of Kirby v. City of Tacoma, et. al., and Shelley Kerslake will not perform legal services in the matter of Phillips v. City of Tacoma, et. al. The segregation of representation in the above-referenced actions will not preclude either attorney from reviewing and using public domain resources and public domain work product. Examples of non-public domain resources and non-public domain work product include research memoranda and draft pleadings and briefs which have not been filed with a court or served on other parties.

I have been advised that I can decline to allow Jean Homan to continue representing me in the matter of Phillips v. City of Tacoma, et. al. and that the Phillips matter will then be referred to outside counsel of the City's choice. I have also been advised to seek the advice of an independent attorney on this issue. Having had the opportunity to do so, I hereby consent to continued representation by Jean Homan in Phillips v. City of Tacoma, et. al.

Dated this 9 day of ~~June~~ ^{July}, 2001.



 JOSEPH KIRBY