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SUPREME COURT
STATE OF WASHINGTON

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BY RONALD R. CARPENTER

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

~~CLERK~~
JIM A. TOBIN,

Respondent,

vs.

DEPARTMENT OF LABOR AND
INDUSTRIES,

Appellant.

NO. 81946-7

STATEMENT OF
ADDITIONAL
AUTHORITIES

COMES NOW the respondent and submits the following
additional authorities to the Court, pursuant to RAP 10.8:

- *Stertz v. Dep't of Labor & Indus.*, 91 Wash. 588, 594-95, 158 P. 256 (1916) (Industrial Insurance Act is not an employer liability act, or an ordinary compensation act, but an industrial insurance act; "All the features of an insurance act are present.");
- *Maxey v. Dep't of Labor & Indus.*, 114 Wn.2d 542, 549, 789 P.2d 75 (1990) (RCW 51.24 makes it "possible for the worker to recover full compensation from the party which is legally and in fact responsible for his injuries and consequent damages.");
- RCW 51.24.030(3) (defines injury as "any physical or mental condition, disease, ailment or loss, including death, for which compensation and benefits are paid or payable under this title.");
- *Duskin v. Carlson*, 136 Wn.2d 550, 557, 965 P.2d 611 (1998) (Supreme Court recognizes that a worker has a property interest under RCW 51.24 in the worker's control over the potential lawsuit to be filed against a third party tortfeasor for purposes of procedural due process; in making the election under RCW 51.24.070 as to whether to pursue lawsuit or allowing the right to sue to be assigned to

Statement of Additional Authorities- 1

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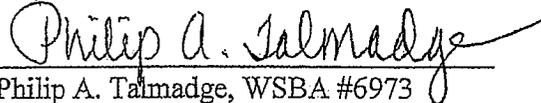
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ATTACHMENT TO EMAIL

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the Department of Labor and Industries by operation of law, the worker is entitled to appropriate notice and information from the Department regarding that election).

DATED this 18~~th~~ day of November, 2009.

Respectfully submitted,



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