



12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE WESTERN DISTRICT OF WASHINGTON

C09 5119 KLS

14  
15 PHILIP CHINN,

16  
17 Plaintiff,

18  
19 v.

20  
21 BENJAMIN BLANKENSHIP,  
22 individually and in his capacity as  
23 a TROOPER of the WASHINGTON  
24 STATE PATROL and JANE DOE  
25 BLANKENSHIP, and the marital  
26 community thereof; RICHARD C.  
27 PIGMON, individually and in his  
28 Official capacity as a TROOPER of  
29 the WASHINGTON STATE PATROL  
30 and JANE DOE PIGMON, and the  
31 Marital community thereof; MARK S.  
32 SVINTH individually and in his  
33 Official Capacity as a TROOPER  
34 of the WASHINGTON STATE PATROL  
35 and JANE DOE SVINTH and the  
36 Marital community thereof;  
37 JONATHAN P. PITTS, individually  
38 and in his Official capacity as a  
39 TROOPER of the WASHINGTON  
40 STATE PATROL, and JANE DOE  
41 PITTS and the Marital Community

) NO.  
) COMPLAINT FOR VIOLATIONS OF  
) CIVIL RIGHTS, FALSE ARREST, FALSE  
) IMPRISONMENT, MALICIOUS  
) PROSECUTION, BATTERY, ASSAULT,  
) INTENTIONAL INFLICTION OF  
) EMOTIONAL DISTRESS, NEGLIGENCE  
) JURY TRIAL DEMANDED

1582 # T-5212

CHINN V. CITY OF SEATTLE-COMPLAINT

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1 political affiliations, false arrest, false imprisonment, excessive force, malicious  
2 prosecution based on the false arrest and police false statements concerning the  
3 circumstances of the arrest and violations of his First, Fourth, Fifth, Eighth, and 14<sup>th</sup>  
4 Amendment Rights.

5       1.2 Defendant BENJAMIN BLANKENSHIP and JANE DOE BLANKENSHIP  
6 constitute a marital community under the laws of the State of Washington and upon  
7 belief reside in Grays Harbor County within the Western District of Washington State.  
8 Upon belief, BENJAMIN BLANKENSHIP is and was at the time of the injuries  
9 complained of in this complaint, an employee and/or agent of the WASHINGTON  
10 STATE PATROL (hereinafter identified as WSP) acting within the scope of his duties.

11       1.3 Defendant RICHARD C. PIGMON and JANE DOE PIGMON constitute a  
12 marital community under the laws of the State of Washington and upon belief reside in  
13 Grays Harbor County within the Western District of Washington State. Upon  
14 knowledge and belief, RICHARD C. PIGMON is and was at the time of the injuries  
15 complained of in this complaint, an employee and/or agent of the WASHINGTON  
16 STATE PATROL (hereinafter identified as WSP) acting within the scope of his duties.

17       1.4 Defendant MARK S. SVINTH and JANE DOE SVINTH constitute a marital  
18 community under the laws of the State of Washington and upon belief reside in Grays  
19 Harbor County within the Western District of Washington State. Upon belief, MARK S.  
20 SVINTH is and was at the time of the injuries complained of in this complaint, an

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1 employee and/or agent of the WASHINGTON STATE PATROL (hereinafter identified  
2 as WSP) acting within the scope of his duties.

3 1.5 Defendant JONATHAN P. PITTS and JANE DOE PITTS constitute a  
4 marital community under the laws of the State of Washington and upon belief reside in  
5 Grays Harbor County within the Western District of Washington State. Upon belief,  
6 JONATHAN P. PITTS is and was at the time of the injuries complained of in this  
7 complaint, an employee and/or agent of the WASHINGTON STATE PATROL  
8 (hereinafter identified as WSP) acting within the scope of his duties.

9 1.6 Defendant CARRIE A. GORDON and JOHN DOE GORDON constitute a  
10 marital community under the laws of the State of Washington and upon belief reside in  
11 Grays Harbor County within the Western District of Washington State. Upon belief,  
12 CARRIE A. GORDON is and was at the time of the injuries complained of in this  
13 complaint, an employee and/or agent of the WASHINGTON STATE PATROL  
14 (hereinafter identified as WSP) acting within the scope of her duties.

