

**CLAIM FOR DAMAGES**  
**CITY OF SPOKANE, WASHINGTON**

RECEIVED  
1:48 PM OCT 08 2015  
CITY CLERK'S OFFICE

Space for Clerk's Stamp

1. Claimant's Name: FRANK STRAUB  
Residence: c/o Mary Schultz Law, P.S., 2111 E. Red Barn Lane, Spangle, WA 99031  
Phone #: Home \_\_\_\_\_ Work (509) 245-3522, ext. 306 Birthdate: Oct. 12, 1958
  2. Residence of claimant for six months prior to the time the claim of damages accrued (if different):  
[REDACTED]
  3. Name, address and telephone of owner of any damaged property if not given above: See Above  
TOTAL CLAIM: \$4,000,000.00
  4. CLAIM INCIDENT DATE: appx. 09/21/15-10/2/2015. TIME: Implemented 6:39 a.m. on Sept. 21, 2015. PLACE: Mayor/City Attorney's Offices, 808 W. Spokane Falls Blvd., Spokane, WA 99201
- DESCRIPTION OF INCIDENT: (Give full account; describe how the City was at fault. List defects causing loss and City acts or omissions) Violation of due process in termination. See Exhibits A, B.
5. Give an itemization of your claim, listing specific losses actually sustained or expected: see Exhibit A generally; Exhibit B for claims; Exhibit B for damages.
  6. Were any other persons involved in the incident? Give details with name, address and telephone:
    - a Mayor David Condon, City of Spokane Mayor's Office (509) 625-6250;
    - b City Administrator Theresa Sanders (509) 625-6502;
    - c City Attorney Nancy Isserlis, (509) 625-6225.

All at 808 W. Spokane Falls Blvd., Spokane, Washington 99201
  7. Name, address and telephone of witnesses or persons with further information: See Exhibit C
  8. Is claimant willing to settle or compromise? If so, state amount acceptable as full settlement: \$ To be determined
  9. Additional Claims and causes of action reserved; additional and specific damage calculations reserved.

**NOTE:** Please see Spokane Municipal Code 4.02.030 for further information on claim requirements.

**MEDICAL INFORMATION DISCLAIMER:** Per chapter 42.56 RCW (Public Records Act), a filed Claim for Damages and its attachments are subject to public disclosure. If you have any attachments to this claim containing medical information, please enclose those attachments in a sealed envelope marked with your name and the phrase "Medical Contents."

*MARY*  
*SCHULTZ*  
LAW, P.S.

2111 E. Red Barn Lane  
Spangle, WA 99031  
Phone: 509.245.3522 • Fax: 509.245.3908

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DATED this 8<sup>th</sup> day of October, 2015,

**MARY SCHULTZ LAW, P.S.**

*Mary Schultz*

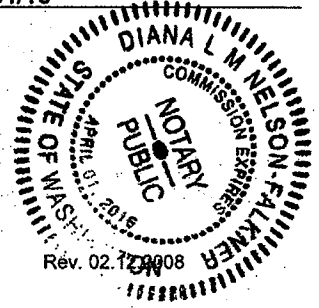
Attorney for Claimant WSBA #14198  
**Mary Schultz Law, P.S.**  
2111 E. Red Barn Lane, Spangle, WA 99031  
Telephone: (509) 245-3522/Fax: (509) 245-3308  
[MSchultz@MSchultz.com](mailto:MSchultz@MSchultz.com)

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of October, 2015.

*Diana Nelson Falkner*

Notary Public in and for the State of Washington  
Residing at Spokane, Washington  
My Commission expires: 04/01/16

FILE COMPLETED FORM WITH:  
Spokane City Clerk's Office  
Fifth Floor, Municipal Bldg.  
808 W. Spokane Falls Blvd.  
Spokane WA 99201-3342-509-625-6350



*MARY*  
**SCHULTZ**  
LAW, P.S.

