

**DRAFT MEETING MINUTES  
MAY 2, 2007  
EMPLOYMENT LAW ADVISORY COMMITTEE  
TUMWATER L&I, BOARDROOM**

Attendees:

1. Employment Law Advisory Committee Members: David Mark (Atty), Jeff Johnson (WSLC), Doug Smith (), Kris Tefft (AWB), Rick Anderson (WSFB) Vicki Marin ()
2. L & I Staff: Rich Ervin, Suchi Sharma, Janis Kerns, Joseph Holly, Patricia Kennish, and Carlena Anderson
3. Other Participants: Kara Larson (AAG) Jill Reinmuth, Joan Elgee , Dan Fazio [WSFB], and Eric Peterson (AAG)

Agenda Item	Discussion	Action	Due Date
<b>Opening Remarks Introductions</b>	Suchi opened the meeting with a roll call. Patrick Woods spoke regarding the need for the committee and the commitment to help employees and employers be in compliance. Minutes from January 1, 2007 were adopted with a change to the date for the next meeting.		
<b>Significant Case Review</b>	<p><b><i>Bostain v. Food Express</i></b>- overtime for trucking hours outside of Washington</p> <p>L&amp;I will have to amend/clarify or repeal the current WAC. It was suggested that we talk with the Washington Trucking Association (WTA) regarding the economic impact and speak with the workers. Discussion that next steps are all contingent on the Supreme Court.</p> <p>“Reasonable equivalency” language. What does it means and when did it come about? L&amp; I sometimes has requests for approval of these plans. It was also brought up that there have been some other court cases that have helped to define it.</p> <p><b><i>Cerillo v. Esparza</i></b>- transporting agricultural commodities</p> <p>Kris Tefft brought up the <i>Berrocal</i> decision. He feels that the Department position of supporting HB 1920 in the Legislature was inappropriate. Thinks we should run these things through ELAC.</p> <p>Discussion about how advocates put forward the <i>Cerillo</i> bill and L&amp;I had no part in that. The main purpose of ELAC is to overcome the differences.</p> <p>It is important to involve all stakeholders and if</p>		

	<p>the department is taking a side to a bill, there is a need to get everyone involved for discussion. But the committee cannot be used to put off or delay legislation. Ended discussion with Suchi, Kris, and Jeff to propose how we should handle legislative concerns next year.</p> <p><b>Morin v. Harrell-</b> casual labor vs. domestic service Update on the timeline for oral argument before the Supreme Court.</p> <p><b>Stevens v. Brinks-</b> commute time in a company owned vehicle/voluntary use is not owed</p> <p><b>FLCA bill-</b> not Department legislation Update  1) 2006-Dept involved in work group meetings  2) 2007-Advocates proposed bill  Rep Kenney asked for department involvement  Interim activity- mediator to bring sides together and reach an agreement</p> <p><b>Underground economy-</b> There is a need to figure out the law and get a clear statement regarding independent contractors. This is possibly going to need a workgroup to discuss and work through the issues. Increased regulations can help to correct the lawlessness. There was a decision to table the discussion for next meeting.</p>		
<b>Family Leave</b>	<p>The FAQ that was proposed by the subcommittee was introduced. There was discussion about rule making. It was decided to talk about this during our July meeting. Comments on the FAQ were due to Suchi by May 18, 2007.</p>	Comments requested on substance of FAQ	5-18-07
<b>Rule-Policy Integration update</b>	<p>On WAC 296-126, Suchi gave a brief history as to the work that has been done on this project. She stated that no comments had been received. The deadline for comments was given as June 4, 2007.</p>	Any comments to Suchi (shav235)	6-4-07
<b>Child Labor rules</b>	<p>The latest child (teen) labor rules were provided. There was a request to provide via email the latest version with the edits. It was discussed that the federal child labor rules were going to be revised. Consensus was to move forward with our changes regardless of the possibility of federal changes.</p>	Comments needed.	6-4-07

<b>Requests for determinations and opinions</b>	There was a discussion about the need to come up with a process on how the department handles requests for determinations or opinions; what is needed and the length of time needed to process. This is for opinion letters, declarations, and determinations. There was discussion of setting up a committee/workgroup to set up a policy for requests of opinion/determinations. Work group would include Doug Smith, David Mark, Rich and Suchi.	Report to Suchi on discussions	6-29-07
<b>Wage Payment Act (WPA)</b>	Rich provided a progress report on DOC and NOA's that had been issued under the Wage Payment Act. There was a request for a more quantitative/qualitative report. The committee wants us to tell the story about what has happened since the Wage Payment Act was enacted.		
<b>Meal and rest periods</b>	L&I provided the second DRAFT of the meal/rest breaks revisions/clarification. There was discussion regarding scheduled v. allowed. The intent of the law was to allow the breaks and scheduling in many settings is not a feasible requirement. Health and Safety factors were discussed as a possible addition to the rule. The 3-hour vs 4- hr concept needs to be clarified.		
<b>Next Meeting</b>	July 12, 2007 9:30-4:00 Tukwila Service Location		