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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

DEANA REIMERS, a single person,

Plaintiff,

vs

MICHAEL LANGTON, in his Official
capacity as a Ferndale Police Officer and in his
individual Capacity, and the City of Ferndale
A municipal subdivision of the State of
Washington,

Defendants.

No.

NOTICE OF REMOVAL

**(FROM THE SUPERIOR COURT OF
THE STATE OF WASHINGTON FOR
WHATCOM COUNTY, CAUSE NO.
20-2-00897-37)**

Clerk's Action Required

TO: CLERK, U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON;

AND TO: PLAINTIFF and HER COUNSEL

Defendant City of Ferndale hereby gives notice that this action is removed to the United States District Court for the Western District of Washington at Seattle from the Superior Court of Washington, in and for Whatcom County. Pursuant to 28 U.S.C. § 1441, Defendant further states as follows:

1. Intradistrict Assignment: This matter is being removed to the Western District, Seattle Division because, per Plaintiff's Complaint, the claims arose in Whatcom County, Washington. Plaintiff's Complaint was filed in Whatcom County Superior Court. Plaintiff's

1 Complaint is attached hereto as Exhibit 2. The Civil Case Cover Sheet is attached hereto as
2 Exhibit 1.

3 **2. State Court Action:** Michael Langton and the City of Ferndale are defendants in
4 a civil action filed in the Superior Court of Washington, in and for Whatcom County, *Deana*
5 *Reimers v. Michael Langton and City of Ferndale*, Cause No. 20-2-00897-37 (the “State Court
6 Action”).

7 **3. Commencement of State Court Action:** The State Court Action was
8 commenced when Plaintiff’s Summons and Complaint were filed with the Clerk of the
9 Whatcom County Superior Court, on or about August 6, 2020. The City defendant was served
10 with the Summons and Complaint on August 27, 2020. This Notice of Removal is timely, in
11 that it is being filed within thirty (30) days of filing and service.

12 **4. Record in State Court:** The following pleadings constitute all of the process,
13 pleadings and orders received by and filed by the parties in this action up to the present time:

- 14 • Summons;
- 15 • Complaint for Declaratory and Injunctive Relief and for Damages and Attorney
16 Fees;
- 17 • Case Information Cover Sheet;
- 18 • Affidavit/Declaration of Service on Michael Langton;
- 19 • Affidavit/Declaration of Service on City of Ferndale; and
- 20 • Notice of Appearance and Intent to Video Record Depositions.

21 True and correct copies of all the above pleadings are attached to the Declaration of
22 George A. Mix Regarding Records and Proceedings in State Court as Exhibit 1.

1 **5. Constitutional Rights Claims Form the Basis for Federal Court Jurisdiction:**

2 Plaintiff's Complaint alleges claims under federal law. Specifically, she seeks a declaration
3 under the Fourth Amendment, Art. 1, Sec. 7 that her right to be free from illegal detention was
4 violated. See Complaint, "Facts" Section, Paragraph 7.

5 She also seeks an injunction under 42 U.S.C. § 1983 *et seq.*, the Fourth Amendment, and
6 *Rodriguez v. United States*, 135 S. Ct. 1609 (2015), enjoining Defendants from "detaining
7 motorists stopped for traffic infractions long after the time required to process the traffic
8 infraction have elapsed for the purpose of holding said motorists at the scene to be subjected to
9 a canine search." See Complaint, "Facts" Section, Paragraphs 8, 9, 12, and 13, and "Wherefore"
10 Section, Paragraph 2.

11 Plaintiff also asserts claims under 42 U.S.C. § 1983 against a City of Ferndale employee.
12 See Complaint, "Facts" Section, Paragraphs 10, 11, and 14, and "Wherefore" Section,
13 Paragraph 3. Plaintiff explicitly puts at issue a federal question by alleging a City of Ferndale
14 police officer, Officer Michael Langton, "acted in his official capacity as a Ferndale Police
15 Officer and this was acting under color of Washington State law and is thus liable as individuals
16 [*sic*] for damages under 42 USC 1983, including punitive damages." See Complaint, "Facts"
17 Section, Paragraph 11. This Court has original jurisdiction over all civil actions arising under
18 the Constitution pursuant to 28 U.S.C. § 1331.

19 Pursuant to 28 U.S.C. § 1367(a) this Court has supplemental jurisdiction over all other
20 claims that are so related to the claims in this action within original jurisdiction in that they
21 form part of the same case or controversy under Article III of the United States Constitution.
22 Accordingly, all claims in this action may be removed to this Court pursuant to 28 U.S.C. §
23 1441.

