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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

BETTY RUCKER, and others
Plaintiff,

vs.

SPOKANE COUNTY, a municipal
corporation
Defendant

Case No.: CV-12-5157-LRS

AMENDED COMPLAINT FOR
VIOLATIONS OF CIVIL RIGHTS

CLASS ACTION CERTIFICATION
PENDING

I. INTRODUCTION

1. This class action seeks monetary damages against the Defendant SPOKANE COUNTY for violations of Plaintiff's, and other similarly situated individuals, civil rights guaranteed under the Fifth and Fourteenth Amendments through its conduct in using the threat and imposition of jail

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1 time in the collection of restitution and other legal financial obligations.
2 Spokane County's policy of using non-lawyer employees of the Superior
3 Court Clerk to negotiate Orders Enforcing Sentence and providing legal
4 advice to people facing jail sentences willfully violated Ms. Rucker's, and
5 other similarly situated individuals' clearly established constitutional rights
6 under the Fifth and Fourteenth Amendments not to be deprived of liberty
7 without due process of law. Further, Spokane County's policy of not
8 providing hearings to in-custody offenders of legal financial obligations
9 prior to seeking incarceration for non-payment and/or seeking waivers of
10 such hearings that were neither knowing or voluntary clearly violates
11 defendants' rights to such a hearing.
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16 II. JURISDICTION AND VENUE

- 17 2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331
18 and 1361, 28 U.S.C. § 2201, and 5 U.S.C. § 702.
19
- 20 3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(2),
21 (e)(2)-(3).
22
- 23 4. This action is brought pursuant to the Fifth and Fourteenth Amendments to
24 the United States Constitution, 42 U.S.C. § 1983, §1988.
25
- 26 5. All acts complained of herein occurred in Spokane County, Washington.
27
28

III. PARTIES

6. Plaintiff BETTY RUCKER is a married woman residing in Benton County, which is in the Eastern District of Washington. She is a real party in interest in this case.

7. Defendant SPOKANE COUNTY is a municipal corporation and is located within the Eastern District of Washington.

IV. FACTS

8. On or about July 3, 2000, Ms. Rucker received a criminal sentence in Spokane County Superior Court that included restitution payments and other legal financial obligations.

9. In January of 2006, Ms. Rucker was arrested and placed in custody for her failure to pay her court-ordered restitution and other legal financial obligations.

10. Ms. Rucker did not receive a preliminary hearing to determine if there was probable cause to believe she willfully failed to pay her legal financial obligations.

11. While being held in the Spokane County jail, a county court employee acting as a Court Collection Deputy spoke with Ms. Rucker and presented her with

1 a proposed Order Enforcing Sentence – LFO (“OES”), which included a
2 thirty-day sentence.

3
4 12. The Court Collection Deputy is not an attorney licensed to practice law in
5 Washington.

6
7 13. Upon belief, Ms. Rucker requested to speak to a judge; however, the
8 County employee advised Ms. Rucker that if she went to a hearing before a
9 judge instead of signing the proposed OES, her penalty would probably be
10 greater.

11
12 14. On or about January 13, 2006, Ms. Rucker, without legal counsel, signed
13 the OES finding her guilty of willful violations of her judgment and
14 sentence.

15
16 15. On January 13, 2006, a Spokane County employee, acting as a Court
17 Collection Deputy within the scope of his duties, signed the order noting
18 that that he had advised Ms. Rucker of her legal rights.

19
20 16. Upon belief, Ms. Rucker signed the OES in reliance on the advice given
21 her by the Court Collection Deputy, outside the presence of any judicial
22 officer, and absent any judicial inquiry into Ms. Rucker’s ability to pay,
23 and thereby was obligated to serve thirty days in the Spokane County jail.
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1 17. In January of 2007, Ms. Rucker was arrested and held in Spokane County
2 jail for her failure to pay court-ordered restitution and other legal financial
3 obligations.
4

5 18. Ms. Rucker was not granted a preliminary hearing to determine if there was
6 probable cause to believe that she willfully failed to pay these legal financial
7 obligations
8

9 19. On January 17, 2007, Ms. Rucker was again approached, again while
10 confined in the jail, by a county employee acting as a Court Collection
11 Deputy, who presented Ms. Rucker with a proposed OES, which included a
12 forty-five day jail sentence.
13
14

15 20. Upon belief, this Court Collection Deputy was not a licensed attorney.

