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SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON  
COUNTY OF SPOKANE

CHRISTINA MARTIN, ET. AL,	)	
	)	Case No.: 14-2-00016-7
Plaintiffs,	)	
	)	PARTIES' JOINT MOTION AND
vs.	)	AGREED ORDER FOR
	)	CONDUCT OF CLASS ACTION
THE STATE OF WASHINGTON,	)	AND APPROVAL OF NOTICE
ET AL,	)	TO CLASS MEMBERS
	)	
Defendants.	)	

**I. RELIEF REQUESTED**

COME NOW the parties, and move this court for an order pursuant to CR 23(d) which allows the Court to make appropriate orders in the conduct of the class action as follows:

1. Approve the notices to putative and absent class members that are attached to this motion as Exhibits 1 and 2
2. Appointment of the undersigned plaintiffs' counsel as interim counsel for the class;

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- a) the denial of state veterans' preference in hiring;
- b) the denial of state veterans' preference in promotion;
- c) failure to treat military-related absence from work as continuous employment;
- d) the denial of state paid military leave; and
- e) the individually named defendants acting under color or state law deprived the named plaintiffs and the class of substantive and procedural constitutional rights.

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JOINT MOTION AND AGREED ORDER - 2

1 Defendants accepted service of the First Amended Complaint on January 31,  
2 2014. On March 19 2014, this court entered its order denying Defendants' motion  
3 to dismiss in its entirety. On April 7, 2014, Defendant's answered the First  
4 Amended Complaint. Thereafter, the parties began working collaboratively to  
5 resolve this litigation by collecting and exchanging pertinent information.  
6

7 On December 22, 2014, the parties stipulated to a Second Amended  
8 Complaint, adding additional representative plaintiffs. On January 9, 2015, the  
9 Second Amended complaint was filed. Defendants answered the amended  
10 complaint on January 23, 2015.  
11

12 On February 6, 2015, the parties stipulated to stay discovery and extend  
13 deadlines for the purpose of resolving this litigation through settlement.

14 On February 13, 2015, the parties met and agreed to outline steps to engage  
15 in a productive evaluation and negotiation of a potential class settlement.

16 The parties have agreed to seek court approval of proposed notices to  
17 putative class members, and orders directing the conduct of the class action.  
18

#### 19 **IV. THE PROPOSED CLASSES**

20 Pursuant to Civil Rule 23, the proposed class includes the following four  
21 sub-categories of persons:

- 22 a) applicants for a position of employment with the  
23 WSP, in the position of Trooper, who were eligible  
24 to receive a veteran preference pursuant to RCW

1 41.04.010(1)-(3) with respect to such application,  
2 and did not receive the same;

3 b) current and former employees<sup>1</sup> of the WSP who  
4 applied for promotion to a higher ranking position of  
5 employment, including the rank of Sergeant,  
6 Lieutenant, and Captain, who were eligible to  
7 receive a veteran preference pursuant to RCW  
8 41.04.010 (1)-(3) with respect to such application  
9 and did not receive the same;

10 c) current and former employees of the WSP who were  
11 absent from employment at the WSP for military  
12 service, who were eligible to receive paid military  
13 leave pursuant to RCW 38.40.060, and did not  
14 receive all the benefits of that military leave; and

15 d) current and former employees of the WSP who were  
16 absent from employment at the WSP for military  
17 service, who were eligible to receive the benefits of  
18 continuous employment pursuant to 38 U.S.C. §  
19 4316 and did not receive the same.

## 20 **V. STIPULATION OF THE PARTIES SUPPORTING THE MOTION**

21 The parties are actively engaged in an effort to resolve this litigation  
22 efficiently, and in support of this motion state as follows:  
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<sup>1</sup> Based on the representation below by Washington State concerning non-commissioned employees, the Parties expect that the term employee and applicant in the class eventually certified to include commissioned employees such as troopers, sergeants, and lieutenants, but not include noncommissioned or "civilian" employees of WSP. As a result, the above definition differs from the one in the Second Amended Complaint, and at this point, would likely be the definition that the Parties would likely seek to certify as a part of any settlement.

1       1.     The parties conducted several months of informal discovery to  
2 identify potential class members.

