NO. 89761-1

SUPREME COURT OF THE STATE OF WASHINGTON

MICHAEL SCHATZ, DANI KENDALL, and JOSEPH MINOR, as individuals and as class representatives for all others similarly situated,

Petitioners,

v.

WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES and DEPARTMENT OF PERSONNEL,

Respondents.

RESPONDENTS' ANSWER TO PETITION FOR REVIEW

ROBERT W. FERGUSON
Attorney General

KARA A. LARSEN
Senior Counsel
WSBA No. 19247
Labor and Personnel Division
PO Box 40145
Olympia, WA 98504-0145
(360) 664-4167
OID No. 91032

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I. IDENTITY OF RESPONDENTS

Respondents, the Washington State Department of Social and Health Services (Department) and Department of Personnel,[1] ask this Court to deny review of the Court of Appeals' decision terminating review, entered in the Court of Appeals, Division Two.

II. COURT OF APPEALS DECISION

The Court of Appeals' decision is attached to the Petition for Review. The Court of Appeals' Opinion is published at *Schatz v. State Dep't of Social and Health Srvcs.*, __ Wn. App. __, 314 P.3d 406 (2013).

III. COUNTERSTATEMENT OF ISSUES

The Petition does not meet the standards for review set forth in RAP 13.4(b). However, if the Court should take review, the issues would be:

1. **Did the Court of Appeals err in finding that substantial evidence supported the trial court's findings that the duties of Petitioners are essentially the same as the duties of civil ward employees?**

2. **Did the Court of Appeals err as a matter of law in holding that the State's statutory system for establishing civil service employee compensation is not a rational basis for differences in salaries?**

[1] The Department of Personnel was abolished as of October 1, 2011, and its duties transferred to the Department of Enterprise Services and the Office of Financial Management. Laws of 2011, 1st Ex. Sess., Ch. 43, § 401.

IV. COUNTERSTATEMENT OF THE CASE

Petitioners are Psychiatric Security Nurses (PSNs) and Psychiatric Security Attendants (PSAs) employed by the Department at the two state psychiatric hospitals. In their Complaint, originally filed in May 2007, Petitioners sought an increase in their base salaries. The PSNs sought to be paid equivalent to the Licensed Practical Nurse (LPN) 4 job classification and the PSAs sought to be paid equivalent to the Mental Health Technician (MHT) 3 job classification. Petitioners based their claim for a higher salary on the equal protection clause of the Fourteenth Amendment to the United States Constitution, the privileges and immunities clause of Article I, section 12 of the Washington State Constitution, and two state civil service statutes referencing "comparable worth."

Under the Personnel System Reform Act, passed in 2002, the State began bargaining the wages of state employees represented by labor organizations. Laws of 2002, ch. 354, codified at RCW 41.80. The Petitioners have at all times relevant been represented by a labor organization, the Washington Federation of State Employees (Union). *See* Trial Exhibits (Ex.) 219-221. Bargaining with the Union began in February 2004. Report of Proceedings (RP) at 615. The collective bargaining agreement that resulted from that bargaining went into effect on July 1, 2005, and covered the July 1, 2005 through June 30, 2007

biennium. *See* Ex. 219. Subsequent contracts were negotiated, covering the 2007-2009 and the 2011-2013 biennia. *See* Exs. 220, 221.[2] Under the collective bargaining agreements, LPN2s and PSNs are in salary range 41, which currently has a top annual salary of $43,572; and LPN4s are in salary range 44, which currently has a top annual salary of $47,016. MHT3s are in salary range 39, which currently has a top annual salary of $41,508. PSAs are paid one salary range more than MHT2s – salary range 37, which currently has a top annual salary of $39,516.

Before the State began bargaining represented employees' wages, the Legislature set the salaries of all civil service employees through a process laid out in statute requiring the Department of Personnel to conduct salary surveys and allowing for increases in salary for individual job classifications if four criteria set forth in statute were met. All proposed salary increases resulting from these statutory methods were subject to approval by the Office of Financial Management and funding by the Legislature.

