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ORIGINAL

GREEN AND RITCHIE, P.L.L.C.  
1601 Lincoln Avenue / Vancouver, WA 98660  
(360) 694-8718 / Fax: (360) 693-7081

A written Bill of Particulars, including a description of all facts upon which the

Bill of Particulars

discovery in the matter pending under this Cause Number;

THE DEFENDANT HEREBY makes the following demands, motions, and requests for

Tenth Amendment to the Washington State Constitution;

Amendments to the United States Constitution, and Article 1, Sections 3, 7, 29, and 30, and the

10.37.050, et seq., 46.61.502, 504 and 506, 42.17.260, the Fourth, Fifth, Sixth and Fourteenth

CtRLJ 4.7, CtRLJ 6.13(c)(2), Local Rules governing discovery, ER 705, RCW 10.58.010,

FURTHER, PLEASE TAKE NOTICE that, pursuant to the authority of CrR 4.7,

on behalf of the Defendant, Daniel Gasperino.

PLEASE TAKE NOTICE that the below-named attorney hereby enters his appearance

STATE OF WASHINGTON,	)	
Plaintiff,	)	
	)	
NO. 4Z1107050 and 4Z1107051	)	
NOTICE OF APPEARANCE;	)	
DEMAND FOR DISCOVERY;	)	
BILL OF PARTICULARS; AND	)	
OMNIBUS APPLICATION	)	
DANIEL GASPERINO,	)	Defendant.
	)	

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

FILED  
DEC 24 2014  
DISTRICT COURT  
CLARK COUNTY, WASH.

1 prosecution intends to reply to support the charge pending against the Defendant, and a copy of  
2 the specific statute or ordinance under which the Defendant is charged;

3 Police Reports

4 Copies of any and all police or investigative reports (including field notes), and  
5 statements of all potential witnesses including all documentation of results of physical or mental  
6 examinations and/or scientific tests, experiments, or comparisons made in connection with the  
7 charge pending against the Defendant.

9 List of Witnesses

10 The names and addresses of any and all persons whom the Plaintiff intends to call as  
11 witnesses at the hearing or trial, together with any and all written or recorded statements, and the  
12 substance of any oral statements of such witnesses, together with a summary of the expected  
13 testimony of any witness the Plaintiff intends to call if the substance of the expected testimony is  
14 not contained in the materials otherwise provided;

16 Miranda Rights/242 Rights

17 Copies of any and all forms read to or signed by the Defendant containing information  
18 regarding his rights under CrRLJ 3.1 and/or RCW 46.61.506 and 46.20.308, including  
19 information regarding the claimed basis for the arrest of the Defendant and allegedly giving rise  
20 to the mandatory provisions of RCW 46.20.308;

22 Statements of Defendant/Demand for CrRLJ 3.5 Hearing

23 Copies of any written or recorded statements and the substance of any oral statements  
24 made by the Defendant. Take notice that the Defendant hereby demands a hearing pursuant  
25 to CrRLJ 3.5 if the prosecution intends to offer any such statements at the time of trial;

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Exhibits

A list of, copies of, and access to any books, papers, documents, photographs, diagrams, illustrative exhibits, or other tangible objects which the Prosecuting Attorney or any of its witnesses intend to use or make reference to at hearing or trial;

Items Seized from Defendant

A list of everything which was seized from or belonging to the Defendant, regardless of whether the Prosecutor intends to introduce said items at hearing or trial;

Tape or Video Recordings, Etc.

Copies of or access to any recordings, video-tapes or tape recordings made of the Defendant pursuant to the arrest in this case;

Prior Convictions

Any record of prior criminal conviction known to the Prosecuting Attorney of the Defendant or persons whom the Prosecuting Attorney intends to call as witnesses at the hearing or trial;

Exculpatory Evidence

Disclosure of any material or information within the Prosecutor's knowledge or control which tends to negate the Defendant's guilt as to the offense charged, or to any material element thereof;

911 Tapes, Etc.

A copy of any "911 tapes" or other tape recordings containing information relative to this case and all radio broadcasts and transmissions occurring between the officer who detained, arrested and/or transported the Defendant on the date of the alleged incident herein, and any other

1 agency, officer or station during the course of the detention, arrest, transportation, testing and  
2 booking or charging of the Defendant;

3 Radio Logs

4 A copy of all radio calls logged at the location of the breath test administered to the  
5 Defendant ten minutes before through 10 minutes after the time of the test;

7 DataMaster Records

8 A copy of the most current record of all breath tests administered on the particular  
9 machine along with the machine's evaluation, maintenance and certification records, including  
10 repairs, replacement of parts, unscheduled maintenance and reports of any malfunctions or  
11 difficulties by any person whatsoever in the history of the instrument's use, along with all  
12 documentary information relative to the machine's performance;

14 Preservation of Samples

15 Preservation of and access to any blood, breath, or urine samples taken from the  
16 defendant as a result of investigation of the charges pending herein for the purpose of retesting  
17 the same.

