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

ROBERT A. BOWLBY, an individual,

Plaintiff,

v.

SKAMANIA COUNTY, a Washington

State County,

Defendant.

Case No.

03 2 07244 7

SUMMONS (20 Days)

RECEIVED

DEC - 8 2003

SKAMANIA COUNTY  
AUDITOR

By: [Signature]  
Address: [Signature]  
Signature: [Signature]  
Typed: [Signature]  
Date: [Signature]

**TO DEFENDANT:** A lawsuit has been started against you in the above entitled court by Robert A. Bowlby, Plaintiff. Plaintiff's claim is 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 person signing this summons 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 plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

///


Summons (20 Days) - 1

GEOFFREY B. SILVERMAN  
608 SE Tacoma, 5  
Portland, OR 97202  
(503) 222-1422

1           You may demand that Plaintiff file this lawsuit with the Court. If you do so, the  
2 demand must be in writing and must be served upon the person signing this Summons. Within  
3 14 days after you serve the demand, Plaintiff must file this lawsuit with the Court, or the service  
4 on you of this Summons and Complaint will be void. If you wish to seek the advice of an  
5 attorney in this matter, you should do so promptly so that your written response, if any, may be  
6 served on time.

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

9  
10 Dated this <sup>4th</sup> ~~1st~~ day of December 2003.  
11 *GA*

  
12 \_\_\_\_\_  
13 Geoffrey B. Silverman, OSB#01090  
14 Attorney for Plaintiff  
15 608 SE Tacoma, 5  
16 Portland, Oregon 97202  
17 (503) 222-1422  
18  
19  
20  
21  
22  
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25

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DEC 05 2003

JoAnne McBride, Clerk, Clark Co.

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

ROBERT A. BOWLBY, an individual,

Plaintiff,

v.

SKAMANIA COUNTY, a Washington

State County,

Defendant.

) Case No.

) COMPLAINT

03 2 07244 7

) (Age Discrimination; Negligent Infliction of  
) Emotional Distress)

) (Not Subject to Mandatory Arbitration)

) JURY TRIAL REQUESTED

RECEIVED

DEC - 8 2003

SKAMANIA COUNTY  
AUDITOR

Plaintiff, Robert A. Bowlby, alleges that:

**I. PARTIES**

1.1 Robert A. Bowlby (Mr. Bowlby) is an individual person, residing in Klikitat  
County, Washington.

1.2 Skamania County, Washington (Defendant) is a Washington State County,  
adjacent to Clark County, Washington.

**II. JURISDICTION**

2.1 This Court has jurisdiction over this matter pursuant to RCW 36.01.030.

2.2 Venue is proper in Clark County pursuant to RCW 36.01.050 because Clark  
County is the nearest judicial district to Skamania County.

PLAINTIFF'S COMPLAINT - 1

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### III. STATEMENT OF FACTS

3.1 Mr. Bowlby was employed by Defendant as District No. 3 Road Maintenance Supervisor at all material times.

3.2 Mr. Bowlby was employed by Defendant for 23 years before he was terminated in July 2002.

3.3 In 2002 Defendant informed Mr. Bowlby and a senior coworker, Mr. Winters, that their positions as District No. 3 and District No. 1 Road Maintenance Supervisors would be eliminated to reduce the workforce and consolidate the Road Department into one central district.

3.4 Defendant then took steps to eliminate all work related to road maintenance for both Mr. Bowlby and Mr. Winters.

3.5 Defendant then attempted to negotiate a settlement package for Mr. Bowlby and Mr. Winters.

3.6 Mr. Winters ultimately accepted Defendant's offer of the settlement package.

3.7 Mr. Bowlby objected to the settlement package offered by Defendant.

3.8 Mr. Bowlby objected to the settlement package offered by Defendant because it required him to waive his rights to unemployment benefits in violation of RCW 50.40.101.

3.9 The settlement package appeared to violate State law and policy because Defendant offered to pay Mr. Bowlby's health insurance for one year despite the fact that Mr. Bowlby would no longer be an employee of Skamania County.

3.10 Defendant advised Mr. Bowlby that this settlement package was the only offer he would receive.

3.11 Believing the settlement to be unlawful and a violation of his rights, Mr. Bowlby refused Defendant's offer.

1 3.12 Defendant then eliminated Mr. Bowlby's road maintenance crew and district and  
2 all of his responsibilities.

3 3.13 In doing so, Defendant terminated Mr. Bowlby's employment.

4 3.14 Mr. Bowlby was 61 years old at the time he was terminated from his 23-year  
5 position with Defendant.

6 3.15 Mr. Bowlby performed his job in a satisfactory manner throughout his entire  
7 career excelling to the supervisor position.

8 3.16 Terminating Mr. Bowlby in this manner violated Defendant's own personnel  
9 policies.

10 3.17 Further, Defendant failed to allow Mr. Bowlby to exercise his right to "bump"  
11 other employees with less seniority than him.

12 3.18 Despite Defendant's representation that a reduction in workforce was the reason  
13 for Mr. Bowlby's termination, after his termination Defendant's workforce in the Road  
14 Maintenance Department increased from 16 to 18 employees.

15 3.19 The additional 2 employees are younger than Mr. Bowlby, possess similar skills  
16 to Mr. Bowlby's and provide similar services to those that Mr. Bowlby had provided for  
17 23 years.

