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**SUPREME COURT OF THE STATE OF WASHINGTON**

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PASSION WORKS, LLC and ERIC ROOTVIK,

Petitioners,

v.

DEPARTMENT OF LABOR AND INDUSTRIES,

Respondent.

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**DEPARTMENT OF LABOR & INDUSTRIES  
ANSWER TO MOTION FOR DISCRETIONARY REVIEW**

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## I. INTRODUCTION

The Legislature requires contractors to register with the Department of Labor and Industries and to show proof of a bond and insurance so that consumers who hire contractors have basic financial protection if something goes wrong. Passion Works LLC's decision to forgo a bond and insurance for its custom closet installation business does not warrant this Court's extraordinary review.

Passion Works, LLC, and its owner, Eric Rootvik, did not register with the Department before advertising custom closet installation services on the Internet or before offering to install a \$8,400 closet system in a customer's home. So the Department correctly issued two infractions to Passion Works for violating contractor registration laws.

Discretionary review under RAP 13.5 is the correct standard. *See* RCW 18.27.310(4); RAP 2.3, RAP 12.3. The superior court committed no obvious or probable error by concluding that Passion Works must register because it acted as a "contractor" under RCW 18.27.010(1) and fell within the closet specialty under WAC 296-200A-016(7).

This Court recently denied discretionary review in another case where Rootvik alleged he did not have to register. *Rootvik v. Dep't of Labor & Indus.*, No. 73828-4-I, 2017 WL 188109 (2017), *review denied*, No. 94179-3 (2017). This Court should deny review again.

## II. ISSUES

1. A contractor must register with the Department before submitting a bid or offering to perform work as a contractor. Contracting work includes the “installation” of a “cabinet” or similar item, and closets are a contractor specialty requiring registration. RCW 18.27.010(1); WAC 296-200A-016(7). Passion Works did not register as a contractor before submitting a bid and offering to install an \$8,400 closet system in a customer’s home. Did Passion Works violate the contractor registration statute?
2. A contractor must register with the Department before advertising its services. Passion Works did not register as a contractor before it advertised its closet installation business on a company website, Craigslist, and multiple contractor review sites. Did the company violate the statute?

## III. STATEMENT OF THE CASE

### A. **The Legislature Requires Contractors to Register with the Department and to Obtain a Bond and Insurance to Protect Consumers**

Contractor registration protects the public from “unreliable, fraudulent, financially irresponsible, or incompetent contractors.” RCW 18.27.140. To register, a contractor must provide a bond and insurance to protect consumers from property damage and personal injuries that the contractor might cause. *See* RCW 18.27.040(1), .050(1). If an unregistered contractor harms a consumer, the consumer’s only recourse is a civil action to recover damages because there is no bond to recover. AR II 150.<sup>1</sup>

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<sup>1</sup> There were two administrative hearings below. This brief cites the record in OAH Docket No. 11-2016-LI-00303 as “AR I” and the record in OAH Docket No. 12-2016-LI-00332 as “AR II.”



**B. In May 2016, Rootvik Advertised His Custom Closet Installation Business Without Being Registered as a Contractor**

In 2015, Rootvik formed Passion Works LLC, which operated under the name Eric the Closet Guy. AR I 254. The company designed, built, and installed custom closet systems. AR I 47-48; AR II 94-95, 102, 120, 162, 211. Rootvik performed all installation work himself. AR I 64, 67, 132-34; AR II 211-18. He secured closet components—including shelving, cabinets, and drawers—by hanging them on metal steel rails that he screwed into wall studs. AR I 132-34; AR II 217.

In 2016, Passion Works, Eric the Closet Guy, and Rootvik were not registered contractors. AR I 80-83; AR II 163-64. Even so, Rootvik advertised custom closet services on Craigslist and his company website. AR I 51, 53-57, 61-72, 257-75. His website advertised “custom closets, closet shelving, home office, pantry shelving,” and it showed a photo of a completed walk-in closet with shelving and drawers. AR I 53, 117, 257. The website linked to his customer reviews on Houzz, Merchant Circle, and Yelp, including reviews that Rootvik “delivered and then installed our new beautiful closets” and that “he does everything himself. Designs, measures and installs.” AR I 53-54, 63-64, 257. One review noted an “install date” with Rootvik for custom closets. AR I 66, 266.

