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NO. 85944-2

SUPREME COURT
OF THE STATE OF WASHINGTON

In the Matter of the
Estate of AUDREY P. BLESSING, deceased.

**BRIEF OF PETITIONERS JOHN BLASHKA, JULIE ANN FRANK,
DIANA MARIE ESTEP AND CARLA BLASCHKA**

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ORIGINAL

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I. INTRODUCTION

RCW 4.20.010 provides that a personal representative may bring a cause of action for wrongful death. RCW 4.20.020 provides that such a wrongful death action may only be brought for the benefit of a defined list of relatives of the decedent, which list includes, "... children, including stepchildren, ...". The Court of Appeals held that the legislature, by use of the terms "children, including stepchildren," intended to include as beneficiaries in a wrongful death action only those stepchildren whose natural or adoptive parents outlive their stepparents. Petitioners contend their relationship with their stepmother was established upon the marriage of their father to their stepmother, and that relationship was not automatically terminated upon the death of their father.

II. STATEMENT OF THE CASE

A. Factual Background

Audrey Welch married Alvin Hendricks in 1949 and divorced in 1964. CP 25. The two surviving children born from that marriage are Cynthia Hagensen and Tamie Tate. CP 24-25. Audrey married Carl Blaschka in 1964. Carl had four children from a previous marriage, John, Julie, Diana and Carla. CP 25. Carl had adopted three of those children. CP 28. No children were born from Audrey and Carl's marriage, and Carl died in 1994. CP 25, 54. Audrey married Robert Blessing in 2002, and no

children were born from that marriage. CP 25. Robert died in 2005. CP 25, 55.

Audrey Blessing died in 2007 as a result of injuries from an automobile accident. CP 25. Audrey's will, dated September 1, 2004, described her family as including two children (Cynthia Hagensen and Tamie Tate) and four stepchildren (John Blashka, Julie Frank, Diana Estep and Carla Blaschka). Audrey left bequests to her two children and her four stepchildren. CP 57-58. Audrey's stepchildren maintained a close relationship with Audrey both before and after the death of their father. CP 37-124; Findings of Fact Nos. 2-3, CP 143-144.¹

B. Procedural Background

Cynthia Hagensen was appointed the personal representative of Audrey Blessing's estate. CP 24. Ms. Hagensen made a claim for the wrongful death of Audrey Blessing and contends that she and Ms. Tate are the only statutory beneficiaries on whose behalf a wrongful death claim may be brought under RCW 4.20.020. CP 25.

John Blashka, Julie Frank, Diana Estep and Carla Blaschka filed a petition in the Spokane County Superior Court pursuant to RCW Chapter 11.96A seeking a determination that they are beneficiaries on whose

¹ These Findings were not assigned error. Unchallenged Findings of Fact are verities on appeal. *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004).

behalf a claim may be brought under RCW 4.20.020 for the wrongful death of Audrey Blessing. CP 8-10. The personal representative filed a Motion for Judgment Declaring That Petitioners Are Not “Stepchildren” For The Purposes Of The Wrongful Death Statute. CP 14-15. Following a hearing, the superior court entered an Order that the stepchildren are beneficiaries under RCW 4.20.020. CP 141-149.

On appeal the court reversed, holding that the petitioners were not stepchildren within the meaning of RCW 4.20.020, and awarded attorney fees and costs in favor of the estate pursuant to RCW 11.96A.150. *In re Estate of Blessing*, 160 Wn. App. 847, 853-854, 248 P.3d. 1107 (2011). The court held that once the children’s father died, the relationship between their stepmother and her stepchildren automatically ended, and a wrongful death action may not be brought for the benefit of former stepchildren. 160 Wn. App. at 851, 853. The Supreme Court granted review August 8, 2011. 172 Wn.2d 1001, 258 P.3d 655 (2011).

III. ARGUMENT

A. Standard of Review

The issue on appeal is whether the children of Carl Blaschka are “stepchildren” of Audrey Blessing and beneficiaries under RCW 4.20.020. Statutory interpretation is a question of law for the court, which is

reviewed de novo. *Burton v. Twin Commander Aircraft, LLC*, 171 Wn.2d 204, 216, 254 P.3d 778 (2011).

