

No. 21-425

In the
Supreme Court of the United States

Riccardo Green,
Petitioner,

v.

Washington State
Employment Security Department,
Respondent.

*On Petition for Writ of Certiorari to the
Supreme Court of Washington*

PETITION FOR REHEARING

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CORPORATE DISCLOSURE STATEMENT

The Corporate Disclosure Statement in the petition
for writ of certiorari remains unaffected.

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PETITION FOR REHEARING**Preamble**

By and thru, the Pet'r Riccardo Green, aka "advocate" is the party that filed this petition in this Ct. in timely manner. The Pet'r *respectfully, diligently, & urgently* requests this Ct. to grant the Writ under **Rule 10(a)(b)(c) & grant** this Petition under **Rule 44**. The Pet'r respectfully petitions this Ct. for a rehearing to review the Order denying the Writ of Certiorari dated Nov. 15, 2021. The original petition requested this Ct. to review the Order denying the PFR & Order denying the Mtn for Reconsideration by the WA State Supreme Ct. case no. **99285-1**. The Pet'r filed the Writ in timely manner under 28 U.S.C. § 1257(a), Rules 10(a)(b)(c), & 13, & paid the filing fee of **\$300**. The Pet'r paid the rehearing fee of **\$200** under Rule 38(b). The Pet'r petitions the nine members of this Ct. for a rehearing in this case. See *Home Ins. Co. v. New York*, 122 U.S. 636 (1887); *Selma, Rome & Dalton R.R. v. United States*, 122 U.S. 636 (1887); *Halliburton Oil Well*

Cementing Co. v. Walker, 329 U.S. 1 (1946); *Halliburton Oil Well Cementing Co. v. Walker*, 327 U.S. 812; *Forgett v. United States*, 390 U.S. 203 (1968); *Schipani v. United States*, 385 U.S. 372 (1966); *Balistrieri V. United States*, 395 U.S. 710 (1969); *Jones V. United States*, 392 U.S. 299 (1968); *United States V. Maryland For The Use Of Meyer*, 382 U.S. 158 (1965). See **Rule 44(2)** states in part “**Any petition for the rehearing of an order denying a petition for a writ of certiorari...filed within 25 days after the date of the order of denial...**”

The Pet'r filed an UIC with the state ESD on or about Jan. 2019. The state ESD determined Pet'r was qualified for UICB at about **\$18,434**. Pet'r only utilized about **\$9,892**. The state ESD **granted** UICB to the Pet'r in Jan. 2019 under **RCW 50.01.010**. Pet'r was **forced** to pay back **\$9,892** to the state ESD CU. In verse, the state ESD **still owes** the Pet'r **\$9,892** *plus* **\$2,400** totals at about **\$12,292** *plus* litigation costs. See *Peña-Rodriguez v. Colorado*, 137 S. Ct. 855 (2017); *Gonzalez v. Crosby*, 545

U.S. 524 (2005); *Evers v. Dwyer*, 358 U.S. 202, 203 (1958);
Wyatt v. Aderholdt, 503 F.2d 1305 (5th Cir. 1974); *Spain v.*
ESD, 164 Wash.2d 252, 185 P.3d 1188 (2008); *Smith v.*
ESD, 155 Wn. App 24, 32, 266 P.3d 263 (2010); *Tapper v.*
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ESD, 52 Wn. App. 21 1, 758 P.2d 547 (1988); & *Arnett v.*
Seattle General Hospital, WA State Board Against
Discrimination, 65 Wn.2d 22, 395 P.2d 503 (1964).