Rootvik's Craigslist ad emphasized his abilities to create custom and durable closet systems and cabinetry. AR I 272; *see also* AR I 68-72, 271-73. Rootvik invited customers to contact him, posting a link to his company website. AR I 272.

In May 2016, the Department received a tip that Rootvik advertised his closet installation business without a contractor registration. AR I 46-47. Compliance inspector Terri Zenker reviewed the company's website, the Craigslist advertisement, and contractor review sites. AR I 48, 50, 54, 70. She determined that Passion Works was advertising for work that required contractor registration. AR I 84-87. The Department issued an infraction and \$1,000 penalty to Passion Works. AR I 250-51.

**C. Rootvik Submitted a Bid and Offered to Perform Work Even Though He Had Not Registered as a Contractor**

Also in May 2016, a homeowner, Ursula Haigh, hired Rootvik after seeing his Craigslist advertisement. AR II 95, 100-01. Rootvik agreed to engineer, build, and install a floor-to-ceiling, wall-to-wall closet and cabinet system in her laundry room. AR II 100-02, 105, 377-78. They discussed plans for drawers, cabinets, and shelving. AR II 101-02. In e-mails to Haigh, Rootvik stated that the “[i]n stall [sic] will probably take four days.” AR II 345, 393. Haigh testified that Rootvik said “[t]hat he was going to build [the cabinets] and then place them in the house, install

them.” AR II 102. The project’s total estimated cost was around \$8,400, and Haigh paid a 50 percent deposit. AR II 111, 373-74.

Before Rootvik began the work, Haigh learned that Rootvik was not a registered contractor and, in July 2016, she notified him she was terminating the contract “to build and install the custom designed cabinetry for our laundry room.” AR II 343. Rootvik responded that she could not cancel the contract and that she owed him money. AR II 401.

Haigh contacted the Department. AR II 116, 152-53, 154-56. Zenker reviewed Haigh’s documents about the proposed installation and determined the project required contractor registration. AR II 156-64. In July 2016, the Department issued a second infraction and \$1,000 penalty to Passion Works. AR II 354-355.

**D. Passion Works Appealed the Infractions, and the Office of Administrative Hearings and the Superior Court Affirmed**

Passion Works appealed both infractions to the Office of Administrative Hearings, which held separate hearings. *See* AR I 1-301; AR II 1-427. In each case, the company argued that it was exempt from registration under RCW 18.27.090(5), which exempts “[t]he sale of any finished products, materials, or articles of merchandise that are not fabricated into and do not become a part of a structure under the common law of fixtures.” AR I 164-65; AR II 190-95, 238-39.

Both administrative law judges rejected Passion Works' argument and affirmed the infractions. AR I 215-20; AR II 249-58. The superior court affirmed. CP 34-36, 127-29.

The Court of Appeals denied Passion Works' motion for discretionary review. *Passion Works, LLC v. Dep't of Labor & Indus.*, No. 79296-2-I, 2020 WL 1853228, at \*1 (Wash. Ct. App. Apr. 13, 2020) (unpublished opinion). The Court concluded that the work Rootvik advertised and performed required registration under RCW 18.27.010(1)(a) and WAC 296-200A-016(7). *Id.* at \*3. The Court rejected the argument that Rootvik was exempt under RCW 18.27.090(5), noting that he "did not sell finished products; he installed them." *Id.* at \*4.

#### IV. ARGUMENT

The Court of Appeals correctly applied the plain language of RCW 18.27.010(1)(a) and WAC 296-200A-016(7) to Passion Works' custom closet installations to affirm the two infractions. This Court should decline to review the Court of Appeals' decision under RAP 13.5 because it did not commit obvious or probable error, or depart from the usual course of judicial proceedings.<sup>2</sup>

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<sup>2</sup> RAP 13.5 applies here, not RAP 13.4, as Passion Works asserts. Pet. 6. RAP 13.5 applies because in a contractor registration case, the superior court's review is subject to review at the Court of Appeals only under RAP 2.3 standards. RCW 18.27.310(4). Here, the Court of Appeals denied review, which is an interlocutory

The Legislature requires all contractors who add to or improve a building, including by performing cabinet or similar installations, to register with the Department before they can advertise their business or offer to perform such work. RCW 18.27.010(1), .200(1)(a). Passion Works' closet installations meet these criteria—the company installs elaborate closet systems, which it customizes by adding shelves, drawers, and doors. These installations also meet the criteria of the closet specialty in WAC 296-200A-016(7) because they involve the installation of lateral or horizontal shelving systems, racks, rails, or drawers. Because Passion Works declined to register as a contractor before advertising this work and offering to install an \$8,400 closet system, it violated the contractor registration laws, as the Court of Appeals recognized. There is no error.

