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(Court of Appeals No. 55256-2-I and No. 57725-5-I)

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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

KEVIN J. LOCKE and TORI LOCKE

Respondents,

vs.

THE CITY OF SEATTLE,

Petitioner.

MARGARET LINDELL, personal representative for the Estate of
GARY R. LINDELL, deceased,

Respondents,

v.

THE CITY OF SEATTLE

Petitioner.

**RESPONDENT LOCKE'S ANSWER TO AMICUS BRIEFS OF
WASHINGTON COUNCIL OF POLICE AND SHERIFFS, SEATTLE POLICE
OFFICERS' GUILD AND KING COUNTY POLICE OFFICERS' GUILD
THE WASHINGTON CITIES INSURANCE AUTHORITY
WASHINGTON STATE TRIAL LAWYERS
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I. INTRODUCTION

In the past several weeks, this Court has received Amicus Briefs from the Washington Council of Police and Sheriffs, Seattle Police Officers' Guild and King County Police Officers' Guild ("Police Guild Brief"), the Washington Cities Insurance Authority ("Insurance Authority Brief") and the Washington State Trial Lawyers Association Foundation ("WSTLA Foundation Brief"). Plaintiff Locke ("Locke" or "plaintiff") has points of disagreement with both the Insurance Authority Brief and the WSTLA Foundation Brief, and wishes to amplify one aspect of the Police Guild Brief. As such, plaintiff Locke has submitted this answer.

II. **RCW 41.26.281 DOES NOT VIOLATE THE PRIVILEGES AND IMMUNITIES SECTION OF THE WASHINGTON CONSTITUTION IF THAT SECTION IS APPLICABLE¹**

A. **Washington Case Law Supports Plaintiff's Position.**

Respondent Locke previously discussed both the text of the Washington Constitutional privileges and immunities section and early Washington cases analyzing that constitutional provision. Respondents'

¹ The Insurance Authority Brief assumes, without adequate discussion, both that the City of Seattle can challenge the State's conditioning its grant of authority to the City and that the right at issue is a "fundamental right." Plaintiffs Locke and/or Lindell have challenged both of those assumptions relying, *inter alia*, on City of Seattle v. State, 103 Wn.2d 663, 668, 694 P.2d 641 (1985) and the Court of Appeal's decision in this case Locke v. City of Seattle, 133 Wn. App. 696, 706-707, 137 P.3d 52 (2006). See also Respondent Lindell's Brief In Response to Brief of Amicus Curiae of the Washington Cities Insurance Authority, pp. 1-3. The Insurance Authority's argument on this point is only relevant if the City succeeds on those two preliminary arguments.

Supplemental Brief, pp. 6-12.² For example, plaintiff pointed out this Court's reliance in Fitch v. Applegate, supra, on a leading treatise on Constitutional Limitations. This Court approved the constitutionality of legislation that provided "laborers in one business a specific lien for their wages when it would be impracticable or impolitic to do the same for persons engaged in some other employments." Fitch, supra, 24 Wash. at 32, quoting COOLEY ON CONSTITUTIONAL LIMITATIONS (emphasis added). As a second example, plaintiff discussed the reliance by this Court in Redford v. Spokane Street Ry. Co., 15 Wash. 419 (1896) on an Iowa case which predated the adoption of the Washington Constitution.³ Both Redford and McAunich directly support plaintiff's position in this appeal. Those early cases are particularly useful in determining the scope of that constitutional provision. Anderson v. King County, 158 Wn.2d 1, 61 (2007) (concurrence by Justices J.M. Johnson and Sanders); Ino Ino, Inc. v. The City of Bellevue, 132 Wn.2d 103, 120, 937 P.2d 154 (1997).