3       2.     The parties identified four groups of persons (a - d listed above) that  
4 are affected by this litigation, and agreed upon descriptions of the same. The  
5 members of the class will, broadly include, applicants, current and former  
6 employees of the WSP between the periods of January 1, 1994 and January 1,  
7 2013.  
8

9       3.     The parties exchanged available information to identify additional  
10 affected members of the subclasses. While many potential absent class members  
11 have been identified, the identities and address information for all potential absent  
12 class members, in particular applicants who were not hired, is not known because  
13 The Washington State Patrol has represented that they did not collect or no longer  
14 maintain such information.  
15

16       4.     Based on its investigation, the State of Washington has represented  
17 to Plaintiff's counsel that for non-commissioned employees from 1994 to the  
18 present, veterans' preference points were generally made available to veterans  
19 who applied for competitive non-commissioned positions and that the points were  
20 applied unless the applicant specifically chose not to claim the veterans'  
21 preference points, although there may have been some isolated instances through  
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1 the years when points were not applied because of an error, miscommunication or  
2 some other circumstance.

3 5. The parties lack sufficient information about the identities and  
4 circumstances of all absent class members and information about this group in  
5 order to estimate damages for in aid of possible settlement. In an effort to obtain  
6 this information, the parties have agreed to a procedure utilizing electronic, print  
7 and direct mail notices and questionnaires to identify class members and  
8 determine whether they may be entitled to compensation. See §VI, *infra*.

10 6. The parties have agreed to the form and manner of the notice and  
11 have agreed to use a professional third party administrator to issue notices and  
12 secure responses. § VI, *Infra*.

14 7. The parties seek to ensure that notice to absent class members and  
15 putative class members will be substantially similar to the notice that the Court  
16 would require in the event that a settlement is reached and preliminary approval of  
17 settlement is granted. *See* attached Exhibits 1 and 2.

18 8. Counsel for the parties have found no Washington State cases  
19 addressing the contours of Rule 23(d)(2). *See* Newberg on Class Actions § 8:26  
20 (5th ed.) (observing that courts have “rarely discussed” the similar federal  
21 provision so that “the precise contours of when notice may be provided under  
22 Rule 23(d)(1)(B) are unclear.”). Nonetheless, commentators analyzing the  
23  
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1 virtually identical provision under the Federal Rules have concluded that Rule  
2 23(d)(1)(B) “provides a statutory mechanism for providing notice in a wide range  
3 of other circumstances.” *E.g.* Newberg on Class Actions § 8:26 (5th ed.); 7B  
4 Wright & Miller, Fed. Prac. & Proc. Civ. § 1793 (3d ed.) (“Notice under Rule  
5 23(d)(2) [now Rule 23(d)(1)(B)] can be used for a variety of purposes.”). The  
6 Manual for Complex Litigation expressly recognizes that “[t]here are a number of  
7 circumstances under which notice is appropriate to protect the class or proposed  
8 class or for the fair conduct of the action.” Manual Complex Lit. § 21.313 (4th  
9 ed.)  
10

11 9. A number of courts have concluded that the discretionary notice  
12 provisions of Rule 23 permits notice to putative class members. *Puffer v. Allstate*  
13 *Ins. Co.*, 614 F. Supp. 2d 905, 915 (N.D. Ill. 2009) (citing and discussing cases).  
14

15 10. Courts have the power to issue orders requiring a certain form of  
16 notice and creating a procedure for authoritative determination of class  
17 membership. *Avery v. Sec'y of Health & Human Servs.*, 762 F.2d 158, 164 (1st  
18 Cir. 1985); *Sledge v. J. P. Stevens & Co.*, 585 F.2d 625, 652 (4th Cir. 1978)  
19 (affirming district court's imposition of the claim-filing requirement prefatory to  
20 the proceedings for backpay relief based on Rule 23(d)(2)); *Biben v. Card*, 789  
21 F.Supp. 1001 (W.D. Mo. 1992) (concluding that absentee class members would  
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1 be required to submit proof of damages prior to assessment of liability finding to  
2 aid in the determining the true value of claims and to facilitate settlement).

