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Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT HICKEY, KENNETH HANKIN,
JENNIFER HUDZIEC, STEPHANIE LANE,
CARROLL JACKSON, DENISE COOPER,
NICOLE PEARSON, and EMILY MALONEY,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

THE CITY OF SEATTLE, a municipality;
PAUL SCHELL, Mayor of the City of Seattle;
and NORMAN STAMPER, Chief of Police of
the City of Seattle,

Defendants.

No. C00-1672 R

AMENDED CLASS ACTION COMPLAINT
FOR VIOLATION OF CIVIL RIGHTS

I. NATURE OF THE CASE

1. Plaintiffs and the class they seek to represent assembled in downtown Seattle to exercise their democratic rights during the 1999 World Trade Organization Ministerial. They included people from a wide variety of well-known and non-violent movements and concerns, including consumer groups, environmentalists, labor unions, human rights groups, small farmers, and many other organizations aligned with a particular social issue or those who simply wished to observe this exchange of ideas in a public forum. Plaintiffs and the class sought to exercise their

AMENDED CLASS ACTION COMPLAINT
FOR VIOLATION OF CIVIL RIGHTS

- 1 -

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1 rights of assembly and free speech in a variety of fashions: peaceful protest, the exchange of ideas,
2 silent observation. These rights are the bedrock upon which this country was founded and are
3 among the most precious in our society.

4 2. The World Trade Organization ("WTO") had come to Seattle with the express
5 approval and encouragement of the City, and in particular its Mayor, Paul Schell. Mayor Schell was
6 determined to showcase Seattle to the watching world.

7 3. After witnessing one day of widespread and active, but largely peaceful protest
8 against the WTO, Mayor Schell and his Chief of Police, Norman Stamper, decided that the City's
9 image was being jeopardized, as was the vision they had for how the WTO conference should
10 proceed. Mayor Schell and Police Chief Stamper thus conceived and implemented a course of
11 police action that was designed to suppress and stifle any further protest which might hint of
12 unruliness, or reflect badly on the image of Seattle authorities wanted the world to see.

13 4. Thus, Mayor Schell, with the input and assistance of Police Chief Stamper, issued
14 orders and directives aimed at eliminating all demonstrations or "protests" from major portions of
15 downtown Seattle. The policies of Mayor Schell, Police Chief Stamper and the City were intended
16 to create insulated zones inside which no form of unwanted ideological expression would be
17 allowed. These unwanted forms of expression were labeled "protests" and as such were deemed
18 undesirable. Therefore, inside these zones, even the simplest of expressive acts – talking, gathering,
19 and walking – were entirely prohibited by City authorities if exercised by individuals the City
20 deemed undesirable. Reminiscent of what one might expect in repressive societies, all attempts at
21 such activities in these zones, and as it later developed outside those zones as well, were subject to
22 aggressive police harassment and arrest.

23 5. The suppressive "no protest" policies of Mayor Schell, Police Chief Stamper and the
24 City ostensibly empowered their police agents to conduct massive and instantaneous arrests of all
25 individuals who attempted to demonstrate inside, or even physically enter any zone of the City in
26 which such activities were not desired by municipal authorities. These policies eventually became

1 embodied in Local Proclamation of Civil Emergency Order Number 3 (and subsequent revisions)
2 ("Order Number 3").

3 6. Pursuant to these policies, the defendants engaged in a concerted and illegal effort to
4 stifle free speech and assembly, prohibiting the activities of both ideological protestors and citizens
5 who were just using the streets in the course of their daily lives.

6 7. This policy of repression included forcible and sometimes violent denials of the rights
7 to assemble, to express ideas, and to petition the government for redress of grievances. It
8 encompassed unreasonable and wrongful seizures of persons and incarceration under inhumane
9 conditions. This course of conduct was summarized in the Seattle City Council's WTO
10 Accountability Review Committee Final Report ("Accountability Report"):

11 Members of the public, including demonstrators, were victims of ill-
12 conceived and sometimes pointless policy actions to "clear the
13 streets." Police response, particularly on Capitol Hill, was sometimes
14 out of proportion to the threats faced. Our inquiry found troubling
15 examples of seemingly gratuitous assaults on citizens, including use of
16 less-lethal weapons like tear gas, pepper gas, rubber bullets, and
17 "beanbag guns," by officers who seemed motivated more by anger or
18 fear than professional law enforcement.

19 8. In carrying out its oppressive policy, the City of Seattle hunted, accosted and
20 incarcerated hundreds of individuals who had gathered to speak their minds in a public forum. The
21 City's police agents shot unarmed civilians with rubber pellets. They sprayed peaceful civilians with
22 nerve agents such as tear gas and pepper, forcibly handcuffed them, and in some cases violently beat
23 them with clubs. After summarily arresting as many people as they could, the City's police herded
24 them into cramped jail facilities where they were held for as many as 72 hours – often without
25 adequate food, water or space to lie down. In numerous cases, access to legal counsel was denied to
26 those incarcerated. All of these illegal actions were taken pursuant to the dictates and authority of
the City itself, its mayor and its Chief of Police.

9. This suit is brought as a class action on behalf of all the individuals wrongfully
arrested pursuant to the City's extensive "no protest" policies – policies which were ultimately

1 embodied in Order Number 3. It seeks to recover damages for those who, pursuant to City
2 directives, were improperly arrested while inside the City's designated "no protest" zones and who
3 were thus forcibly deprived of their right to free speech and assembly under the First Amendment to
4 the United States Constitution, of their right to speak freely under Article I, Section 5 of the
5 Washington State Constitution, and of their right to freedom from unreasonable search and seizure
6 under the Fourth Amendment to the United States Constitution. The improper arrests of these
7 individuals violated 42 U.S.C. § 1983 (the Civil Rights Act of 1871).

8 10. This suit also seeks damages for those individuals who were wrongfully arrested
9 pursuant to the City's "no protest" policies while outside any of the City's actual designated "no
10 protest" zones. These individuals were forcibly deprived of their First Amendment rights to free
11 speech and assembly, and their Article I, Section 5 right to speak freely. Additionally, these
12 individuals were forcibly deprived of their federal Fourth Amendment right to freedom from
13 unreasonable search and seizure. The improper arrests of these individuals violated 42 U.S.C.
14 § 1983 (the Civil Rights Act of 1871).

15 II. THE PARTIES

16 11. Robert Hickey is a citizen of the United States and a resident of New York State. He
17 was arrested by police agents of the City of Seattle on December 1, 1999. Mr. Hickey is a member
18 of the Teamsters Union and is currently working on a Ph.D at Cornell University in Labor Relations.
19 He came to Seattle to express his solidarity with the Steelworkers who were engaged in peaceful
20 demonstrations during the WTO.

21 12. Kenneth Hankin is a citizen of the United States, and a resident of Washington State.
22 He was arrested by police agents of the City of Seattle on December 1, 1999. Mr. Hankin is an
23 advocate of animal rights and environmental concerns. He came to the WTO to exercise his free
24 speech and assembly rights on these and other issues.
25
26

1 13. Jennifer Hudziec is a citizen of the United States and a resident of Washington State.
2 She was arrested by police agents of the City of Seattle on December 1, 1999. Ms. Hudziec was at
3 the WTO to observe and join in peaceful assembly and speech.