The Insurance Authority's Brief does not dispute plaintiff's reliance on those cases and authorities. Indeed, at pages 12-13, it cites some of the same cases relied upon by plaintiff and acknowledges that:

² The cases included Redford v. Spokane Street Ry. Co., 15 Wash. 419 (1896); Fitch v. Applegate, 24 Wash. 25 (1901); McDaniels v. J.J. Connelly Shoe Co., 30 Wash 549 (1902); and State v. Fraternal Knights & Ladies, 35 Wash. 338, 77 P. 500 (1904).

³ McAunich v. Mississippi, etc. R.R. Co., 20 Iowa 338 (1866).

[t]he Washington Supreme Court has long recognized that while legislation may properly bestow privileges and immunities upon a particular classification of citizens, “it must appear that the classification is made upon some reasonable and just difference between the persons affected and others, . . . *McDaniels v. J. J. Connelly Shoe Co.*, 30 Wash. 549, 555, 71 P. 37 (1902).

(Footnote omitted.) The Insurance Authority also cites several other cases such as Spokane v. Macho, 51 Wash. 322, 98 P.755 (1909) and Kaufman v. West, 133 Wash 192, 233 P.321 (1925) which held ordinances to violate the privileges and immunities section because the ordinances did not “operate alike on all persons and property under the same circumstances and conditions”, 133 Wash. at 193 (emphasis added). That is much the same test set forth in McDaniels quoted above. In all of those cases, the relevant inquiry is whether the Legislature reasonably could have concluded that there are valid circumstances and conditions that distinguish the covered or affected group from others not covered or affected.

According to the Insurance Authority:

There is no principled reason to distinguish between LEOFF members and other workers who receive workers' compensation benefits, and in fact the legislature has expressly declared that LEOFF members are like other workers in the state with respect to their receipt of workers' compensation benefits (and the employers' corresponding immunity from suit).

Insurance Authority Brief, p. 15. That argument is inconsistent with settled Washington law concerning the presumption that the Legislature engaged in proper fact finding and the legislative authority to distinguish between groups in order to determine the proper subjects of legislation.

This Court in 1941 referred back to Farquharson v. Yeargin, 24 Wash. 549, 64 Pac 717 (1901) in holding:

[t]hat, where possible, it will be presumed that the legislature has affirmatively determined any special facts requisite to the validity of the enactment, even though no legislative finding of fact appears in the statute.

State Ex Rel. Collier v. Yelle, 9 Wn.2d 317, 333, 115 P.2d 373 (1941)

(emphasis added) More recently, this Court in High Tide Seafood v.

State, 106 Wn.2d 695, 698, 725, P.2d 411 (1986), reiterated that:

Statutes are presumed constitutional and a party challenging a statute has the burden of establishing its invalidity beyond a reasonable doubt, as well as rebutting the presumption that all legally necessary facts exist. Higher Educ. Facilities Auth. v. Gardner, 103 Wn.2d 838, 843, 699 P.2d 1240 (1985). (Emphasis added.)

See State v. Kent, 87 Wn.2d 103, 109, 549 P.2d 721 (1976) (“[w]hen a statutory classification is challenged, it is presumed that facts sufficient to justify the classification exist. . . .”) See also Brewer v. Copeland, 86 Wn.2d 58, 61, 542 P.2d 445 (1975).

In this case, the Legislature should be presumed to have found that while police and fire fighters are “similar”⁴ to other employees, there are facts that justify the different treatment in the LEOFF statute of police and fire fighters from other employees. The Insurance Authority does not dispute that the jobs of police and fire fighters are dangerous. Rather it argues:

⁴ “Similar” doesn’t mean the same. It means “somewhat like” or “having a general likeness although allowing for some degree of difference.” BLACK’S LAW DICTIONARY (6th Ed), page 1383 and WEBSTER’S NEW INTERNATIONAL DICTIONARY (2d Ed).

Loggers, miners, truckers, and utility line workers all perform work that is both vital and dangerous, and yet they are limited to the recoveries available to them under the workers' compensation system if they are injured or killed in the line of duty.