3       11. Even when notice is mandated under Rule 23, “Rule 23(e) gives the  
4 court ‘virtually complete’ discretion as to the manner of service of the settlement  
5 notice.” *Colesberry*, 2006 WL 1875444, at \*7; *see* Fed. R. Civ. P. 23(c)(2)(B)  
6 (requiring “the best notice practicable under the circumstances”). It is well-  
7 established that notice sent by first class mail is sufficient when the names and  
8 addresses of the class members are known. *Eisen v. Carlisle & Jacquelin*, 417  
9 U.S. 156, 173-77 (1974); *Manual for Complex Litigation* § 21.311 (4th ed. 2004)  
10 (explaining that individual notice via mail is preferred when names and addresses  
11 are known). In such circumstances, courts have authorized notice only by mail.  
12 *E.g.*, *Colesberry*, 2006 WL 1875444, at \*7; *Aguilar*, 2006 WL 3199074, at \*5. In  
13 the last 10 to 15 years, courts have begun to approve of notice via electronic mail  
14 as an alternative to U.S. mail. *E.g.*, *Margulies v. Tri-Cnty. Metro. Transp. Dist. of*  
15 *Oregon*, No. 3:13-cv-00475-PK, 2013 WL 5593040, at \*21 (D. Or. Oct. 10, 2013)  
16 (approving notification by email and finding that “email is an efficient and  
17 nonintrusive method of communication.”); *Guy v. Casal Inst. of Nevada, LLC*,  
18 No. 2:13-CV-02263-APG, 2014 WL 1899006, at \*7 (D. Nev. May 12, 2014)  
19 (same); *In re Netflix Privacy Litig.*, No. 5:11-CV-00379 EJD, 2012 WL 2598819,  
20 at \*4 (N.D. Cal. July 5, 2012) (approving use of email notice).



1           12. To protect the interests of the class members, the parties have agreed  
2 that all communications with absentee putative class members about this action  
3 will be made by the third party administrator or by plaintiffs' counsel and that  
4 defendants' counsel will not interact with the absentee putative class members.  
5  
6 See Manual Complex Lit. § 21.12 (4th ed.).

7           13. "Designation of interim counsel clarifies responsibility for protecting  
8 the interests of the class during precertification activities." *Brigiotta's Farmland*  
9 *Produce & Garden Center, Inc. v. United Potato Growers of Idaho, Inc.*, No.  
10 4:10-CV-307-BLW, 2010 WL 3928544, \*1 (D. Idaho Oct. 4, 2010). The Manual  
11 for Complex Litigation suggests that it is advisable for the Court to designate an  
12 interim lead class counsel. See Manual §§ 10.22, 40.22. Courts generally utilize  
13 the same factors used in appointing interim class counsel. *Brigiotta's Farmland*  
14 *Produce & Garden Center, Inc.*, 2010 WL 3928544, at \*1; *Outten v. Wilmington*  
15 *Trust Corp.*, 281 F.R.D. 193, 197 (D. Del. 2012). An essential concomitant of  
16 adequate representation is that the class representative's attorneys be qualified,  
17 experienced, and generally able to conduct the litigation. *Marquardt v. Fein*, 25  
18 Wn. App. 651, 656, 612 P.2d 378, 381 (1980). The experience and qualifications  
19 of Plaintiffs' counsel is demonstrated by attached declarations.  
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1                   **VI. PROPOSED NOTICE TO PUTATIVE CLASS MEMBERS,**  
2                   **SCHEDULE AND PROVISIONS FOR ADMINISTRATION AND**  
3                   **MONITORING OF RESPONSES**

4                   The parties propose providing notice to and requesting information from  
5                   absent and putative class members and processing information received as  
6                   follows:

7                   **A. INTERNET POSTING:** Targeted publication/posting of the Legal  
8                   Notice (Exhibit 1, attached) on the Internet Websites listed below which are  
9                   known to be frequented by military veterans. Publication will begin as  
10                  soon as practicable after entry of this order and continue for 60 days.

11                  **www.yahoo.com; www.facebook.com**

12                  Additionally, A.B. Data, the Notice Administrator, will maintain a website  
13                  about the litigation, **www.wspveteranlitigation.com**, where these notices  
14                  and questionnaires will be posted.

15                  **B. NEWSPAPER PUBLICATION:** Publication of the Legal Notice  
16                  (Exhibit 1, Attached) in the following newspapers: *Seattle Times, Spokane*  
17                  *Spokesman-Review, Tacoma News-Tribune, the Olympian, Vancouver*  
18                  *Columbian, Everett Daily Herald, Yakima Herald Republic, Kitsap Sun,*  
19                  *Kennewick Tri-City News, Longview Daily News, Bellingham Herald, Port*  
20                  *Angeles Peninsula Daily News, Walla Walla Bulletin, and Wenatchee*  
21

1 *World*. Publication will occur twice, the first near the beginning of the  
2 website posting and the second near the end of the website posting.

3 C. **DIRECT MAILING:** Mailing of the Washington State Patrol Veterans  
4 Preference Litigation Questionnaire (Exhibit 2, attached) to all known  
5 current and former veteran employees. Mailing of the questionnaire will be  
6 preceded by a post card intended to confirm mailing addresses of  
7 employees. Questionnaires to be mailed approximately two weeks later.