4 14. Stephanie Lane is a citizen of the United States and a resident of New York state.
5 She was arrested by police agents of the City of Seattle on December 1, 1999 and was illegally
6 incarcerated for four days. Ms. Lane is an undergraduate at the University of Chicago and came to
7 Seattle to observe the WTO demonstrations.

8 15. Carroll Jackson is a citizen of the United States and a resident of Washington State.
9 She was arrested by police agents of the City of Seattle on December 1, 1999 and was illegally
10 incarcerated for four days. Ms. Jackson is a 64 year old retired school teacher. She was at the WTO
11 to observe and take photographs of the demonstrations.

12 16. Denise Cooper is a citizen of the United States and a resident of Washington State.
13 She was arrested by police agents of the City of Seattle on December 1, 1999 and was illegally
14 incarcerated for four days. Ms. Cooper is a student at the University of Washington. She was at the
15 WTO to voice the concerns of African-Americans and other people of color who are affected by the
16 policies of the WTO.

17 17. Nicole Pearson is a citizen of the United States and a resident of Washington State.
18 She was arrested by police agents of the City of Seattle on December 1, 1999 and was illegally
19 incarcerated for four days. She was at the WTO to voice the concerns of African-Americans and
20 other people of color who are affected by the policies of the WTO.

21 18. Emily Maloney is a citizen of the United States and a resident of the State of
22 California. She was arrested by police agents of the City of Seattle on December 1, 1999 and was
23 illegally incarcerated for over 40 hours. Ms. Maloney is a 68 year old lawyer and was in Seattle
24 December 1, 1999 to exercise her First Amendment right to protest the policies of the WTO.

25 19. The City of Seattle is a municipal corporation organized under the laws of the State of
26 Washington. The defendant City includes, as one of its agencies, the Seattle Police Department.

20. Paul Schell is, and was at all times pertinent to this suit, the Mayor of the City of Seattle, with overall executive and supervisory responsibility for the acts of defendants described herein. At all times material to this complaint, defendant Schell was an agent and employee of the City of Seattle, and was acting within the scope of his employment and under color of the laws of the State of Washington.

21. Norman Stamper was, at all times pertinent to this suit, the Chief of Police of the City of Seattle, with executive and supervisory responsibility for the acts of Seattle police officers during all acts of the defendants described herein. He was responsible for the policies, practices and customs of the Seattle Police Department. He possessed final policy-making and decisional authority regarding issues of law enforcement, discipline and training within the Police Department. At all times material to this complaint, defendant Stamper was an agent and employee of the City of Seattle, and was acting within the scope of his employment and under color of the laws of the State of Washington.

III. JURISDICTION AND VENUE

22. This Court has jurisdiction over the plaintiffs because they are either residents of the State of Washington or submit to jurisdiction in this forum. The Court has jurisdiction over the defendants because they are residents of the State of Washington. This Court has jurisdiction over the subject matter of the suit pursuant to 28 U.S.C. § 1343(3) and 42 U.S.C. § 1983. The Court has jurisdiction over plaintiffs' state law claims pursuant to 28 U.S.C. § 1337.

23. Venue is proper in the Western District of Washington at Seattle pursuant to 28 U.S.C. § 1391(b).

IV. FACTUAL ALLEGATIONS

A. The WTO Comes to Seattle

24. Between November 30, 1999, and December 3, 1999, a ministerial conference of the WTO was held in Seattle, Washington. The WTO is an international policy body that according to

1 its charter promotes global trade. The WTO claims authority to impose economic sanctions upon
2 member nations that are at odds with this objective.

3 25. The City of Seattle had actively sought to host the WTO's 1999 winter ministerial
4 conference. Mayor Schell considered landing the WTO to be a prize for the city and believed it
5 would add to the city's prestige, as well as his own.

6 26. On January 25, 1999, after months of behind the scenes solicitation, Mayor Paul
7 Schell announced that the White House had chosen Seattle to be the site of the 1999 WTO
8 Ministerial Conference. Holding the conference in Seattle was portrayed as a coup that would bring
9 millions of dollars in revenues to local business owners. More importantly, hosting the WTO
10 Ministerial Conference would solidify Seattle's reputation as a "world class" city and place us at the
11 hub of international trade. As Mayor Schell noted in an interview with the SEATTLE POST-
12 INTELLIGENCER reported on January 26, 1999, "[W]e'll get advertising through the news media that
13 we couldn't afford to buy." Other leaders called the conference a "phenomenal opportunity to
14 showcase Washington State." Senator Murray observed that the WTO's coming to Seattle was like
15 "winning the jackpot." Mayor Schell shared their sentiments.

16 27. Mayor Schell was so anxious to host the WTO that he was willing to have the City
17 incur millions in WTO-related expenses because "in terms of furthering the city's role ... this is a
18 huge plus." He was also willing to override downtown merchants' concerns, in the process noting
19 that, "This event is a momentous exciting affair for Seattle" and "speaks to the growing stature of
20 Seattle's place on the world stage."

21 28. On October 12, 1999, Seattle City Councilwoman Tina Podlowski observed about
22 Schell, "[T]his is all about the Mayor's desire to put on the best possible face for the WTO. All he
23 cares about is the outside show and he doesn't give a damn about people in the neighborhoods." As
24 events would have it, she turned out to be correct.

1 **B. Legitimate, Well-Recognized Groups Express Their Intent to Exercise Rights of Free**
2 **Speech and Assembly in Protest of the WTO**

3 29. Unfortunately for Mayor Schell's Norman Rockwell-like plans, dark clouds (from his
4 perspective) began to form shortly after Seattle was selected as the site of the WTO conference.

5 30. The convening of this conference had, for months, drawn the attention of thousands
6 of citizens and organizations who disagreed with WTO policies, including the Direct Action
7 Network, Public Citizen, the AFL-CIO and its affiliated unions, the Earth Justice Legal Defense
8 Fund, Sierra Club, the International Forum on Globalization, and many other well-known and
9 respected organizations. The opposition to the ministerial conference also included many diverse
10 organizations within the environmental, consumer rights, labor, pro-democracy, and other
11 movements, both in the United States and worldwide. Interested parties even included presidential
12 candidate Ralph Nader.

13 31. This opposition created an organized free speech presence in Seattle from the summer
14 of 1999 through December of that year. Opposition groups sponsored numerous educational
15 conferences and seminars concerning the WTO, many of which resulted in publications of books and
16 journals detailing their view that the WTO's policies and practices were anti-consumer, anti-
17 environmental, and anti-union. There were widely attended and publicized events dealing with the
18 elements and logistics of protest, including a training session on civil disobedience and nonviolent
19 actions conducted by the Direct Action Network. These expressions of public protest and
20 preparations for non-violent demonstrations were well known to City officials and to the Seattle
21 Police Department.

