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6 Attorney for Plaintiffs

7 UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF WASHINGTON

9 LISA ORVIS, a single woman, and  
10 others similarly situated,

11 Plaintiffs,

12 vs.

13 SPOKANE COUNTY, a municipal  
14 corporation,

15 Defendants.

Case No.: CV-10-424-RMP

COMPLAINT FOR VIOLATIONS OF  
CIVIL RIGHTS

CLASS ACTION

16 I. INTRODUCTION

17 1. This class action seeks monetary damages against Defendant SPOKANE  
18 COUNTY for violations of the Plaintiff's, and other similarly situated  
19 individuals' civil rights guaranteed under the Fourteenth Amendment through  
20 its "Auto jail" collections policies and procedures pursuant to 28 U.S.C. §§  
21 1983 and 1988. Spokane County's policy of imprisoning people for failure to  
22 make legal financial obligation without first holding a judicial hearing to  
23 determine their ability to pay and whether or not non-payment was willful  
24 violated Ms. Orvis's, and other similarly situated individuals' clearly  
25

1 established constitutional rights under the Fourteenth Amendment not to be  
2 deprived of liberty without due process of law. Spokane's "Auto jail" policy  
3 at issue in this case has already been declared unconstitutional by the  
4 Washington State Supreme Court in *Nason v. State of Washington*, 168 Wn.2d  
5 936 (2010).  
6

7 **II. JURISDICTION & VENUE**  
8

- 9 2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and  
10 1361, 28 U.S.C. § 2201, and 5 U.S.C. § 702.  
11 3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(2)-(3).  
12  
13 4. This action is brought pursuant to the Fourteenth Amendment to the United  
14 States Constitution, 42 U.S.C. §1983, §1988.  
15 5. All acts complained of herein occurred in Spokane County, Washington.

16 **III. PARTIES**  
17

- 18 6. Plaintiff LISA ORVIS is a single woman residing in Spokane County, which  
19 is within the Eastern District of Washington and she has been a resident of  
20 Spokane County at all times relevant herein. She is a real party in interest in  
21 this case.  
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23 7. Defendant SPOKANE COUNTY is a municipal corporation and is located  
24 within the Eastern District of Washington.  
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**IV. FACTS**

8. On or about March 20, 2002, Ms. Orvis received a criminal sentence in Spokane County Superior Court that included restitution payments and other legal financial obligations.
9. On or about March 27, 2007, Ms. Orvis, without legal counsel, signed an Order Enforcing Sentence-LFO that found her guilty of willful violation of a previous court order to make certain LFO payments to Spokane County and sentenced her to forty-five days in jail.
10. The order of March 27, 2007, further ordered Ms. Orvis to make \$25/month payments, and failing to make such payments, to report directly to the Spokane County Jail on January 14, 2008, to serve a sixty-day sentence.
11. A Spokane County employee, acting as a Court Collection Deputy within the scope of her duties also signed the order of March 27, 2007, and reported on the order that she had advised Ms. Orvis of her legal rights even though the Court Collection Deputy was not an attorney licensed to practice law in Washington.
12. Ms. Orvis signed the order of March 27, 2007, outside the presence of any judicial officer and the proceeding did not include a judicial inquiry into Ms. Orvis' ability to pay or allege willfulness in failing to pay.

1 13. On or about December 5, 2007, Ms. Orvis, without legal counsel, signed an  
2 Order Enforcing Sentence-LFO that found her guilty of willful violation of the  
3 previous court order to make certain LFO payments to Spokane County and  
4 sentenced her to thirty days in jail.  
5

6 14. The order of December 5, 2007, further ordered Ms. Orvis to make  
7 \$150/month payments, and failing to make such payments, to report directly  
8 to the Spokane County Jail on August 27, 2008, for incarceration.  
9

10 15. A Spokane County employee, acting as a Court Collection Deputy within the  
11 scope of her duties also signed the order of December 5, 2007, and reported  
12 on the order that she had advised Ms. Orvis of her legal rights even though the  
13 Court Collection Deputy was not an attorney licensed to practice law in  
14 Washington.  
15

16 16. Upon belief, Ms. Orvis signed the order of December 5, 2007, outside the  
17 presence of any judicial officer and the proceeding did not include a judicial  
18 inquiry into Ms. Orvis' ability to pay or alleged willfulness in failing to pay.  
19

