69438-3

69438-3

No. 69438-3-I

COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

Aaron Bell,

Appellant,

v.

Department of Labor & Industries,

Respondent.

REPLY BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Table of Cases

Statutes

Other Authorities

I. ASSIGNMENT OF ERROR

A. Assignment of Error

The superior court, in an administrative law review capacity, erred in entering Findings of Fact, Conclusions of Law, and Judgment on October 15, 2012 in favor of the Department.

B. Issue Pertaining to Assignment of Error

Whether the superior court erred in entering its' Findings of Fact, Conclusions of Law, and Judgment by way of order on October 15, 2012 when: the requisite evidence is not present to enter such a decision; in doing so failed to construe the Industrial Insurance Act (Act) in favor of the worker as set forth by case law; in doing so failed to give special consideration and weight to Mr. Bell's attending physician, Dr. Summe, as required by case law, when pondering the evidence in the record; in doing so failed to consider Mr. Bell's conditions and occupation exclusively, pursuant to case law, as opposed to considering the condition and occupation in general to the population at large; in doing so failed to deviate from the Board's Findings of Fact and Conclusions of Law and set forth its own unique reasoning and justification on what should have been *de novo* review for ruling against Mr. Bell; and in doing so failed to recognize that the evidence presented clearly indicates that Mr. Bell's

occupation as a drywaller between 2006 and 2009 aggravated, accelerated, and hastened the progression of Mr. Bell's low back condition.

II. STATEMENT OF THE CASE

A. Factual Background

Mr. Bell takes issue with Respondent's account of the Factual Background and therefore re asserts his facts from his opening brief *in toto*. *See* App. Br. at 2-3. Respondent includes irrelevant information in their version of the facts. *See* Resp. Br. at 2-10. To the point, Respondent rejected Mr. Bell's claim for benefits when he applied on July 21, 2009. *See* CP 101, 197. It is irrelevant that Mr. Bell had other workers' compensation claims with Respondent. It is well known and common knowledge in this matter that Mr. Bell has low back problems that pre date his application for benefits of July 21, 2009. Id. Regardless, putting such emphasis on Mr. Bell's prior low back problems is misleading and it is besides the point considering the case law, referenced both below and in Mr. Bell's opening brief, focuses on whether the occupation was a proximate cause, not on the injured worker's pre existing conditions.

B. Procedural Background

Mr. Bell re asserts his rendition of the Procedural Background of this matter as Respondent doesn't designate a section to address this, and

what is mentioned by Respondent of the procedural background is brief and lacks detail. *See* App. Br. at 3-5; *compare* Resp. Br. at 2-10.

III. SUMMARY OF ARGUMENT

The Snohomish County Superior Court decision of October 15, 2012 cannot be upheld as the evidence in this matter does not substantially support such a decision favoring Respondent.

Mr. Bell's occupation as a drywaller between 2006 and 2009 doesn't need to be the sole cause of the aggravation, accceleration, and/or hastening of his lumbar spine/low back condition. Respondent's suggestion to the contrary is incorrect. All that is required is that the occupational exposure be a proximate cause, one of a number of factors/contributors, of the aggravation, acceleration, and/or hastening of Mr. Bell's lumbar spine/low back condition.

Dr. Stump, Respondent's only medical witness in this matter, provided contradictory testimony, as pointed out by Respondent. Dr. Summe, the attending physician, and Dr. Wright, Mr. Bell's neurosurgeon, provided consistent testimony on behalf of Mr. Bell and in support of his position.

Respondent spends much time discussing Mr. Bell's pre existing low back condition. In matters such as Mr. Bell's, pre existing conditions

are immaterial. This appeal stems from the rejection of Mr. Bell's application for benefits due to his occupational disease. It is not a case dealing with a rejection of a re opening application which would require comparison of objective medical findings between two terminal dates.

Mr. Bell testified that his low back conditions and pain became progressively and severely worse between 2006 and 2009 when he was working as a drywaller. His doctors recognized new medical findings in 2009 that were not present in 2006, and determined that his work as a drywaller was a proximate cause of these new medical findings and the subsequent aggravation, acceleration, and/or hastening of his pre existing low back condition.

Respondent misunderstands the Court's opinion in Groff. The Groff Court sets forth requirements, not mere suggestions, which the superior court must follow when entering Findings of Fact, Conclusions of Law, and Judgment. The Snohomish County Superior Court failed to enter Findings of Fact, Conclusions of Law, and Judgment in accordance with Groff which subsequently requires a remand of this matter to the superior court.