V. SUMMARY OF ARGUMENT

Petitioners have not demonstrated that review is warranted under the standards set forth in RAP 13.4(b). The Court Of Appeals' decision

[2] The parties are currently governed by the 2013-2015 collective bargaining agreement. *See* Wash. Fed'n of State Employees 2013-15 Collective Bargaining Agreement, www.ofm.wa.gov/labor/agreements/13-15/wfse.pdf (last visited Jan. 16, 2014).

that collective bargaining is a rational basis for differences in salaries does not conflict with any Washington appellate decisions, nor does it involve a significant question of constitutional law. Under rational basis scrutiny, the Court of Appeals correctly concluded that there is no equal protection violation because adhering to collective bargaining agreements is a legitimate state interest.

Further, the Court of Appeals' decision that Petitioners have no remedy under the comparable worth statutes does not present an issue of substantial public interest. The Court of Appeals correctly concluded that the comparable worth statutes do not create a private cause of action, and that, even if they did, there is no remedy because the Petitioners cannot show that the director of personnel and director of the Office of Financial Management would have approved a salary increase and that the Legislature would have funded an increase. Consequently, the Petition does not merit review by this Court.

In the event the Court accepts review, the Court should find that the Court of Appeals erred in finding that substantial evidence supported the trial court's finding that Petitioners' positions have at all relevant times been similarly situated to LPN4s and MHT3s. The Court of Appeals also erred as a matter of law in finding that the statutory process the Legislature established to set the salaries of civil service employees did not satisfy the rational basis test under equal protection analysis.

VI. ARGUMENT

A. The Court Should Deny The Petition Because The Court Of Appeals' Decision Regarding Collective Bargaining And Comparable Worth Does Not Conflict With Any Washington Appellate Decisions, Nor Does It Present A Significant Question Of Constitutional Law Or Issue Of Substantial Public Interest.

1. Petitioners fail to show a conflict with any existing Supreme Court or Court of Appeals decisions.

Petitioners argue that the Court of Appeals decision conflicts with the Court of Appeals decision in *Wash. Pub. Employees Ass'n (WPEA) v. Pers. Res. Bd.*, 127 Wn. App. 254, 110 P.3d 1154 (2005), and this Court's decision in *Piel v. Federal Way*, 177 Wn.2d 604, 306 P.3d 879 (2013). There is no conflict with either of these decisions.

WPEA took place prior to the advent of full scope collective bargaining of wages. Although the employees were represented by unions, the unions had no authority to bargain base salaries until the PSRA mandated such bargaining. There is no conflict with the Court of Appeals decision in this case because the employees' wages at issue in *WPEA* were not determined through collective bargaining. There was no issue in that case regarding the role of collective bargaining in the determination of salaries of allegedly similarly situated employees.

Further, the issue in *WPEA* involved a legislative enactment mandating the equalization of base salaries for job classifications that

existed in two different personnel systems – higher education and general government. *WPEA*, 127 Wn. App. at 258. After the Department of Personnel identified the common classes in the two systems that needed to be addressed, the Legislature repealed its earlier direction that the salaries be equalized. *Id.* at 258-59. Petitioners' cite to the *WPEA* court's holding that the State's failure to equalize the base salary levels bore no rational relationship to the purposes of the civil service laws. However, the Court of Appeals in this case found that the State's actions are rationally related to the legislative purpose of the collective bargaining laws and rationally related to the State's interest in abiding by its collective bargaining agreements. *Schatz*, 314 P.3d at 413. This case and the *WPEA* case involve different laws and different State interests. Thus, there is no conflict with existing precedent of the Court of Appeals.

