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Brian Carr
11301 NE 7th St, Apt J5
Vancouver, WA 98684
brian@brian.carr.name

FILED 08 AUG 11 15:44 USDC-ORP

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

Brian P. Carr
Plaintiff

versus

The State of Oregon through Hardy Myers in his official
capacity as Attorney General of the State of Oregon and
the City of Portland through Linda Meng in her official
capacity as City Attorney of the City of Portland
Defendants

Civil No. 3:08-CV-398-HA

Amended
Plaintiff's Declaration
In Support of
Motion To Amend Complaint

OPPOSED

I, Brian P. Carr, am the plaintiff in this matter, have knowledge of the facts of this matter, and make the following statements under oath and penalty of perjury.

1 1. On April 7, 2008 my car, a 1991 Toyota Camry with Washington plates 668-PXQ, was parked
2 at the Lloyd's Shopping Center in Portland, OR on the 14th Street ramp and was stolen from
3 that location. On that same date I reported the theft to Officer Jack Blazer (#37413) of the
4 Portland Police Bureau in case #08-032989.

6 2. On April 24, 2008, I received a call from the Portland Police Bureau that my car had been
7 recovered and was at Sergeant's Towing Lot in Portland, OR. There was a charge of \$131 to
8 retrieve my car which I paid to recover my car. I had no control of or access to my vehicle
9 during the intervening period.

11 3. On recovering my car, there was a fluorescent green 'Abandoned Vehicle' warning stuck on
12 the driver's window. The warning had apparently been rained on such that the hand written
13 date was illegible. Further, this warning was large (8.5" by 11") and had to be removed to

Original

1 safely drive the vehicle. The warning was destroyed on removal.

3 4. In addition, parking violation citation U019204 by the City of Portland was under the
4 windshield wipers of my car for an abandoned auto violation and listing a fee of \$280. This
5 notice had also apparently been rained on and the written entries were substantially illegible.
6 A copy of this parking violation citation is attached to this Declaration as Exhibit 1. I was not
7 able to identify the identity of the officer issuing the violation nor the department of the City
8 of Portland which may have authorized this officer to issue parking violation citations. The
9 date and location of the citation also was unclear.

11 5. On or about April 25, 2008, I called the number on said notice, 503-988-3776, and learned
12 that the court parking unit had no record of the parking violation but that these notices
13 occasionally take a few days to be processed and that I should call back in a week or so.

15 6. On or about May 9, 2008, I again called the court parking unit and learned that the notice was
16 pending and that if the vehicle was stolen the matter could be dismissed. I also learned the
17 identity of the officer, Kathy Saunders, who wrote the violation though I was not told the
18 department of the City of Portland which she worked for nor any contact information for the
19 City of Portland or that department.

21 7. On May 23, 2008, I filed an Answer, Affirmative Defense, and Complaint with the
22 Multnomah County Circuit Court, Parking Unit as well as a Declaration and Interrogatories
23 seeking copies of the police report of the stolen vehicle as well as any records of the warning
24 notice and parking violation notice (as the copies I had were not legible). A copy of these
25 papers is attached as Exhibit 2.

27 8. On June 12, 2008, I served those papers of May 23, 2008 on the City of Portland and filed the
28 Acceptance of Service document with the Multnomah County Circuit Court, Parking Unit. A
29 copy of the Acceptance of Service document is attached as Exhibit 3.

31 9. Shortly after I served the papers on the City of Portland I received a phone call from an

1 attorney with the City of Portland. He informed me that Officer Saunders was not from the
2 Portland Police Bureau but from some other department with which I was not familiar. As I
3 did not take notes during the phone call I do not remember the name of the department or of
4 the attorney I spoke with and there have been no other contacts from the City of Portland with
5 respect to this parking violation citation since that date.

7 10. On July 27, 2008, I received a letter from the Multnomah County Circuit Court, Parking Unit.

8 A copy of this letter is attached as Exhibit 4. The letter stated that the court does not have
9 access to the police records which I had requested be provided by the police department and
10 asked that I instead provide these documents to the court even though these copies would be
11 less reliable than if they were provided directly by the keeper of the records, the City of
12 Portland in this case. The letter also stated that a copy of the stolen vehicle police report was
13 required to have the matter dismissed which is not stated in the local court rules. Further, the
14 letter insisted that I post the bail amount (\$560) before any hearing could be scheduled and
15 before the court could consider any evidence I submitted.

