

Snohomish County Superior Court  
Sonya Kraski  
Snohomish County Clerk  
Everett WA

FILED

2014 FEB 11 PM 3:31

14-2-02417-5

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

Rcpt. Date Acct. Date Time  
02/11/2014 02/12/2014 03:42 PM

Receipt/Item # Tran-Code Docket-Code  
2014-02-03914/01 1100 \$FFR

Cashier: JRB

Paid By: LAW OFF, BENJAMIN LINDSEY  
Transaction Amount: \$240.00

CL16714355

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

STEVEN and MARLO WARBIS, a marital  
community, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 CITY OF LAKE STEVENS, a municipal  
corporation in the State of Washington, A )  
Washington Corporation, and John Does 1-3 )  
Defendants. )

14 2 02417 5  
No.  
SUMMONS

TO THE DEFENDANTS: A lawsuit has been started against you in the above-entitled Court by Steven and Marlo Warbis, plaintiffs. Plaintiffs' 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 by serving a copy upon the undersigned attorney for the plaintiffs within 20 days after the service of this Summons, excluding the day of service, or a default judgment may be entered against you without notice.

A default judgment is one where plaintiffs are entitled to what they ask for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiffs file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the plaintiffs. Within 14 days after you

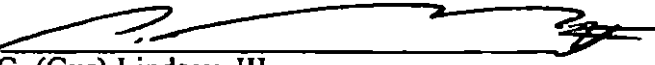
1 serve the demand, the plaintiffs must file this lawsuit with the Court or the service on you of this  
2 summons and complaint will be void.

3 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
4 that your written response, if any, may be served on time.

5 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State  
6 of Washington.

7  
8 DATED this 10<sup>th</sup> day of February, 2014.

9 The Law Office of G. Benjamin Lindsey III  
10 Attorney for Plaintiffs Steven and Marlo Warbis

11  
12 By   
13 G. (Gus) Lindsey, III  
14 WSBA #36396

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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

STEVEN and MARLO WARBIS, a marital  
community,  
  
Plaintiffs,  
  
v.  
  
CITY OF LAKE STEVENS, a municipal  
corporation in the State of Washington, A  
Washington Corporation, and John Does 1-3  
Defendants.

No. **14 2 02417-5**

COMPLAINT FOR DAMAGES  
DEFAMATION, FALSE LIGHT,  
NEGLIGENT  
MISREPRESENTATION, AND  
MALPRACTICE

COMES NOW Plaintiffs, Steven and Marlo Warbis, by and through the undersigned attorney, and allege as follows:

**I. PARTIES**

**1.1 Plaintiffs Steven and Marlo Warbis.** ("Plaintiffs Warbis") Plaintiffs are an adult married couple, currently residing in Snohomish County, Washington.

**1.2 Defendant City of Lake Stevens.** Defendant City of Lake Stevens ("Defendant City") is a municipal corporation organized under the laws of the State of Washington with the right to sue and be sued in its own name and for the acts and omissions of its agents and employees.

**1.3 Additional Defendants.** John Does 1-3 are believed to have made false and defamatory statements about the plaintiffs in various media outlets based on information obtained from the City and/or at the direction of Defendant City.

1 **II. JURISDICTION**

2 2.1 **Jurisdiction and Venue.** Jurisdiction and venue are proper in this Court under  
3 RCW § 4.12.020.

4 **III. BACKGROUND FACTS**

5 **THE FENTER INCIDENT**

6 3.1 Plaintiff Steve Warbis has been employed as a police officer by Defendant City  
7 for all time periods relevant to this lawsuit.

8 3.2 In approximately June 2011, Officer Warbis and his family were nearly run over  
9 by a citizen (later identified as Brandon Fenter) driving in an erratic and reckless manner near  
10 Marysville, Washington. Officer Warbis, as a trained police officer, motioned for the citizen to  
11 slow down and drive safely; however, at that point the citizen's driving became more reckless; as  
12 he turned his vehicle from the oncoming lane and act as if he was going to run Officer Warbis,  
13 over, stopping within a foot or two of him. After stopping his vehicle, the citizen twice  
14 threatened to shoot Officer Warbis and told Officer Warbis to look at the back of the vehicle as  
15 he drive off; the back of the vehicle contained a sticker with a slash through the words "gun  
16 control."

17 3.3 Contrary to assertions made by others, Officer Warbis never jumped into the road  
18 as he was still recovering from a recent injury in which he had been dragged by a large cow.

19 3.4 Officer Warbis reported this incident to a superior, the duty sergeant, when he  
20 returned to work, after discovering that the citizen resided in Lake Stevens and was the son of a  
21 Snohomish County Sheriff Sergeant, Officer Warbis was advised visit the citizen at his  
22 residence. Officer Warbis, in the exercise of reasonable professional judgment and upon the  
23 advice of a superior, decided to visit the citizen at home in order to coach the citizen on traffic  
24 safety.