Insurance Authority Brief, p. 16.

That argument misses what is different about the jobs of police and fire fighters from the jobs of a miner and trucker for example. As explained at page 1 of the Police Guild Brief:

These [police and fire fighter] employees are among the few in our society who volunteer to risk serious injury and death to perform the work of protecting the rest of us.

This work is particularly "vital and dangerous" because it involves intentionally putting themselves in harm's way to help strangers exactly when the situation is most dangerous, e.g., running into a burning building to rescue an elderly person or confronting an armed hostage taker. The Washington State Association of Municipal Attorneys' Amicus Brief implicitly acknowledged this distinction between police and fire fighters and other employees when it quoted Haynes v. Police Bd. of the City of Chicago, 293 Ill. App. 3d 508, 512, 688 N.E.2d 794, 797, 228 Ill. Dec. 96,100 (1st Dist. 1997), which stated:

[A] police officer does not have the prerogative of actively disobeying an order from a superior while the officer subjectively determines whether the order is lawful, valid or reasonable

Brief of Amicus Curiae, Washington State Association of Municipal Attorneys' Amicus Brief In Support of Petitioners' Application for Discretionary Review, p. 6. That is why this Court correctly stated in Hauber v. Yakima County, 147 Wn.2d 655, 660, 56 P.3d 559 (2002):

While the Industrial Insurance Act immunizes most employers from job related negligence suits, fire fighters and police officers, because of the vital and dangerous nature of their work, are provided extra protection and are allowed to both collect workers' compensation and bring job related negligence suits against their employers.⁵

B. Oregon Cases Support Plaintiff's Position.

Respondent's Supplemental Brief also discussed Oregon's privileges and immunities cases including In Re Oberg, 21 Ore. 406, 28 P. 130 (1891). In Respondent's view, Oberg is particularly significant because it was decided almost contemporaneously with the adoption of the Washington Constitution. Oberg concluded that:

The same privilege or immunity is extended by the act to all in the same situation. Any person who is a sailor may enjoy the immunity, and any citizen desiring such immunity may have it in the words of the constitution, "upon the same terms," by becoming a sailor.

21 Ore. at 408.

The Insurance Authority never discusses Oberg. Instead, it attempts to argue that Oregon's analysis of its privileges and immunities section is of little value in interpreting the same section of the Washington constitution. It makes this argument, although this Court held in Grant

⁵ The precedent from this Court and the United States Supreme Court also establishes that it is not constitutionally necessary for the Legislature to solve a perceived problem completely. Rather, the legislature has:

the discretion not to deal with an evil or class of evils all within the scope of one enactment, but to approach the problem piecemeal and learn from experience. *McDonald v. Board of Election Comm'rs*, 394 U.S. 802, 809, 22 L. Ed. 2d 739, 89 S. Ct. 1404 (1969).

State v. Kent, *supra*, 87 Wn.2d at 111.

Cy. Fire Prot. Dist. v. Moses Lake, 150 Wn.2d 791, 807, 83 P.3d 419 (2004), that “article I, section 12 of the Washington State Constitution was modeled after article I, section 20 of the Oregon State Constitution.”

The Insurance Authority relies for its position almost exclusively on Justice Madsen’s plurality opinion in Anderson v. King County 158 Wn.2d 1, 16 (2006). Insurance Authority Brief, p. 19. However, since three justices concurred in that opinion, and the concurring or dissenting opinions of Justices Chambers, Owens, Sanders, and J.M. Johnson, appear to take a difference position on this issue, it is not clear that the plurality opinion represents the opinion of this Court on that subject.

More importantly, the plurality opinion does not support the Insurance Authority’s position. The conclusion of the plurality opinion is that “[t]herefore, an independent state analysis is not appropriate unless the challenged law is a grant of positive favoritism to a minority class.” Anderson, supra, 158 Wn.2d at 16 (emphasis added). It is precisely the Insurance Authority’s argument that the challenged LEOFF statute is such a grant of positive favoritism: “RCW 41.26.281 Impermissibly Confers a Privilege On LEOFF Members in Violation of Article I, Section 12.” Insurance Authority Brief,, p. 9.⁶ It follows, therefore, from the Insurance Authority’s argument that there should be an independent State analysis.

