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STATE OF WASHINGTON

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NO. 819467

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SUPREME COURT OF THE STATE OF WASHINGTON

JIM A. TOBIN,

Respondent,

v.

DEPARTMENT OF LABOR AND INDUSTRIES OF THE STATE OF
WASHINGTON,

Petitioner.

**PETITIONER'S ANSWER TO AMICUS CURIAE MEMORANDA
OF WASHINGTON STATE LABOR COUNCIL, AFL-CIO
AND WASHINGTON STATE ASSOCIATION FOR
JUSTICE FOUNDATION**

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I. INTRODUCTION

This case arises at the intersection of Washington's workers' compensation and tort systems. At issue is whether damages allocated to pain and suffering in an injured worker's tort recovery from a third party are subject to RCW 51.24.060(1)'s mandatory distribution formula. The Board of Industrial Insurance Appeals ruled that the Department of Labor and Industries had properly included Jim Tobin's pain and suffering damages in its distribution of his third party recovery. The superior court and Division II of the Court of Appeals held otherwise, concluding that *Flanigan v. Department of Labor & Industries*, 123 Wn.2d 418, 869 P.2d 14 (1994), a case involving loss of consortium, also insulated pain and suffering awards from distribution under RCW 51.24.060. *Tobin v. Dep't of Labor & Indus.*, 145 Wn. App. 607, 187 P.3d 780 (2008).

The Court of Appeals decision should be reversed for two fundamental reasons. First, it is contrary to the plain language and the legislative history of RCW 51.24.030(5), which the Legislature enacted in the wake of *Flanigan* to limit that case to loss of consortium damages. Second, exclusion of damages for pain and suffering from RCW 51.24.060(1)'s distribution formula is at odds with the core purposes of the Third Party Recovery Statute (RCW ch. 51.24) and, in a very real sense, with the Industrial Insurance Act itself.

Amici Washington State Labor Council, AFL-CIO (WSLC) and Washington State Association for Justice Foundation (WSAJF) contend that RCW 51.24.030(5) failed to accomplish what the Legislature intended, and that *Flanigan* controls the distribution of Tobin's third party recovery notwithstanding the Legislature's response. WSLC makes the additional arguments that: (a) the Department's construction of the Third Party Recovery Statute would "deprive[]" injured workers "of their pain and suffering awards"; (b) the United States Supreme Court's Medicaid reimbursement decision, *Arkansas Department of Social & Health Services v. Ahlborn*, 547 U.S. 268, 126 S. Ct. 1752, 164 L.Ed.2d 459 (2006), mandates the result the Court of Appeals reached here; and (c) injured workers have a right to be "made whole," a "right" with which application of RCW 51.24.030(5) and RCW 51.24.060(1) according to their terms would interfere.

As shown below, the position of these amici is contrary to the language, history, and purposes of the statute and, if accepted, would frustrate the Legislature's carefully-developed system that allows personal injury actions against third party tort-feasors and sets rules for the distribution of recoveries made in such actions.

II. ARGUMENT

A. Pursuant To RCW 51.24.030(5), “All Damages Except Loss Of Consortium” Are Subject To Distribution Under RCW 51.24.060(1)

In previous briefing the Department reviewed the history of the Industrial Insurance Act and its third party action provisions. Throughout the history of the Act, the fundamental purpose of third party actions has been to reimburse the workers’ compensation funds so that Washington’s workers and employers are not forced to pay for the negligence of third parties. The Third Party Recovery Statute and its distribution formula also ensure that responsible third parties are held liable for the damages caused by their negligent acts; eliminate double recoveries; and allow workers injured by third parties to recover “full damages.” Petition at 3-7; Department’s Supplemental Brief at 4-7.

RCW 51.24.060(1) governs the distribution of “any recovery.” This mandatory distribution formula, developed by the Legislature over many years, implements these policies. In *Flanigan*, however, this Court held that a spouse’s damages for loss of consortium were exempt from distribution because injured workers did not receive corresponding benefits under the Industrial Insurance Act. *Flanigan*, 123 Wn.2d at 425-426. *Flanigan*, however, does not undermine the Department’s argument. Rather, it *proves* the Department’s argument because the Legislature

responded immediately to *Flanigan* by enacting RCW 51.24.030(5). This new statute limited the effect of *Flanigan* to the specific type of damages that the case had involved by expressly stating that all other damages recovered in the third party action would be included in the distribution formula. Contrary to the amici arguments, the plain language of the statutes, and the legislative history of RCW 51.24.030(5), both support the Department's reading. *See generally* Department's Supplemental Brief at 9-11.