16 21. Ms. Rucker stated that she wanted to explain to a judge the reasons she had
17 been unable to make her scheduled payments.
18

19 22. Upon belief, the Court Collections Deputy stated that Ms. Rucker could have
20 a hearing before a judge, but if she did she would probably be given a
21 greater penalty than the one on the proposed OES.
22

23 23. On or about January 12, 2007, Ms. Rucker, without the assistance of
24 counsel, signed the second OES finding her guilty of willful violations of her
25 original judgment and sentence and sentencing her to forty-five days in jail.
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- 1 24. A Spokane County employee, acting as a Court Collection Deputy within
2 the scope of his or her duties also signed the order of January 12, 2007, and
3 reported on the order that she had advised Ms. Rucker of her legal rights.
4
- 5 25. In May of 2008, Ms. Rucker was arrested and held in Spokane County jail
6 for her failure to pay her court ordered restitution and other legal financial
7 obligations.
8
- 9 26. Ms. Rucker was not granted a preliminary hearing to determine if there was
10 probable cause to believe that Ms. Rucker willfully failed to pay her legal
11 financial obligations.
12
- 13 27. On or about May 6, 2008, while Ms. Rucker was still confined within the
14 Spokane County jail, a county employee acting within her duties as a Court
15 Collection Deputy spoke with Ms. Rucker and presented her with a proposed
16 OES, which included a seventy-five day jail sentence.
17
18
- 19 28. Upon belief, this Court Collection Deputy was not a licensed attorney.
20
- 21 29. Ms. Rucker stated that she wanted to explain to a judge that she was unable
22 to pay her legal financial obligations.
23
- 24 30. The county employee informed Ms. Rucker that she had the right to a
25 hearing before a judge, but if she exercised this right instead of signing the
26 proposed OES, she would likely be given a greater penalty.
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- 1 31. On or about May 6th, 2008, Ms. Rucker, without assistance of counsel,
2 signed the OES finding her guilty of willful violations of her judgment and
3 sentence, which obligated her to seventy-five days confinement in jail. In
4 the alternative, Ms. Rucker could pay \$525 towards her legal financial
5 obligations.
6
- 7 32. A Spokane County employee, acting as a Court Collection Deputy within
8 the scope of his or her duties also signed the order of May 6th, 2008 and
9 reported on the order that he or she had advised Ms. Rucker of her legal
10 rights.
11
- 12 33. Upon belief, Ms. Rucker served 14 days in the Spokane County jail before
13 her husband paid \$525 to obtain her release.
14
- 15 34. The practice of not giving offenders of legal financial obligations
16 preliminary hearings on probable cause was an official policy of Spokane
17 County.
18
- 19 35. The practice of using non-attorneys assigned as Court Collection Clerks to
20 advise parties of their legal rights in the collections process was an official
21 policy and accepted practice of Spokane County.
22
- 23 36. The practice of having defendants agree to findings requiring them to serve
24 jail time for failure to make legal financial obligation payments outside the
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1 presence of a judicial officer and without a judicial inquiry into their ability
2 to pay, or the willfulness of their non-payment, was an official policy and
3 accepted practice of Spokane County.
4

5 37. The practice of having Court Collection Clerks advise defendants who
6 sought or had a legal right to request an in-person colloquy with the court
7 that exercising this right would likely result in a longer period of
8 confinement was an official policy or accepted practice of Spokane County.
9

