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Supreme Court No. 90544-4

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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Linda Darkenwald,

Petitioner,

v.

State of Washington Employment Security Department,

Respondent.

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**MEMORANDUM OF AMICUS CURIAE  
ASSOCIATION OF WASHINGTON BUSINESS**

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 ORIGINAL

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## I. INTRODUCTION

The Association of Washington Business (“AWB”) is Washington State’s Chamber of Commerce and the principal representative of the state’s business community. As the oldest business association in the state, the AWB has consistently participated in the development and implementation of state law regarding employer and employee relationships.

AWB has historically argued that an employee’s entitlement to receive unemployment compensation should be narrowly construed. RCW 50.20.050 provides an exclusive list that does not apply to currently employed workers. The legislative history and case law has consistently supported a narrow reading of RCW 50.20.050. The Court of Appeals was correct in finding that RCW 50.20.119 does not expand the list of reasons set forth in RCW 50.20.050 for good cause to quit. To expand the exclusive list would be to ignore the purpose of the statute and the case law limiting the list.

## **II. IDENTITY AND INTEREST OF AMICI CURIAE**

### **A. THE ASSOCIATION OF WASHINGTON BUSINESS**

The Association of Washington Business (“AWB”) is Washington State’s Chamber of Commerce and the principal representative of the state’s business community. AWB is the state’s oldest and largest general business membership federation, representing the interests of approximately 8,400 Washington companies who in turn employ over 700,000 employees, approximately one-quarter of the state’s workforce. AWB members are located in all areas of Washington, represent a broad array of industries, and range from sole proprietors and very small employers to the large, recognizable, Washington-based corporations that do business across the country and around the world. AWB members rely on the consistent application of state laws, including RCW 50.20. The state’s unemployment benefits statute has always been consistently interpreted and applied narrowly. This consistent application ensures predictability for both employers and employees of which AWB members employ in total over a quarter of all employees in the State of Washington.

### **III. ISSUE OF CONCERN TO AMICI CURIAE**

Among the issues presented by the Respondent State of Washington Department of Employment Security, this memorandum addresses:

That the Court of Appeals correctly found that the plain language of RCW 50.20.050(2) requires that an employee who quits must show good cause to obtain unemployment benefits and that RCW 50.20.119 does not modify or change this requirement.

### **IV. STATEMENT OF CASE**

AWB adopts, as if it is set forth herein, Respondent's statements of the case in Respondent's Answer to Petition For Review and Supplemental Brief of Employment Security Department.

### **V. ARGUMENT**

AWB notes its agreement with Respondent's Arguments set forth in its Answer to Petition For Review and Supplemental Brief of Employment Security Department. The Court has accepted review of the Court of Appeals decision in this matter. The Court of Appeals decision correctly applied the plain meaning of RCW 50.20.050(2) and RCW 50.20.119.

A. **The Plain language of RCW 50.20.050(2) requires that an employee who quits must show good cause to obtain unemployment benefits.**

The Washington State Legislature enacted the Unemployment Security Act to provide unemployment benefits to employees who become unemployed through no fault of their own. RCW 50.01.010 states that:

[E]conomic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his or her family. ... The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own...

The statute's purpose clearly states that it is for the benefit of those who become unemployed due to "no fault of their own". The Act goes on to further state that if a worker voluntarily quits or leaves employment, they are not entitled to unemployment benefits. RCW 50.20.050(2) also states that an individual who leaves "work voluntarily without good cause" is disqualified from receiving unemployment benefits. RCW 50.20.050(2). This Court in *Safeco Ins. V. Meyering*, 102 Wn.2d. 385,389, 687 P.2d 195 (1984), affirmed the requirement a person must

have good cause to quit before unemployment benefits will be provided. This Court stated that “if a worker voluntarily quits her job, she will be denied benefits unless she has good cause for quitting.”

