

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
6/23/2020 2:26 PM  
BY SUSAN L. CARLSON  
CLERK

No. 98633-9

SUPREME COURT OF THE STATE OF WASHINGTON

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UNEMPLOYMENT LAW PROJECT, et al.

Petitioners,

v.

SUZAN LEVINE, COMMISSIONER FOR THE WASHINGTON STATE EMPLOYMENT  
SECURITY DEPARTMENT,

Respondent.

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SUPPLEMENTAL DECLARATION OF MARIANNE WHITE

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THE SHERIDAN LAW FIRM, P.S.

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Attorneys for Petitioners

I, Marianne White, make the following statement based on personal knowledge.

1. On Tuesday, June 9, I emailed Pramila Jayapal's office and asked for assistance with my claim. On June 10th Jayapal's office (Sool Abdirahman, Casework Assistant) called me and said they would add me to the list of people they were helping. She advised me to continue to call ESD and try to get answers over the phone.
2. On June 11, 2020, I called and spoke with a tier 3 ESD rep. She stayed on the phone with me for over 1.5 hours trying to find out why I was disqualified from benefits. She told me I had 2 items in adjudication, one was an old standby claim and the other was because my employer had not returned a lay off form in a timely manner.
3. On June 11, 2020, I spoke with my employer and he specifically remembers sending that form in to ESD in late March/early April, 2020.
4. On June 12, I received a letter from ESD stating that my case had be redetermined as eligible.
5. On June 13, 2020, I called ESD again and asked to see if there any updates. The rep said they were tier 1 and advised me to call back on Monday.

6. On June 15, I called Jayapal's office again and spoke with Sool Abdirahman. She said they had submitted my name and info to ESD for escalation, but I should still keep trying to call ESD for answers.
7. On June 15, I called ESD about 200 times and finally got thru on the call line at 3:30pm June 15th, 2020. I spoke with a tier 2 specialist who immediately asked me to provide my ID and SS card to an email address esd-fraud@esd.wa.gov so she could verify my identity and I sent them. The tier 2 specialist told me the reason why I remained disqualified is because I answered "NO" to the able and available request on June 6th.
8. I told her I was answering honestly and that my job is a night job. She also said that my job code specified that I need to be able and available to work 8am-6pm Monday thru Friday and that she was looking for a more suitable job code. I explained to her that I have been in this line of work for 25 years and have never struggled with gaining employment. She suggested "bartender" instead of "manager" as a job code but warned me that it would need to be able and available to work 24/7 under that job code.
9. The tier 2 specialist, told me to provide a written statement through the ESD portal explaining why I am NOW able to work. She said

she could not change the job code for me and that I'd have to provide a statement thru the portal, which I did not do. I told her I'd have to leave my kids at home alone just to be able to answer YES to their requirements, but I would do it just to get approved. I started crying and ended up hanging up on her by stating, "I am hanging up now before I say anything more," because it was just too much to ask. I am so upset, I not able to keep my thoughts straight. I am emotionally and mentally exhausted. I cannot afford to pay my bills. We paid our mortgage late on June 13th, and now we have \$144.79 in our bank account to last until June 25th, when my husband gets paid again.

10. At 11am on 6/16/2020, I called ESD again and spoke with a tier 1 specialist. She saw all of the issues on my account and stated, "you have a really good case for appeal," noting there were conflicting issues on my account.

11. The able and available thing seems to be the focus now. The letter I received, dated June 3rd, 2020 states, "We decided you are not able to work and available for work all hours and days usual for your type of work." My type of work is in a bar, and USUAL bar hours are not what I was being told I should be available for. Clearly, they have the wrong job code or description for me. I am a manger

but categorizing me into one group with managers at grocery stores, office settings, etc. makes no sense. They didn't take into account that bars have hours outside the traditional 8am-5pm Monday thru Friday work week.

12. Therefore, I answered NO when I was asked if I was able and available because I care for my 9-year-old during the day now that school is closed, but I am able and available to work my regularly scheduled job at Beer Star where I am on standby status and will return to work once my employer reopens.

13. I am seeing some people posting on my Facebook support group that ESD is freezing their bank accounts and garnishing their monies due to overpayment of benefits.

14. The letter I received from ESD, dated June 3, 2020 states,

“You must make payments on time. If you don't, we could:

-Garnish your wages or bank account (s); or

-Withhold your income tax refund.”