8  
9 D. **MONITORING AND ADMINISTRATION OF RESPONSES:**

- 10 • Responses to questionnaires submitted to the website and/or returned  
11 by mail or electronic mail will be collected and processed by A.B.  
12 Data, Inc., an experienced firm that specializes in administration of  
13 class action litigation. Class Members will have at least 60 days  
14 from the date of mailing or publication to return the Questionnaires.
- 15 • Responses to questionnaires submitted to Interim Class Counsel (or  
16 to the State to Defendants' counsel) shall be supplied to A.B. Data,  
17 Inc. for processing.
- 18 • A.B.Data, Inc. will process all responses and provide counsel for  
19 both parties with responses together with a report summarizing  
20 responses, and upon request will provide the actual questionnaires to  
21 Interim Class Counsel. A.B.Data, Inc. will maintain copies of the  
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1 actual completed questionnaires for at least 3 years from the date of  
2 final judgment.

3 E. **COSTS:** The costs associated with the creation of the litigation website,  
4 mailings, internet postings, newspaper publication and administration by  
5 A.B. Data, Inc. are estimated to be approximately \$80,000 and will be  
6 borne by defendant State of Washington/Washington State Patrol with the  
7 understanding that by agreeing to undertake payment of these costs the  
8 defendants intend to assist the parties efforts to reach agreement to resolve  
9 claims and no admission of liability is intended.  
10

11 **VII. PROPOSED ORDER**

12 A proposed order granting the relief requested accompanies this motion.  
13

14 Dated September 17<sup>th</sup>, 2015

15 Law Office of Thomas G. Jarrard, PLLC ROBERT FERGUSON

16 Attorney General

17 By: See attached  
18 Thomas G. Jarrard WSBA# 39774  
19 Attorney for Plaintiff's

20 By: [Signature]  
21 Jason Brown WSBA# 24249  
22 Assistant Attorney General  
23 Attorney for Defendants  
24

actual completed questionnaires for at least 3 years from the date of final judgment.

- E. **COSTS:** The costs associated with the creation of the litigation website, mailings, internet postings, newspaper publication and administration by A.B. Data, Inc. are estimated to be approximately \$80,000 and will be borne by defendant State of Washington/Washington State Patrol with the understanding that by agreeing to undertake payment of these costs the defendants intend to assist the parties efforts to reach agreement to resolve claims and no admission of liability is intended.

#### VII. PROPOSED ORDER

A proposed order granting the relief requested accompanies this motion.

Dated September \_\_\_\_, 2015

*Croty & Son Law Firm*  
Law Office of Thomas G. Jarrard, PLLC

ROBERT FERGUSON

*[Signature]*

Attorney General

By: *Matt Croty* 39284  
Thomas G. Jarrard WSBA# 39774  
Attorney for Plaintiffs

By: \_\_\_\_\_  
Jason Brown WSBA# 24249  
Assistant Attorney General  
Attorney for Defendants

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**ORDER**

This matter came before the Court on the parties' joint motion and stipulation for an order which provides for the conduct of the class action as follows:

1. Approve the notices to absent and putative class members that are attached to this motion as Exhibits 1 and 2; and
2. appointment of the plaintiffs' counsel as interim counsel for the class;

Having considered the relevant pleadings together with foregoing motion and stipulation, the court finds:

- a. This action was filed on January 3, 2014.
- b. The action has not been certified as a class action under CR 23(b).
- c. From March 19, 2014 to present, plaintiffs' counsel engaged in informal discovery on behalf of the class.
- d. Sufficient discovery has been undertaken by counsel to objectively assess the risks and benefits of further litigation and the relative merits of the class based claims, and the risk of establishing liability and damages at trial.
- e. The parties have engaged in a collaborative effort to obtain the data and information necessary to identify potential class members and construct a model to assist with the estimation of economic damages to which qualifying

1 class members may be entitled. However, the parties are in need of additional  
2 information in order to complete this assessment and proceed with the effort to  
3 reach a settlement agreement to be submitted to the court for approval.

4 f. In addition, the parties wish to provide notice, by electronic  
5 publication, print publication and direct mailing so that putative class members  
6 are notified of the pending litigation, their potential right to compensation and  
7 the effect of the litigation on their right to compensation. The proposed notices  
8 will also assist the parties' effort to reach settlement by providing the parties with  
9 the opportunity to identify absent and putative class members and secure  
10 information that will assist in the estimation of damages.

11 g. The proposed notices adequately apprise putative and absent class  
12 members of the information necessary to advise them of the pendency of this  
13 action, including the identity of the class representatives and class counsel, the  
14 nature of the action, and the claims asserted.

15 h. The proposed form of notice to putative and absent class members is  
16 adequate and should be approved.