20 17. On or about September 30, 2008, Ms. Orvis was arrested and booked into the  
21 Spokane County Jail for failing to directly report to the jail on August 27,  
22 2008, pursuant to the "Auto jail" order she signed on December 5, 2007.  
23

24 18. On or about October 2, 2008, Ms. Orvis, without legal counsel, signed an  
25 Order Enforcing Sentence-LFO that found her guilty of willful violation of a

1 previous court order to make certain LFO payments to Spokane County and  
2 guilty of not directly reporting to jail on August 27, 2008, pursuant to the  
3 “Auto jail” order she signed on December 5, 2007, and sentenced her to 30  
4 days in jail.  
5

6 19. The order of October 2, 2008, further ordered Ms. Orvis to make \$50/month  
7 payments, and failing to make such payments, to report directly to the  
8 Spokane County Jail on April 8, 2009, to serve a forty-five day sentence.  
9

10 20. A Spokane County employee, acting as a Court Collection Deputy within the  
11 scope of her duties also signed the order of October 2, 2008, and reported on  
12 the order that she had advised Ms. Orvis of her legal rights even though the  
13 Court Collection Deputy was not an attorney licensed to practice law in  
14 Washington.  
15

16 21. Ms. Orvis signed the order of October 2, 2008, outside the presence of any  
17 judicial officer and the proceeding did not include a judicial inquiry into Ms.  
18 Orvis’ ability to pay or alleged willfulness in failing to pay.  
19

20 22. Upon belief, Ms. Orvis has not been charged with any new crimes since her  
21 judgment and sentence of March 2002 was entered.  
22

23 23. Ms. Orvis had made numerous payments on her legal financial obligations  
24 account between 2002 and the dates of her incarceration under the “Auto jail”  
25 orders and continues to make them on a monthly basis.

1 24. The practice of using non-attorneys assigned as Deputy Collections Clerks to  
2 advise parties of their legal rights in the collections process was an official  
3 policy and practice of Spokane County.  
4

5 25. The practice of having defendants agree to findings requiring them to serve  
6 jail time for failure to make Legal financial obligation payments outside the  
7 presence of a judicial officer and without a judicial inquiry into their ability to  
8 pay, or the willfulness of their non-payment, was an official policy and  
9 practice of Spokane County.  
10

11 26. The practice of including mandatory jail reporting language in the "Auto jail"  
12 orders without first holding a hearing to determine ability to pay or willfulness  
13 in non-payment was an official policy and practice of Spokane County.  
14

15 27. Upon belief, Ms. Orvis served at least 20 days in the Spokane County Jail in  
16 the three years preceding the signing of this complaint as a direct and  
17 proximate cause of the Spokane County policies and practices described in  
18 paragraphs 24-26.  
19

20 28. Upon belief, in the same three year period described in the preceding  
21 paragraph, thousands of individuals similarly situated as Ms. Orvis have been  
22 incarcerated for thousands of days as a direct and proximate cause of the  
23 Spokane County policies and practices described in paragraphs 24-26.  
24  
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1 29. A reasonable per day, per person damage amount for each day illegally  
2 incarcerated in the Spokane County Jail is \$500.00.

3  
4 **V. CLASS ACTION ALLEGATIONS**

5 30. Ms. Orvis brings this action on behalf of herself, and all others similarly  
6 situated, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2), (3). The Plaintiff  
7 provisionally proposes the following class definition:

8 All individuals who were incarcerated in the Spokane  
9 County Jail between December 3, 2007 and December 2,  
10 2010, for failure to comply with an "Order Enforcing  
11 Sentence-LFO" without first appearing before a judicial  
12 officer in a hearing where the judicial officer ordered  
13 incarceration after inquiring into the financial ability of  
14 the individual to comply with court ordered payments  
15 and the degree of willfulness related to the non-payment  
16 that was the basis for the incarceration.

17 31. This is an appropriate class action because the proposed class is so numerous  
18 that joinder of all members is impracticable.

19 32. There are questions of law and fact common to the class, including whether  
20 Defendant's actions violate Plaintiff's and other class members' due process  
21 rights under the Fourteenth Amendment of the U.S. Constitution.

22 33. The claims of the Plaintiff are typical of the claims of the class.