Petitioners also argue that the Court of Appeals decision conflicts with this Court's recent decision in *Piel*. *Piel* is not on point, which Petitioners concede. *See* Petition at 12. *Piel* involved the viability of the tort of wrongful termination in violation of public policy where statutory remedies are available through the Public Employment Relations Commission. It did not involve collective bargaining or wages that were specifically bargained by the union and the employer and accepted by the employees through their ratification of the collective bargaining agreement.

Petitioners conclude this section of the Petition with the claim that, "Providing the Workers a judicial forum to vindicate their statutory and constitutional rights is particularly important where their union refused to press or only perfunctorily pressed the individual's claims." Petition at 12. This is really the core of Petitioners' case from the beginning. Unhappy with their union representation, Petitioners brought this lawsuit. However, the appropriate recourse was a suit against the Union for violation of the duty of fair representation. *See, e.g., Allen v. Seattle Police Officers' Guild*, 100 Wn.2d 361, 374, 670 P.2d 246 (1983) (public employees' union is obligated to fairly represent the interests of all its members).[3] Petitioners directed their ire at the wrong party.

2. The Court of Appeals decision does not involve a significant question of law under either the United States Constitution or the Washington Constitution.

a. The Court of Appeals' equal protection analysis is neither remarkable nor novel.

Under rational basis review, a state action is constitutional if: (1) it applies alike to all members of the designated class; (2) there are reasonable grounds to distinguish between those within and without the class; and (3) the classification has a rational relationship to the state's purpose. *WPEA,* 127 Wn. App. at 263. The burden is on the challenging party to show that the classification is purely arbitrary. The Court of

[3] Nevertheless, there are numerous valid reasons for the Union to forego pursuing wage increases for certain employees in exchange for other contractual benefits.

Appeals correctly found that Petitioners failed to meet their burden of proof. The Court of Appeals noted that the Petitioners did not provide any authority stating that collective bargaining is not a rational basis for determining salary rates. *Schatz*, 314 P.3d at 413.

A court must uphold a classification if there is any reasonably conceivable state of facts that could provide a rational basis for the classification. *Fed. Commc'ns Comm'n v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313-15, 113 S. Ct. 2096, 124 L. Ed. 2d 211 (1993) (where there are plausible reasons for the action, the inquiry is at an end.). Courts "will uphold State action unless 'it rests on grounds wholly irrelevant to the achievement of legitimate state objective.'" *State v. Osman*, 157 Wn.2d 474, 486, 139 P.3d 334 (2006) (quoting *State v. Shawn P.*, 122 Wn.2d 553, 560-67, 859 P.2d 1220 (1993)). The Court of Appeals concluded that it is reasonable for the State to pay employees what their union has bargained for them to be paid. This obvious proposition does not create a significant question of Constitutional law requiring review by this Court.

b. The policy behind collective bargaining favors enforcement of the Petitioners' collective bargaining agreements.

The right of employees to organize and negotiate the terms and conditions of their employment has been codified in Washington for nearly a century. RCW 49.36.010. In 1933, the Legislature declared it the

public policy of Washington that workers have full freedom to organize and to negotiate the terms and conditions of employment. RCW 49.32.020. In *Burke & Thomas, Inc. v. Int'l Org. of Masters, Mates & Pilots*, 92 Wn.2d 762, 771-72, 600 P.2d 1282 (1979), the Court noted the proliferation of statutory schemes addressing collective bargaining for public employees.

> Representation of public employees is increasingly dominated by statutory schemes for collective bargaining and dispute resolution. Our own Code reflects this development, containing a multitude of statutes with both specific and general applicability to various groups of public employees. . . . . The goal of these statutes can be seen to be the achievement of labor peace.