**A. The Court of Appeals Did Not Commit Probable or Obvious Error or Depart From the Usual Course of Judicial Proceedings When It Required Passion Works To Register as a Contractor**

This Court accepts discretionary review under RAP 13.5 when the Court of Appeals:

(1) has committed an obvious error which would render further proceedings useless; or

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decision. *See* RAP 12.3. So review is under RAP 13.5, and the Court should disregard Passion Works' analysis under the incorrect standard. Pet. 6-7.

(2) has committed probable error and the decision of the Court of Appeals substantially alters the status quo or substantially limits the freedom of a party to act; or

(3) has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a trial court or administrative agency, as to call for the exercise of revisory jurisdiction by the Supreme Court.

RAP 13.5(b). Passion Works cannot establish any of these criteria.

**1. The Contractor Registration Act covers “installation” of a closet system**

Contractors violate the Act when they advertise, offer to do work, submit a bid, or perform “any work as a contractor” without registering with the Department. RCW 18.27.200(1)(a). The Department must issue a notice of infraction and a minimum penalty of \$1,000 to unregistered contractors. RCW 18.27.340(3); WAC 296-200A-300(3)(a).

The Legislature defines “contractor” broadly. Contractors like Passion Works who “add to” or “improve” a building, including by performing “cabinet or similar installation,” must register:

“Contractor” includes any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or *offers to undertake*, or submits a bid to, construct, alter, repair, *add to*, subtract from, *improve*, develop, move, wreck, or demolish *any building*, . . . or to do any part thereof including . . . *cabinet or similar installation . . . .*

RCW 18.27.010(1) (emphases added); RCW 18.27.010(5), (12), .020(1), .200(1)(a).

Specialty contractors who work in the closet specialty, as defined by WAC 296-200A-016(7), must also register. RCW 18.27.010(12), .200(1)(a). This specialty includes contractors who install, repair, and maintain shelving systems:

What are the definitions of the specialty contractor classifications for the purpose of contractor registration only?

. . . .

(7) “Closets”—A contractor in this specialty installs, repairs and maintains the lateral or horizontal shelving systems, racks, rails, or drawers involved in a closet or storage system.

WAC 296-200A-016(7).

Three independent reasons required Passion Works to register before advertising closet installation services and offering to install closets for Haigh. By not registering, it violated the contractor registration laws.

First, Passion Works’ closet installations “add to” and “improve” a customer’s home under these terms’ plain meaning in RCW 18.27.010(1), so registration is necessary. *See* RCW 18.27.200(1)(a) (an unregistered contractor may not advertise or offer to perform any work as a contractor). “Add” means “to join, annex, or unite (as one thing to another) so as to bring about an increase (as in number, size, or importance) . . . .”

*Webster's Third New Int'l Dictionary* 24 (2002) (also defining "addition" as "a part added to or joined with a building to increase available space."). "Improve" means "to enhance in value or quality: make more profitable, excellent, or desirable . . ." *Id.* at 1138. Rootvik admitted that he secures metal rails to wall studs, installs fitted shelves, and customizes his closet systems with drawers and cabinet doors. AR I 132-34; AR II 211-18, 375. This work adds to a customer's home by joining closets to the customer's wall that increase useable storage space. This meets the ordinary definition of "add" and "addition." The closet systems also improve the customer's home by enhancing the quality of the closet storage space, making it more desirable. This meets the ordinary definition of "improve."

Second, Passion Works' custom closet installations require registration under the "cabinet or similar installation" portion of the "contractor" definition. RCW 18.27.010(1). A "cabinet" is "a box for storing chiefly small articles usu[ally] closed by a hinged or sliding door, fitted with shelves or drawers, and suitably finished as an item of home, office, or laboratory furniture." *Webster's* at 309. An "installation" is as "something that is installed for use," and "install" is defined as "to set up for use or service." *Id.* at 1171. Rootvik sets up the closet systems for use in his customers' homes and furnishes them with shelves and drawers. AR I 132-34. He advertised that he was "not just a sales clerk dabbling in



cabinetry” (AR I 272), and he emphasized cabinetry engineering, implying to potential customers that he was skilled in this area. AR I 272.

