

16094NSA
MW

STANDARD TORT CLAIM FORM

General Liability Claim Form #SF210

Pursuant to RCW 4.96, this form is for filing a tort claim against Clark County Washington. Information requested on this form is required by 4.09.100 and may be subject to public disclosure. Claim forms cannot be submitted electronically (via e-mail or fax.)

PLEASE TYPE OR PRINT IN INK

Mail or deliver Clark County Risk Management
Original claim Attn: Risk Manager
To: PO Box 5000
1300 Franklin St, Ste 644
Vancouver, WA 98666-5000

RECEIVED

OCT 11 2016

CLARK COUNTY
RISK MANAGEMENT

CLAIMANT INFORMATION

1. Claimant's Name: Pierce Pandora Sheree Date of Birth: 07/05/56
Last First Middle (mm/dd/yy)
2. Current residential address: [REDACTED]
Address City State Zip
3. Mailing address (if different) [REDACTED]
Address City State Zip
4. Residential address at the time of incident (if different from current address):
Address City State Zip
5. Claimant's daytime telephone number (include area code): [REDACTED]
6. Claimant's email address: c/o Tom Boothe tsb@boothouse.com

INCIDENT INFORMATION

7. Date of the incident: See attached Exhibit 1.
8. If the incident occurred over a period of time, date of first and last occurrences: See attached Exhibit 1
9. Location of incident:
Washington, Clark County Vancouver Clark County Sheriff's Office
State and County City, if applicable Place where occurred
10. If the incident occurred on a street or highway:
Name of street or highway milepost number At the intersection with or nearest intersecting street
11. County agency or department alleged responsible for damage/injury:
Clark County and Clark County Sheriff's Office

12. Names, addresses, and telephone numbers of all persons involved in or witness to this incident:

Personnel are known to the County, which has better access to addresses than claimant.

Candy Arata, formerly Human Resources Department, Clark County Sheriff's Office

Chuck Atkins, Sheriff of Clark County Sheriff's Office

Ric Bishop, Clark County Sheriff's Office

John Chapman, Chief Criminal Deputy, Clark County Sheriff's Office

Judy Clark, President of Team HR, LLC (610 Broadway, Suite 602, Portland, OR 97205, [REDACTED])

Mike Cook, Undersheriff of Clark County Sheriff's Office

Joe Dunegan, Clark County Sheriff's Office

Mary Ann Gentry, Interim Supervisor, Clark County Sheriff's Office

Jim Hansen, Clark County Sheriff's Office

Lois Hickey, Human Resources Department, Clark County Sheriff's Office

Joe Loftgren, Clark County Sheriff's Office

Mary Malicki, Interim Supervisor, Clark County Sheriff's Office

Breanne Nelson, Human Resources Department, Clark County Sheriff's Office

Erin Nolan, Chief, Clark County Sheriff's Office

Francine Reis, Clark County Human Resources Director

Kelly Robertson, Supervisor, Records Department in the Clark County Sheriff's Office

Carrie Schultz, Clark County Sheriff's Office

Steven Shea, Chief Civil Deputy, Clark County Sheriff's Office

Marina Wolfrum, Clark County Sheriff's Office

13. Names, addresses, and telephone numbers of all county employees having knowledge about this incident:

Please refer to the witnesses above. Most of the witnesses above are County employees. Claimant believes that the witness addresses and telephone numbers are available to Clark County by and through their directories and personnel files.

14. Names, addresses, and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary. This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

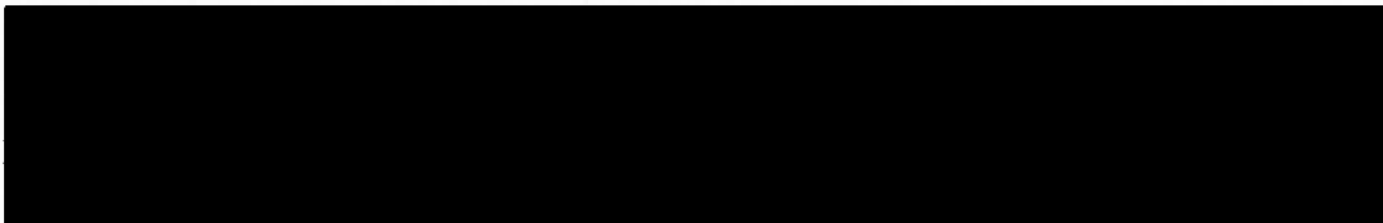
15. Describe the cause of the injury or damages. Explain the extent of the property loss or medical, physical, or mental injuries.

See attached Exhibit 1.