19 Experts Demanded at Trial

20 The defendant objects to proof of any material fact at hearing or trial by affidavit or  
21 certificate. A certified BAC Verifier DataMaster technician and the person(s) who conducted  
22 any quality assurance tests as well as the person(s) responsible for preparing, storing, and  
23 installing the simulator solution concerned herein **IS HEREBY DEMANDED AT HEARING**

24 **OR TRIAL**, including any and all records pertaining to the preparation, checking and  
25 installation of the simulator solution used in this case, including the gas chromatograph charts

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1 regarding the solution in accordance with CrRLJ 6.13 and RCW 46.61.506(6), along with a copy  
2 of his or her permit.

3 **IF THE PROSECUTOR INTENDS TO OFFER SAID WITNESSES AS "EXPERT**

4 **WITNESSES"**, Defendant requests discovery of his or her education and training, both general

5 and specific to the subject of his or her testimony, experience relative to the operation,

6 maintenance, and theory of the instrument used to test the defendant's blood or breath or

7 simulator solution and a description of the place, date, and subject matter of all training taken by

8 said witnesses regarding the instrument in question and a full description of any experiments in

9 which said witnesses have participated or about which he or she may testify, and any documents,

10 studies, reports or other materials relied on or material to any aspect of his or her testimony;

11 Demand that the prosecuting authority produce all expert witnesses at trial as to any fact

12 intended to be presented at trial whether material or not, pursuant to CrRLJ 6.13, including but

13 not limited to an electronic speed measuring device expert.

14 **Retrograde Extrapolation**

15 The Defendant demands notice if the prosecution intends to offer testimony regarding

16 "retrograde extrapolation" and, if so, the name of the expert witness, his/her credentials,

17 education, training and experience and disclosure of any documents, studies, reports or other

18 materials relied on or material to any aspect of his or her testimony;

19 **Widmark's Formula**

20 The Defendant demands notice if the prosecution intends to offer testimony regarding

21 "Widmark's Formula" and, if so, the name of the expert witness, his/her credentials, education,

22 training and experience and disclosure of any documents, studies, reports or other materials

1 relied on or material to any aspect of his or her testimony.

2 Alcohol Impairment Testimony

3 The Defendant demands notice if the prosecution intends to offer medical or scientific  
4 testimony regarding the effects of alcohol on driving ability, physical or mental impairment, etc.,  
5 and if so, the name of the expert witness, his/her credentials, education, training and experience  
6 and disclosure of any documents, studies, reports or other materials relied on or material to any  
7 aspect of his or her testimony.

9 Operator's Qualifications

10 A copy of the permit issued by the State Toxicologist to the operator who administered  
11 any tests of the Defendant's breath or blood, the effective dates of that permit, together with a  
12 description of the training taken by that operator which qualified him/her for certification, along  
13 with the dates and places that training was completed;

15 Instructor's Qualifications

16 A copy of the permit issued by the State Toxicologist to the instructor who trained the  
17 operator referred to in paragraph 24 above, together with a description of the training taken by  
18 that instructor which qualified him/her for certification, along with the dates and places that  
19 training was completed;

21 Technician's Qualifications

22 A copy of that permit issued by the State Toxicologist to any technician who has  
23 performed maintenance, repair, adjustment, regular service, or any other work whatsoever on the  
24 DataMaster used in the administration of the breath test to the Defendant herein, together with a  
25 description of the training taken by that instructor which qualified him/her for certification, along

with the dates and places that training was completed;

Solution Changer's Qualifications

A copy of the permit issued by the State Toxicologist to the individual who most

recently changed the simulator solution prior to the date on which the Defendant herein

submitted to a test of his/her breath on the BAC Verifier DataMaster used herein, together with a

description of the training taken by that solution changer which qualified him/her for

certification, along with the dates and places that training was completed;

Any Other Experts Demanded

The disclosure and presence of any other expert witnesses **IS HEREBY DEMANDED**

**AT HEARING OR TRIAL**, along with a copy of his or her qualifications, together with all

information requested in paragraph 32 above regarding the subject matter of said witnesses'

testimony.

Speedy Trial Demanded

Defendant objects to the date of arraignment, demands trial within the time period

required by CrRLJ 3.3, objects to any trial date not so set and moves the court for an order setting

a trial date within the speedy trial rule time limits;

Objection to Citation/Complaint

Defendant further objects to the sufficiency of the charging document, the failure of the

prosecution to properly verify it, objects to the untimely filing of same and moves to dismiss all

charges pending herein;

Failure to Comply

**YOU ARE FURTHER NOTIFIED** that failure to comply with these requests will result

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in the defendant moving for appropriate relief at time of hearing or trial.

DATED this 25<sup>th</sup> day of December, 2014.

JACK GREEN, WSBA #35483  
Of Attorney for Defendant

