

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE

SPOKANE RESEARCH & DEFENSE FUND,

Plaintiff,

vs.

RIVER PARK SQUARE PARKING GARAGE,  
a public parking garage in downtown Spokane,  
Washington; RIVER PARK SQUARE LLC, a  
Washington limited liability company; RIVER  
PARK SQUARE INVESTMENT COMPANY, a  
Washington limited liability company,

Defendants.

No. 06-2-01896-1

DECLARATORY JUDGMENT:  
IS THE RIVER PARK SQUARE  
PARKING GARAGE A PUBLIC  
NUISANCE?

COMPLAINT TO ABATE  
PUBLIC NUISANCE

Plaintiff alleges:

**PARTIES**

- 1. Spokane Research & Defense Fund is a Washington nonprofit corporation (SRDF).
- 2. Included within the membership of SRDF is a person who uses the River Park Square

Parking Garage.

***Declaratory Judgement: Is the River Park Square  
Parking Garage A Public Nuisance? – Complaint to  
Abate Public Nuisance – 1***

**Eugster Law Office**  
Professional Service Corporation  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1 3. The person uses the River Park Square Parking Garage on a frequent – more or less  
2  
3 weekly -- basis. Sometimes the weekly use is several times a week. Sometimes the use is more  
4 than once in a day.  
5

6 4. Such member also uses the ground level area outside the north walls of the River Park  
7  
8 Square Parking Garage by use of the sidewalk beneath the wall and by use of the entrance and  
9 exit from the garage beneath the north walls.  
10

11 5. Such member is also the father of a teenage child who is starting to drive and soon will  
12  
13 be fully licensed to drive.

14 6. Such child goes to River Park Square regularly to shop, dine out, be with friends,  
15  
16 attend movies, and use the Spokane Public Library. No doubt, such child, when driving, will park  
17  
18 in the River Park Square Parking Garage.

19 7. The River Park Square Parking Garage is owned by River Park Square LLC, a  
20  
21 Washington limited liability company.

22 8. River Park Square Parking Garage is managed by River Park Square Investment  
23  
24 Company, a Washington limited liability company.

25 9. River Park Square LLC and River Park Square Investment Company are wholly  
26  
27 owned by Cowles Publishing Company.  
28

29 10. Cowles Publishing Company, in the end result, has the power to control the River  
30  
31 Park Square Parking Garage and to cause the actions sought to have the court take herein to be  
32  
33 implemented.  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 2***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

**VENUE AND JURISDICTION**

11. Each of the Defendants does business in Spokane County, Washington.

12. The court has jurisdiction of these proceedings because the River Park Square Parking Garage is located in Spokane County, Washington.

13. The court has jurisdiction of these proceedings under and pursuant to the Washington Declaratory Judgments Act, RCW 7.24.

14. The court has jurisdiction in these matters under the common law of nuisances, public and private, and the abatement of nuisances, public and private.

**BASIC FACTS**

15. River Park Square Parking Garage is a public parking garage in downtown Spokane, Washington.

16. The River Park Square Parking Garage is a part of River Park Square.

17. River Park Square is a shopping mall located between Main Street and Spokane Falls Blvd. in downtown Spokane, Washington. It is bordered on the West by Lincoln Street and on the East by Wall Street.

18. The River Park Square Parking Garage is used each day of every successive week from morning to late evening by thousands of people who use the facility for vehicle parking in order to come to downtown Spokane to shop, see movies, go to the Spokane Public Library, visit friends, go to River Front Park, attend to business and attend meetings at the Spokane City Hall, connected by a “skywalk” to the garage, and for many other purposes.

***Declaratory Judgement: Is the River Park Square Parking Garage A Public Nuisance? – Complaint to Abate Public Nuisance – 3***

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1 19. The River Park Square Parking Garage is connected to all other city blocks and  
2  
3 buildings in the downtown core of the City of Spokane by an elaborate system of skywalks from  
4  
5 buildings to buildings in the downtown core.

6 **RIVER PARK SQUARE PARKING GARAGE**

7  
8 20. The River Park Square Parking Garage is made up of a parking level or area below  
9  
10 grade under the Nordstrom Store, located in one of the condominium units of the River Park  
11  
12 Square Condominium, and several levels of parking decks located above street grade which is  
13  
14 open to the out-of-doors.

