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**SUPREME COURT OF
THE STATE OF WASHINGTON**

W.G. CLARK CONSTRUCTION CO., a Washington corporation,
Respondent,

v.

CARPENTERS HEALTH & SECURITY TRUST OF WESTERN
WASHINGTON; CARPENTERS RETIREMENT TRUST;
CARPENTERS-EMPLOYERS VACATION TRUST; CARPENTERS-
EMPLOYERS APPRENTICESHIP & TRAINING TRUST, Appellants,

and

PACIFIC NORTHWEST REGIONAL COUNCIL OF CARPENTERS, a
Local Union, Appellant; PARAMOUNT SCAFFOLD, INC., a
Washington corporation, Respondent.

AMICUS BRIEF OF AGC OF WASHINGTON

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The appellant Trusts seek to pursue claims in Washington state court for unpaid ERISA plan contributions. Those claims exist because the ERISA employer failed to pay the contributions it owed, and because the Trust fiduciaries failed to collect them from the employer. The employer's obligation to pay them, and the Trust fiduciaries' affirmative obligation promptly to collect them, are both explicitly established and regulated by ERISA. ERISA also provides an integrated, exclusive set of remedies for breach of those obligations. In an unbroken line of cases (including post-*Travelers* caselaw that the appellant Trusts do not cite), the United States Supreme Court holds that state-law remedies that would supplement or supplant the exclusive remedies in ERISA are preempted.

The trial court correctly found preemption in this case, and this Court should affirm. Otherwise, adjudication of the Trusts' state law claims will entail determining whether the ERISA Trust fiduciaries in this case violated their ERISA duties, failed to pursue ERISA-mandated remedies, and thereby created the liabilities they now seek to impose on innocent third parties via state law claims. ERISA preemption exists to prevent such a result.

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I. Appellant rests its appeal on an interpretation of ERISA preemption law that contradicts current U.S. Supreme Court precedent.

The Trusts build their appeal on the premise that in *Travelers* the Supreme Court “reset” ERISA preemption analysis so that it begins “with the starting presumption that Congress does not intend to supplant state law.” Appellant’s Reply Brief p. 3. But the “starting presumption” referenced in *Travelers* is to the high court’s *general* preemption analysis, established decades before *Travelers* and even before enactment of ERISA. That is why, in the very passage quoted by the Trusts, the *Travelers* Court cites to seven of its prior decisions, stretching back nearly 70 years, six of which had nothing to do with ERISA.

Far from declaring that *ERISA*-preemption analysis begins by presuming against preemption, the *Travelers* Court commenced its ERISA-preemption analysis where that Court has always begun: With the explicit, extraordinarily broad declaration of ERISA preemption enacted by Congress.

Since pre-emption claims turn on Congress’s intent, we begin as we do in any exercise of statutory construction with the text of [ERISA’s preemption provision, 29 U.S.C. § 1144(a)], and move on, as need be, to the structure and purpose of the Act in which it occurs. The governing text of ERISA is clearly expansive.

New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Insurance Co., 514 U.S. 645, 655, 115 S. Ct. 1671, 1677,

131 L. Ed. 2d 695 (1995) (citations omitted). Indeed, as this Court has observed, the declaration of federal preemption in ERISA is unprecedented in its scope. *Puget Sound Electrical Workers v. Merit Co.*, 123 Wn.2d 565, 569, 870 P.2d 960, 962 (1994) (“ERISA’s [preemption provision] is virtually unique and is ‘conspicuous for its breadth.’”).

Where *Travelers* distinguished its preemption analysis from the Court’s earlier ERISA caselaw was in emphasizing that Congress’s broad preemption language is unhelpful in setting the precise limits of where Congress intended preemption to end. “[O]ne might be excused for wondering, at first blush, whether the words of limitation (‘insofar as they . . . relate’) do much limiting. If ‘relate to’ were taken to extend to the furthest stretch of its indeterminacy, then for all practical purposes preemption would never run its course[.]” *Travelers*, 514 U.S. at 655; see *California Division of Labor Standards Enforcement v. Dillingham Construction*, 519 U.S. 316, 335, 117 S. Ct. 832, 843, 136 L. Ed. 2d 791 (1997) (Scalia, concurrence) (“[A]s many a curbstone philosopher has observed, everything is related to everything else.”).