10 38. The practice by Spokane County employees of soliciting a waiver of rights
11 to an in-person colloquy with a judge on ability to pay without the person
12 being advised by a lawyer was an official policy or accepted practice of
13 Spokane County.
14

15 39. Upon belief, Ms. Rucker served at least 14 days in the Spokane County jail
16 within the applicable statute of limitations as a direct and proximate cause of
17 the Spokane County policies and practices described in paragraphs 35-38.
18

19 40. Upon belief, in the same period described in the preceding paragraph,
20 thousands of individuals similarly situated as Ms. Rucker have been
21 incarcerated for thousands of days as a direct and proximate cause of the
22 Spokane County policies and practices described in paragraphs 35-38.
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41. A reasonable uniform per-day, per-person damage amount for each day illegally incarcerated in the Spokane County jail is not less than \$500.

V. CLASS ACTION ALLEGATIONS

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

Individuals incarcerated in the Spokane County Jail, from January 26, 2008 through the date this matter is resolved, pursuant to an Order Enforcing Sentence that was based on findings that:

- a) the failure to pay was deemed willful without a formal judicial inquiry on the record into to the detainee's ability to pay; and/or
- b) the detainee waived the right to a hearing, when said wavier was due in part to communications from non-attorney employees of the County who advised the detainee regarding his or her rights to a hearing or threatened the detainee with a longer detention if the right to a hearing was exercised.

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

1 44. There are questions of law and fact common to the class, including whether
2 Defendant's actions violate Plaintiff's and other class members' due process
3 rights under the Fifth and the Fourteenth Amendments of the U.S.
4
5 Constitution.

6 45. Questions of law or fact common to class members predominate over any
7
8 questions affecting only individual members, and a class action is superior to
9
10 other available methods for fairly and efficiently adjudicating the
11 controversy.

12 46. The claims of the Plaintiff are typical of the claims of the class.

13 47. The named Plaintiff will fairly and adequately protect the interests of the
14
15 class.

16 48. The Plaintiff has available competent counsel with experience in civil rights
17
18 and prisoner's rights who are willing and able to protect the interests of the
19
20 class.

21 49. The Defendants have acted or refused to act on grounds generally applicable
22
23 to the class, thereby making declaratory relief, injunctive relief and an award
24
25 of monetary damages appropriate, with respect to the class as a whole.
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VI. CAUSES OF ACTION

**A. CIVIL RIGHTS – VIOLATION OF FIFTH AND
FOURTEENTH AMENDMENTS**

50. The actions of Defendant Spokane County, complained of above, were taken under color of state law. These actions violated clearly established rights under the Fifth and Fourteenth Amendments to be free of unlawful deprivation of liberty without due process of law.

51. The Defendant's failure to provide the Plaintiff, and others in the class, a preliminary hearing on probable cause prior to imposing incarceration as a penalty for non-payment of legal financial obligations and/or a hearing on whether Plaintiff willfully refused payment of legal financial obligations violates the Plaintiff's Fifth Amendment right to due process.

52. The Defendant's practice in conjunction with its statutory authority to collect court-ordered legal financial obligations violated Plaintiffs' rights because:

1) A non-attorney county court employee, who is not licensed to practice law, provided the offenders truncated or incorrect legal advice, which led individuals to;

1 2) Involuntarily, unknowingly, and unintelligently waive their statutory right to
2 a hearing on their ability to pay their legal financial obligations, which
3 means:
4

5 3) The government did not meet its burden of proving that any non-payment
6 was willful.
7

8 Therefore, Spokane County incarcerated Ms. Rucker without the due process of
9 law in violation of Ms. Rucker's Fifth and Fourteenth Amendments rights.
10

11 53. Spokane County acted intentionally, knowingly, and/or with reckless or
12 careless disregard and/or deliberate indifference to Plaintiff's constitutional
13 rights as previously set out in Washington and federal court decisions.
14