⁶ The plurality opinion in Anderson, supra, was that DOMA (the challenged statute) “does not involve the grant of a privilege or immunity to a favored minority class.” Id. at 18.

It would be anomalous to conduct an independent State analysis of the Washington Constitution without considering the contemporaneous holding construing the almost identical Oregon provision which served as the basis of the Washington provision. Oberg and other Oregon cases are thus relevant authorities.

III. THE POLICE GUILD BRIEF GIVES ADDITIONAL EXAMPLES OF LAWS WHICH PROVIDE BOTH WORKERS COMPENSATION AND A RIGHT TO SUE FOR NEGLIGENCE.

Plaintiff Locke previously explained that “[M]any States, including Washington, vary the quid pro quo between employers and employees struck under the various workers compensation statutes.” Respondents’ Brief In Response to Brief of Amicus Curiae, Washington State Association of Municipal Attorneys In Support Of Petitioners’ Application For Discretionary Review, pp. 10-12. For example, California and Texas in appropriate situations permit employees both to receive workers compensation and to sue for negligence. Id. at pp. 11-12.

The Police Guild Brief adds the Jones Act to this list. It correctly points out that the City’s analysis, if accepted, would call for striking down the Jones Act. The Police Guild Brief at page 17 states:

Similarly, Congress enacted the Jones Act, 46 U.S.C. §688 in 1920 to remove a pre-existing common law bar to suit for negligence under maritime law. The U.S. Supreme Court had ruled in *The Osceola*, 189 U.S. 158 (1903), that seamen were “not allowed to recover an indemnity for the negligence of the master, or any member of the crew.” Id. at 175. The Jones Act eliminates that bar, providing seamen with heightened legal protections “because of their exposure to the perils of the sea.” *Chandris, Inc. v. Latsis*, 515 U.S. 347, 354 (1995).

Significantly, the Jones Act permits a suit in negligence in addition to the existing rights given sailors of “maintenance and cure.” Maintenance and cure provide benefits without fault to injured sailors; it is analogous to workers compensation. As this Court stated in Miller v. Arctic Alaska Fisheries, 133 Wn.2d 250, 268, 944 P.2d 1005 (1997):

Maintenance and cure is the maritime analog to land-based industrial insurance paying an injured seaman’s medical expenses (cure) and compensation in lieu of wages (maintenance) for injuries incurred in service of a ship.

Under the Jones Act, an injured sailor can receive those benefits and also sue his or her employer for negligence. Chandris, Inc. v. Latsis, 515 U.S. 347, 354 (1995). That is exactly what the City argues violates both the state and federal constitutions with the LEOFF program. The City’s argument thus proves too much.

IV. THE WSTLA FOUNDATION’S ANALYSIS OF RCW 4.96.010 IS INCONSISTENT WITH THIS COURT’S DECISIONS IN TAYLOR v. REDMOND AND J& B DEV. CO. v. KING COUNTY AND WITH THE DOCTRINE OF STARE DECISIS.

A. Taylor v. Redmond and Stare Decisis Support Plaintiff Locke’s Position.

The Court of Appeals in Locke, supra, 133 Wn. App. at 703-704, held that RCW 4.96.010 waived the City’s sovereign immunity. The plaintiff in Locke agrees with that holding. Respondent’s Supplemental Brief, pp. 18-20 (Locke). The plaintiffs in Lindell also agrees with that holding, but argued RCW 41.26.281 was also a waiver of sovereign

immunity. Lindell Brief, p. 17. The IAFF Amicus Brief in this Court argued that both RCW 41.26.281 and RCW 4.96.010 were independent waivers of sovereign immunity. *Compare* IAFF Brief, pp. 22-24 with pp. 24-25. In responding to the IAFF Brief, Mr. Locke did not argue against the applicability of RCW 41.26.281 as an independent waiver of sovereign immunity; rather he argued that it was not necessary for this Court to decide that issue given RCW 4.96.010. Answer to Amicus Brief of International Association of Fire Fighters, pp. 14-15.