17 i. The proposed manner of providing notice to putative and absent  
18 class members is the best notice practicable under the circumstances of the class  
19 and should be approved.

1 j. Plaintiffs' counsel should be appointed as interim counsel for the  
2 class.

3 NOW, THEREFORE, based on the above findings, IT IS HEREBY  
4 ORDERED:

- 5
- 6 1. The parties' motion is granted.
  - 7 2. Plaintiffs' counsel is appointed as interim class counsel.
  - 8 3. The court hereby adopts the parties' stipulation and directs that notice be  
9 provided in the manner and form set forth in Section VI, Paragraphs A  
10 through E, of the foregoing stipulation which is fully incorporated in this  
11 order by this reference.

12 DONE IN OPEN COURT this 18 day of SEPTEMBER, 2015.

13  
14 JOHN O. COONEY

15  
16 JOHN O. COONEY, Judge

17 Presented by:

18 Law Office of Thomas G. Jarrard, PLLC

19 By: See attached  
20 Thomas G. Jarrard WSBA# 39774  
21 Attorney for Plaintiff's

22  
23 ROBERT W. FERGUSON  
24

25 JOINT MOTION AND AGREED ORDER - 15



j. Plaintiffs' counsel should be appointed as interim counsel for the class.

NOW, THEREFORE, based on the above findings, IT IS HEREBY ORDERED:

1. The parties' motion is granted.
2. Plaintiffs' counsel is appointed as interim class counsel.
3. The court hereby adopts the parties' stipulation and directs that notice be provided in the manner and form set forth in Section VI, Paragraphs A through E, of the foregoing stipulation which is fully incorporated in this order by this reference.

DONE IN OPEN COURT this \_\_\_\_\_ day of SEPTEMBER, 2015.

\_\_\_\_\_  
JOHN O. COONEY, Judge

Presented by:

*Craig D. Son Law Firm*  
~~Law Office of Thomas G. Jarrard, PLLC~~

By: *[Signature]*  
~~Thomas G. Jarrard~~ WSBA# 39774  
Attorney for Plaintiff's 39284

ROBERT W. FERGUSON

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Attorney General

By: 

Jason Brown WSBA# 24249

Assistant Attorney General

Attorneys for Defendants

## **LEGAL NOTICE**

### **TO MILITARY VETERANS WHO APPLIED FOR EMPLOYMENT AS A TROOPER WITH THE WASHINGTON STATE PATROL BETWEEN JANUARY 1, 1994 AND JANUARY 1, 2013:**

#### **YOU ARE HEREBY NOTIFIED THAT PENDING LITIGATION MAY AFFECT YOUR RIGHTS**

If you meet the following criteria you may be a member of a potential class action and your rights may be affected by the lawsuit, entitled *Christina Martin, et. al. v. The State of Washington, et. al.* No. 14-2-00016-7 (the "Action"), which is pending before the Spokane County, Washington Superior Court (the "Court"):

**All honorably discharged members of the U.S. Armed Services, including the military reserves and National Guard, who applied for employment as a trooper with the Washington State Patrol (WSP) from January 1, 1994, to January 1, 2013 but were not hired.<sup>1</sup>**

The Court has authorized this notice. This Notice is not an expression of any opinion by the Court with respect to the merits of the claims or the defenses asserted in the Action. This Notice is merely to advise you of the pendency of this Action.

If you believe you are a member, please complete the questionnaire and send the following information to the administrator identified below by no later than [INSERT DATE]:

#### **QUESTIONNAIRE**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

E-mail address(es): \_\_\_\_\_

1. List the date(s) of your military service.
2. Were you honorably discharged from the military?

<sup>1</sup> The Action also provides for relief for *current* or former WSP commissioned officers who were denied, among other things, veteran preference points and veteran preference promotion points. Those individuals should have received a separate notice.

3. List the year/month you applied for employment with the WSP. If you applied more than once than please list the year and month of each application.
4. Did the WSP inform you as to the reason for your non-hire? If "yes" then please describe the reason(s) given.
5. List the approximate yearly wages you earned for the three years following each attempt to get hired with the WSP.