B. The Plain Meaning of “Stepchildren” in RCW 4.20.020 Is Not Limited to Stepchildren Whose Parents Outlive Their Stepparents.

RCW 4.20.020 provides that a wrongful death action may be brought “... for the benefit of the wife, husband, ... child or children, including stepchildren, of the person whose death shall have been so caused.” “Stepchildren” is not defined in the statute or in its legislative history. *Blessing*, 160 Wn. App. at 850.

A court’s fundamental objective when interpreting a statute is to ascertain and give effect to the legislature’s intent. *Burton*, 171 Wn.2d at 216. If the meaning of statutory language is clear on its face, an appellate court gives effect to that plain meaning derived from the language of the statute alone. *Cerrillo v. Esparza*, 158 Wn.2d 194, 201, 142 P.3d 155 (2006) (quoting *Kilian v. Atkinson*, 147 Wn.2d 16, 20, 50 P.3d 638 (2002)). Where the plain meaning of a statute is not apparent, the appellate court may derive the legislature’s intended meaning by consulting dictionary definitions or by considering what the legislature had said in related statutes, which disclose legislative intent about the provision in question. *Snohomish County Fire Prot. Dist. No.1 v. Wash. State Boundary Review Bd.*, 155 Wn.2d 70, 76, 117 P.3d 348 (2005).

The Court of Appeals considered the dictionary definition of “stepchild” as “a child of one’s wife or husband by a former marriage.” *Webster’s Third New International Dictionary* 2237 (1993). The court also considered the *Black’s Law Dictionary* definition of “stepchild” as “[t]he child of one’s spouse by a previous marriage.” *Black’s Law Dictionary* 272 (9th ed. 2009). *Blessing*, 160 Wn. App. at 850-851. Based upon its review of these dictionary definitions, the Court of Appeals found that the ordinary meaning of “stepchildren” includes only children of a stepparent with a presently living husband or wife. *Id.* at 851.

When interpreting other statutes, other courts have not found the same ordinary meaning of the term “stepchildren” as did the Court of Appeals. *In re Estate of Bordeaux*, 37 Wn.2d 561, 225 P.2d 433 (1950), concerned which classification under Washington’s inheritance tax statute applied to two stepchildren. The marriage of the children’s father to the children’s stepmother continued for 34 years, when their father died. *Id.* at 562. When their stepmother died 15 years later, she made bequests in her will to her stepsons. *Id.* The issue before the Supreme Court was whether the heirs were “stepchildren” within the meaning of the inheritance tax statute:

To the layman, at least, the inheritance tax statutes would appear to be explicit on this point. The pertinent portion thereof reads, in part, as follows:

“An inheritance tax shall be imposed on all estates, ... at the following rates:

Class A. Any devise, bequest, legacy, gift ... which shall pass to any grandfather, grandmother, father, mother, husband, wife, *child or stepchild*, adopted child ... is hereby denominated as Class A.” ...

In spite of this apparently unequivocal language, appellant asserts that Mrs. Bordeaux’s legacy to her stepsons falls, not within Class A, but, rather, within Class C, which includes all bequests made to those individuals not enumerated in either Class A or Class B ... Bequests falling within Class A are taxed at markedly lower rates than those falling within Class C, ... Appellant’s argument that this would be proper is based upon its view that Chester ... and Russell ... were not, in legal effect, “stepchildren” of Sarah Esther Bordeaux at the time of her death.

No one disputes, of course, that Chester ... and Russell ... were “stepchildren” of Sarah ... until the death of their natural father; and there can be little doubt that, in the popular understanding of the term at least, they remained such even after this took place.

Id. at 562-563 (emphasis added by court).

The State contended that upon the death of Chester and Russell’s father, his children automatically ceased to be the stepchildren of Sarah.

Id. at 563. The Supreme Court found that the plain language of the statute supported holding that Chester and Russell were stepchildren, stating:

... [I]t may be said, with reference to the statute under construction in the present inquiry, that the legislative intent to make no distinction between the child of a living parent and the surviving child of a deceased parent, can be

drawn from the statute without doing violence to its language.

Id. at 581. The court further stated:

It is not an abuse of judicial notice to take into consideration the common meaning of the word "stepchild" and to observe that, in point of actual fact, probably not one legislator, of the many who were involved in the passage of these various acts, understood the word to apply only in connection with those children whose natural parents survived their stepparent, ...

