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FILED  
IN COUNTY CLERK'S OFFICE  
PIERCE COUNTY, WASHINGTON

A.M. DEC 26 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

MEMORANDUM IN SUPPORT OF  
DEFENDANTS' MOTION FOR A  
PROTECTIVE ORDER RE:  
REQUEST FOR PRE-HIRE FILES

NOTE FOR HEARING:  
January 4, 2002

6 DEC 27 2001

**I. FACTS SUPPORTING ISSUANCE OF A PROTECTIVE ORDER.**

Plaintiff has sued the City of Tacoma, and the individually named  
defendants, for claims that arise out of his employment with the Tacoma Police

ORIGINAL

1 Department. His primary complaint is that he was not promoted to the rank of  
 2 Captain. In his complaint, he alleges age discrimination, disability  
 3 discrimination, retaliation for engaging in union activity and negligent hiring.<sup>1</sup>  
 4 (See Plaintiff's Amended Complaint, attached hereto as Exhibit 2.)

5 Plaintiff is seeking the production of all the named defendants' pre-hire  
 6 files, with the exception of Phillip Arreola, and all pre-hire files for all police  
 7 lieutenants for the past ten years. (See discovery requests dated November  
 8 19, 2001, attached hereto as Exhibit 3.) This request encompasses twenty-six  
 9 employees, in addition to the named defendants. The pre-hire files contain,  
 10 among other things, credit reports, polygraph tests, background investigative  
 11 report and questionnaires that include personal information, medical history,  
 12 medical records, report of medical examination, psychological records, criminal  
 13 history records and non-conviction data. (See Affidavit of James O. Hairston.)  
 14

15 This information gathered by the police department is used only to  
 16 determine fitness for the position of patrol officer at the time of hiring. Id. **This**  
 17 **information is not used by the police department once the candidate is**  
 18 **hired.** Id. It is not used in any disciplinary process, nor is it used in any  
 19 promotional process. Id.  
 20  
 21  
 22  
 23  
 24

25 <sup>1</sup> Plaintiff plead a cause of action for negligent hiring for all defendants; however, he has dropped  
 26 his claim against all but Phillip Arreola, Police Chief. (See Exhibit 1, deposition excerpts of  
 Joseph Kirby.)

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1       **II.     RELIEF SOUGHT.**

2             The defendants hereby seek an order precluding the discovery sought  
3 by Request For Productions Numbers 1 to 7. In the alternative, the  
4 defendants seek an in camera review of the files at issue in this matter to allow  
5 the court to determine their relevancy to the instant action. In the event  
6 discovery as to any pre-hire file is allowed, the defendants seek an appropriate  
7 protective order limiting the dissemination and use of such files.  
8

9       **III.    Standard on Motion for Protective Order.**

10            The court enjoys broad discretion in controlling discovery. Doe v. Puget  
11 Sound Blood Ctr., 117 Wn.2d 772, 819 P.2d 371 (1991).

12                    It is the proper function of the trial court to exercise its discretion  
13 in the control of litigation before it. The trial court possesses  
14 broad discretion to manage discovery in a fashion that will  
15 implement full disclosure of *relevant* information and at the same  
16 time protect against harmful side effects. To that end, the court  
can issue protective orders regulating the extent and manner of  
discovery.

17 (Emphasis added; internal citations omitted.) Burnet v. Spokane Ambulance,  
18 131 Wn.2d 484, 505-06, 933 P.2d 1036 (1997). CR 26(c) allows the court, for  
19 good cause shown, to enter a protective order, limiting or prohibiting discovery  
20 in order to "protect a party or person from annoyance, embarrassment,  
21 oppression, or undue burden or expense[.]"  
22

23       **IV.    ANALYSIS.**

24            The permissible scope of discovery in civil actions, as established by CR  
25 26(b), is subject to two basic limitations: privilege and relevancy. CR26(b)(11).  
26

1 In the instant matter, as to the discovery requests identified herein, privilege is  
2 not an issue - relevancy is.

3 CR 26 provides that a party "may obtain discovery regarding any matter,  
4 not privileged, which is relevant to the subject matter involved in the pending  
5 action, whether it relates to the *claim or defense* of the party seeking discovery  
6 or to the *claim or defense* of any other party[.]...It is not grounds for objection  
7 that the information sought will be inadmissible at trial if the information sought  
8 *appears reasonably calculated to lead to the discovery of admissible evidence.*"  
9 (Emphasis added.) As evidenced by the plain language of the rule, the  
10 permissible scope of discovery - the "subject matter" - is necessarily  
11 established by the parties' claims and defenses. In the instant case, the  
12 discovery sought is not relevant to the subject matter of this action.  
13

