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EXPEDITE  
 No Hearing Set  
 Hearing is Set  
Date:  
Time:  
Judge/Calendar:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
THURSTON COUNTY

JOHN BOESPFLUG, an individual,  
  
Plaintiff,  
  
vs.  
  
STATE OF WASHINGTON,  
DEPARTMENT OF LABOR AND  
INDUSTRIES,  
  
Defendant.

Case No.:

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**I. PARTIES**

1.1 Plaintiff John Boespflug (“Boespflug” or “Plaintiff”), is a resident of  
Pierce County, Washington

1.2 Defendant State of Washington (“Washington State” or “Defendant”),  
is an employer within the meaning of RCW 42.40 and RCW 49.60. The Department  
of Labor and Industries (“L&I”) is a department of the State of Washington

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**II. JURISDICTION AND VENUE**

2.1 This Court has jurisdiction over this matter pursuant to RCW 4.28.020 and RCW 4.92.010.

2.2 Prior to filing this lawsuit, Mr. Boespflug timely filed an administrative tort claim with the Office of Financial Management, waited sixty days before filing this action, and fulfilled all other prerequisites for commencing this action under RCW 4.92.100. The content of the claim met the requirements of RCW 4.92.100.

**III. FACTS**

3.1 John Boespflug began working for the State of Washington, Department of Labor and Industries (“L&I”), on or about 1987, and he continues to work there as an electrical inspector/compliance officer.

3.2 The following facts, which support four whistleblower complaints filed by Mr. Boespflug and the retaliation that followed owing to the filings, reflect a serious cultural deficiency now prevalent at L&I, which holds that L&I needs to be more “customer friendly.” However, this new culture is twisted. L&I management asserts that the “customers” are the electrical and engineering companies which are wiring our state, and which are sometimes violating state laws and regulations designed to protect the citizenry from harm. L&I’s “customers” are in fact the citizens of the State of Washington. This cultural shift has resulted in L&I’s continued failure to enforce the laws and regulations applicable to electric work done in Washington, and that failure places our citizens in danger.

**Whistleblower Complaint No. 1**

1           3.3       On or about May 19, 2016, Mr. Boespflug observed Brandon Swenson,  
2 owner of Kraft Electric, engaged in making an electrical installation on a single-  
3 family residence. He stopped his car and asked Mr. Swenson if he had a permit for  
4 the work.

5           3.4       After determining that no permit had been obtained by Kraft Electric  
6 for the work Mr. Boespflug had observed being done, pursuant to L&I procedures,  
7 Mr. Boespflug called Mr. Swenson to notify him he would receive written warnings  
8 (“Kraft Electric written warnings”), because he had no violations on record.  
9

10          3.5       Procedurally, before an inspector issues a written warning or a citation,  
11 the inspector’s paperwork must be submitted for supervisor approval. First, a  
12 narrative statement of facts is sent by the investigator to the supervisor for approval,  
13 and if approved, then the actual written warning or citation and narrative statement  
14 (“Kraft Electric paperwork”) is sent by the investigator to the supervisor through a  
15 program called SAM. Second, the supervisor forwards the paperwork to E-CORE  
16 (Electrical-Compliance, Outreach, Regulation & Education) via SAM which  
17 processes the paperwork. Third, E-CORE actually sends out the warning or citation  
18 to the violator.  
19

20          3.6       At all times relevant to this complaint, Mr. Boespflug’s supervisor was  
21 L&I Electrical Inspection Division Region 3 Supervisor Jeff Ault.  
22

23          3.7       In May 2016, Mr. Boespflug sent the Kraft Electric narrative statement  
24 of facts to Mr. Ault via email. Mr. Alt approved the narrative and said words to the  
25 effect of, “They look great. Send them up.”

1           3.8       Mr. Boespflug forwarded the Kraft Electric paperwork to Mr. Ault via  
2 SAM. Mr. Ault then deleted the Kraft Electric paperwork without forwarding it to E-  
3 CORE, and without informing Mr. Boespflug or E-CORE of the deletion. Mr. Ault  
4 had no valid business reason to delete the Kraft Electric paperwork.

5           3.9       In June 2016, upon learning that Mr. Ault deleted the Kraft Electric  
6 paperwork, in good faith Mr. Boespflug made an internal complaint (“Whistleblower  
7 Complaint No. 1”) to the defendant’s management, including Chief Electrical  
8 Specialist Steve Thornton, reporting that Supervisor Jeff Ault improperly deleted the  
9 Kraft Electric paperwork without a justification.

