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NO. 60139-3-I

FILED
COURT OF APPEALS
STATE OF WASHINGTON
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2008

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

FERID MAŠIĆ,

Appellant,

v.

DEPARTMENT OF LABOR & INDUSTRIES,

Respondent.

STATEMENT OF ADDITIONAL AUTHORITIES (RAP 10.8)

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ADDITIONAL AUTHORITIES

Pursuant to RAP 10.8, the Department of Labor & Industries submits the following authorities on the interpreter service issues:

- A. *Ferenčak v. Dep't of Labor & Indus.*, No. 58878-8-I, slip op. at 1-2, 13-14 (Wash. Ct. App. Feb. 22, 2008).
- B. *Kustura v. Dep't of Labor & Indus.*, No. 57445-1-I, slip op. at 1-2, 8-28 (consolidated with 57446-9-I & 57447-7-I) (Wash. Ct. App. Feb. 22, 2008);
- C. *Meštrovac v. Dep't of Labor & Indus.*, No. 58200-3-I (consolidated with 58505-3-I), slip op. at 1-2, 8-12 (Wash. Ct. App. Feb. 22, 2008);
- D. *Xieng v. Peoples Nat'l Bank of Wash.*, 120 Wn.2d 512, 515-523, 844 P.2d 389 (1993) (when an employer admitted that it discriminated against its employee based on his national origin in violation of RCW 49.60.180(3), the employer cannot then claim a complete defense by asserting its good faith belief that the employee's national origin accent would materially interfere with job performance);
- E. *Napreljac v. John Q. Hammons Hotels, Inc.*, 461 F. Supp. 2d 981, 1028-30 (S.D. Iowa 2006) (in the Title VII employment discrimination context, inability to speak English is not evidence of

national origin-based discrimination, and EEOC's provision about discrimination based on one's accent is inapplicable to a claim of alleged discrimination based on limited English proficiency).

The Department further submits the following authority on the statutory attorney fee issue.

- A. *Ferenčak v. Dep't of Labor & Indus.*, No. 58878-8-I, slip op. at 14-15 (Wash. Ct. App. Feb. 22, 2008) (affirming cost award of \$200 statutory attorney fees to the Department under RCW 4.84.030).

RESPECTFULLY SUBMITTED this 13th day of February, 2008.

ROBERT M. MCKENNA
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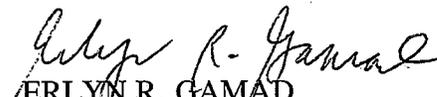
Respondent.

CERTIFICATE OF
SERVICE

The undersigned, under penalty of perjury pursuant to the laws of the State of Washington, certifies that she caused a copy of the **STATEMENT OF ADDITIONAL AUTHORITIES (RAP 10.8)** to be served and delivered by ABC Legal Services to the attorney for the Appellant, as follows:

ANN PEARL OWEN
2407 14TH AVENUE SOUTH
SEATTLE WA 98144-5014

DATED at Seattle, Washington, February 13th, 2008.


ERLYN R. GAMAD
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