1. RCW 51.24.030(5) Amended RCW 51.24.060(1) By Defining The "Recovery" Subject To Distribution

WSLC and WSAJF make the same argument as Tobin regarding RCW 51.24.030(5) and its impact on *Flanigan*. According to both amici, RCW 51.24.030(5), despite its plain language and its legislative history, did nothing more than repeat what this Court had said less than one year earlier. *See* WSLC Brief at 6-7; WSAJF Brief at 9-11. Both amici thus contend that RCW 51.24.030(5) simply had no effect on RCW 51.24.060(1) and the distribution of third party recoveries. *See* WSLC Brief at 7-8; WSAJF Brief at 10. This contention is readily dismissed.

RCW 51.24.030(5) provides that "[f]or purposes of *this chapter*, 'recovery' includes all damages except loss of consortium." *Id.* (emphasis

added). . RCW 51.24.060 establishes a mandatory formula for the distribution of “any recovery.” RCW 51.24.030(5) thus defines a term used in RCW 51.24.060, modifying and controlling the application of that statute. *Cf. In Re Recall of Pearsall-Stipek*, 141 Wn.2d 756, 768 n.4, 10 P.3d 1034 (2000) (declining to follow cases “written prior to the Legislature’s creation of statutory definitions” because such cases “have no relevance in defining terms that have subsequently been defined by the Legislature”); *see also* WSLC Brief App. G at 3 (Senate Bill Report stating that “[t]he definition of ‘recovery’ in an action against a third party, for purposes of determining the state fund’s or self-insurer’s lien against the recovery, includes all damages except loss of consortium” (emphasis added)); WSIA Brief at 7 (“at the time *Flanigan* was decided, neither RCW 51.24.030 nor RCW 51.24.060 defined what constitutes a ‘recovery’ in a third party action”).

2. The WSAJF View Of The Statute Is Contrary To Its Own Statements To The 1995 Legislature

Rather than address RCW 51.24.030(5)’s legislative history, amici WSLC and WSAJF write as if the history unfavorable to their position does not exist. Of particular note is WSAJF’s statement that “[t]he interpretation of RCW 51.24.060(1)(c) in *Flanigan* must stand, and the 1995 amendment did not alter it. If the Legislature is dissatisfied with this

result, it may amend the statute.” WSAJF Brief at 11. This is an about-face for the amicus, whose representatives stood before two legislative committees in 1995 and testified that the exact opposite was true. Specifically, WSAJF’s predecessor organization informed the Legislature in 1995 that RCW 51.24.030(5) would limit *Flanigan* to consortium damages and that damages allocated to pain and suffering would be distributed under RCW 51.24.060(1).¹

3. WSLC Misreads And Mischaracterizes The Legislative History

WSLC offers a different take on legislative history, reaching back to 1983 and 1984 amendments to the Third Party Recovery Statute.² WSLC also offers a July 1994 memorandum from Charles Bush to the “WSIA Legal Committee And Interested Persons” regarding “Department Proposed Third Party Chapter Amendments.” WSLC Brief App. I.

¹ See Department’s Supplemental Brief App. B-2 at 4 (William Hochberg testifying on behalf of Washington State Trial Lawyers Association that SB 5399, described by previous speaker as “codify[ing] that *loss of consortium is the only part of a third-party recovery* for an injury that would not be subject to repayment of benefits,” *id.* at 1, is “reasonable under the circumstances”) (emphasis added); App. B-3 at 8-10 (Wayne Lieb testifying on behalf of Washington State Trial Lawyers Association and describing SB 5399 as “a significant compromise” under which the Department will “benefit in that payment [of damages for pain and suffering] even though they don’t pay a nickel for it. . . . [W]e are conceding very substantial general damages the Department and the self-insured do not pay for”).

² While most of this material is irrelevant to the issue now before the Court, WSLC does assert that the sponsor of the 1984 legislation “made it clear damages meant those damages paid under the Title 51 RCW.” WSLC Brief at 6. WSLC’s “authority” for this proposition says no such thing – rather, it concerns the definition of “injury” and does not contain the word “damages” in any context. *See id.*, App. F.

