

NO. 46419-5-II

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**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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CHEHALIS SHEET METAL & ROOFING,

Appellant/Cross-Respondent,

v.

DEPARTMENT OF LABOR AND INDUSTRIES,

Respondent/Cross-Appellant.

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**REPLY BRIEF OF CROSS-APPELLANT  
DEPARTMENT OF LABOR AND INDUSTRIES**

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## I. INTRODUCTION

“I carried it up as safely as I could at waist level.” A reasonable fact-finder could hear this testimony and understand that the employee did not have both hands free, but instead used a hand to “carry it up.” Carry means “to hold or support while moving.” Chehalis Sheet Metal & Roofing’s theories on how it did not violate the ladder regulation that requires both hands to be free while climbing a ladder fundamentally misperceives the nature of substantial evidence review. On substantial evidence review, the court makes any inferences from the facts in favor of the party that prevailed at the highest fact finding level below, here the Board of Industrial Insurance Appeals. The inference from testimony that an employee carried something is that he needed to use his hands to do so. Drawing this inference in favor of the Department of Labor & Industries cannot be second guessed on appeal.

The Board correctly decided that the Department established all the facts necessary to establish Chehalis’s serious violation, including that Chehalis knew or should have known that its employee would have to climb a ladder without having both hands free. In order to show reasonable diligence that would show lack of knowledge, the hazard must not be in plain view, as it was here and an employer must take steps to discover readily apparent hazards, which Chehalis did not do. Instead it

ignored the employee's statements that he needed equipment to move the HVAC unit. This Court should reverse the superior court on the ladder violation and affirm the Board.

## II. ARGUMENT

### A. Substantial Evidence Supports the Board's Finding That a Chehalis Employee Climbed a Ladder Without Both Hands Free

Substantial evidence supports the Board's finding that a Chehalis employee climbed a ladder without having both hands free. The court has repeatedly stated the standard on substantial evidence. *Under the substantial evidence standard of review, the court will not reweigh the evidence. Raum v. City of Bellevue*, 171 Wn. App. 124, 151, 286 P.3d 695 (2012), *review denied*, 176 Wn.2d 1024 (2013). The Court of Appeals views the evidence and all reasonable inferences from the evidence in the light most favorable to the prevailing party. *Frank Coluccio Const. Co. v. Wash. State Dep't of Labor & Indus.*, 181 Wn. App. 25, 35, 329 P.3d 91 (2014). While a fact-finder may not speculate upon the existence of facts, a fact-finder may make a reasonable inference based upon circumstantial facts. *Harrison v. Whitt*, 40 Wn. App. 175, 177, 698 P.2d 87 (1985). Substantial evidence exists where the evidence is sufficient to persuade a fair minded person of the truth or correctness of the order. *See Port of Seattle v. Pollution Control Hearings Bd.*,

151 Wn.2d 568, 588, 90 P.3d 659 (2004). Here, a reasonable person could conclude that the Chehalis employee, Ruston Gilbert, was unable to ascend the ladder with both hands free.

Both direct and circumstantial evidence supports finding that Gilbert carried the HVAC unit up using his hands.<sup>1</sup> Gilbert testified that he picked up the HVAC unit, carried it out of the van, and took it up the ladder. BR Gilbert 15. “I carried it up as safely as I could at waist level.” BR Gilbert 37. Gilbert did not testify that he attached the HVAC unit to lifting straps or any other lifting equipment. Rather, he testified that he did *not* have safety equipment such as lifting straps or a shackle to assist him in installing the HVAC unit. BR Gilbert 8, 13, 24. From this evidence, the fact-finder can infer that the only way for Gilbert to get the HVAC unit to the roof was to carry it by hand and he used no other means by which to carry it. In addition, Gilbert was asked on cross examination:

Q. Did you have any thoughts about *climbing up using two hands* to claim (sic) the ladder, get on the roof with the compressor tied off?

A. I would have, but the compressor is too heavy to rope. It takes two people.

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<sup>1</sup> Chehalis wrongly asserts that the Board only relied on circumstantial evidence since it relied on Gilbert’s statement that he carried the HVAC unit up the ladder at his waist. Resp’t Br. 6. But even if there was only circumstantial evidence, this would support the Board’s findings. Circumstantial evidence is accorded the same weight as direct evidence. *State v. Goodman*, 150 Wn.2d 774, 781, 83 P.3d 410 (2004).

