NO. 102922-5

SUPREME COURT OF THE STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES,

Petitioner,

v.

CANNABIS GREEN, LLC, dba LOVELY BUDS, a Washington limited liability company; SIMPLY BUD, LLC dba LOVELY BUDS NORTH, a Washington limited liability company; TLE OF SPOKANE, LLC dba LOVELY BUDS DIVISION, a Washington limited liability company; and TODD BYCZEK and ELIZABETH BYCZEK, in their individual capacities and as a marital community,

Respondents.

PETITION FOR REVIEW

ROBERT W. FERGUSON
Attorney General

Anastasia Sandstrom
Senior Counsel
WSBA No. 24163
Office Id. No. 91018
800 Fifth Ave., Ste. 2000
Seattle, WA 98104
(206) 464-6993

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes

Regulations

Rules

Other Authorities

Appendices

I. INTRODUCTION

Wage theft hurts vulnerable workers and disadvantages businesses that play by the rules. To fight wage theft, Washington has a "long and proud history of being a pioneer in the protection of employee rights." *Drinkwitz v. Alliant Techsystems, Inc.*, 140 Wn.2d 291, 300, 996 P.2d 582 (2000).

Marijuana retailer Cannabis Green failed to pay its workers overtime, deprived them of meal and rest breaks, did not pay for all of the time employees spent opening and closing stores, and shorted its workers on sick leave. So following an investigation, the Department of Labor and Industries sued on behalf of 75 to 100 workers and sought an estimated $318,500 in wages owed and injunctive relief.

The trial court dismissed L&I's action, which the Court of Appeals incorrectly affirmed, concluding that RCW 49.48.040(1)(b) requires L&I to first order Cannabis Green to pay a specified amount of wages owed before L&I could file its lawsuit in superior court. Under the court's

reading, RCW 49.48.040(1)(b) requires a specific order of payment even where, as here, an employer *hides* the amount of wages it owes and refuses to provide L&I with payroll records. This is contrary to the statute's text, intent of the Legislature, and common sense.

The decision, if left uncorrected, means L&I will lose a critical tool to stop wage theft. As is the case here, L&I may know an employer is committing wage theft but does not have enough information to order the precise payment of all wages because the employer does not provide required payroll records to L&I. Section (1)(b)'s tool to "institute [an] action[]" for wages should allow for discovery to support L&I's wage theft claim. But the decision now imposes a pre-complaint requirement for L&I to somehow list the precise amount of damages absent discovery, effectively removing this statutory tool from L&I. Protecting workers using all tools given to L&I presents an issue of substantial public interest. RAP 13.4(b)(4).

Moreover, RCW 49.48.040(1)(b) allows L&I to institute an action when L&I can satisfy CR 8 and CR 11 and take discovery to determine damages. The Court of Appeals' contrary decision conflicts with the statute's text, this Court's precedent on notice pleading, and the constitutional provisions for separation of powers, workplace health, and access to the courts. Review is warranted under RAP 13.4(b)(1) and (3).

II. IDENTITY OF PETITIONERS/DECISION BELOW

L&I petitions for this Court's review of *Department of Labor & Industries v. Cannabis Green, LLC*, No. 39459-0-III (Wash. Ct. App. Mar. 5, 2024) (cited as "slip op." and attached as App. at 1-20).

III. ISSUE PRESENTED FOR REVIEW

Does RCW 49.48.040(1)(b) require L&I to order a specific payment of wages before filing a lawsuit or do the ordinary rules for filing a complaint under CR 8 apply?

IV. STATEMENT OF THE CASE

A. Constitutional and Statutory Background of Overtime, Meal and Rest Break, and Sick Leave Laws

Our state's constitution confers a fundamental right to workers for health and safety protections in the workplace. Wash. Const. art. II, § 35; *Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc.*, 196 Wn.2d 506, 519-20, 475 P.3d 164 (2020). This includes consideration of conditions affecting workers' health and safety, such as overtime, meal and rest breaks, and sick leave.

"Overtime work is particularly injurious, resulting in increased injuries, illness, and mortality." *Martinez-Cuevas*, 196 Wn.2d at 520. Thus, the Minimum Wage Act (MWA) "is a subject of vital and imminent concern to the people of this state," adopted to provide "employment opportunities" and "protect[] the immediate and future health, safety and welfare of the people of this state." RCW 49.46.005(1). Minimum wage laws protect against exploitation and relieve the public purse from an employer's dereliction about paying wages. *See*

RCW 49.46.005; *see also W. Coast Hotel Co. v. Parrish*, 300 U.S. 379, 399, 57 S. Ct. 578, 81 L. Ed. 703 (1937). They place accountability on violative employers and reward compliant employers with a level playing field. *See W. Coast Hotel*, 300 U.S. at 399.

Similarly, laws governing meal and rest breaks prevent working when tired, avoiding dangerous situations caused by fatigue. They ensure breaks critical to the "health and effectiveness of employees." *Demetrio v. Sakuma Brothers Farms, Inc.*, 183 Wn.2d 649, 658-59, 355 P.3d 258 (2015); RCW 49.12.010, .020; *see also* WAC 296-126-092.

Finally, sick leave laws protect the health and safety of workers by not forcing them to return to work while sick. *See* RCW 49.46.200. The people adopted an initiative to provide sick leave because it "is in the public interest to provide . . . sick leave . . . to care for the health of themselves and their families." RCW 49.46.200.

L&I enforces wage and hour laws to protect workers under the Collection of Wages in Private Employment Act (CWPEA). RCW 49.48.040-.070. The CWPEA was first adopted in 1935 and amended in 1987. Laws of 1935, ch. 96, §§ 1, 4; Laws of 1987, ch. 172, § 1. In 1987, the Legislature added a paragraph that directed that "[t]he department of labor and industries . . . may . . . [o]rder the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed." Laws of 1987, ch. 172, § 1; RCW 49.48.040(1)(b). This provision allows L&I to collect wages in superior court under its "de jure authority." *Dep't of Lab. & Indus. v. Overnite Transp. Co.*, 67 Wn. App. 24, 36, 834 P.2d 638 (1992).

The CWPEA gives L&I a range of discretion about how best to seek wages. *See* RCW 49.48.040(1)(a)-(c). The intent of the CWPEA is to "ensure compliance with [the MWA and other wage] chapters." RCW 49.48.040(1)(a). L&I must "inquire diligently for any [wage] violations." RCW 49.48.070.

L&I acts under the CWPEA to pursue employers who spurn wage laws for many employees. *See* CP 207-08. L&I often acts on behalf of workers with low-dollar amounts to their claims and for those who still work for their employers and are afraid of retaliation if they file a complaint in their own name. Because workers may be reluctant to file wage claims when they are still working due to the prospect of employer retaliation, the Legislature allows L&I to "stand[] in the shoes" of workers to claim wages for multiple employees. *Overnite*, 67 Wn. App. at 36.