Thus, far from declaring a prejudice against ERISA preemption, *Travelers* held that proper analysis should go beyond the literal preemption provision enacted by Congress and explore the remainder of ERISA to illuminate what Congress intended with its extraordinarily

broad preemption language. “We simply must go beyond the unhelpful text and the frustrating difficulty of defining its key term, and look instead to the objectives of the ERISA statute as a guide to the scope of the state law that Congress understood would survive.” *Travelers*, 514 U.S. at 656.

And far from creating a “reset” of ERISA preemption doctrine from the Court’s earlier ERISA holdings, the *Travelers* Court repeatedly declared its fidelity to its two earlier decisions that are dispositive here (and that were the foundation for this Court’s holdings in *Merit* and *Trig*): *Ingersoll-Rand*¹ and *Shaw*.² After explaining the need to search beyond the face of ERISA’s preemption language and examine the Act’s underlying structure and purposes, the *Travelers* Court discussed indications of Congress’s intent and then listed its own, earlier ERISA preemption holdings *as examples reflecting that legislative intent*.

Accordingly in *Shaw*, for example, we had no trouble finding that [a state law] clearly ‘relate[d] to’ benefit plans. . . . Elsewhere, we have held that state laws providing alternative enforcement mechanisms also relate to ERISA plans, triggering pre-emption. *See Ingersoll-Rand, supra*. . . .

. . . . [W]e do not hold today that ERISA pre-empts only direct regulation of ERISA plans, nor could we do that with

¹ *Ingersoll-Rand Co. v. McClendon*, 498 U.S. 133, 111 S. Ct. 478, 112 L. Ed. 2d 474 (1990).

² *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 103 S. Ct. 2890, 77 L. Ed. 2d 490 (1983).

fidelity to the views expressed in our prior opinions on the matter. *See, e.g., Ingersoll-Rand; Shaw.*

514 U.S. 645, 657-58 & 668 (citation detail omitted).

More recent Supreme Court caselaw continues to emphasize the breadth of ERISA preemption, without the hostile presumption the Trusts would read into *Travelers*. *See, e.g., Aetna Health Inc. v. Davila*, 542 U.S. 200, 208, 124 S. Ct. 2488, 2495, 159 L. Ed. 2d 312 (2004) (“ERISA includes expansive pre-emption provisions, *see* ERISA § 514, 29 U.S.C. § 1144, which are intended to ensure that employee benefit plan regulation would be ‘exclusively a federal concern.’”).

II. Congress explicitly enacted ERISA both to protect worker benefit payments and to protect interstate commerce from the burdens of employers failing to promptly pay their plan contributions.

The appellant Trusts, and many of the lower federal court decisions on which they rely, argue that the legislative purpose of ERISA was to ensure payment of employee benefit contributions. But that is only partly true. The structure and provisions of ERISA demonstrate that Congress’s purpose was more specific: To ensure payment of benefit contributions *by the employer who owes them*. Both in its declarations of legislative purpose and in the mandatory duties imposed by its provisions,

Congress expressed its intent of preventing the consequences of benefit contributions not being promptly collected *from the employer*.

It is hereby declared to be the policy of this chapter *to protect interstate commerce* and the interests of participants in employee benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, *by establishing standards of conduct, responsibility, and obligation for fiduciaries of employee benefit plans*, and *by providing for appropriate remedies, sanctions, and ready access to the Federal courts*.

29 U.S.C. § 1001(b) (emphasis added). When an employer fails to make payments required by an employee benefit plan, that failure impairs interstate commerce *and* the interests of plan participants. When taxpayers, sureties, developers, and others in the construction industry must make good the failure of contractor-employers to pay ERISA contributions, that added liability burdens interstate commerce.

To ensure the protection of *both* interstate commerce and the interests of plan participants, Congress imposed obligations both on the employer and on plan fiduciaries to ensure that ERISA benefit contributions are promptly collected *from the employer*.

ERISA requires of employers, of course, that they pay their contributions promptly. *See* 29 U.S.C. § 1145. But ERISA also affirmatively requires that plan fiduciaries promptly collect those payments from each employer. In no less than five separate provisions,

ERISA imposes on plan fiduciaries the obligation promptly to collect benefit contributions from the employers who owe them, and to ensure that employers do not have even temporary use of monies that they owe as benefit contributions.