17 11. According to the web site for the Portland Police Bureau Records Division, at

18 <http://www.portlandonline.com/Police/index.cfm?c=30557&a=143820>

19 requests for a copy of a police report take three weeks to be processed, can only be processed
20 by mail and require a prepaid fee of \$10 along with stamped self addressed envelop and
21 detailed information concerning the report. In particular, they require an address for the
22 location of the crime, but as the car was stolen from a parking lot with entrances on three
23 different streets, I do not know the location which would be listed on the report. Further, there
24 were warnings that incomplete or inaccurate information could cause further delays and
25 additional expense. I concluded that I will not be able to comply with these requirements
26 within the deadline specified by the court.

28 12. The \$10 fee for a copy of the police report is excessive, at least \$2 per page and up to \$10 per
29 page for a one page report. The cost of making the actual copies is certainly much less and the
30 remainder is clearly used to support other expenses of the records division. Federal district
31 courts provide access to most records via the court's CM/ECF system and PACER for a much

1 more reasonable 8 cents a page and commercial operations such as google.com can provide
2 electronic copies of documents for a small fraction of that cost. Further, these electronic
3 search services provide much more convenient access than the inefficient and slow service of
4 the Portland Police Records Division. These excessive fees are particularly egregious to me
5 as I am required to pay these fees only because of the negligence of the City of Portland,
6 supporting the very entity which knows that the citation is unfounded but it still pursues its
7 prosecution in pursuit of unjustifiable fines while collecting fees all along the way.

9 13. Supplementary Local Rules SLR for Multnomah County Circuit Court 17.015 Parking

10 Citations - Defendant's Appearance states that the defendant must pay the listed amount for
11 the citation, doubled if the bail amount is not paid in thirty (30) days to 'appear' in a matter.
12 Further an Order to impound the vehicle may be issued for failure to 'appear' (pay the cited
13 bail amount). These rules were accessed from:
14 [http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/MultnomahSLR2004.pdf/\\$File/MultnomahSLR2004.pdf](http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/MultnomahSLR2004.pdf/$File/MultnomahSLR2004.pdf)
15 and states in its entirety:

16 17.015 Parking Citations - Defendant's Appearance

17 (1) A person receiving a parking citation has three options to appear:

18 (A) Plead guilty by paying in full the bail indicated on the citation, either by mailing or
19 personally delivering the payment, together with the citation, to the Multnomah County
20 Courthouse. All payments in full must be received within 30 days of the date of violation.

21 (B) Mail the full amount of the bail applicable at the time of the request, together with the
22 citation and a letter of explanation to the Multnomah County Courthouse, requesting a judge to
23 make a determination. The court may refund the bail or forfeit all or part of it.

24 (C) Request a court hearing either by letter or by personally appearing at the Parking Section of
25 the Criminal Division located in the Multnomah County Courthouse. All such requests must be
26 accompanied by a check or money order for the full amount of bail applicable at the time of the
27 request. Bail is forfeited if the person fails to appear at the hearing.

28 (2) The bail amount set on a parking citation will double after 30 days from the date of issuance
29 of the citation if the defendant has not appeared in a manner indicated by this rule. A partial
30 payment of the bail does not constitute an appearance under this rule.

31 (3) An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035
32 if the defendant does not appear in a manner indicated in this Rule.

34 14. SLR 17.025 allows the dismissal of parking citations in the event that the vehicle was listed as
35 stolen with the police when the citation was issued and no appearance by the defendant is
36 necessary in this case. There is no statement of the requirement of a police report. It states in
37 part:

U 019204

PARKING VIOLATION

CIRCUIT COURT FOR
MULTNOMAH COUNTY

- ☐ City of Portland Title No. 16 Ord. 185189
- ☐ Multnomah County Ordinance No. 54
- ☐ City of Gresham Code, Chapter No. 8
- ☐ City of Troutdale Code, Chapter No. 30
- ☐ State Police Chapter No. 2
- ☐ ORS 810.425