25 3.5 Officer Warbis, along with a higher ranking officer, James Wellington, attempted  
26 to talk to the citizen at his home. The citizen refused to talk the officers, refused to show his  
27

1 hands, and acted in a threatening and irrational manner which caused both officers to fear for  
2 their safety, and make a decision to arrest the citizen.

3 3.6 Officer Warbis never entered the citizen's residence during this incident.

4 3.7 On approximately June 22, 2011, the citizen filed a complaint with Defendant  
5 City alleging that he had been subjected to profane language, physical injury, and property  
6 damage during an arrest. An internal investigation concluded that all of the citizen's claims were  
7 false. The City's investigation included testimony from witnesses present at the time of the  
8 citizen's arrest; these witnesses stated that Officer Warbis acted in a professional manner at all  
9 times during the arrest. Additionally, an internal investigation failed to identify any damage to  
10 the citizen's personal property.

11 3.8 It is undisputed that Officer Warbis did not violate any policy or laws during this  
12 incident. Furthermore, it is undisputed that Defendant City failed to provide proper training to its  
13 officer on changes to the laws relevant to this incident despite numerous requests for training by  
14 the prior police chief. To date, Defendant City has not accepted any responsibility for its failures  
15 in this dispute; in fact it has consistently made Officer Warbis the fall guy for Defendant City's  
16 incompetence and failures.

17 3.9 On December 4, 2012, the citizen filed a lawsuit, case number: 2:12-CV-02103-  
18 TSZ in United States District Court, Western District of Washington, at Seattle, against  
19 Defendant City, Officer James Wellington, and Officer Warbis in his individual capacity.

20 3.10 Defendant City retained the law firm of Keating, Bucklin & McCormack, Inc.  
21 P.S., ("Keating") to provide legal representation to Defendant City and Officer Warbis in the  
22 subject lawsuit. Attorney Richard B. Jolley, entered notices of appearance in the subject lawsuit  
23 on behalf of Defendant City and Officer Warbis in his individual capacity on December 7, 2012.

1 **MAY 2012 ASSAULT OF OFFICER WARBIS**

2 3.11 In May 2012, Officer Warbis, took a short leave of absence from work to deal a  
3 potentially life-threatening health condition.

4 3.12 Officer Warbis' time away from work was covered by the Family and Medical  
5 Leave Act ("FMLA") in addition to Washington state laws.

6 3.13 While off-duty, and at a social event with his family and friends, Officer Warbis  
7 was assaulted by a person with an extensive criminal record, who interjected himself into a  
8 conversation between Officer Warbis and another bar patron, by repeatedly pushing Officer  
9 Warbis in an effort to provoke a physical confrontation, and then striking Officer Warbis with a  
10 Taser gun after Officer Warbis used his training to create separation from this dangerous person.

11 3.14 Even though this incident occurred on personal time and in no way related to his  
12 duties as a police officer, Officer Warbis reported this incident to his superiors. Furthermore, the  
13 assault did not receive any media coverage at the time and was unknown to the general public.  
14 For example, the case number for this incident would have only been accessible by Defendant  
15 City employees and/or member of law enforcement.

16  
17 **IV. FIRST CAUSE OF ACTION – NEGLIGENT**  
18 **MISREPRESENTATION/MALPRACTICE**

19 4.1 Plaintiffs incorporate all statements made above.

20 4.2 Both WA Cities Insurance Authority ("WA Cities") (The Defendant City's  
21 insurance provider) and the Defendant City's law firm agreed to represent Officer Warbis. Both  
22 WA Cities and Keating acted as authorized as agents of Defendant City for purposes relevant to  
23 this lawsuit.

24 4.3 The Warbis' advised Defendant City that they (The Warbis') planned to file a  
25 counterclaim against the Fenters because of the false statements, allegations and assertions  
26 contained in the Fenter complaint and lawsuit that had been fed to numerous media outlets,  
27 including the Everett Herald.

1           4.4     Defendant City and its various authorized agents, consistently advised Officer  
2 Warbis that his actions were proper and that Defendant City had no plans to settle with the  
3 Fenter family. Because of Defendant City's assertions, The Warbis' did not retain separate legal  
4 counsel to pursue their claims against the Fenters.

5           4.5     The Keating Law firm legal conduct is governed by Washington's Rules of  
6 Professional Conduct.

7           4.6     As Officer Warbis' attorney, Keating had a legal duty, under RPC Rule 1.4 to  
8 keep Officer Warbis informed on the case. Furthermore, RPC Rule 1.7 prohibits an attorney,  
9 when representing multiple clients jointly, to act in a manner adverse to one client for the benefit  
10 of another jointly represented client.

11          4.7     After being served with the Complaint and Summons in the Fenter lawsuit, The  
12 Warbis' repeatedly asked Defendant City whether or not they (The Warbis') were being  
13 provided with coverage and if an Answer would be filed within the 20 day period in advance of a  
14 default. Defendant City did not provide any formal verification of representation until after a  
15 settlement had been reached with the Fenters.

