

FILED
SUPREME COURT
STATE OF WASHINGTON
8/12/2025 2:24 PM
BY SARAH R. PENDLETON
CLERK

Supreme Court No. 1043805
Court of Appeals No. 868161 – Division 1
Snohomish County Superior Court No. 22-2-03565-31

SUPREME COURT OF THE
STATE OF WASHINGTON

KEVIN HARRIS, Petitioner,

v.

CB SOLUTIONS, LLC, and
DANIEL ALLEN, Respondents.

**ANSWER TO
PETITION FOR REVIEW**

Timothy J. Knowling, WSBA 6625

Attorney for CB Solutions, LLC, and Daniel Allen,
Respondents

Law Offices of Timothy J. Knowling
1833 N 105th St, Suite 101
Seattle, WA 98133
(206) 282-5630
tim@knowlinglaw.com

Table of Contents

I. INTRODUCTION.....	1
II. ARGUMENTS.....	1
A. REVIEW SHOULD BE DENIED BECAUSE NO EXCEPTIONAL CIRCUMSTANCE OR PUBLIC INTEREST MERITS REVIEW.....	1
B. HARRIS’S WLAD RELIGIOUS DISCRIMINATION CLAIM FAILS BECAUSE HARRIS FAILED TO PRESENT ANY EVIDENCE THAT HE INFORMED CB SOLUTIONS OF HIS RELIGIOUS BELIEFS.	2
C. HARRIS’S EQUITABLE ESTOPPEL CLAIM FAILS BECAUSE HARRIS FAILED TO PRESERVE HIS EQUITABLE ESTOPPEL THEORY FOR APPEAL AT THE TRIAL COURT LEVEL.....	4
III. CONCLUSION.....	6

Table of Authorities

CASES

<u>Kumar v. Gate Gourmet Inc.</u> , 180 Wn.2d 481, 325 P.3d 193 (2014)	3
<u>Martin v. Gonzaga Univ.</u> , 191 Wn.2d 712, 425 P.3d 837 (2018)	3
<u>Wilcox v. Lexington Eye Inst.</u> , 130 Wn. App. 234, 241, 122 P. 3d 729 (2005)	4
<u>Zonnebloen, LLC v. Blue Bay Holdings, LLC</u> , 200 Wn. App. 178, 183, 401 P.3d 468 (2017)	3

STATUTES

RCW 49.60, Washington Law Against Discrimination (WLAD)	2
--	---

RULES

Rules of Appellate Procedure 13.4(b)	1
Rules of Appellate Procedure 18.17	6
Rules of Appellate Procedure 2.5(a)	4
Washington Civil Rule 59	4

I. INTRODUCTION

Respondents CB Solutions, LLC (“CB Solutions”), and Daniel Allen (“Allen”), the manager of CB Solutions, submit this Answer to Kevin Harris’s Petition for Review. Kevin Harris (“Harris”) is petitioning the Supreme Court to review the Division One Court of Appeals unpublished opinion (Case No. 86816-1-I), filed April 28, 2025, affirming the trial court’s summary dismissal of Harris’s claims against his former employer for wrongful termination (Snohomish Superior Court, Case No. 22-2-03565-31). CB Solutions terminated Harris’s employment on September 3, 2021, after Harris refused to comply with CB Solution’s COVID -19 vaccination policy.

II. ARGUMENTS

A. Review should be denied because no exceptional circumstance or public interest merits review.

Under RAP 13.4(b), the Supreme Court may accept a petition for review only: “(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.” RAP 13.4(b).

Harris’s petition raises none of these issues. The appellate opinion conforms to existing doctrine. No split of authority, novel constitutional question, or pressing policy concern warrants further review under RAP 13.4(b).

B. Harris’s WLAD religious discrimination claim fails because Harris failed to present any evidence that he informed CB Solutions of his religious beliefs.

To succeed under the Washington Law Against Discrimination (WLAD), a plaintiff must show “that (1) he or she had a bona fide religious belief, the practice of which conflicted with employment duties; (2) *he or she informed the employer of the beliefs and the conflict* [emphasis added]; and (3) the employer responded by subjecting the employee to

threatened or actual discriminatory treatment.” Kumar v. Gate Gourmet Inc., 180 Wn.2d 481, 501, 325 P.3d 193 (2014).