14 **V. NON-PARTY PRE-HIRE FILES ARE NOT RELEVANT TO**  
15 **PLAINTIFF'S CASE.**

16 Plaintiff has plead no cause of action which relates to the hiring practices  
17 of the Tacoma Police Department, or the hiring of any of these particular  
18 lieutenants. Plaintiff's discrimination claims require him to show that he was  
19 treated differently than other employees similarly situated, and that treatment  
20 was based on his claimed protected status (i.e., disability), and that the stated  
21 reasons for the adverse employment action were merely a pretext for  
22 discrimination. McDonnell Douglas v. Green, 411 U.S. 792, 36 L.Ed.2d 668, 93  
23 S. Ct. 1917 (1973); Subia v. Riveland, 104 Wn. App. 105, 15 P.3rd 658 (2001);  
24  
25  
26

1 Johnson v. Dept. of Social & Health Services, 80 Wn. App. 212, 226-27 (1996);  
2 Grimwood v. University of Puget Sound, 110 Wn.2d 355, 753 P.2d 517 (1988).

3 Plaintiff can demonstrate no nexus between the twenty-six lieutenants  
4 and his claims of discrimination. What a lieutenant's medical history indicated,  
5 or psychological evaluation revealed at the time of hire, is simply not calculated  
6 to lead to admissible, relevant evidence in plaintiff's claims of discrimination in  
7 this case.

8 Even if the court does believe a comparison to all people who have held  
9 the rank of lieutenant is related to plaintiff's claim, the relevant inquiry would not  
10 be the pre-hire file, but instead the individual's personnel file. The personnel  
11 files house performance evaluations, training records, commendations, age  
12 records and discipline records. These records are used in the promotional  
13 process.  
14

15 Finally, many courts when faced with these discovery issues look to  
16 statutes which address similar records. If one looks to analogous case law and  
17 statutes, it is clear that files of this nature are afforded a significant amount of  
18 protection under the law. For example, the Public Disclosure Act RCW  
19 42.17.310(1), specifically precludes the dissemination of personal information  
20 maintained in employment personnel files, even though the Public Disclosure  
21 Act is, by legislative mandate, to be broadly construed. Barfield v. Seattle, 100  
22 Wn.2d 878, 884, 676 P.2d 438 (1984). Courts generally will not allow the  
23 production of such documents in a civil action absent a clear showing of  
24 relevancy. Beltran v. DSHS, 98 Wn. App. 245, 256, 989 P.2d 604 (1999)  
25  
26

1 (request for employment records exceeded the permissible scope of  
2 discovery as plaintiff had no alleged that the specific employees at issue  
3 were negligently hired).

4 **VI. THE NAMED DEFENDANTS' PRE-HIRE FILES ARE NOT RELEVANT**  
5 **TO PLAINTIFF'S CASE.**

6 Plaintiff has requested the pre-hire files of William Woodard, Raymond  
7 Roberts, David Brame, James Hairston and Catherine Woodard. Again,  
8 plaintiff has stated no relevant nexus between the discovery requested and his  
9 claims. The only claim the pre-hire files are arguably relevant to, is a claim of  
10 negligent hiring. As previously noted, plaintiff has dropped his negligent hiring  
11 claim against all defendants, with the exception of Phillip Arreola. The  
12 defendants have provided plaintiff with all pre-hiring files in its possession  
13 regarding Mr. Arreola, and as the court will note, that was not part of plaintiff's  
14 Request for Production dated November 19, 2001.  
15

16 Defendant Catherine Woodard was chosen over Lt. Kirby to fill the  
17 position of captain in the police department. Thus, a comparison to her may be  
18 relevant to plaintiff's case. However, this does not include her pre-hire file. The  
19 pre-hire file is not used for any purpose in the police department once the  
20 individual is hired. (See Affidavit of James Hairston.) All of Ms. Woodard's  
21 personnel files have been given to plaintiff in the course of previous discovery.  
22 The pre-hire file has no bearing on plaintiff's claim. Due to the lack of a  
23 negligent hiring claim against the parties whose files have been requested,  
24  
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1 there is no relevant nexus between the pre-hire files requested and plaintiff's  
2 claims against these defendants. This is fatal to plaintiff's discovery requests.

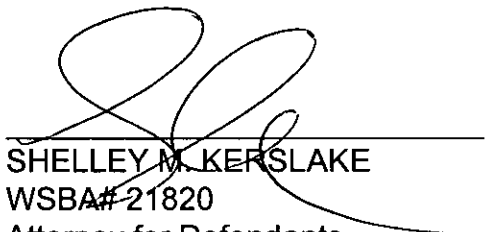
3 **VII. CONCLUSION.**

4 Thus, the City respectfully requests that the court issue a protective  
5 order precluding discovery of the pre-hire files requested by the plaintiff in this  
6 matter.