Third, he falls under the closet specialty under WAC 296-200A-016(7) because, by his own admission, and by his customers’ description of his work, he installs “lateral or horizontal shelving systems, racks, rails, or drawers” in a closet system. AR I 178, 261, 266, 268; AR II 100-01, 105, 212, 214-15. So he must register for this reason too.

The Court of Appeals observed that Rootvik admitted that he installs customs closets and cabinetry. *Passion Works, LLC*, 2020 WL 1853228, at \*3; AR I 132-34; AR II 211-18, 375. Therefore, his varied attempts to cast doubt on whether he installs the closets—such as by asserting that his website does not describe how he hangs or places the shelving systems or that his customers’ use of “install” or “installation” is “clearly colloquial”—lacks merit. Pet. 2-5.

Contrary to *Passion Works*’ hypotheticals, pushing in a thumbtack, attaching wall putty, affixing “3M strips,” or delivering a sofa is unlikely to qualify as contractor work. Pet. 1, 8, 10. None of these activities is like installing an \$8,400 closet system equipped with drawers, shelves, and cabinetry. They do not “add to” or “improve” a customer’s home, or result in a “cabinet or similar installation.” See RCW 18.27.010(1). Nor are they

set out as a specific contractor specialty requiring registration, distinguishing them from closet installation. *See* WAC 296-200A-016(7).

**2. Rootvik is not exempt from registration under RCW 18.27.090(5) because that exemption applies only to the sale, not the installation, of finished products**

Passion Works is not exempt from registration under RCW 18.27.090(5). By its plain terms, this exemption is limited to “the sale” of certain finished products, materials, or articles of merchandise. RCW 18.27.090(5). But Passion Works does not merely sell closet shelving to homeowners so that they (or others) can install them. The company installs the closet systems. RCW 18.27.090(5) does not apply.

Applying RCW 18.27.090(5)’s plain language, as the Court of Appeals did, gives meaning to the exemption. The exemption can be read harmoniously with the Legislature’s requirement that a contractor must register if it adds to or improves a building, including by installing a cabinet or similar installation. Adding to or improving buildings is different than selling finished products. If the exemption did not exist, the sale of finished products could conceivably be considered improvements that required registration. By adopting the exemption, the Legislature made clear that just selling products does not require registration. This harmonious reading does not “subsume[]” the exemption or read it “out of the law,” as Passion Works contends. Pet. 1, 8. Nor does RCW

18.27.090(5)'s exemption support a "more limited reading" of the definition of "contractor" in RCW 18.27.010(1). Pet. 8. The exemption stands on its own. The Court of Appeals succinctly harmonized the rule and the exemption by observing that Rootvik "did not sell finish products; he installed them." *Passion Works, LLC*, 2020 WL 1853228, at \*4.

The Legislature's 2007 amendment to RCW 18.27.090(5) shows a clear intent to require contractors who install finished products to register as contractors. Former RCW 18.27.090(5) (2003) exempted both the sale and installation of certain finished products from registration. But in 2007, the Legislature removed the phrase "or installation" from RCW 18.27.090(5). Laws of 2007, ch. 436, § 6. That amendment signaled the Legislature's clear intent to exempt only the sale— not the installation—of certain finished products, materials, and articles.

**3. The Legislature does not limit contractor registration to contractors who install fixtures**

*Passion Works* ignores the broad language of RCW 18.27.010(1) and the closet specialty in WAC 296-200A-016(7)—a directly applicable regulation that it does not even cite—and proposes instead that registration "should only be required when something more than mere attachment to a residence occurs . . . ." Pet. 10. But that ignores the language that the Legislature uses in the definition of "contractor." RCW

18.27.010(1). The Legislature does not require, as Passion Works would like, that closet installations result in “fixtures” before a contractor must register. Pet. 8-11. So it is irrelevant that “no fixture” was created. Pet. 7.