15 21. The River Park Square Parking Garage is one of the condominium units in the River  
16  
17 Park Square Condominium.

18 22. Each parking deck located above street grade is open to the outside.

19 23. The outside of each parking deck is completed by a series of precast concrete panels.

20 24. These panels are referred to by experts who have inspected the River Park Square  
21  
22 Parking Garage as “spandrels.”  
23

24 25. Each spandrel consists of a horizontal portion which extends outward from its  
25  
26 attachment to the parking deck a foot or more where it then curves upward to a height of about 4  
27  
28 feet.

29 26. Looking at a spandrel from a side perspective, the spandrel appears to look like an  
30  
31 equal sided “L.”

32 27. Each spandrel is about five to 6 inches thick. Each spandrel is about 10 feet wide.  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 4***



1 Nordstrom Store.

2  
3 **THE TRAGIC DEATH OF JO SAVAGE**

4 37. On Saturday, April 8, 2006 about 12:00 noon, one of the spandrels attached to the  
5 parking deck of the fifth floor of the River Park Square Parking Garage was bumped by a slow-  
6 moving Subaru driven by Jo E. Savage of Pullman, Washington.  
7  
8

9 38. Mrs. Savage was known to be a cautious driver.  
10

11 39. At the time of her death, Mrs. Savage was 62 years of age and the mother of a son in  
12 his twenties.  
13

14 40. Mrs. Savage was a longtime employee of Washington State University in Pullman,  
15 Washington. She served as the art director of Washington State Magazine, a regular major  
16 publication of WSU. (<http://washington-state-magazine.wsu.edu/>) .  
17  
18

19 41. She received a Masters Degree in Fine Arts from WSU in 1970.  
20

21 42. The Subaru weighed about 3,400 pounds.  
22

23 43. The spandrel broke and the upright part, the wall part, flipped outward and down.  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 6***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274



**Figure 1**

44. The spandrel, broken, hung from the deck of the garage, final failure prevented by bent rebar holding the pieces of the spandrel together. Figure 1.

45. Figure 1 is a picture taken the day of the accident and published in the Spokesman-Review, Spokane's local daily newspaper.

46. The figure shows a firefighter standing over the failed spandrel.

47. The Subaru and Mrs. Savage fell several stories to the parking ramp on Spokane Falls Blvd.

48. The vehicle landed upside down.

49. Mrs. Savage was trapped inside the vehicle.

50. Severely injured, she died after few hours.

51. Her death was painful.

***Declaratory Judgement: Is the River Park Square Parking Garage A Public Nuisance? – Complaint to Abate Public Nuisance – 7***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
Professional Service Corporation  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1 **PARKING GARAGE CONDITION REPORTS**

2  
3 52. Reports on the River Park Square Parking Garage from 1996, 2002 and 2003 raised  
4 issues about the structural integrity of the Garage and the condition of the spandrels.  
5

6 53. The most recent report is known as the Jacobson Study.  
7

8 **PAST SPANDREL FAILURES**

9  
10 54. The failure of a River Park Square Parking Garage spandrel on April 8, 2006, the one  
11 which failed causing the death of Mrs. Savage, is not the first time a garage spandrel has failed.  
12

13 55. A River Park Square Parking Garage spandrel failed in 1991 according to the local  
14 daily newspaper.  
15

16 56. Unreported by the local daily newspaper at a time when its subsidiary companies  
17 were redeveloping the River Park Square Parking Garage, another garage spandrel failed in 1999.  
18

19 57. There is reason to presume the other spandrels in the garage might also fail if a  
20 vehicle runs into a spandrel.  
21

22 **WHY DID THE SPANDREL FAIL TO PROTECT JO SAVAGE?**

23  
24 58. The rebar, as it appears from examination of the spandrel which failed, is located  
25 between the outer edge of the spandrel – the edge facing out from the River Park Square Parking  
26 Garage deck area – and the “neutral axis” of the spandrel. See Figure 3.  
27

28  
29 59. Plaintiff asserts the rebar is located on the wrong side of the neutral axis of the  
30 spandrel. See Figure 3.  
31

32 60.  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 8***

1 The rebar is located on the outside of the “neutral axis” of the spandrel. The neutral axis is an  
2  
3  
4



5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17 **Figure 2**

18  
19 imaginary line equidistant from the outer surfaces of the spandrel.  
20

21 61. The rebar should have been located on the inside of the neutral axis of the spandrel.

