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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

Brian P. Carr
Plaintiff

versus

The State of Oregon through Hardy Myers in his official
capacity as Attorney General of the State of Oregon and
the City of Portland through Linda Meng in her official
capacity as City Attorney of the City of Portland
Defendants

Civil No. 3:08-CV-398-HA

Plaintiff's Declaration
In Support of
Motion To Amend Complaint

OPPOSED

I, Brian P. Carr, am the plaintiff in this matter, have knowledge of the facts of this matter, and make the following statements under oath and penalty of perjury.

- 1 1. On April 7, 2008 my car, a 1991 Toyota Camry with Washington plates 668-PXQ, was parked
2 at the Lloyd's Shopping Center in Portland, OR on the 14th Street ramp and was stolen from
3 that location. On that same date I reported the theft to Officer Jack Blazer (#37413) of the
4 Portland Police Bureau in case #08-032989.

- 6 2. On April 24, 2008, I received a call from the Portland Police Bureau that my car had been
7 recovered and was at Sergeant's Towing Lot in Portland, OR. There was a charge of \$131 to
8 retrieve my car which I paid to recover my car. I had no control of or access to my vehicle
9 during the intervening period.

- 11 3. On recovering my car, there was a fluorescent green 'Abandoned Vehicle' warning stuck on
12 the driver's window. The warning had apparently been rained on such that the hand written
13 date was illegible. Further, this warning was large (8.5" by 11") and had to be removed to

1 safely drive the vehicle. The warning was destroyed on removal.

3 4. In addition, parking violation citation U019204 by the City of Portland was under the
4 windshield wipers of my car for an abandoned auto violation and listing a fee of \$280. This
5 notice had also apparently been rained on and the written entries were substantially illegible.
6 A copy of this parking violation citation is attached to this Declaration as Exhibit 1. I was not
7 able to identify the identity of the officer issuing the violation nor the department of the City
8 of Portland which may have authorized this officer to issue parking violation citations. The
9 date and location of the citation also was unclear.

11 5. On or about April 25, 2008, I called the number on said notice, 503-988-3776, and learned
12 that the court parking unit had no record of the parking violation but that these notices
13 occasionally take a few days to be processed and that I should call back in a week or so.

15 6. On or about May 9, 2008, I again called the court parking unit and learned that the notice was
16 pending and that if the vehicle was stolen the matter could be dismissed. I also learned the
17 identity of the officer, Kathy Saunders, who wrote the violation though I was not told the
18 department of the City of Portland which she worked for nor any contact information for the
19 City of Portland or that department.

21 7. On May 23, 2008, I filed an Answer, Affirmative Defense, and Complaint with the
22 Multnomah County Circuit Court, Parking Unit as well as a Declaration and Interrogatories
23 seeking copies of the police report of the stolen vehicle as well as any records of the warning
24 notice and parking violation notice (as the copies I had were not legible). A copy of these
25 papers is attached as Exhibit 2.

27 8. On June 12, 2008, I served those papers of May 23, 2008 on the City of Portland and filed the
28 Acceptance of Service document with the Multnomah County Circuit Court, Parking Unit. A
29 copy of the Acceptance of Service document is attached as Exhibit 3.

31 9. Shortly after I served the papers on the City of Portland I received a phone call from an

1 attorney with the City of Portland. He informed me that Officer Saunders was not from the
2 Portland Police Bureau but from some other department with which I was not familiar. As I
3 did not take notes during the phone call I do not remember the name of the department or of
4 the attorney I spoke with and there have been no other contacts from the City of Portland with
5 respect to this parking violation citation since that date.

7 10. On July 27, 2008, I received a letter from the Multnomah County Circuit Court, Parking Unit.
8 A copy of this letter is attached as Exhibit 4. The letter stated that the court does not have
9 access to the police records which I had requested be provided by the police department and
10 asked that I instead provide these documents to the court even though these copies would be
11 less reliable than if they were provided directly by the keeper of the records, the City of
12 Portland in this case. The letter also stated that a copy of the stolen vehicle police report was
13 required to have the matter dismissed which is not stated in the local court rules. Further, the
14 letter insisted that I post the bail amount (\$560) before any hearing could be scheduled and
15 before the court could consider any evidence I submitted.

17 11. According to the web site for the Portland Police Bureau Records Division, at
18 <http://www.portlandonline.com/Police/index.cfm?c=30557&a=143820>
19 requests for a copy of a police report take three weeks to be processed, can only be processed
20 by mail and require a prepaid fee of \$10 along with stamped self addressed envelop and
21 detailed information concerning the report. In particular, they require an address for the
22 location of the crime, but as the car was stolen from a parking lot with entrances on three
23 different streets, I do not know the location which would be listed on the report. Further, there
24 were warnings that incomplete or inaccurate information could cause further delays and
25 additional expense. I concluded that I will not be able to comply with these requirements
26 within the deadline specified by the court.