V L	E	OR	STATE
H C	X	MAKE	DATE
DATE	TIME	NO.	DIST.
OFFICER	METER NO.		
LOCATION			

OFFICER NOTES	15M	30M	1 HR	90M	2 HR	3 HR	LT	ABA	TLZ	7-6	M-F	M-S	ALL HRS
☐ \$16 Overtime Parking Meter ☐ \$16 Overtime Parking ☐ \$16 Meter Feeding ☐ \$16 Over Space Line ☐ \$40 No Stop or Park ☐ \$40 Bike Lane	☐ \$40 Loading Zone ☐ \$40 Meter Loading Zone ☐ \$40 Car Pool Zone ☐ \$40 Double Parking ☐ \$40 Temporary No Parking ☐ \$100 Fire Hydrant	☐ \$25 Construction Zone ☐ \$40 Area Permit Required ☐ \$40 Yellow Curb ☐ \$25 Wrong Way On Street ☐ \$40 Prohibited Time ☐ \$40 Driver Remain Whl	☐ \$40 No Parking Anytime ☐ \$40 Park Over Sidewalk ☐ \$40 Block Driveway ☐ Abandoned Auto	☐ \$35 Expired Registration ☐ \$35 Failure to Display Current Registration ☐ \$40 No Parking In Block ☐ \$150 Handicapped Ramp	☐ \$100 Truck/Trailer Prohibited ☐ \$40 Reserved Zone ☐ \$100 In Lieu of Off Street Storage ☐ \$190 Parking Disabled Space 1st Offense ☐ \$190 Misuse of Disabled Placard 1st Offense	☐ \$40 Tow Away Zone ☐ \$100 In Lieu of Off Street Storage ☐ \$190 Parking Disabled Space 1st Offense ☐ \$190 Misuse of Disabled Placard 1st Offense	☐ \$450 Unlawful Use Disabled Placard ☐ \$450 Invalid Use of Disabled Placard ☐ \$450 Parking Disabled Space Prior Offense ☐ \$450 Misuse of Disabled Placard Prior Offense	Description					

Please write license and citation number on remittance.

VIOLATION COMMITTED

(REV 203)

HOW TO AVOID SOME COMMON VIOLATIONS

- ONLY properly marked commercial vehicles may use Truck Loading Zones.
- METER FEEDING: A vehicle may not be parked in a short-term metered space (3 hours or less) longer than the time limit designated - regardless of additional coins deposited or meter malfunction. "Meter Feeding" is allowed only at Long Term meters (5 hours or longer).
- REPARK: A vehicle may not repark in a timed zone or on a metered block face for a period of 3 hours after parking for any time period on that block face or in that timed zone.
- ONLY vehicles with a DMV authorized disabled plate/placard may use Disabled Zones, whether on a public street or in parking lot open to the public.
- It is a violation to park:
 - in a crosswalk
 - on a sidewalk
 - on a planting strip
 - in a handicapped access ramp
 - over the space line
 - over a foot from the curb
 - at an angle (angle park)
- You may not block access to/from a driveway. The apron / curb return / wings curve / yellow curb of the driveway must be completely clear or your vehicle may be cited for Blocking a Driveway and towed.
- Parking within 10 feet of a fire hydrant is a serious public safety offense.

If you believe that the meter was malfunctioning, you may call (503) 823-7200 to report the meter number and location.

Amount Paid _____

Date _____

Check No. _____

U 019204

Please detach and retain for your records.

YOU MUST DO ONE OF THE FOLLOWING WITHIN 30 DAYS OR THE BAIL AMOUNT WILL DOUBLE. IN ADDITION, THE COURT MAY ISSUE A WARRANT FOR IMPOUNDMENT OF THE CITED VEHICLE, ENTER A JUDGMENT AGAINST YOU AND IMPOSE A FINE UP TO THE MAXIMUM AMOUNT ALLOWED BY LAW, AND ASSIGN THE CITATION FOR COLLECTION.

1. **PAY YOUR TICKET.**

Enclose, in this envelope, a check or money order for the bail amount. You may also pay by Visa or Mastercard by calling (503) 988-3776.

2. **SEND THE BAIL AND A WRITTEN EXPLANATION.**

Enclose, in this envelope, a check or money order for the bail amount along with your explanation as to why you are contesting the ticket. Your explanation is a waiver of your right to a court hearing and consent to any judgment rendered. The court will consider your explanation and either refund your bail or forfeit all or part of it. Your written explanation will not be considered without bail.

