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FILED
IN COUNTY CLERK'S OFFICE
PIERCE COUNTY, WASHINGTON
A.M. OCT 25 2001 P.M.
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,

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

AFFIDAVIT OF
ROBIN S. JENKINSON
IN SUPPORT OF DEFENDANTS'
MOTION FOR ORDER
ADJUSTING TRIAL DATE AND
CIVIL CASE SCHEDULE

Noted for: October 26, 2001

2 OCT 26 2001

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

ROBIN S. JENKINSON, being first duly sworn on oath, deposes and
states as follows:

AFFIDAVIT OF ROBIN S. JENKINSON- 1

ORIGINAL

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

1 1. That I am the City Attorney for the City of Tacoma.

2 2. That I am responsible for all attorneys working for the City
3 Attorney's Office.

4 3. That the City Attorney's Office has two attorneys who do full time
5 tort litigation, Ms. Kerslake and Ms. Homan.

6 4. Ms. Homan is conflicted from this case, as was explained in the
7 City's Motion for Continuance.

8 5. Plaintiff raises the issue of the other attorneys in this office trying
9 this case in Ms. Kerslake's stead.

10 6. The two attorneys specifically mentioned by the plaintiff are Heidi
11 Horst and Elizabeth Pauli. Heidi Horst is the Police Department's legal advisor,
12 which is a full time position and entails no litigation duties. She is unavailable to
13 try this case. Ms. Pauli is the City's Chief Assistant City Attorney, her function is
14 administrative in nature, and does not allow the time to take on the function of
15 litigator for this case. Ms. Pauli's only role with respect to litigation with plaintiff's
16 counsel has been with the negotiation of a settlement of a claim, that is distinctly
17 different than the task of preparing and taking a case to trial. Thus, she is not
18 available to take this case.

19 7. Plaintiff mentions other members of my office as possible
20 candidates for attorneys in this case. As I am sure the court is aware, in offices
21 of our nature, attorneys have specialties. The other attorneys listed are not
22 general practitioners with litigation backgrounds. They advise various City
23 departments in very specialized areas of the law, such as, tax, land use and
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environmental issues. Furthermore, they are not funded by the Risk fund, which pays for the City's litigation attorneys. Ms. Carlson does some litigation for the City, but it is on a part time basis, and she is not available to take this case.

8. The defendants should be allowed to choose their attorney. Ms. Kerlake has the requisite expertise and experience for this case. The plaintiff should not be able to dictate who defends these defendants. Simply because these defendants are municipal employees, does not mean that they are not entitled to the attorney of their choice.

9. Plaintiff's assertions notwithstanding, if the court does not grant this motion for continuance, the City will be forced to hire outside counsel. New counsel will definitely ask for a continuance and it will likely be of a longer duration than what the defendants are currently requesting, as they would have to get up to speed on a case that has many issues and volumes of documents. Thus, the defendants respectfully request that the City's motion be granted.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Robin S. Jenkinson
ROBIN S. JENKINSON

SUBSCRIBED and SWORN to before me this 27 day of October, 2001.

M. J. Hughes
Printed Name: M. J. HUGHES
NOTARY PUBLIC in and for the State of Washington
Washington, residing at: 1711 23rd St
My commission expires: 1-7-03

Tacoma City Attorney
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