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STATE OF WASHINGTON

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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/Petitioners.

**PETITIONERS' RESPONSE TO BRIEF OF
AMICUS CURIAE WASHINGTON STATE
ASSOCIATION FOR JUSTICE FOUNDATION**

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

OSBORN MACHLER
2125 Fifth Avenue
Seattle, Washington 98121
(206) 441-4110

ORIGINAL

The petitioners, by and through their attorneys of record, submit the following brief response to Brief of Amicus Curiae Washington State Association for Justice Foundation.

A. **The Court Should Rule That Liberal Construction Is Correct When Determining The Meaning Of Dependent For Support in RCW 4.20.020**

The Washington State Association for Justice (hereinafter “Amicus”) correctly argues that RCW 4.20.020 should be construed liberally. Amicus cites a number of Washington cases, as do the petitioners in their Supplemental Brief, in which Washington appellate courts have emphasized the remedial purpose of the statute. This Court stated in *Wilson v. Lund* that “no construction should be given to a statute which leads to gross injustice or absurdity.” *Wilson v. Lund*, 74 Wn.2d 945, 947, 447 P.2d 718 (1968).

As Amicus points out, the decision of the Court of Appeals in this case will lead to a gross injustice to every family which did not have the means to support a dependent parent with large sums of money, but who found a way by providing needed services of substantial economic value. The Court of Appeals’ ruling unfairly excludes those who have limited cash resources but make up for that with their time and energy. This Court should rule that needed services of substantial economic value can

be considered in determining whether a parent is “dependent for support” within the meaning of RCW 4.20.20.

The petitioners join in the reasoning of the Amicus brief and ask that this Court reverse the Court of Appeals.

B. This Court Should Liberally Construe The Statute As Written By The Legislature

Petitioners agree with Amicus that the Court of Appeals erred when it failed to construe RCW 4.20.020 liberally. In its brief, Amicus points out that this Court in *Armijo v. Wesselius* rejected strict construction when it construed the statute to include illegitimate children. *Armijo v. Wesselius*, 73 Wn.2d 716, 720, 440 P.2d 71 (1968). The Court stated that the statute as written by the legislature does not necessarily exclude illegitimate children, and that “the objectives and spirit of the legislation should not be thwarted by a technical application.” *Id.* Similarly, the language of the statute does not necessarily exclude needed services of substantial economic value, and the remedial intent of the legislature should not be thwarted by strict construction.

Furthermore, the Court of Appeals did not construe the statute as written. Instead, the Court of Appeals applied rules of statutory construction to the words of the case law as the basis for its decision, and its analysis is contrary to the rules of statutory construction. First,

“meaning must be given to all words contained in the statute.” *Dennis v. Labor & Indus.*, 109 Wn.2d 467, 479, 745 P.2d 1295 (1987). Second, courts may not read words into the statute that are not there. *Vannoy v. Pacific Power & Light Co.*, 59 Wn.2d 623, 629 P.2d 848 (1962).

The petitioners join in the argument of Amicus and respectfully request that the Court give meaning to the statutory words “dependent for support” and rule that needed services of substantial economic value can be considered when determining whether a parent can be a beneficiary of a wrongful death action under RCW 4.20.20.

Respectfully submitted this 6th day of May, 2009.

OSBORN MACHLER



Simeon J. Osborn, WSBA #14484

Susan Machler, WSBA #23256

Attorneys for Petitioners