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MAR 7 1989

JoAnne McBride, Clerk, Clark Co.

IN THE SUPERIOR COURT OF CLARK COUNTY, WASHINGTON

1 CLAYTON P. PERKINS,)
2 GARY P. OLSON)
3 Plaintiff,)
4 vs.)
5 SKAMANIA COUNTY, WASHINGTON)
6 Defendant.)

No. 89 2 00617 4

S U M M O N S

7 A lawsuit has been started against you in the above-
8 entitled Court by CLAYTON P. PERKINS, Plaintiff. Plaintiffs'
9 claim is stated in the written Complaint, a copy of which is
10 served upon you with this Summons.

11 In order to defend against this lawsuit, you must respond
12 to the Complaint by stating your defense in writing, and serve a
13 copy upon the undersigned attorney for the Plaintiff within 20
14 days after the service of this Summons, excluding the day of
15 service, or within 60 days if this Summons is served outside the
16 State of Washington, or a default judgment may be entered against
17 you without notice. A default judgment is one where Plaintiff is
18 entitled to what he asks for because you have not responded. If
19 you serve a Notice of Appearance on the undersigned attorney, you
20 are entitled to notice before a default judgment may be entered.

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

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

26 DATE: March 1989.

Registered GF
Indexed, Cir GF
Indirect GF
Filmed
Mailed

PETER K. JACKSON, WSB# 12153
Of Attorneys for Plaintiff
JACKSON, JACKSON & KURTZ INC., PS.
P. O. Box 95
Battle Ground, WA 98604
(206) 687-7106

File Response With:

Clerk of Superior Court
Clark County Courthouse
Vancouver, WA 98663

Serve a Copy of your Response on:

JACKSON, JACKSON & KURTZ, INC. P.S.
804 East Main Street
Battle Ground, WA 98604

SUMMONS

RECORDER'S NOTE
NOT AN ORIGINAL DOCUMENT

JACKSON, JACKSON & KURTZ, INC., P.S.
ATTORNEYS AT LAW
P. O. BOX 95
BATTLE GROUND, WASHINGTON 98604
(206) 687-7106

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MAR 7 1989

JoAnne McBride, Clerk, Clark Co.

IN THE SUPERIOR COURT OF CLARK COUNTY, WASHINGTON

CLAYTON P. PERKINS

Plaintiff,

vs.

SKAMANIA COUNTY, WASHINGTON

Defendant.

No. 89 2 00617 4

COMPLAINT FOR WRONGFUL
TERMINATION OF EMPLOYMENT

Plaintiff presents the following claim:

I.

JURISDICTION AND VENUE: The Superior Court of Clark County, Washington has jurisdiction and venue of this matter pursuant to RCW 36.01.010, 36.01.050, and 36.45.010, et. seq.

II.

PLAINTIFF'S EMPLOYMENT WITH DEFENDANT: Plaintiff was an employee of Defendant, Skamania County, from March 1977 to July 22, 1988. Plaintiff worked in the Skamania County Building and Grounds Department.

III.

PERSONNEL POLICY: Defendant has a personnel policy which was adopted by its Board of Commissioners on or about October 29, 1985, which personnel policy was in effect at the times complained of herein; such personnel policy provides, among other things, a policy for disciplinary action, including termination of employment and specific due process rights for employees prior to major disciplinary action. Termination of employment is defined as a major disciplinary action in said

COMPLAINT FOR WRONGFUL
TERMINATION OF EMPLOYMENT - 1

JACKSON, JACKSON & KURTZ, INC., P.S.
ATTORNEYS AT LAW
P. O. BOX 99
BATTLE GROUND, WASHINGTON 98604
(206) 667-7106

1 personnel policy.

2 IV.

3 TERMINATION OF EMPLOYMENT: On or about July 22, 1988,
4 Defendant terminated Plaintiff's employment.

5 V.

6 TERMINATION OF EMPLOYMENT, WRONGFUL: Said termination
7 of Plaintiff's employment was without just cause, discriminatory,
8 failed to follow Defendant's specific due process requirements
9 required in Defendant's personnel policy, deprived Plaintiff his
10 due process rights, and violated Plaintiff's civil rights.

11 VI.

12 CLAIM PRESENTED: Plaintiff presented a claim against
13 Defendant pursuant to RCW 36.45.010 et. seq., a copy of which is
14 attached hereto as "Exhibit A" and incorporated herein by this
15 reference, as fully set forth. Plaintiff realleges each and every
16 fact stated in said claim. Defendant failed to respond to said
17 claim.