22 62. Look at Figure 2. This picture shows that part of the failed spandrel which is still  
23 attached to the parking deck of the garage. The picture was taken the night of May 1, 2006 by  
24 the undersigned attorney for Plaintiff.  
25  
26

27 63. The picture clearly shows that the rebar is located on the bottom of the spandrel (the  
28 outside side of the spandrel) and not the top (the inside side of the spandrel).  
29  
30

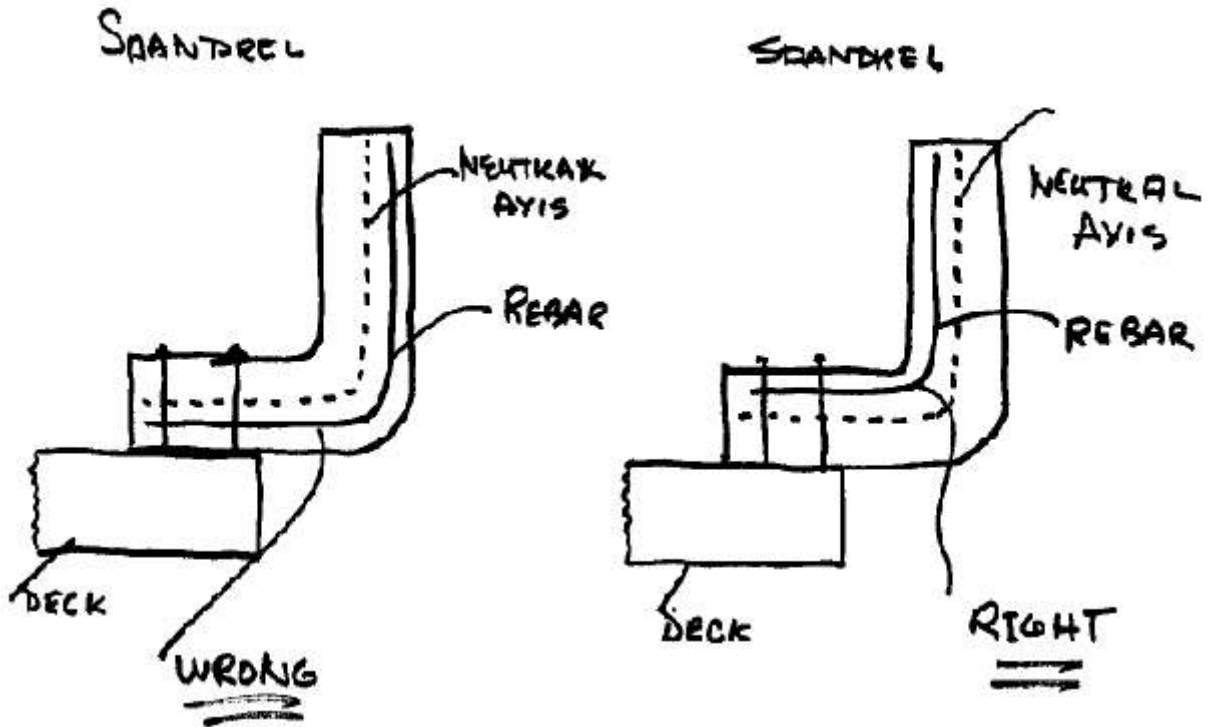
31 64. Common sense shows that the rebar on the outside of the curved part of the spandrel  
32 does nothing to prevent the spandrel from breaking on the inside of the curved part of the  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 9***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1 spandrel as a result of force from a moving vehicle. See Figure 3.  
2  
3  
4



5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21 **Figure 3**

22  
23  
24  
25  
26 **WHAT TO EXPECT IN THE FUTURE**

27  
28 65. Doubtless in future, drivers of other vehicles will experience their vehicle hitting a  
29 spandrel.

30  
31 66. Experience clearly proves this future possibility, this fact yet to happen.