First, ERISA imposes on plan fiduciaries the general obligations of trust fiduciaries. *See* 29 U.S.C. § 1104(a) (prudent man standard for fiduciaries); *Central States v. Central Transport, Inc.*, 472 U.S. 559, 570 n.10, 105 S. Ct. 2833, 2840 n.10, 86 L. Ed. 2d 447 (1985) (“The fiduciary responsibility section, in essence, codifies and makes applicable to these fiduciaries certain principles developed in the evolution of the law of trusts”). Second, ERISA mandates that plan contributions and other plan assets “shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan.” 29 U.S.C. § 1103(c)(1). Third, ERISA outlaws any transaction between plan fiduciaries and an employer that extends credit to an employer, including the employer’s use of funds owed as contributions. *See* 29 U.S.C. § 1106(a)(1)(B). (The Supreme Court declares that this requirement “certainly create[s] a trustee responsibility for assuring full and prompt collection of contributions owed to the plan.” *Central*

States v. Central Transport, Inc., 472 U.S. 559, 573, 105 S. Ct. 2833, 2841, 86 L. Ed. 2d 447 (1985).)

Fourth, ERISA provides that the remedy for unpaid benefit contributions is suit in federal district court. *See* 29 U.S.C. § 1132. For ERISA claims brought by plan fiduciaries, Congress made federal district court the *exclusive* jurisdiction available for relief. 29 U.S.C. § 1132(a)(3) & (e).³ Fifth, ERISA holds each fiduciary personally liable for damages and equitable relief for any breach of her fiduciary duties. *See* 29 U.S.C. § 1109(a).

The United States Supreme Court long ago established that Congress intended the enforcement mechanisms in 29 U.S.C. § 1132 to be the *exclusive* remedies available for enforcing ERISA rights and obligations. “Congress intended § 502(a) [29 U.S.C. § 1132(a)] to be the exclusive remedy for rights guaranteed under ERISA[.]” *Ingersoll-Rand*

³ The appellant Trusts admit that their claims for unpaid ERISA contributions fall under the exclusive federal jurisdiction of 29 U.S.C. § 1132(a)(3). CP 231 (“This court has jurisdiction pursuant to . . . 29 U.S.C. §§ 1132(a)(3), (e)(2).”). *See Livolsi v. Ram Construction Co.*, 728 F.2d 600, 603 (3d Cir. 1984) (Where trust funds brought suit to obtain ERISA benefit contributions not paid by employer, “there can be no doubt that the action was brought under section 502(a)(3) of ERISA [29 U.S.C. § 1132(a)(3)] and that the federal courts had exclusive jurisdiction over the case.”); *Iron Workers Mid-South Pension Fund v. Terotechnology Corp.*, 891 F.2d 548, 551 (5th Cir. 1990) (Where employee benefit funds suing contract and property owner to collect for unpaid benefit contributions, “The Funds are fiduciaries under § 502(a)(3) [29 U.S.C. § 1132(a)(3)] and were suing to enforce the terms of the plans.”).

Co. v. McClendon, 498 U.S. 133, 144, 111 S. Ct. 478, 485, 112 L. Ed. 2d 474 (1990). The Court arrived at that holding from its own, detailed analysis of the structure, terms, and legislative history of ERISA:

[T]he detailed provisions of § 502(a) set forth a comprehensive civil enforcement scheme that represents a careful balancing of the need for prompt and fair claims settlement procedures against the public interest in encouraging the formation of employee benefit plans. The policy choices reflected in the inclusion of certain remedies and the exclusion of others under the federal scheme *would be completely undermined if ERISA-plan participants and beneficiaries were free to obtain remedies under state law that Congress rejected in ERISA*. “The six carefully integrated civil enforcement provisions found in § 502(a) of the statute as finally enacted . . . provide strong evidence that Congress did not intend to authorize other remedies that it simply forgot to incorporate expressly.”

Ingersoll-Rand Co., 498 U.S. at 144 (*quoting Pilot Life Insurance Co. v. Dedeaux*, 481 U.S. 41, 54, 107 S. Ct. 1549, 1556, 95 L. Ed. 2d 39 (1987)) (emphasis added).