18 VII.

19 DAMAGES: As a direct and proximate cause of the
20 wrongful termination of Plaintiff's employment and violation of
21 Plaintiff's due process and civil rights, Plaintiff has been
22 damaged in the amount of his lost salary of \$1,747.00 per month,
23 from July 22, 1988; has lost his normal sick leave accumulation at
24 the rate of eight hours for each completed month of service he
25 would have performed had he not been wrongfully terminated; has
26 lost his accumulated vacation leave at the rate of 12.67 hours for

1 each month of service he would have performed had he not been
2 wrongfully terminated; has lost pension accumulation that
3 would have occurred had he not been wrongfully terminated; has
4 lost dental and health insurance for both himself and his wife and
5 has incurred premiums for replacement insurance; and Plaintiff has
6 incurred damages for humiliation and emotional suffering, in an
7 amount to be shown at trial. All of such damages are ongoing.

8 VIII.

9 Plaintiff is entitled to recover his costs and
10 reasonable attorney's fees pursuant to RCW 4.84.

11 WHEREFORE, Plaintiff prays for relief against Defendant,
12 Skamania County, Washington, as follows:

- 13 1. For judgment against said Defendant in such sum as
14 will fully and fairly compensate Plaintiff for his damages as of
15 the date of Judgment.
 - 16 2. For an order requiring Defendant to reinstate
17 Plaintiff's employment at the same pay rate with the same
18 benefits, plus any increased benefits and bonuses Plaintiff would
19 have received had Plaintiff's employment not been terminated, or
20 alternatively, judgment against Defendant in such sum as would
21 compensate Plaintiff for his lost future wages and benefits in an
22 amount to be shown at trial.
 - 23 3. For Plaintiff's costs and attorney's fees herein.
 - 24 4. For such other relief as the Court deems just and
25 equitable in the premises.
- 26

COMPLAINT FOR WRONGFUL
TERMINATION OF EMPLOYMENT

JACKSON, JACKSON & KURTZ, INC., P.S.
ATTORNEYS AT LAW
P.O. BOX 98
BATTLE GROUND, WASHINGTON 98604
(206) 687-7106

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DATED this _____ day of March, 1989.

PETER K. JACKSON, WSBA #12153
Attorney for Plaintiff

STATE OF WASHINGTON)
COUNTY OF CLARK) ss.

The undersigned, being first duly sworn, upon oath deposes and states:

That he is the Plaintiff in the above-entitled action; that he has read the above SUMMONS AND COMPLAINT, knows the contents thereof, and believes the same to be true.

CLAYTON P. PERKINS, Plaintiff

SIGNED AND SWORN to before me this _____ day of March, 1989 by CLAYTON P. PERKINS.

NOTARY PUBLIC in and for
the State of Washington; my
commission expires: _____

EXHIBIT A

CLAIM AGAINST SKAMANIA COUNTY FOR WRONGFUL TERMINATION OF EMPLOYMENT

TO: Board of County Commissioners
of Skamania County
P. O. Box 790
Stevenson, WA. 98648

AND TO: Clerk of the Board of County Commissioners
of Skamania County
P.O. Box 790
Stevenson, WA. 98648

Re: Claim of Clayton P. Perkins for Wrongful
Termination of Employment with Skamania County

For claim against Skamania County, the claimant, Clayton P. Perkins, presents the following:

1. The claimant's name is: Clayton P. Perkins.
2. The claimant's actual residence at the time of the presenting and filing of this claim is:
4.47L Cook-Underwood Rd.
Cook, Washington 98605
3. The actual residence of the claimant for the period of six months immediately prior to the time the claim accrued was:

4.47L Cook-Underwood Rd.
Cook, Washington 98605

and, while convalescing from a shoulder injury, during a portion of said six month period, claimant actually resided at:

13407 N.E. 28th St.
Vancouver, WA.

4. The nature of Claimant's claim is as follows:

Claimant has worked in the Skamania County Building and Grounds Department since March, 1977. Claimant did not attend school and can neither read nor write.

Claimant's personnel file with Skamania County shows no disciplinary action until a letter dated May 15, 1987 from Jim L. Chase, the Buildings and Grounds Supervisor. The letter states that claimant has received several oral warnings regarding either not reporting for work or leaving work early without permission. Claimant denies that he had received any such oral warnings and further alleges

that the letter was presented to him for signature by Jim Chase without reading it to him or describing its contents and that Jim Chase knew at the time he had claimant sign the letter that claimant could not read it and did not understand it. Claimant denies that he would have signed the letter had its contents been properly and accurately disclosed. Claimant had just cause to be absent from work during the times the letter mentions, due to personal problems. Jim Chase acknowledges in the letter itself that he determined that claimant's personal problems were extensive.