Id. at 591.

In *Depositors Trust Co. of Augusta v. Johnson*, 222 A.2d 49 (Me. 1966), the Supreme Court of Maine considered the meaning of the word "stepchild" in Maine's inheritance tax statute. The tax assessor ruled that Jean Durgin, although concededly the testator's stepchild while he was married to her mother, lost the status of stepchild upon the death of her mother prior to the death of the testator, or, if not at that time, then at the time the testator remarried. Durgin maintained she was the testator's stepchild at the time of his death, and that neither the death of her mother nor the remarriage of her stepfather dissolved that relationship. *Id.* at 50.

The Supreme Court of Maine noted that the legislative intent is the fundamental rule in the interpretation of statutes, and that words in a statute are to be taken in their common and popular sense unless the context shows otherwise. *Id.* at 51. The court held:

We note initially that the statute itself does not bear internal evidence of any intended difference in tax exemption or tax rate benefits between a child, an adoptive child or a stepchild. Equal treatment is the obvious design of the Legislature. ...

In common, colloquial and accepted use, the word "stepchild" refers to the child of one's wife by a former husband or of one's husband by a former wife. ...

The considerations which would motivate a stepfather to provide for a stepdaughter in his will may be as cogent after the death of the stepdaughter's mother and after the stepfather's remarriage, and the use by the Legislature of the broad designation of stepchild without further limitative restrictions of any kind spells out a legislative object the breadth of which ought not to be cramped by a narrow judicial constriction, especially where the legislative purpose may be reached without doing violence to any part of the statutory language. It would have been so easy for our Legislators, if such had been their intention, to make special exclusionary provisions for stepchildren of step-parents whose marriage to the natural parent was dissolved by death, whether remarried or not, that the absence thereof militates against accordant judicial strictures by implication.

Id. at 51-52 (internal citations omitted).

The Court quoted from its earlier decision in *Spear v. Robinson*, 29

Me. 531 (1849):

By the marriage, one party thereto holds by affinity the same relation to the kindred of the other, that the latter holds by consanguinity. And no rule is known to us, under which the relation by affinity is lost on a dissolution of the marriage, more than that by blood is lost by the death of those, through whom it is derived; the dissolution of a marriage, once lawful, by death or divorce, has no effect upon the issue; and it is apprehended, it can have no greater

operation to annul the relation by affinity, which it produced.

Id. at 53.²

The Court in *Depositors Trust* then held:

The use of the term stepchild under those circumstances without any restrictive limitation and in the light of the broad rule enunciated in *Spear*, indicates without doubt a legislative purpose to adopt the term in its ordinary, common and everyday meaning, in recognition of the fact that ties of affinity are often stronger than those between collateral, or even lineal, kinsmen by blood. The relationship of stepchild and step-parent, once created, is not generally regarded as terminated by the death of one of the parties to the marriage or by a divorce, nor by the remarriage of the step-parent. ...

There is no reason to believe that the Legislature sought to narrow the meaning of "stepchild" or to part from its usual and popular meaning. It could have limited its broad connotative sweep by simple little strokes of the pen.

Id. at 54.

Nothing in the dictionary definitions quoted by the Court of Appeals in *Blessing* suggests that the word "stepchildren" as used in RCW 4.20.020 is limited to those children whose natural or adoptive parents survive their stepparents. Rather, the common, ordinary meaning of "stepchildren" supports an interpretation that the relationship of stepchild

² Affinity is the relationship which one spouse, because of marriage, has with the relatives of the other spouse. It is distinguished from consanguinity, which indicates relationship by blood. *Bordeaux*, 37 Wn.2d at 565. Stepchildren are, therefore, related to their stepparents by affinity.

and stepparent is not terminated by the death of one of the parties to the marriage, nor by the remarriage of the stepparent.