Employees often hesitate to report wage violations when they still work for their employer. *See* Nicole Taykhman, *Defying Silence: Immigrant Women Workers, Wage Theft, and Anti-Retaliation Policy in the States*, 32 Colum. J. Gender & L. 96, 114, 121 (2016). "Supervisors bully and intimidate workers who complain, cut their hours, adjust their schedules without warning, contact immigration authorities, and find excuses to terminate, suspend, or otherwise discipline them." Matthew

Fritz-Mauer, *The Ragged Edge of Rugged Individualism: Wage Theft and the Personalization of Social Harm*, 54 Univ. Mich. J.L. Reform 735, 772 (2021). The power imbalance that leads to wage theft is "amplified when a person is economically or socially vulnerable, which explains why wage theft is more pronounced among the working poor, undocumented immigrants, non-unionized employees, women, and minorities." Fritz-Mauer, *supra*, at 779-80.

Often workers who have low dollar claims struggle to find representation and may not wish to risk their jobs by hiring a lawyer or using other remedies. The Legislature filled in the gap that prevents workers' access to the courts by adopting the CWPEA. The advantage of the authority given to L&I under the CWPEA is that L&I can act when workers are unable to protect themselves.

B. Cannabis Green Did Not Pay Overtime, Give the Required Meal and Rest Breaks, or Provide Adequate Sick Leave

Cannabis Green operates in Spokane and holds a marijuana retailer license issued by the state of Washington. CP 213. It has between 75 to 100 employees. CP 209.

In May 2019, following a wage complaint by an employee Katherine Bell, L&I issued a Wage Payment Act[1] citation to the company for failing to pay Bell overtime. CP 265. In October 2019, this case settled. CP 266. The settlement applied only to Bell and did not apply to other workers. CP 266.

During its WPA investigation of Bell's complaint, L&I learned that Cannabis Green's illegal overtime practices hurt other employees, so L&I opened a CWPEA company-wide

[1] In 2006, the Legislature adopted the Wage Payment Act (WPA) to provide another administrative process allowing individual workers to pursue wage complaints. Laws of 2006, ch. 89, §§ 1-7. The WPA preserved L&I's rights to pursue a claim under the CWPEA. *See* RCW 49.48.085(3). The WPA and CWPEA differ in that the WPA requires a worker to file a complaint, requires L&I to investigate such a complaint, and provides a remedy for both employees and employers. *Compare* RCW 49.48.083, *with* RCW 49.48.040.

investigation of Cannabis Green's wage and hour practices. CP 213. L&I interviewed workers and obtained partial payroll records from Cannabis Green. CP 215. L&I discovered information showing overtime violations, both historical and ongoing. CP 15-27, 214.

L&I learned that Cannabis Green operated three shops in Spokane under three different business names: Lovely Buds, Lovely Buds Division, and Lovely Buds North. CP 213. Many employees worked in more than one shop. CP 213. Because Cannabis Green jointly operated the three shops using the same employees, L&I concluded that this established a joint-employer relationship among the three entities. CP 213. Yet under Cannabis Green's policies, even when an employee's hours across its shops totaled more than forty hours in week, Cannabis Green would not pay overtime to the employee. CP 213-14.

L&I also obtained information that Cannabis Green required employees to arrive early and stay late so that its

security systems could be set and unset, creating periods of uncompensated time. CP 214-15. L&I also learned from employees that their sick leave was not accruing correctly. CP 214-15. Finally, L&I discovered that many times Cannabis Green did not allow employees to take all of their required meal and rest breaks, with meal breaks automatically deducted from their pay no matter if Cannabis Green provided the break. CP 214.

C. Cannabis Green Refused to Provide Payroll Records, so L&I Sued Under RCW 49.48.040(1)(b)

Employers must keep payroll records and provide them to L&I for inspection. RCW 49.46.040, .070, .100; RCW 49.12.041; RCW 49.48.040; WAC 296-128-010, -025. Cannabis Green only provided partial payroll records and then informed L&I it would not provide further records. CP 215-16, 243-44. Instead, Cannabis Green unsuccessfully moved in superior court for a writ to stop L&I's investigation and evaded service of administrative subpoenas. CP 216.

L&I then sent Cannabis Green step-by-step instructions on how to correct its wage theft violations. CP 216-18, 259-60. Cannabis Green scorned the instructions, stating that they "misrepresent the law and mischaracterize the facts and circumstances of Cannabis Green's business operations." CP 102 (cleaned up).

L&I then offered to mediate the matter. CP 210, 218. But Cannabis Green rejected the offer. CP 112.

The company's refusal to provide records or acknowledge any problem with its wage practices compelled L&I to conclude that Cannabis Green would not work with L&I to resolve the wage violations. CP 210-11. So L&I sued in superior court under RCW 49.48.040(1)(b). CP 15, 23-27.

In its complaint, L&I sought damages and injunctive relief. CP 27-28. L&I later amended its complaint, listing Cannabis Green as owing an estimated $318,500 to its employees. CP 23, 309.

Cannabis Green moved to dismiss under CR 12(b)(6) and CR 56, which the superior court granted. CP 311-13. The Court of Appeals affirmed. Slip op. 20. It ruled that L&I had to order payment of wages before filing a lawsuit, so L&I has to know the precise amount of damages without discovery. Slip op. 12.

V. ARGUMENT

For 90 years "[t]he Legislature has evidenced a strong policy in favor of payment of wages due employees by enacting a comprehensive scheme to ensure payment of wages," giving L&I "concurrent" enforcement power. *Schilling v. Radio Holdings, Inc.*, 136 Wn.2d 152, 157-58, 961 P.2d 371 (1998). The Legislature has both established rights (overtime, meal and rest breaks, and sick leave) and remedies (*e.g.*, concurrent access to the courts). *See id*. The Court of Appeals decision thwarts this comprehensive scheme.

A. Interpreting RCW 49.48.040(1) to Prevent Wage Theft Is an Issue of Substantial Public Interest

This Court should grant review under RAP 13.4(b)(4) because construction of the CWPEA to stop wage theft is an

issue of substantial public interest. To further the intent to "ensure compliance with [the MWA and other wage] chapters," RCW 49.48.040(1)(a), the statute provides:

> The department of labor and industries may . . . [1] order the payment of all wages owed the workers and [2] institute actions necessary for the collection of the sums determined owed.

Section (1)(b) (cleaned up).

This statute gives two alternative tools to seek wages that L&I may use independently or together: ordering payment of wages and/or instituting actions to recover wages.