**Please complete questionnaire online at the website below or mail your completed application to the below address by no later than [INSERT DATE]:**

**[www.wspveteranlitigation.com](http://www.wspveteranlitigation.com)**

**Washington State Patrol Litigation  
c/o A.B. Data, Ltd.  
P.O. Box 170500  
Milwaukee, WI 53217-8091  
Telephone: (866) 963-9975**

Any inquiries regarding this litigation may be addressed to Class Counsel at:

<i>Counsel for the Putative Class:</i>	<i>Counsel for the Putative Class:</i>
<p>COHEN MILSTEIN SELLERS &amp; TOLL PLLC R. Joseph Barton 1100 New York Avenue, N.W. West Tower, Suite 500 Washington, D.C. 20005-3934 Telephone: (202) 408-4600 Or Toll Free: 1-888-240-0775 Email: <a href="mailto:washingtonpatrol@cohenmilstein.com">washingtonpatrol@cohenmilstein.com</a></p>	<p>CROTTY &amp; SON LAW FIRM, PLLC Matthew Z. Crotty 905 W. Riverside Ave. Ste. 409 Spokane, WA 99201 Telephone: (509) 850-7011 Email: <a href="mailto:matt@crottyandson.com">matt@crottyandson.com</a></p>
<p>WASHINGTON LAWYERS COMMITTEE FOR CIVIL RIGHTS &amp; URBAN AFFAIRS Peter Romer-Friedman 11 Dupont Circle, NW Suite 400 Washington, DC 20036 Telephone: (202) 319-1000 Email: <a href="mailto:peter_romerfriedman@washlaw.org">peter_romerfriedman@washlaw.org</a></p>	<p>LAW OFFICE OF THOMAS G. JARRARD Thomas G. Jarrard 1020 N. Washington St Spokane, WA 99201-2237 Telephone: (425) 239-7290 Email: <a href="mailto:tjarrard@att.net">tjarrard@att.net</a></p>

**PLEASE DO NOT CALL THE COURT REGARDING THIS NOTICE.**

Dated: September \_\_, 2015



# Washington State Patrol Veterans Preference Litigation

*Christina Martin, et. al. v. The State of Washington, et. al.*

No. 14-2-00016-7 Spokane County Superior Court

If you meet the criteria set out below, you may be a member of a potential class action for which you may be entitled to monetary compensation:

All honorably discharged members of the U.S. Armed Services, including the military reserves and National Guard, who are or were employed as a trooper with the Washington State Patrol (WSP) from January 1, 1994, to January 1, 2013, who were eligible to receive, but did not receive veteran preference for a position of employment or promotion.<sup>1</sup>

Your rights may be affected by the lawsuit entitled *Christina Martin, et. al. v. The State of Washington, et. al.* No. 14-2-00016-7 (the "Action") which is pending before the Spokane County, Washington, Superior Court (the "Court"). Completing the questionnaire will help determine whether you may be entitled to monetary compensation.

## SUMMARY OF LAWSUIT

Washington law requires state agencies, like the Washington State Patrol (WSP), to give veteran preference points to eligible honorably discharged military veterans during the hiring process. Washington and federal law also require the WSP to (a) give veteran preference promotion points to eligible individuals who leave their employment with the WSP, serve in the military, and then return to the WSP; and, (b) adjust the service-member employee's probationary period start/end date to account for that military leave. Washington and federal law also prevent the WSP from adjusting a service-member employee's military leave in a manner contrary to the state leave law requirements.

The lawsuit alleges that the WSP failed to follow the above-referenced laws and seeks compensation for current and former WSP troopers, sergeants, and lieutenants (or their surviving spouse) who were harmed by the WSP's alleged violation of the laws. This questionnaire seeks to determine your eligibility for compensation. Please fill this questionnaire out as completely as possible as it will be used for settlement or litigation purposes and send to the following address by [date]:

Washington State Patrol Litigation  
c/o A.B. Data, Ltd.  
P.O. Box 170500  
Milwaukee, WI 53217-8091  
Telephone: (866) 963-9975

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<sup>1</sup> The Action also provides for relief for trooper applicants who were denied, among other things, veteran preference points. Those individuals have a separate notice.

## PROTECTION AGAINST RETALIATION

State and federal law bar the WSP from retaliating against you for completing this questionnaire.

### QUESTIONNAIRE

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

E-mail address(es): \_\_\_\_\_

### VETERAN STATUS

1. Are you a veteran? ☐ Yes ☐ No
2. Did you serve:
  - a. As a member in any branch of the armed forces of the United States, including the National Guard and armed forces reserves and fulfill your initial military service obligation?  
☐ Yes ☐ No
  - b. As a member of the women's air forces service pilots?  
☐ Yes ☐ No
  - c. As a member of the armed forces reserves, National Guard, or coast guard, and have been called into federal service by a presidential select reserve call up for at least 180 cumulative days?  
☐ Yes ☐ No
  - d. As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946?  
☐ Yes ☐ No
  - e. As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945?  
☐ Yes ☐ No

- f. As a United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation?  
☐ Yes ☐ No