According to WSLC, this document demonstrates that the self-insurers' organization "proposed more expansive changes in the law" that were "*never adopted by the Legislature.*" WSLC Brief at 7 (emphasis in original). The WSLC errs, however, by saying that the self-insurers' arguments are "consistent with the arguments now advanced by the Department."

In fact, the self-insurers' memorandum that the WSLC cites *disagreed with* the amendment that the Department proposed (which the Legislature adopted when it passed SB 5399). The self-insurers argued that the Department's proposal did not go far enough. Mr. Bush testified for the self-insured employers *against* SB 5399, maintaining that the Legislature should simply overrule *Flanigan* to ensure that all damages, including loss of consortium, were subject to distribution. See Department's Supplemental Brief App. B-2 at 3 ("[w]e submit to you that there's no reason why you should cave in . . . to the Supreme Court[,] and that you should acknowledge that any monies gained by virtue of the third-party cause of action should inure to the benefit of the worker's compensation fund . . .").

However, as WSLC notes, the changes sought by the self-insured employers were not adopted. Instead, the Third Party Recovery Statute was amended to ensure that "all damages except loss of consortium" were

subject to distribution. This is, in fact, precisely what Mr. Bush said would be the consequence of the proposed bill:

To stem the damage done by the Supreme Court in *Downey* [the companion case to *Flanigan*] and *Flanigan . . .*, the Department proposes to amend RCW 51.24.030 so that it specifies only loss of consortium damages as exempt from the distribution provisions of RCW 51.24.050 and .060.

This exactly describes the bill that the Legislature enacted, and it is how the Department has administered the Third Party Recovery Statute since 1995. The Court should therefore reject WSLC's mischaracterization of this history. By adopting RCW 51.24.030(5), the 1995 Legislature intended to limit *Flanigan* and to control the meaning of the statute. In so doing, the Legislature ensured the distribution of "all damages except loss of consortium," which includes damages allocated to pain and suffering.

B. Including Damages Allocated To Pain And Suffering In RCW 51.24.060's Distribution Formula Is Not An Unconstitutional Taking Of Private Property

WSLC echoes Tobin's argument that including the pain and suffering portion of a third party recovery made by an injured worker is an unconstitutional taking of private property. *See* WSLC Amicus Brief at 2. As the Department has explained, however, an injured worker does not have an unfettered property right in a personal injury action. *See* Department's Supplemental Brief at 20-21. The Legislature abolished *all*

private causes of action for injured workers when it enacted the Industrial Insurance Act. RCW 51.04.010. Immediately after the Act became law, this Court upheld its constitutionality – noting, among other things, that the Legislature could properly “do away with a cause of action.” *State ex rel. Davis-Smith v. Clausen*, 65 Wash. 156, 210-211, 117 P. 1101 (1911).

The Third Party Recovery Statute is thus an exception to the Act’s exclusive remedy provision, and the terms of the Act control that remedy. When the Legislature decided that workers (and, under certain circumstances, self-insured employers or the Department³) could sue third parties under tort law, it also explicitly provided for how “any recovery” made in such an action would be used. However, if the constitution bars distribution of one component of damages recovered from a third party tortfeasor, then Tobin and his amici must explain why the constitution does not similarly prevent the distribution of other types of damages. They must also reconcile their constitutional argument with the fact that the Act eliminates *all* tort damage claims arising from an employer’s negligence.

They cannot, because the constitution does not provide additional protection to a worker’s interest in a component of a tort recovery based on who inflicted the damages and what the damages are called. Instead,

³ See RCW 51.24.050(1); RCW 51.24.070

all claims that might be made by injured workers – including what benefits are available, who can be sued and under what circumstances, and how the proceeds of such a lawsuit must be distributed – are subject to the broad legislative power to adopt economic legislation.