15 1.7 DEFENDANT CITY OF ABERDEEN is a government entity in GRAYS  
16 HARBOR COUNTY governed and functioning under the laws of the State of  
17 Washington. It employs John and Jane Doe Officers of the ABERDEEN POLICE  
18 DEPARTMENT and other police officers whose identities are unknown, who were  
19 involved in PLANNING THE SURVEILLANCE, HARASSMENT, CROWD CONTROL,  
20 and other functions at and on the roads around the demonstration at which Defendant  
21 was arrested on the way to, and participated in the detention, false arrest, false

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1 imprisonment, and use of excessive and unnecessary force against Plaintiff and the  
2 resulting malicious prosecution.

3 1.8 DEFENDANT COUNTY OF GRAYS HARBOR is a government entity in  
4 GRAYS HARBOR COUNTY governed and functioning under the laws of the State of  
5 Washington. It employs John and Jane Doe Officers of the COUNTY OF GRAYS  
6 HARBOR and other officials and police officers whose identities are unknown, who  
7 were involved in PLANNING THE SURVEILLANCE, HARASSMENT, CROWD  
8 CONTROL, and other functions at and on the roads leading to the demonstration at  
9 which Defendant was arrested on the way to, and participated in the detention, false  
10 arrest, false imprisonment, and use of excessive and unnecessary force against  
11 Plaintiff and the resulting malicious prosecution, and or participated in the charging  
12 and malicious prosecution of Plaintiff

13 1.9 There are other persons, identities presently unknown to Plaintiff who  
14 are, and were at all times mentioned herein, supervisors, incident commanders,  
15 training, and/or disciplining officers, and/or decision-makers of the WASHINGTON  
16 STATE PATROL, ABERDEEN POLICE DEPARTMENT, AND OR GRAYS HARBOR  
17 SHERIFF'S OFFICE who acted in concert with the above named Defendants and who  
18 devised or approved the police actions responding to the demonstration enroute to  
19 which Plaintiff was arrested and/or to Plaintiff in particular and taken in the incident in  
20 question thereto that is the subject of this action and in doing the things hereinafter

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1 alleged, acted under color of state law as agents of the WASHINGTON STATE  
2 PATROL, and with that agency's full consent and approval.

3 1.10 DOES 1-250 are, and were at all times mentioned herein, OFFICERS,  
4 Supervisors, Incident Commander for this incident , involved actors, and elected or  
5 appointed Police or Governmental Officials Involved In The Planning, Creation,  
6 Development, training in, policy leading to the surveillance, false stop, false arrest,  
7 false imprisonment, and or use of force against Plaintiff and the violations of Plaintiff's  
8 Constitutional Rights in the incident which is the subject of this action, or Exercise Of  
9 Police Force and Control, and/or failing to discipline officers thus tacitly encouraging  
10 this incident to occur employed against Plaintiff in the incident which is the subject of  
11 this action, and in committing the acts and omissions herein alleged hereinafter  
12 alleged, acted under color of state law as agents of the WASHINGTON STATE  
13 PATROL, ABERDEEN POLICE DEPARTMENT, GRAYS HARBOR SHERIFF'S  
14 OFFICE, CITY OF ABERDEEN, COUNTY OF GRAYS HARBOR and/or any political  
15 subdivision thereof, who came to the scene, and violated Plaintiff's rights as  
16 discussed.

17 1.11 This action is brought pursuant to the First, Fourth, Fifth, Eighth, and  
18 Fourteenth Amendments to the United States Constitution, Article 1, Section 5 and  
19 Article 1, Section 7 of the Washington State Constitution, 42 U.S.C. 1983, 1988,  
20 Revised Code of Washington Title 9, Chapter 62, Section 10(1), Washington State

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1 common law prohibiting assault, battery, intentional infliction of emotional distress,  
2 false arrest and false imprisonment, and Washington common law negligence.