The goal of both federal and state labor law is the stabilization of labor relations. *Trust Fund Servs. v. Heyman*, 88 Wn.2d 698, 703, 565 P.2d 805 (1977). Thus, there is a strong policy favoring written labor agreements as well as a strong policy in favor of enforcing such labor agreements in order to advance that goal. *Retail Clerks Health & Welfare Trust Funds v. Shopland Supermarket, Inc.*, 96 Wn.2d 939, 946, 640 P.2d 1051 (1982). State courts effectuate the statutory policy of enforcement of collective bargaining agreements in order for both parties to have reasonable assurance that the negotiated contract will be honored. *Trust Fund Servs.*, 88 Wn.2d at 704; *W. Wash. Cement Masons Health & Sec.*

Trust Funds v. Hillis Homes, Inc., 26 Wn. App. 224, 230, 612 P.2d 436 (1980).

Petitioners have had the advantage of collective bargaining for their wages at all relevant times. The instant claim for higher wages disrupts this process and impedes the goals of labor policy. If Petitioners feel that there are compensation issues that should be addressed, their recourse is to the collective bargaining process. Bringing a lawsuit for wages not provided under the terms of their collective bargaining agreements is a circumvention of the bargaining process.

The parties to a collective bargaining agreement are conclusively presumed to have equal bargaining strength. *Waggoner v. Dallaire*, 649 F.2d 1362, 1367 (9th Cir. 1981). The Petitioners' exclusive bargaining representative negotiated on their behalf and entered into the collective bargaining agreements. The agreements set the rates of pay, the hours of work, and other working conditions. The Petitioners then made a determination of the adequacy of their wages by voting for the contracts. *See Frederick v. Kirby Tankships, Inc.*, 205 F.3d 1277, 1292 (11th Cir. 2000). Petitioners should not be allowed to alter the employment relationship and in essence amend the collective bargaining agreements by bringing a judicial action outside of the statutory or contractual process.

> Once those decisions are made and written into the CBA's, the terms of these agreements represent the rights and

> obligations of the parties, which cannot be unilaterally altered, at will, by the worker.

Gallo v. Dep't of Labor & Indus., 155 Wn.2d 470, 485, 120 P.3d 564 (2005).

The Court of Appeals did not err in effectuating the intent of RCW 41.80 and the goals of labor policy by finding that Petitioners are bound by their collective bargaining agreements.

3. The Court of Appeals decision regarding the comparable worth statutes does not involve an issue of substantial public interest.

Petitioners claim that the Court of Appeals decision regarding the comparable worth statutes raises an issue of substantial public interest that should be determined by this Court.

Petitioners actually never alleged that they have an independent right to relief under the comparable worth statutes. Rather, in their Complaint, they asked for a declaratory judgment articulating that the State has violated the statutes and an injunction directing the State to comply with them in the future (and, additionally, a constitutional writ of certiorari and unpaid wages claim). Petitioners first argued a private right of action under the comparable worth statutes in their appellate brief, which should not have been considered for the first time on appeal. *See, e.g.*, RAP 2.5; *Ferencak v. Dep't of Labor & Indus.*, 142 Wn. App. 713, 729, 175 P.3d 1109 (2008) (court declined to consider issues raised for the first time on appeal), *aff'd on other grounds Kustura v. Dep't of Labor &*

Indus., 169 Wn.2d 81, 233 P.3d 853 (2010). Nevertheless, the Court of Appeals analyzed comparable worth under the private right of action doctrine.

Not every statute provides a means for suing the State for its perceived violation. *Braam v. Dep't of Soc. and Health Servs.*, 150 Wn.2d 689, 711, 81 P.3d 851 (2003). In order to establish a private right of action, Petitioners must show that the statutes were enacted for their especial benefit, that the Legislature intended to provide a private right of action for them, or that implying a cause of action would be consistent with the policy underlying the legislation. *Id.*

Even assuming Petitioners are intended beneficiaries of the comparable worth statutes, there is no intent on the part of the Legislature, express or implied, to create a remedy. The bottom line is that any salary increases under comparable worth are subject to approval by the Office of Financial Management and funding by the Legislature. Petitioners cannot establish that the Office of Financial Management would approve any salary increases for them or that the Legislature would fund any increases, because that would be pure speculation. *See WPEA,* 127 Wn. App. at 261-62.