10          3.10      After receiving Whistleblower Complaint No. 1, the defendant initiated  
11 an investigation into Mr. Ault’s deletion of the Kraft Electric paperwork. On  
12 information and belief, the investigation was ordered by either or both Chief  
13 Electrical Specialist Steve Thornton and/or Regional Administrator for L&I Region 3  
14 Janet Morris (“Whistleblower Complaint No. 1 Investigation”).

15          3.11      The Whistleblower Complaint No. 1 Investigation was conducted by  
16 L&I Department of Personnel Investigator Dixie Shaw. On information and belief,  
17 the Whistleblower Complaint No. 1 Investigation was concluded about December  
18 2016, without reaching a conclusion. Mr. Boespflug was not notified of the result.

19          3.12      During her investigation, Ms. Shaw assembled documents and  
20 assembled written witness statements, which were stored in a file (“Shaw File”). In  
21 early 2017, the Shaw file was provided to State Auditor’s Office (“SAO”)  
22 Investigator Jacquelyn Hawkins-Jones.  
23  
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1           3.13       Persons designated by L&I or the State to receive whistleblower  
2 complaints under RCW 42.40, received Whistleblower Complaint No. 1.

3           3.14       Through the delivery of the Shaw file to SAO Investigator Hawkins-  
4 Jones the SAO received Whistleblower Complaint No. 1 for the purposes of  
5 perfecting a claim under RCW 42.40.

6           **Whistleblower Complaint No. 2**

7  
8           3.15       ERS Group LLC (“ERS”) is a company owned by Rian Gorden. In  
9 June 2016, ERS installed a new electrical service at an existing mobile home for a  
10 new accessory dwelling unit (“ERS installation”). The ERS installation is located in  
11 the geographic inspection area assigned to Mr. Boespflug, and is located just outside  
12 of Buckley, Washington.

13           3.16       The first electrical inspection of the ERS installation was performed on  
14 June 21, 2016, by Michael Friend, a new and inexperienced electrical inspector, who  
15 at the time, was still on probation. He was sent from the Bremerton office to conduct  
16 the inspection, because Mr. Boespflug was out of the office on June 21, 2016.

17  
18           3.17       Mr. Friend conducted the first electrical inspection of the ERS  
19 installation, and as a result, he wrote a correction. A correction is a direction to make  
20 one or more changes in the installation to comply with applicable electrical codes.

21           3.18       Upon receipt of the correction, Mr. Gorden called L&I and complained  
22 that the correction was wrong and that the installation needed to be re-inspected  
23 immediately.  
24  
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1           3.19       Upon his return to work two days later, and upon hearing of Mr.  
2           Gorden's request for a re-inspection, the re-inspection was completed and Mr.  
3           Boespflug conducted the second electrical inspection of the ERS installation June 24,  
4           2016.

5           3.20       Mr. Boespflug found that the ERS installation was not in compliance.  
6           The new service was installed replacing the existing mobile home service, and was  
7           intended to feed both the existing mobile home and the new accessory dwelling  
8           mobile home unit. Mr. Boespflug wrote nine additional corrections, some of which  
9           were serious and if not corrected, were a threat to life and property, because the  
10          service was already energized.

12          3.21       Under applicable electrical codes, the violator is required to make  
13          corrections and to request re-inspection within fifteen days of receipt of the  
14          correction.

16          3.22       After about one month passed without Mr. Boespflug receiving a  
17          request for re-inspection regarding the ERS installation, on August 30, 2016, because  
18          he was in the Buckley area on other work, Mr. Boespflug decided to check on the  
19          ERS installation. On inspection, he found that the corrections had not been completed  
20          including the serious corrections. When he checked the status of the ERS installation  
21          in the Pairs Permit System program, Mr. Boespflug learned that on July 27 and 28,  
22          while Mr. Boespflug was absent from work owing to illness, Mr. Friend had returned  
23          to the ERS installation, presumably re-inspected, and marked the corrections as  
24          "complete." Mr. Friend approved the service and closed out the permit.

1           3.23       Mr. Boespflug telephoned Mr. Friend on August 31, 2016, and asked  
2 for an explanation. Mr. Friend stated that he had been called on the phone by the lead  
3 electrical inspector in Tacoma, Mike Hurlbut, and was told, “we need you to make  
4 this inspection go away.” Mr. Friend, in fear of losing his job because he was on  
5 probation, approved the installation.