Thus, the WSLC’s argument amounts to an unintentional attack on the “grand compromise” that underlies the Industrial Insurance Act, i.e., limited employer liability in exchange for sure and certain relief to injured workers, regardless of fault. Injured workers could assert the putative constitutional right that WSLC posits by suing their employers. WSLC does not appear to seek this result, and no authority supports it, but it flows from the WSLC proposition that an injured worker has a constitutionally-protected property right in a part of his or her cause of action against a third party.⁴

The Court can avoid these deep flaws in the WSLC and Tobin arguments by recognizing that the injured worker’s interest in tort damages arising from his or her injury is created and defined entirely by

⁴ Distinguishing between types of damages is no solution. If a worker injured by a third party has a constitutionally-protected interest in damages for pain and suffering, then one must ask why the same interest would not exist for a worker injured by his or her employer. A century of national precedent upholding workers’ compensation laws, however, confirms the constitutionality of providing an exclusive remedy under the Industrial Insurance Act. See, e.g., *Mountain Timber Co. v. Washington*, 243 U.S. 219, 37 S. Ct. 260, 61 L.Ed. 685 (1917) (Washington workers’ compensation law not unconstitutional); *Bountiful Brick Co. v. Giles*, 276 U.S. 154, 48 S. Ct. 221, 72 L.Ed. 507 (1928) (Utah); see generally 99 C.J.S. Workers’ Compensation § 40 (“It is not unconstitutional for the legislature to make the workers’ compensation act the exclusive remedy of injured workers.”)

the Act. This was established in 1911, when the Industrial Insurance Act was first enacted, and has repeatedly been reaffirmed in the context of third party recoveries. *Maxey v. Dep't of Labor & Indus.*, 114 Wn.2d 542, 546-548, 789 P.2d 75 (1990); *see also Gersema v. Allstate Ins. Co.*, 127 Wn. App. 687, 696-699, 112 P.3d 552 (2005); *Fria v. Dep't of Labor & Indus.*, 125 Wn. App. 531, 534-535, 105 P.3d 33 (2004). Reimbursing the funds from "all damages except loss of consortium" violates no constitutional prohibition. In fact, the distribution formula ensures that economic gain is the result for every worker who makes a third party recovery. *See* RCW 51.24.060(1)(b) (injured worker receives 25% of third party recovery (after attorney fees and costs) free and clear of any Department claim); RCW 51.24.060(1)(c)(iii), (e) (Department pays proportionate share of fees and costs on reimbursement share and excess recovery)

C. *Ahlborn* Is Irrelevant To The Distribution Of A Third Party Recovery Under Washington State's Industrial Insurance Act.

WSLC argues that *Arkansas Department of Social & Health Services v. Ahlborn*, 547 U.S. 268, 126 S. Ct. 1752, 164 L.Ed.2d 459 (2006), limits the funds' right of reimbursement from third party recoveries. *Ahlborn*, however, involved federal Medicaid statutes that are

entirely different than the third party reimbursement provisions of Washington's Industrial Insurance Act.

Ahlborn addresses an Arkansas law that provided the state, as payor of Medicaid benefits, with “a statutory lien on any settlement, judgment, or award received . . . from a third party.” *Ahlborn*, 547 U.S. at 278, *quoting* Ark. Code Ann. § 20-77-307(c). This lien was for “the cost of [Medicaid] benefits so provided,” and applied to the entirety of the third party recovery. *Id.* at 277-78, *quoting* Ark. Code Ann. § 20-77-301(a); *see generally id.* at 277-280 (discussing Arkansas Medicaid reimbursement scheme). Through this system, the Court explained, Arkansas “claims an entitlement to more than just that portion of a judgment or settlement that represents payment for medical expenses. It claims a right to recover the entirety of the costs it paid on the Medicaid recipient’s behalf.” *Id.* at 279.

The Supreme Court invalidated the Arkansas system, not because of concerns over “reimbursement,” but because it directly conflicted with a host of federal laws governing Medical reimbursement. These laws included:

- the laws requiring Medicaid recipients to assign to the state “any rights . . . to payment for medical care from any third party,” . . . not rights to payment for, for example, lost wages.” *Ahlborn*, 547 U.S. at 280, *quoting* 42 U.S.C. § 1396k(a)(1)(A) (emphasis in *Ahlborn*);
- the law requiring states to “seek reimbursement for [medical] assistance to the extent of such legal liability,” where “such legal

liability’ refers to ‘the legal liability of third parties . . . to pay for care and services available under the [Medicaid] plan.’” *Ahlborn*, 547 U.S. at 280, quoting 42 U.S.C. §§ 1396a(a)(25)(A) and (B) (emphases in *Ahlborn*);

- the law requiring Medicaid recipients to assign to the state “the rights of [the recipient] to payments by any other party for such health care items or services.” *Ahlborn*, 547 U.S. at 281, quoting 42 U.S.C. § 1396a(a)(25)(H) (emphases in *Ahlborn*); and
- the federal law prohibiting the imposition of a state lien on any portion of a third party recovery other than payments for medical care. *Ahlborn*, 547 U.S. at 283-285, citing 42 U.S.C. §§ 1396a(a)(18), 1396a(a)(25), 1396k(a), 1396p.