4. Petitioners' claims under 42 U.S.C. § 1983 do not warrant review by this Court.

Petitioners claim that the Court of Appeals failed to address their equitable and prospective rights under 42 U.S.C. § 1983. To the contrary, the Court of Appeals recognized that it would be unlawful for the State to increase wages outside of the collective bargaining process. *Schatz,* 314 P.3d at 413 n. 9. Thus, any issues related to wages are commended to the parties to address through the collective bargaining process.

Nonetheless, Petitioners' claims under 42 U.S.C. § 1983 are meritless and do not warrant review by this Court. Since collective bargaining was initiated, there has been no unilateral State action with respect to Petitioners' wages. This fact defeats their 42 U.S.C. § 1983 claims. *See, e.g., Danese v. Knox*, 827 F. Supp. 185, 196 (S.D.N.Y. 1993) ("Second and more fundamentally, the Port Authority did not unilaterally impose the classification challenged by plaintiffs on the proposed plaintiff class; this classification is the result of a collectively bargained contract entered into by the Port Authority and the proposed plaintiff class.")

Petitioners argue that there is no right of review for union-represented employees who believe they are assigned an incorrect salary range. Petitioners' recourse is to their Union. It is a matter of collective bargaining and the State is prohibited from unilaterally impacting represented employees' wages because wages is a mandatory subject of bargaining. RCW 41.80.020. Thus, Petitioners must address any

perceived wage inequality through their Union and the collective bargaining process.

Moreover, Petitioners identify no allegedly arbitrary or capricious conduct on the part of the State that would have occurred during the limitations period applicable to this case. The original complaint was filed May 16, 2007. Thus, the limitations period covers the time period beginning May 16, 2004. Collective bargaining was already underway and the State performed no unilateral acts with respect to the salaries of any represented employees at any time relevant to this case.

B. In The Event The Court Grants Review, The Court Should Find That The Court Of Appeals Erred When It Found That The Positions Are Similarly Situated.

Until July 1, 2005, when the first master collective bargaining agreement under RCW 41.80 went into effect, all the Department LPN4s were supervisors with all of the duties and responsibilities of a supervisor. RP at 27, 156-57, 349-50, 868. For instance, at the hospitals, they directed the work of the LPN2s and LPN1s as well as MHTs. They conducted the performance evaluations of the LPN and MHT staff that reported to them. RP at 868, 1030. There is no dispute that PSNs have never been supervisors. The Court of Appeals erred in not recognizing that at least prior to July 1, 2005, PSNs were not similarly situated to LPN4s.

As of July 1, 2005, supervisory duties were consolidated in the Registered Nurses, but the LPN4s remained the designated lead worker on

a shift.[4] PSNs have never been designated lead workers and have never had the same level of responsibility as LPN4s. *See* Ex. 213; RP at 148, 347, 800, 874, 1109. The weight of the evidence showed that PSNs are on a par with LPN2s regarding duties and level of responsibility and are paid commensurate to LPN2s. *See* Exs. 210, 213.[5] The critical difference between PSNs and LPN4s and between PSAs and MHT3s is the level of responsibility for the workplace and, therefore, the accountability to the Department that these employees have. The State is entitled to pay LPN4s and MHT3s more for shouldering the responsibility and the commensurate accountability for the civil wards. PSNs and PSAs simply don't have the same responsibility or accountability to the Department for the forensic wards. This is a consequence of the PSNs and PSAs own actions to maintain their job classifications as single, undifferentiated classes. The LPN and MHT job classes, on the other hand, have levels and the responsibility and accountability increases with each level. Thus, when an LPN attains the highest level, LPN4, and an MHT attains the highest level, MHT3, that employee has the most responsibility and accountability for his or her ward. That is why there is only one LPN4 on each ward per

[4] LPN4s employed by other agencies, such as the Department of Veterans Affairs, are still supervisors. Ex. 209 at 14-71; RP at 745-46. Thus, the classification of PSN is not similarly situated to the classification of LPN4 because PSNs cannot be supervisors, whereas LPN4s can be supervisors. *See* Ex. 209.