BR Gilbert 37 (emphasis added). Gilbert's response that he would have used two hands if he could have used a rope indicates that he was unable to keep both hands free when he carried the HVAC unit up the ladder. A reasonable fact-finder can reasonably infer from this testimony that Gilbert did not, and could not, carry the HVAC unit and have both hands free while climbing the ladder.

On this substantial evidence review, the inferences are drawn in favor of the Department. Turning this upside down, Chehalis asserts that because Gilbert did not affirmatively testify that he did not have both hands free, any conclusion to the contrary is speculation. Resp't Br. 5. Gilbert testified he carried the HVAC unit and a reasonable fact-finder could infer he used his hands to do so. BR Gilbert 37. The Board's conclusion that both hands could not have been free is not a "pyramid of inferences" as Chehalis contends. Resp't Br. 8. Once the Department established that Gilbert carried the compressor, it does not logically flow that he could have then kept both hands free.

The admissible evidence supports a finding that the employee did not have both hands free. Chehalis asserts that the Board's finding was speculative because it allegedly relied on testimony from Michael O'Hagan, the WISHA inspector, that was excluded. Resp't Br. 4, 10. First, not all of O'Hagan's testimony was excluded. O'Hagan testified

that Gilbert was unable to maintain three points of contact when carrying the HVAC unit up the ladder. BR O'Hagan 56. This testimony was not objected to, nor was it excluded. Furthermore, regardless of whether a portion of O'Hagan's testimony was excluded, the totality of the Board's decision indicates that it relied on the evidence as a whole, including Gilbert's testimony. BR 15-20. Gilbert's testimony alone establishes that substantial evidence supports the Board's finding.

Trying to have an inference drawn in its favor, Chehalis argues that it may reasonably be inferred that Gilbert climbed the ladder with both hands free because of his training and experience. Resp't Br. 7. But the fact-finder was entitled to weigh evidence that showed that Gilbert did not have training and experience sufficient to guide him. He testified that he did not know that climbing a ladder without both hands free was a violation of WISHA standards. BR Gilbert 41-42. A fact-finder could accept this testimony and understand that Chehalis had not trained Gilbert to understand the importance of using two hands on a ladder.<sup>2</sup>

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<sup>2</sup> Regarding this evidence, Chehalis cites *Ruff v. Fruit Delivery Co.*, 22 Wn.2d 708, 157 P.2d 730 (1945), for the proposition that if the circumstances lend equal support to inconsistent conclusions, the evidence will not be held sufficient. Resp't Br. 7-8. But the modern substantial evidence standard provides that substantial evidence exists where the evidence is sufficient to persuade a fair minded person of the truth or correctness of the order and that inferences are drawn in the prevailing party's favor. *See Port of Seattle*, 151 Wn.2d at 588; *Frank Coluccio Const. Co.*, 181 Wn. App. at 35. In any event, *Ruff* recognizes that cases may be proven by circumstantial evidence and it articulates a "reasonable certainty" test for that. *Ruff*, 22 Wn.2d at 720; *see also*

Further engaging in speculation and asking this Court to draw inferences in its favor, Chehalis also claims that Gilbert could have used a back pack or used his hands to place the unit onto the ladder. Resp't Br. 8. However, Chehalis presented no evidence, nor is there any circumstantial evidence, to support this conclusion. There is no evidence that Gilbert had or used a backpack. He testified, "I carried it up as safely as I could at waist level," not that he used other equipment to carry the unit. BR Gilbert 37. A fact-finder is entitled to rely on the ordinary meaning of carry as "to hold or support while moving." *Webster's New World Dictionary* 218 (2d coll. ed. 1986). A fact-finder could decide that the fact that he carried it at his waist means he did not use a backpack.

Trying again to have an inference drawn in its favor, Chehalis also posits an unlikely way of moving it up the ladder. In this theory, Chehalis says "Mr. Gilbert could have simply used his hands to place the unit onto the ladder, then ascended using both hands, and then repeated that action until he reached the roof." Resp't Br. 8. Chehalis presented no evidence that this was practical or possible or more pertinently that Gilbert indeed placed the unit on the ladder and was able to ascend using both hands. Rather, Gilbert testified that he carried it up at waist level. BR Gilbert 37. A fact-finder could draw the inference that he continually carried the

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*Helman v. Sacred Heart Hosp.*, 62 Wn.2d 136, 381 P.2d 605 (1963) (weighing evidence exclusively lies with fact-finder).