6           3.24       On information and belief, Supervisor Jeff Ault and the lead electrical  
7 inspector, Mike Hurlbut, directed Mr. Friend to “make this go away” to placate Mr.  
8 Gorden by having ERS installation approved “as is.”

9           3.25       On September 5, 2016, in good faith, Mr. Boespflug sought advice  
10 from the State Auditor. He looked up the SAO telephone number and called. He  
11 spoke with Investigator Jacquelyn Hawkins-Jones and reported a summary of the  
12 improper acts by management in approving the ERS installation (“Whistleblower  
13 Complaint No. 2”). Ms. Hawkins-Jones suggested that he contact Cindy Baxley-  
14 Ravs, the L&I Department of Personnel liaison to the SAO for whistleblower  
15 complaints.  
16

17           3.26       On September 5, 2016, in good faith, Mr. Boespflug telephoned Ms.  
18 Baxley-Ravs, summarized Whistleblower Complaint No. 2, and followed up his  
19 complaint via email outlining the improper acts by management in approving the  
20 ERS installation (Whistleblower Complaint No. 2). Subsequently Mr. Boespflug met  
21 with Ms. Baxley-Ravs, and discussed Whistleblower Complaint No. 2. At that  
22 meeting, Ms. Baxley-Ravs said she would wait fifteen days and then forward the case  
23 to the SAO.  
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1           3.27       On information and belief, Ms. Baxley-Ravs was a designee to receive  
2 state employee whistleblower complaints.

3           3.28       Mr. Boespflug decided not to wait the fifteen days, and he went online  
4 and filed Whistleblower Complaint No. 2 electronically, referring the SAO to Ms.  
5 Baxley-Ravs for details.

6           3.29       On December 2, 2016, the SAO acknowledged receipt of  
7 Whistleblower Complaint No. 2, which was framed as follows:  
8

9           Issue 1: Did two Department of Labor and Industries supervisors  
10 endanger the health and safety of citizens when they instructed an  
11 electrical inspector to sign off on corrections that had not been  
12 completed? RCW 19.28.101, RCW 19.28.111, RCW 19.28.321, and  
13 RCW 19.28.331.

14           Issue.2: Did two Department of Labor and Industries supervisors grant  
15 a special privilege to an electrical contractor when they instructed an  
16 electrical inspector to sign off on corrections that had not been  
17 completed? RCW 42.40.020 and RCW 42.52.070.

18           3.30       The SAO has not issued a report or made findings regarding  
19 Whistleblower Complaint No. 2.

20 **Whistleblower Complaints No. 3 and 4**

21           3.31       In November 2016, Mr. Boespflug inspected an electrical installation  
22 being done by Betschart Electric Company, Inc. on a sewage lift station being built  
23 for the City of Bonney Lake (“Betschart installation”).

24           3.32       Upon inspection of the Betschart installation, Mr. Boespflug found  
25 violations, some which were serious and raised the possibility of igniting explosive  
gases if not corrected. Mr. Boespflug wrote two corrections (“Betschart installation



1 corrections”). Mr. Boespflug uploaded the corrections into the Pairs Permit System  
2 program.

3 3.33 On November 8, 2016, the engineering firm managing the sewage lift  
4 station being built for the City of Bonney Lake complained to Mr. Thornton, who  
5 after consultation with Mr. Ault, improperly removed the corrections without  
6 notifying Mr. Boespflug, and without requiring that the Betschart installation  
7 corrections be made.

8 3.34 In emails exchanged between Mr. Boespflug and Mr. Ault, Mr.  
9 Boespflug understood that Mr. Ault would not support the Betschart installation  
10 corrections. He also learned from a representative of Betschart Electrical that the  
11 design being used for the Betschart installation, which resulted in the corrections, was  
12 being duplicated at other installations throughout Washington State.

13 3.35 In January 2017, Mr. Boespflug re-inspected the Betschart installation,  
14 and observed that none of the Betschart installation corrections had been made. He  
15 was afraid to re-write the corrections, but he found an additional violation, for which  
16 he wrote a correction  
17

18 3.36 In January 2017, in good faith, Mr. Boespflug electronically filed  
19 another whistleblower complaint with the SAO alleging that Mr. Ault improperly  
20 deleted the Betschart installation corrections (“Whistleblower Complaint No. 3”).  
21

22 3.37 In January 2017, in good faith, Mr. Boespflug electronically filed  
23 another whistleblower complaint with the SAO alleging that Chief Thornton was  
24 colluding with Parametrix to preapprove their electrical designs on the Bonney Lake  
25

1 sewage lift station, and that Mr. Ault had improperly deleted the Betschart  
2 installation corrections (“Whistleblower Complaint No. 4”).

