

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
2/5/2020 4:17 PM  
BY SUSAN L. CARLSON  
CLERK

NO. 97867-1

SUPREME COURT OF THE STATE OF WASHINGTON

BAYLEY CONSTRUCTION,

Appellant,

vs.

WASHINGTON STATE  
DEPARTMENT OF LABOR &  
INDUSTRIES,

Respondent.

**APPELLANT'S ANSWER TO  
RESPONDENT'S MOTION  
TO STRIKE REPLY TO  
ANSWER TO PETITION FOR  
REVIEW**

**I. IDENTITY OF MOVING PARTY**

The moving party is Appellant/Employer, BAYLEY CONSTRUCTION (hereinafter the "Appellant").

**II. STATEMENT OF RELIEF SOUGHT**

The Respondent requests this Court to Strike Appellant's Response to Respondent's Answer to Bayley's Petition for Judicial Review pursuant to RAP 13.4(d) and alleges that no new issues were raised.

**III. FACTS RELEVANT TO MOTION**

Appellant's Petition for Discretionary Review raised three specific arguments. In its Answer, Respondent argued that "Review was not warranted to Reconsider the Interpretation of Maximum Potential Load as

the Court of Appeals Applied Dictionary Definitions to Undefined Terms.”

The issue of the use of Dictionary Terms to Undefined Terms was specifically not raised as an Issue in the Petition for Review. This is a new Argument that was not raised in the Petition for Discretionary Review.

**IV. GROUNDS FOR RELIEF**

Because the Department raised a new argument not contained in the Petition for Discretionary Review, RAP 13.4(d) allows Appellant to provide a Reply. Consequently, the Respondent’s Motion to Strike should be denied.

RESPECTFULLY SUBMITTED this this 5<sup>th</sup> day of February 2020.

*s/ Aaron K. Owada*

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**CERTIFICATE OF SERVICE**

I certify that on February 5, 2020, I caused the original of **Appellant's Answer to Respondent's Motion to Strike Reply to Answer to Petition for Review** to be filed via Electronic Filing, with the Washington State Supreme Court Clerk and further served a true and correct copy of same on:

**(X) E-mail via Washington State Appellate Courts Portal:**

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DATED this 5<sup>th</sup> day of February 2020, in Lacey, Washington.

*s/ Donna Perkins*

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# OWADA LAW PC

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## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97867-1  
**Appellate Court Case Title:** Bayley Construction v. Department of Labor and Industries

### The following documents have been uploaded:

- 978671\_Answer\_Reply\_20200205160320SC452531\_8890.pdf  
This File Contains:  
Answer/Reply - Answer to Motion  
*The Original File Name was Appellant Answer to Respondent Motion to Strike Reply to Answer to PFR Bayley Constr v LNI 978671 02052020.pdf*

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### Comments:

Appellant's Answer to Respondent's Motion to Strike Reply to Answer to Petition for Review

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