The Snohomish County Superior Court failed to recognize Dr. Summe as Mr. Bell's attending physician. The attending physician rule, a longstanding workers' compensation principal as set forth by Washington

case law, which requires that the testimony and opinions of the attending physician be given special weight and consideration, was not recognized or put into practice by the superior court.

An award of attorney fees to Mr. Bell is appropriate should this matter be reversed and/or remanded to the superior court.

IV. ARGUMENT

A. The Evidence In This Matter Make It Undoubtedly Apparent That The Superior Court Decision Can Not Be Upheld.

The evidence in this matter make it undeniably clear that Mr. Bell has surpassed any and all requirements, set forth by pertinent statute and case law, to have his application for benefits allowed as an occupational disease due to an aggravation, acceleration, and/or hastening of his pre existing low back condition. Therefore, the superior court's decision of October 15, 2012 must be reversed as substantial evidence does not support it.

1. Mr. Bell's Occupation As A Drywaller Does Not Need To Be The Proximate Cause, It Only Needs To Be A Proximate Cause.

Throughout their brief, Respondent consistently uses the phrase "did not proximately cause". *See generally* Resp. Br. This phrase use by Respondent is incorrect and a false contention of the proximate cause

requirement for occupational disease. It is not required that Mr. Bell's occupation as a drywaller between 2006 and 2009 be the one and only cause of the aggravation, acceleration, and/or hastening of his lumbar spine/low back condition.

The applicable Washington Pattern Jury Instruction, in pertinent part, states:

> There may be **one or more** proximate causes of a *[condition] [disability] [death]*. For a worker to be entitled to benefits under the Industrial Insurance Act, the *[work conditions] [incident]* must be **a** proximate cause of the alleged *[condition] [disability] [death]* for which entitlement to benefits is sought. The **law does not require** that the *[work conditions] [incident]* be the **sole proximate cause** of such *[condition] [disability] [death]*.

See 6A Wash. Prac., Wash. Pattern Jury Instr. Civ. WPI 155.06.03 (6th ed.) (emphasis added). The focus is on whether the occupational exposure played any role, whatsoever, in bringing about the aggravation, acceleration, and/or hastening of the condition or pre existing condition, even to include the occupational exposure and the pre existing condition working together to cause the aggravation, acceleration and/or hastening. *See* App. Br. at 8-10; *see* Dennis v. Dep't of Labor & Indus., 109 Wash.2d 467, 481, 745 P.2d 1295 (1987); *see* Harbor Plywood Corp. v. Dep't of Labor & Indus., 48 Wash.2d 553, 556, 295 P.2d 310 (1956); *see* Towne v. Dep't of Labor & Indus., 51 Wash.2d 644, 647, 320 P.2d 1094 (1958); *see*

Guiles v. Dep't of Labor & Indus., 13 Wash.2d 605, 613, 126 P.2d 195 (1942); *see* Ruse v. Dep't of Labor & Indus., 138 Wash.2d 1, 6-7, 977 P.2d 570 (1999).

2. Mr. Bell's Pre Existing Low Back Condition Is Immaterial.

In the State of Washington, we don't hold pre existing conditions against the injured worker. We understand that each individual worker is unique, and we recognize and appreciate that not all workers can, nor should they be expected to, be grouped into a single "one size fits all" category. "[W]e have long recognized that benefits are not limited to those workers previously in perfect health[]" and "[t]he worker is to be taken as he or she is, with all his or her preexisting frailties and bodily infirmities." Dennis v. Dep't of Labor & Indus., 109 Wash.2d at 471 (*citing* Groff v. Dep't of Labor & Indus., 65 Wash.2d 35, 44, 395 P.2d 633 (1964); *citing* Kallos v. Dep't of Labor & Indus., 46 Wash.2d 26, 30, 278 P.2d 393 (1955); *citing* Jacobson v. Dep't of Labor & Indus., 37 Wash.2d 444, 448, 224 P.2d 338 (1950); *citing* Miller v. Dep't of Labor & Indus., 200 Wash. 674, 682–83, 94 P.2d 764 (1939); *citing* Wendt v. Dep't of Labor & Indus., 18 Wash. App. 674, 682–83, 571 P.2d 229 (1977)). "[T]he previous physical condition of the workman is **immaterial**..." if the occupational exposure complained of is a proximate cause of the condition

or disability. Dennis, 109 Wash.2d at 471 (*quoting* Miller, 200 Wash. at 682-83) (emphasis added).