HVAC unit at waist level and did not rest it on the ladder as he moved up. But more importantly, Chehalis's proposed method would not satisfy the requirement that both hands be available at all times when climbing a ladder. WAC 296-876-40025 ("You must have both hands free to hold on to the ladder."). Notably, Chehalis does not explain how its feat of moving the HVAC unit up the ladder by placing it on the rungs could have been done while keeping both hands free. In Chehalis's method, the employee would have to use his hands to move the HVAC unit up the ladder. The regulation would not allow for a method that does not require both hands to be free while climbing the ladder. In any event, based on Gilbert's testimony, the fact-finder could believe that he carried the HVAC unit continually up at his waist and did not put it on the rungs.

In an attempt to establish that no other evidence but circumstantial evidence supports the Board's conclusion, Chehalis also points to O'Hagan's testimony that in addition to the fact that Gilbert was unable to maintain three points of contact, the fact that he carried something up the ladder was a basis for the violation. Resp't Br. 10. It argues that the ladder regulations allow workers to carry tools and equipment up a ladder. Resp't Br. 10 (citing WAC 296-876-40005). However, the regulation Chehalis cites, which does not prohibit loads on ladders, does not state that workers may carry loads while ascending or descending a ladder.

WAC 296-876-40005; *see also* WAC 296-876-40025. The regulation is intended to prevent overloading ladders with equipment while workers are working from the ladder. The basis for the Department's citation is that Gilbert carried the HVAC unit while *ascending* the ladder and that he could not keep both hands free to hold onto the ladder. Therefore, O'Hagan's testimony is not inconsistent with the regulations, in that workers should not carry equipment while they are climbing a ladder. But in any event, the basis for the Board finding is that both hands were not free under WAC 296-876-40025.

**B. The Court Need Not Reach the Knowledge Issue but if It Does Substantial Evidence Supports That Chehalis Had Knowledge of the Violative Working Conditions**

**1. By Failing to Raise an Issue Regarding Knowledge at the Board, Chehalis Has Waived the Issue**

The Court need not reach the question of knowledge. Chehalis contends that the Department failed to establish that it had knowledge of the violation. Resp't Br. 11. However, Chehalis failed to assert this argument at the Board and it should therefore be rejected. Although it cited generally to the elements for a WISHA violation, Chehalis provided no argument that the Department did not demonstrate knowledge. BR 4, 9. RCW 49.17.150(1) only allows a party to raise arguments that were raised at the Board. *See Legacy Roofing Inc. v. Dep't of Labor &*

*Indus.*, 129 Wn. App. 356, 361-62, 119 P.3d 366 (2005). This is based on well-established principles of exhaustion of remedies.

The exhaustion of remedies principle “is founded upon the belief that the judiciary should give proper deference to that body possessing expertise in areas outside the conventional expertise of judges.” *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 866, 947 P.2d 1208 (1997). This requirement allows development of a factual record, facilitates the exercise of administrative expertise, allows an agency to correct its own errors, and prevents the circumvention of administrative procedures through resort to the courts. *Id.* Had Chehalis raised the question at the Board, the Board could apply its expertise to address Chehalis’s concerns. Because it did not, Chehalis has waived the issue. *Legacy Roofing*, 129 Wn. App. at 361-62.

Even assuming that Chehalis somehow preserved its argument that employer knowledge was not established, the Department did establish that Chehalis had both actual and constructive knowledge about the violative conditions and substantial evidence supports the Board’s finding.

**2. Substantial Evidence Supports That Chehalis Had Actual Knowledge of the Violative Working Condition Once Gilbert Informed Mills That He Needed Another Technician**

Under RCW 49.17.180(6), if an employer has actual or constructive knowledge of the violative working conditions, the employer has violated WISHA. See *Erection Co. v. Department of Labor & Industries*, 160 Wn. App. 194, 202-03, 248 P.3d 1085 (2011). Chehalis had actual knowledge that Gilbert did not have the necessary equipment to lift the HVAC unit onto the roof and therefore would need to use the ladder to take the equipment up to the roof.

Specifically, Gilbert testified that in the week before he was to perform the work, he related to the Chehalis service manager, David Mills, a number of times about how he was going to replace the HVAC unit. BR Gilbert 28. Additionally, on the day he was to install the HVAC unit, before performing the work, Gilbert told Mills that he needed additional equipment or an additional technician to get the HVAC unit onto the roof. BR Gilbert 13, 25, 26; BR Mills 80. Mills knew that Gilbert did not have the equipment needed and did not tell Gilbert not to perform his job should an additional person not arrive to assist him. BR Mills 80, 91. Once Mills knew that Gilbert needed additional equipment in order to perform the work safely, he should have sent an additional technician, ensured that Gilbert obtained the necessary equipment, or instructed him not to perform the work. This is substantial evidence that Chehalis had

actual knowledge that Gilbert did not have the necessary equipment to perform his work and that he was performing the work.