3 1.12 On November 28, 2007, counsel for Plaintiff mail-served the State of  
4 Washington Office of Financial Management, The City of Aberdeen, and the County of  
5 Grays Harbor with notices of claim. The State acknowledged the claim on November  
6 30, 2007 and rejected it by letter on January 22, 2008. The Washington Cities  
7 Insurance Authority rejected the claim on behalf of the City of Aberdeen on December  
8 6, 2007. To date, the County of Grays Harbor has not responded at all.

## 10 II. FACTS

11 2.1 In late April and early May of 2007 the US military loaded and received  
12 for loading equipment and material heading to the war in Iraq through, at, and loaded  
13 and assisted by the civilian Port of Grays Harbor in Aberdeen, WA.

14 2.2 In response, peaceful and orderly lawful protests were held in the City  
15 throughout that time.

16 2.3 At that time, Aberdeen Police Captain Dave Johnson publicly announced  
17 that participants in these demonstrations would be "shadowed" and that some of them  
18 were and would be stopped.

19 2.4 Other law enforcement agencies provided pictures and pictures of  
20 license plates of suspected "demonstrators" to WSP and local law enforcement and

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1 many of those individuals were followed and stopped by WSP and local law  
2 enforcement on contrived and legally unfounded pretexts.

3 2.5 Some of those individuals were given unfounded traffic tickets and or  
4 threatened.

5 2.6 On May 6, 2007, Plaintiff left Olympia to drive to Aberdeen for a peaceful  
6 march and demonstration. As he left Olympia, DEFENDANTS WSP TROOPERS  
7 JONATHAN P. PITTS and CARRIE A. GORDON who had been conducting  
8 surveillance in Olympia, without cause or justification on those alleged to have been  
9 intending to participate in the demonstration in question, called in an "attempt to  
10 locate" alert on Plaintiff's vehicle giving the make, model, and color of the car and the  
11 license plate of it stating that it should be pulled over because the vehicle had "three  
12 known anarchists" riding in it, and directed dispatch to alert the officers that stopped  
13 the vehicle to notify the Aberdeen Police Department so that their officers could then  
14 begin to follow Plaintiff.

15 2.7 Plaintiff drove carefully, observing all traffic laws as he proceeded  
16 towards Aberdeen.

17 2.8 Defendant WSP TROOPER BENJAMIN BLANKENSHIP spotted  
18 Plaintiff's car from the Devonshire overpass on SR 12 as Plaintiff drove past, at or  
19 slightly under the speed limit, identified it as matching the attempt to locate code, and  
20 began following Plaintiff's car.

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1           2.9. Plaintiff continued to drive in a safe and lawful manner, driving with  
2 traffic. As traffic grew heavier and slowed down, Plaintiff slowed down with it.

3           2.10. Plaintiff had not consumed any alcohol or controlled substances, and  
4 was not impaired in anyway.

5           2.11. Defendant BLANKENSHIP followed Plaintiff's car for several miles,  
6 during which time Plaintiff committed no law violations.

7           2.12. Despite the fact that Plaintiff had committed no traffic violations or  
8 violations of law, BLANKENSHIP pulled Plaintiff over at milepost 5 in Central Park.

9           2.13. Despite the fact that Plaintiff exhibited no signs of being intoxicated or  
10 driving impaired, and no odor or physical evidence of any intoxicating substance  
11 whatsoever, BLANKENSHIP insisted on giving Plaintiff a breathalyzer test.

12           2.14. Even though Plaintiff's blood alcohol level registered as 0%, that did not  
13 deter BLANKENSHIP. He, by now joined by two other Defendant Troopers,  
14 W.S.P.TROOPER RICHARD C. PIGMON and W.S.P.TROOPER MARK S. SVINTH,  
15 still insisted that Plaintiff was driving under the influence, and subjected him to a  
16 variety of tests.

17           2.15 Plaintiff passed all of the physical tests without difficulty, with the slight  
18 exception of a balance test (due to an inner ear infection that he informed Defendants  
19 of).

