

# Unemployment Law Project

## News

### UI: a sound investment in WA!!

Spring 2007

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Everyone knows that unemployment insurance is good for the claimant; however, many are unaware that it is also good for the state economy and businesses. Studies done by the National Employment Law Project and economists such as Nobel prize winner Joseph Stiglitz show that unemployment insurance is used to pay for basic services; therefore, the money paid out to unemployment insurance fuels the economy by going back into Washington businesses for goods and services. If the insurance did not exist or was reduced there would be less money put back into the economy during times of high unemployment. A study from the U.S. Department of Labor shows that unemployment insurance benefits produce \$2.15 economic activity (GDP) for every \$1.00 that is paid out in unemployment insurance to unemployed workers.

Many people believe that unemployment insurance tax is too burdensome on employers; thus hurting the economy. However, as a study in 2002 shows, when you subtract the amount of taxes paid by Washington State employers from the regular State unemployment insurance benefits you see that there is almost \$800 million net gain in Washington's economy.



If it was not for unemployment insurance, families would lose their ability to maintain a home, put food on the table, and clothes on their backs. Unemployment insurance provides a source of income that allows individuals and families to maintain expenses such as rent, mortgage payments, utilities, groceries, medical costs, and transportation.

When individuals and families cannot afford their basic living expenses our economy suffers because it relies on a steady supply of consumers.  
(cont'd pg. 2)

#### **HELP!**

As always we depend on your donations to help us survive. Recently, the *Batey* decision (see page 5) was a great victory for unemployment insurance claimants in Washington. However, it has impacted ULP financially because many of our pending cases were put on hold while the State asked the Court of Appeals to reconsider *Batey*. Therefore, the fees that we might be awarded from these pending cases have been delayed and our budget is too close to the bone to survive too long without that income. So if you are able, **please make a contribution to us TODAY! Thanks!**



*The helpful face of our new Legal Assistant  
Lynn Schneider*

### **ULP Welcomes NEW LEGAL ASSISTANT: Lynn Schneider**

Lynn Schneider joined the ULP in December of 2006 to work part-time as our legal assistant/receptionist. Lynn has her degree in Anthropology from Linfield College in McMinnville, Oregon. She has studied abroad on four continents and is fluent in Spanish. She had the desire to work with the ULP because she is considering a career in public interest law and/or the nonprofit arena.

Lynn has a diverse background of knowledge and experiences that she brings to the ULP. She taught English in Peru and attended the School for International Training in Bolivia. Fighting for environmental issues, Lynn worked for the League of Conservation Voters and for the Institute for Culture and Ecology. She has also worked on a community development project with an indigenous population of the Amazon in Peru. She was a surf instructor to children in a shelter, and participated in a Christmas program in Peru for street children. Lynn also tutored immigrant students in English while she was in Oregon.

Lynn has been and continues to be a great asset to the ULP with her compassion, customer service skills, fluency in Spanish, and passion for social justice and human rights. Lynn looks forward to "being able to work hands-on with clients in need." Lynn will be able to use and develop her skills by doing multiple tasks around the office such as initial client appointments and client hearings.

Lynn says, "While my focus is administrative work, what I really love about my position at ULP is that I'm involved in so many aspects of the organization and am working directly with clients everyday."

### **UI article Continued:**

Unemployment insurance provides an important social safety net to the citizens of Washington State: as an insurance program, unemployment insurance ensures families are still able to provide themselves with the basic necessities without burdening other state funded programs during periods of unemployment.

Unfortunately, the current benefit levels are not enough to cover the high cost of living in Washington. Washington State has a higher cost of living than the national average, it ranks 36 out of the 50 states; therefore the benefits must also be higher to compensate, the current weekly benefits range from \$111-\$496. In Washington, unemployment insurance replaces approximately half of the average workers' wages. The US Department of Labor recommends that unemployment insurance replace at least half of the average workers' wages.

Opponents of unemployment insurance should ask themselves, "Could I live on 50% of my income? Could I pay my mortgage or rent on half my salary and still pay for food, medical insurance, and transportation costs?" Many critics of unemployment insurance forget that when a worker loses his or her job, the worker also loses employer-paid-for benefits such as health insurance and subsidized day-care costs.