3. If you are a veteran, but answered "no" to every question under question 2, please describe your service. \_\_\_\_\_

4. Did you receive an honorable discharge from your military service?  
☐ Yes ☐ No

5. Did you receive a discharge for medical reasons with an honorable record from your military service?  
☐ Yes ☐ No

6. Did you serve during the Korean conflict?  
☐ Yes ☐ No

7. Did you serve during the Vietnam era? The term Vietnam era means either the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period or the period beginning August 5, 1964, and ending on May 7, 1975?  
☐ Yes ☐ No

8. Did you serve during the Persian Gulf War?  
☐ Yes ☐ No

9. Did you serve in any of the following armed conflicts: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; Bosnia, Operation Joint Endeavor; Operation Noble Eagle; southern or central Asia, Operation Enduring Freedom; or Persian Gulf, Operation Iraqi Freedom?  
☐ Yes ☐ No

10. If your answer to question 9 was "yes," were you awarded the respective campaign badge or medal?  
☐ Yes ☐ No

11. Are you the surviving spouse of a former WSP employee who was a veteran?  
☐ Yes ☐ No



If you answered "no," to all of the above questions, you don't need to answer any further questions. Please sign the form and return it.

If you answered "yes" to any of the above questions, then please answer the following questions. If you answered "yes" to question 11 but no to questions 1 through 10, then answer the below questions about your deceased spouse. If you answered yes to any of the questions from 1 through 10 and to question 11, submit two forms, one for you and one for your deceased spouse.

Please answer the below questions to the best of your ability. Please sign the form and return it.

### **MILITARY SERVICE**

12. In which branch(es) of the armed forces, National Guard and/or reserves did you serve? \_\_\_\_\_

13. What years did you serve in each branch of the military? Include your active and reserve military service.

From \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (Active military service)

From \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (Reserve/National Guard military service)

14. Where and/or in which actions did you serve?<sup>2</sup>

### **VETERANS' PREFERENCE, OTHER PUBLIC EMPLOYMENT, MILITARY RETIREMENT BENEFITS**

15. Have you ever received veterans' preference points (addition of 5% or 10% to your passing score) in connection with a competitive examination to determine qualification for any public office, position or employment with the state, any city, town, county, school district, fire district or other government employer?

☐ Yes    ☐ No    ☐ Do Not Know

16. If your answer to question 15 was "yes," please give the name of the employer/prospective employer and the agency or department who gave the examination and provided the veterans' preference points, and the date(s) of employment with that employer. \_\_\_\_\_

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<sup>2</sup> The term "actions" includes, but is not limited to, any foreign combat, contingency, peacekeeping, humanitarian, or other operation.

17. Are you receiving or have you ever received military retirement benefits?  
☐ Yes      ☐ No
18. If your answer to question 17 was "yes," please state the date you began receiving military retirement benefits. \_\_\_\_\_
19. Were you employed by the State of Washington in any position or capacity (other than military) before you applied for employment with the WSP?  
☐ Yes      ☐ No
20. If your answer to question 19 was "yes," please state the name of the agency(ies) where you were employed, the date(s) of your employment and the position(s) you held. \_\_\_\_\_

### **EMPLOYMENT WITH WASHINGTON STATE PATROL**

21. Please state the date of each application for employment with the WSP. Please note if you applied (took the entrance examination) more than once, please state the date for each application. \_\_\_\_\_
22. Before you applied for employment with the WSP, were you aware that veterans were entitled to receive addition of either 5% or 10% veterans' preference points to their final score on competitive examinations?  
☐ Yes      ☐ No
23. Please state whether you received veterans' preference points (addition of 5% or 10% to your passing score) on any examination you took in connection with your application(s) for employment with the WSP.  
☐ Yes ☐ No ☐ Don't Know
24. Please state whether you requested veterans' preference points (addition of 5% or 10%) to be added to your passing score on any examination you took in connection with your application(s) for employment with the WSP.  
☐ Yes      ☐ No
25. Please state the final score<sup>3</sup> you received on each examination you took in connection with application for employment with the WSP. \_\_\_\_\_
26. Please state your rank/position on the hiring eligibility list after passing the entrance examination. \_\_\_\_\_

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<sup>3</sup> Final Score refers to the score you received at the end of Phase 3 and includes the aggregate score after adding the scores on the written exam, physical agility, oral board, and background investigation.