At least five reasons demonstrate that these are independent tools. First, a reasonable reading of section (1)(b) shows independent tools. The preface, "[t]he department . . . may: [listing verb phrases]," relates equally to the ability to "institute actions" and to the ability to "[o]rder the payment of all wages." In other words, L&I can either "order" wages paid or "institute" actions, or both. This dual authority gives meaning to the "department . . . *may*" language and the "*and*"

language. *See Scannell v. City of Seattle*, 97 Wn.2d 701, 704, 648 P.2d 435 (1982), *amended*, 97 Wn.2d 701 (1983) ("may" is permissive); *Mount Spokane Skiing Corp. v. Spokane County.*, 86 Wn. App. 165, 174, 936 P.2d 1148 (1997) ("and" can mean the selection of options).

Second, the phrase "order the payment of all wages" reasonably can refer to an administrative process that could be appealed under the Administrative Procedure Act. Language that allows an agency to order something gives an agency the authority to provide an administrative hearing. *See* RCW 34.05.413(1) ("Within the scope of its authority, an agency may commence an adjudicative proceeding at any time with respect to a matter within the agency's jurisdiction.").

So L&I may elect the administrative route rather than proceeding in superior court.[2] This reading gives meaning to

[2] Such an administrative procedure is separate from the WPA. The WPA preserves L&I's right to initiate "any judicial, *administrative*, or other action" separate from the WPA. RCW 49.48.085(3) (emphasis added).

the "order" provision. *See In re Det. of Ambers*, 160 Wn.2d 543, 552, 158 P.3d 1144 (2007) (each provision given meaning).

Third, the view that there are not independent tools and that there needs to be a pre-complaint determination of wages, slip op. 11-12, fails because it reads language into the statute. In this view, the Court of Appeals' and Cannabis Green's reading implicitly revises the statute to say that "[t]he department . . . may . . . [o]rder the payment of all wages owed the workers and after that may institute actions necessary for the collection of the sums determined owed." But words cannot be added to a statute. *See City of Seattle v. Fuller*, 177 Wn.2d 263, 269, 300 P.3d 340 (2013).

Fourth, the use of the term "necessary" in the "instituting actions" provision underscores L&I's ability to institute an action because such an action would facilitate collecting wages. Acting when "necessary" highlights L&I's independent authority to act. The statute's structure supports this view, in

which the "for the collection of the sums determined owed" language comes temporally after "institute actions." *See* RCW 49.48.040(1)(b).

Finally, that section (1)(b) allows L&I to act without "order[ing]" wages paid is all the more germane because there is another statute that does require employer notification before L&I can act. *See* RCW 49.48.060(4). The 1971 amendment to RCW 49.48.060 provides that to assess a penalty for unpaid wages, L&I must have notified an employer of a wage violation and give it a chance to fix it. Laws of 1971, ch. 55, § 4. But the Legislature placed no such restraint on L&I when it amended RCW 49.48.040 in 1987. *See* Laws of 1987, ch. 172, § 1. The differences between the 1971 and 1987 bills must be presumed to be intentional. *See Millay v. Cam*, 135 Wn.2d 193, 202, 955 P.2d 791 (1998). If the Legislature wanted the same result in .040(1)(b) as in .060(4), it had the template to do so in .060(4) and choose not to copy it.

It makes sense that there is a difference between the laws. Paying the wages after notice under .060(4) cures the dilatory behavior, justifying not receiving a penalty. In contrast, when an employer owes money to workers, the employer owes the money regardless of notice by L&I. Thus, L&I needs unfettered power to collect the wages under .040(1)(b).

It is a reasonable interpretation of section (1)(b) that its language precludes a pre-complaint requirement to determine wages, as the Court of Appeals decision would impose. But even if Cannabis Green's interpretation is reasonable as well, the Court of Appeals should have adopted the interpretation that best aids workers. *Cockle v. Dep't of Lab. & Indus.*, 142 Wn.2d 801, 811, 16 P.3d 583 (2001) (quoting *Dennis v. Dep't of Lab. & Indus.*, 109 Wn.2d 467, 470, 745 P.2d 1295 (1987) (in ambiguous statutes "doubts [are] resolved in favor of the worker")); *Anfinson v. FedEx Ground Package Sys., Inc.*, 174 Wn.2d 851, 870, 281 P.3d 289 (2012) ("As remedial legislation, the MWA is given a liberal construction.").

The Court should accept review so RCW 49.48.040 can be read as allowing L&I to initiate actions benefitting workers without first pre-determining the precise amount of damages owed.

B. The Court of Appeals' Pre-Complaint Damages Rule Conflicts with this Court's Precedent, the Civil Rules, and the Washington Constitution

This Court could also grant review under RAP 13.4(b)(1) and (b)(3). Granting concurrent access to the courts to enforce wage laws advanced the constitutional duty in article II, section 35 to provide for effective health and safety regulation. And once the Legislature granted L&I authority to access the courts to protect workers, it could not impose criteria that conflicts with principles of notice pleading, separation of powers, and constitutional access to the courts under article I, section 10.

Absent a special proceeding, the Court does not interpret a statute to interfere with court rules. CR 81; *Putman v. Wenatchee Valley Med. Ctr., P.S.*, 166 Wn.2d 974, 980-83, 216

P.3d 374 (2009).[3] In *Putman*, the Court considered a requirement in medical malpractice cases that would require a plaintiff to file a certificate of merit containing a statement that "based on the information known at the time of executing the certificate of merit, . . . there is a reasonable probability that the defendant's conduct did not follow the accepted standard of care." 166 Wn.2d at 983 (quoting RCW 7.40.150(3) (repealed 2023) (internal quotations omitted)). The statute imposed a pre-complaint restrictions, so the Court struck it down, holding:

> [This statute] conflicts with CR 8 and our system of notice pleading . . . . Under notice pleading, plaintiffs use the discovery process to uncover the evidence necessary to pursue their claims.

Id.

Because the civil "rules supersede all procedural statutes and other rules that may be in conflict" under CR 81(b),

---

[3] Cannabis Green has never argued that RCW 49.48.040(1)(b) is a special proceeding. A proceeding known at the common law is not a special proceeding. *Putman*, 166 Wn.2d at 982. Wage disputes are known at the common law. *See Goebel v. Elliott*, 178 Wash. 444, 445, 35 P.2d 44 (1934).

Putman recognized that a statute in conflict with notice pleading must give way to CR 8(a) and CR 26 to 37. *See id.* at 982-83. Thus, under notice pleading, court rules require that a plaintiff be able to conduct discovery to determine the amounts owed. *Id.* at 979, 985. The Court of Appeals' ruling violates this principle. And nothing in the CWPEA reflects any legislative intent to do away with notice pleading.