Unemployment insurance benefits individuals, families, *and* businesses; it helps to provide a more solid economy by stabilizing a temporarily unemployed worker's ability to maintain basic living necessities. When a temporarily unemployed worker uses unemployment insurance monies on those basic living necessities that money goes directly back into pockets of Washington business. This creates a beneficial cycle that actually drives the economy forward. Not only is unemployment insurance good for business and the States' economy, but often times it is the key to survival for many families between times of employment!

## Volunteers and Interns 2007

It is the ULP's pleasure to introduce our outstanding interns and volunteers. Without their help, we would not be able to serve as many claimants throughout the State. We thank these talented and highly motivated individuals!

### SEATTLE:

Paul Agid · Kelly Beissel · Brent Berselli · Nate Bernstein · Michael Brown · Rachael Brown · Vicky Daniels · Carrie Gargas · Kevin Griffin · Aisha Kakar · Mary Henderson · Mukta Jhalani · Joan Kalhorn · Kim Krummeck · Ken Li · Sara Longley · Meghann McCann · Therese Norton · Suzanne Pickering · Heather Serrano · Sarah Silbovitz · Karl Smith

#### Joining us in the summer:

Katara Jordan · Jordan Klein · Ling Drew Ly · Abraham Ritter

### SPOKANE:

Bethany Allen · Matt Hironaka · David Jolley · Steve Meredith · Barbara Russell · Bennett Taylor

#### Joining us in the summer:

Nathan Griffin · Rosemary Villarreal

*We hope our interns' and volunteers' experience at ULP will deepen their commitment to providing pro bono legal services. Welcome!*

## ULP: A Law Student's Perspective

*Bethany Allen*

My experience volunteering at the ULP has been a very rewarding one. It has been a great opportunity to expand my legal education to include practical, hands on experience. The majority of law school is spent learning the law from books and very little time is spent applying that knowledge to the "real world." A unique aspect of working with the ULP is being able to personally provide direct representation for clients. I am able to work directly with clients and help them through each step of the process of getting unemployment benefits.

Working with the ULP has also taught me about what it means to practice public interest law. The overall goal of public interest law is be an advocate for clients who otherwise would not have access to legal services. Public interest law can be challenging but the rewards outweigh the challenges. It is very rewarding to help people who truly value your help and who may not have received legal services if it was not for the services provided by the ULP.

Being an advocate for a client boils down to meeting the client's needs. I have learned that meeting a client's needs is much more than providing the needed legal services. So much of being an advocate is listening to the client's story and being compassionate. Taking a few extra moments to listen to a client's story helps you to build a relationship with the client, better understand their viewpoint, and ultimately allows you to be a better advocate for the client.

The knowledge and experience that I take away from my work with the ULP are an invaluable addition to my legal education. I don't know who is really gaining more from the experience, me or the clients.



## CONGRATULATIONS!!

**Nathan Griffin** is the recipient of the WSBA/Gonzaga Labor and Employment summer grant. He will be volunteering with the Spokane ULP office this summer for 320 hours to fulfill the requirements of the grant. This is a huge accomplishment for Nathan and a great recognition for the Unemployment Law Project as a "non-profit organization that represents employees in circumstances under which they would often not be represented at all." We are honored to have Nathan working with us this summer! He and other recipients from Seattle will be recognized in October at the annual WSBA Labor and Employment Conference.

**Abraham Ritter** was awarded Seattle University's Public Interest Law Foundation summer grant. The grants are given to students working in non-profits who could not otherwise afford legal assistance. The purpose of this organization is to support students dedicated to social justice.

**ULP Interns Pass Winter Bar Exam:**  
**Sara Longley**  
**Kevin Griffin**



## Client Story-FEAR FOR SAFETY

(By: Steven Meredith)

Fearing for her safety, Ms. P quit her job as manager of a retail store. Each night as she left work she feared for her well being, and wondered what might await her in the dark as she approached her car to go home. Someone, perhaps a co-worker, was frequently tampering with her car. No other cars were targeted. It began with letting the air out of her tires, but got worse each time. The final incident, which compelled her to quit, involved the slashing of her four tires. Ms. P feared that this unknown person(s) might hurt her next. With her employer and the police unable and/or unwilling to help, she had no option but to quit and remove herself from this situation.

