

FILED

Snohomish County Superior Court
Sonya Kraski
Snohomish County Clerk
Everett WA

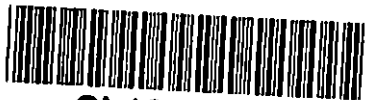
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13-2-07220-1

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH

Receipt/Item #	Tran-Code	Docket-Code	Time
2013-02-25452/01	1100	\$FR	01:13 PM
Cashier: AXD			

Paid By: MONRO, LAW FIRM	
Transaction Amount:	\$240.00



CL16206422

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

JANET MORENO-TORO, individually,

Plaintiff,

vs.

13 2 07220 1
Cause No.

SUMMONS

CITY OF LAKE STEVENS, a municipal corporation in the State of Washington, CITY OF LAKE STEVENS POLICE DEPARTMENT, DETECTIVE JARED WACHTVEITL sued in his individual capacity, SERGEANT RON BROOKS sued in his individual capacity, OFFICER STEVE WARBIS sued in his individual capacity, DETECTIVE DEAN THOMAS sued in his individual capacity, and JOHN & JANE DOES 1-10, sued in their individual capacities,

Defendants.

TO: DEFENDANTS

The Plaintiff named above has initiated a lawsuit against you in the above-entitled Court. Plaintiff's claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the Plaintiff

ORIGINAL

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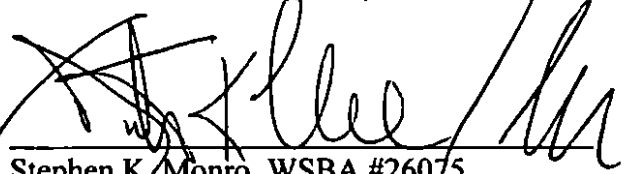
1 within 20 days after the service of this summons, excluding the day of service, if served in the
2 State of Washington, and within 60 days after service of the summons, excluding the day of
3 service, if served outside of the state of Washington, or a default judgment may be entered
4 against you without notice. A default judgment is one where Plaintiff is entitled to what he
5 asked for because you have not responded. If you serve a notice of appearance on the
6 undersigned attorney, you are entitled to notice before a default judgment may be entered.

7
8 You may demand that the Plaintiff file this lawsuit with the court. If you do so, the
9 demand must be in writing and must be served upon the Plaintiff. Within 14 days after you
10 serve the demand, the Plaintiff must file this lawsuit with the court, or the service on you of
11 this summons and complaint will be void.

12 If you wish to seek the advice of an attorney in this matter, you should do so promptly
13 so that your written response, if any, may be served on time. This summons is served
14 pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

15 DATED this 3rd day of September, 2013.

16 The Monro Law Firm, P.S., Inc.

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19 Stephen K. Monro, WSBA #26075

20 Justin K. Monro, WSBA #44763

21 Attorney for Plaintiff

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CITY OF LAKE STEVENS, a municipal corporation in the State of Washington, CITY OF LAKE STEVENS POLICE DEPARTMENT, DETECTIVE JARED WACHTVEITL sued in his individual capacity, SERGEANT RON BROOKS sued in his individual capacity, OFFICER STEVE WARBIS sued in his individual capacity, DETECTIVE DEAN THOMAS sued in his individual capacity, and JOHN & JANE DOES 1-10, sued in their individual capacities,

Defendants.

Case No.

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS, FALSE IMPRISONMENT, INVASION OF PRIVACY, AND INFLICTION OF EMOTIONAL DISTRESS

COMES NOW Plaintiff Janet Moreno-Toro, by and through her attorneys of record Stephen K. Monroe and Justin K. Monroe of The Monroe Law Firm P.S. Inc., and complaint and allege as follows:

ORIGINAL

1 **I. NATURE OF ACTION**

2 1.1 This is a Civil Rights Action of 1871, pursuant to 42 U.S.C § 1983 in order to
3 obtain damages as a result of the Defendants' deliberate violations of the Plaintiffs' rights to
4 be free of unreasonable searches and seizures guaranteed by the Fourth and Fourteenth
5 Amendment to the United States Constitution. Individual defendant police officers are also
6 liable for intentional torts and negligence. City of Lake Stevens is vicariously liable for their
7 police officers, detectives and sergeants torts and under § 1983 for ratifying the individual
8 officers' unconstitutional conduct.
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10 1.2 This is also an action for violation of state law with respect to claims for false
11 arrest/false imprisonment, invasion of privacy, to speak freely, outrage and/or negligent
12 infliction of emotional distress.