22 32. Through a series of public declarations and press conferences, the opposition to the
23 WTO made clear that its intention was to hold large demonstrations and rallies in downtown Seattle.
24 Some protestors expressed the desire to block delegates' entrance to the WTO conference being held
25 at the Washington Trade Center. The sites where the demonstrators would convene were widely
26

1 publicized. In addition, a large labor march was granted a City permit to march from Memorial
2 Stadium to the Trade Center site, starting at noon on November 30, 1999.

3 **C. Defendants Were on Notice That the Constitution Does Not Permit the Banning of**
4 **Legitimate Free Speech and Assembly**

5 33. The City, Mayor Schell and Police Chief Stamper knew that WTO demonstrators had
6 the constitutionally protected right to conduct their planned assemblies, and to voice their opinions
7 in Seattle's public places. The controversial, passionate, even contentious nature of the WTO did
8 not afford the City any excuse to limit such activities. Clearly established law regarding public
9 demonstrations – such as the case of *Collins v. Jordan*, 110 F.3d 1363 (9th Cir. 1996) – mandated
10 that the City could not act to abbreviate or violate the public's federal First Amendment right of
11 expression because of a prospective fear regarding potentially unruly activity. Long standing
12 precedent, e.g. *Bering v. Share*, 106 Wash.2d 212, 721 P.2d 918 (1986), dictated that the public's
13 right to speak freely under Article 1, Section 5 of the Washington Constitution was even more
14 expansive than their federal rights to freedom of expression.

15 34. Clearly established law also informed the City that it could not place any general or
16 blanket limitations on the public's right to lawful protest even if some instances of illegal or
17 destructive conduct did occur during the anticipated demonstrations. Authority such as *Collins* and
18 *Bering* clearly determined that such general restrictions would be fatally overbroad, unconstitutional
19 and unreasonable.

20 35. Further, decades of well established constitutional law prohibits the City from picking
21 and choosing, based on the content or form of speech or assembly, which citizens may exercise their
22 constitutional rights of speech and assembly.

23 36. Based on well known legal precepts, the City, Mayor Schell and Police Chief
24 Stamper well knew that the only limitations they could properly impose on demonstrators were those
25 which were carefully tailored to prevent illegal behavior while simultaneously allowing the
26 continued expression of lawful speech.

1 **D. Lawful and Peaceful Assembly and Protest Take Place on November 30, 1999**

2 37. By 7:00 a.m. on November 30, 1999, the first day of the WTO ministerial, groups of
3 political protesters had gathered and organized themselves outside the hotels where out-of-town
4 delegates were staying. Other demonstrators filled the streets around these hotels and around the
5 Trade Center, carrying signs, chanting slogans, and passing out leaflets.

6 38. The Seattle Police Department commissioned numerous Metro buses that were used
7 to encircle the Trade Center and establish a perimeter beyond which protestors could not advance.
8 This tactic was successful in keeping the public away from the WTO's meeting place, however it
9 apparently did not result in enough perceived crowd control to satisfy City authorities. Then, early
10 in the day on November 30, 1999, City police agents began liberally employing pepper spray, tear
11 gas and rubber pellets against demonstrators in an attempt to remove them entirely from the streets
12 of downtown Seattle.

13 39. For understandable reasons, Mayor Schell and the City refrained from imposing any
14 state of emergency or "no protest" zones on the afternoon of November 30. They knew that the
15 officially scheduled and sanctioned labor march was unavoidably bringing numerous families –
16 including young children – and recognizable citizens into the downtown area. Indeed, Seattle's
17 Deputy Mayor Tom Byers was part of that march. Consequently, the City limited its crowd control
18 efforts to piecemeal and often uncoordinated use of pepper spray, tear gas, and other weapons-
19 oriented methods on first day of the WTO conference. In spite of these pain-inflicting activities,
20 numerous protests and political demonstrations took place in the heart of the City streets. Although
21 not treated as such, these lawful forms of expression were almost entirely peaceable and restricted to
22 passive civil disobedience. Several isolated instances of destructive behavior did occur on the
23 fringes of larger ideological gatherings. Yet although the few perpetrators of such detrimental
24 behavior were often known to, and even witnessed by, the City and its police agents, no action was
25 taken by any City authority to impede or contain them.

1 **E. Institution of Curfew Zones and a No Protest Policy**

2 40. By the evening of November 30, 1999, Mayor Schell and the City had decided that
3 their attempts to stunt the protests were not achieving their desired effects. If anything, the number
4 of people who planned to speak and assemble appeared to be growing. With a growing appreciation
5 of their inadequate preparations for the WTO events, the City, Mayor Schell and Police Chief
6 Stamper declared a State of Civil Emergency in the evening of November 30, 1999. First, a general
7 nightlong curfew was imposed on the downtown area. Then, in an ever-escalating series of
8 restrictions, the City, Mayor Schell and Police Chief Stamper began to dictate various policies and
9 orders that would authorize the mass arrests of anyone perceived to be protesting – peacefully or
10 otherwise – in the downtown area after the lifting of the general curfew. In fact, these directives and
11 orders mandated the arrest of anyone who, without proper credentials, even ventured into the
12 downtown core.

13 41. Thus, for the first time in the city's history, peaceful protestors or citizens wishing to
14 use the streets, were subject to arrest merely for being present in a public place. A radio exchange
15 showed that even some members of the Seattle police department were often surprised by the import
16 of the City's policies and orders:

17 Let me get this straight [officer on the radio] we're just supposed to
18 arrest all protestors?

19 That's affirmative.

20 42. The defendants' directives and orders creating these "no protest" and/or curfew zones
21 were unconstitutional on their face. They were designed to deprive the plaintiffs, Class members
22 and public at large of their federal First Amendment right to free speech and assembly, as well as
23 their Washington State Constitutional right to speak freely. They were, in effect, content-based and
24 discriminatory restrictions aimed at denying specific individuals their lawfully guaranteed freedoms
25 of expression. They were also unconstitutional as applied. As applied, they were directed at
26 individuals who were lawfully gathered to exercise protected freedoms.

1 43. The City, Mayor Schell, and Police Chief Stamper elected to enforce their restrictions
2 on free speech and assembly by using disruptive and painful "crowd control" measures such as
3 rubber pellets, pellet grenades, tear gas and pepper spray.¹ These measures were employed by the
4 City in a manner which unfairly punished peaceful demonstration, failed to curtail destructive
5 behavior, and did not foster general conditions of public safety in the downtown Seattle area.

