

FILED
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STATE OF WASHINGTON
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Supreme Court No. 96267-7

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

JOSE MARTINEZ-CUEVAS, et al.,

Petitioners,

v.

DERUYTER BROTHERS DAIRY, INC., et al.,

Respondents,

and

WASHINGTON STATE DAIRY FEDERATION
and WASHINGTON FARM BUREAU,

Intervenor-Respondents.

**INTERVENOR RESPONDENTS'
SECOND STATEMENT OF SUPPLEMENTAL AUTHORITY**

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I. STATEMENT

Intervenor-Respondents respectfully file this second statement to inform the Court of the following supplemental authorities:

1. In Paragraph 3 of Intervenor-Respondents' initial statement of supplemental authorities, Intervenor-Respondents directed the Court's attention to *Griffin v. Eller*, 130 Wn.2d 58, 69, 922 P.2d 788 (1996), wherein the Court held that partial invalidity of a statute would be unavailable unless the Court also concluded the Legislature would have passed the statute absent the exemption. Otherwise, the proper remedy is complete statutory invalidation rather than changing legislative intent by upsetting the legislative compromise. *Id.*
2. Earlier this month, the Court issued its decision in *Association of Washington . Business, et al. v. Washington State Department of Ecology*, Docket No. 95885-8 (January 16, 2020). Therein the Court stated that:

We have recognized with regard to statutes that the presence of a severability clause 'may provide the assurance that the legislative body would have enacted remaining sections even if others are found invalid,' though 'it is not necessarily dispositive on that question.'

Id., slip op. at 20, quoting *McGowan v. State*, 148 Wn.2d 278, 294-95, 60 P.3d 67 (2002).

3. The farmworker exemption at issue in this case is contained in RCW 49.46.130(2)(g). The history of every legislative enactment addressing RCW 49.46.130(2)(g) is as follows:
 - a. RCW 49.46.130 was originally enacted as Section 3 of Laws 1975 1st Ex. Sess. Ch. 289. That statute contained no severability clause. *Id., passim.*
 - b. The people extended minimum wage coverage – but not overtime coverage – to farmworkers in Initiative 518, Laws 1989, Ch. 1. That initiative amended RCW 49.46.010(5) but did not address the proviso in RCW 49.46.130(2) that would become RCW 49.46.130(2)(g). Initiative 518 contained no severability clause. Laws 1989, Ch. 1, *passim.*
 - c. RCW 49.46.130 was modified into its current form in Laws 1992, Ch. 94. The text of the statutory language now at RCW 49.46.130(2)(g) was not changed from its original enactment in 1975, nor has the relevant text changed since that time. That statute contained no severability clause. Laws 1992, Ch. 94, *passim.*

DATED: January 23, 2020.

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CERTIFICATE OF SERVICE

I certify that at all times mentioned herein, I was and am a resident of the state of Washington, over the age of 18 years, not a party to the proceeding or interested therein, and competent to be a witness therein. My business address is that of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, Washington 98101.

On January 23, 2020, I electronically filed the foregoing document with the Supreme Court by using the Supreme Court's electronic filing portal. Participants in this case who are registered eportal users will be served via that system:

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DATED at Seattle, Washington, this 23rd day of January, 2020.

s/Debbie Dern
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