The exclusive set of ERISA remedies enacted in section 502(a) is not the only structural feature of ERISA demonstrating Congress’s intent to preempt alternate state court remedies for collection of plan contributions. ERISA requirements that fiduciaries promptly collect benefit contributions from employers, and forbidding fiduciaries from allowing employers to retain contribution funds even temporarily, independently confirm Congress’s intent that alternate remedies against

other parties, outside of ERISA, were preempted in order to foster ERISA's dual objectives of protecting interstate commerce and protecting plan participants.

[O]ne of the principal congressional concerns motivating the passage of the Act [was] that plans should assure themselves of adequate funding by promptly collecting employer contributions. In ERISA, Congress sought to create a pension system in which "[a]ll current accruals of benefits based on current service . . . [would] be paid for immediately."

Central States v. Central Transport, Inc., 472 U.S. 559, 580, 105 S. Ct. 2833, 2845, 86 L. Ed. 2d 447 (1985) (footnote omitted).

[Plan trustees have the fiduciary duty] to gain immediate use of trust assets for the benefit of the trust, to avoid the time and expense of litigation, and to avoid unfunded liabilities that might eventually prove uncollectable as a result of insolvencies. *For a plan passively to allow an employer to create such unfunded liabilities would jeopardize the participants' and beneficiaries' interests as well as those of all participating employers who properly comply with their obligations.*

472 U.S. at 580 (emphasis added).

III. ERISA includes a comprehensive, integrated, and exclusive set of remedies for breach of ERISA duties, including the duty to pay contributions to ERISA plans. Alternate enforcement mechanisms under state law are preempted.

ERISA section 502 (29 U.S.C. § 1132) sets forth an interlocking matrix of remedies. Its provisions encompass remedies for failure of all ERISA-mandated duties, including an employers' failure to pay plan

contributions, and plan fiduciaries' failure promptly to collect them from the employer. In the recent words of the Supreme Court:

ERISA's "comprehensive legislative scheme" includes "an integrated system of procedures for enforcement." This integrated enforcement mechanism is a distinctive feature of ERISA, and essential to accomplish Congress' purpose of creating a comprehensive statute for the regulation of employee benefit plans.

Aetna Health, 542 U.S. at 208 (citations omitted).

Congress rejected alternate mechanisms to collect unpaid plan contributions beyond those provided for in section 502. Had congress wanted to allow plan fiduciaries the option of pursuing alternate mechanisms afforded under the local laws of 50 different states, Congress could have done so. Instead, it rejected that approach and enacted an exclusive set of remedies as the single, uniform menu of remedies for administration of ERISA plans. Nine years after *Travelers*, the Supreme Court reiterated:

[T]he detailed provisions of § 502(a) set forth a comprehensive civil enforcement scheme that represents a careful balancing of the need for prompt and fair claims settlement procedures against the public interest in encouraging the formation of employee benefit plans. The policy choices reflected in the inclusion of certain remedies and the exclusion of others under the federal scheme would be completely undermined if ERISA-plan participants and beneficiaries were free to obtain remedies under state law that Congress rejected in ERISA. The six carefully integrated civil enforcement provisions found in § 502(a) of the statute as finally enacted . . . provide strong evidence

that Congress did not intend to authorize other remedies that it simply forgot to incorporate expressly.

Aetna Health, 542 U.S. at 208-09 (internal quotation marks omitted).

From this legislative reality the *Aetna Health* court concluded:

Therefore, *any state-law cause of action* that duplicates, *supplements, or supplants* the ERISA civil enforcement remedy *conflicts with the clear congressional intent to make the ERISA remedy exclusive and is therefore pre-empted*.

542 U.S. at 209 (emphasis added).

The conclusion that the cause of action in this case is pre-empted by § 514(a) is supported by our understanding of the purposes of that provision. Section 514(a) was intended to ensure that plans and plan sponsors would be subject to a uniform body of benefits law; the goal was to minimize the administrative and financial burden of complying with conflicting directives among States or between States and the Federal Government. Otherwise, the inefficiencies created could work to the detriment of plan beneficiaries. Allowing state based actions like the one at issue here would subject plans and plan sponsors to burdens not unlike those that Congress sought to foreclose through § 514(a). Particularly disruptive is the potential for conflict in substantive law. It is foreseeable that state courts, exercising their common law powers, might develop different substantive standards applicable to the same employer conduct, requiring the tailoring of plans and employer conduct to the peculiarities of the law of each jurisdiction. Such an outcome is fundamentally at odds with the goal of uniformity that Congress sought to implement.