Three constitutional principles also support that RCW 49.48.040(1)(b) should not be interpreted to impose pre-complaint constraints on L&I. Under all of these, once the Legislature allowed L&I to pursue civil actions to remedy the wage theft violations for the workers, then the constitutional provisions were triggered. To begin, as recognized in *Putman*, the separation of powers doctrine provides that the Court will not interpret a statute in a way that "threatens the independence or integrity or invades the prerogatives of [the courts]." 166 Wn.2d at 980 (quoting *City of Fircrest v. Jensen*, 158 Wn.2d 384, 394, 143 P.3d 776 (2006)). CR 8 only requires notice

pleading, and the statute's interpretation cannot modify the Court's rules about notice pleading. *Id.* at 983-85.

Next, workers' (and L&I's) access to the courts cannot be impaired. L&I "stands in the shoes" of the workers when instituting actions under RCW 49.48.040. *Overnite*, 67 Wn. App. at 36. The Legislature authorizes L&I's concurrent authority because L&I can vindicate small amounts and because it provides an avenue of relief for workers afraid of retaliation. Workers rely on L&I to have unhampered access to the courts when the workers are unable to act on their own. e courts were triggered.

As emphasized in *Putman*, access to the courts includes relying on discovery to pursue claims, and here, that means relying on discovery to calculate wages owed by employers. *See* 166 Wn.2d at 979. The Court held that the certificate of merit "violates the plaintiffs' right of access to courts" as obtaining "evidence . . . may not be possible prior to discovery." *Putman*, 166 Wn.2d at 979; Wash. Const. art. I, §

10. Yet under the Court of Appeals' decision, L&I has to obtain evidence unavailable before discovery—despite an employer's obstruction—to order a specific amount of wages owed and only then file a case and unlock the discovery process.

Finally, the drafters of the constitution have provided a special emphasis of the rights of workers in the workplace that dovetails with the right to access the courts. Workers have a constitutional right to health and safety protections. *Martinez-Cuevas*, 196 Wn.2d at 519-20. Hampering L&I's enforcement ability subverts this mandate because it cuts off health and safety enforcement of overtime, meal and rest breaks, and sick leave laws. The constitutional mandate to adopt laws to protect workers' health and safety is concomitant with access to the courts to enforce those laws.

C. Review Is Warranted Because Requiring a Pre-Complaint Determination of Damages Gives Employers Incentives to Refuse to Cooperate

The Court of Appeals' ruling gives employers the incentive to refuse to cooperate with L&I by not providing full

information about wages. But it cannot be the rule that employers can run possible statutes of limitations down; hide assets; and evade meal and rest breaks, overtime, and sick leave safety, health, and welfare protections. None of this is consistent with the legislative intent to protect workers.

The Court of Appeals thought the purpose of ordering payment was to allow the employer to pay the wages. Slip op. 12. But Cannabis Green knew what to pay. CP 259-60 (L&I outlining Cannabis Green's wage duties). Employers keep payroll records and must calculate wages owed. *See Peiffer v. Pro-Cut Concrete Cutting & Breaking Inc.*, 6 Wn. App. 2d 803, 824, 431 P.3d 1018 (2018) (court "not at all sympathetic" to claim that the employer didn't know the wages amount owed when the employer could have determined the wages). Cannabis Green lacks clean hands to excuse its failure to pay wages. *See Umpqua Bank v. Gunzel*, 19 Wn. App. 2d 16, 29, 501 P.3d 177 (2021) (unclean hands because it withheld evidence).

There are 75 to 100 workers here who did not receive overtime, breaks, and sick leave. CP 209. To rule for Cannabis Green would sanction acknowledged wage theft and gut the remedial purposes of the CWPEA in not just this case, but in others where an employer obstructs an investigation. Here, it will deprive the 75 to 100 workers of the remedy to seek back wages owed. This result is because the statute of limitations bars their own private right of action. It also deprives L&I of a critical tool to stop wage theft.

L&I asks for review to restore all necessary tools to combat wage theft; protect workers' welfare, health, and safety; and put withheld wages in the workers' pockets.

//

//

//

//

//

//

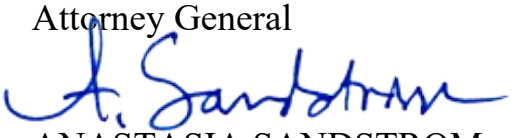
VI. CONCLUSION

The Court should grant the petition for review.

This document contains 4,065 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 3rd day of April, 2024.

ROBERT W. FERGUSON
Attorney General



ANASTASIA SANDSTROM
Senior Counsel
WSBA No. 24163
Office Id. No. 91018
800 Fifth Ave., Ste. 2000
Seattle, WA 98104
(206) 464-6993

Appendix A

FILED
MARCH 5, 2024
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

DEPARTMENT OF LABOR AND INDUSTRIES, Appellant, v. CANNABIS GREEN, LLC, dba LOVELY BUDS, a Washington limited liability company, SIMPLY BUD, LLC dba LOVELY BUDS NORTH, a Washington limited liability company, TLE OF SPOKANE, LLC dba LOVELY BUDS DIVISION, a Washington limited liability company, and TODD BYCZEK and ELIZABETH BYCZEK, in their individual capacities and as a marital community, Respondents.	)	No. 39459-0-III PUBLISHED OPINION

STAAB, J. — After settling a wage complaint with Cannabis Green, the Department of Labor and Industries (DLI) continued to investigate the company, believing that other employees had been denied overtime pay. When Cannabis Green ended negotiations and stopped cooperating, DLI filed a lawsuit in superior court, seeking damages of "approximately" $318,500 on behalf of unidentified employees. Cannabis Green moved to dismiss, arguing that DLI was not authorized to file a lawsuit

without a wage order, wage complaint, or wage assignment. The superior court agreed and concluded that DLI had failed to state a claim upon which relief could be granted. DLI appeals, arguing that its "de jureauthority," granted by RCW 49.48.040(1)(b), authorizes it to institute actions in superior court on behalf of unidentified workers affected by wage violations without a wage order, wage assignment, or wage complaint.

We disagree and affirm dismissal of DLI's civil action. As an administrative agency, DLI has only the powers bestowed on it by the legislature. The authority granted by RCW 49.48.040(1)(b) allows DLI to "[o]rder the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed." This unambiguous language allows DLI to institute a civil action only for the collection of specified wages and penalties that DLI has previously ordered an employer to pay. In this case, since DLI failed to comply with this statutory prerequisite it is not authorized to institute an action in superior court.

BACKGROUND

Because this is a motion for summary judgment, the facts are set out in a light most favorable to the nonmoving party, DLI.