6 44. On December 1, 1999, Mayor Schell's and the City's "no protest" policies and
7 directives culminated in the issuance of Local Proclamation of Civil Emergency Order Number 3
8 (and subsequent revisions) ("Order Number 3"). The provisions of Order Number 3 embodied the
9 City's official policy of banning the general public from gathering in, or even from entering, an area
10 of approximately 24 city blocks in downtown Seattle described as: "Starting on the corner of 4th
11 Avenue and Lenora Street, then proceeding south on 4th Avenue to Seneca Street, then east on
12 Seneca Street to the I-5 freeway, then north along the I-5 freeway to Boren Avenue, then north on
13 Boren Avenue to Pine Street, then west on Pine Street to 6th Avenue, then north on 6th Avenue to
14 Lenora Street, then west on Lenora Street to, and concluding at [sic] 4th Avenue and Lenora."²

15 45. This restricted area, which came to be the best known of the City's "no protest"
16 zones, included the Washington State Convention Center, which was the hub of all WTO activity in
17 Seattle. The area also incorporated Westlake Plaza, numerous hotels, much of the retail-shopping
18 core of the city, and many other public areas in which peaceful political demonstrations had been
19 held prior to the issuance of Order Number 3. The blanket speech, assembly and physical presence
20 restrictions imposed by Order Number 3 were declared to be effective until 12:00 a.m. on
21 December 2, 1999. Following this expiration date and time, Order Number 3 was revised and
22 extended to 12:00 a.m. on December 3, 1999.

23 ¹ Pepper spray – also called "OC," in reference to its active ingredient: oleoresin capsicum – is a projectile
24 substance derived from cayenne peppers. The chemical agents in oleoresin capsicum produce sensations of heat and
25 burning on human nerve-endings, in particular those located in the eyes, nose and mouth. The intensity of this burning is
26 measured along a scale known as the Scoville heat unit rating. One to three Scoville units are detectable by the tongue as
a level of heat. The pepper spray used by police in Seattle – the strongest and purest available – contained 10 – 15%
oleoresin capsicum extract, with a Scoville rating of 1.5 to 2 million units. *Hawken, Paul, "On the Streets of Seattle,"*
The Amicus Journal, Spring 2000, p.29, 2000.

² Order No. 3. (and subsequent revisions) and map are attached to this Complaint as Exhibit A.

1 46. Like the City's other "no protest" directives which had preceded it, Order Number 3
2 authorized law enforcement agents to arrest and summarily incarcerate any member of the general
3 public who entered specified areas of downtown for any reason -- including the expression of
4 political ideas or the exchange of constitutionally protected speech. The only individuals exempted
5 from this order were credentialed WTO personnel, law enforcement officials, members of the press,
6 and residents (both commercial and domestic) of the restricted downtown area. The "credential"
7 exception to Order Number 3 provided:

8 No person shall entered or remain in a public place as defined in SMC
9 15.02.046C within the above described limited curfew area except the
10 following: Delegates and personnel authorized by the WTO to
11 participate in official WTO functions; Employees and owners of
12 businesses within the limited curfew area and other personnel
13 necessary to the operation of those businesses; Persons who reside
14 within the limited curfew area; Representatives of the press with
15 proper credentials; City officials with valid identification, and;
16 Emergency and public safety personnel.

17 47. Thus, Order No. 3 made it legal for one group of people to exercise their rights of
18 expression, but not others. WTO delegates were free to move about in the "no protest" zone, as
19 were credentialed press, while peaceful law abiding citizens, whether protesting or not, were
20 prohibited from assembly or speech.

21 48. On December 1 and 2, 1999, in accordance with the City's "no protest" policies and
22 even before the effective commencement of Order Number 3, numerous groups of peaceful
23 individuals were accosted and arrested by City police agents merely for attempting to express their
24 opinions of the WTO, or by offering silent support to those who were expressing their opinion.
25 Many more people were waylaid and arrested by police for nothing more than being physically
26 present in the City's targeted sections of the downtown area. All of these individuals were
confronted by armed City police agents who forcibly detained them, stifled their efforts of
expression, subdued them with painful crowd control weapons, searched their persons and
belongings, and transported them to incarceration facilities for long periods of holding. In almost no
case did the individuals detained in this manner offer any resistance to the City's police agents. At

1 Second Avenue and Pine Street marchers were chanting "peaceful protest" when police attacked
2 them with rounds of tear gas, rubber pellets and concussion bombs. Many officers, against Seattle
3 Police Department policy, actually masked their identification so they could attack protestors with
4 anonymity.



14 Riot police spray peaceful protestors with pepper spray.

15 49. Although the City's Order Number 3 ostensibly designated very specific zones as
16 being subject to speech restrictions, the City often chose to stifle all expression and demonstration in
17 a much more expansive area. With the consent of the Mayor and Chief of Police, citizens and
18 visitors were consequently arrested pursuant to City "no protest" policies and directives even though
19 they were actually outside any designated "no protest" zone. In all cases, these people were
20 subjected to the liberal use of crowd control weaponry, searches and seizures of their person, and
21 lengthy incarceration. Such weaponry included tear gas, rubber pellets and pepper spray.

22 50. For example, on the morning and afternoon of December 1, 1999, pursuant to a
23 permit issued by the City of Seattle itself, members and supporters of a steelworkers union were
24 allowed to participate in a political march which occurred well outside the designated no protest
25 zone. After the march terminated near the Seattle waterfront, many of the participants began making
26 their way back toward the demonstration's starting point by angling east, in the general direction of

1 the downtown core. As one large group neared the location of 1st Avenue and Pike Street, the City
2 of Seattle's police agents confronted it and used painful crowd control weapons such as pepper spray
3 and rubber pellets to stop its progress. Importantly, at all times that such force was used, the group
4 of protesters was well outside the no protest zone of Order Number 3.

5 51. After stopping the protestors, the City's police agents employed more crowd control
6 weapons to herd them northward along 1st Avenue for approximately one mile, in a direction that
7 took them even further away from the no protest zone. The demonstrators were ultimately forced
8 into a second group of City police agents, who had been pre-positioned to block their path. Finding
9 their progress impeded in all directions, the protestors could do nothing but remain frozen in an area
10 around the intersection of 1st Avenue and Clay Street. Yet once they had ceased moving, the City's
11 police agents moved in and forcibly arrested the protestors for ostensibly failing to "clear" the street
12 "in accordance with Mayor [sic] order."³ The area of all these protestors' arrest was well outside
13 any of the City's "no protest" zones. Numerous other individuals were also arrested at locations
14 outside of any declared "no protest" zone. The police dragnet was so broad that even WTO
15 delegates were captured. As reported in the Seattle P.I. on December 2, 1999, the City's police
16 agents dragged away Mr. Victor Menotti, a delegate from San Francisco who was peacefully
17 discussing environmental issues with a group of protestors. Observers reported that he was "arrested
18 in mid-sentence."

19 52. On other occasions, the police force, using tear gas, rubber pellets, spray and crowd-
20 control methods, drove protesters out of downtown Seattle and arrested others, even though they
21 were outside the curfew area established by Order 3.