The WA State Supreme Ct. & the U.S. Supreme Ct.
 have a ***constitutional agreement*** expressed in the WA
 State Const. Article I § 2 Supreme Law of the Land states
**“The Constitution of the United States is the
 supreme law of the land.”** The WA State Const. Article I
 § 1, 2, 3, 10, 12, 28, 29, 30; Article XXV § 1; Article XXVII §
 1, 2; & Article XXXI § 1. The U.S. Const. Article VI § 2
Supremacy Clause states **“This Constitution, and the
 Laws of the United States...shall be the supreme Law
 of the Land...Judges in every State shall be bound
 thereby...”** The U.S. Const. Article III § 2 Extent of

Judicial Power states in part “The judicial Power shall extend to all Cases...under this Constitution...” The U.S. Const. 1st Amdt Free Speech & Free Exercise Clause; 5th Amdt § I Due Process Rights that state in part “...nor be deprived of life, liberty, or property, without due process of law...” The U.S. Const. 14th Amdt § I Due Process Rights and Equal Protection that states in part “All persons born or naturalized in the United States...nor shall any State deprive any person of life, liberty, or property, without due process of law...” See *WA State Board Against Discrimination v. Olympia School District*, 68 Wn.2d 262, 412 P.2d 769 (1966). See RCW 34.05.526.

REASONS FOR GRANTING THE PETITION FOR REHEARING

- I. Reasons to Accept this Petition are Linked to the Writ of Certiorari
 - A. Petitioner’s Internal Complaints to Union Staff SEIU 1199 NW Established No Misconduct under RCW 50.04.294(e)

The Pet'r **reasserts** all material facts and all evidence referenced in the Writ of Certiorari in support of this Petition. See **RCW 50.04.294(e)**. See *Schneider v. Equibank*, 744 F. Supp. 106, 108 (W.D. Pa. 1990); *Toussaint v. Blue Cross & Blue Shield*, 292 N.W.2d 880, 885 (Mich. 1980); *Thompson v. St. Regis Paper Co.*, 685 P.2d 1081, 1087 (Wash. 1984); *Roberts v. Atlantic Richfield Co.*, 568 P.2d 764, 768-69 (Wash. 1977); *Dicomes v. State*, 113 Wn.2d 612, 618, 782 P.2d 1002 (1989); *Amoco Oil Co. v. Ervin*, 908 P.2d 493, 498 (Colo. 1995).

B. Mr. J. W. Dishion *Failed/Refused* to File an Answer to Petitioner's PRC pgs. 1-14 filed on May 31, 2019 under RCW 34.05.570(4)(b) violated RPC 1.3, 8.4

The Pet'r **reasserts** all material facts and all evidence referenced in the Writ of Certiorari in support of this Petition. See *In re Discipl. Proceeding Against Miller*, 263 149 Wn.2d 262 (2003); *In re Disciplinary Proceeding Against David Carl Cottingham*, 191 Wn.2d 450, 423 P.3d 818 (2018). See **RCW 34.05.570(4)(b)**.

- II. PFR filed in WA State Supreme Court under RAP 13.4(a) should have been granted under RAP 13.4(a)(b)(1-4) violated Petitioner's substantive & procedural due process rights & equal protection rights; & violates the WA State Constitution Articles I, XXV, XXVII, XXXI, & U.S. Constitution 1st, 5th & 14th Amendments, & Articles III § 2 & VI § 2

The Pet'r reasserts all material facts and all evidence referenced in the Writ of Certiorari in support of this Petition. See RAP 13.4(b)(1-4). The 14th Amdt Equal Protection § 1 U.S. Const. states in part "...nor deny to any person within its jurisdiction the equal protection of the laws." The Pet'r obtains personal rights to a *substantive due process* because he has a substantive interest in this case that involves money owed to the Pet'r. See *Truax v. Raich*, 239 U.S. 33, 36 S.Ct. 7 (1915); *Yik Wo v. Hopkins*, 118 U.S. 356 (1885). The 14th Amdt § 5 U.S. Const., states in part "power to enforce...the provisions of this article." See *EEOC v. Wyoming*, 460 U.S. 226, 243 n.18 (1983); *Armstrong v. Wilson*, 942 F. Supp. 1252, 1261, 1262-63 (N.D. Cal. 1996);