Respondent focuses on Mr. Bell's pre existing low back conditions and prior claims that he has with Respondent, seemingly trying to show that because he has had a long history of low back problems that surely his most recent lumbar spine/low back findings couldn't be attributed to to his most recent stretch as a drywaller between 2006 and 2009. *See* Resp. Br. at 2-5. As evidenced by the case law above, Mr. Bell's pre existing low back conditions are immaterial and such focus on the pre existing condition only lends itself to confuse. Such focus on a pre existing condition might make sense if Mr. Bell was going through this appeal process because he had a re opening application denied, which requires a showing of objective worsening of the condition between two terminal dates. *See* Eastwood v. Dep't of Labor & Indus., 152 Wash. App. 652, 657-58, 219 P.3d 711 (Div. III 2009) (*citing* Phillips v. Dep't of Labor & Indus., 49 Wash.2d 195, 197, 298 P.2d 1117 (1956)). However, a denied re opening application does not form the basis for this appeal. Mr. Bell is before this Court on appeal because Respondent rejected his application for benefits due to his occupational disease. Therefore, Mr. Bell's pre existing lumbar spine/low back condition is immaterial in this matter, especially considering, and as addressed in other sections of this brief, that

Drs. Summe and Wright gave expert opinions that Mr. Bell's work as a drywaller between 2006 and 2009 was a proximate cause of the aggravation, acceleration, and/or hastening of his lumbar spine/low back condition.

3. Dr. Stump, Respondent's Only Medical Witness, Provided Contradictory Testimony.

Respondent suggests, and actually uses the phrase "directly contradicted", that Dr. Stump, their medical witness, provided testimony that was contradictory. *See* Resp. Br. at 17. Mr. Bell's stance is that the testimony of Dr. Stump was contradictory at best. The remaining medical doctors, Drs. Summe and Wright, who provided testimony in this matter did so on behalf of Mr. Bell and were consistent in their expert opinion that Mr. Bell's work as a drywaller between 2006 and 2009 was a proximate cause of the aggravation, acceleration, and/or hastening of Mr. Bell's lumbar spine/low back condition.

The contradictory testimony from Dr. Stump, which the superior court supposedly relied on for their decision[1], should not uphold the Snohomish County Superior Court's decision when Dr. Summe and Dr. Wright provided testimony and expert opinions supporting Mr. Bell's position.

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[1] As addressed in Mr. Bell's opening brief, as well as below in this brief, it is unknown what evidence the superior court relied on in reaching the decision of October 15, 2012.

4. Two Medical Doctors, One Being The Attending Physician, Gave Their Expert Medical Opinion That Mr. Bell's New Findings Were Caused By His Work As A Drywaller Between 2006 and 2009.

During his testimony, Mr. Bell admitted that he had always worked with some pain due to the nature of the physicality of being a drywaller. *See* CP 122. During his drywall stint between 2006 and 2009, he noticed that the pain and his low back started to get progressively worse, and in the winter of 2008/2009 he began to experience severe right leg pain. Id. As stated by Mr. Bell, "[i]t was common for me to be driving to work hiked up on one side of my buttock trying to keep the weight off my right side just ... [so I could] work." Id. He stated that, due to the drywall work and the physical nature of the occupation, his low back and right leg pain progressively, and severely, got worse. Id. at 122-24. Mr. Bell held out hope that the severe pain would subside on its own but, after coming to the realization that this wouldn't be the case, he made an appointment to see Dr. Summe, the attending physician. Id. at 122.

Following Mr. Bell's work as a drywaller between 2006 and 2009, Mr. Bell's doctors, Drs. Summe and Wright, noted new objective findings for his low back of decreased range of motion, moderate to severe muscle spasm, a right sided positive straight leg raise test, the inability to stand on his toes or heels of his right foot, MRI findings of progressive narrowing

of the L5-S1 intervertebral disc space, and a recurrent herniation. Id. at 228, 234, 283-84, 288. These new findings, which caused Dr. Summe to determine that Mr. Bell could not work, clearly show changes in Mr. Bell's low back between 2006 and 2009 considering Mr. Bell's findings prior to his return to drywalling was muscle spasm as well as a lifting restriction due to his ability to still work. Id. at 240, 267, 298. Dr. Summe and Dr. Wright determined that these new findings were consistent with Mr. Bell's subjective complaints, that Mr. Bell's occupation as a drywaller between 2006 and 2009 was a proximate cause of these new findings, and that these new findings were a proximate cause of the aggravation, acceleration, and/or hastening of Mr. Bell's pre existing lumbar spine/low back condition.[2] Id. at 228, 265, 267, 281, 302-03.