On summary judgment, the moving party has the initial burden to show there is no genuine issue of material fact. Zonnebloen, LLC v. Blue Bay Holdings, LLC, 200 Wn. App. 178, 183, 401 P.3d 468 (2017). A moving defendant can meet this burden by establishing there is a lack of evidence to support the plaintiff’s claim. *Id.* CB Solutions offered Harris’s interrogatory responses wherein Harris acknowledged that he did not request a religious exemption from the vaccine policy. CP at 781-782.

The burden then shifts to the nonmoving party to “set forth specific facts that sufficiently rebut the moving party’s contentions and disclose that a genuine issue as to a material fact exists.” Martin v. Gonzaga Univ., 191 Wn.2d 712, 425 P.3d 837 (2018). Harris did not present any admissible evidence to create a genuine issue of material fact about whether he informed CB Solutions of his religious beliefs and

their conflict with his employment duties. Therefore, Harris failed to meet his burden.

The trial court dismissed Harris's WLAD claim. The Court of Appeals affirmed.

C. Harris's equitable estoppel claim fails because Harris failed to preserve his equitable estoppel theory for appeal at the trial court level.

Harris did not raise his theory of estoppel until his CR 59 motion for reconsideration, after the trial court granted summary judgment against him. CR 59 gives a trial court discretion, on the motion of an aggrieved party, to vacate a decision and reconsider the issues. *See* CR 59. The Court of Appeals found that the trial court did not abuse its discretion by rejecting Harris's untimely raised equitable estoppel theory. *See Wilcox v. Lexington Eye Inst.*, 130 Wn. App. 234, 241, 122 P. 3d 729 (2005) ("CR 59 does not permit a plaintiff to propose new theories of the case that could have been raised before entry of an adverse decision."). Further, RAP 2.5(a) gives

appellate courts discretion to reject unpreserved claims, which the Court of Appeals exercised appropriately.

In any event, CB Solutions did not prevent Harris from requesting a religious exemption. On or about August 18, 2021, CB Solutions announced by email a company policy requiring its employees to be fully vaccinated against COVID-19 by September 3, 2021. CP at 803-805. The email and policy notified employees, “Written personal exceptions may be given – *please email Danny Allen.*” CP at 804. On August 20, 2021, Harris submitted a request for an exemption, but did not articulate any religious objection to the vaccination in it. CP at 809. On August 27, 2021, Allen met with Harris to discuss Harris’s exemption request. CP at 267-268. Several days later, on September 1, 2021, CB Solutions informed Harris by email that CB Solutions would not be offering an exemption to the company vaccine mandate. CP at 810.

Harris offered no evidence that he was dissuaded from requesting a religious exemption in his August 20, 2021 vaccination exemption request.

III. CONCLUSION

Harris's claims were thoroughly considered and properly rejected by both the trial court and Court of Appeals. Further, he fails to satisfy the criteria for discretionary review. Therefore, his petition should be denied.

This document contains 1202 words, excluding parts of the document exempted from the word count by RAP 18.17.

Dated: August 12, 2025.

Respectfully Submitted,

LAW OFFICES OF TIMOTHY J. KNOWLING

s/ Timothy J. Knowling

Timothy J. Knowling, WSBA #6625
Attorney for Respondents

CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that on this 12th day of August 2025, I caused a copy of the foregoing to be served on the persons listed below in the manner(s) so indicated:

<p>Appellant:</p> <p>Kevin Harris 2201 192nd St. SE, Unit P2 Bothell, WA 98012 Ph: (916) 813-7986 Kevinharris31989@gmail.com</p>	<p><input checked="" type="checkbox"/> E-service <input type="checkbox"/> Email <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile</p>
--	---

s/ Hillary Morgan
Hillary Morgan

LAW OFFICES OF TIMOTHY J. KNOWLING

August 12, 2025 - 2:24 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,380-5
Appellate Court Case Title: Kevin Harris v. CB Solutions, LLC and Daniel Allen
Superior Court Case Number: 22-2-03565-8

The following documents have been uploaded:

- 1043805_Answer_Reply_20250812141841SC427202_6682.pdf
This File Contains:
Answer/Reply - Answer to Petition for Review
The Original File Name was CBS Answer to Petition for Review.pdf

A copy of the uploaded files will be sent to:

- Kevinharris31989@gmail.com
- hillary@knowlinglaw.com

Comments:

Sender Name: Hillary Morgan - Email: hillary@knowlinglaw.com

Filing on Behalf of: Timothy John Knowling - Email: tim@knowlinglaw.com (Alternate Email: admin@knowlinglaw.com)

Address:
1833 N 105th St. - Suite 101
Seattle, WA, 98133
Phone: (206) 282-5630

Note: The Filing Id is 20250812141841SC427202