New York v. United States, 505 U.S. 144 (1992).; *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 351 (1974); *Flagg Bros., Inc. v. Brooks* 436 U.S. 149, 166 (1978). The 5th Amdt § 1 U.S. Const. states in part “**...nor be deprived of life, liberty, or property, without due process of law...**”

See *Shelley v. Kraemer*, 334 U.S. 1 (1948); *Eggleston v. Pierce County*, 64 P.3d 618, 622 (Wash. 2003); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Browning v. Slenderella Systems of Seattle*, 54 Wn.2d, 440, 442, 341 P.2d 859 (1959); *O'Meara v. WA State Board Against Discrimination*, 58 Wn.2d 793, 798, 365 P.2d 1 (1961); *Curtis v. Interlake Realty*, 62 Wn.2d 928, 385 P.2d 37 (1963). The 1st Amdt Religion/Free Expression U.S. Const. states “**Congress shall make no law...the freedom of speech...to petition the Government for a redress of grievances.**”

Article 1 § 5 Freedom of Speech states “**Every person may freely speak, write and publish on all subjects...**” This is protected by the 1st Amdt Free Speech & Free Exercise Clause of the U.S. See *Garcetti*

v. Ceballos, 547 U.S. 410 (2006); *Connick v. Myers*, 461 U.S. 138 (1983); *Adair v. U.S.*, 208 U.S. 161, 174-175; *Barsky v. Univ. of the State of NY*, 347 U.S. 442, 472 74 S.Ct. 650 (1954).

Furthermore, the WA State Supreme Court's *denial* of the PFR filed under RAP 13.4(b)(1-4), RCW 34.05.526, RCW 34.05.570(4)(b), & the *denial* of the mtn for reconsideration under DRJ Rule 9(d)(e) violated the Pet'r's substantive/procedural due process rights, & equal protection rights under the U.S. Const. 1st, 5th, & 14th Amdts., & Articles III § 2 & VI § 2. See DRJ Rule 9(d) & RCW 34.05.526. The state Supreme Ct. obtains the highest duty & obligation to enforce state laws. The state Supreme Ct. violated its own state Const. Articles I, XXV, XXVII, & XXXI. See Article I § 1 Political Power states "All political power is inherent in the people...are established to protect and maintain individual rights." Article I § 2 Supreme Law of the Land states "The Constitution of the United States is the

supreme law of the land.” Article I § 3 Personal Rights states “No person shall be deprived of life, liberty, or property, without due process of law.” Article I § 10 Administration of Justice it states “Justice in all cases shall be administered openly, and without unnecessary delay.” Article I § 12 Special Privileges and Immunities Prohibited states in part “No law shall be passed granting to any citizen, class of citizens, or corporation...privileges or immunities...” See Article I § 28 Hereditary Privileges Abolished & Article I § 29 Constitution Mandatory. Article I § 30 Rights Reserved states in part “...Constitution of certain rights shall not be construed to deny others retained by the people.” Article XXV § 1 Authority of the United States states in part “The consent of the State of Washington...by the congress of the United States...” See Article XXVII § 1 Existing Rights; Actions, and Contracts Saved; Article XXVII § 2 Laws In Force Continued; Article XXXI § 1 Sex Equality-Equality Not

Denied Because of Sex; & Article XXXI § 2 Enforcement of Power of Legislature. The state COA & state Supreme Ct. **failed/refused** to enforce state laws against the Resp't *was* an abuse of discretion/erred in judgement, thus **violated** the Pet'r's procedural/substantive due process rights & equal protection rights under the 5th & 14th Amdts & Articles III § 2 & VI § 2 of the U.S. Const., & the WA State Const. Articles I, XXV, XXVII, & XXXI. See *Strauder v. West Virginia*, 100 U.S. 303 (1880); *Allgeyer v. Louisiana*, 165 U.S. 578 (1897); *City of Boerne v. Flores*, 521 U.S. 507 (1997); *Kimel v. Florida Board of Regents*, 528 U.S. 62 (2000); *Duncan v. Louisiana*, 391 U.S. 145, 147-48 (1968) ("holding the Due Process Clause of the Fourteenth Amendment incorporates most of the Bill of Rights against the States"). The U.S. Const. amdt XIV, § 5 Power of Congress to Enforce assists in enforcement/protection of the U.S. Const. 14th amdt substantial/procedural due process. See RCW 50.32.150.