The WSTLA Foundation agrees with the Lindell plaintiffs and the IAFF when it argues that “RCW 41.21.281 waives the City’s right to sovereign immunity with respect to actions against the City by LEOFF members.” WSTLA Foundation Brief, p. 4. However, it also appears to have joined the City of Seattle (“City”) in arguing (contrary to the arguments of the Locke plaintiff, the Lindell plaintiff, and of the IAFF) that RCW 4.96.010 does not permit the Locke and Lindell action against the City. WSTLA Foundation Amicus Brief at pp. 8-9. It also joins the City in arguing that this Court’s ruling in Taylor v. Redmond, 89 Wn.2d 315, 571 P.2d 1388 (1977), was erroneous and should be rejected. Id. at 10, n. 6.

Those arguments are wrong. Turning first to Taylor, *supra*, plaintiffs Locke and Lindell agree that the unanimous decision of this Court in Taylor directly supports RCW 4.96.010 as a waiver of sovereign

immunity in LEOFF cases. As plaintiff Locke explained in opposing the WSAMA Amicus Brief in the Court of Appeals:

WSAMA argues that RCW §4.96.010 does not waive sovereign immunity with regard to LEOFF claims. However, its argument ignores Taylor, supra, which both specifically raised the issue of sovereign immunity with regard to the LEOFF statute permitting tort actions against employers and specifically quoted RCW §4.96.010 as resolving that issue.

Respondent's Brief In Answer to Brief of Amicus Curiae, p. 10.⁷ That is the only fair way to read Taylor, supra, 89 Wn.2d at 320, which stated:

As to the "cause of action against the governmental employer as otherwise provided by law," contained in RCW 41.26.280, we look to RCW 4.96.010. Since under the common law the sovereign has traditionally enjoyed immunity from suits by its employees or subjects, there is no cause of action under the common law. Hence, we must look to the statutes to find a cause of action "otherwise provided by law." (Emphasis added.)

This Court then quoted RCW 4.96.010 in full. That discussion could only mean that this Court in Taylor interpreted RCW 4.96.010 to be the statute "otherwise provided by law" which authorized Taylor's suit against Redmond.

⁷ Respondent Lindell's Brief in this Court at page 17 similarly argues:

This Court has already held that the waiver of sovereign immunity set forth in RCW 4.96.010 applies to claims made under RCW 41.26.280 (the predecessor to RCW 41.26.281). *Taylor v. Redmond*, 89 Wn.2d 315, 571 P.2d 1388 (1977). Reversal on the basis of the Petitioner's sovereign immunity argument would require that *Taylor* be overruled.

Neither WSTLA's nor the City's attempt to undercut Taylor is persuasive. WSTLA argues:

To the extent this Court's opinion in Taylor v. Edwards (sic), 89 Wn.2d 315, 320, 571 P.2d 1388 (1977), interpreting a predecessor to RCW 41.26.281, suggests the "otherwise provided by law" language references RCW 4.96.010, this reading overlooks the effect of RCW 41.26.270. See supra text as 8-9.

WSTLA Foundation Brief, p. 10, n. 6. The insurmountable problem with that argument is that, far from overlooking the effect of RCW 41.26.270, this Court in Taylor quoted and relied on that provision. See Taylor, supra, 89 Wn.2d at 318-319. Only by ignoring that discussion could the claim be made that this Court "overlooked" that section.