[5] The Union also considered PSNs as equivalent to LPN2s, proposing the same salary levels for LPN2s and PSNs in bargaining. *See* Ex. 224.

shift and only one MHT3 on each ward on the day shift, while there are multiple PSNs and PSAs on the wards on each shift. *See* RP at 27, 29, 359, 802-04, 831, 873, 878, 1023.

The trial court and Court of Appeals determined that the employees' duties were "essentially" the same, but also recognized that there was contradictory evidence. *Schatz*, 314 P.3d at 411-12. The Court of Appeals dilutes the concept of similarly situated for purpose of equal protection analysis by conflating it with the substantial evidence standard. The evidence that contradicts the similarities, which the Court of Appeals disregards, is what makes the positions here not similarly situated.

The equal protection clauses of both the State and federal constitutions require that "persons similarly situated with respect to the legitimate purpose of the law receive like treatment." *In re Runyan,* 121 Wn.2d 432, 448, 853 P.2d 424 (1993). Any classification must be relevant to the purpose for the disparate treatment. *In re Det. of Thorell,* 149 Wn.2d 724, 745, 72 P.3d 708 (2003). The purpose of the State's job classification system is to establish the civil service jobs and differentiate them from other civil service jobs so that agencies may allocate specific positions into the appropriate job classification. The purpose of the LPN4 job class, in relation to other LPNs, is to concentrate the most responsibility and accountability in that position. This is a legitimate purpose to treat LPN4s differently from other LPNs, including PSNs. The

same is true for MHT3s. The classifications of LPN4s and MHT3s are relevant to the purpose for different treatment, i.e., the State grants the highest level of responsibility and accountability higher compensation than other positions doing similar work, but without the same expectation of responsibility and accountability. Thus, while PSNs and LPNs do essentially the same work, the LPN4 is compensated more than the PSNs and LPN2s in recognition of the responsibility and accountability that comes with that position.

Accordingly, the Court of Appeals erred in finding that jobs with different levels of overall responsibility and accountability can be considered similarly situated.

C. In The Event The Court Grants Review, The Court Should Find That The Court Of Appeals Erred When It Found That The Statutory Salary Setting Process That Existed Prior To Collective Bargaining Was Not A Rational Basis For Petitioners' Wages.

Until the Legislature established collective bargaining as the means of determining the base salaries of represented civil service employees, it provided that civil service employees could receive salary increases through: (1) salary surveys, (2) legislatively-awarded across the board increases to all classifications, and (3) classification-specific increases based on legislatively-defined criteria. Salary surveys and classification-specific increases are set out in statute. *See* RCW 41.06.150, .160 and

Former RCW 41.06.152.[6] The salary survey ascertains prevailing salary rates in other public employment and private employment in the state. Under both of these methods, the Personnel Resources Board would make a recommendation as to increases to base salaries. The Office of Financial Management would then have to approve the Board's proposal, and the Governor would have to include the increases in the proposed budget to the Legislature. Finally, the Legislature would have to fund the increases. *See Wash. Fed'n of State Employees v. Office of Fin. Mgmt.*, 121 Wn.2d 152, 158, 166-67, 849 P.2d 1201 (1993).

Sometimes, the Legislature would simply grant an across the board increase to all state classifications. This was solely a legislative determination. In those circumstances, all classifications would receive the same percentage increase.

This legislatively-enacted system is entirely rational. It takes into account the prevailing rates in the overall labor market through the salary surveys, as well as particular circumstances justifying classification specific increases through the 6767 process, but also recognizes the limitations of the state budget by vesting final authority for providing salary increases in the Legislature.