This is terrifying to me. My husband is working and bringing in money thru his job, but we share a bank account. If they freeze our accounts, we will have NOTHING. I advised him to tell his employer to deposit his pay into a separate account in his name only, so we don't have to worry about ESD taking his pay.

15. At 1pm on 6/16/2020, I called again and got thru to a tier 3 specialist who says on week ending May 30, 2020, I answered my able and available questions with a NO, instead of a YES, which is obviously not the case. If I indeed hit NO, it was a mistake. She said, "I am reading your notes and I can see how unhappy you have been with this." I said, "It's not even about me being unhappy anymore. We have a mortgage, we have kids, we have bills and we are SUFFERING." I went on to tell her that I had spoken with a young lady who was dealing with the same 'disqualified' issues as me. I explained how her daughter had committed suicide in May and she couldn't afford to pay for the funeral. I said, "This is bad!!!" The representative shot back, "I'd like to thank you for ending my day on that note," angrily, and said, "I'm going to send this to my supervisor and note that you have an attorney representing you in this matter." As if her problems are worse!!! Then she hung up.

16. On 6/16/2020, I emailed Senator Patty Murray, Senator Karen Keiser, Rep. Mia Gregerson, Rep. Tina Orwall the following: "I am hoping you can help me with my ESD issues. I have been determined disqualified from receiving my UI benefits for NO REASON! I have contacted Pramila Jayapal's office and they said

they would look into the issues, but I haven't been paid in a month. My family is suffering. We cannot pay our bills. My employer remains closed due to phases of reopening, but I do intend to return to my job as soon as I am asked to. I am also represented by Sheridan Law Firm to file a petition with the WA Supreme Court so people can be paid in a timely manner, but I am not seeing any progress on my personal claim. I am desperate and have no idea how this is going to get resolved without involving you. I would appreciate a reply!! Thank you!!”

17. On 6/16/2020, I received a call from Sarah ESD (800) 318-6022 at 2:36pm. I was advised that even if my standby stops, job search is optional unless ESD notifies me otherwise. She said, “it is difficult for all the new people working at ESD to grasp what is really going on. She stated, “we have not received any notification that the standby has stopped. If your husband goes back to work, it won't go to PUA unless your availability changes. If you become unavailable, let them know about the availability change on the UI claim. Once you are denied for UI, then you are eligible for PUA.” She continued, “I am going to have to transfer all your claims back to UI once we are off the phone because one of the last people you spoke with transferred half of your claims over to PUA. Then, I'll

check on it tomorrow and make sure there are no issues. You'll be receiving all the payments on the regular UI claim this evening, or the following day. When I come in tomorrow I will check on it and call you between 8:30am and 9:30am to let you know if there are any other issues."

18. On 6/17/2020, I woke up to find my claims all say paid, but money has not been deposited into my bank account yet. All of my claims have been moved to UI and there are no longer PUA claims. The ESD site now says I owe \$932 upon log-in, but the letter I received this morning (L0022344717/L0022344717-A) says I owe \$142. Interestingly, the same letter also claims, "You must pay it back because you were at fault for the overpayment."
19. On 6/18/2020, I received a direct deposit from ESD for \$5175. My ESD page remains the same, otherwise. I am still being billed for \$932 and I have no idea why. I have read several accounts of other claimants having their bank accounts frozen due to past due ESD balances, as well as identity fraud. I am scared this could also happen to me. I have also heard from one other person who was paid, then the money was taken back out of her account.
20. On 6/21/2020, I filed my weekly claim. The status now says processing-web as of June 22, 2020.

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20. On 6/21/2020, I filed my weekly claim. The status now says processing-web as of June 22, 2020.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED this 22<sup>th</sup> day of June, 2020 in  
BURIEN, Washington.

  
/s/ Marianne White  
Marianne White

**CERTIFICATE OF SERVICE**

I, Tony Dondero, certify under penalty of perjury under the laws of the State of Washington and the United States that, on June 23, 2020, I served the document to which this Certificate is attached to the party listed below in the manner shown.

ROBERT FERGUSON  
Attorney General

Eric D. Peterson, WSBA #35555  
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- By United States Mail
- By Legal Messenger
- By Facsimile
- By Overnight Fed Ex Delivery
- By Electronic Mail

Dated this 23rd day of June 2020.

*s/Tony Dondero* \_\_\_\_\_  
Tony Dondero,  
Legal Assistant

**THE SHERIDAN LAW FIRM, P.S.**

**June 23, 2020 - 2:26 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 98633-9  
**Appellate Court Case Title:** Unemployment Law Project et al. v. Suzan Levine

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