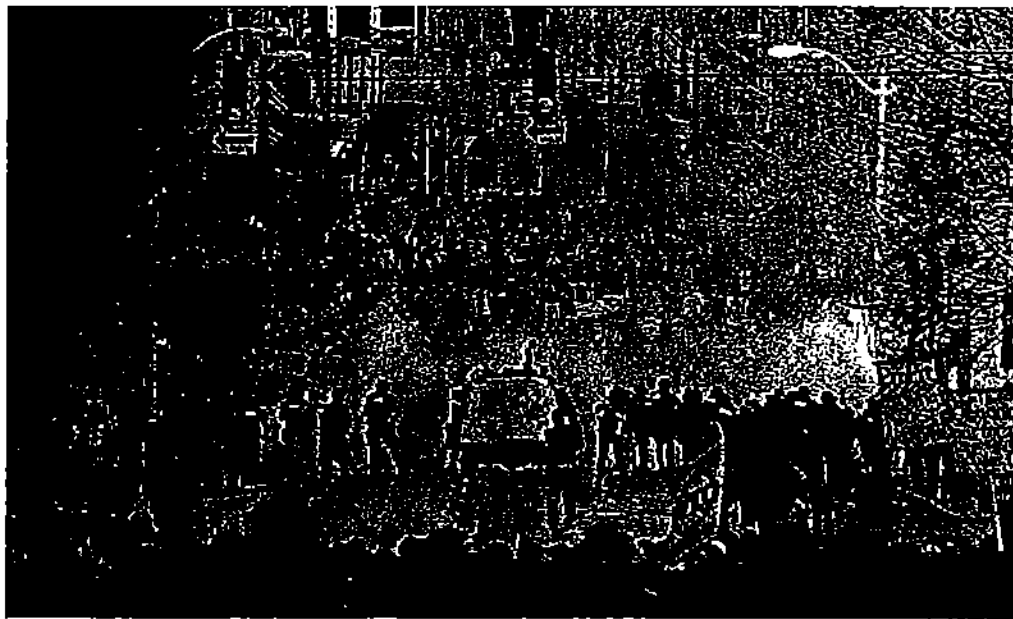
22 **F. Allegations Specific to Plaintiff Hickey and Which Are Common to Members of the**
23 **Class**

24 53. Plaintiff Robert Hickey took part in a peaceful, municipally licensed, police-
25 sanctioned demonstration organized by the Teamsters and Steelworkers unions on December 1,

26 ³ See police report, attached to this Complaint as Exhibit B.

1 1999. As part of this demonstration, thousands of people marched down to a rally on the Seattle
2 waterfront, where a series of speeches about WTO policies were delivered. After this march and
3 rally had concluded, many of the participants began making their way toward the downtown area of
4 the City. Plaintiff Hickey was among these individuals, all of whom were peaceful and well-
5 behaved.

6 54. Near the intersection of First Avenue and Broad Street, plaintiff Hickey left the group
7 of rally participants and entered the Labor Temple at that location. Plaintiff Hickey used a telephone
8 inside the Labor Temple to make several personal calls, then returned to the streets. Outside,
9 plaintiff Hickey met an acquaintance who informed him that many of the participants from the labor
10 rally were currently being accosted and detained by police forces near the intersection of First
11 Avenue and Clay Street. Out of solidarity, plaintiff Hickey hurried to this location, where he
12 observed a cordon of riot police forces in the process of surrounding a large group of peaceful
13 individuals.



24 Riot police use tear gas to disperse crowd.

25 55. Plaintiff Hickey attempted to cross the police lines in order to join the besieged
26 demonstrators. The police allowed him to do so. From several members of the crowd, plaintiff

1 Hickey learned that as the rally participants had moved east, away from the waterfront, armored City
2 police agents had suddenly assembled to block their way. Without issuing any instructions or
3 communications to the demonstrators, these agents had then begun to discharge projectile weapons
4 and tear gas at them. The demonstrators had retreated from the police, using both chants and
5 gestures to indicate their peaceful intentions. Police agents had pursued the demonstrators, herding
6 them away from downtown. Other police agents had blocked side streets so as to insure that the
7 demonstrators could proceed in only one direction.

8 56. While plaintiff Hickey spoke with other rally participants, police agents gave the
9 crowd a vague order to "disperse." However, both during and after the delivery of this dispersal
10 order, police kept the demonstrators encircled and did not provide them with any means of leaving
11 the area. Some individuals who actually tried to depart, including plaintiff Hickey, were actively
12 prevented from doing so. Many of these people were even targeted with tear gas and concussion
13 devices to prevent any movement.

14 57. Police then arrested all of the surrounded demonstrators, including plaintiff Hickey.
15 Plaintiff Hickey was handcuffed and loaded onto a transport that took him to Sandpoint Naval
16 Station for processing. At no point did plaintiff Hickey offer any resistance to these police actions.
17 He was never read his rights by any police agent, or informed of the charges on which his arrest was
18 predicated.

19 58. After being arrested, plaintiff Hickey was held in custody by the Seattle Police and its
20 agents for approximately 72 hours before being released. At no time during his custodial
21 incarceration was plaintiff Hickey ever informed of the charges brought against him.

22 59. All charges against plaintiff Hickey were later withdrawn by the City of Seattle
23 without a trial on the merits.
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1 **G. Allegations Specific to Plaintiff Hankin and Which Are Common to Members of the**
2 **Class**

3 60. Plaintiff Kenneth Hankin took part in a peaceful demonstration that began in Denny
4 Park on the morning of December 1, 1999. Hankin and other non-violent protestors marched toward
5 downtown Seattle, singing songs, playing music and chanting ideological slogans concerning the
6 WTO. Many in the crowd with him repeated the words "peaceful protest" as they advanced. No
7 acts of violence could be observed in the area.

8 61. At some time near 9:00 a.m., the demonstration involving Hankin was stopped by
9 City police forces at the public square near Westlake Center, in the City's commercial district.
10 Police agents wearing riot armor and others mounted on horses surrounded the demonstrators and
11 prevented their further progress in any direction. At this point, many of the demonstrators sat on the
12 ground to communicate their non-violent intentions.

13 62. The City's police agents then informed the demonstrators that any individuals sitting
14 down would be summarily arrested. The Police stated that those persons who did not wish to be
15 arrested should remove themselves to a building front on one side of the public square. Not wanting
16 to be arrested, plaintiff Hankin followed the police's directives and walked over to stand in the
17 indicated area.

18 63. Police agents proceeded to arrest all of the non-violent protestors who remained
19 seated in the public square, often using pain and "compliance" holds on individuals who offered
20 them no resistance. After placing all of these demonstrators on buses for transport to incarceration
21 facilities, police agents then arrested all of the individuals who had placed themselves in the "non-
22 arrest" area pursuant to prior police instructions.



Protestors being arrested at Westlake Center.

64. Plaintiff Hankin was arrested by Seattle Police agents at this time, handcuffed and placed on a bus for transport to an incarceration and processing facility at the Sandpoint Naval Station. Plaintiff Hankin offered no resistance to any police action. He was never read his rights by any police agent, or informed of the charges on which his arrest was predicated.

65. After being arrested, plaintiff Hankin was held in custody by the Seattle Police and its agents for approximately 60 hours before being released. At no time during his custodial incarceration was plaintiff Hankin ever informed of the charges brought against him.

66. All charges against plaintiff Hankin were later dismissed by the City of Seattle without a hearing.

H. Allegations Specific to Plaintiff Hudziec and Which Are Common To Members of the Class

67. Plaintiff Jennifer Hudziec took part in the peaceful demonstration that began in Denny Park on the morning of December 1, 1999. Hudziec marched with those who sang and chanted their ideas concerning the WTO. One of the demonstrators played accompanying music on a flute, others including Ms. Hudziec were singing the national anthem.