16. Has this incident been reported to law enforcement, safety, or security personnel? If so, when and to whom?

See attached Exhibit 1.

17. Names, addresses, and telephone numbers of treating medical care providers.



18. Please attach documents which support the claim's allegations (photos, police reports, estimates, etc.)
This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

19. Estimated damages from Clark County in the sum of \$2,000,000.

The Claimant must sign this form unless he or she is incapacitated, a minor, or a nonresident of the state, in which case, it may be signed on behalf of the Claimant by any relative, attorney, or agent representing the Claimant.

Pursuant to RCW 4.96.020(3)(b)(iii), I verify as claimant's attorney that the foregoing is true and correct to the best of my knowledge and belief.

Thomas S. Boothe

10/6/16

Thomas S. Boothe, WSBA #21759

Date

7635 SW Westmoor Way

Portland, OR 97225

TORT CLAIM NOTICE

TO : Clark County
Clark County Risk Management
Attn: Risk Manager
PO Box 5000
Suite 644
1300 Franklin Street
Vancouver, WA 98666-5000

Claimant : Ms. Pandora Pierce

**Current Residential
Address** :



**Claimant's
Residence at Time
Of Incident** :



Claimant's Daytime Telephone Number: c/o



Claimant's Email Address: c/o Tom Boothe tsb@boothehouse.com

Time, Date and Location of Incidents:

Incidents occurred over a multiyear period, briefly summarized below.

County Agency Responsible for Circumstance: Clark County and Clark County Sheriff's Office

Witnesses and Participants: Central witnesses are identified in the narrative below and are all known to the County as County employees

Details of Incidents:

Pandora Pierce transferred to Clark County from the City of Vancouver on July 23, 1996, through a merger of departments. Ms. Pierce continued in the records function she had performed for the City.

On December 1, 1996, Clark County promoted Ms. Pierce to the position of Office Supervisor for Clark County Sheriff's Records Department.

On June 2, 1997, Clark County promoted Ms. Pierce to a new position of Office Manager.

December 21, 2007 Tort Claim Notice

Ms. Pierce delivered a December 21, 2007, tort claim notice regarding gender and race driven disparities in pay rates and pay increases in the Clark County Sheriff's office. Ms. Pierce filed a civil suit, *Pierce v. County of Clark*, Clark County Superior Court Case No. 08-2-01428-6 to obtain compensation parity. The case resolved with Ms. Pierce's back pay restored and her rate going forward more in line with her peers.

In the December 21, 2007, tort claim notice, Ms. Pierce notified the County of other considerations for a tort claim:

"Ms. Pierce has been consistently ill-advised of workplace matters relevant to her position. On one occasion, Ms. Pierce reprimanded a subordinate employee, regarding a training event. Later, that employee requested a meeting with Chief Bishop and Under Sheriff Joe Dunegan on February 23, 2005 regarding her position in the Sex Offender Unit. Ms. Pierce was neither informed of nor invited to these meetings nor included in any of the communications that followed. During March of 2005, Under Sheriff Dunegan reassigned the subordinate employee to a different branch, again without Ms. Pierce's involvement or knowledge. This was outside the standard chain of command.

On May 24, 2005, plaintiff met with Chief Bishop and Undersheriff Joe Dunegan regarding a number of issues that occurred during her employment and her concerns about workplace retaliation. Ms. Pierce explained that she felt unfairly reprimanded, poorly advised of workplace matters relevant to her position, unfairly required to provide documentation for her prior managerial decisions, and overworked/under-compensated in her position which, in the past, had been performed by two people. Ms. Pierce reported that she was being marginalized, ignored or dismissed and that her opinion was not being sought. She discussed how she was dedicated to her job and was willing to work with each of them in improving their relationships.

Ms. Pierce continued in her efforts to obtain pay parity. During a July, 2005 investigation of the matter, the Clark County Sheriff's Office falsely contended that the reclassification process was Ms. Pierce's attempt to qualify for a higher level management position. After a lengthy investigation, Clark County's own investigator,

Lee Moore, concluded in his September 16, 2005 report that there were no documents supporting this position and that Ms. Pierce had served in progressively higher level positions for a minimum of at least five years.

Ms. Pierce's superiors undermined her authority on several occasions by siding with subordinates. Ms. Pierce conferred with Chief Bishop regarding an employee's trial period evaluation, for which she was corrected for failing to include positive reports regarding the employee, despite her stated belief that she had not observed any behavior that warranted positive input. Chief Bishop requested input from Human Resources and the Under Sheriff on how to handle the employee's request for intervention since he was a probationary employee. Chief Bishop was instructed to follow the steps for appeal similar to a regular status employee. Ms. Pierce was therefore required to review a rebuttal submitted by the employee and provide documentation supporting her comments in the evaluation. After Ms. Pierce did so, Chief Bishop's communication with plaintiff was effectively a second reprimand for her appropriate performance of her duties. This treatment was different than provided to other subordinate non-male/non-African American employees, and different than male and Caucasian supervisors had been subjected to.