Chehalis's arguments about knowledge hinge on its attacks on Gilbert's credibility, but such attacks are not relevant under substantial evidence review. Chehalis points to Gilbert's alleged inconsistent testimony in support of its position on knowledge, claiming that Gilbert had inconsistent testimony about working with the janitor, about using the invoice, and about letting Chehalis know about the need for equipment. Resp't Br. 14-15. Chehalis, however, admits that Gilbert informed Mills "about the need for more manpower" on the day of the installation. Resp't Br. 15. More significantly, Chehalis in raising these arguments appears to ask the Court to reweigh Gilbert's testimony and judge his credibility.<sup>3</sup> Resp't Br. 14. However, when reviewing for substantial evidence, the appellate court does not weigh credibility nor substitute its judgment for that of the agency. *Brighton v. Wash. Dep't of Transp.*, 109 Wn. App. 855, 862, 38 P.3d 344 (2001). The substantial evidence standard "necessarily entails acceptance of the factfinder's views regarding the credibility of witnesses and the weight to be given

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<sup>3</sup> Chehalis also appears to ask this Court to reweigh the credibility of Gilbert by pointing out that Gilbert had been investigated for fraud by the Department. Resp't Br. 15. Even if credibility could be reweighed, the record establishes only that the Department investigated Gilbert. Chehalis presented no evidence that the Department concluded he participated in any fraudulent activity, nor is there any evidence of dishonesty.

reasonable but competing inferences.” *State v. Ex rel. Lige & Wm. B. Dickson Co. v. Pierce County*, 65 Wn. App. 614, 618, 829 P.2d 217 (1992). Therefore, this Court should not consider Chehalis’s assertions as to Gilbert’s credibility and substantial evidence supports that Chehalis had actual knowledge of the working conditions.

**3. Substantial Evidence Exists That Chehalis Had Constructive Knowledge of the Violative Condition**

Chehalis also had constructive knowledge of the hazard because it was in plain view. The Court in *Erection Co.*, 160 Wn. App. at 207, recognized that when a hazard is in plain view, the employer has knowledge about it. “[E]vidence showing that the violative condition was readily observable” shows constructive knowledge. *Id.* Here the ladder was placed on the outside of a school, and was a readily observable hazard given the nature of Gilbert’s work on the roof.

Moreover, Chehalis failed to exercise due diligence regarding the hazard. RCW 49.17.180(6) only excuses a violation if “the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.” Chehalis argues that it did not have knowledge because the only way it could have known of the violation was through Gilbert. Resp’t Br. 12. Chehalis appears to assert that it may rely solely on its employees to recognize and report hazardous conditions and that it

has no duty to ensure employees are appropriately trained or supervised, to ensure that its employees are working safely, or to enforce safety in its workplace. This is directly contrary to the purpose of the WISHA, which is to ensure safe and healthful working conditions for all Washington workers. See *Elder Demolition, Inc. v. Dep't of Labor & Indus.*, 149 Wn. App. 799, 806, 207 P.3d 453 (2009).

Constructive knowledge has been found where the employer failed to inspect its workplace to discover readily apparent hazards, where there were inadequate safety instructions, where safety rules were not enforced, where employees are not adequately supervised, or where the employer did not take measures to prevent the occurrence of the violation. See *Erection Co.*, 160 Wn. App. at 206-07; *Sec'y of Labor v. Stahl Roofing, Inc.*, 19 OSHC 2179, 2002 OSHD ¶ 32,646, 2003 WL 440801 (February 21, 2003) at \*2.<sup>4</sup>

To meet the test for reasonable diligence, an employer must have work rules that reflect the requirements of the cited standard and that are clearly and effectively communicated to employees. *Sec'y of Labor v. Combustion Eng'g, Inc.*, 5 OSHC 1943, 1977-78 OSHD ¶ 22,241, 1977 WL 7767 (October 7, 1977) at \*3; see *Legacy Roofing*, 129 Wn. App. at

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<sup>4</sup> See also *Kokosing Constr. Co.*, 17 BNA OSHC 1869, 1995-1996, CCH OSHD ¶ 31,207, 1996 WL 749961 (O.S.H.R.C. December 20, 1996); *Precision Concrete Constr.*, 19 OSHC 1404, 2001 OSHD ¶ 32,331 (2001); *Ames Crane & Rental Serv., Inc.*, 3 OSHC 1279, 1974-1975 OSHD ¶19,724 (1975), *aff'd*, 532 F.2d 123 (8th Cir. 1976).

