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WASHINGTON STATE SUPREME COURT

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Douglas L., Maxfield, CEO, and

Mountain View Enterprises LLC

Appellant

v.

Washington State Liquor Control Board

Respondent

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APPELLANT BRIEF

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ORIGINAL

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2. Andersen v. King County, 138 P.3d 963, 148 Wn.2d 1 (Wash 2006)
3. Grant County Fire Protection District No 5 v. City of Moses Lake, 150 Wash.2d 791, 806, P.3d 419 (2004) (Grant County II)
4. Public Law III-274 – Oct 13, 2010 124 STAT.2861  
Short Title: Plain Writing Act of 2010
5. RCW 69.50.331 (1) (b) all applicants applying for a marijuana license must have resided in the State of Washington for at least three months prior to application for a marijuana license .....
6. Redding Rancheria v. Salazar (N.D. Cal, 2012)
7. Applicant’s Statement of Grounds for Direct Review by the Supreme Court dated 28 June 2016 and filed 29 June 2016
8. WAC 314-55 WAC Titled “Marijuana License, Application Process, Requirements and Reporting dated December 2012
9. WAC paragraph 314-55-020(7) per RCW 69.50.331 (1) (b) all applicants applying for a marijuana license must have resided in the State of Washington for at least three months prior to application for a marijuana license .....
10. WSLCB Letter of Denial dated January 27, 2014

## INTRODUCTION

COMES NOW Mountain View Enterprises LLC, Appellant by and through CEO Douglas L. Maxfield, pursuant to the rules of the Supreme Court of Washington and states as follows: This is a very simple case involving the Plain Language of the Law.

## ASSIGNMENT OF ERROR

1. WSLCP Letter of Denial dated January 27, 2014, did not follow the PLAIN LANGUAGE of the law and denied the two MVE LLC applications for the Production and Processing of marijuana.

**ON POINT** here in this case is paragraph WAC 314-55-020 (7) “Per RCW 69.50.331 (1) (b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license .....”

All members of the MVE LLC have resided in the state of Washington for at least three months prior to application. See notarized statement signed by Nancy H. Maxfield filed in this case and incorporated herein by reference. See Ex G, pages 3 of 5.

The citizens of Washington State in November 2011 passed Initiative 502 to legalize the use of marijuana for recreational purposes.

The legislature propagated Chapter 314-55 WAC titled “Marijuana Licenses, Application Process, Requirements, and Reporting.”

The executive branch of the Washington State government approved Chapter 314-55 WAC (the law) in or about November 2012 and is incorporated herein by reference. See Ex C, pages 1 through 10 of 47 pages.

The law called for applications for licenses to be filed during a thirty day period in November and December 2012.

The United States Supreme Court has decided the “Plain Language” issue in “Andersen v. King County;” “Grant County Fire Protection District #5 vs. City of Moses Lake;” and “Redding Rancheria v. Salazar” filed in this case and incorporated herein by reference. (See Ex O, P, Q and R, page 1 of 1 filed in this case and incorporated herein by reference.

1. Initial Order issued by Administrative Law Judge Steven Smith dated August 22, 2014, AFFIRMS the WSLCB final order denying the Retail Marijuana License; because,

“MVE LLC had not been formed under the laws of the State of Washington at the time the retail marijuana application was filed in his name.....”

**NOWHERE** in the Controlling Marijuana Law WAC 314-55 is there a requirement for marijuana application license to have a complete administratively formed LLC.

The application process only requires a licensed business name:  
WRC 314-55-010(3) "Business Name" or "Trade Name" means the name  
of a licensed business as used by the licenses on signs and advertising.

The Marijuana License application itself requires a licensed  
business name and UBI number. MVELLC provided the required  
documentation (Business License and Washington State Department of  
Revenue State Business Records Data Base Detail (WSDORSBRDBD)  
showing the business name, MVE LLC, and UBI number 603352912.  
The Business License and WSDORSBDBD was filed for on November  
25, 2013 and granted on November 30, 2013. See Ex F, pages 1 and 3.  
Applicant, MVE LLC, can only comply with the written law.

Additionally, the initial order by ALJ Steven Smith failed to  
address the issue appealed and on point in this case "THE PLAIN  
LANGUAGE OF THE LAW." Judge Steven Smith made up his own  
issue that had nothing to do with the legal issue, the plain language of the  
law, presented and appealed in this case.

We are playing football here and Judge Steven Smith is out  
chasing rainbows. Judge Smith did admit that he missed the entire game  
"Plain Language of the Law" by just not getting – to –it.

3. State of Washington Clallam County Superior Court ORDER  
dated May 20, 2016 and final judgment entered in this case.

“The Court adopts the findings of fact and conclusions of law contained in the initial order issued by the Administrative Law Judge Steven Smith on August 22, 2014.”

That findings of fact and conclusions of law did not address the legal issue appealed to the court for the judge to decide. That issue being THE PLAIN LANGUAGE OF THE LAW (TPLOTL).