Ingersoll-Rand Co. v. McClendon, 498 U.S. 133, 142, 111 S. Ct. 478, 484, 112 L. Ed. 2d 474 (1990).⁴ In *Travelers*, the high court embraced that very holding: “Elsewhere, we have held that *state laws providing alternative enforcement mechanisms also relate to ERISA plans, triggering pre-emption. See Ingersoll-Rand, supra.*” *Travelers*, 514 U.S. at 658 (emphasis added).

Appellant’s briefing points to supposed 1980 legislative history of ERISA to argue for a contrary intent. *See Reply Brief of Appellant*, p. 13. But the 1980 Congressional Committee report being referred to came six years after Congress enacted ERISA and, therefore, contributes nothing to what the 1974 Congress intended. *See Bruesewitz v. Wyeth LLC*, 131 S. Ct. 1068, 1081, 179 L. Ed. 2d 1 (2011) (“Post-enactment legislative history (a contradiction in terms) is not a legitimate tool of statutory interpretation.”) (disregarding a Committee report published years after a statute’s enactment); *Consumer Products Safety Commission v. GTE Sylvania, Inc.*, 447 U.S. 102, 117-18, 100 S. Ct. 2051,

⁴ *See Travelers*, 514 U.S. at 657 (“[W]ith the narrow exceptions specified in the bill, the substantive and enforcement provisions . . . are intended to preempt the field for Federal regulations, thus eliminating the threat of conflicting or inconsistent State and local regulation of employee benefit plans. The basic thrust of the pre-emption clause, then, was to avoid a multiplicity of regulation in order to permit the nationally uniform administration of employee benefit plans.”) (citations and internal quotation marks omitted).

2061, 64 L. Ed. 2d 766 (1980) (“In evaluating the weight to be attached to these statements [of legislative history], we begin with the oft-repeated warning that ‘the views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one.’”). Indeed, the legislative history the appellant Trusts refer to explicitly addresses only the Bill that became 29 U.S.C. § 1145, which is not even at issue in this case.

IV. Allowing non-ERISA remedies under state law for collecting delinquent employer benefit contributions from third parties would foster the very conduct that ERISA prohibits, and reward plan administration practices explicitly outlawed by ERISA.

Cases like this one arise when ERISA trust fund administrators fail to promptly enforce their rights to payment from employers. When they instead allow financially struggling employers to use overdue contributions for their own cash flow, and when those employers subsequently go bankrupt, the plan fiduciaries turn to innocent third parties to recoup the funds they were supposed to have gotten from the now-defunct employer. In this case, the Trusts acquiesced for over a year in Paramount’s use of hundreds of thousands of dollars it was supposed to be paying each month as plan contributions, and only when Paramount went bankrupt did the Trusts announce their claims against the University of Washington, against W.G. Clark, and other third parties. CP 78, 109, 166-67, 236-37.

This is conduct that ERISA not only discourages, but outright forbids. ERISA provides plan beneficiaries with remedies against both employers who retain benefit contributions, and against plan fiduciaries who allow it. Congress knew that when innocent project owners, contractors and sureties must pay twice for costs of labor, materials or other elements of construction (once as their contract price, and a second time to satisfy liens for obligations not paid by others), the extra costs stifle interstate commerce.

If states were allowed by ERISA to provide alternate collection mechanisms to those that ERISA provides, then state courts would necessarily become embroiled in how ERISA plans are administered. Taking just the present case and the Washington state remedies the Trusts seek to litigate in superior court, claims against the statutory retainage fund are foreclosure actions, just like foreclosure of liens against real property.⁵ As such, they are equitable.⁶

⁵ See RCW 60.28.011(1)(a) (the retainage is “a trust fund for the protection and payment of: (i) The claims of any person arising under the contract; and (ii) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.”). An action against the retainage fund is a foreclosure, comparable to foreclosure of a real property lien. See RCW 60.28.030 (retainage foreclosure claim is of “the mode and manner of trial and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien against it”).