7 DATED this 24 day of December, 2001.

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

10  
11 By:

  
12 SHELLEY M. KERSLAKE  
13 WSBA# 21820  
14 Attorney for Defendants  
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

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JOSEPH J. KIRBY and DEBORAH A. )  
KIRBY, husband and wife, )  
) )  
Plaintiffs, )  
) )  
vs. ) No. 99-2-13911-4  
) )  
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. )

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DEPOSITION OF JOSEPH J. KIRBY

February 15, 2001  
Tacoma, Washington

BYERS & ANDERSON, INC.

COURT REPORTING & VIDEO

2208 North 30th Street	One Union Square
Suite 202	600 University Street
Tacoma, Washington 98403	Suite 2300
(253) 627-6401	Seattle, Wa 98101-4112
FAX: (253) 383-4884	*(206) 340-1316

1-800-649-2034

1 captains, took that as a personal affront and personal  
2 condemnation in front of the press. I know I  
3 certainly did.

4 Q When you were both a lieutenant and an executive board  
5 member, did you ever attempt to make it clear to  
6 people which role you were in? I know you've  
7 indicated it was difficult. Were there any techniques  
8 you used to say "I'm in my union role now"?

9 A Usually the purpose of the contact would have made it  
10 clear. Where it became muddy was in instances like I  
11 was ordered to do something which slopped over into  
12 one of my union roles, which certainly they were  
13 paying guys like Woodard a lot more money than me to  
14 understand what the nuances of the contract were.

15 I was charged with understanding what the RCWs  
16 were and make a bold assumption here, the assistant  
17 chief would certainly know what they were and what his  
18 rights were in regards to questioning me about  
19 protected union activities.

20 Q Let's talk about your "negligent hiring retention and  
21 supervision claim."

22 Are you alleging this cause of action for all of  
23 the named defendants?

24 A I'm alleging it for Chief Arreola.

25 Q Is he the only one?

1 Q Just as a general matter. Does Ray get a copy of ULPs  
2 that are filed or grievances that are filed?

3 A The union files an unfair labor practice with PERC,  
4 the city attorney's office gets involved in answering  
5 it, do you brief Ray on those things?

6 Q I'm asking what your understanding is.

7 A I would hope if you represent Ray Corpuz you would  
8 brief him. My understanding is yes he gets briefed on  
9 these matters. I would find it absurd to believe that  
10 Ray Corpuz didn't know all the nuances of this unfair  
11 labor practice, considering it's the second one on the  
12 same issue.

13 Q So you're not claiming negligent hiring of Ray Corpuz,  
14 Bill Woodard, Catherine Woodard, Ray Roberts, David  
15 Brame, or James Hairston?

16 A No. I think the center of my problems and my  
17 subsequent problems initiated and continued as a  
18 result of Arreola.

19 Q What about "negligent retention and supervision," does  
20 that apply to any of the people besides Philip  
21 Arreola?

22 A Conceptually negligent supervision, if I thought the  
23 discipline was unfair, somebody had to supervise those  
24 people.

25 MR. SADLER: Let me interject for the

1 purpose of the records, it relates to Arreola and  
2 doesn't relate to the other defendants legally.

3 WITNESS: Yes, that's fair to say.

4 MR. SADLER: With the caveat that the --  
5 not the legal claim for negligent supervision, but the  
6 supervision of the internal investigations as it  
7 relates to the age claims and the union activity.

8 Q (By Ms. Kerslake) Let's talk about your hostile work  
9 environmental claim. And we talked some, and you're  
10 going to tell me it's all related. I'm going to ask  
11 the same questions again and see if we get a common  
12 understanding of what it is we're talking about.

13 What specific actions do you relate to a hostile  
14 work environment?

15 A Do I relate to "a" or mine?

16 Q The hostile work environment you're claiming occurred  
17 in the police department.

18 A Again, what we've discussed the whole sequence of  
19 events that started to occur when Arreola came that  
20 were perpetuated by -- subsequently by named  
21 defendants in this case, where I was continually  
22 investigated against their own internal advice, which  
23 I viewed as strictly as a reprisal, the fact they  
24 could do it, they would.

25 Those are degrading processes no matter what the

2

MAY 16 2001

HON. KAREN STROMBOM

TACOMA CITY ATTORNEY CIVIL DIVISION CERTIFICATION

I hereby certify that on 5/15/01 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 the 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, Plaintiffs,

No. 99 2 13911 4

vs.

SECOND AMENDED COMPLAINT FOR PERSONAL INJURIES AND DAMAGES IN TORT

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.

PLAINTIFFS ALLEGE:

MESSINA • BULZOMI

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

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I.

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

II.

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

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

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

III.

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

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

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

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



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VI.

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

VII.

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

VIII.

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

IX.