At her hearing, the judge callously ruled for the employer, and declared that she was unreasonable in fearing for her safety and had no good cause to quit. We appealed, and the decision was overruled. Ms. P was awarded unemployment benefits--something that may not have happened without ULP's help!



**Two of ULP's  
newest Law  
Students  
busy fighting  
for justice!!**



**Ling Ly, above**

**Abraham  
Ritter, below**



## CLIENT STORY-Language Barrier

(By: Kevin Bender)

Ms. O is a limited-English speaking immigrant from Morocco and a single mother of two. She was laid off from her job and began a vigorous search for new work.

Due to her limited English, she was unaware that she needed to keep a written record of all her job contacts.

Employment Security Department requested her job search logs, which she was unable to provide. Despite the obvious language issue and the fact that Ms. O collected full unemployment for only 8 weeks (well below the average 13 weeks), ESD denied benefits for all weeks and assessed and overpayment of almost \$4,000.

Ms. O sought our assistance. We assisted her in filing her appeal, and then subsequently represented her in her hearing. Based on her sworn testimony regarding her job search efforts that she made each week, the judge found that Ms. O complied with all requirements and did not have any overpayment.

## ULP says Goodbye:

Administrative intern, Rachael Brown, is in her last weeks with the Unemployment Law Project. She has worked with us for almost two years as an undergraduate intern; she helps with office work, client intakes, and outreach projects.

We say goodbye as she heads off to Vietnam to work with an organization and then to study abroad in Spain. Rachael looks forward to using all that she has learned at the ULP to help her in her future career in the nonprofit arena, fighting for human rights.

## ***Your donations at work:***

### ***Thank You to All Our Donors!***

*Donations: September 2006 through May 2007*

**Thank you to all of our clients who have supported our efforts, your donations help to keep our services available to others in situations like yours!**

**Friends:** Paul Agid ▪ Matthew Bean ▪ Susannah Carr ▪ John Chihak ▪ Pamela Crone ▪ Paul Drachler ▪ Kelby Fletcher ▪ Clifford Freed ▪ Nathan Garnett ▪ Lynn Greiner ▪ Marjorie High ▪ Kim Krummeck ▪ Sharon McConnell ▪ James Oswald ▪ Lee Price ▪ Patricia Rose ▪ Lawrence Schwerin ▪ James Sedney ▪ Amy Stephson ▪ David Stobaugh ▪ Harriet Strasberg ▪ Steve Teller ▪ Toby Thaler ▪ **Organizations & Unions:** AFT Washington ▪ Hod Carriers and General Laborers Local 242 ▪ Int'l Union of Elevator Constructors Local # 19 ▪ Int'l Union of Operating Engineers Local No. 286 ▪ IUPAT District Council No. 5 ▪ Kiona-Benton City School District ▪ Martin Luther King, Jr. County Labor Council, AFL-CIO ▪ Monroe Public Schools ▪ Pierce County Central Labor Council ▪ Service Employees Int'l Union Local 925 ▪ Sheet Metal Workers Local #66 ▪ Street Pavers, Sewers, Watermain and Tunnel Workers Union 440 ▪ United Ass'n of the Plb. & Pip. Ftg. Ind. #32

"My deepest thanks go to you for your excellent presentation of my case. I particularly appreciate your support- not simply as an unemployment issue-but in the context of the bigger picture; that is, the ethical grounds that led to my dismissal from my employer; the fact that I could not let the company's business pressures undermine my obligations as a clinical research ethics consultant."  
~ S.P., Snohomish

"Everyone I dealt with at the Unemployment Law Project was extremely professional and knowledgeable. You provide an invaluable service to people who would otherwise be unfairly denied unemployment benefits they deserve. Thank you!" ~ K.I. Vancouver, WA