The Supreme Court has held, repeatedly, that when a state-law claim necessarily involves proof of the existence, terms, and administration of an ERISA plan, the claim is so “related to” ERISA as to require preemption.⁷ The Trusts wish to prove in superior court that an ERISA plan exists between the Trusts and Paramount; that specific contribution payments came due under that plan; that month after month Paramount reported the hours of its employees and the contributions it

⁶ See *Powell v. Nolan*, 27 Wash. 318, 67 P. 712, 718 (1902) (“This court has repeatedly held that an action to foreclose a lien . . . is an equitable action”); see M. Keyes, *The Retainage Lien and Bond Claim Practice & Procedure Manual for the State of Washington*, p. 20 (3d ed. 1995) (“Because an action to foreclose a retainage lien is similar to an action to foreclose a construction lien, it is equitable in nature and a jury trial should not be an option.”).

⁷ *Aetna Health*, 542 U.S. at 210 & 213 (“[I]t follows [from the integrated remedy provisions of § 1132(a)] that if an individual brings suit complaining of a denial of coverage for medical care, where the individual is entitled to such coverage only because of the terms of an ERISA-regulated employee benefit plan, and where no legal duty (state or federal) independent of ERISA or the plan terms is violated, then the suit falls ‘within the scope of’ ERISA § 502(a)(1)(B). . . . Thus, interpretation of the terms of respondents’ benefit plans forms an essential part of their THCLA claim, and THCLA liability would exist here only because of petitioners’ administration of ERISA-regulated benefit plans. *Petitioners’ potential liability under the [state law claims] in these cases, then, derives entirely from the particular rights and obligations established by the benefit plans.*”) (Emphasis added); *Ingersoll-Rand Co. v. McClendon*, 498 U.S. 133, 140, 111 S. Ct. 478, 483, 112 L. Ed. 2d 474 (1990) (“in order to prevail, a plaintiff must plead, and the court must find, that an ERISA plan exists and the employer had a pension-defeating motive in terminating the employment. Because the court’s inquiry must be directed to the plan, this judicially created cause of action ‘relate[s] to’ an ERISA plan.”).

owed, yet failed to pay them; that under the terms of the plan Paramount owes those amounts, plus interest and liquidated damages; and that the plaintiffs here ought to pay all of those amounts, because the Trusts did not collect them from Paramount. The respondents in this case have no liability, except as it “derives entirely from the particular rights and obligations established by the benefit plans.” *Aetna Health*, 542 U.S. at 213. That alone establishes preemption.

But the trial court would also be called upon to determine whether the very claim asserted by the Trust fiduciaries is one for which they have unclean hands,⁸ from violating their multiple ERISA obligations to prevent the very accumulation of delinquent contributions that they allowed. The notion of individual states making available their own courts as an alternate forum, with alternate remedies, to collect from alternate parties an insolvent employer’s ERISA contributions, which claims are entirely dependent on the terms and obligations of an ERISA plan, and to litigate the manner and lawfulness of how ERISA fiduciaries have administered the ERISA plan with regard to those delinquent contributions, is the epitome of what Congress intended to preempt.

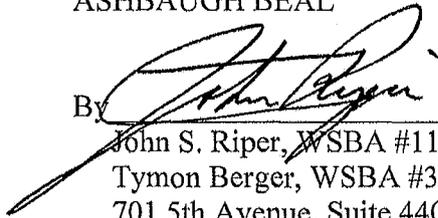
⁸ See *Income Investors, Inc. v. Shelton*, 3 Wn.2d 599, 602, 101 P.2d 973, 974-75 (1940) (Court may deny relief to a party with unclean hands regarding its claim.).

Conclusion

The AGC of Washington respectfully urges that Congress's intent to preempt alternate state law remedies be recognized, and that the judgment of the trial court be affirmed.

RESPECTFULLY SUBMITTED this 27th day of November, 2013.

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IT IS HEREBY CERTIFIED that service of the foregoing *Amicus Brief of AGC of Washington* has been made this 27th day of November, 2013, by sending copies thereof by email (per agreement) to the following counsel:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.



Teresa MacDonald