362-63. Unless an employer takes the steps required by the applicable regulations to determine if a hazard is present, the employer has not exercised reasonable diligence. *Erection Co.*, 60 Wn. App. at 206-07.

Here, Chehalis failed to provide adequate safety instructions and equipment, safety rules were not enforced, and Chehalis failed to take any action to discover readily apparent hazards. Chehalis provided little to no safety training to Gilbert when he was hired and instead relied solely on his past experience and training without verifying whether his prior training was adequate. BR Gilbert 8. Indeed, Gilbert did not know climbing a ladder without both hands free was a violation of WISHA standards. BR Gilbert 41-42. Chehalis also failed to conduct regular mandatory safety meetings in which all employees attended and included safety topics relevant to the work being performed, and Gilbert attended just one safety meeting in the seven months he worked for Chehalis. BR Gilbert 9-10; BR Mills 86, 96-98.

Not only did Chehalis fail to provide training and adequate safety instructions, but it relied solely on its employees to conduct a hazard assessment of each job and failed to take any steps to verify that the hazard analysis was appropriate or that employees had the equipment

necessary to perform the job. BR O'Hagan 56.<sup>5</sup> Chehalis failed to inspect the worksite to discover the readily apparent fall hazard and failed to discover that the manner in which Gilbert was performing his work was in violation of safety regulations.

It is the *employer's* obligation to inspect the work area, to anticipate hazards to which employees may be exposed, and to take measures to prevent the occurrence, not the employees' *Erection Co.*, 160 Wn. App. at 206-07. Ultimate responsibility for an employee's safety rests with the employer. RCW 49.17.060(1); *see Wash. Cedar & Supply Co., Inc. v. Dep't of Labor & Indus.*, 137 Wn. App. 592, 601-02, 154 P.3d 287 (2007). Employers must take measures to both discover and correct safety hazards. RCW 49.17.120(5)(a). Thus, Chehalis has a duty to not only ensure its employees are adequately trained, but also to ensure that they are in fact working safely. Chehalis failed to do either here, therefore, it did not exercise reasonable diligence, and knowledge may be imputed to it constructively.

Chehalis wrongly assumes that it does not have to conduct inspections to enforce its safety rules. Resp't Br. 12. It cites

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<sup>5</sup> The Department's regulations require employers to develop and maintain an accident prevention program which is effective in practice. An employer's program is not effective in practice if it is not following up with its employees to ensure that the program is being followed. WAC 296-155-100, 296-155-110; 296-800-14020. *See also*, WAC 296-800-16005.

WAC 296-155-110(9)(a) to support this proposition. First, Chehalis takes too narrow of a view as to what inspecting the work site to discover safety violations in terms of reasonable diligence entails. An analysis of the employer's actions under the reasonable diligence standard is independent of minimum requirements set by regulation. *See Erection Co.*, 160 Wn. App. at 206-07. Second, Chehalis appears to assume that this regulation would only apply to a general contractor. Resp't Br. 12. However, nothing in the regulation limits this requirement to general contractors, as it specifically states that *every* employer shall conduct a walk-around safety inspection. WAC 296-155-110(9). Thus, it is irrelevant whether Chehalis is a general contractor.

To the extent that Chehalis believes it is exempt from this *regulatory* requirement, it must have met the criteria under WAC 296-155-110(1). This includes a showing that it has met the requirements of WAC 296-800-130, requiring safety meetings in which *all* employees and at least one management official is present. As previously discussed, Chehalis admitted that it did not conduct mandatory safety meetings. BR Mills 86, 96; BR Gilbert 9-10. Therefore, Chehalis has not shown that it meets the exception. Here, Chehalis did nothing to anticipate hazards other than rely on its employees in general, and in this case, ignored the statements of the employee. Because of its lax approach

to safety both generally and specifically in this case, it cannot claim that it was reasonably diligent in determining if there were unsafe working conditions. Substantial evidence supports finding that Chehalis had both actual and constructive knowledge.

#### **4. The Board's Findings Addressed Knowledge**

The Board's findings addressed knowledge, contrary to Chehalis's argument. Resp't Br. 11. Chehalis argues that the Board failed to make an express finding of fact that it had knowledge of the violative condition. Resp't Br. 11. While the Board may not have entered a finding of fact that used the word "knowledge," the Board did find that:

On December 16, 2010, Chehalis Sheet Metal & Roofing committed a serious violation of WAC 296-876-40025, when it *permitted* one of its employees to carry equipment up a ladder while not keeping both hands free to climb the ladder

FF 4 (emphasis added). The use of the term "permitted" shows that Chehalis had knowledge of the violative condition. Chehalis cannot properly be said to have "permitted" an employee to take a given action unless it had, or could have had, awareness of the fact that the employee took that action. The Board further determined:

Chehalis Sheet Metal & Roofing did not have a safety program that was effective in practice. The employer did not take adequate steps to inspect, identify, and correct violations of its safety program and safety rules; it did not adequately communicate safety program and safety rules to

its employees; and the misconduct occurring on December 16, 2010 was not unforeseeable

FF 9. By finding that the “misconduct” that occurred on December 16, 2010 “was not unforeseeable,” the Board determined that Chehalis could have, through the exercise of reasonable diligence, become aware of the violative working conditions. Thus, the Board found that Chehalis had knowledge of the fact that it exposed its employees to violative working conditions.<sup>6</sup>

### III. CONCLUSION

Substantial evidence supports the Board’s finding that Gilbert climbed a ladder without both hands free. Gilbert testified that he carried the HVAC unit up the ladder and no evidence was presented that he carried it with anything other than his hands. The penalty amount was appropriately set.<sup>7</sup> The Department asks this Court to affirm the August 6,

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<sup>6</sup> Even if the Board had not made the finding of fact, a finding of knowledge and substantial probability of death or serious physical harm is inherent in the Board’s conclusion that Chehalis committed a serious violation of the roofing regulation, especially when the findings are read in the context of the accompanying written opinion that explains the basis of the proposed decision. *See* BR 20-49; *cf. Gay v. Cornwall*, 6 Wn. App. 595, 599, 494 P.2d 1371 (1972) (where the trial court has not made express finding of material fact, an appellate court may look to the court’s oral opinion). Furthermore, a court may imply the necessary finding for the purposes of affirming a judgment if the evidence is not in conflict with the judgment. *Mfrs. Acceptance Corp., v. Irving Gelb Wholesale Jewelers, Inc.*, 17 Wn. App. 886, 893 n.4, 565 P.2d 1235 (1977).

<sup>7</sup> Because the abuse of discretion issue regarding the penalty amount is interwoven between the two citations, it would appear it would be beyond the scope of the Reply of Cross-Appellant to address the issue. The Department relies on its arguments made in the Brief of Respondent/Cross-Appellant.

2009 decision of Board. It asks the Court to reverse the superior court as to the ladder violation.

RESPECTFULLY SUBMITTED this 6 day of March, 2015.

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**COURT OF APPEALS, DIVISION II  
STATE OF WASHINGTON**

CHEHALIS SHEET METAL & ROOFING  
Appellant,

v.

WASHINGTON STATE DEPARTMENT  
OF LABOR AND INDUSTRIES,

Respondent.

DECLARATION  
OF MAILING

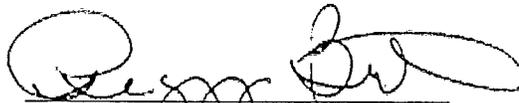
Grays Harbor County  
Superior Court  
No. 12-2-00549-1

DATED at Tumwater, Washington:

The undersigned, under penalty of perjury pursuant to the laws of the State of Washington, declares that on the below date, I mailed the Reply Brief of Respondent/Cross-Appellant Department of Labor and Industries and this Declaration of Mailing to all parties on record as follows via ABC Legal Messengers and e-mail:

Bradley Drury  
Jack W. Hanemann, P.S.  
2120 State Ave. NE #101  
Olympia, WA 98506

DATED this 6th day of March, 2015.

  
PEGGY BERTRAND  
Legal Assistant

**WASHINGTON STATE ATTORNEY GENERAL**

**March 06, 2015 - 1:07 PM**

**Transmittal Letter**

Document Uploaded: 5-464195-Reply Brief~2.pdf

Case Name: Chehalis Sheet Metal & Roofing v. DLI

Court of Appeals Case Number: 46419-5

**Is this a Personal Restraint Petition?** Yes  No

**The document being Filed is:**

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

Brief: Reply

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Kaylynn What - Email: [karens1@atg.wa.gov](mailto:karens1@atg.wa.gov)