2111 E. Red Barn Lane  
Spangle, WA 99031  
Phone: 509.245.3522 • Fax: 509.245.3308

**EXHIBITS/ CLAIMS FOR DAMAGES**  
**CITY OF SPOKANE, WASHINGTON**

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**EXHIBIT A**

Phone: 509.245.3522  
Fax: 509.245.3308  
1.800.949.2360  
E-mail: mary@mschultz.com



www.MarySchultzLaw.com  
2111 E. Red Barn Lane  
Spangle, WA 99031

October 2, 2015

VIA E-MAIL: nisserlis@spokanecity.org;ejacobson@spokanecity.org

**Nancy Isserlis**  
**Erin Jacobson**  
City Attorney  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

**Re: Frank Straub/City of Spokane**

Dear Nancy and Erin:

I received Erin's email sent at 9:46 a.m. this morning.

Having reviewed what I have been able to review to this point, I can safely say that there seems to be no reason for former Chief Straub to return a prepared resignation letter by 5:00 p.m. as "acknowledgement of his reassignment." You fired Chief Straub on Monday morning, Sept 21, 2015. City Administrator Teresa Sanders texted him at 6:39 a.m. on Monday, September 21<sup>st</sup>, and required him to report to the Mayor for a 7:00 a.m. "meeting" of unannounced content. That turned into a 7:50 a.m. meeting with the Mayor and City Administrator Sanders, where he was told he was being discharged that day unless he immediately submitted his resignation. He was told of the existence of the letters, but not shown the letters. He asked for an investigation, and was denied. His termination was already fact.

Chief Straub first saw those letters on Tuesday morning, and was given nothing more than an alleged opportunity to participate in a press release that day. The press release was already written by the City, and included language about how members of the "police leadership team" expressed "concerns" about Chief Straub's "management style." That press release referenced the "letters last week" being submitted, to whom is not noted, which "summarized their concerns." You had already buried him as the police chief.

The first draft press release he received had him leaving the Spokane Police Division entirely, and announced Interim Chief Rick Dobrow's elevation to Chief Straub's position.

Nancy Isserlis  
October 2, 2015  
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By 3:51 p.m. on the 22<sup>nd</sup>, Chief Straub had been unable to obtain any retraction of the disparaging information. His opposition to the City's bludgeoning him with this press release process is plain from the manner in which he was texting you and trying to email you before you were "going live. His last plea appears at 4:07 p.m. after being told "we're going to distribute in five minutes." Frank Straub was fired. He was removed from the City website, and Rick Dobrow was out doing interviews as the new police chief before Frank was even able to turn in his badge.

What is so gratuitously damaging about what happened here is that you sent me a contract between Frank Straub and the Mayor that allowed Frank to serve until December 31, 2015 on a maximum term. Even if those Sept. 18<sup>th</sup> letters are credible, and they are transparently *not* credible, *see below*, the professional process should have been, and is, to sit down with him, discuss these alleged concerns, hear his side, investigate who should be disciplined or counseled, if anyone, and follow that professional process. Depending on what emerged from that, one obvious option was to simply allow him to finish out his term and transition elsewhere. He served our City well. But for some reason, this City's administration chose to do a hatchet job on him only three months before his term ended.

I was brought into this last week after this already hit the news. You told me that Chief Straub is not entitled to civil service protections, and can be discharged at will. The City was being generous with him, you said. You told me that there had been "complaints" prior to the letters. You would not assure me that these alleged complaints were documented, nor investigated. I asked you the obvious-- a question to which I never got an answer. How did these two Sept. 18<sup>th</sup> letters so suddenly materialize, together, both coincidentally submitted to the City on the very same Friday--September 18, 2015--and be acted on by Monday morning at 7 a.m. as if they were court injunctions? From both a legal and a plain common sense perspective, what those letters should have triggered was not a need to fire the Chief; what they should have triggered was the need for your Department to find out who was promoting mutiny in that police department and why. Each of those letters includes nothing but conclusory allegations. Neither has specific incidents, dates, or content. Both of them pieced together reflect that scheduled "budget meetings" in the prior months had somehow turned into sessions regarding Chief Straub, unbeknownst to him. How this all culminated in both letters being delivered to the mayor the same day, a firing in less than 24 business hours, and the Mayor's immediate appointment of the primary author of one of the letters, Rick Dobrow, to Frank Straub's position as Police Chief, is transparently political.