13 **II. IDENTIFICATION OF THE PARTIES**

14 2.1 Plaintiff. Plaintiff Janet Moreno-Toro is an adult and resident of the City of Lake
15 Stevens, in Snohomish County, Washington.

16 2.2 Defendant City of Lake Stevens and City of Lake Stevens Police Department. The
17 City of Lake Stevens and City of Lake Stevens Police Department is a municipal corporation
18 organized under the laws of the State of Washington with the right to sue and be sued in its
19 own name and for the acts and omissions of its agents and employees. The City can be held
20 independently and vicariously liable for the tortious conduct of its officers and employees,
21 and for its policies and practices that violate federal law.
22

23 2.3 Defendant Detective Jared Wachtveitl. Defendant Wachtveitl, is on information
24 and belief, a police officer, detective and employee of the City of Lake Stevens Police
25 Department office. He is believed to be a resident of Snohomish County, with

1 badge/employee identification #091. Defendant Wachtveitl was at all material times acting in
2 the course and scope of his employment with the City of Lake Stevens Police Department and
3 was acting under color of state law within the meaning of 42 U.S.C. § 1983. He is named in
4 his individual and representative capacity.

5 2.4 Defendant Sergeant Ron Brooks. Defendant Brooks is on information and belief, a
6 police officer sergeant and employee of the City of Lake Stevens Police Department office.
7 He is believed to be a resident of Snohomish County, with badge/employee identification
8 #013. Defendant Brooks was at all material times acting in the course and scope of his
9 employment with the City of Lake Stevens Police Department and was acting under color of
10 state law within the meaning of 42 U.S.C. § 1983. Defendant Brooks was the Sergeant who
11 was holding a supervisor capacity over the other Defendant officers in this matter. He is
12 named in his individual and representative capacity.

13 2.5 Defendant Officer Steve Warbis. Defendant Warbis is on information and belief, a
14 police officer and employee of the City of Lake Stevens Police Department office. He is
15 believed to be a resident of Snohomish County, with badge/employee identification #112.
16 Defendant Warbis was at all material times acting in the course and scope of his employment
17 with the City of Lake Stevens Police Department and was acting under color of state law
18 within the meaning of 42 U.S.C. § 1983. He is named in his individual and representative
19 capacity.
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21 2.6 Defendant Detective Dean Thomas. Defendant Thomas is on information and
22 belief, a police officer, detective and employee of the City of Lake Stevens Police Department
23 office. He is believed to be a resident of Snohomish County, with badge/employee
24 identification #094. Defendant Thomas was at all material times acting in the course and
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1 to enter Plaintiff Janet Moreno's (herein after, Mrs. Moreno) residence and search her
2 residence without a search warrant to do so.

3 4.2 Montzingo was acting under police power as instructed by the Defendants to
4 enter Mrs. Moreno's residence and search it.

5 4.3 Montzingo entered Mrs. Moreno's residence and began to search it for
6 approximately 30 minutes.

7 4.4 After searching Mrs. Moreno's residence Montzingo returned and met with the
8 Defendants. Montzingo was then told by the Defendants to call 911 so they could respond to
9 the call. Montzingo called 911 and stated "this is not an emergency" and "Officer Warbis told
10 me to call 911."

11 4.5 Defendant Warbis then sent a text message via his cell phone to the other
12 Defendants, "I reopened the call and put you all on this."