Respondent inaccurately asserts that the factual scenario of Ruse is analogous to the facts of this matter. *See* Resp. Br. at 16. In doing so, Respondent fails to recognize that Dr. Summe, the attending physician, and Dr. Wright, Mr. Bell's neurosurgeon, gave opinions supporting Mr. Bell's position that his lumbar spine/low back condition was aggravated, accelerated, and/or hastened by his work as a drywaller between 2006 and 2009. In the Ruse matter, and as addressed in Mr. Bell's opening brief, Mr. Ruse's attending physician didn't support his claim and was actually

[2] Even Dr. Stump recognized a slew of new findings and changes that he testified were not present in an IME that Mr. Bell underwent in May 2007. *See* CP at 350-52, 358.

called to testify by the Department, and the other doctor who testified on behalf of Mr. Ruse gave contradictory testimony. *See* App. Br. at 11-12; *see* Ruse, 138 Wash.2d at 1; *see* Ruse v. Dep't of Labor & Indus., 90 Wash. App. 448, 966 P.2d 909 (Div. III 1998). With the consistent support of Dr. Summe, the attending physician, and Dr. Wright, and the contradictory testimony of Dr. Stump, Mr. Bell's factual scenario is a far cry from that of Ruse. Ruse is distinguishable from this current matter and is instructive on what should happen in Mr. Bell's case.

Further, Respondent believes that Ruse requires Mr. Bell to show he suffered a "new disability". *See* Resp. Br. at 18-19. It needs to be pointed out that the Ruse case only uses the word "new" one time in the entire opinion, of which this occurrence Respondent is now apparently relying on to support their proposition, and only uses the word "requires", or any variation of the word, one time and not in conjunction with the phrase "new disability". *See generally* Ruse, 138 Wash.2d at 1. More so, the sentence from Ruse in which Respondent finds the phrase "new disability" cites to the Dennis case, which the Ruse Court states "*Dennis* extensively discusses the elements of a disability claim premised on aggravation of a preexisting disease." Id. at 7. Thus, turning attention to the Dennis opinion, not once is the phrase "new disability" used in the opinion. *See generally* Dennis, 109 Wash.2d at 467. There is no

definition, either by statute or case law, for this phrase. *See generally* Wash. Rev. Code Ann. Ch. 51.08 (West 2012); *see* Dennis, 109 Wash.2d at 467; *see* Ruse, 138 Wash.2d at 1. Also, it should be mentioned that the Ruse matter was not decided on the premise that Mr. Ruse failed to show a "new disability", but rather it was decided on the basis that Mr. Ruse was not able to show, by way of medical evidence, that his occupational exposure was a proximate cause of any aggravation, acceleration, and/or hastening of his pre existing condition. *See generally* Ruse, 138 Wash.2d at 1. To interpret Ruse as changing the law to now require a "new disability" be shown in occupational disease claims involving aggravation of a pre existing condition is truly a stretch.

Plain and simple, Mr. Bell testified that his low back became increasingly worse due to his work as a drywaller between 2006 and 2009. Two medical doctors, one being Mr. Bell's attending physician, corroborated Mr. Bell's testimony and testified that Mr. Bell's work as a drywaller between 2006 and 2009 was a proximate cause of the findings in Mr. Bell's low back and that the work was a proximate cause of the aggravation, acceleration, and/or hastening of Mr. Bell's pre existing lumbar spine/low back condition and because of this he was unable to work. There is not substantial evidence to the contrary and therefore the superior court decision of October 15, 2012 must be reversed.

