

FILED
APR 01 2008
CLERK OF SUPREME COURT
STATE OF WASHINGTON

FILED
MAR 26 2008
COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

FILED
COURT OF APPEALS DIV #1
STATE OF WASHINGTON
2008 MAR 21 PM 3:00

NO. 81195-4

SUPREME COURT
OF THE STATE OF WASHINGTON

(Court of Appeals No. 58831-1)

CASCADE ORTHOPAEDICS, a partnership,

Appellant/Respondent,

vs.

JOSIE ARMANTROUT and WARREN ARMANTROUT, husband and wife and the
marital community composed thereof,

Respondents/Petitioner.

**PETITIONERS' REPLY IN
SUPPORT OF PETITION FOR REVIEW**

Simeon J. Osborn, WSBA #14484
Susan Machler, WSBA #23256
Attorneys for Respondents

OSBORN MACHLER
2125 Fifth Avenue
Seattle, Washington 98121
206.441.4110

I. PETITIONERS' REPLY

Petitioners respectfully offer the following reply with respect to Cascade Orthopaedics' implication in its answer that the Washington legislature would presently address the issue of services as evidence of financial dependence under the Washington wrongful death statute.

First, both the House and Senate bills failed to pass in the 2008 legislative session. The substantial interest that parents of adult children have in the humane construction of the statute remains for this Court to determine. The petitioners ask that the Court accept this case for review and overturn the holding of the Court of Appeals.

Second, the petitioners contend, as they have argued in their petition for review that the provision of services is within the meaning of the term "financial dependence," and respectfully request that this Court so hold. A legislative amendment is not required for the Court to determine that the provision of services that have an economic or monetary value can be considered in making a determination of financial dependence.

Third, Washington's statute as it is written now requires that parents be "dependent for support" on an adult child in order to be statutory beneficiaries. This term is broader than "financial dependence," and the petitioners respectfully request that the Court construe "dependent

for support” to include the provision of services that have a monetary or economic value.

Finally, that the legislature may someday change a law does not diminish the public’s substantial interest in seeing a just result for all citizens, including those whose cases may be tried before the legislature acts. In this case, substantial public interest exists where our courts have fashioned a narrow and unjust interpretation of a statute, where a just interpretation is equally available to the Court. The petitioners join in the analysis contained in the amicus brief filed by the WSTLA Foundation in this case and respectfully request this Court to grant review and reverse the Court of Appeals’ holding in this case.

Respectfully submitted this 20th day of March, 2008.

OSBORN MACHLER



Simeon J. Osborn, WSBA #14484
Susan Machler, WSBA #23256
Attorneys for Respondents