Passion Works is wrong to rely on RCW 18.27.090(5)’s final clause—“that are not fabricated into and do not become a part of a structure under the common law of fixtures”—to assert that a contractor should only have to register “when something more than mere attachment to a residence occurs.” Pet. 10. The Legislature did not include language about fixtures in the definition of “contractor.” By using different language in the two statutes, the Legislature intended that the language about “fixtures” applies only when applying the exemption and not when determining whether a person or company is acting as a “contractor.” *See Guillen v. Contreras*, 169 Wn.2d 769, 776-77, 238 P.3d 1168 (2010) (different language in two statutes shows different legislative intent.). In essence, Rootvik asks this Court to read language about fixtures into RCW 18.27.010(1) that is not there. Courts do not add words to an unambiguous statute when the Legislature has chosen not to include that language. *State v. Delgado*, 148 Wn.2d 723, 727, 63 P.3d 792 (2003). The Legislature did not limit the definition of “contractor” to those who install fixtures.<sup>3</sup>

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<sup>3</sup> Passion Works makes several arguments stemming from its premise that only work involving the placement of fixtures requires a contractor registration. It asserts that Eric the Closet Guy’s website and Craigslist ad say “nothing about the manner of the

Passion Works is thus wrong that the sales exemption limits the definition of “contractor.” Neither scaffolding erection nor tree removal creates a fixture but the Legislature included these activities in the definition of “contractor” to protect consumers if something goes wrong. *See* RCW 18.27.010(1). Nothing in the definition of “contractor” limits contracting work to placing fixtures.

Passion Works’ interpretation would undermine the Act’s core purpose to protect consumers from unreliable, incompetent, fraudulent, or financially irresponsible contractors. RCW 18.27.140. Contractors who do not install fixtures, like other contractors, may fail to complete the work, may install an addition or improvement incorrectly, or may fail to pay their suppliers. This very case involved a contractual dispute between Rootvik and a customer. AR II 116-17. The Legislature determined that a bond and insurance are necessary to protect the consumer in such situations, whether the contractor’s work results in a fixture or not.

**B. The Department Conducted a Reasonable Investigation to Determine Whether Passion Works Had Violated the Law**

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‘installations’” (Pet. 4); that Zenker does not know how the closet systems were installed (Pet. 3-4); that third party reviews do not describe the specific type of “shelving system” that was purchased and placed or describe the “technical aspects of the placement” (Pet. 4), and that emails with Haigh made no reference to installation (Pet. 5). Because these arguments all flow from the same flawed premise that the closets must be fixtures, none has merit. For the same reason, Passion Works’ reliance on cases discussing fixtures are not relevant. Pet. 2 (citing *King v. Rice*, 146 Wn. App. 662, 669, 191 P.3d 946 (2008)); Pet. 10 (citing *Arctic Stone Ltd. v. Dadvar*, 127 Wn. App. 789, 796, 122 P.3d 582 (2005)).

For the first time on appeal, Passion Works alleges that the Department violated procedural due process when it failed to conduct a “reasonable investigation” before issuing the infractions. Pet. 20.<sup>4</sup> The Court should decline to consider this new claim under RAP 2.5(a)(3).

A party can raise a new issue for the first time on appeal by establishing a manifest error affecting a constitutional right. RAP 2.5(a)(3); *State v. Kirkman*, 159 Wn.2d 918, 926-27, 155 P.3d 125 (2007). Due process is flexible and calls for such procedural protections as the particular situation demands. *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). Determining what process is due in a given situation requires consideration of (1) the private interest involved, (2) the risk that the current procedures will erroneously deprive a party of that interest, and (3) the governmental interest involved. *Mathews*, 424 U.S. at 334-35.

Passion Works couches the failure to investigate as a due process violation. But it simply ignores that it had a robust procedural safeguard to avoid the erroneous deprivation of its property interest (a penalty). It received two evidentiary hearings before OAH at which it presented

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<sup>4</sup> Below, Passion Works raised a due process claim regarding another issue, but it did not specifically argue that failure to conduct a reasonable investigation violated procedural due process or apply the *Mathews* factors to support such a claim. See AB 22-27, 42-43.

witnesses, submitted documentation, and cross-examined the Department's witnesses to contest the infractions. It had a full opportunity before two neutral factfinders to show that the Department's infractions lacked merit. Passion Works received due process to challenge the Department's actions.

Passion Works' belated due process claim fails even on its own terms. Passion Works argues that, under RCW 18.27.104(1), RCW 18.27.210, and RCW 18.27.230, the Department has an "initial evidentiary burden" to make a "prima facie case" after conducting a "reasonable investigation" before it can issue an infraction. Pet. 13, 14.<sup>5</sup> It faults the Department for not investigating whether "shelving was actually 'installed,' or if 'installation services' were advertised." Pet. 14. It asserts that "due process requires more than simply viewing a website, and should require a reasonable investigation to determine how the finished product was placed in the structure and whether it was merely affixed to the premises or installed, or fabricated into the premises before an infraction is issued." Pet. 16.