1 68. At some time around 9:00 a.m., the demonstration involving Hudziec was stopped by
2 Seattle Police forces at the public square near Westlake Center. Seattle Police agents then informed
3 the demonstrators that any individuals who did not remove themselves to one side of the square
4 would be summarily arrested. The Police stated that those persons who did not wish to be arrested
5 should proceed to a designated building front. Making what she considered to be one of the most
6 difficult decisions of her life, but not wanting to be arrested, plaintiff Hudziec followed the police's
7 directives and walked over to stand in the indicated area. She believed that by doing so she would
8 not be arrested.

9 69. Police agents arrested all of the non-violent protestors who remained in the middle of
10 the public square. The Police then began arresting all of the individuals who had purposely placed
11 themselves in the "non-arrest" area, pursuant to prior police instructions. Plaintiff Hudziec was thus
12 arrested by Seattle Police agents at this time, handcuffed and placed on a bus for transport to an
13 incarceration and processing facility at the Sandpoint Naval Station. Plaintiff Hudziec offered no
14 resistance to any police action. She was never read her rights by any police agent, or informed of the
15 charges on which her arrest was predicated and was denied for hours the right to speak to a lawyer in
16 private. After the media left the area, the bus she was on was taken behind the Naval Station
17 whereupon Seattle Police began pepper spraying people on the bus and forcibly removed others. All
18 of this was purposely done outside the presence of the media.

19 70. After being taken off the bus, she was shackled by handcuffs and a waist cuff, and
20 transported to King County Jail. She was arrested on a Wednesday night and was not informed of
21 the charges against her until before her arraignment on Friday.

22 71. All charges against plaintiff Hudziec were later dismissed by the City of Seattle
23 without a hearing.

24 **I. Allegations Specific to Plaintiff Lane and Which Are Common to Members of the Class**

25 72. Plaintiff Stephanie Lane, like plaintiffs Hankin and Hudziec, took part in the peaceful
26 demonstration that began in Denny Park on the morning of December 1, 1999.

1 73. Plaintiff Lane was with this demonstration when it was stopped by Seattle Police
2 forces at the public square near Westlake Center, in the City's commercial district. At the time it
3 was stopped, there were no acts of violence associated with this march.

4 74. Plaintiff Lane was among those individuals who did not want to be arrested. She thus
5 followed the police's directives to stand in an indicated "non-arrest" area and await further
6 instructions.

7 75. However, plaintiff Lane was nonetheless arrested by Seattle Police agents, who
8 handcuffed her and placed her on a bus for transport to an incarceration and processing facility. At
9 no time did plaintiff Lane offer any resistance to police action. She was never read her rights by any
10 police agent, or informed of the charges on which her arrest was predicated.

11 76. After being arrested, plaintiff Lane was held in custody by the Seattle Police and its
12 agents for over 48 hours before being released.

13 77. All charges against plaintiff Lane were later dismissed by the City of Seattle without
14 a hearing.

15 **J. Allegations Specific to Plaintiff Jackson and Which are Common to Members of the**
16 **Class**

17 78. Plaintiff Carroll Jackson was observing the march in which Plaintiff Robert Hickey
18 participated, described above. Plaintiff Jackson had participated in marches earlier in the week, and
19 she had taken her camera downtown on December 1, 1999 to take photographs of the
20 demonstrations. She observed the City's police agents drive the demonstration of which Plaintiff
21 Hickey was a part. After the police agents had driven those demonstrators far north of the "no
22 protest zone", Plaintiff Jackson was taking photographs of the demonstrators. At that point, she was
23 ordered to move across the street, and she was then ordered to sit down with a group of
24 demonstrators.

25 79. The police then ordered Plaintiff Jackson's group of demonstrators to join a larger
26 group of demonstrators. Police then arrested all of the surrounded demonstrators, including plaintiff

1 Jackson. Plaintiff Jackson was handcuffed and loaded onto a transport that took her to Sandpoint
2 Naval Station for processing. At no point did plaintiff Jackson offer any resistance to these police
3 actions.

4 80. After being arrested, plaintiff Jackson was held in custody by the Seattle Police and
5 its agents for more than four full days before being released. She was incarcerated for more than 72
6 hours before she was arraigned. She was never read her rights.

7 81. All charges against plaintiff Jackson were later withdrawn by the City of Seattle
8 without a trial on the merits.

9 **K. Allegations Specific to Plaintiff Cooper and Which are Common to Members of the**
10 **Class**

11 82. Plaintiff Cooper joined the march that had begun in Denny Park on the morning of
12 December 1, 1999. This was the same march in which plaintiffs Hankin, Hudziec and Lane, took
13 part.

14 83. Plaintiff Cooper was with this demonstration when it was stopped by Seattle Police
15 forces at the public square near Westlake Center, in the City's commercial district. At the time it
16 was stopped, there were no acts of violence associated with this march.

17 84. Plaintiff Cooper was among those individuals who did not want to be arrested. She
18 thus followed the police's directives to stand in an indicated "non-arrest" area and await further
19 instructions. Concerned that the instructions about a "non-arrest" area may not be accurate, and not
20 wanting to be arrested, Plaintiff Cooper asked a nearby officer. This officer confirmed to her that
21 those who stood in the "non-arrest" area would not be arrested.

22 85. However, plaintiff Cooper was nonetheless arrested by Seattle Police agents, who
23 handcuffed her and placed her on a bus for transport to an incarceration and processing facility. At
24 no time did plaintiff Cooper offer any resistance to police action. After being arrested, plaintiff
25 Cooper was held in custody by the Seattle Police and its agents for more than four days before being
26 released.

1 86. All charges against plaintiff Cooper were later dismissed by the City of Seattle
2 without a hearing.

3 **L. Allegations of Plaintiff Pearson Which are Common to the Members of the Class.**

4 87. Plaintiff Pearson joined the march that had begun in Denny Park on the morning of
5 December 1, 1999. This was the same march in which plaintiffs Hankin, Hudziec, Lane and Cooper,
6 took part.

7 88. Plaintiff Pearson was with this demonstration when it was stopped by Seattle Police
8 forces at the public square near Westlake Center, in the City's commercial district. At the time it
9 was stopped, there were no acts of violence associated with this march.

10 89. Plaintiff Pearson was among those individuals who did not want to be arrested. She
11 thus followed the police's directives to stand in an indicated "non-arrest" area and await further
12 instructions.

13 90. However, plaintiff Pearson was nonetheless arrested by Seattle Police agents, who
14 handcuffed her and placed her on a bus for transport to an incarceration and processing facility. At
15 no time did plaintiff Pearson offer any resistance to police action. After being arrested, plaintiff
16 Pearson was held in custody by the Seattle Police and its agents for more than four days before being
17 released.

18 91. All charges against plaintiff Pearson were later dismissed by the City of Seattle
19 without a hearing.

