

No. 78125-1-I

**COURT OF APPEALS FOR DIVISION I  
STATE OF WASHINGTON**

JAMES R. LEWIS,

Appellant,

v.

DEPARTMENT OF LABOR AND  
INDUSTRIES,

Respondent.

JOINT MOTION FOR  
PERMISSION TO  
ENTER SUBSTITUTED  
JUDGMENT AND  
ORDER

James R. Lewis, Appellant, by and through Counsel Spencer Parr, and the Department of Labor & Industries of the State of Washington, Respondent, by and through the Office of the Attorney General, per Anastasia Sandstrom, ask the Court for permission to enter an order with the King County Superior Court that modifies the February 20, 2018 judgment that was entered with that court.

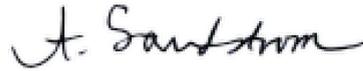
The parties have agreed to settle the case by agreeing to reverse the superior court's decision. The parties jointly request permission under RAP 7.2(e) to enter the attached order for purposes of effectuating the parties' agreement.

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Respectfully submitted,

Attorney for Respondent

ROBERT W. FERGUSON  
Attorney General



ANASTASIA SANDSTROM  
Senior Counsel  
WSBA No. 24163  
Office ID No. 91018  
800 Fifth Ave., Ste. 2000  
Seattle, WA 98104

Attorney for Appellant



SPENCER PARR  
WSBA No. 42704  
Washington Law Center  
652 Strander Blvd., Ste. 215  
Tukwila, WA 98188

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**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

JAMES R. LEWIS,

Plaintiff,

v.

GLANT TEXTILES CORP. and  
DEPARTMENT OF LABOR AND  
INDUSTRIES OF THE STATE OF  
WASHINGTON,

Defendant.

NO. 17-2-13299-3SEA

*AMENDED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW  
AND JUDGMENT*

**Clerk's Action Required**

**JUDGMENT SUMMARY (RCW 4.64.030)**

- 1. Judgment Creditor: James Lewis
- 2. Judgment Debtor: State of Washington Department of Labor and Industries
- 3. Principal Amount of Judgment: - 0 -
- 4. Interest to Date of Judgment: - 0 -
- 5. Attorney Fees: \$30,000
- 6. Costs: \$200
- 7. Other Recovery Amounts: \$0
- 8. Principal Judgment Amount shall bear interest at 0% per annum.
- 9. Attorney Fees, Costs and Other Recovery Amounts shall bear Interest at 12% per annum.
- 10. Attorney for Judgment Creditor: Spencer Parr
- 11. Attorney for Judgment Debtor: Anastasia Sandstrom

1 This Court previously entered a judgment on February 20, 2018 that affirmed the Board  
2 of Industrial Insurance Appeal Decision. Mr. Lewis filed a notice of appeal from that decision.  
3 After receiving leave from Division One of the Court of Appeals, the parties seek entry of this  
4 Substituted Judgment with Amended Findings of Fact, Conclusions of Law.

5 **I. FINDINGS OF FACT**

6 1.1 The Board of Industrial Insurance Appeals issued its Decision and Order on May 10,  
7 2017.

8 Plaintiff thereupon timely appealed the Board's May 10, 2017 order to this Court.

9 1.2 James Lewis injured his left foot and ankle during the course of his employment on  
10 June 12, 2014. The Department allowed his claim and provided him with benefits.

11 1.3 In 2015, Mr. Lewis applied for benefits to cover an OATS surgical procedure on his  
12 left ankle. The Department denied his request in a September 16, 2015 letter that it  
13 affirmed in a November 18, 2015 order.

14 1.4 The OATS surgical procedures was proper and necessary treatment and Mr. Lewis was  
temporarily and totally disabled as a result of this surgery from August 3, 2016, through  
15 August 26, 2016.

16 **II. CONCLUSIONS OF LAW**

17 2.1 This Court has jurisdiction over the parties to, and the subject matter of, this appeal.

18 2.2 The Board's May 2017 Decision and Order is incorrect and reversed.

19 2.3 The November 18, 2015 and September 23, 2016 Department orders are reversed.

20 2.4 This matter is remanded for the Department to determine that the OATs surgical  
21 procedure was proper and necessary and that time loss compensation is owed from  
22 August 3, 2016, through August 26, 2016.