20           2.16 In spite of that, Defendants BLANKENSHIP, PIGMON and SVINTH,  
21 insisted that Plaintiff was under the influence of marijuana, and arrested him and took

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1 him off to the Grays Harbor County Jail where he was held for several hours before  
2 ...being released on bail.

3 2.17. The criminal case against Plaintiff was filed based on false information  
4 given by Defendants BLANKENSHIP, PIGMON and SVINTH and continued even for  
5 many weeks after the lab tests came back negative for all substances, before the  
6 Prosecutor's office finally moved to dismiss with prejudice, with a dismissal motion for  
7 lack of probable cause having been filed.

8 2.18. Meanwhile, Defendant still has a charge of DUI, a serious offense,  
9 permanently on his record, which can be used against him in a variety of ways,  
10 despite having not committed any such violation. .

11 2.19 The case fundamentally disrupted Plaintiff's life and work, and caused him  
12 to have to expend a significant amount of money in attorney's fees.

13 2.20. Plaintiff violated no law, and the arrest was narrowly calculated to justify  
14 stopping and harassing Plaintiff and the passengers in his vehicle based solely on  
15 supposed political affiliation.

16 2.21. Plaintiff's arrest also deprived him of his First Amendment Right to  
17 attend the demonstration in question and was specifically intended to do so.

18 2.22. The improper attempt to locate code, and the stop, detention, and arrest  
19 of Plaintiff is and was part of a pattern and practice.

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**III. STATEMENT OF DAMAGES**

3.1 As a direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiff sustained deprivation of his First and Fourth Amendment Rights, deprivation of liberty, pain and suffering and injury in an amount that will be established at trial.

3.2 As a further direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiff had to retain legal counsel to protect his liberty and vindicate his rights in court at an amount to be established at trial and for which he is entitled to be reimbursed.

3.3 As a further direct and proximate result of the intentional and negligent acts of the Defendants, Plaintiff underwent several hours of imprisonment and then wrongful prosecution on a charge with great legal and societal consequences and impact.

3.4 Plaintiff is entitled to compensation for the Constitutional and personal harms Defendants inflicted on him, and the chilling effect their actions had on the exercise of his First Amendment Rights.

3.5 Plaintiff is entitled to compensation for the bail he was forced to post to end his false imprisonment.

1 **IV. CAUSE OF ACTIONS:**

2  
3 **COUNT ONE**  
4 **VIOLATION OF CIVIL RIGHTS**  
5 **(TITLE 42 U.S.C. SECTION 1983)**  
6 **(As To All Individual Defendants and DOES 1-100)**  
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8 4.1. Plaintiff realleges and incorporates herein by reference the allegations set  
9 forth in Paragraphs 1 through 3.5 of this complaint.

10 4.2. In committing the acts complained of herein, Defendants acted under  
11 color of state law to deprive Plaintiff as alleged herein, of certain constitutionally  
12 protected rights including, but not limited to:

13 (a) The right not to be deprived of liberty without due process of law;

14 (b) The right to be free from invasion or interference with Plaintiff zone of  
15 privacy;

16 (c) The right to equal protection of the law;

17 (d) The right to be free from unreasonable search and seizure;

18 (e) The right to be free from police use of excessive force;

19 (f) The right to be free from discriminatory law enforcement;

20 (g) The right to be free from cruel and unusual punishment.

21 (h) The Rights to participate in a peaceful and lawful First Amendment exercise,  
22 to Freely Express his political views, to Petition the Government for Redress of

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1 Grievances, to Freely Associate with and Assemble with others to do so without fear  
2 of wrongful arrest for doing so.

3 (i) The right to be free from False Arrest, False Imprisonment, and Malicious  
4 Prosecution, all in violation of his Fourth and Fifth Amendment Rights.

5 4.3 In violating Plaintiff's rights as delineated above, and other rights according  
6 to proof, Defendants acted by verbal threat and intimidation, use of force, unjustified  
7 arrest, false imprisonment, or by ratifying personally the above listed conducts, and/or  
8 cruel and unusual punishment for a crime Plaintiff did not commit, Defendants acted  
9 to violate Plaintiff's rights under the First, Fourth, Fifth, and Eighth Amendments to the  
10 U.S. Constitution.