20 **M. Allegations of Plaintiff Maloney Which are Common to Members of the Class**

21 92. Plaintiff Emily Maloney took part in a peaceful demonstration that began in Denny
22 Park on the morning of December 1, 1999. Maloney and other non-violent protestors marched
23 toward downtown Seattle, singing songs, playing music and chanting ideological slogans concerning
24 the WTO. Many in the crowd with her repeated the words "peaceful protest" as they advanced. No
25 acts of violence could be observed in the area.
26

1 93. Plaintiff Maloney continued marching toward downtown Seattle with this group, and
2 turned onto 8th Avenue. When the group approached the vicinity of 8th Avenue and Blanchard
3 Street, a police line formed to block their path. The crowd remained peaceful. No acts of violence
4 could be observed. Then, without warning, the police began arresting the group. Plaintiff Maloney
5 was among those arrested.

6 94. The Seattle Police agents handcuffed Plaintiff Maloney and placed her on a bus for
7 transport to an incarceration and processing facility. At no time did plaintiff Maloney offer any
8 resistance to police action. Nevertheless, the police placed the handcuffs so tight on her wrists that
9 they started to bleed. Despite the fact that Plaintiff Maloney is a sixty-eight year old woman, despite
10 the fact that the police had inflicted this pain upon her, and despite the cries for help by her and
11 others, the police made no attempt to loosen her handcuffs for several hours. Worse, she was
12 illegally incarcerated for 36 hours before she was given anything to eat.

13 95. Plaintiff Maloney was held in custody by the Seattle Police and its agents for over 40
14 hours before being released.

15 96. All charges against Plaintiff Maloney were later dismissed by the City of Seattle
16 without a hearing.

17 **N. The Impact of the Defendants' Policies**

18 97. The impact of defendants' policy and orders as created and then implemented was
19 far-reaching and included, but was not limited to:

20 (a) Plaintiff and members of the class were prohibited from peaceful free speech
21 and assembly;

22 (b) Free speech and assembly was chilled, not just for plaintiffs and members of
23 the class, but for thousands of others who were considering lawful free speech and assembly,
24 but who were dissuaded from doing so by defendants' policies;

25 (c) Plaintiffs and members of the class experienced well-founded fear and anxiety
26 as their free speech rights were quashed by an aggressive, armed police force;

1 (d) Plaintiffs and members of the class had to endure arrest, including being
2 handcuffed and forced onto buses and jails against their will;

3 (e) Plaintiffs and members of the class had to suffer the indignity and burden of
4 being jailed for exercising their constitutional rights; and

5 (f) Plaintiffs and members of the class each experienced distress and physical
6 discomfort both from the deprivation of their civil rights and their physical treatment.

7 98. The foregoing impacts are common to plaintiffs and members of the class.

8 **V. CLASS ACTION ALLEGATIONS**

9 99. Plaintiffs bring this action individually and as a class action on behalf of the Class
10 defined as follows:

11 All persons who were arrested by the City of Seattle and its police
12 agents or its affiliated police agents on December 1 and 2, 1999,
13 pursuant to the defendants' "no protest" policies and directives which
14 were eventually embodied by the City of Seattle's Local Proclamation
15 of Civil Emergency Order Number 3 (and subsequent revisions) and
16 who were subsequently not convicted of any crime. Included in this
17 class are all persons arrested pursuant to such policies both inside and
18 outside the zone established by Order Number 3.

19 100. This action is brought and may properly be maintained as a class action pursuant to
20 Federal Rule of Civil Procedure 23(b)(1) and (b)(3). The action satisfies the numerosity, typicality,
21 adequacy, commonality, predominance and superiority requirements of those provisions.

22 101. The Class is so numerous that the individual joinder of all of its members is
23 impracticable. While the exact number of Class members is unknown to plaintiffs at this time and
24 can only be ascertained through appropriate discovery, plaintiffs are informed and believe that the
25 Class includes over six hundred members whose identities can be easily ascertained from City
26 records.

102. Common questions of fact and law exist as to all members of the Class which
predominate over any questions affecting individual members of the Class. These common legal
and factual questions, which do not vary from Class member to Class member, and which may be

1 determined without reference to the individual circumstances of any Class member, include but are
2 not limited to the following:

3 (a) whether the defendants' policies and directives which were ultimately
4 embodied by Local Proclamation of Civil Emergency Order Number 3 (and subsequent revisions) of
5 the City of Seattle, and which attempted to create extensive curfew zones, or "no protest" zones,
6 throughout the City's downtown area, violated the First Amendment of the United States
7 Constitution, and Article 1, Section 5 of the Washington State Constitution;

8 (b) whether the arrests of plaintiffs and the Class while physically within one of
9 the City's declared curfew zones or "no protest" zones violated the federal First and Fourth
10 Amendment rights of plaintiffs and the Class;

11 (c) whether the arrests of plaintiffs and the Class while physically within one of
12 the City's declared curfew zones or "no protest" zones violated the rights of plaintiffs and the Class
13 guaranteed under Article 1, Section 5 of the Washington State Constitution;

14 (d) whether the arrests of plaintiffs and the Class while physically outside one of
15 the City's declared curfew or "no protest" zones violated the First and Fourth Amendment rights of
16 plaintiffs and the Class;

17 (e) whether the arrests of plaintiffs and the Class while physically outside one of
18 the City's declared curfew or "no protest" zones violated the rights of plaintiffs and the Class
19 guaranteed under Article 1, Section 5 of the Washington State Constitution;

20 (f) whether, pursuant to 42 U.S.C. § 1983, plaintiffs and the Class are entitled to
21 an award of compensatory damages resulting from the violation of their federal First Amendment
22 rights by the City of Seattle, Paul Schell and Norman Stamper;

23 (g) whether, pursuant to 42 U.S.C. § 1983, plaintiffs and the Class are entitled to
24 an award of punitive damages resulting from the violation of their federal First Amendment rights by
25 Paul Schell and Norman Stamper;
26

1 (h) whether, pursuant to 42 U.S.C. § 1983, plaintiffs and the Class are entitled to
2 an award of compensatory damages resulting from the violation of their federal Fourth Amendment
3 rights by the City of Seattle, Paul Schell and Norman Stamper;

4 (i) whether, pursuant to 42 U.S.C. § 1983, plaintiffs and the Class are entitled to
5 an award of punitive damages resulting from the violation of their federal Fourth Amendment rights
6 by Paul Schell and Norman Stamper;

7 (j) whether pursuant to Article 1, Section 5 of the Washington State Constitution
8 plaintiffs and the Class are entitled to an award of compensatory damages for the violation of their
9 guaranteed rights to speak freely.

10 103. Plaintiffs' claims are typical of the claims of the members of the Class, and the
11 representative plaintiffs interests are coincident with and not antagonistic to those of the other Class
12 members they seek to represent. Plaintiffs and all members of the Class have sustained damages
13 from defendants' common course of conduct as complained of herein. The damages of each
14 member of the Class were caused directly by defendants' wrongful conduct.

15 104. Plaintiffs will fairly and adequately protect the interests of the members of the Class.
16 Plaintiffs have retained attorneys experienced in the prosecution of class actions, and plaintiffs
17 intend to prosecute this action vigorously.