23 Based on the foregoing Findings of Fact and Conclusions of Law the Court enters  
24 judgment as follows:

25 **III. JUDGMENT**

26 3.1 The May 10, 2017 Board of Industrial Insurance Appeals Decision and Order that  
affirmed the Department of Labor and Industries November 18, 2015 and September  
23, 2016 Department orders is hereby reversed.

3.2 This matter is remanded for the Department to determine that the OATs surgical  
procedure was proper and necessary and to pay time loss compensation for the period  
from August 3, 2016, through August 26, 2016.

1  
2 3.3 If, as a result of the court's decision the accident fund or medical aid fund is affected,  
3 the worker's attorney's fee fixed by the court, for services before the court only, the  
4 fees of medical and other witnesses, and costs, shall be payable out of the Department's  
5 administrative fund per RCW 51.52.130.

6 3.4. The Court finds that a reasonable fee for the services of Mr. Lewis's attorney before  
7 this court is \$30,000 for the superior court and Court of Appeals.

8 3.5 The Plaintiff is awarded, and the Defendant is ordered to pay, a statutory attorney fee of  
9 \$200.00.

10 3.6 The Plaintiff is awarded interest from the date of entry of this judgment as provided by  
11 RCW 4.56.110.

12 DATED this \_\_\_\_ day of February 2019.

13 \_\_\_\_\_  
14 JUDGE

15 Presented by the Plaintiff and the Defendant:

16 ROBERT W. FERGUSON  
17 Attorney General

18 *J. Sandstrom*

19 ANASTASIA SANDSTROM, WSBA #24163  
20 Assistant Attorney General

21 *Spencer Parr 2/22/19*

22 SPENCER PARR  
23 WSBA # 42704  
24 Attorney for Plaintiff  
25  
26

No. 78125-1-I

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OF THE STATE OF WASHINGTON**

JAMES R. LEWIS,

Appellant,

v.

DEPARTMENT OF LABOR AND  
INDUSTRIES,

Respondent.

CERTIFICATE OF  
SERVICE

The undersigned, under penalty of perjury pursuant to the laws of the State of Washington, declares that on the below date, she caused to be served the Joint Motion for Permission to Enter Substituted Judgment and Order with attached Proposed Amended Findings of Fact and Conclusions of Law and Judgment and this Certificate of Service in the below described manner:

**E-Filing via Washington State Appellate Courts Portal:**

Richard D. Johnson  
Court Administrator/Clerk  
Court of Appeals, Division I

**E-Mail via Washington State Appellate Courts Portal:**

Spencer Parr  
Washington Law Center  
[spencer@washingtonlawcenter.com](mailto:spencer@washingtonlawcenter.com)

//

DATED this 25th day of February, 2019.

A handwritten signature in black ink, appearing to read "Shana Pacarro-Muller". The signature is written in a cursive style with a large initial 'S'.

---

SHANA PACARRO-MULLER

Legal Assistant

Office of the Attorney General

800 Fifth Avenue, Suite 2000

Seattle, WA 98104-3188

(206) 464-7740

**WASHINGTON ST. ATTORNEY GENERAL - LABOR & INDUSTRIES DIVISION - SEATTLE**

**February 25, 2019 - 8:39 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 78125-1  
**Appellate Court Case Title:** James R. Lewis, Appellant v. Glant Textiles & L & I, Respondents  
**Superior Court Case Number:** 17-2-13299-3

**The following documents have been uploaded:**

- 781251\_Motion\_Plus\_20190225081715D1382513\_3762.pdf  
This File Contains:  
Affidavit/Declaration - Service  
Motion 1 - Other  
*The Original File Name was 190225\_JntMtnForPermToEnterSubJgmt.pdf*

**A copy of the uploaded files will be sent to:**

- spencer@washingtonlawcenter.com

**Comments:**

Joint Motion for Permission to Enter Substituted Judgment and Order w/ attached Proposed Amended Findings of Fact and Conclusions of Law and Judgment and Certificate of Service

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Sender Name: Shana Pacarro-Muller - Email: shanap@atg.wa.gov

**Filing on Behalf of:** Anastasia R. Sandstrom - Email: anas@atg.wa.gov (Alternate Email: )

Address:  
800 Fifth Avenue, Ste. 2000  
Seattle, WA, 98104  
Phone: (206) 464-7740

**Note: The Filing Id is 20190225081715D1382513**