13 4.6 Suddenly and without notice, consent or warrant, on February 2, 2013 at
14 approximately 11:30 a.m. Defendants Wachtveitl and Brooks arrived in their City of Lake
15 Stevens Police vehicles and illegally entered and searched Mrs. Moreno residence.
16 Defendants Wachtveitl and Brooks barged through Mrs. Moreno's front door to her residence
17 and began to search her entire home. Mrs. Moreno was at her residence taking care of her sick
18 baby. Mrs. Moreno was shocked and startled at the sight of the Defendants in her residence
19 and stated to them "You can't be in here." Mrs. Moreno requested Defendants Brooks and
20 Wachtveitl to leave her home. Defendants refused to leave her home. Defendants also refused
21 Mrs. Moreno's right to "speak freely" while the Defendants were illegally inside her home.
22

23 4.7 Mrs. Moreno's residence is located at 1210 96th Ave. SE Lake Stevens,
24 Washington 98258. Mrs. Moreno has owned her home for 14 years.
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1 4.8 Defendants and each of them were in full City of Lake Stevens Police
2 uniforms, with service weapons, badge, handcuffs and radio. Defendants Wachtveitl and
3 Brooks illegally parked their City of Lake Stevens police vehicles on Mrs. Moreno's property
4 blocking her access for entering her home.

5 4.9 Upon Defendant Brooks and Wachtveitl illegally entering Mrs. Moreno's
6 residence. Defendants Wachtveitl and Brooks verbally and explicitly stated to Mrs. Moreno
7 they have to search her residence to make sure there was "no one in it."

8 4.10 While continuing their illegal search of Mrs. Moreno's home, Defendants
9 Brooks and Wachtveitl demanded that Mrs. Moreno and her nearly one year old baby who
10 was sick to leave their home. Defendants repeated to Mrs. Moreno, "we need to check your
11 house," and "you have to get out."

12 4.11 Defendants continued to verbally and explicitly use their police power without
13 a warrant by forcing Mrs. Moreno and her young minor child out of her home. Upon Mrs.
14 Moreno being forced out of her home, Defendants continued to search Mrs. Moreno's
15 residence for approximately 3-4 hours.

16 4.12 During this time period Defendant Brooks and Wachtveitl continued to
17 unlawfully, and unreasonably without any search warrant to do so, search all bedrooms,
18 including master bedroom, personal belongings, bathrooms, showers, storage areas, drawers,
19 cupboards, hallways, doorways, closets, kitchen, living room, dining room, stairways,
20 couches, tables, and downstairs rooms of Mrs. Moreno's residence. Defendant Wachtveitl
21 began to photograph many of Mrs. Moreno's belongings while inside her residence.
22

23 4.13 Defendants' then entered and searched Mrs. Moreno's garage without a
24 warrant and/or consent. Mrs. Moreno's garage is attached to her house through the downstairs
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1 rooms. Defendants search included the garage and the contents of what was inside the garage,
2 including shelves, storage areas and the floor.

3 4.14 Defendant Wachtveitl did, without warrant or consent, began to photograph
4 Mrs. Moreno's garage and her property.

5 4.15 Mrs. Moreno and her minor child were forcefully and unlawfully evicted from
6 their home by the Defendants. She was extremely upset by the Defendants illegally searching
7 of her home without consent or warrant. Mrs. Moreno's minor child continued to cry.

8 4.16 Mrs. Moreno requested Defendants to allow her to return to her home with
9 her sick child on several occasions. Her baby was crying, sick and needed water and food.
10 Defendant Warbis denied her requests and continued to occupy her home for approximately 4
11 hours.
12

13 4.17 Defendant Warbis entered Mrs. Moreno's residence and searched it without a
14 search warrant.

15 4.18 Defendant Thomas entered Mrs. Moreno's residence and searched it without a
16 search warrant.

17 4.19 Defendant Warbis while at Mrs. Moreno's residence stated via his radio to the
18 other Defendants, "If you're close, mom is back getting after me because the search warrant
19 isn't here yet." [sic]

20 4.20 Mrs. Moreno then placed a call to 911. Mrs. Moreno stated to the 911 operator
21 that she is "being harassed by the cops," and "the police were in her residence searching it
22 without a warrant."
23

24 4.21 Mrs. Moreno never gave any of the Defendants' or anyone else permission or
25 consent to enter her residence and search it.