In January 2019, DLI issued a "Wage Payment Act" (WPA) violation against Cannabis Green after receiving a wage complaint from one of its employees. Cannabis Green is an entity doing business as Lovely Buds, Lovely Buds North, and Lovely Buds Division. The employee conveyed that like most of the other employees of Cannabis

Green, she was required to work at all three Lovely Buds locations. The employee claimed that while she never worked overtime at any individual store, she worked overtime when her hours at the three stores were combined. When this occurred, she was not paid overtime for the hours worked. This employee opined that aside from one other employee, all employees worked similar schedules across the different locations and it was unlikely they were properly compensated for overtime work. Eventually, DLI settled the employee's complaint.

Meanwhile, DLI opened a company-wide investigation to determine if other employees of Cannabis Green were being denied overtime. DLI interviewed workers and obtained partial payroll records from Cannabis Green. DLI determined that there was a joint-employer relationship with respect to the employees and each shop, and determined that overtime hours should be calculated based on collective hours worked in all three shops.

In late 2020, DLI asked Cannabis Green for additional records and information. Counsel for Cannabis Green responded by questioning the validity of the investigation and indicated that his client would no longer be cooperating. DLI then attempted to serve subpoenas on Cannabis Green, but they were unable to serve the owners.

Cannabis Green contends that it was unaware of a formal investigation into their business until one year after the original employee's wage complaint was resolved.

Additionally, Cannabis Green pointed out that DLI did not respond to concerns expressed by Cannabis Green relating to the scope of the investigation.

In March 2021, DLI and the attorney general's office attempted to serve documents purporting to be administrative subpoenas at the three Lovely Buds locations. In April 2021, Cannabis Green moved for a writ to stop the investigation and quash the subpoenas. The court found that the subpoenas were not properly served, but otherwise denied Cannabis Green's petition for a writ.

DLI and Cannabis Green continued to negotiate but these negotiations eventually ended without a resolution. Cannabis Green rejected DLI's suggestion for mediation and rejected a proposed compliance agreement. Cannabis Green asserted that DLI had not received a specific wage complaint from an employee, and asserted that the proposed compliance agreement would not protect Cannabis Green from additional claims by employees. Finally, Cannabis Green rejected DLI's demand for attorney fees or costs.

Based on the information received during its investigation, and Cannabis Green's refusal to continue negotiations, DLI filed a complaint in superior court, seeking damages for wages in an unspecified amount for unidentified employees. The complaint alleged that Cannabis Green violated laws regarding overtime, hours worked, paid sick leave, and meal and rest breaks. DLI asserted that it brought the causes of action "on behalf of affected workers including all current and former non-exempt employees who worked for Cannabis Green." Clerk's Papers (CP) at 4. DLI did not claim that it had determined the

amount owed to employees or that it had ordered Cannabis Green to pay the amount owed. Finally, in its prayer for relief, it requested unspecified compensatory and exemplary damages for affected workers as well as attorney fees.

Several months later, DLI moved to amend its complaint. In the proposed amended complaint, DLI indicated that "the approximate amount owed to workers is $318,500." CP at 23.

Cannabis Green objected to DLI's motion to amend its complaint and moved to dismiss under CR 12(b)(6) and CR 56. The superior court granted Cannabis Green's motion, concluding without further explanation that there was no genuine issue of material fact and that DLI had failed to state a claim upon which relief could be granted.

DLI appeals.

ANALYSIS

The primary issue in this case is whether DLI is authorized by RCW 49.48.040(1)(b) to initiate an action in superior court to collect unspecified wages without first ordering the employer to pay wages owed. While Cannabis Green contends that the statute limits DLI's authority to initiate a lawsuit, DLI asserts that the statute grants it plenary authority to enforce wage violations in superior court.

The trial court granted Cannabis Green's CR 12(b) motion after considering declarations, so the parties concede that the summary judgment standard applies. Under this standard, we consider the facts and reasonable inferences in a light most favorable to

the nonmoving party and review de novo the trial court's ruling. *Pearson v. Dep't of Lab. & Indus*., 164 Wn. App. 426, 431, 262 P.3d 837 (2011). Summary judgment is proper if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c).

1. BACKGROUND OF COLLECTION OF WAGES IN PRIVATE EMPLOYMENT ACT (CWPEA) AND THE WPA

Before addressing the statutory interpretation of RCW 49.48.040 of the CWPEA, the background and history of wage complaints in Washington is helpful.

A. The CWPEA

In 1935, the legislature permitted DLI to become involved in wage claims between private employers and private employees through the CWPEA. The original version of the act granted the director of DLI the discretion to "[t]ake assignments of wage claims and prosecute actions for the collection of wages of persons who are financially unable to employ counsel." LAWS OF 1935, ch. 96, § 1. The original act also authorized DLI to investigate employers "for the purpose of carrying out the provisions of this act," which included the power to subpoena records and depose witnesses. *Id*.

In 1971, the legislature modified the CWPEA. LAWS OF 1971, 1st. Ex. Sess., ch. 55, § 4. Specifically, RCW 49.48.060(1) was amended to authorize the director to require an employer to pay a bond when it appeared upon investigation after a wage assignment, that the employer was representing its ability to pay wages but refused to do

so. If the employer failed to provide the bond, DLI was authorized to commence suit in superior court, which could order business operations to be suspended until the bond was paid. Former RCW 49.48.060(2) (1971).

The statute was amended to also provide that when DLI was "informed" of a valid wage claim, it was required to notify the employer of the claim by mail. Former RCW 49.48.060(3) (1971). If the employer failed to pay the claim or provide a satisfactory explanation within 30 days, the employer would be liable for a 10 percent penalty. *Id*. The penalty is payable to DLI and creates a cause of action that can be pursued separate from an action on the wage claim. *Id*.

In 1987, the CWPEA was amended again. LAWS OF 1987, ch. 172. The amendment broke down former RCW 49.48.040 into three specific subsections. The amended statute maintained DLI's discretionary authority to investigate an employer for wage violations under subsection (1)(a) and take assignments of wage claims from employees who were unable to afford an attorney under subsection (1)(c). The modified statute added subsection (1)(b) that now authorizes DLI to "[o]rder the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed." LAWS OF 1987, ch. 172, § 1. The statute has not been amended since 1987, and the relevant portions provide:

1) The department of labor and industries may:

> (a) Upon obtaining information indicating an employer may be committing a violation under chapters 39.12, 49.46, and 49.48 RCW, conduct investigations to ensure compliance with chapters 39.12, 49.46, and 49.48 RCW;
> *(b) Order the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed; and*
> (c) Take assignments of wage claims and prosecute actions for the collection of wages of persons who are financially unable to employ counsel when in the judgment of the director of the department the claims are valid and enforceable in the courts.