Thus, the Court invalidated Arkansas’ Medicaid reimbursement system because specific *federal laws* explicitly limited the state’s interest to third party recoveries for medical payments:

Federal Medicaid law does not authorize [Arkansas] to assert a lien on *Ahlborn*’s settlement in an amount exceeding [the portion of the settlement representing medical payments], and the federal anti-lien provision affirmatively prohibits it from doing so.

Ahlborn, 547 U.S. at 292; see also *id.* at 280 (Arkansas scheme “squarely conflicts with the anti-lien provision of the federal Medicaid laws”).

Ahlborn’s application of federal law to Arkansas state law has no bearing on Washington’s Third Party Recovery Statute. No federal law alters Washington’s mandate that “any recovery” be distributed under RCW 51.24.060(1) (emphasis added). Similarly, federal law does not alter the state law definition of “recovery” as “all damages except loss of

consortium.” RCW 51.24.030(5) (emphasis added). *Ahlborn* is thus irrelevant.⁵

D. The “Made Whole” Doctrine Has No Bearing On The Distribution Of Third Party Recoveries Made Under The Industrial Insurance Act.

Amicus WSLC also claims that including damages for pain and suffering in RCW 51.24.060(1)’s distribution formula impairs “the injured worker’s right to be made whole.” WSLC Brief at 7. WSLC thus argues for application of the “made whole” doctrine to Washington’s Industrial Insurance System.

The “made whole” doctrine is an equitable rule applicable to common law subrogation claims. *See Mahler v. Szucs*, 135 Wn.2d 398, 411-418. In general terms, the rule provides that “no right of reimbursement exist[s] for an insurer until the insured [is] fully compensated for a loss.” *Id.* at 416-417, citing *Thiringer v. American Motors Ins. Co.*, 91 Wn.2d 215, 219-220, 588 P.2d 191 (1978). According to WSLC, this doctrine also limits the workers’ compensation funds’ reimbursement from third party recoveries.

⁵ As WSLC notes, *Ahlborn* cites *Flanigan* in a footnote to “illustrate” why its holding would not, as Arkansas argued, lead to “a risk of settlement manipulation.” *See Ahlborn*, 547 U.S. at 287-288 & 288 n.18. This passing use of *Flanigan* to illustrate a point unrelated to *Flanigan*’s actual holding does not make *Ahlborn* controlling here. As shown above, *Ahlborn* construes a federal statutory scheme that differs in crucial respects from Washington’s Industrial Insurance Act, and Washington’s Legislature changed Washington’s law after *Flanigan* was decided.

The “made whole” argument fails for several reasons. First and most obvious, the distribution of third party recoveries is not governed by equitable principles. Instead, the Legislature established a detailed statutory distribution formula in ch. 51.24 RCW. This formula displaces the equitable made whole doctrine. *Dep’t of Labor & Indus. v. Dillon*, 28 Wn. App. 853, 855-856, 626 P.2d 1004 (1981) (decided under Crime Victims Compensation Act, ch. 7.68 RCW); *see also Paulsen v. Dep’t of Social & Health Svcs.*, 78 Wn. App. 665, 668-672, 898 P.2d 353 (1994) (relying on *Dillon* and holding that statutory lien displaces equitable made whole principle).

More generally, subrogation itself is an equitable principle that has no role in the Third Party Recovery Statute. The Department is not an “insurer.” *Washington Ins. Guaranty Ass’n v. Dep’t of Labor & Indus.*, 122 Wn.2d 527, 533-535, 859 P.2d 592 (1993). Moreover, this Court has held that the funds’ interest in a third party recovery is not a “lien” – it is absolute ownership. *Maxey v. Dep’t of Labor & Indus.*, 114 Wn.2d 542, 545-549, 789 P.2d 75 (1990). This Court, in fact, has explicitly held that equitable principles cannot subvert the express statutory language of

RCW 51.24.060. *Rhoad v. McLean Trucking Co., Inc.*, 102 Wn.2d 422, 427-430, 686 P.2d 483 (1984).⁶

Finally, an analysis of the made whole doctrine for insurance subrogation is unnecessary under the Industrial Insurance Act. Under the Act, workers are entitled to receive the statutorily defined and guaranteed benefits that the Act provides. This is the foundation of Washington's Industrial Insurance Act. *E.g.*, *Stertz v. Indus. Ins. Comm'n*, 91 Wash. 588, 591, 158 P. 256 (1916). Subrogation and made whole concerns are not present where the worker has received the entirety of the benefits that to which they are entitled under the Act.