These arguments fail for two reasons. First, none of the three statutes that Passion Works cites places a "prima facie" burden on the

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<sup>5</sup> The Court of Appeals correctly pointed out that, under RCW 18.27.310(2), Passion Works had the burden to establish by a preponderance of the evidence at hearing that it did not violate the registration statute. Slip op. 7.

Department before issuing an infraction. RCW 18.27.104(1) allows the Department to issue a citation for unlawful advertising if, upon investigation, the Department has probable cause to believe that “a person acting in the capacity of a contractor who is not otherwise exempted from this chapter” has unlawfully advertised for work covered by this chapter.<sup>6</sup> RCW 18.27.210 requires the Director to appoint inspectors to investigate alleged or apparent violations of the Act, and it gives authority to inspectors to inspect and investigate job sites to determine whether contractors are registered. RCW 18.27.230 allows the Department to issue an infraction if it “reasonably believes” the contractor has committed an infraction. There is no “prima facie” burden under these statutes. Second, Passion Works’ argument again turns on the faulty premise that mere attachment to a building does not require registration. The Department has no obligation to determine how “the finished product was placed in the structure” or whether “it was merely affixed to the premises” or “fabricated into the premises” before issuing an infraction, because that is not what the law requires.

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<sup>6</sup> “If, upon investigation, the director or the director’s designee has probable cause to believe that a person holding a registration, an applicant for registration, or a person acting in the capacity of a contractor who is not otherwise exempted from this chapter, has violated RCW 18.27.100 by unlawfully advertising for work covered by this chapter, the department may issue a citation containing an order of correction. Such order shall require the violator to cease the unlawful advertising.” RCW 18.27.104(1).



In any case, the Department complied with these statutes. For the advertising infraction, the Department had probable cause to believe that Passion Works, an unregistered contractor, advertised for work covered by the chapter, as RCW 18.27.104(1) requires. The inspector reviewed Rootvik's website where he described "one of a kind" custom closets and presented customers with an image of a completed walk-in closet with shelving and drawers. AR I 53, 117, 257. He instructed potential customers to look at his reviews where former customers described how Rootvik installed closets. AR I 53-54, 63-64, 257. His Craigslist ad emphasized his abilities to create custom closet systems, highlighting the installations' durability, including cabinetry. AR I 272; *see also* AR I 68-72, 271-73. This is ample evidence of work meeting the definition of "contractor" under RCW 18.27.010(1) and the closet specialty under WAC 296-200A-016(7).

For the infraction about the installation at Haigh's home, the Department had a reasonable belief that Passion Works committed an infraction when it offered to build and install a floor-to-ceiling, wall-to-wall closet and cabinet system in her laundry room without being registered. AR II 100-02, 105, 377-78. Rootvik told Haigh "[t]hat he was going to build [the cabinets] and then place them in the house, install them." AR II 102. So Rootvik is wrong that his due process rights were

violated because the Department did not “conduct[] a reasonable investigation and make a *prima facie* case” for the two infractions. Pet. 2. He cannot show a manifest error under RAP 2.5(a)(3).

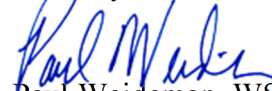
Passion Works’ suggestion that RCW 7.80.050(1), which changes some misdemeanors into civil infractions, requires the Department to personally witness the infraction lacks merit. See Pet. 2, 14. The Legislature adopted RCW 7.80 to decriminalize certain misdemeanors, and that statute’s provisions have no bearing on the contractor laws under RCW 18.27. Indeed, allowing a person to flagrantly violate the contractor registration laws without any penalty unless a Department employee happened to personally witness the violation would gut the contractor registration laws and render them largely meaningless.

## V. CONCLUSION

Passion Works fails to establish the criteria for discretionary review of the Court of Appeals’ decision.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of August, 2020.

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**SUPREME COURT  
STATE OF WASHINGTON**

PASSION WORKS, LLC and ERIC  
ROOTVIK,

Appellants,

v.

WASHINGTON STATE  
DEPARTMENT OF LABOR AND  
INDUSTRIES,

Respondent.

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 & Industries Answer to Motion for Discretionary Review and this Certificate of Service in the below described manner:


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Supreme Court Clerk  
Supreme Court of the State of Washington

**E-Mail via Washington State Appellate Courts Portal:**

David Weibel  
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DATED this 11th day of August, 2020.

  
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