



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

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June 18, 2025

Via E-mail and U.S. Mail

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David Daniel Camacho
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**RE: Seattle Outdoor Spaces, LLC & Tamara Thiel, as an Individual
OAH Docket No. 09-2024-LI-02240
Director No. 2025-015-WPA**

Dear Parties:

Please find the enclosed Director's Order, which is served on the date of mailing.

Sincerely,

Joel Sacks
Director

Enclosure

cc: Judge Dan Gerard
Haley Bobbitt, Tacoma OAH
Anastasia Sandstrom, AAG

**DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON**

In re:

SEATTLE OUTDOOR SPACES, LLC &
TAMARA THIEL, as an Individual,

Respondents,

Appeal of Citation and Notice of Assessment
No. W-193-24,

OAH Docket No. 09-2024-LI-02240.

No. 2025-015-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor and Industries, having considered the appeal filed by the Employment Standards Program of the Washington State Department of Labor and Industries (L&I), briefing submitted to the Director's office, and having reviewed the record, issues this Director's Order. The parties to this matter are Seattle Outdoor Spaces, LLC and Tamara Thiel (collectively "Seattle Outdoor") and L&I.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. On December 20, 2022, David Daniel Camacho filed a wage complaint against Seattle Outdoor and Tamara Thiel.
2. The industrial relations agent assigned to the case reached out to Camacho to request additional information.

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3. The industrial relations agent was on leave from early January 2023 to February 14, 2024.
4. L&I did not receive confirmation of the amount of unpaid hours from Camacho until February 23, 2023.
5. The industrial relations agent then contacted Thiel to obtain information from the employer with a response date of March 16, 2023.
6. On March 16, 2023, the industrial relations agent received a response from Seattle Outdoors acknowledging that Camacho was its employee and that it owed him wages.
7. On March 29, 2023, the industrial relations agent sent a letter indicating that Seattle Outdoors should respond by April 8, 2023, either by submitting payment for the unpaid wages or by providing copies of the requested payroll records that showed wages were not owed. Seattle Outdoors did not respond to this letter.
8. On April 11, 2023, the industrial relations agent sent Seattle Outdoor and Camacho a Notice of Extension notifying them that L&I required an additional 75 days to complete the wage complaint investigation.
9. During the period from December 2022 through May 2024, L&I was working through a significant backlog of pending wage complaints. A multitude of factors contributed to the existence of the backlog, including staffing issues and the complexity of circumstances associated with the wage complaints. The reasons for the delay in issuing the citations in this case stemmed from translation needs, L&I's indication to give the employer time to add any additional information during the investigation, and the significant backlog due to limited resources. These factors all contributed to issuing the citations beyond 60 days from when L&I received the wage complaint at issue.
10. L&I had good cause to extend its investigation.
11. On May 2, 2024, L&I issued a Citation and Notice of Assessment to Tamara Thiel.
12. On May 23, L&I issued a Citation and Notice of Assessment to Seattle Outdoor.
13. The Office of Administrative Hearings issued and served the Initial Order on Summary Judgment Motion on February 28, 2025, reversing the citations.
14. The Director received a timely filed petition for administrative review from L&I

on March 31, 2025.

II. CONCLUSIONS OF LAW

1. Based on L&I's timely filed petition for administrative review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.
2. In 2006, the Legislature adopted the Wage Payment Act. Laws of 2006, ch. 89, §§ 1-5. This Act allows L&I to institute administrative actions to collect unpaid wages, interest, and penalties when an employer does not comply with the Minimum Wage Act and other wage laws. RCW 49.48.082(12), .083.
3. The Wage Payment Act is part of Washington's "long and proud history of being a pioneer in the protection of employee rights." See *Drinkwitz v. Alliant Techsystems, Inc.*, 140 Wn.2d 291, 300, 996 P.2d 582 (2000). Remedial wage laws are liberally construed to favor coverage of employees. See *Anfinson v. FedEx Ground Package Sys., Inc.*, 174 Wn.2d 851, 870, 281 P.3d 289 (2012). When the Supreme Court upheld Washington's first minimum wage laws from constitutional challenges nearly a century ago, it recognized: "The exploitation of a class of workers who are in an unequal position with respect to bargaining power, and are thus relatively defenseless against the denial of a living wage, is not only detrimental to their health and wellbeing, but casts a direct burden for their support upon the community." *W. Coast Hotel v. Parrish*, 300 U.S. 379, 399, 57 S. Ct. 578, 81 L. Ed. 703 (1937). Because "[t]he community is not bound to provide what is, in effect, a subsidy for unconscionable employers[.]" the Supreme Court concluded that Washington "may direct its law-making power to correct the abuse which springs from [employers'] selfish disregard of public interest." *Id.* at 399-400. Such abuse is corrected by the Wage Payment Act, which enforces the Minimum Wage Act. RCW 49.48.082(12).
4. The fundamental objective in interpreting a statute is to give effect to the Legislature's intent. *State v. Larson*, 184 Wn.2d 843, 848, 365 P.3d 740 (2015). Courts examine the plain language of a statute to determine legislative intent. *Id.* In discerning legislative intent, courts look to the text of the statutory provision in question, the context of the statute, related provisions, and the statutory scheme as a whole. *Dep't of Lab. & Indus. v. Cannabis Green, LLC*, No. 102922-5, 2025 WL 1523430, at *5 (Wash. May 29, 2025). The paramount concern in interpreting a statute is to ensure that the interpretation is consistent with the underlying policy of the statute. *Dep't of Nat. Res. v. Marr*, 54 Wn. App. 589, 593, 774 P.2d 1260 (1989). When interpreting remedial labor statutes, any doubts must be "resolved in favor of the worker." *Cannabis Green*, 2025 WL 1523430, at *6 (citation omitted).

5. RCW 49.48.083(1) provides:

If an employee files a wage complaint with the department, the department shall investigate the wage complaint. Unless otherwise resolved, the department shall issue either a citation and notice of assessment or a determination of compliance no later than 60 days after the date on which the department received the wage complaint. The department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period and specifying the duration of the extension. The department may not investigate any alleged violation of a wage payment requirement that occurred more than three years before the date that the employee filed the wage complaint.

6. L&I did not complete its investigation within 60 days, nor did it request an extension for good cause until after the 60-day period. But these facts do not mean that the citations should be reversed. The word “shall” in the statute in this context is directory not mandatory. “Shall” imposes a mandatory duty unless a contrary legislative intent is apparent. *Ctr. for Env’t L. & Pol’y v. Dep’t of Ecology*, 196 Wn.2d 17, 30, 468 P.3d 1064 (2020). Ultimately, “shall” is interpreted as directory, rather than mandatory, when a literal reading would frustrate the legislative intent. *Frank v. Dep’t of Licensing*, 94 Wn. App. 306, 311, 972 P.2d 491 (1999). The context of the statute shows no intent to impose a mandatory duty because this would frustrate the ability to collect unpaid wages—the underlying goal of the Wage Payment Act.
7. RCW 49.48.083(1) does not state a remedy for not completing the investigation within 60 days. In contrast, it prohibits an investigation for a violation of wage payment requirement that occurred more than three years before the date that the employee filed the wage complaint. The fact that the Legislature specifically prohibited an investigation after three years of the violation and not the 60-day period must be presumed to be a deliberate intent to not prohibit an investigation beyond 60 days. “[T]o express one thing in a statute implies the exclusion of the other.” *In re Det. of Williams*, 147 Wn.2d 476, 491, 55 P.3d 597 (2002).
8. RCW 49.48.083(1) gives four options only for deciding a wage complaint: it is “otherwise resolved”—i.e., a settlement; it results in a citation showing a violation; it results in a determination of compliance showing no violation; or it is more than three years so can’t be investigated. There is no option for dismissal of a complaint for not investigating within 60 days. Adding such an option would be

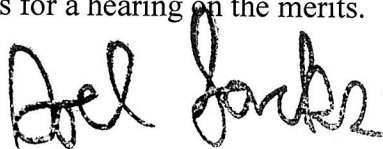
adding terms to a statute, which the tribunal does not do. *See City of Seattle v. Fuller*, 177 Wn.2d 263, 269, 300 P.3d 340 (2013).

9. Legislative intent is key in determining whether “shall” is directory. *Ctr. for Env’t L. & Pol’y*, 196 Wn.2d at 30. “In determining the meaning of the word ‘shall’ we traditionally have considered the legislative intent as evidenced by all the terms and provisions of the act in relation to the subject of the legislation, the nature of the act, the general object to be accomplished and consequences that would result from construing the particular statute in one way or another.” *Ctr. for Env’t L.*, 196 Wn.2d at 30 (citation omitted). The underlying policy of the Wage Payment Act is to ensure that workers receive unpaid wages. RCW 49.48.083. The Legislature wished for workers to be paid when their employers violated wage payment requirements. RCW 49.48.083. And it also wanted employers to receive a determination of compliance to refute a complaint if there was no violation. There is no intent by the Legislature to punish workers for L&I’s alleged procedural imperfections. The consequence of a dismissal would be to punish the worker even though they timely filed a workers’ rights complaint.
10. The purpose of the statute is only to encourage action. When a statute sets forth a specific time for a government agency or its officer to act, the statutory timeline presumptively operates, unless expressly stated otherwise, “as a spur to prompt action, not as a bar to tardy completion of the business” mandated. *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 172, 123 S. Ct. 748, 154 L. Ed. 2d 653 (2003).
11. The remedy for not keeping within the timeline is a writ of mandamus to compel action. *See Dils v. Dep’t of Lab. & Indus.*, 51 Wn. App. 216, 220, 752 P.2d 1357 (1988); RCW 7.16.160.
12. In any event, even if there is a mandatory requirement, it does not mean that the citations should be reversed. Under the modern approach to jurisdiction, the contested requirement in RCW 49.48.083(1) is not jurisdictional. Subject matter jurisdiction’ refers to a tribunal’s ability to entertain a type of case: “A tribunal lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate.” *Marley v. Dep’t of Lab. & Indus.*, 125 Wn.2d 533, 539, 886 P.2d 189 (1994). A lack of subject matter jurisdiction “implies that [the tribunal] has no authority to decide the claim at all, let alone order a particular kind of relief.” *Id.* “If the type of controversy is within the subject matter jurisdiction, then all other defects or errors go to something other than subject matter jurisdiction.” *Id.* (quoting Robert J. Martineau, *Subject Matter Jurisdiction as a New Issue on Appeal: Reining in an Unruly Horse*, 1988 B.Y.U.L.Rev. 1, 28).

13. L&I has the authority to judge wage payment disputes (RCW 43.22.270; RCW 49.48.083), so RCW 49.48.083 is not jurisdictional, and any purported error goes to something else other than subject matter jurisdiction. *See Marley*, 125 Wn.2d at 539.
14. If a matter is not jurisdictional then prejudice must be shown. *Dougherty v. Dep't of Lab. & Indus.*, 150 Wn.2d 310, 319-20, 76 P.3d 1183 (2003).
15. "Error without prejudice is not grounds for reversal, and error is not prejudicial unless it affects the case outcome." *Qwest Corp. v. Washington Utilities & Transp. Comm'n*, 140 Wn. App. 255, 260, 166 P.3d 732 (2007); *Motley-Motley, Inc. v. State*, 127 Wn. App. 62, 79, 110 P.3d 812 (2005) (when alleging improper investigation, must show prejudice to receive dismissal); *Frank*, 94 Wn. App. at 312-13 (even when "shall" is mandatory, party must show prejudice to obtain dismissal).
16. Seattle Outdoor has alleged no prejudice and shows none. A thorough review is not a prejudicial one. Delay is common in civil litigation.
17. In addition to showing no prejudice, Seattle Outdoors has not refuted L&I's evidence that L&I showed good cause for the delays in the investigation.
18. The grant of summary judgment to Seattle Outdoors is reversed and summary judgment granted to L&I that its investigation was valid, with no dismissal warranted. *See Impecoven v. Dep't of Revenue*, 120 Wn.2d 357, 365, 841 P.2d 752 (1992).
19. This matter is remanded to Office of Administrative Hearings to conduct a hearing on the merits. The Director does not retain jurisdiction of this matter, and an Initial Order should be issued, absent other resolution of the case by the parties.
20. If on remand, the Citations and Notices of Assessment are sustained, the penalties are hereby waived.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Initial Order on Summary Judgment Motion of February 28, 2025, is REVERSED and the matter is REMANDED to the Office of Administrative Hearings for a hearing on the merits.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to directorappeal@lni.wa.gov or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides: "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

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DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the **DIRECTOR'S ORDER** was mailed on the dated listed below to the following via regular U.S. Mail, postage prepaid:

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Tamara Thiel
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DATED this 18 day of June, 2025 at Tumwater, Washington.


LISA DECK

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