

Michael E. Haglund, OSB No. 772030
email: mhaglund@hk-law.com
Shenoa L. Payne, OSB No. 084392
email: spayne@hk-law.com
HAGLUND KELLEY LLP
200 SW Market Street, Suite 1777
Portland, Oregon 97201
Phone: (503) 225-0777
Facsimile: (503) 225-1257

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

MATS JARLSTROM, an individual,

Plaintiff,

v.

CITY OF BEAVERTON, an Oregon municipal
corporation,

Defendant.

Case No.: 3:14-cv-00783-AC

FIRST AMENDED COMPLAINT

(42 U.S.C. § 1983)

Plaintiff alleges:

INTRODUCTION

1. This is a civil rights case under Section 1983 of the Civil Rights Act of 1964, 42 U.S.C. § 1983, for violations of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Plaintiff challenges the legality of the City of Beaverton's yellow light intervals at signalized intersections, which are too short to allow drivers to drive through an

PAGE 1 – **FIRST AMENDED COMPLAINT**

Haglund Kelley LLP
200 SW Market Street, Suite 1777
Portland, OR 97201
Tel: (503) 225-0777 / Fax: (503) 225-1257
0000028637H073 PL06

Exhibit A, Page 1 of 6

intersection safely and expose plaintiff, a resident of the City of Beaverton, to a serious risk of injury or death when attempting to cross these intersections as a pedestrian or in a vehicle.

JURISDICTION AND VENUE

2. This Court has jurisdiction by virtue of this case arising under the provisions of a federal civil rights statute, 42 U.S.C § 1983. Venue in this district is proper under 28 U.S.C. § 1381 because the City of Beaverton transacts business within this district and the events giving rise to plaintiff's claims occurred within this district.

PARTIES

3. Plaintiff Mats Jarlstrom is an individual and resident of the City of Beaverton, Oregon.

4. Defendant City of Beaverton is an Oregon municipal corporation.

FIRST CLAIM FOR RELIEF **(Section 1983 Civil Rights Claim)**

5. Plaintiff realleges paragraphs 1 through 4 above.

6. Plaintiff resides in the City of Beaverton in the Hyland Hills neighborhood between Murray and Hall Boulevard.

7. Plaintiff has been a resident of the City of Beaverton for 19 years.

8. Plaintiff is a self-employed electronics engineer.

9. Plaintiff is a licensed Oregon driver. Most of plaintiff's driving activity occurs within the City of Beaverton.

10. Plaintiff drives on roads within the City of Beaverton ten or more times per week.

11. Plaintiff regularly drives through signalized intersections within the City of Beaverton, including but not limited to the following intersections:

⋮

- a. S.W. Lombard Ave. and S.W. Allen Blvd.,
- b. S.W. Hall Blvd. and S.W. Allen Blvd.,
- c. S.W. Murray Blvd. and S.W. Allen Blvd., and
- d. S.W. Tualatin Valley Hwy. and S.W. Murray Blvd.

12. Plaintiff enters the above signalized intersections both as a driver and as a passenger.

13. Plaintiff intends to continue to drive through signalized intersection within the City of Beaverton on an ongoing basis in the future.

14. Defendant City of Beaverton operates multiple traffic control devices throughout its jurisdiction and has the final authority over the timing of yellow light and red light intervals at signalized intersections within its boundaries.

15. The Oregon Vehicle Code at ORS 811.260(4) defines the legally authorized response of a driver who sees a yellow light while approaching a signalized intersection as follows:

A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

16. To comply with ORS 811.260(4), the traffic control devices at signalized intersections in Oregon must provide sufficient time for the duration of the steady yellow light

interval for the driver, who is too close to the intersection to stop safely, to drive cautiously through the intersection.

17. The City of Beaverton is required to provide a yellow light interval in its signalized intersections that complies with the Oregon Vehicle Code by providing sufficient time for the driver, who is too close to the intersection to stop safely when the yellow light illuminates, to drive cautiously through the intersection. In fact, the duration of the yellow light intervals utilized by the City of Beaverton are too short to allow a safe stopping distance for vehicles that are too close to the edge of the intersection to stop safely when the yellow light first illuminates.