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

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Tacoma, WA 98467-3633  
(253) 472-6000

## 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  
25

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Tacoma, WA 98467-3633  
(253) 472-6000

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

BY  27136 For

JOHN L. MESSINA 4440

21  
22 BY  27136

JEFFREY H. SADLER 27136  
23 Attorneys for Plaintiffs  
24  
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**MESSINA • BULZOMI**

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Tacoma, WA 98467-3633  
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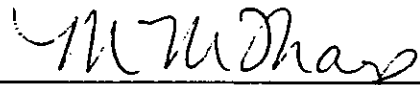
1 STATE OF WASHINGTON )  
 : ss.  
2 County of Pierce )

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   
11 \_\_\_\_\_  
12 JOSEPH KIRBY

13 Signed and sworn to before me on the 15 day of May  
14 2001, by Joseph Kirby.

15   
16 \_\_\_\_\_  
17 Notary Public in and for the State of  
18 Washington, residing at Tacoma.  
19 My appointment expires 5/29/03

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



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

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HON. KATHERINE M. STOLZ

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**CERTIFICATION**

I hereby certify that on 11/16/01 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.

*Risley H. Bulzomi*  
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, )  
 )  
 Plaintiffs, )

No. 99 2 13911 4

vs. )

PLAINTIFFS' REQUEST FOR  
 PRODUCTION TO DEFENDANT  
 CITY OF TACOMA  
 DATED 11/16/01

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. )

COME NOW the plaintiffs, pursuant to CR 34, and respect-  
 fully request that defendant City of Tacoma produce the  
 following documents and things for inspection and copying by

**MESSINA • BULZOMI**

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

1 plaintiffs' attorneys at the following time and place.

2 If you assert that any of the documents or other tangible  
3 items requested to be produced pursuant to the following  
4 requests for production are privileged from discovery, for each  
5 item where a privilege is claimed, provide

6 (a) a description of the document sufficiently  
7 particular to identify it and enable your company to identify,  
8 disclose or produce it in response to an order of the  
9 above-entitled court;

10 (b) the nature of the protection claimed;

11 (c) a list of all persons who participated in the  
12 preparation of the document; and

13 (d) a list of all persons to whom the document was  
14 circulated, or its contents communicated.

15 TIME: Within 30 days.

16 PLACE: Messina Bulzomi, 5316 Orchard St.  
17 W., Tacoma, WA 98467.

18 DOCUMENTS AND  
19 THINGS:

20 1. As to defendant, William  
21 Woodard, produce all pre-hiring  
22 documents in possession of City of  
23 Tacoma, including but not limited to  
24 questionnaires, applications for  
25 employment, pre-employment evalua-  
tions, polygraph results, medical  
and psychological record and docu-  
mentation of all pre-employment  
background checks.

2. As to defendant, Raymond  
Roberts, produce all pre-hiring  
documents in possession of City of  
Tacoma, including but not limited to

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1 questionnaires, applications for  
2 employment, pre-employment evalua-  
3 tions, polygraph results, medical  
4 and psychological record and docu-  
5 mentation of all pre-employment  
6 background checks.

7  
8 3. As to defendant, David Brame,  
9 produce all pre-hiring documents in  
10 possession of City of Tacoma,  
11 including but not limited to ques-  
12 tionnaires, applications for employ-  
13 ment, pre-employment evaluations,  
14 polygraph results, medical and  
15 psychological record and documenta-  
16 tion of all pre-employment back-  
17 ground checks.

18  
19 4. As to defendant, James  
20 Hairston, produce all pre-hiring  
21 documents in possession of City of  
22 Tacoma, including but not limited to  
23 questionnaires, applications for  
24 employment, pre-employment evalua-  
25 tions, polygraph results, medical  
and psychological record and docu-  
mentation of all pre-employment  
background checks.

5. As to defendant, Catherine  
Woodard, produce (1) all pre-hiring  
documents including but not limited  
to questionnaires, applications for  
employment, pre-employment evalua-  
tions, polygraph results, medical  
and psychological record and docu-  
mentation of all pre-employment  
background checks; and (2) payroll  
and benefits documents including,  
but not limited to salary informa-  
tion, salary increases, overtime  
worked and benefits received and  
printouts of salary received for  
five years prior to the incident to  
the present.

6. As to Mark Langford, produce  
(1) all pre-hiring documents includ-  
ing but not limited to

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questionnaires, applications for employment, pre-employment evaluations, polygraph results, medical and psychological record and documentation of all pre-employment background checks; and (2) payroll and benefits documents including, but not limited to, salary information, salary increases, overtime worked and benefits received and printouts of salary received for five years prior to the incident to the present.

7. As to each Lieutenant with the Tacoma Police Department for the last 10 years, produce all pre-hiring documents in possession of the City of Tacoma, including but not limited to, questionnaires, applications for employment, pre-employment evaluations, polygraph results, medical and psychological records and documentation of all pre-employment background checks.

RESPONSES:

