

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

No. 78139-7

2007 JAN 17 P 2:55

CLERK

SUPREME COURT OF THE STATE OF WASHINGTON

DEPARTMENT OF LABOR & INDUSTRIES,

Petitioner,

v.

WILLIAM A. GRANGER,

Respondent.

GRANGER'S SUPPLEMENTAL AUTHORITY

Terry J. Barnett, WSB 8080
Rumbaugh Rideout Barnett & Adkins
820 "A" Street, Suite 220
Tacoma, WA 98402
253.756.0333

ORIGINAL

On authority of RAP 10.8, respondent Granger submits as supplemental authority, bearing on the question of whether WAC 296-14-526, if valid, should apply retroactively to Mr. Granger, these parts of the court's recent decision in 1000 Virginia Ltd. Partnership v. Vertecs, 158 Wn.2d 566, 146 P.3d 423 (2006):

Regardless of how the statute is characterized, it is presumed to run prospectively, as are all statutes. Wash. Waste Sys., Inc. v. Clark County, 115 Wn.2d 74, 78, 794 P.2d 508 (1990). However, **a statute or an amendment to a statute may be retroactively applied if the legislature so intended, if it is clearly curative, or if it is remedial**, provided that retroactive application does not "run afoul of any constitutional prohibition." McGee Guest Home, Inc. v. Dep't of Soc. & Health Servs., 142 Wn.2d 316, 324, 12 P.3d 144 (2000) (quoting State v. Cruz, 139 Wn.2d 186, 191, 985 P.2d 384 (1999) (citing In re F.D. Processing, Inc., 119 Wn.2d 452, 460, 832 P.2d 1303 (1992))).

158 Wn.2d at 584 (emphasis added).

An enactment "is curative only if it **clarifies or technically corrects** an ambiguous statute." McGee, 142 Wn.2d at 325 (quoting F.D. Processing, 119 Wn.2d at 461).

Id. (emphasis added).

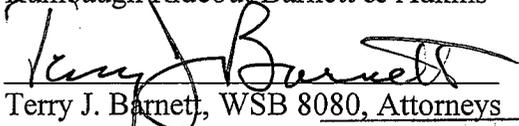
"A statute is remedial when it relates to practice, procedure, or remedies and does not affect a substantive or vested right." Miebach v. Colasurdo, 102 Wn.2d 170, 181, 685 P.2d 1074 (1984). **"[S]tatutes affecting vested rights will be construed as operating prospectively only."** O'Donoghue, 66 Wn.2d at 790.

Id. at 586 (emphasis added.).

DATED this 16 day of January 2007.

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Respectfully submitted, STATE OF WASHINGTON

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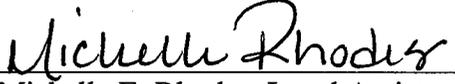

Terry J. Barnett, WSB 8080, Attorneys
for respondent William A. Granger CLERK

CERTIFICATE OF MAILING

I certify that today I mailed a copy of GRANGER'S SUPPLEMENTAL
AUTHORITY as follows:

John Wasberg, AAG
Attorney General of the State of Washington
800 5th Ave., Suite 2000
Seattle, WA 98104-3188

DATED this 16 day of January 2007.


Michelle E. Rhodes, Legal Assistant