18. On information and belief, the short duration of yellow light intervals is the direct cause of a significant number of accidents at signalized intersections within the City of Beaverton.

19. The City of Beaverton's short yellow light intervals expose plaintiff, as a pedestrian, driver and vehicle passenger, to a serious risk of physical injury or death because of the increased risk that plaintiff will be hit by another vehicle either because

- a. another vehicle is driving through an intersection during the yellow light interval and the light turns red before that vehicle has sufficient time to accomplish that transit while plaintiff is in the intersection with a green light;
- b. another vehicle is driving through an intersection during the yellow light interval and the light turns red before that vehicle has sufficient time to accomplish that transit while plaintiff begins to enter the intersection with a pedestrian "walk" signal; or

c. plaintiff is driving through an intersection during the yellow light interval and the light turns red before he has had sufficient time to accomplish that transit and the other vehicle has a green light.

20. As an example, the intersection at Southwest Allen Boulevard and Lombard Avenue is programmed to provide a 3.5 second yellow light interval. As demonstrated by the diagram attached as Exhibit A, the driver of an automobile travelling eastbound on Southwest Allen Boulevard at the posted speed of 30 mph that is 141 feet from the intersection stop line when the yellow light illuminates, who does not instantly brake (within one second) and come to a complete stop, will be in the eastern crosswalk at the point where the northbound light has turned green and a pedestrian would have the signal to enter the crosswalk. This 3.5 second yellow light interval violates ORS 811.260(4) by failing to provide adequate time for the driver to drive through the intersection safely.

21. Beginning on or about September 3, 2013, plaintiff appeared before the Beaverton City Council at least thirteen (13) times to notify defendant of the serious risks that the short yellow light intervals pose to plaintiff and other drivers that enter the signalized intersections.

22. Despite knowledge of the serious risks, defendant chose not to lengthen the duration of the yellow light intervals.

23. The danger to plaintiff from the short yellow light duration is obvious.

24. Defendant's conduct presents an imminent threat of an unjustified intrusion on plaintiff's personal safety in violation of plaintiff's substantive due process rights under the Fourteenth Amendment to the United States Constitution.

25. Defendant has affirmatively placed plaintiff in a position of danger in which he would not otherwise face.

26. Defendant acted with deliberate indifference to a known or obvious danger in subjecting plaintiff to such danger.

27. In the operation of its signalized intersections, the City of Beaverton should be preliminarily and permanently enjoined from maintaining a yellow light interval at any signalized intersection that is too short to allow a driver, who has insufficient time to stop when the yellow light illuminates, sufficient time to drive through the intersection safely.

28. Pursuant to 42 U.S.C § 1988(b), plaintiff is entitled to his reasonable attorney fees, costs, and disbursements in prosecuting this claim.

WHEREFORE, plaintiff prays for judgment against the City of Beaverton on his First Claim for Relief for preliminary and permanent relief as alleged above and for his attorney's fees, costs and disbursements incurred herein.

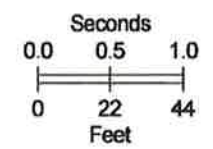
DATED this _____ day of July, 2014.