CERTIFICATE OF SERVICE

I, Sherry Toves, certify that on September 17, 2020 I caused to be served a true and correct copy of the foregoing NOTICE OF REMOVAL with the Clerk of the Court using the CM/ECF System and caused to be served a true and correct copy via the method indicated below and addressed to the following:

Attorney for Plaintiff
William Johnston
PO Box 953
Bellingham WA 98227
 Legal Messenger
 U.S. Mail
 CM/ECF

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

s/Sherry Toves
Mix Sanders Thompson, PLLC
1420 Fifth Ave Ste 2200
Seattle, WA 98101
Tel: 206-521-5989
Fax: 888-521-5980
E: sherry@mixsanders.com

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEANA REIMERS

(b) County of Residence of First Listed Plaintiff Whatcom
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
William Johnston
401 Central Avenue
P O Box 953; Bellingham, WA 98227; 360-676-1931

DEFENDANTS

OFFICER MICHAEL LANGTON; CITY OF FERNDALE

County of Residence of First Listed Defendant Whatcom
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
George A. Mix; Karen A.B. Hernandez
MIX SANDERS THOMPSON, PLLC; 1420 Fifth Avenue, Suite 2200
Seattle, WA 98101
206-521-5989

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION		
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1441
Brief description of cause:
Civil Rights Complaint

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 09/16/2020 SIGNATURE OF ATTORNEY OF RECORD: s/George A. Mix

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT

2

20-2-00897-37
SM 2
Summons
8653653



SCANNED 2

CC
2020 AUG -6 P 1:58
WASHINGTON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

DEANA REIMERS, a single)
person,)
)
Plaintiff,)
)
vs)
)
MICHAEL LANGTON, in his)
Official capacity as a Ferndale)
Police Officer and in his individual)
Capacity, and the City of Ferndale)
A municipal subdivision of the)
State of Washington,)
)
)
Defendants.)

No. **20 2 00897 37**

SUMMONS

ROBERT E. OLSON
\$240.

A lawsuit has been started against you in the above-entitled court by DEANA REIMERS, plaintiff. Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against the lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the plaintiff within 20 days after the service of this Summons, or within 60 days if this Summons was served outside the State of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the plaintiff is entitled to what she asks for because you have not responded. If

SUMMONS- 1

WILLIAM JOHNSTON
Attorney at Law
401 Central Avenue
Bellingham, WA 98225
Phone: (360) 676-1931
Fax: (360) 676-151

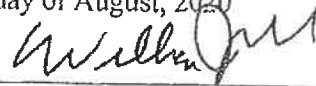
you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file the lawsuit with the court. If you do so, the demand must be in writing and must be served upon the plaintiff. Within 14 days after the service of the demand, the plaintiff must file this lawsuit with the court, or the service on you of this Summons and Complaint will be void.

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

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

DATED this ^{5th} day of August, 2020



WILLIAM JOHNSTON, WSBA #6113
Attorney for Plaintiff DEANA REIMERS

SUMMONS- 2

WILLIAM JOHNSTON
Attorney at Law
401 Central Avenue
Bellingham, WA 98225
Phone: (360) 676-1931
Fax: (360) 676-151

20--2--00897--37
CMP 3
Complaint
8663672



SCANNED 6

FILED
CLERK
2020 AUG -6 P 1:58

YIELD
WASH STATE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

DEANA REIMERS, a single)
person,)
)
Plaintiff,)

No. 20 2 00897 37

vs)

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
FOR DAMAGES, AND
ATTORNEY FEES

MICHAEL LANGTON, in his)
Official capacity as a Ferndale)
Police Officer and in his individual)
Capacity, and the City of Ferndale)
A municipal subdivision of the)
State of Washington,)

Defendants.)
)
)
)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND FOR DAMAGES AND ATTORNEY FEES

1

William Johnston
Attorney at Law
PO Box 953
Bellingham, Washington 98227
Phone: 360-676-1931

COMES NOW the plaintiff, by and through her attorney, WILLIAM JOHNSTON, and for his cause of action against the defendants MICHAEL LANGTON, in his official capacity as a Ferndale police officer and in his individual capacity, and the City of Ferndale, a municipality and subdivision of the State of Washington, and alleges as follows:

FACTS

1. The plaintiff Deana Reimers is an adult resident of the State of Washington who resides in Blaine, Whatcom County, Washington.
2. Michael Langton is a adult resident of the State of Washington who is a police officer employed by the city of Ferndale, Washington.
3. The City of Ferndale is a municipal subdivision of the State of Washington.
4. On or about February 9, 2020 at or before 21:19 pm, plaintiff Reimers was driving her car in Ferndale, Washington and was stopped by Ferndale police officer Michael Langton, ostensibly for traffic violations.
5. Langton's stop of Reimers was a pretext to investigate her for other offenses, specifically drug offenses. Langton desired to investigate Reimers for drug offenses and to advance this plan Langton purposely delayed his decision to cite Reimers and held her in detention until Langton could fetch a canine officer to conduct a dog sniff of Ms. Reimers' car.
6. Langton requested assistance from a canine officer after stopping Reimers for the traffic violation and, in response, Whatcom County Deputy Sheriff John Steubel was summoned to

the scene. Deputy Steubel (the canine officer) was dispatched at 21:27 pm; Steubel was enroute at 21:29:09 and arrived at the scene of the traffic stop at 21:38 pm. Officer Langton's report specifies 21:19 as the time of the traffic stop. Steubel arrived at the scene long after the traffic stop and long after a reasonable police officer would have completed his duties as to whether a traffic citation ought issue. Reimers was handed a traffic citation by Langton at 21:51.

7. Plaintiff Reimers seeks a declaration from this court that her right to be free from illegal detention under the 4th amendment and Art. 1, Sec. 7 was violated by Langton's decision to hold Reimers long after the time had elapsed for investigation of the alleged traffic offense.
8. Plaintiff Reimers seeks an injunction from this court against defendants enjoining them in the future from using traffic stops as pretexts for holding motorists for canine searches and from detaining alleged traffic offenders longer than the norm time for processing a traffic offense, i.e. a maximum of ten (10) minutes.
9. 42 USC 1983 et seq. makes unlawful any deprivation of civil rights under color of state law. Plaintiff's right to be protected against unlawful and unreasonable detention under the 4th Amendment was violated by the actions of the defendants in this case.
10. At all times pertinent herein defendant Ferndale police officer Michael Langton, acted in his official capacity as a Ferndale police officer and in his individual capacity.

11. As individual Michael Langton acted in his official capacity as a Ferndale police officer and thus was acting under color of Washington State law and is thus liable as individuals for damages under 42 USC 1983, including punitive damages.

12. To overcome any defense of qualified immunity, plaintiff alleges that Langton violated the clearly established constitutional right laid down in *Rodriguez v. United States* 135 S. Ct. 1609 (2015), which held that the authority of the government to hold a motorist stopped for a traffic infraction is limited. The police officer must expeditiously investigate the infraction and then cite and release the motorist. Any further detention of the motorist violates the 4th amendment. Langton violated the *Rodriguez* rule by not citing Deana Reimers for the traffic infractions Langton alleges that she committed and releasing her. Instead, Langton stalled the process of the act of handing the driver the citation for the traffic infraction and thereby illegally detained Deana Reimers, the driver, at the scene until a canine officer could be summoned to the scene and conduct a canine sniff of the suspect vehicle. Langton's action also violated clearly established state law; see *State v. Rife* 133 Wn2d 140 (1997); *In re Armed Robbery*, 99 Wn2d 106 (1983).

13. The detention of plaintiff at the scene of a traffic stop for more than 10 minutes for the purpose of detaining the motorist so a canine officer could be summoned to do a drug dog sniff of the vehicle violated the rule set out in *Rodriguez v. United States* which requires a police officer to expeditiously process the traffic citation and then release the motorist. *Rodriguez*, decided in 2015, made clear that there

is no incidental executive authority to detain motorist at the scene of a traffic stop to undergo other police investigation. The 7 minute detention of Rodriguez at the scene after the police officer handed Rodriguez the citation violated the 4th amendment. The law was clearly established at the time Langston detained plaintiff more than a reasonable time to write out a traffic infraction citation and hand it to her.

14. The City of Ferndale is liable as a municipality because it has failed to adequately train its police officers not to use traffic stops as a pretext for canine searches of motor vehicles and has permitted this police policy custom or usage or practice (stalling the process for the act of handing the driver the citation for the traffic infraction and keeping the driver at the scene under a canine officer can be summoned to the scene and conduct a canine sniff of the suspect vehicle) to become a policy for the City of Ferndale.


WHEREFORE, plaintiff Deana Reimers prays for the following relief:

1. Plaintiff Reimers seeks a declaration from this court that officer's Langton's action in detaining Reimers long after the time required to process a traffic infraction has elapsed for the purpose of holding Reimers at the scene to be subjected to a canine search violated the 4th amendment and clearly established case law.
2. Plaintiff Reimers seeks an injunction from this court against defendants enjoining them in the future from detaining motorists stopped for traffic infractions long after the time

required to process the traffic infraction has elapsed for the purpose of holding said motorists at the scene to be subjected to a canine search.

3. For judgment against the defendants who were acting under color of state law for damages, attorney fees and costs pursuant to 42 USC 1983 and 42 USC 1988 including punitive damages.

5/12
Dated this day of August, 2020


William Johnston WSBA 6113
Attorney for Plaintiff Deana Reimers