Said letter states "At the conclusion of this disciplinary suspension you will report to work at your usual pay and job with the understanding that you have no recourse but to seek other employment with the occurrence of one minor job related infraction. (The before mentioned infraction to be defined and determined by your Supervisor.)" (emphasis added).

The disciplinary action of said letter failed to follow Skamania County personnel policy, denied claimant the opportunity to obtain representation, denied claimant due process, and violated claimant's civil rights.

Claimant received a shoulder injury in June, 1988. The Kaiser Permanente doctor authorized time loss from June 13, 1988 to June 20, 1988. The following day another Kaiser Permanente doctor authorized time loss from June 11, 1988 to July 10, 1988. On June 21, 1988 the second doctor released claimant for modified work beginning June 27, 1988, but told claimant not to work if his shoulder continued to hurt. Claimant went to work June 27, 1988 and worked the entire week ending July 1, 1988. Claimant's shoulder hurt during this week and claimant did not return to work on the 5th of July because of his shoulder. Claimant's mother telephoned Jim Chase on July 6, 1988 to inform him that claimant was not coming in because of his shoulder. Mr. Chase advised her that if claimant did not come in that day he would be fired. Claimant was unable to return to work and believed that he had been fired. Claimant was not informed of his due process rights. Claimant had just cause to be absent from work because of his inability to work due to his injury and since he believed he had been fired.

On July 22, 1988 Mr. Chase came out to where claimant was staying (at claimant's mother's home) and brought with him a letter dated July 22, 1988 and had claimant sign it. Mr. Chase did not read the letter to claimant or adequately explain its contents in spite of language to the contrary typed on the letter. Mr. Chase had claimant sign the letter when he was alone with claimant. Claimant did not have nor was he given the chance to obtain representation. The letter terminated claimant's employment with Skamania County effective July 22, 1988. Claimant did not receive any other letters or warnings or notification of his rights with respect to the termination of his employment.

The disciplinary action of said letter of July 22, 1988 failed to follow Skamania County personnel policy, denied claimant the opportunity to obtain representation, denied claimant due process, and violated claimant's civil rights.

A copy of the Physicians' Reports of Disability and of the two letters referred to above are attached hereto as exhibits.

5. The amount of damages claimed and the relief sought are as follows:

(a) Claimant has lost his salary of \$1,747.00 per month from July 22, 1988. Claimant has also lost his normal sick leave accumulation at the rate of 8 hours for each completed month of service he would have performed had he not been terminated. Similarly, claimant has lost his accumulated (vacation) leave at the rate of 12.67 hours for each month of service he would have performed had he not been terminated. Claimant has lost any pension accumulation that would have occurred had he not been terminated. Such losses are ongoing.

(b) Claimant seeks reinstatement of his employment with Skamania County with full reinstatement of his pension, sick leave and accumulated leave. Claimant would prefer reinstatement with Skamania County's Road Department.

Although claimant would prefer being reinstated, as an alternative, he would accept as settlement, such present dollar amount that would compensate him for the loss of his job and benefits.

(c) Claimant further seeks compensation for the violation of his due process and civil rights and damages for humiliation and emotional suffering in the amount of \$50,000.00.

Dated this 8 day of November, 1988.

Clayton P. Perkins
CLAYTON P. PERKINS

STATE OF WASHINGTON)

COUNTY OF CLARK)

ss.

The undersigned, being first duly sworn, upon oath deposes and states:

That he is the claimant in the above-entitled Claim Against Skamania County; that the above Claim Against Skamania County has been read to him, that he knows the contents thereof, and believes the same to be true.

Clayton P. Perkins
CLAYTON P. PERKINS, Claimant

SIGNED AND SWORN to before me this 10 day of November, 1988, by CLAYTON P. PERKINS.

Peter K. Jackson
NOTARY PUBLIC in and for the State
of Washington; my commission
expires: 10-23-89

STATE OF WASHINGTON)

COUNTY OF CLARK)

ss.

The undersigned, being first duly sworn, upon oath deposes and states:

That he is the attorney for the claimant, Clayton P. Perkins in the above-entitled Claim Against Skamania County; that he has read the above Claim Against Skamania County to Clayton P. Perkins and has explained its contents to Clayton P. Perkins.

Peter K. Jackson
PETER K. JACKSON
Attorney for Claimant

SIGNED AND SWORN to before me this 10 day of November, 1988, by PETER K. JACKSON.