The Court of Appeals referred to definitional limits of the stepparent/stepchild relationship in other statutory areas. *Blessing*, 160 Wn. App. at 851. RCW 74.20A.020(8) sets forth a definition of stepparent as "... the present spouse of the person who is either the mother, father or adoptive parent of a dependent child, and such status shall exist until terminated as provided for in RCW 26.16.205." RCW 26.16.205 provides that the stepparent's obligation to support stepchildren "... shall cease upon the entry of a decree of dissolution, decree of legal separation, or death." The restrictive limitations on the stepparent/stepchild relationship set forth in the quoted statutes are not present in the inclusion of stepchildren among the beneficiaries to a wrongful death action listed in RCW 4.20.020. A reviewing court will not add language to an unambiguous statute even if it believes the legislature intended something else but did not adequately express it. *Cerrillo, supra*, 158 W.2d at 201 (quoting *Kilian v. Atkinson*, 147 Wn.2d 16, 20, 50 P.3d 638 (2002)). If the legislature omits language from the statute, whether intentionally or inadvertently, a reviewing court will not read into the statute the language it believes was omitted. *Qwest Corp. v. City of Kent*,

157 Wn.2d 545, 553, 139 P.3d 1091 (2006) (citing *State v. Cooper*, 156 Wn.2d 475, 480, 128 P.3d 1234 (2006)).

In *State v. Cooper, supra*, a jury found the defendant guilty of endangering his girlfriend's children in violation of RCW 9A.42.100, the child endangerment statute. That statute makes it a crime for a *person* to knowingly or intentionally expose a dependent child to methamphetamine. 156 Wn.2d at 477. Cooper argued that the term "person" in RCW 9A.42.100 was limited to encompass only a child's parent, custodian or caregiver because the statutory language in nearly every provision of RCW Chapter 9A.42 defines "person" exclusively as parents, custodians or caregivers. *Id.* at 479. The Supreme Court disagreed with the defendant's statutory interpretation:

... Cooper argues that the definition of "person" in the child endangerment statute should be restricted to parents, custodians or caregivers. Cooper ignores the obvious – RCW 9A.42.100 unequivocally states that a "person" is guilty of the crime of child endangerment *without* limiting the term "person" to a parent, caregiver, or physical custodian.

These potential incongruities within Chapter 9A.42 RCW do not render the child endangerment statute ambiguous. On the contrary, they notably underscore the plain language of the statute. "Where the Legislature omits language from a statute, intentionally or inadvertently, this court will not read into the statute the language that it believes was omitted." *State v. Moses*, 145 Wn.2d 370, 374, 37 P.3d 2116 (2002). Thus, the Court of Appeals properly concluded that the legislature unambiguously intended the

child endangerment statute to apply to persons -- not just parents, caregivers or custodians -- who knowingly or intentionally expose a child to methamphetamine. ...

Id. at 479-480.

Similarly, the legislature's failure to limit the stepparent/stepchild relationship in RCW 4.20.020, as that relationship was limited in the statutory language of RCW 74.20A.020(8) and RCW 26.16.205, underscores the plain language in RCW 4.20.020. That plain language, i.e., the unrestricted use of the term "stepchildren," is generally regarded to include a stepchild whose parent is deceased and whose stepparent is remarried. See *Bordeaux*, 37 Wn.2d at 563, 591; *Depositors Trust*, 222 A.2d at 51-52, 54.

Cases interpreting statutes which do not concern the statutory meaning of the term "stepchild" or "stepchildren" are not helpful in interpreting the meaning of "stepchildren" in RCW 4.20.020. *In re Estate of Smith*, 49 Wn.2d 229, 299 P.2d 550 (1956), concerned the issue of whether the testator's stepchildren could be considered to be implied within the term "children" in RCW 11.04.020, Washington's statute regarding descent and distribution. 49 Wn.2d at 230-231. The court held that stepchildren are not included by implication in the terms of that statute. *Id.* at 232. In *Klossner v. San Juan County*, 93 Wn.2d 42, 605 P.2d 330 (1980), the court was called upon to decide whether a wrongful

death cause of action could be brought on behalf of the decedent's unadopted stepchildren, when the former version of RCW 4.20.020 stated that a wrongful death action "shall be for the benefit of the wife, husband, child or children of the person whose death shall have been so caused."³ 93 Wn.2d at 46, n.2. The court held that the wrongful death statutes contained no mention of stepchildren, and refused to extend the list of beneficiaries in RCW 4.20.020 to include stepchildren. 93 Wn.2d at 47-48.

