

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
6/26/2018 2:30 PM  
BY SUSAN L. CARLSON  
CLERK

No. 95718-5

**SUPREME COURT  
OF THE STATE OF WASHINGTON**

TERA L. HENDRICKSON,

Appellant,

vs.

DEPARTMENT OF LABOR AND  
INDUSTRIES OF THE STATE OF  
WASHINGTON,

Respondent.

RESPONSE TO  
RESPONDENT'S MOTION TO  
STRIKE REPLY BRIEF

**I. IDENTITY OF RESPONDING PARTY**

Petitioner, Tera L. Hendrickson, is the responding party for the purposes of this Motion and requests the Court deny Respondent's requested relief in its Motion to Strike.

**II. RELIEF REQUESTED**

Petitioner requests the Court deny Respondent's Motion to Strike Reply Brief filed with this Court on June 21, 2018, and consider Petitioner's Reply Brief in its decision on the Petition for Review filed with this Court.

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### **III. FACTS RELEVANT TO MOTION**

Ms. Hendrickson filed a petition for review in this matter. The Department filed an answer responding to the arguments, which also contained a large discussion regarding public interest and public policy that were not addressed in the petition for review. This motion is set for consideration without oral argument on July 10, 2018.

### **IV. GROUNDS FOR RELIEF AND ARGUMENT**

RAP 13.4(d) authorizes a party to file a reply to an answer if the answering party seeks review of issues not raised in the petition for review. While the Department attempted to argue against the issue of whether the Court should seek review on the issue of aggravation, the Department also raised substantial public interest and policy issues regarding aggravation matters which were not addressed in the petition for review. While the Department attempted to subsume the issues in its brief as a response to Ms. Hendrickson's argument, the issues are substantial enough to require a response due to their potential implications regarding the Industrial Insurance Act.

As a result, including the public interest and policy issues in a reply brief was proper, and a response to the Department's newly raised public policy issues should be considered and addressed by this Court.

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## V. CONCLUSION

Because the matter involved contains public interest issues raised by the Department in its answer and not addressed in the petition for review, RAP 13.4 should allow Ms. Hendrickson's reply brief, and the Court should deny the Department's motion and consider the reply brief in addressing the petition for review.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of June, 2018.

VAIL CROSS-EUTENEIER &  
ASSOCIATES



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HANNAH WEAVER  
WSBA No. 49779  
Attorney for Appellant

**CERTIFICATE OF MAILING**

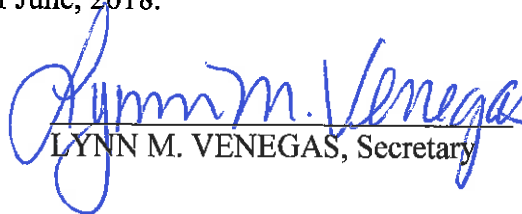
SIGNED at Tacoma, Washington.

The undersigned, under penalty of perjury pursuant to the laws of the State of Washington, hereby certifies that on the 26th day of June, 2018, the document to which this certificate is attached, Petition For Review, was placed in the U.S. Mail, postage prepaid, and addressed to Respondent's counsel as follows:

Anastasia R. Sandstrom  
Paul Michael Weideman  
Attorney General's Office  
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Seattle, WA 98104-3188

Sharon M. James  
Assistant Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

DATED this 26<sup>th</sup> day of June, 2018.

  
LYNN M. VENEGAS, Secretary

# VAIL CROSS AND ASSOCIATES

June 26, 2018 - 2:30 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95718-5  
**Appellate Court Case Title:** Tera L. Hendrickson v. Department of Labor and Industries  
**Superior Court Case Number:** 15-2-21692-9

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- 957185\_Other\_20180626142748SC725562\_4261.pdf  
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