3 3.38 On or about January 5, 2017, Mr. Boespflug filed a formal complaint  
4 with the Washington State Human Rights Commission (“WSHRC”) under RCW  
5 42.40 *et seq.* regarding concerns about harassment and other adverse treatment  
6 following his initial report of improper governmental action and ethical improprieties.

7  
8 3.39 On February 7, 2017, at the request of management, Mr. Boespflug  
9 attended a meeting (the “February 7 Meeting”) conducted by Regional Administrator  
10 Janet Morris and Electrical Supervisor Jeff Ault. Also present were I.B.E.W. Local  
11 76 Representative and Assistant Business Manager Clint Byson and I.B.E.W. Local  
12 76 Steward Tony Bieward. Ms. Morris knew that Mr. Boespflug was a  
13 whistleblower, and privately told Mr. Boespflug that she knew he was the  
14 whistleblower or words to that effect.

15  
16 3.40 Prior to the February 7 Meeting, management did not notify Mr.  
17 Boespflug as to the purpose of the meeting.

18 3.41 The February 7 Meeting lasted more than two hours.

19 3.42 At the February 7 Meeting, Mr. Boespflug was confronted by Ms.  
20 Morris and/or Mr. Ault, with allegations that he committed various acts of  
21 misconduct. The allegations of misconduct pertained to events from 2016. Each  
22 allegation of misconduct was false. Prior to the meeting, Mr. Boespflug had not been  
23 counseled or disciplined for any of the alleged misconduct.  
24  
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1           3.43       At the February 7 Meeting, Mr. Boespflug denied each allegation of  
2 misconduct. Mr. Boespflug has not been disciplined for any of the alleged  
3 misconduct identified by either Ms. Morris or Mr. Ault at the February 7 Meeting.

4           3.44       On information and belief, the purpose of the February 7 Meeting was  
5 to intimidate Mr. Boespflug owing to his whistleblower filing.

6           3.45       Prior to this filing, L&I management had knowledge that Mr.  
7 Boespflug was a whistleblower, or perceived him to be a whistleblower, within the  
8 meaning of RCW 42.40(10).  
9

10 **Retaliation**

11           3.46       In retaliation for his whistleblowing, on or about October 26, 2016, Mr.  
12 Boespflug received a negative performance appraisal that included baseless  
13 allegations regarding his work performance and interactions with customers.

14           3.47       In retaliation for his whistleblowing, on or about November 21, 2016  
15 through November 30, 2016, while Plaintiff was on vacation, his work area was  
16 assigned to another inspector. Upon his return, Mr. Boespflug was removed from  
17 various work sites due to problems on some of the jobs that occurred during his  
18 absence and false allegations of client/customer dissatisfaction. Specifically, Mr. Ault  
19 removed Mr. Boespflug from his assigned inspection area of 29 years (area 4) and  
20 assigned him to Eatonville (area 5).  
21

22           3.48       At least one customer informed Plaintiff in late November of 2016 that  
23 based on his interactions with Jeffrey Ault in Plaintiff's absence, Mr. Ault was  
24 focused primarily on "getting him" and not resolution of the inspection issues.  
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**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

6.1 Damages for back pay, front pay, lost benefits, in an amount to be proven at trial;

6.2 Compensatory damages for loss of enjoyment of life, pain and suffering, mental anguish, anxiety, emotional distress, injury to reputation, and humiliation;

6.3 Prejudgment interest in an amount to be proven at trial;

6.4 Reasonable attorney's fees and costs;

6.5 Injunctive relief;

6.6 Compensation for the tax consequences associated with any recovery;

and

6.7 Whatever further and additional relief the Court shall deem just and equitable.

**VII. JURY DEMAND**

7.1 The plaintiff elects to have all claims and all issues tried by a jury of twelve (12) persons. Plaintiff has paid to the Clerk of the Court Thurston County the jury fee as required by law.

DATED this 17 day of October

THE SHERIDAN LAW FIRM, P.S.

By: \_\_\_\_\_

John P. Sheridan, WSBA # 21473  
Attorney for Plaintiff