1 4.22 Later in the afternoon the Defendants served Mrs. Moreno with a search
2 warrant. Defendants then continued their unlawful search and seizure of Mrs. Moreno's
3 residence for another 3 to 4 hours until approximately 7 p.m. that night.

4 4.23 Defendants were not acting under "exigent circumstances." Defendants were
5 not acting on a court order to remove Mrs. Moreno from her residence. Defendants were not
6 making a welfare check of Mrs. Moreno's residence.

7 4.24 Defendants lacked probable cause to arrest, imprison, stop, search, seize and
8 detain Mrs. Moreno while she was inside her residence.

9 4.25 Mrs. Moreno had not committed a felony or misdemeanor in the presence of
10 the Defendants. Mrs. Moreno has no criminal record of felonies or misdemeanors.

11 4.26 Defendants unlawfully imprisoned and arrested Mrs. Moreno while inside her
12 residence by detaining and verbally threatening her to leave her home without a warrant.

13 4.27 The search warrant was only issued after the Defendants and Montzingo had
14 unlawfully and illegally entered Mrs. Moreno's home and began to search it on at least two
15 separate occasions.

16 4.28 Defendants illegally seized a generator that belongs to Mrs. Moreno.
17 Defendants illegally seized a chain saw that belongs to Mrs. Moreno.

18 4.29 At no time was there a warrant issued for Mrs. Moreno's arrest.

19 4.30 At no time did Defendants knock and announce that they had a search warrant
20 to search Mrs. Moreno's residence.

21 4.31 At no time on February 2, 2013 did Defendants respond to an emergency aid
22 situation or community caretaking function at Mrs. Moreno's residence.

1 **V. CAUSES OF ACTION**

2 **First Cause of Action – Violation of Mrs. Moreno’s Constitutional Rights under the**
3 **Fourth and Fourteenth Amendment to the United States Constitution and Washington**
4 **State Constitution Article I Section VII.**

5 5.1 Plaintiff realleges and incorporates the foregoing paragraphs as though fully
6 set forth herein.

7 5.2 Defendants’ actions, searches and omissions violated Mrs. Moreno’s
8 constitutionally protected right to be free from illegal searches and seizure of her residence
9 under the Fourth Amendment to the United States Constitution.

10 5.3 At all times material to this action, it was clearly established under existing law
11 that, illegal search and seizure and unlawful detention by a law enforcement officer against a
12 citizen is unlawful and violates the Fourth Amendment to the United States Constitution and
13 the Washington State Constitution. Defendants seized Mrs. Moreno within her residence and
14 without a proper search warrant. Defendants illegally seized, stopped, imprisoned, trespassed,
15 detained, and arrested, Mrs. Moreno without probable cause, consent, exigency and authority
16 of law.

17 5.4 At all times material to this action, it was clearly established under existing
18 law, that police officers must have a search warrant to enter a person’s home and to conduct
19 that search. Defendants violated Mrs. Moreno’s Federal and Washington State constitutional
20 rights by entering her home to stop, scize, search, arrest, detain, imprison, and invaded her
21 privacy without a proper search warrant to do so. Mrs. Moreno was continually denied her
22 right to “speak freely” within her home by the Defendants.
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VI. Second Cause of Action-False Imprisonment/False Arrest.

6.1 Plaintiffs realleges and incorporate herein the allegations contained in the above paragraphs of this complaint.

6.2 The conduct of the Defendants deprived Mrs. Moreno of her liberty of movement, to speak freely, and/or her freedom to remain in the place of her lawful choice.

6.3 The Defendants deprivation of Mrs. Moreno's freedom of movement and/or the right to remain in the place of her choice was accomplished by the threat of force, or by conduct reasonably implying that force would be used if Mrs. Moreno did not comply with the Defendants' demands to leave her home.