Neither *Smith* nor *Klossner* are of assistance in the interpretation of "stepchildren" in the current version of RCW 4.20.020. In those cases, the plaintiffs sought to extend the statutory term "children" to include stepchildren by implication. In the present case, the inquiry is what did the legislature intend when, in 1985, it amended RCW 4.20.020 to state that "children, including stepchildren," were beneficiaries under that statute.

The Court of Appeals discussed *Strickland v. Deaconess Hospital*, 47 Wn. App. 262, 735 P.2d 74, *review denied*, 108 Wn.2d 1028 (1987). *Blessing*, 160 Wn. App. at 852-853. In *Blessing*, the court stated that in *Strickland*, it held that children of a woman whose marriage to their

³ "Stepchildren" was added to the list of beneficiaries in RCW 4.20.020 by amendment in 1985. Laws of 1985, ch. 139, § 1. *Blessing*, 160 Wn. App. at 850.

stepfather was invalidated were not “stepchildren” under the recently amended RCW 4.20.020. *Blessing*, 160 Wn. App. at 852. The Court of Appeals in *Blessing* held that, just as the invalidated marriage in *Strickland* meant the claimants in that case had never been stepchildren, the death of Carl Blaschka and remarriage of Audrey Blessing meant the petitioners’ former status as stepchildren had been terminated. 160 Wn. App. at 853. *Strickland* stands for nothing more than the principle that the status of stepchildren is dependent upon a valid marriage. That principle is evident from a plain, ordinary meaning of the term stepchildren. The holding in *Strickland* should not be extrapolated to a principle that the death of the parent or remarriage of the stepparent invalidates the stepparent/stepchild relationship.

In *Blessing* the Court of Appeals favorably cited *In re Combs Estate*, 257 Mich. App. 622, 669 N.W.2d 313 (2003), *appeal denied*, 469 Mich. 1021, 678 N.W.2d 440 (2004), in which the decedent’s stepchildren argued they were beneficiaries under Michigan’s wrongful death act. That act included as beneficiaries “children of the deceased’s spouse.” The statute does not use the term “stepchildren.” In a 2-1 decision from an intermediate level appellate court, the majority held, “Applying the plain meaning of this provision to the facts of this case, we conclude that appellants are not the ‘children of the deceased’s spouse’ because the

deceased, ... had no spouse at the time of her death. A 'spouse' is a married person." 669 N.W.2d at 315. That decision should not be adopted as guiding authority in Washington to determine the meaning of "stepchildren" in RCW 4.20.020.

The stepparent/stepchild relationship is created by the marriage of one person to another person with children from a prior relationship. That relationship does not automatically terminate if the parent predeceases the stepparent or the stepparent remarries. Nothing in the language of RCW 4.20.020 suggests otherwise.

C. Social Policy Considerations Favor an Unrestricted Definition of "Stepchildren" in RCW 4.20.020

While declining to interpret the word "children" to include stepchildren in a former version of RCW 4.20.020, the Supreme Court in *Klossner* noted "... there is a trend in the law enhancing the rights of stepchildren." 93 Wn.2d at 46. In *State v. Gillaspie*, 8 Wn. App. 560, 507 P.2d 1223 (1973), the court observed "... the law has been developing the integration of stepchildren into the family with rights equal to those of natural children." *Id.* at 562. As early as 1950, the Washington Supreme Court noted this development:

... [T]he modern tendency has been, and rightly so, to assimilate the stepchild to the natural child. See Note, 52 Harv.L.Rev. 515 (1939). Where the Legislature has passed a statute which, on its face, appears designed to aid in

accomplishing that end, we should not restrict it by resort to abstruse and little-known common-law rules, particularly when such rules, as in this case, are of the most doubtful validity.

Bordeaux, 37 Wn.2d at 594.

That court explained the “doubtful validity” of those “abstruse and little-known common-law rules,” in declining to find the word “stepchildren” to apply only in connection with children whose natural parent survived their stepparent:

The only justification for such an esoteric interpretation is that the legal meaning of “stepchild” requires it as a result of the supposed common-law rule that the tie of affinity is broken upon the death, without issue, of the husband or wife whose marriage gave rise to it. But isolated statements in the legal encyclopedias to the contrary notwithstanding, there is no such absolute principle, and there never has been, either in the English common law, which continued the tie for purposes of forbidding marriage between a man and his affinity relatives, or in the American common law, which has continued it for purposes of holding beneficiaries under insurance policies and workmen’s compensation laws competent to take as relatives.