27. Please state the date you were hired by the WSP and the position you were hired into on that date. \_\_\_\_\_

28. Please state whether you believe your hiring was delayed because you did not receive veterans' preference points added to your passing score on the entrance examination.  
☐ Yes ☐ No

29. If your answer to question 28 was "yes," please state how long you believe your hiring was delayed and include an explanation of why you believe your hiring was delayed (e.g., only the top 40 candidates (ranked by test score) were selected and I was number 45 and had to wait for the next class).  
\_\_\_\_\_  
\_\_\_\_\_

30. Were you called to a period of military service of more than two consecutive days with the military while employed at the WSP?  
☐ Yes ☐ No

31. If your answer to question 30 was "yes," please set forth:

- a. The date(s) you were called up: \_\_\_\_\_
- b. Which branch of the armed forces, National Guard or reserves you were called to: \_\_\_\_\_
- c. Whether you were required to use any accrued sick leave or annual leave while on military leave and if so, the amount of sick leave or annual leave you were required to use: \_\_\_\_\_
- d. While you were on military leave was your work schedule revised (e.g., changed from a 40 hour work week comprised of four ten hour shifts to a 40 hour work week comprised of five eight hour shifts)?  
☐ Yes ☐ No ☐ Don't Know

32. Did you receive credit for continued state service for purposes of seniority -- eligibility for salary increase and eligibility for promotion (e.g., while you were on military leave)?  
☐ Yes ☐ No ☐ Don't Know

33. If you sought promotion to Sergeant, please state, for each Sergeants Exam taken:

- a. The date(s) you took the exam: \_\_\_\_\_
- b. Your final score(s): \_\_\_\_\_
- c. Your rank on the eligibility/promotion list: \_\_\_\_\_
- d. Whether you received 5% veterans' preference points added to your final score  
☐ Yes ☐ No

e. Whether you requested the addition of veterans' preference points to your final score: ☐ Yes ☐ No

f. If you were promoted to Sergeant, the date your promotion became effective: \_\_\_\_\_

g. If you believe your promotion to Sergeant was delayed because you did not receive veterans' preference points on the Sergeants' Exam, please state how long you believe your promotion was delayed and include a statement of why you believe your promotion was delayed. \_\_\_\_\_  
\_\_\_\_\_

34. If you sought promotion from Sergeant to Lieutenant, please state for each Lieutenants' exam taken:

a. The date(s) you took the exam: \_\_\_\_\_

b. Your final score(s): \_\_\_\_\_

c. Your rank on the eligibility/promotion list: \_\_\_\_\_

d. Whether you received 5% veterans' preference points added to your final score  
☐ Yes ☐ No

e. Whether you requested the addition of veterans' preference points to your final score: ☐ Yes ☐ No

f. If you were promoted to Lieutenant, the date your promotion became effective: \_\_\_\_\_

g. If you believe your promotion to Lieutenant was delayed because you did not receive veterans' preference points on the Lieutenants' Exam, please state how long you believe your promotion was delayed and include a statement of why you believe your promotion was delayed. \_\_\_\_\_  
\_\_\_\_\_

35. Was your probationary status as a Trooper, Sergeant, or Lieutenant interrupted by any period of military service in excess of 30 days?

☐ Yes ☐ No

36. If your answer to question 35 was "yes," then please state:

a. The date you began your probationary status (i.e., the date you were hired as a Trooper and/or the date you were promoted to Sergeant): \_\_\_\_\_

b. The dates your probationary period was interrupted by military service (i.e., if you started probationary service on January 5, 2000 and were on military orders from June 5, 2000 to July 15, 2000 then you would enter "June 5, 2000 to July 15, 2000"):

c. The date your probationary period ended: \_\_\_\_\_

#### **RETIREMENT FROM WASHINGTON STATE PATROL**

37. Are you retired from the WSP? ☐ Yes ☐ No

38. If your answer to question 37 was "yes," then please state the date you began receiving pension benefits (month/year). \_\_\_\_\_

39. If your answer to question 37 was "yes," then please state the retirement benefit option that you chose (WSPRS Plan 1 or WSPRS Plan 2). \_\_\_\_\_

40. Do you have a spouse or partner that is eligible to receive pension benefits after your death? If yes, please provide the eligible spouse or partner's date of birth. \_\_\_\_\_

41. If you are currently receiving survivor pension benefits, please provide your date of birth. \_\_\_\_\_

42. If you are currently receiving survivor pension benefits, please indicate the date (month/year) that you began receiving survivor pension benefits. \_\_\_\_\_

I certify, under penalty of perjury, this \_\_\_\_ day of \_\_\_\_\_, 2015 that the foregoing answers are true and correct.

\_\_\_\_\_  
[SIGNATURE]

\_\_\_\_\_  
[PRINTED NAME]