HAGLUND KELLEY LLP

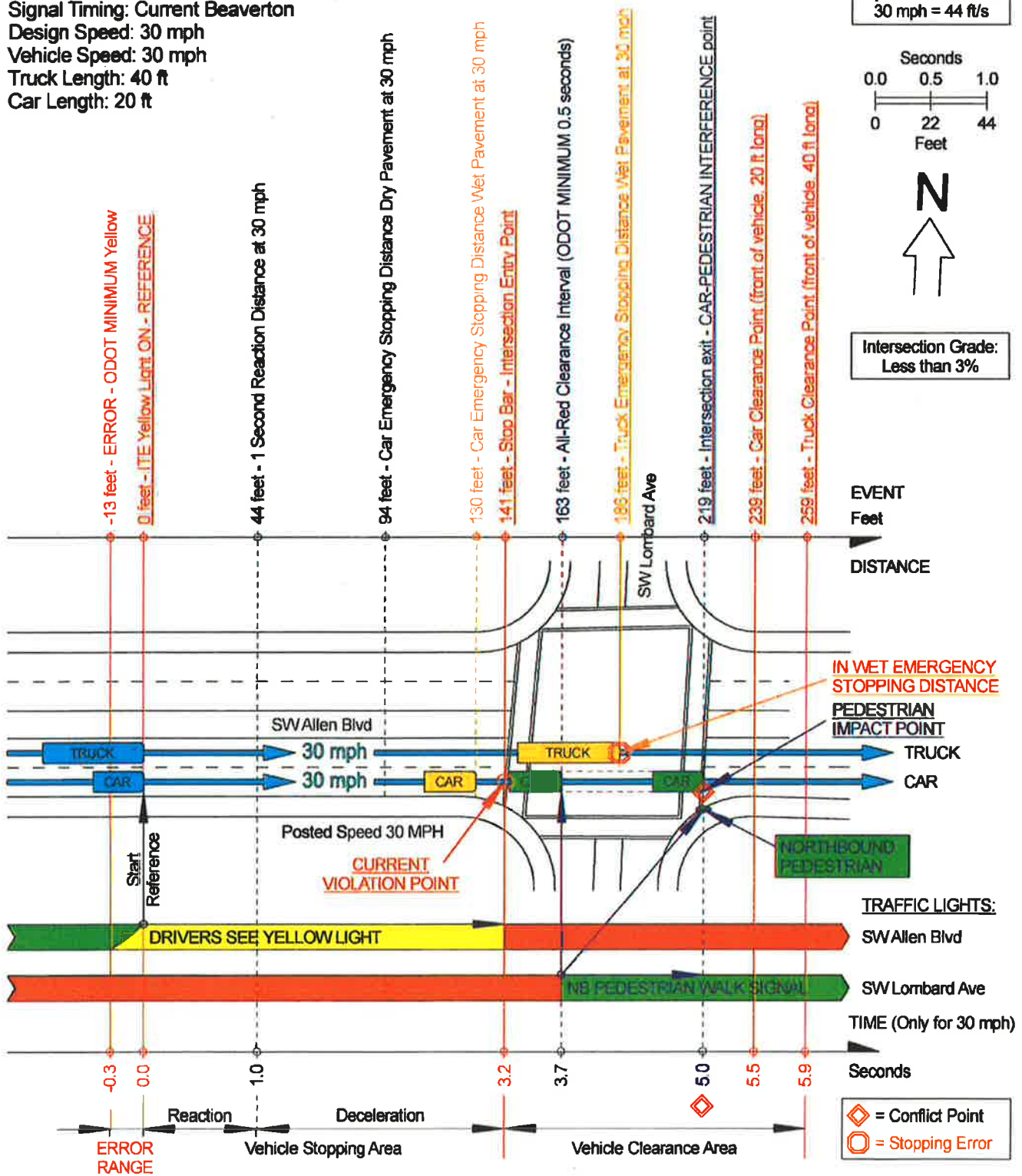
By: _____
Michael E. Haglund, OSB No. 772030
mhaglund@hk-law.com
Attorneys for Plaintiff

INPUT DATA:
 Signal Timing: Current Beaverton
 Design Speed: 30 mph
 Vehicle Speed: 30 mph
 Truck Length: 40 ft
 Car Length: 20 ft

Speed/Time Scale:
 30 mph = 44 ft/s



Intersection Grade:
 Less than 3%



30 MPH VEHICLE Speed Current Beaverton Yellow Change Interval EB SWAllen Blvd, Beaverton
 Scaled drawing showing vehicle stopping distances; interference(s), violation point(s) and errors related to intersection and traffic signals.
 (Rev. 17, April 15, 2014)

Figure 1