RCW 49.48.040 (emphasis added).

B. The WPA

In 2006, the legislature enacted a new process of handling wage violations known as the WPA, currently codified at RCW 49.48.082 through .087. *See* LAWS OF 2006, ch. 89, § 2. The WPA provides additional enforcement authority to DLI and is not intended to limit the right of DLI to "pursue any judicial, administrative, or other action available with respect to an employer in the absence of a wage complaint." RCW 49.48.085(3)(c). Unlike the discretionary authority provided by the CWPEA, the WPA requires DLI to take certain administrative actions when an employee files a wage complaint. RCW 49.48.083(1). A "wage complaint" is a written complaint from an employee to DLI asserting their employer violated one or more wage payment requirements. RCW 49.48.082(11).

With certain exceptions, the WPA requires DLI to issue a citation and notice of assessment or a determination of compliance within 60 days of receiving a wage

complaint. RCW 49.48.083(1). If a citation is issued, DLI may order the employer to pay all wages owed and, if appropriate, a civil penalty. RCW 49.48.083(2), (3). If the employer disagrees with the citation and assessment, it can file an administrative appeal of the assessment. RCW 49.48.084(1).

An employee who files a wage complaint and then accepts payment from the employer is barred from initiating or pursuing their own court action or proceedings based on the wages identified in the citation and notice of assessment. RCW 49.48.083(4). To protect their right to pursue a private action, the employee may elect to terminate the wage complaint and subsequent administrative action. RCW 49.48.085.

While there are differences between the CWPEA and the WPA, both procedures authorize DLI to order an employer to pay a penalty when it determines that the failure to pay wages was willful. *See* RCW 49.48.060(4), .083(3). Under both provisions, the penalty is owed to DLI, not the employee. The penalty assessed for failure to pay or explain a wage claim becomes a liability owed to DLI, which DLI may pursue as part of, or separate from, an action to collect wages owed. RCW 49.48.060(4). Similarly, a penalty assessed for failure to pay a wage complaint is deposited into the supplemental pension fund and is not awarded to the employee. *See* RCW 49.48.083(3)(e).

2. STATUTORY INTERPRETATION OF RCW 49.48.040(1)(b)

As noted above, the question presented is whether RCW 49.48.040(1)(b) authorizes DLI to file a lawsuit in superior court when there has not been a wage

assignment, a wage complaint, or an order requiring the employer to pay wages owed. We start with the basic premise that DLI, as a state agency, "may only do that which it is authorized to do by the Legislature." *Rettkowski v. Dep't of Ecology*, 122 Wn.2d 219, 226, 858 P.2d 232 (1993); *see also Hood Canal Sand & Gravel, LLC v. Goldmark*, 195 Wn. App. 284, 298, 381 P.3d 95 (2016).

Both parties agree that under the CWPEA, DLI may investigate an employer upon information of a potential wage violation under RCW 49.48.040(1)(a). *See* Appellant's Br. at 19; Resp't Br. at 24. Additionally, both parties agree that DLI has the authority to accept assignment of a wage claim from an employee who lacks the financial resources to pursue a matter on their own. *See* Appellant's Br. at 19; Resp't Br. at 24.

However, the parties dispute the meaning of RCW 49.48.040(1)(b). DLI contends that the provision grants it unrestricted authority to pursue wage violations in superior court on behalf of employees. Cannabis Green argues that absent an assigned wage claim or wage complaint, DLI must first determine and then order the employer to pay the sums owed before it can institute an action necessary for the collection of the sums.

The question presented requires us to interpret the statute. In doing so, our "fundamental objective is to ascertain and give effect to the legislature's intent." *Lenander v. Dep't of Ret. Sys*., 186 Wn.2d 393, 405, 377 P.3d 199 (2016). "Intrepretation of a statute is a question of law that we review de novo." *State v. Engel*, 166 Wn.2d 572, 576, 210 P.3d 1007 (2009). Where the language of a statute is clear, the

legislature's intent will be derived from the plain language of the statute. *Id.* at 578. In order to determine a statute's plain meaning, courts should examine "the statute in which the provision at issue is found, as well as related statutes or other provisions of the same act in which the provision is found." *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 10, 43 P.3d 4 (2002). When determining a statute's plain meaning, we consider the ordinary meaning of words and basic rules of grammar. *Darkenwald v. Emp't Sec. Dep't*, 183 Wn.2d 237, 245, 350 P.3d 647 (2015). However, if after this inquiry the plain meaning is susceptible to more than one reasonable meaning, "the statute is ambiguous and it is appropriate to resort to aids to construction, including legislative history." *Dep't of Ecology*, 146 Wn.2d at 12.

The contested subsection provides that DLI may: "[o]rder the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed." RCW 49.48.040(1)(b). We start with the ordinary meaning of the words within the statute and basic rules of grammar. RCW 49.48.040(1)(b) bestows two powers on DLI: it may *order* payments and it may *institute* actions. Because the statute frames the powers permissively (using "may"), the powers are discretionary—DLI need not exercise either one. Because the powers are conjunctive (joined by "and"), DLI need not choose between them, it may exercise both. The question is whether the powers are dependent or independent of each other.

A plain reading of the statute indicates that the second power supplements the first. If DLI invokes RCW 49.48.040(1)(b), its first step is to order payment of wages owed. At that point, the employer may simply pay the wages in full, negating the need for the second power. However, if the employer behaves in such a manner that the second action becomes "necessary," then DLI is empowered to institute those actions. In no circumstance, however, does the statute authorize DLI to exercise only the second and not the first power. In other words, DLI cannot institute actions to collect sums that it had not previously determined to be owed and ordered from the employer.

Our interpretation of subsection (1)(b) does not require DLI to accept assignment of a wage claim or receive a wage complaint. Instead, RCW 49.48.040(1)(b) provides a third method of pursuing unpaid wages. The only prerequisite required by the statute is that DLI first order the employer to pay wages owed. DLI is then authorized to institute an action if it becomes necessary to collect the sums determined to be owed.

DLI raises several arguments in support of its position that its authority to initiate a lawsuit under RCW 49.48.040(1)(b) is plenary and independent of its authority to order the payment of wages owed. In addition to claiming that the plain language of the statute supports its position, DLI relies on the interpretive maxim that remedial statutes must be construed liberally in favor of those the statute is intended to benefit. *See Jametsky v. Olsen*, 179 Wn.2d 756, 765, 317 P.3d 1003 (2014). While we agree that the CWPEA is remedial, the preference for a liberal construction only comes into play when two

interpretations are equally consistent with legislative intent. *Estate of Bunch v. McGraw Residential Ctr.*, 174 Wn.2d 425, 432-33, 275 P.3d 1119 (2012). The maxim should not be "employed to defeat the intent of the legislature, as discerned through traditional processes of statutory interpretation." *Id.* at 432. Here, we do not find that RCW 49.48.040(1)(b) is susceptible to two equally compelling interpretations.