James L. Stiles
NOTARY PUBLIC in and for the State
of Washington; my commission
expires: 7-1-91

July 22, 1988

Clayton Perkins
Buildings and Grounds Department
Skamania County
Stevenson, WA 98648

Clayton Perkins has been absent from work, without permission, from the Buildings and Grounds Department since July 5, 1988. You failed to notify the Buildings and Grounds Supervisor until several days had passed. In a disciplinary letter dated May 15, 1987 it was stated that should an infraction related to your job occur again you would be terminated from employment. You accepted the conditions of this letter. A copy of said letter is attached.

On July 22, 1988 Clayton Perkins was given the opportunity to be heard and present information about the reason for not reporting for work or notifying the supervisor.

Clayton Perkins did not have good cause to be absent from work nor had he made arrangement for annual leave prior to being absent from work.

Clayton Perkins is therefore terminated from employment with Skamania County as of July 22, 1988. Payment for the period between July 5 and July 22 shall be charged against accrued leave.

Sincerely,

Jim Chase
Jim Chase
Buildings and Grounds Supervisor

Jim Chase has read the above letter to me and I understand and accept termination of employment with Skamania County.

Clayton Perkins
Clayton Perkins

7-22-88
Date

15 May 1987

CLAYTON PERKINS
FACILITIES - MAINTENANCE PERSON
SKAMANIA COUNTY

DISCIPLINARY ACTION

This letter is required procedure in accordance with Skamania County's Personnel Policy when applied to Disciplinary Action against County Employees.

Clay, you have been a part of my crew for approximately twelve years.

Although this will be the first written reprimand to be part of your personnel file, you have had several oral warnings regarding either not reporting for work or leaving work early without permission.

- On several occasions you have either not reported for work or have left work early without permission.
- The incident prompting this letter started on Friday, 17 April 1987. The relevant details are as follows:
 - On Friday, 17 April, you were absent from work without notifying and securing permission from me, your Supervisor.
 - On Monday, 20 April, after determining that your personal problems were extensive, I agreed to your taking annual leave from April 17-24 inclusive. You felt that to be sufficient time to resolve your personal problems.
 - The following Monday, one week later, on the 27th of April I was informed by telephone, by an anonymous person, of your intent to take another week's annual leave. I had not given you permission to do so.
 - Several attempts to meet with you in regard to missing work were to no avail.
 - On April 29, 1987 we agreed to a meeting at your mother's home in Vancouver, where you accepted a two week suspension of your employment, without pay, commencing Monday, May 4, 1987, and continuing to and including Friday, 15 May, 1987.

CLAYTON PERKINS
Disciplinary Action
15 May 1987

Page two

At the conclusion of this disciplinary suspension you will report to work at your usual pay and job with the understanding that you have no recourse but to seek other employment with the occurrence of one minor job related infraction. (The before mentioned infraction to be defined and determined by your Supervisor.)

If the above meets with your approval and is accepted by you, please sign and date on the line provided below.

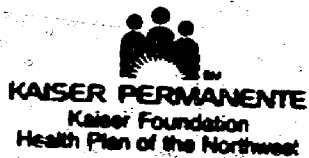
Sincerely,

Jim L. Chase

JIM L. CHASE
BUILDING AND GROUNDS SUPERVISOR

Clayton Perkins
CLAYTON PERKINS

5-18-87
(Date)



PHYSICIANS REPORT OF DISABILITY

NAME

CLAYTON F PERKINS

CHART #

8-7-12-36

0939

M

The above-named individual was examined on 6/13/88
Diagnosis (impression)* Wrist injury
Plan (treatment)** referral to open surgery

Return appt. with _____ at _____ within _____
Referred to _____

Return to work/activity: This individual:
has no evidence of a contagious or infectious disease
is physically able to return to work school sports

PLEASE MARK APPROPRIATE BOX* 6/13/88 to 6/20/88
☒ Time loss authorized from _____ to _____
☐ Date released for modified work _____
☐ Date released for regular work _____
☐ No time loss authorized

Remarks: _____

Date* 6/13/88 Physician's signature* [Signature]
Print name* F. Perkins

My signature on this form authorizes release of medical information regarding this treatment to my employer _____
or their disability insurance carrier _____

Patient's signature _____ Date _____
The patient is not required to sign authorization.