III. **Unemployment cases the U.S. Supreme Court, numerous State Court of Appeals & State Supreme Courts reversed & remanded unequivocally conflicts with the WA State COA & WA State Supreme Court's decisions in this case**

The Pet'r reasserts that there are unemployment cases the U.S. Supreme Ct., state Ct. of Appeals, & state Supreme Cts. have *reversed & remanded* that irrefutably conflicts with the state COA & state Supreme Ct.'s decisions in this case. For instance, in *Salinas v. U.S. Railroad Retirement Board*, (19-199) 140 S. Ct. 813, 813 (2020), the board *denied* Mr. Salinas unemployment railroad insurance application under the Railroad Retirement Act, 45 U.S.C. § 231 *et seq.* The U.S. Supreme Ct. *reversed* the judgment of the Ct. of Appeals for the 5th Circuit Ct. Appeals case 18-60702, 5th Circuit Ct. of Appeals 765 Fed.Appx. 79 (5th Cir. 2019), & *remanded* the case. Another example, in *Sherbert v. Verner*, 374 U.S. 398 (1963), Sherbert was *denied* benefits by the state ESD because she refused to

work on Saturdays due to her religious faith. The U.S. Supreme Ct. ruled that Sherbert's 1st Amdt Rights to Free Speech, Free Exercise clause, & 14th Amdt Rights were violated, thus *reversed & remanded* case. The Ct.'s opinion states in part "...we have reached under the First and Fourteenth Amendment...that the denial of benefits also deprived her of the equal protection of the laws in violation of the Fourteenth Amendment. The judgment of the South Carolina Supreme Court is reversed and the case is remanded..."

Additionally, in *Thomas v. Review Board of the Indiana Employment Security Div.*, 450 U.S. 707 (1981), the claimant later applied for & was *denied* UICB because he voluntarily quit his job. The Ct. in its opinion stated in part "...disqualification from benefits violated the Free Exercise Clause of the First Amendment, as applied to the States through the Fourteenth Amendment." Moreover, in *Hobbie v. Unemployment Appeals Commission of Florida, et. al*, 480 U.S. 136

(1987), the U.S. Supreme Ct. *reversed & remanded* case.

The Ct. found that the denial of UICB *violated* 1st Amdt

Rights to Free Speech & the Free Exercise Clause. In

California Dep't of Human Res. Dev. v. Java, 402 U.S.

121, 130 (1971), the Ct.'s opinion stated in part

“Unemployment compensation programs...are intended to operate without regard to need and be available to a recipient as a matter of right.”

Accordingly to the *Employment Development*

Department of California, it states in part that **“The Fourteenth Amendment "due process clause" applies directly to states. When a governmental agency is established to pay state or federal benefits, it may not deprive someone of a property interest to which he or she is otherwise entitled...denial will be considered unconstitutional.”** See *Fusari v.*