The WSTLA Foundation also argues that:

RCW 41.26.270 rules out Ch. 4.96. RCW as a predicate for a cause of action by LEOFF members. The statute abolishes all civil actions "except as otherwise provided in this chapter." The prohibition necessarily eliminates RCW 4.96.010 as the predicate authorization for tort actions by LEOFF members.

WSTLA Brief, pp. 8-9. Even were that argument not foreclosed by Taylor, it is also wrong as a matter of statutory interpretation because it misreads §§270 and 281 which should be read together. Section 270 abolishes civil actions "except as otherwise provided in this Chapter." Section 281 is "in this chapter" and authorizes a "cause of action against the governmental employer as otherwise provided by law," (Emphasis added.) Section 281 thus both authorizes the civil action and

incorporates “otherwise provided” law as a basis therefore. That is exactly the point this Court made in the above-quoted portion of Taylor.

The City similarly argues that Taylor should be disregarded because of a “mistaken assumption” by this Court that LEOFF employees are not required to fund LEOFF benefits. Reply Brief of City in Lindell, pp. 23-24 (referencing the paragraph that begins at the bottom of page 319 of Taylor and continues at the top of 320). However, that alleged “mistake” is not material for two independent reasons. First, the allegedly mistaken discussion comes after this Court (a) reiterated the “fundamental principle of statutory construction” that courts should not construe statutes to “void” any section or words of a statute and (b) held that:

“[t]o read the LEOFF provision in light of the workmen’s compensation chapter would effectively void the words ‘or negligent act or omission’ in RCW 41.26.280.”⁸

Taylor, supra, 89 Wn.2d at 319. Given that holding, the paragraph that followed was not essential to this Court’s analysis. Indeed, that paragraph begins “[a]lso worth noting.” Secondly, (and this applies to both the WSTLA Foundation’s and the City’s arguments), Taylor was decided in 1977 and, since that time, has been relied upon by generations of Washington police and fire fighters as well as by the legislature which amended LEOFF several times since 1977. *Stare decisis* thus also calls for the continued validity of Taylor v. Redmond, supra. The United States Supreme Court in IBP, Inc. v. Alvarez, 546 U.S. 21, 32 (2005) held that:

⁸ RCW 41.26.280 at the time Taylor was decided was later renumbered as 41.26.281. See Fray v. Spokane County, 134 Wn.2d 637, 645, 952 P.2d 601 (1998).

Considerations of stare decisis are particularly forceful in the area of statutory construction, especially when a unanimous interpretation of a statute has been accepted as settled law for several decades.

Those considerations directly apply to Taylor which also unanimously interpreted a statute and has been accepted as settled law for thirty years.

B. J&B Dev. Co., supra and Evangelical United, supra, Support Plaintiff's Position.

While the WSTLA Foundation Brief rejects “the City’s contention that the Stephens and Harnetiaux article supports its argument that RCW 4.96.010’s “private persons and corporations” requirement must be met in any tort action against a municipality” (WSTLA Brief, p. 10, n. 7), it does not cite the cases which support the position that RCW 4.96.010 does waive sovereign immunity in this situation. It fails to discuss this Court’s decision in J&B Dev. Co. v. King County, 100 Wn.2d 299, 305, 669 P.2d 468 (1983), *reversed on other grounds* by Meaney v. Dodd, 111 Wn.2d 174, 759 P.2d 455 (1988) and Taylor v. Stevens County, 111 Wn.2d 159, 759 P.2d 447 (1988).⁹ J&B Dev. Co. held:

[I]t is well recognized that RCW 4.96.010 was not intended to create new duties where none existed before. Rather, it was to permit a cause of action in tort if a duty could be established, just the same as with a private person.

(Emphasis added.) The WSTLA brief also fails to discuss this Court’s holding in Evangelical United Brethren Church of Adna v. State, 67

⁹ The Court of Appeal’s decision in this case (133 Wn.2d at 703) specifically cited J&B Dev. Co., supra. Plaintiff Locke discussed J&B Dev. Co. several times. Yet, neither the City nor the Amicus Briefs dealing with sovereign immunity so much as mention it.