3. **SCHEDULE A COURT HEARING.**

Enclose, in this envelope, a check or money order for the bail amount along with a written request for a hearing OR appear in person at the Circuit Court Parking Tag Office, Room 106, Multnomah County Court House, 1021 S.W. Fourth Avenue, Portland, Oregon to request a hearing and to post bail. Your request for a hearing will not be set without posting the bail.

MAKE CHECKS AND MONEY ORDERS PAYABLE TO CIRCUIT COURT. WRITE YOUR TICKET NUMBER AND AUTO LICENSE NUMBER ON THE CHECK OR MONEY ORDER. YOU MAY PAY THE TICKET IN FULL WITH VISA OR MASTERCARD BY CALLING (503) 988-3776. DO NOT MAIL CASH.

If your vehicle is impounded for unpaid parking tickets, you must post the entire bail set, in cash, at the Parking Tag Office. The tow company will also charge a fee before releasing the vehicle.

The Circuit Court Parking Tag Office is accessible to disabled persons. Requests for reasonable accommodations, including an interpreter for the hearing impaired, should be made at least 48 hours before appearance. Requests should be made to the Circuit Court Parking Tag Office at (503) 988-3776 or at the TTY number (503) 988-3907.

POST OFFICE
WILL NOT
DELIVER
WITHOUT
POSTAGE

Return Address

CIRCUIT COURT PARKING TAG OFFICE
PO BOX 78
PORTLAND OR 97207-0178



**In the Multnomah County Circuit Court
State of Oregon**

City of Portland
Plaintiff

versus

Brian Carr
Defendant

Answer and Affirmative Defense
to Parking Violation
U019204 and Complaint

Defendant, Brian Carr, *pro se*, hereby pleads not guilty to charges listed and answers the Parking Violation notice by admitting, denying, and alleging the following:

1. On April 7, 2008 my vehicle was stolen and reported as such. My vehicle was not under my control or access until it was recovered on April 24, 2008. The parking violation was dated April 23, 2008 and was listed as an abandoned auto.
2. A reasonable person would check whether a purportedly abandoned vehicle had been reported as stolen as a significant percentage of abandoned vehicles are, in fact, stolen vehicles and should be treated as recovered property rather abandoned property.
3. The submission of the parking violation to this court even after the police had recognized that the vehicle was a stolen vehicle was irresponsible as it was known at that time that the vehicle was recovered and not abandoned.

The defendant requests that this court:

1. Relay the attached Interrogatory to the Portland Police Bureau with an order that the answer

Answer, 5/23/2008, 1 of 6

U019204

Brian P. Carr, Pro Se

and associated documents be served on the defendant within a reasonable period to be specified by the court.

2. Permit Mr. Carr to make a dispositive motion within two weeks of the answers (or lack thereof) by the Portland Police Bureau. Mr. Carr will be seeking:
 - a. Dismissal of all charges,
 - b. Costs of defending this action,
 - c. Cost of recovering vehicle after the unnecessary tow (\$131).

As well as such other relief as the court deems reasonable and justified.

Respectfully submitted, May 23, 2008 (Portland, OR).

Signature of Defendant
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
503-545-8357

**In the Multnomah County Circuit Court
State of Oregon**

City of Portland
Plaintiff

versus

Brian Carr
Defendant

Defendant's Declaration
In Support of
Answer and Affirmative Defense
to Parking Violation
U019204 and Complaint

I, Brian Carr, am the defendant in this matter, have knowledge of the facts of this matter, and make the following statements under oath and penalty of perjury.

1. On April 7, 2008 my vehicle, a 1991 Toyota Camry with Washington plates 668-PXQ, was parked at the Lloyd's Shopping Center in Portland, OR on the 14th Street ramp and was stolen from that location. On that same date I reported the theft to Officer Jack Blazer (#37413) in case #08-032989.
2. On April 24, 2008 I received a call from the Portland Police Bureau that my car had been recovered and was picked up at Sergeant's Towing Lot in Portland, OR. There was a charge of \$131 to retrieve my vehicle. I had no control or access to my vehicle during the intervening period.
3. On recovering my vehicle, there was a Parking Violation notice attached to my vehicle which was submitted to the court by Officer Kathy Saunders for an abandoned auto violation and listing a fee of \$280 which was dated April 23, 2008 with a location of 5600 N. Amherst.