28 12. The \$10 fee for a copy of the police report is excessive, at least \$2 per page and up to \$10 per
29 page for a one page report. The cost of making the actual copies is certainly much less and the
30 remainder is clearly used to support other expenses of the records division. Federal district
31 courts provide access to most records via the court's CM/ECF system and PACER for a much

1 more reasonable 8 cents a page and commercial operations such as google.com can provide
2 electronic copies of documents for a small fraction of that cost. Further, these electronic
3 search services provide much more convenient access than the inefficient and slow service of
4 the Portland Police Records Division. These excessive fees are particularly egregious to me
5 as I am required to pay these fees only because of the negligence of the City of Portland,
6 supporting the very entity which knows that the citation is unfounded but it still pursues its
7 prosecution in pursuit of unjustifiable fines while collecting fees all along the way.

9 13. Supplementary Local Rules SLR for Multnomah County Circuit Court [17.015 Parking](#)

10 [Citations - Defendant's Appearance](#) states that the defendant must pay the listed amount for
11 the citation, doubled if the bail amount is not paid in thirty (30) days to 'appear' in a matter.
12 Further an Order to impound the vehicle may be issued for failure to 'appear' (pay the cited
13 bail amount). These rules were accessed from:
14 [http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/MultnomahSLR2004.pdf/\\$File/MultnomahSLR2004.pdf](http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/MultnomahSLR2004.pdf/$File/MultnomahSLR2004.pdf)
15 and states in its entirety:

16 17.015 Parking Citations - Defendant's Appearance

- 17 (1) A person receiving a parking citation has three options to appear:
18 (A) Plead guilty by paying in full the bail indicated on the citation, either by mailing or
19 personally delivering the payment, together with the citation, to the Multnomah County
20 Courthouse. All payments in full must be received within 30 days of the date of violation.
21 (B) Mail the full amount of the bail applicable at the time of the request, together with the
22 citation and a letter of explanation to the Multnomah County Courthouse, requesting a judge to
23 make a determination. The court may refund the bail or forfeit all or part of it.
24 (C) Request a court hearing either by letter or by personally appearing at the Parking Section of
25 the Criminal Division located in the Multnomah County Courthouse. All such requests must be
26 accompanied by a check or money order for the full amount of bail applicable at the time of the
27 request. Bail is forfeited if the person fails to appear at the hearing.
28 (2) The bail amount set on a parking citation will double after 30 days from the date of issuance
29 of the citation if the defendant has not appeared in a manner indicated by this rule. A partial
30 payment of the bail does not constitute an appearance under this rule.
31 (3) An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035
32 if the defendant does not appear in a manner indicated in this Rule.

34 14. [SLR 17.025](#) allows the dismissal of parking citations in the event that the vehicle was listed as
35 stolen with the police when the citation was issued and no appearance by the defendant is
36 necessary in this case. There is no statement of the requirement of a police report. It states in
37 part:

1 17.025 Dismissal of a Parking Citation Before Trial
2 (1) The Presiding Judge or the Chief Criminal Law Judge may dismiss parking citations without
3 the appearance of the defendant in the following instances: ...
4 (G) The parking citation was issued to a vehicle that was reported to the police as stolen
5 within 24 hours of the date and time listed on the citation or was issued on a date when the
6 status of the vehicle remained listed as stolen, and a stolen report was on file with the Police
7 Bureau; ...
8 (I) The Court received a special written report from the issuing officer or Parking Patrol
9 deputy explaining that there was no basis for the parking citation and requesting that it be
10 dismissed; or

12 15. [SLR 16A.196](#) allows agencies to file citations electronically with the court in accordance with
13 [ORS 153.770](#), but does not provide for service of identifying information for the person
14 authorized to issue the citation as required [ORS 153.770](#). It states in its entirety:

15 16A.196 Electronic Filing of Citations

16 (1) Pursuant to ORS 153.770, the Fourth Judicial District establishes this rule to allow electronic
17 filing of complaints for any offenses that are otherwise cited into court by a uniform citation.
18 (2) Any agency which is authorized by law to issue a uniform citation within the Fourth Judicial
19 District is authorized to file the citation electronically with the circuit court subject to compliance
20 with rules adopted under ORS 1.002 (2) (e).

I certify under penalty of perjury under the laws of the state of Oregon, Washington and the
United States that the foregoing is true and correct.

Respectfully submitted, August 7, 2008 (Vancouver, WA).

s/ Brian P Carr
Signature of Plaintiff
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