37 Wn.2d at 591.⁴

⁴ The Court overruled *In re Raine’s Estate*, 193 Wash. 394, 75 P.2d 933 (1938), which held that the legislature, by use of the word “stepchild” in an earlier inheritance tax statute, intended to benefit only those children whose parents outlived their stepparents. The Court was ardent in overruling *Raine*: “In its fact situation, the construction of an inheritance tax statute, the *Raine* case is unique in the United States. It represents a novel and unwarranted extension of a principle originally adopted in connection with the qualifications of jurors, extended to apply to the qualifications of judges, and further extended, in the midst of a fog of utter confusion, to establish a dividing line between what is and what is not incest. It is a sport and a mutant without precedent, and, as far as

Several out-of-state cases have cited *Bordeaux* in holding the stepparent/stepchild relationship does not automatically terminate upon the death of a parent or divorce of the parents. *Estate of Robitaille v. N.H. Dept. of Revenue Admin.*, 149 N.H. 595, 827 A.2d 981, 984-985 (2003); *Sjogren v. Metropolitan Property and Casualty Ins. Co.*, 703 A.2d 608, 611 (R.I. 1997); *Remington v. Aetna Casualty & Surety Co.*, 35 Conn. App. 581, 646 A.2d 266, 269-270 (1994); *Lavieri v. Commissioner of Revenue Services*, 184 Conn. 380, 439 A.2d 1012, 1014-1015 (1981); *In re Estate of Iacino*, 189 Colo. 513, 542 P.2d 840 (Colo. 1975); *Depositors Trust Co. of Augusta v. Johnson*, *supra* at 52-54.

In *Estate of Robitaille*, *supra*, the court upheld the constitutionality of an inheritance tax statute which provided an exemption for stepchildren:

This statutory scheme of taxation comports with the expansion in this State of the rights and duties of stepparents in recognition of the ever-changing variety of 'family' or 'family-like' relationships commonplace in today's society. ... Given the importance of fostering the family unit, providing an exemption from taxes for the stepchild named in a will is rationally related to a legitimate State interest of strengthening and preserving family relationships.

can be determined, without progeny. We do not agree that it has placed us in a *cul de sac* from which withdrawal is no longer possible; for, reluctant though we may be to overrule our prior decisions, we have never hesitated to do so when, upon reconsideration, we have concluded that they were in error. The *Raine* case is as wrong in principle as it is unfounded in authority. It ought to be, and it is, overruled." 37 Wn.2d at 593.

827 A.2d at 984-985 (internal citations omitted).

In *Remington v. Aetna, supra*, the court held that a stepchild was a “family member” under the coverage provision of an underinsured motorist policy. In response to the insurance company’s assertion that as a general proposition affinity terminates with the end of the marriage that created it, the court cited *Bordeaux* and stated that “As a general statement of law, the defendant’s assertion is incorrect.” 646 A.2d at 270. The court noted that in fact the death of a spouse and parent can strengthen the ties of affinity. “Where the stepparent continues in the role of a parent to the child after the death of the biological parent, the nature of the actual connection between the two -- the essence of affinity -- has not changed. Neither should it be deemed to have changed in law.” *Id.* The concurring opinion stated:

In light of the contradictory and at times confusing jurisprudence on the issue of stepparent-stepchild relationships, we would do a far better service to the development of the law, and would be in keeping with the times, by holding that a stepparent-stepchild relationship, though created by a marriage, endures beyond that marriage, no matter how the marriage is terminated. ... Despite the absence of a formal adoption proceeding, many stepparent-stepchild relationships are as close or closer than biologic parent-child relationships. It has long been recognized that a stepparent and stepchild can develop a significant emotional relationship regardless of the biological or legal relationship between them. ... The law of Connecticut should move toward supporting and recognizing this

relationship, through the protection of stepparent-stepchild relationships unless there is some specific exclusion of the stepparent or stepchild from the provisions of a statute, contract or other vehicle being examined.