Answer, 5/23/2008, 3 of 6

U019204

Brian P. Carr, Pro Se

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

Respectfully submitted, May 23, 2008 (Portland, OR).

s/ Brian P. Carr
Signature of defendant
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
503-545-8357

**In the Multnomah County Circuit Court
State of Oregon**

City of Portland
Plaintiff

versus

Brian Carr
Defendant

Defendant's Interrogatory
for Portland Police Bureau
for Parking Violation
U019204

I, Brian Carr, the defendant in this matter, request that the plaintiff, the Portland Police Bureau, respond to the attached Interrogatory with sworn written statements and attaching requested documents as exhibits.

1. On or about April 7, 2008 did you receive a report of a stolen vehicle from Mr. Carr and assign a case number 08-032989. If so, please attach a copy of the report and all documents in that matter and describe the disposition of the matter.
2. Is it the normal procedure of the Portland Police Bureau to clearly mark what appears to be abandoned vehicles (e.g. fluorescent green sticker on driver's window) and allow the owner time to correct the violation (i.e. move the vehicle)? If so, when and where, was this marking, if any, made with respect to a 1991 Toyota Camry with Washington License Plates 668-PXQ. Was a check of whether the vehicle was stolen made before the marking, if any. If so, what were the results of the check. If not, why was this check not made? Was there any complaint or cause for this marking if any? Please elaborate on the complaint or cause for this marking if any.

3. What percentage of potentially abandoned vehicles which are marked as above (if any) are later identified as stolen vehicles for recovery to their owners? Cumulative figures for 2007 would be sufficient.
4. What percentage of vehicles which have not been moved after marking as above are later determined to have been stolen vehicles? Cumulative figures for 2007 would be sufficient.
5. On or about April 23, 2008, was a 1991 Toyota Camry with Washington license plates 668-PXQ given a parking violation as an abandoned violation? If so, please attach a copy of the notice and all documents in that matter and describe the disposition of the matter. Also, was a check of whether the vehicle was stolen made before the notice was issued? If so, were the results of the check. If not, why was this check not made?

Respectfully submitted, May 23, 2008 (Portland, OR).

Signature of Defendant
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
503-545-8357

FILED

JUN 12 2008

4th Judicial District

In the Multnomah County Circuit Court
State of Oregon

City of Portland
Plaintiff

versus

Brian Carr
Defendant

Parking Violation
U019204

Acceptance of Service

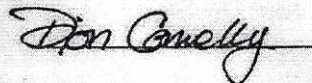
I DION CONNELLY certify that I am an authorized representative of the City Of Portland working in the Portland City Attorney's Office and hereby accept service on behalf of the City of Portland of the following documents:

1. Answer and Affirmative Defense to Parking Violation U019204 and Complaint,
2. Defendant's Declaration In Support of Answer and Affirmative Defense to Parking Violation U019204 and Complaint, and
3. Defendant's Interrogatory for Portland Police Bureau for Parking Violation U019204

All dated May 23, 2008.

Date:

Location: Portland, OR



City Attorney's Office
1221 SW 4th Ave Ste 430
Portland, OR 97204

503.823.4047

Acceptance of Service

U019204

**IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

**Parking Unit
P.O. Box 78
Portland, OR 97207**

Brian P Carr
11301 NE 7th St Apt J5
Vancouver, WA 98684

July 23, 2008

RE: Citation # U019204

Dear Brian,

We received your letter regarding the above mentioned parking citation however, before we can submit your plea to a judge for review, we need a copy of the police report when you reported the vehicle stolen. We do not have access to police records.

At that time we can forward your plea to a judge. You have 30 days from the date of this letter to submit your documentation. Please send the required copies to the address given above, as soon as possible.

If you are unable to provide this documentation, you may return your letter stating such, post the bail (If you have not already done so) and your mail plea will be processed as it states on the back of the notice. If the case(s) default, you will need to file a Motion & Affidavit for relief from failure to appear judgment which the court can send you upon request.

If you have any further questions please contact our office at (503) 988-3235.

Sincerely,

DS
Clerk of the Court