11 4.4 By knowingly providing false information to the prosecutors to ensure that  
12 Plaintiff was prosecuted, Defendants acted to maliciously prosecute Plaintiff in  
13 violation of Plaintiff's Fifth and Sixth Amendment Rights.

14 4.5 DOES 1-100 are the other officers involved directly in the incident in  
15 question.

16 4.6 As a direct and proximate result of the violations of his Constitutional rights  
17 by Defendants, and each of them, Plaintiff suffered general and special damages as  
18 alleged in this complaint.

19 4.7 The conduct of Defendants was willful, malicious, oppressive, and/or  
20 reckless, and was of such a nature that punitive damages should be imposed in an  
21 amount commensurate with the wrongful acts alleged herein.

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1           WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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10           4.8 Plaintiff realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 4.7 of this complaint.

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**COUNT TWO**  
**Violation of Civil Rights**  
**(Title 42 U.S.C. Section 1983)**  
**(As To DEFENDANTS CITY OF ABERDEEN, COUNTY OF GRAYS HARBOR, and**  
**Does 101-250)**

          4.9 At all times herein mentioned, Defendant City of Aberdeen acted with deliberate intent to harass, disrupt, impede, and prevent intended participants in the demonstrations in question from reaching the demonstrations, and to have them cited and arrested, and created and participated in the creation of an inter-agency policy to do so, failed to properly train, supervise, and discipline officers who engaged in this conduct. All of this directly resulted in the harm to and arrest of Plaintiff, and all of the harm related thereto and following Plaintiff. This policy and actions based thereon deprived Plaintiff of his rights secured by the Constitution of the United States, including, but not limited to his rights under the First, Fourth, Fifth, Eighth, and 14th Amendments to the U.S. Constitution, and his rights under the Washington State Constitution.

          4.10. At all times herein mentioned, Defendant Grays Harbor County acted with deliberate intent to harass, disrupt, impede, and prevent intended participants in the demonstrations in question from reaching the demonstrations, and to have them

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1 cited and arrested, and created and participated in the creation of an inter-agency  
2 policy to do so and failed to properly train, supervise, and discipline officers who  
3 engaged in this conduct. All of this directly resulted in the harm to and arrest of  
4 Plaintiff, and all of the harm related thereto and following Plaintiff, as well as the  
5 malicious prosecution of Plaintiff, which was not based on actual evidence and which  
6 continued even after the last potential evidence was disproved. This policy and  
7 actions based thereon deprived Plaintiff of his rights secured by the Constitution of the  
8 United States, including, but not limited to his rights under the First, Fourth, Fifth,  
9 Eighth, and 14th Amendments to the U.S. Constitution, and his rights under the  
10 Washington State Constitution.

11 4.11. The Doe supervisors of named Defendants acted deliberately to ratify  
12 the above-described policy and actions, and participated in the creation and  
13 implementation of this policy, and failed to properly train, supervise, and discipline  
14 named Defendants and other involved officers,

15 4.12 In committing the acts complained of herein and in their official and  
16 individual capacity, Doe Defendants acted with a design and intention to deprive  
17 Plaintiff of his rights secured by the Constitution of the United States and acted with  
18 deliberate indifference to Plaintiff's rights.

19 4.13 As a direct and proximate result of the acts complained of herein, Plaintiff  
20 has suffered general and special damages as set forth in this complaint.

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4.14 The conduct of Defendants was willful, malicious, oppressive, and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**COUNT THREE**  
**Violation of Civil Rights**  
**(WASHINGTON STATE CONSTITUTION)**  
**(As to All Defendants)**

4.15 Plaintiff realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 4.14 of this complaint.

4.16 Defendants' totally unjustified stop, detention, and arrest of Plaintiff was unlawful as he had violated no law, and it was based entirely on his intent to engage in legal conduct that is protected as free speech under Article 1 of the Washington State Constitution, Section 5, and Plaintiff violated no law.

4.17 Plaintiff was forcibly and illegally arrested simply based on his alleged political associations and affiliations and his intent to exercise his free speech and association rights. Defendants had no legal basis for arresting and charging Plaintiff.