DLI also argues that legislative history supports its interpretation. But this aid to construction applies only when a statute is deemed ambiguous.[1] *Dept. of Ecology*, 146 Wn.2d at 12.

Next, DLI contends that interpreting subsection (1)(b) as requiring it to order an employer to pay wages owed before DLI is authorized to initiate a lawsuit would necessarily require DLI to issue a citation or notice of assessment with administrative appeal rights as provided separately by the WPA. DLI maintains that passage of the WPA in 2006 was not intended to limit DLI's right to pursue judicial action against an employer in the absence of a wage complaint, citing RCW 49.48.085(3).[2]

---

[1] While we conclude that the statute is unambiguous, we note that the legislative history, House Bill Report 3185 also supports our interpretation. In describing the existing CWPEA, the report notes "[t]he Department may investigate wage violations, order employers to pay, and institute actions to collect *after* a determination that sums are owed. The Department also may take assignments of wage claims and prosecute actions for employees who are financially unable to employ counsel." H.B. REP. 3185, 59th Leg., Reg. Sess. (Wash. 2006) (emphasis added).

[2] RCW 49.48.085(3): "Nothing in this section shall be construed to limit or affect . . . (b) the right of the department to pursue any judicial, administrative, or other action

The language in RCW 49.48.040(1)(b) existed prior to the passage of the WPA. Both before and after the WPA was passed this subsection authorized DLI to initiate an action after ordering an employer to pay wages owed and only when necessary for the collection of sums determined owed. In other words, nothing suggests that the WPA impacts the authority granted by RCW 49.48.040(1)(b).

We note, however, that the procedure set forth in RCW 49.48.060(4) has existed in substantially the same form since 1971. This subsection applies when DLI becomes "informed" of a wage claim (which may or may not be different from when a wage claim is assigned), and requires DLI to notify the employer of the claim. If the employer fails to pay the claim or provide a satisfactory explanation within 30 days, DLI may demand a penalty. The penalty becomes a separate cause of action and DLI may initiate an action to collect this penalty even without the assignment of a wage claim. *Id*. Before doing so, however, DLI must provide written notice of the wage claim and give the employer 30 days to respond. *Id*. This procedure is compatible with our reading of RCW 49.48.040(1)(b) as authorizing DLI to initiate an action only after ordering wages to be paid and when necessary to collect wages or a penalty determined to be owed.

---

available with respect to an employee that is identified as a result of a wage complaint; or (c) the right of the department to pursue any judicial, administrative, or other action available with respect to an employer in the absence of a wage complaint."

Regardless, we do not need to decide the specific procedures required when DLI orders an employer to pay wages owed under RCW 49.48.040(1)(b) because DLI does not claim to have made any attempt to order Cannabis Green to pay any wages owed.

DLI also contends that RCW 49.48.040(1)(b) does not require it to determine a precise amount owed before initiating a lawsuit. Instead, DLI contends that the precise amount owed is likely to change during litigation after discovery is conducted, and CR 8 does not require a complaint to specify the exact amount owed. Notwithstanding this argument, DLI contends that it complied with this requirement when it amended its complaint to indicate that the approximate amount owed was $318,500.

We disagree. The phrase "sums determined owed" uses the past participle of the verb "determine," indicating that at the time it becomes necessary to institute an action, the determination of sums owed has already been made. Again, we do not decide if the relief requested in a lawsuit initiated to collect sums determined owed can be modified following discovery because the plain language of RCW 49.48.040(1)(b) authorizes DLI to initiate an action only after it has ordered an employer to pay wages owed, and DLI acknowledges that it has made no attempt to order Cannabis Green to pay any wages owed.

Finally, DLI argues that Division One's decision in *Department of Labor and Industries v. Overnite Transportation Company*, 67 Wn. App. 24, 834 P.2d 638 (1992) controls the outcome here and held that DLI could initiate a lawsuit without assignment

of a wage claim. We agree, but this does not decide the issue presented here: whether DLI must order an employer to pay wages owed before commencing an action in superior court under RCW 49.48.040(1)(b).

In *Overnite*, DLI received wage "complaints" from 11 employees.[3] After investigating the complaints, DLI requested the employer pay $9,786.91 in overtime wages. When the employer refused, DLI filed an action on behalf of the employees. Overnite argued that the superior court could not order exemplary damages under RCW 49.52.070, which provides for double damages "in a civil action by the aggrieved employee or his [or her] assignee" because there was no evidence of a written wage assignment. *Id*. at 34 n.6. The court held that despite the lack of a wage assignment, DLI, "by virtue of its de jure authority under RCW 49.48.040(1)(b) to commence actions and to collect on behalf of employees" without assignment of a wage claim. *Id*. at 36.

Overnite is factually distinguishable from this case because in *Overnite*, DLI complied with the procedures in RCW 49.48.040(1)(b) and 49.48.060(4). In *Overnite*, DLI requested (ordered) the employer to pay a specific amount of unpaid wages. It was only after the employer refused, and it became necessary to collect the wages determined to be owed, that DLI referred the claims to the attorney general for litigation. *Id*. at 24.

[3] *Overnite* was decided in 1992 before the WPA was adopted in 2006, so the opinion's reference to wage "complaints" received by employees should be distinguished from the term "wage complaints," which is specifically defined in the WPA. *See* RCW 49.48.082.

Overnite is also legally distinguishable. *Overnite* held that DLI could pursue exemplary damages without assignment of a wage claim. *Id*. at 36. And while *Overnite* held that DLI brought the action "by virtue of its de jure authority under RCW 49.48.040(1)(b)," this was not a holding that DLI's authority to sue under this subsection was plenary. Critically, the *Overnite* court did not decide whether this subsection required DLI to first order an employer to pay wages owed before commencing an action on behalf of employees.

Overnite's holding is not incompatible with our holding today. We do not hold that DLI's authority to sue under RCW 49.48.040(1)(b) requires an assignment of a wage claim. Instead, the clear language of this subsection requires DLI to first order the employer to pay wages owed. That is the only prerequisite to DLI's authority to initiate a lawsuit under RCW 49.48.040(1)(b).

We conclude that RCW 49.48.040(1)(b) is unambiguous. Under the plain language of the statute, the legislature intended to provide DLI the discretionary authority to initiate an action only after ordering an employer to pay wages and then for the limited purpose of collecting the sums determined to be owed. Since DLI did not order Cannabis Green to pay wages determined to be owed, it cannot initiate an action to collect such sums.