This back door pretext is accompanied by the equally extraordinary decision by the Mayor to precipitously "waive privilege" to immediately release these per se defamatory and untested letters to the general public. "Waiving privilege" means that the Mayor was being advised by your legal department. In no way did those letters have to be published to justify an at will termination. In no way did those letters need to be immediately released to

Nancy Isserlis  
October 2, 2015  
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the media to protect the public interest, as if this was some kind of Amber Alert, with the kidnapper speeding for the freeway entrance on the way out of town. These actions show a premeditated and engineered plan to elevate the mayor's "decisiveness" quality at the expense of Frank Straub's reputation. It's a very interesting time of year.

Only this past Tuesday did Erin Jacobson finally raise, and then only as an aside offered towards the end of our conversation, your department's awareness of the due process requirements in this kind of public information release. You suggested such a process as a future "offer." You are well aware that such processes were owed Frank Straub *before* the Mayor intentionally distributed these damning allegations for public consumption. These are now a permanent part of his record.

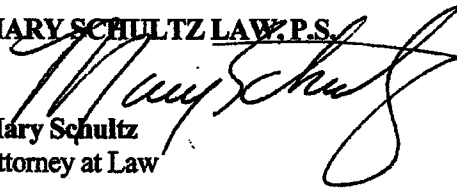
The Mayor, the City Administrator, and the Legal Department who engineered this termination in the manner in which it occurred are not immune from suit. You are all aware of the due process requirements of these situations. These are not due process rights given in exchange for signing a resignation. They go with the job.

Frank Straub was hired as this City's Police Chief and mandated to clean up issues in this department for the benefit of this City. The Mayor knew the Chief Straub had to be supported against toxic elements in that department. The Mayor hired him to wade in and the Mayor *mandated* him to wade in. Once he was in, City administration undercut his authority, coddled mutiny, and subversively managed cancerous factions to its own perceived advantage. This was an engineered process designed to damage Frank Straub and enhance the mayor's standing.

We expect that now former Chief Straub will continue to receive all payments and benefits the City promised him in exchange for his work on his own burial announcement—your press release. We will be filing a tort claim against the City, the Mayor, and your legal department Monday morning to address the damage that this politically motivated railroading has caused him. The citizens of Spokane are entitled to better than this. Anyone who puts their neck on the line to come to this City to help us professionalize our police force is certainly entitled to better than this.

Sincerely,

MARY SCHULTZ LAW, P.S.

  
Mary Schultz  
Attorney at Law

MS: dnf  
Pc: Frank Straub  
Empl\Straub\letters\isserlis\_lr\_10.02.15.doc

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**EXHIBIT B**

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## EXHIBIT B

### 4. CLAIMS INVOLVED:

#### A. 42 U.S.C. § 1983.

This is a due process claim. The City of Spokane intentionally deprived Claimant Frank Straub of known liberty interests in his name and reputation, and did so intentionally, gratuitously and without cause.

- All actions were official policy. All actions were carried out jointly by the City of Spokane Mayor, City Attorney and City Administrator, acting in concert.

- The City of Spokane Mayor, City Attorney, and City Administrator are not entitled to qualified immunity. City officials are charged with the knowledge that the public dissemination of stigmatizing information before allowing a pre-disciplinary name clearing process would violate its City Police Chief's Fourteenth Amendment rights. *King v. Garfield County Public Hospital District No. 1*, 17 Fed.Supp.3d 1060, 1076, 1081-83 (E.D. Wash. 2014); and see *Cox v. Roskelley*, 359 F.3d 1105, 1112 (9<sup>th</sup> Cir. 2004)

- On Sept. 21, 2015, the City Mayor and City Administrator terminated Frank Straub from his position as Police Chief.