## **NEW COURT OF APPEALS DECISION AFFECTS 2004 QUIT STATUTE**

On March 12, 2007, the Washington Court of Appeals, Division I, issued its decision in *Batey v. Employment Security Department*, Docket No. 57513-9-I (Div. I March 12, 2007). The court held that the 2003 amendments to the voluntary quit provisions of the Employment Security Act were unconstitutional under the Washington Constitution. There was a lot of confusion about the impact of this case at first. The effect of *Batey* is that any pending unemployment insurance (UI) claims filed prior to June 7, 2006, which involve a voluntary quit must now be reevaluated under the statutory provisions that existed prior to the passage of the 2003 amendments (2ESB 6097). In other words, a claim which is not barred by res judicata (i.e. a final decision issued) or other procedural rules (e.g. claimant missed the appeal deadline) must be reevaluated under the more lenient voluntary quit rules, which included provisions allowing an employee to quit to relocate due to a spouse's mandatory employer-initiated job transfer or "other work connected factors as the commissioner may deem pertinent..."

In technical terms, *Batey* held that two different amendments (2ESB 6097 and EHB 3278) to the voluntary quit provisions of the Employment Security Act (ESA) violated the subject-in-the-title requirements of the Washington State Constitution. In 2003, the legislature passed 2ESB 6097, which amended various provisions of Title 50, including those pertaining to voluntary quits, misconduct and overpayments.

In 2006, two more bills were passed: ESSB 6885, which reenacted ESB 6097 and corrected the subject-in-the-title defects of 2ESB 6097, and EHB 3278, which attempted to make the voluntary quit provisions of ESSB 6885 retroactive. Specifically, the court held that the voluntary quit provisions in EHB 3278, 59<sup>th</sup> Leg. (Wash. 2006), and 2ESB 6097, 58<sup>th</sup> Leg. (Wash. 2003) violated the subject-in-the-title requirement of Art. II, § 19 of the Washington Constitution. The Court's decision did not address ESSB 6885, which went into effect on June 7, 2006; however, ESD asked the Court of Appeals to issue an order clarifying that ESSB 6885 satisfies the subject-in-the-title requirements of the state constitution. It has since done so. (cont'd pg. 6)

## Court Decision continued:

One of the ramifications of *Batey* that ESD has yet to address is whether the court's holding should extend to the other statutory amendments included in 2ESB 6097, namely the misconduct provisions. *Batey's* holding that the title of 2ESB 6097 – "An ACT relating to revising the unemployment compensation system through creating forty rate classes for determining employer contribution rates; amending RCW 50.01.010 ..." – violates the constitutional requirement of subject-in-the-title vis-à-vis the voluntary quit amendments, equally applies to the amendments relating to misconduct and waiver of overpayments. Although the legislature made the misconduct and waiver provisions in ESSB 6885 retroactive to correct the constitutional defects on 2ESB 6097, the retroactivity provisions are unconstitutional as they represent an effort by the legislature to encroach upon the powers of the court to invalidate a law – a violation of the separation of powers – and also alter substantive, vested rights and remedies of UI claimants. For assistance with cases involving such issues contact Hong Tran at [hongt@ulproject.org](mailto:hongt@ulproject.org) or at (206) 441-9178, extension 11.

## Give your neighbor a helping hand: Donate to ULP!

All of us, our families, our neighbors, our friends, are at-risk of finding ourselves unemployed. As you know, we do not charge a fee for our services. Our work is funded by grants and donations, as well as contributions from people **just like you** whose donations make up one-fourth of our budget. With your help, we can make a difference!

*"Thank you so much for all your help. Before, my employer really intimidated me. My hearing went so well. Thanks so much to my representative."* M.I.~ Yelm

Your support will directly help people like "M.I." who have lost their jobs, been denied unemployment benefits, and face severe financial hardship. Help us provide services to increasing numbers of workers, your friends, family, neighbors, across the State, who are wrongfully denied their unemployment benefits.

### UNEMPLOYMENT LAW PROJECT

1904 Third Ave., Ste 604  
Seattle, WA 98101

**The ULP relies on contributions to support our work!!! Please send us a donation in the enclosed envelope. We'll put your money to good use! ... Thanks!**

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