During or about September of 2005, a false rumor was spread about Ms. Pierce being arrested or stopped for a DUI. Nearly a month later, Chief Bishop asked Ms. Pierce if he was 'supposed to be protecting' her.

Ms. Pierce requested additional training at various times, but the requests were not timely processed, were later disapproved by the Sheriff Department's Human Resource department or other supervisors without direct communication with Ms. Pierce, or were questioned after they were approved by her immediate manager. Other managers in Ms. Pierce's position were not subject to this treatment. Also, the passage of time between her request and approval, sometimes up to eight months, was excessive."

Subsequent Events

Ms. Pierce adopts all that appears above as a foundation for her present notice. Through her almost 29 years of employment by Clark County, Ms. Pierce had earned exemplary employee reviews. For her, her work at Clark County was the focal point of her life. She took pride in her work, set high standards for herself, and expected the same from those who worked around her as a reflection of their roles as public servants.

Despite her exemplary reviews, Clark County put Ms. Pierce on administrative leave on or about March 3, 2015, without first issuing any charges, or even identifying what policies and standards she had violated to warrant administrative leave. Despite repeated requests for an explanation, Clark County did not tell Ms. Pierce what policies she violated or what standards she fell below. Despite Ms. Pierce's requests, Clark County cited no specific instances of deficient behavior or other circumstances of behavior warranting compelled leave. For Ms. Pierce, it was more of the same. It felt retaliatory.

Ms. Pierce met with Chief Civil Deputy Steve Shea and Human Resources Director Bre Nelson to explore why she was placed on leave. They informed Ms. Pierce of generalized complaints about her management style, but again without instances or circumstances comparable to what others before her had been accused of that resulted in compelled leave.

Ms. Pierce met with Chief Shea on May 12, 2015. When the Chief told her she needed more training, Ms. Pierce explained that she went to multiple training classes.

On May 14, 2015, Ms. Pierce's doctor began her on medication to address her severe stress.

On May 28, 2015, Ms. Pierce learned that effective June 1, 2015, she was being reassigned to records, a subcategory of her prior responsibilities. Her tasks were to archive, seal and expunge records. The assignment magnified the stress and anxiety she felt in the racial and gender hostile work environment of the Clark County Sheriff's Office.

On June 10, 2015, Ms. Pierce Ms. Pierce applied for FMLA leave due to the stress and emotional upheaval caused by the compelled leave and continuing hostile work environment. Ms. Pierce experienced anxiety and depression.

On August 7, 2015, Ms. Pierce described the source of her stress, anxiety and depression to Chief Shea as being put on "administrative leave without know[ing] what [she] was accused of or by whom of what policies she violated or what standards she fell below of what policies she violated or what standards she fell below and having no evidence or facts that [she] could respond to..." Ms. Pierce explained further that she was a wreck: crying, sleeplessness, nightmares, loss of appetite, and inability to meaningfully function. She reported that the department had fostered racial and gender discrimination and a hostile work environment for years. The singular way the process, effectively as to her a lack of process, was applied took Ms. Pierce directly back to the manner she was treated regarding her earlier claim asserting differential treatment and pay disparity. For Ms. Pierce, it was a reminder of what she had seen done to other Black employees, including Gerald Haynes, Cliff Evelyn, and Britt Easterly. For Ms. Pierce, it was a reminder that the department had failed to address the systemic pattern and practice of racial and gender discrimination.

Because of the circumstances of her administrative leave, Ms. Pierce suffered such extreme stress she remains under a doctor's and mental health counselor's care. After suffering through more than a year of department and County's unspecified discipline and the adverse effect it had on her health, the County told Ms. Pierce that if she did not resign or take a posted job as a Record Manager with the Vancouver Police Department or a some other position posted by the County, she would be fired. Facing a compelled choice to quit or be fired and the continuing adverse effects on her health, Ms. Pierce recognized that she was being constructively terminated and resigned.

Clark County Involvement: Clark County employs the managerial and supervisory personnel who made all decisions and who have the power to direct and control the Clark County Sheriff's Office.

Claimant's Symptoms Attributable to Identified Incident: Pandora Pierce has experienced sleeplessness, anxiety, depression, fear, and other psychological reactions that have also manifested in physical symptoms resulting from the employment circumstances set forth above and from her supervisors' actions towards her. She has also experienced reduced employability.