16          4.8     Even though Defendant City and its authorized agents held themselves out to  
17 represent Officer Warbis', in reality, both Keating and WA Cities, hastily agreed to settle with  
18 the Fenters, within 15 days of the lawsuit being filed, without ever answering the allegations  
19 made in the lawsuit and without providing the Warbis' with a chance to pursue their claims  
20 against the Fenters.

21          4.9     As a result of Defendant City's agents' actions, the Warbis' lost their ability to  
22 correct the public record, have suffered irreparable harm, and continue to suffer, both personal  
23 and professional damages; both monetary and emotional.

24          4.10    Defendant City's conduct, through its authorized agents, constitutes negligent  
25 misrepresentation and/or malpractice.  
26  
27





1           6.3     Despite a legal obligation to do so, neither the Defendant City nor its authorized  
2 agents, advised the Warbis' in advance, of a settlement with the Fenter family. The Warbis'  
3 learned that a settlement has been reached when Ms. Warbis and her minor children were  
4 ambushed at the Warbis personal residence by various main stream media sources seeking a  
5 comment on the settlement.

6           6.4     Ms. Warbis' calls to both management within the police department and City  
7 leadership went unanswered. Likewise, Officer Warbis advised Defendant City of the stress that  
8 both he and members of his family were suffering due to the false and defamatory news stories  
9 that were constantly being reported; however, Defendant City declined to provide him any  
10 support, reneged on earlier promises to provide a professional help in dealing with the media,  
11 and in fact continued to portray Officer Warbis as a "rogue" and hotheaded cop. The City  
12 Administrator's general incompetence in dealing with the media combined with improper  
13 motives has led to the Warbis name being portrayed in an inaccurate and inflammatory manner  
14 in mainstream media for almost two years.

15          6.5     Defendant City released personal and non-public information regarding the May  
16 2012 incident in which Officer Warbis was assaulted to various media outlets.

17          6.6     Plaintiffs believe that Defendant City's Administrator was either motivated by  
18 personal animosity towards Officer Warbis, for some unknown reason, or by her desire to  
19 dismantle the police department. Regardless of the true reason, Defendant City's conduct  
20 towards its own employee is outrageous and/or negligent and has resulted in harm to the Warbis  
21 family.

22          6.7     Additionally, Defendant City, via its City Administrator, applied pressure to the  
23 leadership of the union representing the police officers of Lake Stevens in an effort to force the  
24 union to abandon potential claims for violations of collective bargaining agreement between the  
25 Defendant City and its unionized police workforce. In fact, the Defendant City has used a pattern  
26  
27

1 and practice of threatening unionized employees to minimize the support for officers, including  
2 Officer Warbis.

3  
4 **VII. FOURTH CAUSE OF ACTION – OUTRAGE/NEGLIGENCE/INTENTIONAL  
5 INFLECTION OF EMOTIONAL DISTRESS**

6 7.1 Plaintiffs incorporate all statements made above.

7 7.2 Even though Officer Warbis had been assaulted by a criminal with a Taser, while  
8 away from work, Defendant City chose to pursue discipline based on information that was  
9 known to be factually inaccurate.

10 7.3 During and subsequent to his “Loudermill” hearing, Officer Warbis identified a  
11 number of factual inaccuracies in the information compiled by Defendant City’s HR employee,  
12 Steve Edin. (“Edin”) However, Edin failed to correct the official record which resulted in  
13 inaccurate information being released to the various media outlets that made requests for  
14 information under Washington’s public records act. Additionally, Officer Warbis was accused of  
15 “sick leave abuse” for attending a social event intended to lift the spirits of Officer Warbis while  
16 on FMLA.

17 7.4 It is unknown whether Defendant City’s actions were intentional and based on  
18 animosity towards Officer Warbis, or due to general incompetence by Defendant City’s  
19 employees/agents or for other reasons. The cumulative result is that inaccurate information  
20 regarding Officer Warbis has been provided to the public resulting in public scorn, threats, and  
21 ridicule.

22 **VIII. FOURTH CAUSE OF ACTION – NEGLIGENCE**

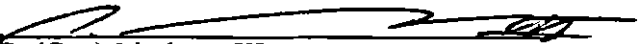
23 8.1 Plaintiffs incorporate all statements made above.

24 8.2 As his employer, Defendant City had a duty of loyalty to Officer Warbis which  
25 includes a duty to provide guidance and support where an employee is sued individually while  
26 acting within the scope of his employment.  
27



1 DATED this 10<sup>th</sup> day of February, 2014.

2 The Law Office of G. Benjamin Lindsey III  
3 Attorney for Plaintiffs

4 By   
5 G. (Gus) Lindsey, III  
6 WSBA #36396

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27