15 54. Defendants are liable for damages, costs, and attorney's fees, under 42
16 U.S.C. §§ 1988.
17

18 55. The Plaintiff's right to a preliminary hearing on probable cause has already
19 been fully adjudicated in the case *Gagnon v. Scarpelli*, 411 U.S. 778 (1973),
20 and the County is therefore liable to Plaintiff as a matter of law under
21 principles of estoppel.
22

23 **B. MUNICIPAL LIABILITY**

24 56. Defendant Spokane County explicitly adopted and implemented a policy,
25 custom, or practice permitting its employees to incarcerate individuals for
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1 non-payment of legal financial obligations without first holding a judicial
2 inquiry into their ability to pay and the willfulness of any non-payment.
3 These policies, customs, or practices explicitly allow, condone, ratify, and
4 afford the reckless and erroneous field decisions by its personnel resulting in
5 the unlawful deprivation of Plaintiff's, and those similarly situated, liberty.
6

7
8 57. Defendant Spokane County, individually or through its agencies, is a
9 "person" within the meaning of 42 U.S.C. § 1983. All actions taken by
10 Spokane County in relation to the Plaintiff were taken under the color of
11 law. In violation of the Fifth and Fourteenth Amendments to the United
12 States Constitution, Defendant Spokane County's illegal actions have
13 deprived Plaintiff of her Constitutionally-protected rights against
14 imprisonment without the required due process of law.
15
16

17
18 58. By its conduct as described herein, Spokane County proximately caused the
19 constitutional violations described above.
20

21 59. By this conduct, Spokane County violated Plaintiff's federal constitutional
22 and statutory rights under 42 U.S.C. § 1983.
23

24 60. Defendant's illegal conduct towards the Plaintiff and similarly situated
25 individuals proximately caused them an injury in fact of illegal incarceration
26 and said injury can be addressed by declaratory, injunctive and monetary
27
28

1 relief. If the Defendant is not enjoined from its illegal conduct in the future,
2 the Plaintiff and similarly situated individuals will likely suffer irreparable
3 harm in the form of future illegal incarceration.
4

5 **VII. DAMAGES**

6 61. Spokane County's illegal imprisonment of Ms. Rucker and other similarly
7 situated class members proximately caused damages to be established by the
8 Court at a uniform daily rate for each person in an amount to be proven at
9 trial, and nominal damages for each similarly situated class member. Said
10 uniform damages are for loss of liberty and other general damages. In the
11 alternative, the Court should establish the aggregate amount of total damages
12 suffered by all class members.
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16 **VIII. REQUEST FOR RELIEF**

17 WHEREFORE, the Plaintiff asks this Court to grant the following relief:
18

- 19 62. Certify this case as a class action under FRCP 23(b)(2), (3);
20
21 63. Award compensatory damages at a uniform daily rate per person for each
22 day of illegal incarceration resulting directly and proximately from
23 Defendant's conduct, as set forth above, in an amount to be determined at
24 trial;
25
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- 1 64. Award nominal damages to each person for each day of illegal incarceration
2 resulting directly and proximately from Defendant's conduct, as set forth
3 above, in an amount to be determined at trial;
4
5 65. For all prejudgment and post judgment interest as allowed by law;
6
7 66. Declare that Defendant's illegal conduct as alleged at paragraphs 9-40, is
8 unconstitutional and prohibited;
9
10 67. Issue a permanent injunction against the Defendant enjoining it from
11 engaging in the unconstitutional conduct alleged at paragraphs 9-40;
12
13 68. Award Plaintiff all reasonable costs and attorney's fees incurred in
14 connection with this lawsuit, pursuant to 42 U.S.C. § 1988, or any other
15 applicable law; and
16
17 69. For any further or additional relief which the Court deems appropriate or
18 just.

19 Respectfully submitted December 18, 2012

20
21 PAUKERT AND TROPPEMANN, PLLC

22 s/ Breean L. Beggs

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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DATED December 18, 2012.

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