Ms. Pierce has experienced economic harms through medical and mental health care needed to address the County's actions, loss of past and future earnings, loss of benefits and a permanently reduced retirement income. Ms. Pierce has further incurred noneconomic harms through her emotional distress and damage to her reputation, and the continuing sequelae therefrom.

Legal Basis: 42 U.S.C. § 2000e, *et seq* (Title VII of the Civil Rights Act of 1964); RCW 49.60.010, *et seq* (Washington Law Against Discrimination); and other federal and state statutes.

Amount of damages claimed: Pandora Pierce has no exact calculation of her damages. For the County's ability to set aside appropriate loss reserves, Ms. Pierce's total damages are estimated by her attorney to be \$2,000,000.

DATED: October 17, 2016



Thomas S. Boothe, WSB No. 21759
Attorney for Claimant

16094WSA

MW

Straight, Judy

From: Tom Boothe <tsb@boothouse.com>
Sent: Tuesday, October 11, 2016 11:00 PM
To: Straight, Judy
Subject: RE: Pandora Pierce and Jennifer Maphet Claims

RECEIVED

OCT 11 2016

CLARK COUNTY
RISK MANAGEMENT

Ms. Straight:

In response to your email: First, please show me where in the governing statute a complainant is mandated to sign a release, let alone one as broad as the County's:

4.96.020. Tortious conduct of local governmental entities and their agents--
Claims--Presentment and filing--Contents

- (1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity.
- (2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.
- (3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the office of risk management in the department of enterprise services, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the department of enterprise services' web site.
 - (a) The standard tort claim form must, at a minimum, require the following information:
 - (i) The claimant's name, date of birth, and contact information;
 - (ii) A description of the conduct and the circumstances that brought about the injury or damage;
 - (iii) A description of the injury or damage;

- (iv) A statement of the time and place that the injury or damage occurred;
- (v) A listing of the names of all persons involved and contact information, if known;
- (vi) A statement of the amount of damages claimed; and
- (vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

- (i) By the claimant, verifying the claim;
- (ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;
- (iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or
- (iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

Second, given the extreme detail we provide, I find it remarkable that you could seriously believe our submittal does not demonstrate substantial compliance with the County's form and the statute.

Third, given the County's abysmal human relations practices, it would be malpractice to provide the global release you seek. Further, the form violates the law by purporting to require a notarized signature from the claimant.

Forth, and finally, I view your email as evidence of bad faith and ill intent by the county. I also consider it evidence of total lack of interest in resolving this case prior to filing the complaint to initiate action in the matter.

- Tom

Thomas S. Boothe
7635 SW Westmoor Way
Portland, OR 97225-2138
(503) 292-5800
(503) 292-5556 fax
tsb@boothehouse.com

CONFIDENTIALITY NOTICE: Please do not read, copy, or disseminate this communication unless you are the intended addressee. This e-mail may contain confidential and/or privileged information intended only for the addressee. If you have received this in error, please notify me via return e-mail.

TAX ADVICE NOTICE: IRS Circular 230 requires us to advise you that if this communication or any attachment contains any tax advice, the advice is not intended to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing, or recommending any transaction, plan, or arrangement. A taxpayer may rely on professional advice to avoid tax-related penalties only if the advice is reflected in a comprehensive tax opinion that conforms to stringent requirements. Please contact us if you have any questions about this requirement, or would like to discuss preparation of an opinion that conforms to these IRS rules.

From: Straight, Judy [mailto:Judy.Straight@clark.wa.gov]
Sent: Tuesday, October 11, 2016 12:12 PM
To: tsb@boothehouse.com
Subject: Pandora Pierce and Jennifer Maphet Claims

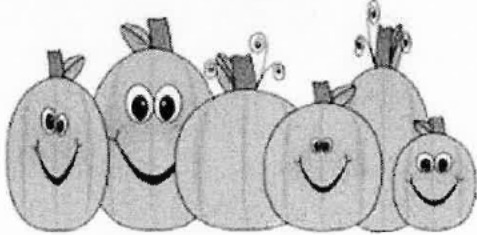
Mr. Boothe,

The above mentioned claims are incomplete due to missing the Records Request Authorization form. Please have your clients sign and scan back to us at the email below.

Thank you.

Judy

Judy Straight
Administrative Support
Clark County, Risk Management
1300 Franklin St • PO Box 5000 • Vancouver, WA 98666-5000
Phone (360) 397-2025 • Ext. 4218 • Fax (360) 397-6165
judy.straight@clark.wa.gov



This e-mail and related attachments and any response may be subject to public disclosure under state law.