The case appealed to Judge Coughenour under the Appellant law that required the judge to consider and decide the issues presented. Judge Coughenour failed to do either. Judge Coughenour abrogated his legal responsibility by avoiding the legal issue, the Plain Language of the Law, presented. Appellant’s opinion is the Judge’s effort was a complete waste of time and money.

In the initial order, the ALJ Steven Smith changed the appealed issue from Plain Language of the Law to two issues of his own wording that had nothing to do with the plain language of the law, and the trial court Judge Coughenour abrogate his legal responsibilities to decide the plain language issue that was appealed. In failing to address and decide the Plain Language issue he instead affirmed a decision of issues that was never appealed in this case. See Appellant’s appeal to the Clallam County Superior Court.

## STATEMENT OF THE CASE

This case involves one simple question “THE PLAIN LANGUAGE OF THE LAW.” The law WAC 314-55-020(7) per RCW 69.50.331 (1)(b) dated and in effect on November 2012 states:

“Applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license.....”

MVE LLC timely filed two marijuana applications: one for the Tier III Marijuana Production license (30,000 square feet of growing area); and the second application was for a Processing license.

WSLCB, on January 27, 2014 notified applicant of their decision to administratively withdraw the MVE LLC application for marijuana production and processing licenses because “your spouse resides in Maryland and is not a Washington State resident.”

WSLCB was notified by a notarized statement that the spouse, Nancy H. Maxfield, resided in the state of Washington for twenty-three (23) months prior to application. See Ex G, page 3 of 5.

Applicant appealed the WSLCB’s withdrawal in a request for Brief Adjudicative Proceeding (BAP) record review.

The WSLCB forwarded the BAP request to the office of Administrative Hearing and the case was heard by AL Judge Steven Smith on July 24, 2014 in Port Angeles, Washington. Judge Smith issued an Initial Order on August 22, 2014.

Appellant, MVE LLC, filed a timely appeal of the Initial Order dated August 22, 2014 to the State of Washington Clallam County Superior Court for a Judicial Review. The Superior Court held a hearing on September 25, 2015 and, subsequent to a second hearing, issued an order and final judgment dated May 20, 2016.

On June 28, 2016, appellant MVE LLC filed a timely appeal of the Clallam County Superior Court's Order and final judgment dated May 20, 2016 to the Washington State Supreme Court who received the filing on June 29, 2016.

### **ARGUMENT**

There is only one issue in this case that being "THE PLAIN LANGUAGE OF THE LAW." The Washington State Supreme Court has held that "Where the text of a constitutional provision is plain, the court must give the language its reasonable interpretation without further construction." *Locke v. City of Seattle*, No. 79-222-4, slip op. at 7-8 (Wash. Sup. Ct. Dec 13, 2007) (emphasis added). "If the text is clear, then

no construction or interpretation is necessary.” Larson v. Seattle Popular Monorail Auth. 156 Wn 2d 752, 758, 131 P.3d 892 (2006). Thus, under this Court’s method of constitutional interpretation, the “literal” meaning of the constitution is typically the beginning and end of this Court’s analysis.

### CONCLUSION

MVE LLC has suffered damages in the marijuana application process including administrative fees, court costs as well a business plan and organizational costs in the fifteen thousand dollar range.

The law governing appellant’s case is WAC 314-55 in effect November 2012. The WSLCB has, subsequent to filing this case, changed the Plain Language of the Law.

Avoiding the plain language issue in appellant’s case, is justice delayed and, therefore, justice denied.

A request for relief, specifying the type and extend of relief requested

Request the Court:

- (a) Decide the plain language issue presented in this case;
- (b) Rescind the trial court’s order and final judgment dated

May 20, 2016;

- (c) Remand the case back to the Trial Court for further consideration as directed by the State of Washington Supreme Court;
- (d) Direct WSLCB to issue the production and processing licenses;
- (e) Award monetary damages to MVE LLC; and
- (f) Issue any further order deemed necessary in this plain language matter.

RESPECTFULLY submitted this 5th day of December 2016.



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CERTIFICATE OF SERVICE

I certify that a copy of the Appellant Brief was served by U.S. mail, postage prepaid on 5 December 2016, to the Office of the Attorney General, ATTN: S. Kim O'Neal, 1125 Washington Street SE, PO Box 40100, Olympia, WA 98504-0100; Washington State Liquor Control Board, ATTN: Kevin P. McCarroll, Adjudicative Proceedings Coordinator, 3000 Pacific Ave SE, PO Box 43076, Olympia, WA 98504; Office of Administrative Hearings, ATTN: ALJ Steven C. Smith, 949 Market Street, Suite 500, Tacoma, Washington 98402. The Washington State Supreme Court Clerk, 415 12<sup>th</sup> Street W, Olympia, Washington 98504 was served by electronic mail on 5 December 2016.



Douglas L. Maxfield, CEO  
Mountain View Enterprises LLC

## OFFICE RECEPTIONIST, CLERK

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**From:** OFFICE RECEPTIONIST, CLERK  
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**From:** Nancy Maxfield [mailto:maxfieldn@hotmail.com]  
**Sent:** Monday, December 05, 2016 11:33 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Appellant Brief Case No. 93254-9

Attached please find the Appellant Brief for Case No. 93254-9