Steinberg, 419 U.S. 379, 387-88, 95 S. Ct. 533, 42 L. Ed. 2d

521 (1975); *Philbrook v. Glodgett*, 421 U.S. 707, 714, 95

S. Ct. 1893, 1899, 44 L. Ed. 2d 525 (1975).

Moreover, in *Ballard v. Director, Dept. of Workforce Services* (E-20-319) 2021 Ark. App. 201 (Ark. Ct. App. 2021), Mr. Ballard was *denied* UICB by the Arkansas Board of Review. The Arkansas Court of Appeals Division 2 *reversed & remanded* an award of benefits to Mr. Ballard. In *Skelly v. State Personnel Bd.*, 15 Cal.3d 194, 124 Cal. Rptr. 14, 539 P.2d 774 (Cal. 1975), the Ct.'s opinion stated in part "...person has a legally enforceable right to receive a government benefit...this right constitutes a property interest protected by due process." Another example, in *American Federal of Labor and Congress of Industrial Organizations v. California Employment Development Department* (1979) 88 Cal. App.3d 811, 152 Cal.Rptr. 193, the Ct.'s opinion states in part "Procedural due process involves the deprivation of a "liberty" or "property" interest...unemployment insurance benefits are a type of property interest protected by the due process clause." In *Stevens v. White Water*

Construction, Inc., No. 37414-9-III (Wash. Ct. App. Jan. 19, 2021), Stevens was *denied* UICB by the Superior Ct.; originally, the CRO *granted* the UICB to Mr. Stevens. The Ct. of Appeals 5th division *reversed* the decision by the Superior Ct. For instance, in *Cuesta v. Department of Employment Security*, 402 P.3d 898, 200 Wn.App.560 (2017) the Ct.'s opinion states in part "This court reviews the commissioner's fact findings for substantial evidence in light of the whole record." In *Michaelson v. Employment Security Department*, 187 Wn. App. 293, 298, 349 P.3d 896 (2015), the Ct.'s opinion states in part "We review the ESD commissioner's decision, not the ALJ's decision or the superior court's ruling." See *Shaw v. Department of Retirement Systems*, 193 Wn. App. 122, 133, 371 P.3d 106 (2016); *Goldberg v. Sanglier*, 96 Wn.2d 874, 880, 639 P.2d 1347, 647 P.2d 489 (1982); *State v. Budd*, 186 Wn. App. 184, 199, 347 P.3d 49 (2015), *aff'd*, 185 Wn.2d 566, 374 P.3d 137 (2016). Another example, in *Carter v. Division of Employment Security*,

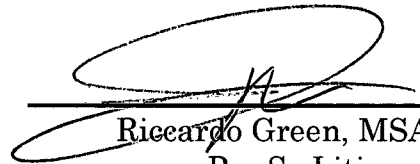
Labor and Industry Review Commission and Walgreen Co. Illinois, 894 N.W.2d 426, 375 Wis.2d 1, 2017 WI 46, the Supreme Ct. ***affirmed*** the Appeals Ct. decision & ***remanded*** case. The Ct.'s opinion states in part **"We conclude that LIRC incorrectly denied Operton unemployment benefits..."** In closing, if the petition & writ are denied, the state ESD will be permitted to ***force*** recipients to pay back ***granted*** UICB. This is unequivocally unconstitutional. A gross miscarriage of injustice & unfair prejudice in the administration of justice would transpire against the Pet'r. The State Supreme Ct. ***ruptured*** its constitution & constitutional agreement with the U.S. Supreme Ct., thus deliberately deprived the Pet'r of his constitutional rights. This case is suitable for rehearing. See *People v. Dominguez* (2007) 39 Cal. 4th 1141; *Schweiker v. Hansen*, 450 U.S. 785, 791 (1981); *Jones v. Barnes*, 463 U.S. 745, 756 n.1 (1983); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *Gitlow v. New York*, 268

U.S. 652, 630 (1925); *West Coast Hotel Co. v. Parrish*, 300
U.S. 379 (1937).

CONCLUSION

For all of the reasons stated & others, the Court
should grant the *Petition for Rehearing* & the *Petition
for Writ of Certiorari*.

Respectfully submitted,



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CERTIFICATE OF COUNSEL

I, pro se litigant, hereby certify that this Petition for Rehearing was brought in "good faith" and not to delay the case and that it is limited to the grounds set out in Rule 44(2).



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