6.4 Defendants' actions were taken with their apparent authority as police officers, and claiming to have the authority and powers of a police officer to make an arrest and effect an imprisonment.

6.5 The conduct of the Defendants, and each of them, resulted in the intentional confinement, unlawful taking, seizing and detaining of Mrs. Moreno's person, without probable cause, which was unjustified under the circumstances and unlawful.

6.6 Defendants' conduct toward Plaintiffs constitutes false arrest and/or false imprisonment.

6.7 Defendants conduct of false arrest by detaining and containing Mrs. Moreno was malicious, willful, and wanton demonstrated a reckless disregard for Mrs. Moreno's constitutional rights.

6.8 As a direct and proximate result of Defendants' conduct, Mrs. Moreno sustained injuries and damages.

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VII. Third Cause of Action-Invasion of Privacy

7.1 Plaintiff realleges and incorporates herein the allegations contained in the above paragraphs of this complaint.

7.2 The conduct of the Defendants, and each of them, resulted in the invasion of Mrs. Moreno's privacy by the intentional seizing and searching her residence, personal belongings and property, without a search warrant, which was unjustified under the circumstances and unlawful.

7.3 Defendants' conduct in entering Mrs. Moreno's home without a search warrant or her permission was highly offensive and objectionable to Mrs. Moreno, a reasonable person.

7.4 Defendants' conduct toward Plaintiffs constitutes invasion of privacy.

7.5 The conduct of the Defendants in invading Mrs. Moreno's right to privacy deliberately violated article I, section VII of the Washington State Constitution.

7.6 Defendants conduct of false imprisonment by detaining and containing Mrs. Moreno was malicious, willful, and wanton demonstrated a reckless disregard for Mrs. Moreno's constitutional rights.

7.7 As a direct and proximate result of Defendants' conduct, Mr. Moreno sustained injuries and damages.

VIII. Fourth Cause of Action-Infliction of Emotional Distress.

8.1 Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

8.2 The conduct of the Defendants was so outrageous in character and extreme in degree that it went beyond all possible bounds of decency. Defendants' conduct intentionally

1 or recklessly inflicted emotional distress on Mrs. Moreno. The emotional distress suffered by
2 Mrs. Moreno was severe.

3 8.3 In the alternative, Defendants, and each of them, engaged in conduct which
4 constitutes negligent infliction of emotional distress.

5 8.4 As a direct and proximate result of Defendants' conduct, Mrs. Moreno
6 sustained injuries and damages to be determined by a jury.

7 IX. DAMAGES

8 9.1 As a result of the Defendants' intentional, unconstitutional and negligent acts
9 the Plaintiff have suffered loss of privacy of their persons and within their own home for
10 which they seek an award of compensatory damages.

11 9.2 As a result of the Defendants' intentional and unconstitutional acts, the
12 Plaintiff experienced physical discomfort, fear, humiliation and emotional distress, for which
13 they seek compensatory damages.

14 9.3 Because the acts and omissions of the Defendants alleged herein were carried
15 out maliciously or with reckless disregard for the Plaintiffs' fundamental rights, the Plaintiffs
16 seek an award of punitive damages against Defendants to deter them, and others similarly
17 situated, from similar wrongful acts and omissions in the future.

18 PRAYER FOR RELIEF

19 WHEREFORE, the Plaintiffs pray that the Court grant judgment against the Defendants
20 and each of them, jointly and severally for the following relief:

21 A. General Damages in an amount to be determine at trial.


22 B. Special Damages in an amount to be determined at trial.

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- C. Punitive and exemplary damages in an amount deemed just and reasonable as provided by law.
- D. Costs and reasonable attorneys' fees pursuant to 42. U.S.C. §1983 and 1988, and litigation expenses.
- C. For such other and further relief as the Court deems just and proper.

DATED this 3rd day of September, 2013.

Respectfully submitted,
The Monroe Law Firm, P.S., Inc.



Stephen K. Monroe, WSBA #26075
Attorney for Plaintiff Moreno



Justin K. Monroe, WSBA #44763
Attorney for Plaintiff Moreno