18 3.20 Further, Defendant repeatedly told Mr. Bowlby that he was too old to perform his  
19 job.

20 3.21 Mr. Bowlby was physically and mentally able and eager to perform all of his job  
21 duties.

22 3.22 Pursuant to RCW 36.45.010, Mr. Bowlby has filed a Skamania County Claim For  
23 Damage form with the Defendant.  
24  
25



1 3.23 More than 60 days have passed since Mr. Bowlby filed the Skamania County  
2 Claim For Damage form thereby satisfying his notification requirement that is a  
3 prerequisite to filing this lawsuit.

4 3.24 Mr. Bowlby has also filed a claim with the Equal Opportunity Employment  
5 Commission (EEOC) for violations of the Age Discrimination in Employment Act.

6 3.25 Mr. Bowlby has received notice from the EEOC that it has completed the  
7 processing of his charge and that he has the right to sue the respondent named in the  
8 claim, Defendant.

9 **IV. FIRST CLAIM FOR RELIEF**

10 (Age Discrimination - RCW 49.44.090 and 49.60.180)

11 4.1 Mr. Bowlby realleges and incorporates paragraphs 1.1 through 3.25 above.

12 4.2 Mr. Bowlby was discharged from his 23-year employment with Defendant in July  
13 2002.

14 4.3 Mr. Bowlby was 61 years old at the time he was discharged.

15 4.4 Mr. Bowlby performed his job in a satisfactory manner throughout his entire  
16 career.

17 4.5 Mr. Bowlby's official position was eliminated, but his duties were assumed by  
18 younger individuals possessing similar skills to Mr. Bowlby's and providing similar services to  
19 those that he had provided.

20 4.6 Defendant represented that a reduction of workforce on the Road Maintenance  
21 Department was the reason for the discharge.

22 4.7 Defendant's representation that a reduction of workforce on the Road  
23 Maintenance Department was the reason for the discharge is pretext because Defendant's  
24 workforce actually increased from 16 to 18 employees.  
25

1           4.8    Defendant's representation that a reduction of workforce on the Road  
2 Maintenance Department was the reason for the discharge is pretext because Defendant  
3 repeatedly told Mr. Bowlby he was too old to perform his job.

4           4.9    Mr. Bowlby was physically and mentally able and eager to perform all of his job  
5 duties.

6           4.10   Defendant has violated both RCW 49.44.090 and 49.60.180 and as a result of this  
7 violation Mr. Bowlby has suffered extensive harm.

8           4.11   Mr. Bowlby is entitled to a judgment against Defendant for the back and future  
9 wages entitled to him in the amount of \$357,839.00.

10          4.12   Mr. Bowlby is entitled to a judgment against Defendant for general damages  
11 including damages for pain, suffering and emotional distress in the amount of \$100,000.00.

12                   **V. SECOND CLAIM FOR RELIEF**

13                   **(Negligent Infliction of Emotional Distress)**

14          5.1    Mr. Bowlby realleges and incorporates paragraphs 1.1 through 3.25 above.

15          5.2    Defendant owed Mr. Bowlby a duty to not discriminate against him on the basis  
16 of age in violation of public policy clearly established by the legislature in RCW 49.44.090 and  
17 49.60.180.

18          5.3    Defendant breached this duty by discriminating against Mr. Bowlby on the basis  
19 of his age.

20          5.4    Defendant's breach of its duty to not discriminate against Mr. Bowlby on the  
21 basis of his age proximately caused Mr. Bowlby's extreme emotional distress.

22          5.5    Defendant has violated the common law of negligence and as a result Mr. Bowlby  
23 has suffered extreme harm.

5.6 Mr. Bowlby is entitled to a judgment against Defendant for the actual damages associated with past and future medical expenses related to his emotional distress in the amount to be proven at trial but not less than \$50,000.00.

5.7 Mr. Bowlby is entitled to a judgment against Defendant for general damages including damages for pain, suffering and emotional distress in the amount to be proven at trial but not less than of \$100,000.00.

## VI. PRAYER

**WHEREFORE**, Mr. Bowlby prays for the following relief:

6.1 On his First Claim for Relief, for judgment against Defendant for damages in the amount to be proven at trial but not less than \$457,839.00 together with Plaintiff's attorney fees, costs and disbursements incurred herein, and pre- and post-judgment interest.

6.2 On his Second Claim for Relief, for judgment against Defendant for damages in the amount to be proven at trial but not less than \$150,000.00 together with Plaintiff's costs and disbursements incurred herein, and pre- and post-judgment interest at the statutory rate.

6.3 For any additional relief deemed appropriate by this Court.

Dated this 1st day of December 2003.

Christopher Lanz, WSBA # 220  
Attorney of Record for Plaintiff  
330 SW Vancouver Ave. PO Box 848  
Stevenson, Washington 98648  
(509) 427-5363

Geoffrey B. Silverman, OSB#01090  
Attorney for Plaintiff  
608 SE Tacoma, 5  
Portland, Oregon 97202  
(503) 222-1422

TRIAL ATTORNEY: Geoffrey B. Silverman, OSB #01090 (Pro Hac Vice)

PLAINTIFF'S COMPLAINT - 6

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