4.18 Defendants' arrest of Plaintiff was also part of and calculated to justify the policy discussed in counts one and two above.



1           4.19 As a direct and proximate result of the violation of his Constitutional  
2 rights by Defendants, and each of them, Plaintiff suffered general and special  
3 damages as alleged in this complaint.

4           4.20 The conduct of Defendants was willful, malicious, oppressive, and/or  
5 reckless, and was of such a nature that punitive damages should be imposed in an  
6 amount commensurate with the wrongful acts alleged herein.

7 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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9   **COUNT FOUR**  
10    **FALSE ARREST**  
11    **(As to All Defendants)**  
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13           4.21 Plaintiff realleges and incorporates herein by reference the allegations  
14 set forth in Paragraphs 1 through 4.20 of this complaint.

15           4.22. Defendants BLANKENSHIP, assisted by PIGMON and SVINTH, after  
16 making an improper and pretextual stop of Plaintiff, based on the blatantly unlawful  
17 and unjustified 'attempt to locate' alert code put out by Defendants PITTS and  
18 GORDON, based solely on supposed political affiliation, detained and then arrested  
19 Plaintiff for a serious violation that their own evidence and tests proved he had not  
20 committed.

21           4.23. This arrest was based solely on improper motives based on Plaintiff's  
22 supposed political affiliations and intent to engage in First Amendment activity, which  
23 they sought to and succeeded in preventing him from engaging in.

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1           4.24. Defendants' detention, seizure and arrest of Plaintiff without probable  
2           cause or a warrant violated Plaintiff's rights under Article 1 of the Washington State  
3           Constitution, Section 7.4.4, and further resulted in the malicious prosecution which  
4           followed, and the harm caused thereby.

5           4.25. The conduct of Defendants was willful, malicious, oppressive and/or  
6           reckless, and was of such a nature that punitive damages should be imposed in an  
7           amount commensurate with the wrongful acts herein alleged.

8           4.26. As a direct and proximate result of the acts complained of herein,  
9           Plaintiff has suffered general and special damages as set forth in this complaint.

10          WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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**COUNT FIVE**  
**FALSE IMPRISONMENT**  
**(As to all WSP Defendants, and Does 1-100)**

15          4.27. Plaintiff realleges and incorporates herein by reference the allegations  
16          set forth in Paragraphs 1 through 4.26 of this complaint.

17          4.28. As a result of the false arrest detailed above, Plaintiff was arrested,  
18          taken off to jail, and held for several hours until forced to post bail to gain his release,  
19          without cause or justification.

20          4.29. Plaintiff was unjustly deprived of liberty for that period and subjected to  
21          abuses therein.

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1           4.36. As a direct and proximate result of the violation of his rights by  
2 Defendants, and of Defendants' tortious conduct towards Plaintiff, Plaintiff suffered  
3 general and special damages as alleged in this complaint.

4           4.37 The detention, arrest and the resulting abuse of Plaintiff was directly and  
5 proximately caused by Defendants' training, supervision and failure to discipline, and  
6 the above discussed deliberate policies.

7           4.38. The conduct of Defendants was willful, malicious, oppressive, and/or  
8 reckless, and was of such a nature that punitive damages should be imposed in an  
9 amount commensurate with the wrongful acts alleged herein.

10           WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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**COUNT SEVEN**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(As to All Defendants)**

17           4.39. Plaintiff realleges and incorporates herein by reference the allegations  
18 set forth in Paragraphs 1 through 4.38 of this complaint.

19           4.40. In carrying out the detention, arrest, charging of Plaintiff with DUI, further  
20 abuse, and other acts alleged throughout this complaint, Defendants, and each of  
21 them sought to cause emotional distress and trauma to Plaintiff, and Plaintiff did suffer  
22 such emotional distress with accompanying physical symptoms.

**CHINN V. CITY OF SEATTLE-COMPLAINT**

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ATTORNEY FOR PLAINTIFF

1           4.41. As a direct and proximate result of the violation of his constitutional  
2 rights by Defendants and their other tortious conduct against him, Plaintiff suffered  
3 general and special damages as alleged in this complaint.