B. Groff Requires That This Matter Be Remanded To The Superior Court.

Contrary to Respondent's assertion, the language in Groff is not an "urge" and is not "precatory". The Groff Court was not making a mere suggestion. If this was the case then the Groff Court would not have needed to set aside the judgment entered by the superior court as well as the findings of fact and conclusions of law and remand the matter back to the superior court for the entry of new findings of fact and new conclusions of law and a judgment that clearly flows there from. Groff, 65 Wash.2d at 46-47. The Groff Court's remand served as a requirement. In fact, the Groff Court stated that they were sending the matter back down to the superior court "with instructions to the trial court to make findings of fact meeting the **requirements** of this opinion...." Id. (emphasis added). As quoted in Mr. Bell's opening brief, and worth repeating here,

> [f]or an adequate appellate review in cases such as the one now before us, this court should have, from the trial court which has tried the case do [sic] novo, findings of fact (supplemented, if need be, by a memorandum decision or oral opinion) which show an understanding of the conflicting contentions and evidence, and a resolution of the material issues of fact that penetrates beneath the generality of ultimate conclusions, together with a knowledge of the standards applicable to the determination of those facts.

Id. at 40. The above quotation from Groff is not just a suggestion, it is a requirement. Id.

Respondent clearly misunderstands what the Groff opinion requires. Respondent touts that in the matter at hand the superior court made factual findings, unlike in Groff, and therefore a remand isn't warranted. *See* Resp. Br. at 23. This stance is wholly inaccurate. What the Snohomish County Superior Court gave us in this matter is three procedural findings, one finding that could be considered procedural or factual but is still a completely overbroad summation of Mr. Bell's past work, and the last finding is nothing but conclusions and void of any fact. CP 4-5. It should also be pointed out, and similar to the case in Groff, that all of these findings are identical to the findings of fact submitted by the Industrial Appeals Judge in his PD&O except one, and this new addition is strictly a procedural finding. CP 4-5, 66; *see also* Groff, 65 Wash.2d at 38. The superior court did not provide us with any new findings of fact in hopes of determining how a decision was reached in the supposed *de novo* review of Mr. Bell's case. In the Findings of Fact, the superior court didn't recognize the standard of review in which it was to weigh the evidence and facts, didn't weigh the medical evidence at all, let alone even mention medical evidence, and state why one medical opinion was chosen

over the other, didn't recognize an understanding of the purpose and intent of Title 51, and didn't recognized that Dr. Summe was the attending physician, that his testimony and opinions were to be given special weight and consideration in reaching a decision, and the reasoning for ignoring his testimony completely. CP 4. As with Groff, it appears that the superior court "made no attempt at an independent appraisal of the evidence" in Mr. Bell's case. *See* Groff, 65 Wash.2d at 37-38.

This matter must be remanded to the superior court as the Findings of Fact and Conclusions of Law entered by the Snohomish County Superior Court on October 15, 2012 are clearly inadequate and don't comply with the requirements set forth in Groff which subsequently doesn't allow a sufficient review before this Court.[3]

C. There Is No Indication Whatsoever That The Superior Court Recognized Dr. Summe As Mr. Bell's Attending Physician or Even Considered Giving His Testimony and Opinions Special Weight and Consideration As Required.

The Snohomish County Superior Court failed to recognize Dr. Summe as Mr. Bell's attending physician and give his testimony and opinions special weight and consideration in accordance with longstanding

[3] Respondent asserts that "Mr. Bell failed to assign error to specific findings of fact as required by RAP 10.3(g)." This is false. *See* App. Br. at 1. Considering the generic, non descript findings of fact that don't comply with Groff, Mr. Bell decided to assign error to the entire Findings of Fact, Conclusions of Law, and Judgment that was entered on October 15, 2012 by the Snohomish County Superior Court.

workers' compensation principals and Washington State case law. An attending physician is better qualified to give an opinion regarding one of their own patients, hence the reason to give their testimony and opinions special weight and consideration, and therefore is subsequently more capable of providing an opinion than a doctor who has seen the patient one time during an independent medical examination. *See generally* Hamilton v. Dep't of Labor & Indus., 111 Wash.2d 569, 761 P.2d 618 (1988); *see* Ruse v. Dep't of Labor & Indus., 138 Wash.2d at 6 (*citing* Spalding v. Dep't of Labor & Indus., 29 Wash.2d 115, 128-29, 186 P.2d 76 (1947); *see* 6A Wash. Prac., Wash. Pattern Jury Instr. Civ. WPI 155.13.01 (6th ed.).