Id. at 272 (internal citations omitted).

In *Sjogren v. Metropolitan Property and Casualty Ins. Co.*, *supra*, and *Lavieri v. Commissioner of Revenue Services*, *supra*, the courts considered the effect of divorce on the stepparent/stepchild relationship. In *Lavieri*, which concerned the meaning of the word “stepchild” in an inheritance tax statute, the court conceded that termination of a marriage by death as opposed to divorce certainly results in differing consequences for the parties to the marriage, but noted that divorce proceedings do not necessarily imply that the stepparent/stepchild relationship “had also withered.” 439 A.2d at 1015. In *Sjogren*, the issue was whether the term “relative” in an uninsured motorists coverage provision of an insurance policy included a stepson from a former marriage. The court held that it does, noting the fact that the parents are divorced “does not dilute the compelling argument that the bonds between stepparent and stepchild can be as strong as or stronger than those between biological parents and their children.” 703 A.2d at 612.

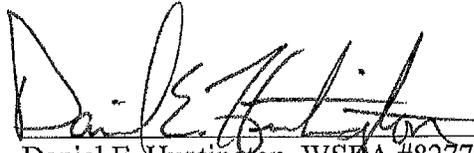
The particular language utilized by the legislature in amending RCW 4.20.020 in 1985 to add stepchildren as beneficiaries is significant.

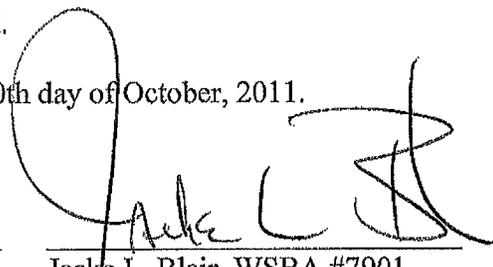
Rather than simply add "stepchildren" to the list of beneficiaries in that statute, the legislature amended the list of beneficiaries by using the language "... children, including stepchildren, ..." Laws of 1985, ch. 139, § 1, p.552. "Generally, in interpreting statutory definitions, 'includes' is construed as a term of enlargement ..." *Queets Band of Indians v. State*, 102 Wn.2d 1, 4, 682 P.2d 909 (1984). The legislature's amending language, "... children, including stepchildren ...," demonstrates an intention to equalize the rights of stepchildren with children. The rights of children as beneficiaries under the wrongful death statute are not terminated by the death of a parent. Neither should the rights of a stepchild be terminated by the death of a parent. The language of the statute itself does not show any intent to distinguish between children and stepchildren. Equal treatment is the intent of the legislature.

IV. CONCLUSION

The Court of Appeals decision should be reversed, and the trial court's judgment should be reinstated.

Respectfully submitted this 10th day of October, 2011.


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APPENDIX

§ 4.20.020. Wrongful death -- Beneficiaries of action.

Every such action shall be for the benefit of the wife, husband, state registered domestic partner, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no wife, husband, state registered domestic partner, or such child or children, such action may be maintained for the benefit of the parents, sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his or her death.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

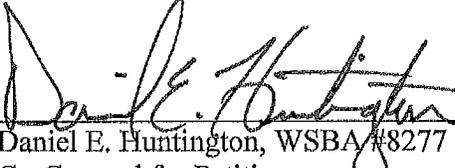
HISTORY: 2011 c 336 § 90; 2007 c 156 § 29; 1985 c 139 § 1; 1973 1st ex.s. c 154 § 2; 1917 c 123 § 2; RRS § 183-1.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Brief of Petitioners John Blashka, Julie Ann Frank, Diana Marie Estep and Carla Blaschka with the Clerk of the Supreme Court for the State of Washington via e-mail on October 10, 2011.

I further certify that on October 10, 2011, I caused to be delivered the foregoing Brief of Petitioners John Blashka, Julie Ann Frank, Diana Marie Estep and Carla Blaschka to the following counsel of record in the manner indicated:

Steven W. Hughes	<input type="checkbox"/>	U.S. Mail
Ewing Anderson, P.S.	<input type="checkbox"/>	Certified Mail
522 W. Riverside, Suite 800	<input checked="" type="checkbox"/>	Hand Delivered
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