4           4.42. The conduct of Defendants was willful, malicious, oppressive, extreme  
5 and outrageous and/or reckless, and was of such a nature that punitive damages  
6 should be imposed in an amount commensurate with the wrongful acts alleged herein.

7           WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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**COUNT EIGHT**  
**Malicious Prosecution**  
(As to all Defendants)

13           4.43 Plaintiff realleges and incorporates herein by reference the allegations  
14 set forth in Paragraphs 1 through 4.42 of this complaint.

15           4.44. Defendants' stop, detention, arrest and of Plaintiff was based on a  
16 blatantly false pretext in retaliation for his alleged political affiliations, and the exercise  
17 of Plaintiff's rights under the Washington State Constitution and, gave false  
18 information to the Grays Harbor County Prosecutors' Office, assisting that office in  
19 prosecuting Plaintiff despite his complete lack of illegal activity. These actions  
20 constitute malicious and retaliatory prosecution, a violation of the Revised Code of  
21 Washington Title 9, Chapter 62, Section 10(1). The prosecution, which were  
22 eventually dismissed, was a direct result of the false arrest of Plaintiff

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1           4.45. Defendant Grays Harbor County deliberately prosecuted Plaintiff despite  
2 negative test results and a lack of any evidence that Plaintiff had committed any  
3 violation, and maintained that prosecution for a significant period of time even after the  
4 lab tests came back negative, until finally dismissing the case in the face of a  
5 dismissal motion and pending hearing.

6           4.46 As a direct and proximate result of the violation of his Constitutional  
7 rights by Defendants and Defendants other tortious conduct, Plaintiff suffered general  
8 and special damages as alleged in this complaint and had to expend personal  
9 resources to hire counsel to vindicate him. This prosecution also further exacerbated  
10 the emotional distress, anxiety, fear, loss of sleep and other physical harm to Plaintiff  
11 and further disrupted his life.

12           4.47 The conduct of Defendants was willful, malicious, oppressive, and/or  
13 reckless, and was of such a nature that punitive damages should be imposed in an  
14 amount commensurate with the wrongful acts alleged herein.

15 WHEREFORE, Plaintiff prays for relief as hereinafter set forth  
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17                                   **COUNT NINE**  
18                                   **NEGLIGENCE**  
19                                   **(As to All Defendants)**  
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21           4.48 Plaintiff realleges and incorporates herein by reference the allegations  
22 set forth in Paragraphs 1 through 4.47 of this complaint.

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1           4.49 Defendants, and each of them, owed Plaintiff a duty to use due care at or  
2           about the times of the aforementioned incidents.

3           4.50 In committing the aforementioned acts and/or omissions, Defendants,  
4 and each of them, negligently breached said duty to use due care, directly and  
5 proximately resulting in the injuries and damages to the Plaintiff as alleged herein.

6 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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13 **V. JURY TRIAL DEMAND**

14           5.0 Plaintiff hereby demands a jury trial in this matter.

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## 16 VI. PRAYER FOR RELIEF

17 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

18           1.       For general damages including pain and suffering together with special  
19       damages for Plaintiff's reasonable and necessary legal expenses, bail, and medical  
20       expenses both past and future, the exact amount of which will be established at the  
21       time of trial;

22           2. For punitive damages in an amount to be proven at trial pursuant to Federal  
23   and State law;

1           3.       For actual attorney's fees and litigation costs pursuant to 42 U.S.C.  
2   1988;

3           4.       For statutory attorneys fees and costs; and

4           5.       For court supervised training and regulations requiring that the involved  
5   agencies and officers not adopt procedures and policies and/or take actions designed  
6   to suppress First Amendment activity and target participants therein, and or target  
7   individuals and groups based on political affiliations or perceptions thereof.

8           6.       For such other and further relief as the Court deems just and proper.

10 DATED: March 4, 2009

Lawrence A. Hildes  
**LAWRENCE A. HILDES**  
 Attorney for Plaintiff PHILIP CHINN