Respondent requests that this Court reject Mr. Bell's argument that the longstanding attending physician rule wasn't applied correctly in the matter at hand, suggesting that Mr. Bell believes that the attending physician doctrine means that only the attending physician is to be believed and also stating that because the superior court didn't indicate that they were ignoring the attending physician doctrine then this Court shouldn't address whether the attending physician doctrine was applied, correctly or incorrectly. *See* Resp. Br. at 21-22. Both the former and the latter positions by Respondent are erroneous. Mr. Bell made no such suggestion that only the attending physician is to be believed. Mr. Bell is

requesting is that the attending physician rule be applied and that the superior court recognize this rule and weigh the medical evidence in the decision. The Snohomish County Superior Court failed to do so. Further, Respondent's stance that "if evidence/rule/law/etc. isn't mentioned in a superior court decision then it must be assumed that the superior court recognized and addressed this unmentioned item" is absolutely not practical and completely unrealistic. In a matter such as Mr. Bell's, the superior court should recognize the evidence/rule/law/etc. in their decision and then state whether it was persuasive or not, and whether it was ignored, and if so then why, or followed. The "ignore and assume" argument by Respondent is irrational and should be summarily rejected by this Court.

D. Awarding Attorney Fees To Mr. Bell Is Appropriate In This Matter.

Should this Court reverse and/or remand this matter to the superior court, Mr. Bell would respectfully request an award of attorney fees pursuant to RCW § 51.52.130. *See* § 51.52.130; *see* Boyd v. Davis, 127 Wash.2d 256, 264-65, 897 P.2d 1239 (1995) (At the appellate level, attorney fees can be requested in either the opening brief or reply brief.); *see* Tobin v. Dep't of Labor & Indus., 169 Wash.2d 396, 405-06, 239 P.3d 544 (2010).

V. CONCLUSION

After carefully considering Mr. Bell's Brief, the Brief of Respondent, as well as Mr. Bell's Reply Brief, Mr. Bell respectfully requests that this Court reverse the Snohomish County Superior Court's Findings of Fact, Conclusions of Law, and Judgment entered on October 15, 2012 as there is not substantial evidence to uphold the superior court's decision. Mr. Bell has presented sufficient evidence that clearly indicates Mr. Bell's occupation as a drywaller between 2006 and 2009 aggravated, accelerated, and/or hastened the progression of Mr. Bell's lumbar spine/low back condition. Alternatively, Mr. Bell respectfully requests that this Court remand this matter to the superior court in accordance with Groff.

RESPECTFULLY SUBMITTED this 25th day of March, 2013.

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Attorneys for Appellant

No. 69438-3-I

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The undersigned certifies under penalty of perjury under the laws of the State of Washington that on this day the undersigned caused to be served in the manner indicated below the documents referenced below:

DOCUMENT: Reply Brief of Appellant

ORIGINAL TO: via ABC Legal Messenger

Court of Appeals
600 University St
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COPY TO: via ABC Legal Messenger

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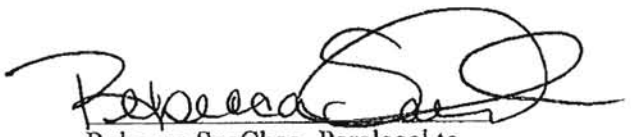
DATED this 25th day of March, 2013, at Lynnwood, Washington.



Rebecca SaeChao, Paralegal to
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COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

AARON BELL,

Appellant,

vs.

DEPARTMENT OF LABOR & INDUSTRIES,

Respondent.

COA No. 69438-3-I

AFFIDAVIT OF ABC

Documents: **REPLY BRIEF OF APPELLANT; DECLARATION OF SERVICE**

The undersigned being first duly sworn on oath deposes and says: that he/she is now, and at all times herein mentioned was a citizen of the United States and resident of the State of Washington, over the age of 18 years, not a party to or interested in the above entitled action, and competent to be a witness therein.

On March 25th, 2013, at approximately 10:59 a.m., ABC Legal Services duly delivered the above described document(s) to the office of Erica Kosher, Attorney General of Washington – Labor and Industries Divsion, at the address of 800 5th Avenue, Suite 2000, Seattle, WA 98104, by leaving a true and correct copy of the same with the receptionist

Affiant: _____
Edward M. Silvetti Jr, Supervisor
Seattle Messenger, ABC Legal Services

Subscribed and sworn before me, a notary public in the state of Washington residing at Seattle, done this 28th day of March, 2013.

MARK LEE GOCKLEY NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 12-28-13

Notary: _____
Mark Lee Gockley