23 34. The named Plaintiff will fairly and adequately protect the interest of the class.  
24  
25

1 35. The named Plaintiff has available competent counsel with experience in civil  
2 rights and prisoners' rights who is willing and able to protect the interests of  
3 the class.

4  
5 36. The Defendants have acted or refused to act on grounds generally applicable  
6 to the class, thereby making appropriate an award of monetary damages with  
7 respect to the class as a whole.

8  
9 **VI. CAUSES OF ACTION**

10 **A. CIVIL RIGHTS — VIOLATION OF FOURTEENTH**  
11 **AMENDMENT**

12 37. The actions of Defendant Spokane County, complained of above were taken  
13 under color of state law. These actions constitute clearly established violations  
14 of the Fourteenth Amendment rights to be free of unlawful deprivation of  
15 liberty without due process of law.

16  
17 38. The Defendant's official policy and practice of incarcerating individuals for  
18 non-payment of legal financial obligations under "Auto jail" orders without  
19 first holding a hearing with a judicial officer violates Plaintiff's rights under  
20 the Fourteenth Amendment of the U.S. Constitution for several reasons:

- 21  
22 1) The government does not meet its burden of proving that any non-  
23 payment was willful;  
24  
25





1 reckless, careless, and erroneous field decisions by its personnel so as to make  
2 mistakes or act willfully, wantonly and/or recklessly.

3  
4 42. Defendant Spokane County, individually or through its agencies, is a "person"  
5 within the meaning of 42 U.S.C. § 1983. All actions taken by Spokane County  
6 in relation to the Plaintiff were taken under the color of law. In violation of  
7 the Fourteenth Amendment to the United States Constitution, Defendant  
8 Spokane County's illegal actions have deprived Plaintiff of her  
9 Constitutionally-protected rights against imprisonment without required due  
10 process of law.

11  
12 43. By its conduct as described herein, Spokane County proximately caused the  
13 constitutional violations described above.

14  
15 44. By this conduct, Spokane County violated Plaintiff's federal constitutional  
16 and statutory rights under 42 U.S.C. § 1983.

17  
18 45. The unconstitutionality of Spokane County's conduct in this matter has  
19 already been fully adjudicated in the case of *Nason v. State of Washington*,  
20 168 Wn.2d 936 (2010) and the County is therefore liable to Plaintiff as a  
21 matter of law under principles of equitable estoppel.

22  
23 **DAMAGES**

1 46. Spokane County's illegal imprisonment of Ms. Orvis and other class members  
2 proximately caused damages established at a daily rate for each person in an  
3 amount to be proven at trial, and nominal damages.  
4

5 **VII. REQUEST FOR RELIEF**

6 WHEREFORE, the Plaintiff asks this Court to grant the following relief:

- 7 47. Certify this case as a class action under FRCP 23(b)(2), (3);  
8  
9 48. Award damages at a daily rate per person for each day of illegal incarceration  
10 resulting directly and proximately from Defendant's conduct, as set forth  
11 above, in an amount to be determined at trial;  
12  
13 49. For all prejudgment and post judgment interest as allowed by law;  
14  
15 50. Award Plaintiff all reasonable costs and attorney's fees incurred in connection  
16 with this lawsuit, pursuant to 42 U.S.C. § 1988, or any other applicable law;  
17 and  
18 51. For any further or additional relief which the Court finds equitable,  
19 appropriate, or just.

20 Respectfully submitted this 3<sup>rd</sup> day of December, 2010.  
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25

PAUKERT & TROPPMANN, PLLC

s/Breean L. Beggs

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Attorney for Plaintiff Lisa Orvis

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JS 44 (Rev. 12/07)

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 THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b>                  Lisa Orvis</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> <u>Spokane County</u>                  (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b>                  Brean L. Beggs, Paukert &amp; Troppmann, PLLC; 522 W. Riverside Ave, Suite 560, Spokane, WA 99201; 509.232.7760</p>	<p><b>DEFENDANTS</b>                  Spokane County</p> <p>County of Residence of First Listed Defendant <u>Spokane County</u>                  (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)                  Unknown</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input checked="" type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	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
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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)

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food &amp; Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. &amp; Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting &amp; Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Act</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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**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

7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC Section 1983

Brief description of cause:  
Violation of 14th Amendment Due Process Rights by imprisoning Debtors without a Hearing

**VII. REQUESTED IN COMPLAINT:**


CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \$3,000,000.00 for class

CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 11/23/10 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_