32  
33 67. In such an event, it is likely the vehicle and its driver and other occupants, if any, will  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 10***

1 fall from the parking deck to the sidewalk below or the entry/exit below.  
2

3 68. If such a fall takes place, there will likely be further loss of life and great suffering.  
4

5 69. Such loss of life and injury will include the people in the vehicle and people on the  
6 sidewalk below the garage or the ramp area into and out of the garage.  
7

8 70. The court should decide whether the spandrels create conditions of danger such that  
9 the River Park Square Parking Garage is or has become a public nuisance.  
10

11 71. If the court decides the River Park Square Parking Garage is a public nuisance, the  
12 court should take action to cause the dangerous conditions of the garage to be abated.  
13

14 **NOTHING HAS BEEN DONE BY THOSE IN CONTROL OF THE GARAGE - CONTROVERSY**  
15

16 72. The parties in possession and/or having control of the River Park Square Parking  
17 Garage have done nothing since the death of Jo Savage on April 8, 2006 to prevent someone else  
18 from bumping a spandrel and having a spandrel fail.  
19

20  
21 73. The City of Spokane has been asked to take action. The City has taken no action.  
22

23 74. A lawyer for the Family of Jo Savage has asked the City to take action on two  
24 occasions, but the city has refused or at least as of the date of this Complaint, has not taken  
25 action.  
26

27 75. The entities in possession of the River Park Square Parking Garage through their  
28 attorney, Duane Swinton of the firm of Witherspoon, Kelley, Davenport & Toole, have been  
29 asked to take action.  
30

31  
32 76. Plaintiff, from past experience, knows that further effort to seek action by those with  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 11***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274

1 power over the River Park Square Parking Garage will be useless.  
2

3 **COURT MUST DECLARE, DETERMINE AND ACT TO ABATE NUISANCE**

4 77. The court must act to protect the health and safety of the people who use the River  
5 Park Square Parking Garage.  
6

7 78. There are controversies between Plaintiff and Defendants as to the matter herein –  
8 whether the River Park Square Parking Garage in its current condition is a public nuisance.  
9

10 79. The court should make a declaratory judgment or determinations as to such matters.  
11

12 80. In addition, the court should take such action necessary and meet to abate the  
13 conditions of the garage which make the garage a public nuisance. *See* RCW 7.24.080.  
14

15 81. The Defendants and each of them have power to respond to any order the court might  
16 issue to cause abatement of the conditions of the garage which make the garage a public  
17 nuisance.  
18  
19

20 **PRAYERS FOR RELIEF:**

21 82. Time is of the essence, the court should begin the case as soon as possible.  
22

23 83. That the court determine whether the River Park Square Parking Garage as it is  
24 currently constructed and in its current condition, poses public nuisance – a danger to the health  
25 and safety of the public using the River Park Square Parking Garage.  
26  
27

28 84. That the court take steps to expedite these proceedings and to shorten time periods of  
29 court rules to expedite the proceedings.  
30

31 85. That if the court determines the River Park Square Parking Garage is a public  
32  
33

34  
35 ***Declaratory Judgement: Is the River Park Square  
36 Parking Garage A Public Nuisance? – Complaint to  
Abate Public Nuisance – 12***

1 nuisance in whole or in part, it cause the issue of such orders necessary to ensure temporary  
2  
3 closure of the River Park Square Parking Garage until such time as the dangerous condition  
4  
5 making the River Park Square Parking Garage a nuisance may be abated.

6 86. That the court order such abatement as necessary.

7  
8 87. That the court award fees and costs.

9 Dated: May 3, 2006.

10  
11 EUGSTER LAW OFFICE PSC

12  
13  
14 By \_\_\_\_\_  
15 Stephen K. Eugster, WSBA#2003  
16 Attorney for Plaintiff  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

35 ***Declaratory Judgement: Is the River Park Square***  
36 ***Parking Garage A Public Nuisance? – Complaint to***  
***Abate Public Nuisance – 13***

Z:\WIP\RPSGarage\NUISANCE\\_complaint.wpd - 5/3/06

**Eugster Law Office**  
*Professional Service Corporation*  
100 Minnesota-Oakley Buildings  
423 West First Avenue  
Spokane, Washington 99201-3706  
(509) 624-5566 FAX (509) 838-4274