Petitioners and the Court of Appeals seized on one statement in the testimony of Ms. Thompson, the former State classification and

[6] The statutory salary setting process is described in detail at CP 1841-46.

compensation manager. Ms. Thompson stated that the Petitioners were in their particular salary ranges because of how the compensation system works. RP at 493. Petitioners argue that this is an admission that the system is not rational. Nevertheless, a statutory system that works the way it is designed to work is quintessentially rational.[7] The entirety of Ms. Thompson's testimony establishes that the state's method of determining salaries is rational. *See* RP at 510-30.

The courts have been very clear that on proprietary functions such as employee pay, the government as employer is not to be held to the same scrutiny when viewing the government's power to regulate, license, or make law. The government as employer has far broader powers than does the government as sovereign. *Waters v. Churchill,* 511 U.S. 661, 671, 114 S. Ct. 1878, 128 L. Ed. 2d 686 (1994) (plurality opinion).

> Given the "common-sense realization that government offices could not function if every employment decision became a constitutional matter," [*Connick v. Myers,* 461 U.S. 138, 143, 103 S. Ct. 1684, 75 L. Ed. 2d 708 (1983)], "constitutional review of government employment decisions must rest on different principles than review of ... restraints imposed by the government as sovereign,"

Waters, supra, at 674, 114 S. Ct. 1878 (plurality opinion).

[7] The Court of Appeals mischaracterizes the system as "historic rate-setting practices." It was more than some practice made up by Department of Personnel. The system was created by the Legislature and codified in statute and rule.

Engquist v. Oregon Dept. of Agr., 553 U.S. 591, 598-99, 128 S. Ct. 2146, 170 L. Ed. 2d 975 (2008). The *Engquist* Court established two main principles:

> First, although government employees do not lose their constitutional rights when they accept their positions, those rights must be balanced against the realities of the employment context. Second, in striking the appropriate balance, we consider whether the asserted employee right implicates the basic concerns of the relevant constitutional provision, or whether the claimed right can more readily give way to the requirements of the government as employer.

Id. at 600. Given these considerations, the Legislature's decisions regarding employee compensation must be accorded deference and, therefore, the State's statutory system of establishing employee compensation prior to the advent of collecting bargaining for wages does not violate equal protection principles.

VII. CONCLUSION

Because the Petition does not meet the criteria of RAP 13.4(b), review should be denied. However, in the event this Court accepts review, it should find that the Court of Appeals erred in finding that substantial evidence supports the trial court's findings that Petitioners are similarly situated to LPN4s and MHT3s, and in finding that the State's system for establishing civil service employee compensation prior to the advent of

collective bargaining was not a rational basis for differences in salaries, for the reasons set forth above.

RESPECTFULLY SUBMITTED this 16th day of January, 2014.

ROBERT W. FERGUSON
Attorney General

KARA A. LARSEN
WSBA No. 19247
Assistant Attorney General

Attorney for Respondents
Department of Social and Health Services

OFFICE RECEPTIONIST, CLERK

To: Eddings, Erica (ATG)
Cc: rich@kjwmlaw.com; Larsen, Kara (ATG); Dahlgren, Clory (ATG)
Subject: RE: Schatz et al. v. DSHS - Sup. Ct. No. 89761-1

Rec'd 1/16/2014

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From: Eddings, Erica (ATG) [mailto:EricaE@ATG.WA.GOV]
Sent: Thursday, January 16, 2014 3:34 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: rich@kjwmlaw.com; Larsen, Kara (ATG); Dahlgren, Clory (ATG)
Subject: Schatz et al. v. DSHS - Sup. Ct. No. 89761-1

Good afternoon-

Attached below for filing is the Respondents' Answer to Petition for Review and Certificate of Service for the following information:

Case Name: Michael Schatz, et al. v. Dep't of Social and Health Services
Case No.: 89761-1

Filed By: Kara A. Larsen
WSBA No. 19247
(360) 664-4167
Kara.Larsen@atg.wa.gov

Thank you,
Erica Eddings
Legal Assistant to
Kara Larsen, Senior Counsel
(360) 664-4194
ericae@atg.wa.gov