3. DISMISSAL OF DLI'S COMPLAINT

DLI contends that even if it failed to comply with the statutory requirement to order Cannabis Green to pay wages owed, dismissal is not warranted because the procedures are not jurisdictional and Cannabis Green failed to show prejudice. Cannabis Green contends that DLI's obligation to order wages to be paid is a prerequisite to filing a lawsuit under RCW 49.48.040(1)(b). We agree with Cannabis Green.

The legislature cannot restrict a court's constitutional power and authority to hear a case. *Freedom Found. v. Teamsters Local 117 Segregated Fund*, 197 Wn.2d 116, 141, 480 P.3d 1119 (2021). However, "'the legislature can prescribe prerequisites to a court's exercise of . . . jurisdiction.'" *Id*. (quoting *Buecking v. Buecking*, 179 Wn.2d 438, 448, 316 P.3d 999 (2013). Where a statute creates procedures for the resolution of particular disputes, courts require substantial compliance of the procedure before exercising jurisdiction over the case. *Id*. The failure to comply with a statutory prerequisite to filing suit is an affirmative defense as opposed to a jurisdictional bar. *Id*. at 140. When the affirmative defense is timely raised, "plaintiffs bear the burden of showing they have substantially complied with statutory prerequisites, and failure to do so generally bars their claims." *Id*. at 137-38.

DLI does not deny that its authority to sue Cannabis Green in this case comes from RCW 49.48.040(1)(b). However, this statute creates a statutory prerequisite to DLI's authority to initiate an action. DLI must first order the employer to pay wages

owed. Initiating a lawsuit is only authorized if it becomes necessary to collect on sums determined to be owed.

There is no dispute that Cannabis Green timely challenged DLI's compliance with RCW 49.48.040(1)(b). And DLI does not claim to have complied with this prerequisite. Consequently, DLI's claim for wages is barred.

4. ATTORNEY FEES

Both parties request attorney fees on appeal. In Washington, a prevailing party on appeal may recover attorney fees "authorized by statute, equitable principles, or agreement between the parties." *Thompson v. Lennox,* 151 Wn. App. 479, 484, 212 P.3d 597 (2009).

We deny DLI's requeste for attorney fees because it does not prevail on appeal.

We also deny Cannabis Green's request for attorney fees because it does not provide any statutory authority for awarding such fees. Under RAP 18.1, a prevailing party may be entitled to attorney fees. However, the provisions in RAP 18.1 "make clear that a party seeking fees on appeal must clearly set forth the request and the basis for same before the appellate court." *Id*. at 485. "A party's failure to comply with the rule's provisions warrants denial of [its] fee request." *Id.* at 485-86 (citing *Wilson Court Ltd. P'ship v. Tony Maroni's, Inc*., 134 Wn.2d 692, 710 n.4, 952 P.2d 590 (1998) (noting that RAP 18.1 requires a party requesting fees to provide argument and citation to authority in

a separate section of the brief to apprise the appellate court of the appropriate grounds for an award of fees).

In its request for fees, the only authority cited by Cannabis Green is RAP 18.1. This rule does not provide an independent basis for awarding fees.

Affirmed.

Staab, J.

WE CONCUR:

Fearing, J.

Pennell, J.

No.

SUPREME COURT
STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

Petitioner,

v.

CANNABIS GREEN, LLC, dba LOVELY BUDS, a Washington limited liability company; SIMPLY BUD, LLC dba LOVELY BUDS NORTH, a Washington limited liability company; TLE OF SPOKANE, LLC dba LOVELY BUDS DIVISION, a Washington limited liability company; and TODD BYCZEK and ELIZABETH BYCZEK, in their individual capacities and as a marital community,

Respondents.

CERTIFICATE OF SERVICE

The undersigned, under penalty of perjury pursuant to the laws of the State of Washington, declares that on the below date, she caused to be served, Department of Labor and Industries' Petition for Review and this Certificate of Service in the below described manner:

E-Filing via Washington State Appellate Courts Portal:

Erin L. Lennon
Supreme Court Clerk
Supreme Court of Washington

E-Mail via Washington State Appellate Courts Portal:

Samuel Charles Thilo
sthilo@ecl-law.com

Rachel Kiana Platin
rplatin@ecl-law.com

DATED this 3rd day of April, 2024.

BRITTNEY VALANDINGHAM
Paralegal
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 389-3895

WASHINGTON ST. ATTORNEY GENERAL - LABOR & INDUSTRIES DIVISION - SEATTLE

April 03, 2024 - 11:10 AM

Filing Petition for Review

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	Washington Dept. of Labor & Industries v. Cannabis Green, LLC, et al (394590)

The following documents have been uploaded:

- PRV_Cert_of_Service_20240403110850SC317687_4415.pdf
  This File Contains:
  Certificate of Service
  The Original File Name was 240403_COS_.pdf
- PRV_Petition_for_Review_20240403110850SC317687_6147.pdf
  This File Contains:
  Petition for Review
  The Original File Name was 240403_DeptPFR.pdf

A copy of the uploaded files will be sent to:

- rplatin@ecl-law.com
- sthilo@ecl-law.com

Comments:

Sender Name: Brittney Valandingham - Email: brittney.valandingham@atg.wa.gov
Filing on Behalf of: Anastasia R. Sandstrom - Email: anastasia.sandstrom@atg.wa.gov (Alternate Email:)

Address:
800 Fifth Avenue, Ste. 2000
Seattle, WA, 98104
Phone: (206) 464-7740

Note: The Filing Id is 20240403110850SC317687

WASHINGTON ST. ATTORNEY GENERAL - LABOR & INDUSTRIES DIVISION - SEATTLE

April 03, 2024 - 11:10 AM

Filing Petition for Review

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	Washington Dept. of Labor & Industries v. Cannabis Green, LLC, et al (394590)

The following documents have been uploaded:

- PRV_Cert_of_Service_20240403110850SC317687_4415.pdf
  This File Contains:
  Certificate of Service
  The Original File Name was 240403_COS_.pdf
- PRV_Petition_for_Review_20240403110850SC317687_6147.pdf
  This File Contains:
  Petition for Review
  The Original File Name was 240403_DeptPFR.pdf

A copy of the uploaded files will be sent to:

- rplatin@ecl-law.com
- sthilo@ecl-law.com

Comments:

Sender Name: Brittney Valandingham - Email: brittney.valandingham@atg.wa.gov
Filing on Behalf of: Anastasia R. Sandstrom - Email: anastasia.sandstrom@atg.wa.gov (Alternate Email:)

Address:
800 Fifth Avenue, Ste. 2000
Seattle, WA, 98104
Phone: (206) 464-7740

Note: The Filing Id is 20240403110850SC317687