The Court should therefore reject WSLC's argument. The Legislature did not create a system whereby workers injured by third parties enjoy an entirely different set of rights, governed by equitable rules such as the made whole doctrine, while workers whose injuries are the fault of their own employers are bound by the Act alone. Instead, the distribution formula in RCW 51.24.060(1) provides an equitable

⁶ *Harry v. Buse Timber & Sales, Inc.*, 166 Wn.2d 1, 201 P.3d 1011 (2009), does not change the rule that *Rhoad* establishes. See WSLC Brief at 9 & 9 n.3. First, *Harry* is a workers' compensation case addressing benefits for hearing loss and has nothing to do with the Third Party Recovery Statute. See *Harry*, 166 Wn.2d at 6. Second, the liberal construction rule discussed in *Harry* is "inapplicable where the injured worker's right to benefits is not at issue." *Frost v. Dep't of Labor & Indus.*, 90 Wn. App. 627, 637, 954 P.2d 1340 (1998), review denied, 137 Wn.2d 1001 (1999) (third party case; citing *Seattle Sch. Dist. v. Dep't of Labor & Indus.*, 116 Wn.2d 352, 360, 804 P.2d 621 (1991)). Tobin's right to benefits under the Industrial Insurance Act is certainly not at issue here; instead, the question raised is how much *additional* compensation he should receive by virtue of the Third Party Recovery Statute.

distribution. As explained in the Department's supplemental brief, Tobin (and all other workers with third party recoveries) will receive *more* than his workers' compensation benefits, and *more* than his tort damages, under the Department's construction of the statute. *See* Department's Supplemental Brief, App. D. Tobin himself has never disputed this fact, nor does either amicus.

Applying the statute as written and intended by the Legislature, and as it has been applied in the 14 years since the 1995 amendment, Tobin receives nearly \$450,000 more than he would receive if he had been injured at work without any third party fault. He also receives \$164,000 more than he would have received if his injury had occurred outside work, leaving him with only a tort claim and without Industrial Insurance benefits. Notwithstanding these facts, amici construe the Act to argue that Tobin is entitled to \$261,000 more. That money, however, would come at the expense of the workers' compensation funds in the form of reduced reimbursement and would be charged instead to Washington's employers and employees whose premiums maintain the funds. *See* Brief of Amici Curiae Washington Self-Insurers Association at 11-14 (describing the adverse impacts of forcing the state's business community to subsidize the increased recoveries for which Tobin, WSLC, and WSAJF argue).

The Legislature has the power to define the benefits and tort claims available to injured workers. Exercising this power, it has provided certain injured workers with the ability to pursue responsible third parties. At the same time, the Legislature has balanced those claims with the important purpose of ensuring that the third party pay back the employees and employers who pay for the Industrial Insurance benefits. The Legislature did not violate the constitution when it established this system.⁷

III. CONCLUSION

For the foregoing reasons, the Court should reverse the Court of Appeals and affirm the Department's distribution order.

RESPECTFULLY SUBMITTED this 4th day of November, 2009.

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⁷ WSLC's complaints throughout its amicus brief regarding the Department's administration of the Third Party Program are both unfounded and irrelevant. More to the point, they ignore the fact that the distribution order on appeal awards Tobin more money than he would receive either in workers' compensation benefits or from his tort recovery alone. Thus, the Legislature's formula combines the advantages of sure and certain relief for injured workers with tort remedies in a way that always provides more to a worker who makes a third party recovery, while ensuring that third parties – not the workers, employers, or the funds – are liable for damages caused by third party negligence.

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Jim A. Tobin, Respondent v. Department of Labor and Industries of the State of Washington, Petitioner.

Supreme Court No. 819467

Petitioner's Answer to Amicus Curiae Memoranda of Washington State Labor Council, AFL-CIO and Washington State Association for Justice Foundation.

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