Wn.2d 246, 407 P.2d 440 (1965), which made largely the same point as this Court in J&B Dev. Co., *supra*, when stating:

Essentially, then, the official conduct giving rise to liability must be *tortious*, and it must be analogous, in some degree at least, to the chargeable misconduct and liability of a private person or corporation.

Id. at 252-53 (italics in original).

The WSTLA Foundation's Brief also ignores the analysis of the Court of Appeals on this issue:

The correct interpretation of RCW 4.96.010 is that if a government is found to have engaged in tortious conduct under applicable substantive law, which may or may not be different for government than for private parties, then the government will be liable for such tortious conduct "to the same extent as if they were a private person or corporation." *See Taylor v. City of Redmond*, 89 Wn.2d 315, 319, 571 P.2d 1388 (1977) (sovereign immunity waived by RCW 4.96.010 for suits brought by LEOFF Plan 1 members).

Locke, *supra*, 133 Wn. App. at 703-704. The Court of Appeals correctly interpreted Taylor, *supra*, as finding "sovereign immunity waived by RCW 4.96.010 for suits brought by LEOFF Plan 1 members." The Court of Appeals also correctly recognized that what RCW 4.96.010 requires is that the government be found to have engaged in tortious conduct under the relevant substantive law, even though that conduct may be different for government than for private individuals. Once that tort liability is found, sovereign immunity has been waived. That is a correct reading of Evangelical United, *supra*, which requires that the conduct giving rise to

liability must be “tortious” and that there need only be some degree of analogy to private activity. It also correctly interprets the holding of J&B Dev. Co., i.e., RCW 4.96.010 permits “a cause of action in tort if a duty could be established, just the same as with a private person.” That also is the necessary holding in Taylor, supra.¹⁰

V. CONCLUSION

For the foregoing reasons, and the reasons previously argued, the decision of the trial court and the Court of Appeals should be affirmed.

RESPECTFULLY SUBMITTED this 13th day of **June, 2007**.

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¹⁰ The WSTLA Foundation asserts at pages 9-10:

As argued by . . . Locke, if RCW 41.26.281 is required to be read with RCW 4.96.010, then RCW 41.26.281 becomes meaningless, because private sector employees under similar circumstances would not have a cause of action against their employer due to the immunity provisions of the Industrial Insurance Act. . . . Locke Ans. To IAFF Am. Brief, at 14-15.

That misstates Locke's position which is as set forth above.

I, RHONDA GULL, being first duly sworn upon oath, deposes and says:

1. I am an employee of Schroeter Goldmark & Bender, over the age of 18, not a party to this action and competent to make the following statements:

On June 13, 2007, I filed the RESPONDENT LOCKE'S ANSWER TO AMICUS BRIEFS OF WASHINGTON COUNCIL OF POLICE AND SHERIFFS, SEATTLE POLICE OFFICERS' GUILD AND KING COUNTY POLICE OFFICERS' GUILD, THE WASHINGTON CITIES INSURANCE AUTHORITY, WASHINGTON STATE TRIAL LAWYERS ASSOCIATION FOUNDATION with the Clerk of the Washington State Supreme Court by sending a copy via e-mail to supreme@courts.wa.gov and placing the original with the U.S. Postal Service, postage prepaid, addressed to:

Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

and served the following attorneys of record by facsimile or e-mail and by placing a copy in the U.S. Postal Service, postage prepaid or legal messenger service, addressed to them at the office addresses below:

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RHONDA GUIL

SUBSCRIBED AND SWORN TO before me this 13th day of
June, 2007.


NOTARY PUBLIC in and for
The State of Washington,
Residing at Seattle
My Commission expires: 12-19-07
Printed Name: Janet L. Rice

FILED AS ATTACHMENT
TO E-MAIL