- On September 22, 2015, in connection with and following this termination, the City of Spokane publically disseminated a myriad of conclusory claims and charges against Police Chief Frank Straub, including disseminating unspecified "dishonesty" claims. It disseminated two stigmatizing letters in concert with its press release, without investigation and without inquiry into pretext, premeditation, or collusion. See *Exhibit A*.

- The September 18<sup>th</sup> letters' allegations are the City's charges. By publishing such letters to the general public as the basis for its termination action, the City ratified the charges within and manifested its belief in the accuracy of those allegations as its basis for termination. The City's actions in publishing those letters adopted those statements as the statements of the City.

- Due process protections applied pre-publication and pre-termination, as 1) the accuracy of the City charges was contested; 2) the City openly disclosed the charges to the public; and 3) the disclosure was made in connection with the termination of Chief Straub's employment as Police Chief. *King*, at 1076, citing *Llamas v. Butte Cmty. Coll. Dist.*, 238 F.3d 1123, 1129 (9<sup>th</sup> Cir.2001).

- The City's dissemination of those two Sept. 18<sup>th</sup> letters was gratuitous. It was unnecessary for the City Mayor to publish stigmatizing claims to support the Mayor's termination of Chief Frank Straub under an at will employment agreement. It was

unnecessary to do anything more than release Chief Straub from his position as Police Chief. The City Administration's gratuitous publication of these untested letters was designed to damage and stigmatize Chief Straub. This dissemination was sufficient to trigger Chief Straub's liberty interest under the Fourteenth Amendment. *See King v. Garfield* at 1076.

- The City's failure to investigate or provide any name-clearing hearing before those damaging allegations were gratuitously disseminated to the public in the context of the City's termination of Frank Straub as Chief of Police was intentional, premeditated, and an intentional violation of Chief Straub's Fourteenth Amendment due process rights. *King v. Garfield*, 17 F. Supp. 3d at 1081-83, citing *Cox v. Roskelley*, 359 F.3d at 1110.

**B. Gross negligence, defamation and/or intentional infliction of emotional distress. *See above.***

**C. Further allegations and causes of action are reserved pending discovery into the/any collusive aspects of this public dissemination of stigmatizing information, including conspiracy to violate rights, defamation, and breach of contract.**

**Damages:**

Present damages include but are not limited to the following:

- 1) Loss of income and benefits past, present and future—at present, the City appears to be adhering to its reassignment directive to Frank Straub. Any violation of such would result in additional damage. Such reassignment does not mitigate the future damage to reputation already arising through the City's actions. Loss includes, but is not limited to:
  - a. Loss of income and benefits equating to appx. \$240,000 a year (salary plus 35% of salary as benefits), not counting raises, or the equivalent of \$20,000 per month, including benefits, assuming such publications interfere with Chief Straub's ability to transition into a similar position;
  - b. Future loss of such income for a minimum of 7 years/age 65=\$1,680,000 million minus any prospective mitigation.
- 2) Damage to reputation, loss of standing, loss of opportunities for future employment other than as tallied above, intentional violation of liberty interests, all unnecessarily inflicted. \$3,000,000.

**EXHIBIT C**

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**EXHIBIT C**

**Question 7. Persons with further information**

- Rick Dobrow, Interim Police Chief;
- Selby Smith (SPD);
- Sarah Lynd;
- Tim Schwering;
- David McCabe (SPD);
- Mark Griffiths;
- Dave Richards;
- Eric Olsen;
- Justin Lundgren;
- Eric Jacobson (Assistant City Attorney).
- John Gately (Spokane Police Guild);
- Brian Coddington (City of Spokane Director of Communications & Marketing);
- Ozzie Knezovich, SCSO;
- Robert Cossey (Attorney at Law);