18 105. A class action is superior to other available methods for the fair and efficient
19 adjudication of this controversy. Individual Class members do not have a cognizable interest in
20 individually controlling the prosecution of separate actions. Given the relatively small amount of
21 any potential damage awards attributable to each Class member, it would be impractical for them to
22 pursue separate suits. Such suits would also be unduly burdensome to the courts in which they
23 would proceed. Moreover, individualized litigation would present the potential for varying,
24 inconsistent, or contradictory judgments and would magnify the delay and expenses to all parties and
25 to the court system resulting from multiple trials of the same factual and legal issues.
26

1 106. Owing to the predominance of common issues among Class members, as well as the
2 availability of adequate records regarding Class membership, the conduct of this litigation as a class
3 action will encounter no significant manageability obstacles.

4 **FIRST CAUSE OF ACTION**

5 **(Violation of Federal Civil Rights – Declaration of Unconstitutionality)**

6 107. Plaintiffs, individually and on behalf of the Class, incorporate the preceding
7 paragraphs as though fully set forth herein.

8 108. The actions of defendants the City of Seattle, Mayor Paul Schell and Police Chief
9 Norman Stamper in formulating, issuing and causing to be effectuated the curfew and “no protest”
10 policies and directives, which were ultimately embodied by Order Number 3, were taken under color
11 of state law. These policies, directives and Order Number 3 represented the official policy of the
12 City of Seattle and were implemented by the City’s police force.

13 109. These policies and Order Number 3 were unconstitutional as enacted, and as applied,
14 in that they restricted peaceful free speech and assembly based on its content, protecting certain
15 forms of speech and assembly (for example, that of WTO delegates) while prohibiting the free
16 speech of others who were engaging in “unwanted” forms of speech or expression. These policies
17 and orders were also unconstitutional as applied in that they restricted lawful, peaceful free speech
18 and assembly based on its content. The policies therefore violated plaintiffs’ and the Class’s federal
19 constitutional rights under the First Amendment.

20 **SECOND CAUSE OF ACTION**

21 **(Violation of Washington State Civil Rights – Declaration of Unconstitutionality)**

22 110. Plaintiffs, individually and on behalf of the Class, incorporate the preceding
23 paragraphs as though fully set forth herein.

24 111. The actions of defendants the City of Seattle, Mayor Paul Schell and Police Chief
25 Norman Stamper in formulating, issuing and causing to be effectuated the curfew and “no protest”
26 policies and directives which were ultimately embodied by Local Proclamation of Civil Emergency

1 Order Number 3 were taken under color of state law. These policies and Order Number 3
2 represented the official policy of the City of Seattle and were implemented by the City's police
3 force.

4 112. The restrictions on physical presence, assembly and expression incorporated in
5 defendants' curfew and "no protest" policies and directives – which included Order Number 3 –
6 violated plaintiffs' and the Class's rights under Article 1, Section 5 of the Washington State
7 Constitution.

8 **THIRD CAUSE OF ACTION**

9 **(Violation of Federal Civil Rights – Damages)**

10 113. Plaintiffs, individually and on behalf the Class, incorporate the preceding paragraphs
11 as though fully set forth herein.

12 114. The actions of defendants the City of Seattle, Mayor Paul Schell and Police Chief
13 Norman Stamper in formulating, issuing and causing to be effectuated the curfew and "no protest"
14 policies and directives which were ultimately embodied by Order Number 3 were taken under color
15 of state law. These policies, directives and Order Number 3 represented the official policy of the
16 City of Seattle and were implemented by the City's police force.

17 115. The mass arrests of plaintiffs and Class members while physically inside one of the
18 defendants' designated curfew or "no protest" zones violated their rights under the First and Fourth
19 Amendments to the United States Constitution. Pursuant to 42 U.S.C. § 1983, the defendants are
20 therefore liable for all of plaintiffs' and Class members' damages which proximately resulted
21 therefrom. Defendants Schell and Stamper acted with reckless or callous indifference to plaintiffs'
22 and the Class's constitutional rights and they are liable both individually and in their official
23 capacities.

24 116. The mass arrests of plaintiffs and Class members while physically outside one of the
25 defendants' designated curfew or "no protest" zones violated their federal constitutional rights under
26 the First and Fourth Amendments to the United States Constitution. Pursuant to 42 U.S.C. § 1983,

1 the defendants are therefore liable for all of plaintiffs' and Class members' damages which
2 proximately resulted therefrom. Defendants Schell and Stamper acted with reckless or callous
3 indifference to plaintiffs' and the Class's constitutional rights and they are liable both individually
4 and in their official capacities.

5 **FOURTH CAUSE OF ACTION**

6 **(Violation of State Civil Rights – Damages)**

7 117. Plaintiffs, individually and on behalf the Class, incorporate the preceding paragraphs
8 as though fully set forth herein.

9 118. The actions of defendants the City of Seattle, Mayor Paul Schell and Police Chief
10 Norman Stamper in formulating, issuing and causing to be effectuated the curfew and “no protest”
11 policies and directives which were ultimately embodied by Order Number 3 were taken under color
12 of state law. These policies, directives and Order Number 3 represented the official policy of the
13 City of Seattle and were implemented by the City's police force.

14 119. The mass arrests of plaintiffs and Class members pursuant to the defendants' curfew
15 and “no protest” policies, directives and Order Number 3 violated their rights to speak freely
16 guaranteed by Article 1, Section 5 of the Washington State Constitution. Pursuant to this article and
17 section of the constitution, the defendants are therefore liable for all of plaintiffs' and Class
18 members' damages which proximately resulted therefrom, including the denial of the right to speak
19 freely and the arrests and incarcerations associated with such denial.

20 **VI. JURY DEMAND**

21 120. Pursuant to Federal Rule of Civil Procedure 38, a jury trial is demanded on all causes
22 of action alleged in the Complaint.

23 **VII. PRAYER FOR RELIEF**

24 121. Plaintiffs, on behalf of themselves and the Class, pray for the following relief:
25
26

1 A. Declaratory relief specifying that the defendants' policies and directives
2 which were intended to establish extensive curfew or "no protest" zones – and which included Local
3 Proclamation of Civil Emergency Order Number 3 (and subsequent revisions) – violated the First
4 Amendment of the United States Constitution, as well as Article 1, Section 5 of the Washington
5 State Constitution;

6 B. Declaratory Relief specifying that the defendants' arrest of individuals, both
7 inside and outside the "no protest" zones, violated plaintiffs' and class members' rights under the
8 Fourth Amendment to the United States Constitution.

9 C. A uniform award of compensatory damages against all defendants for plaintiff
10 and each member of the Class in an amount to be proven at trial;

11 D. Punitive damages against defendants Schell and Stamper in an amount to be
12 proven at trial;

13 E. An award of reasonable attorney's fees and costs pursuant to 42 U.S.C.
14 § 1988; and

15 F. For such other additional relief as the Court may deem just and proper.

16
17 DATED: March 26th, 2001.

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AMENDED CLASS ACTION COMPLAINT
FOR VIOLATION OF CIVIL RIGHTS

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