Physical capabilities if applicable:

- ☐ No stooping, twisting, bending, squatting
- ☐ No work at or above shoulder level
- ☐ Minimal walking
- ☐ No repetitive gripping or bending of the _____ wrist
- ☐ No use of the _____ hand
- ☐ No pushing or pulling
- ☐ No climbing
- ☐ Dry job only
- ☐ No vehicle operation

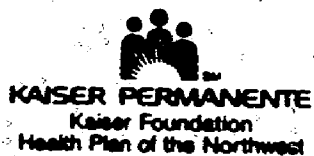
Other restrictions (see remarks section)

WEIGHT LIFTING CAPABILITIES (lbs)

- ☐ 0-10 ☐ 11-20 ☐ 21-35 ☐ 36-50 ☐ 50+
- ☐ No restrictions

* THESE AREAS MUST BE COMPLETED TO VALIDATE THE TIME LOSS.

** APPLICABLE IF PATIENT IS EMPLOYED AND JOB PERFORMANCE WILL BE EFFECTED.



PHYSICIANS REPORT OF DISABILITY

NAME CLAYTON P PERKINS
8087 12 36 0939 M
CHART # 1859-001
1 A 5 A A 2 C X

The above-named individual was examined on 6-14 19 88 for
Diagnosis (impression)* UNDISPLACED RIGHT HUMERUS GLEBOUS TUBEROSITY FRACTURE
Plan (treatment)** REST, RANGE-OF-MOTION

return appt. with DR. P.A. at Hew within 3 wks
Referred to _____

Return to work/activity: This individual:
has no evidence of a contagious or infectious disease
is physically able to return to work school sports

PLEASE MARK APPROPRIATE BOX*
☒ Time loss authorized from 6-11-88 to 7-10-88
☐ Date released for modified work _____
☐ Date released for regular work _____
☐ No time loss authorized

Remarks: _____

Date* 6-14-88 Physician's signature* [Signature]
Print name* G. J. CORLE

My signature on this form authorizes release of medical information regarding this treatment to my
employer: _____
or their disability insurance carrier: _____

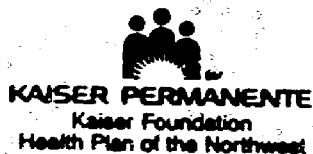
Patient's signature _____ Date _____
The patient is not required to sign authorization.

Physical capabilities if applicable:

- ☐ No stooping, twisting, bending, squatting
 - ☐ No work at or above shoulder level
 - ☐ Minimal walking
 - ☐ No repetitive gripping or bending of the _____ wrist
 - ☐ No use of the _____ hand
 - ☐ No pushing or pulling
 - ☐ No climbing
 - ☐ Dry job only
 - ☐ No vehicle operation
- Other restrictions (see remarks section)
- WEIGHT LIFTING CAPABILITIES (lbs)
☐ 0-10 ☐ 11-20 ☐ 21-35 ☐ 36-50 ☐ 50 +
☐ No restrictions

* THESE AREAS MUST BE COMPLETED, TO VALIDATE THE TIME LOSS.

** APPLICABLE IF PATIENT IS EMPLOYED AND JOB PERFORMANCE WILL BE EFFECTED.



PHYSICIANS REPORT OF DISABILITY

NAME Clayton J. Perkins

CHART # 50 57 12 36

The above-named individual was examined on 6/14 19 88 for
Diagnosis (impression)* fracture of right humerus
Plan (treatment)**

return appt. with Dr. Hill at 7/6/88 within

Referred to

Return to work/activity: This individual:

has no evidence of a contagious or infectious disease

is physically able to return to work school sports

PLEASE MARK APPROPRIATE BOX*

☐ Time loss authorized from

☒ Date released for modified work 6/22/88 to

☐ Date released for regular work

☐ No time loss authorized

Remarks: NO LIFTING WITH RIGHT ARM.
DO WORK.

Date* 6/21/88

Physician's signature*

Print name* KOSKI

My signature on this form authorizes release of medical information regarding this treatment to my

employer:

or their disability insurance carrier:

Patient's signature

The patient is not required to sign authorization.

Date

Physical capabilities if applicable:

- ☐ No stooping, twisting, bending, squatting
- ☐ No work at or above shoulder level
- ☐ Minimal walking
- ☐ No repetitive gripping or bending of the wrist
- ☐ No use of the hand
- ☐ No pushing or pulling
- ☐ No climbing
- ☐ Dry job only
- ☐ No vehicle operation

Other restrictions (see remarks section)

WEIGHT LIFTING CAPABILITIES (lbs)

- ☐ 0-10 ☐ 11-20 ☐ 21-35 ☐ 36-50 ☐ 50+
- ☐ No restrictions

* THESE AREAS MUST BE COMPLETED, TO VALIDATE THE TIME LOSS.

** APPLICABLE IF PATIENT IS EMPLOYED AND JOB PERFORMANCE WILL BE EFFECTED.