RCW 50.20.050 sets forth those provisions that would be considered good cause to voluntarily quit and still be entitled to receive benefits. The list of exemptions is an exclusive list. The legislature’s intent to make this list exclusive is seen in the plain language of the statute. This court has also ruled that the list is exclusive. See *Meyering*, 102 Wn.2d at 389; *Campbell v. Emp’t Sec. Dep’t*, 180 Wn.2d 566,326 P.3d 713 (2014).

Prior to the enactment of the 2009 amendments to the law the list was not considered exclusive. However, the court in *Campbell* specifically found that the Legislature’s intent, with the 2009 amendments to the law, was that RCW 50.20.050 was an “exclusive list” of those reasons that a court could consider to be good cause for quitting. *Campbell* 180 Wn.2d at 572.

The petitioner in this matter would have the Court expand this exclusive list beyond the plain language of the statute. This would undermine the public policy behind the statute which employers and employees rely on daily. In addition, statutory construction requires that

the plain language of a statute must be enforced. To allow an expansion of the exclusive list contained in RCW 50.20.050 creates uncertainty for all parties and undermines the original intent of the law, which was to provide benefits for those who became unemployed through “no fault of their own.” This Court should continue to find that the list of good cause reasons to voluntarily quit, contained in RCW 50.20.050, is exclusive and cannot be expanded.

**B. RCW 50.20.119 does not modify or expand the exclusive list of reasons a court could consider to be good cause for voluntarily quitting a job and still get unemployment benefits.**

The Petitioner has argued in their petition for review that this Court should expand the exclusive list contained in RCW 50.20.050(2). The Amicus Curiae opposes any expansion of the exclusive list of good cause reasons to voluntarily quit as set forth in the statute.

The petitioner has asked this Court to find that RCW 50.20.119 provides an alternate basis to show good cause to voluntarily quit her employment. The Court of Appeals properly rejected this attempt by the petitioner to expand the exclusive list contained in RCW 50.20.050.

RCW 50.20.119 states that:

[A]n otherwise eligible individual may not be denied benefits for any week because the individual is a part-time worker and is available for, seeks, applies for, or accepts only work of seventeen

or fewer hours per week by reason of the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work.

As was argued by the Respondent, and affirmed by the Court of Appeals, RCW 50.20.119 does not apply to an individual that is currently working. RCW 50.20.119 applies to those individuals already unemployed. It addresses the unique situation that arises when an unemployed part-time worker refuses to accept full-time employment opportunities.

RCW 50.20.119(1) does not allow any worker who is currently working to refuse full-time employment. The statute instead addresses the situation where an individual who is seeking part-time work does not violate the requirement to be “available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted” should they refuse to take a full-time job. RCW 50.20.010(1)(c). It was intended to protect individuals from losing their benefits after they are unemployed and receiving them.

In this case the Petitioner would have this Court instead protect part-time workers who wish to voluntarily quit with no good cause reason. This would create bad public policy. It would allow any worker to quit a

job if an employer modifies a work schedule for any reason. The Legislature and this Court have consistently stated that the purpose of the Unemployment Security Act is to provide a safety net for those individuals who become unemployed due to “no fault of their own”. To adopt the Petitioner’s position would require this Court to ignore the clear legislative intent of the statute.

In addition, if the Court adopts this expanded view of the petitioner it could result in business refusing to offer any part-time employment. This could undermine the job market. Workers who wish to only work part-time would find those jobs unavailable. This interpretation would fundamentally interfere with an employer’s ability to make decisions about labor requirements. Instead of allowing an employer to hire several individuals seeking only part-time employment, an employer would be forced to make the decision to either hire only one individual at full-time or, alternatively, hire no one.

The Petitioner is asking the Court to contradict the plain language of the statute and create bad public policy. To adopt this fundamental change to the law would not be in the best interest of the citizens of Washington.

## V. CONCLUSION

Based on the foregoing, amici urge the Court to affirm the Court of Appeals reasoning and find that RCW 50.20.050 is an exclusive list that is not modified by RCW 50.20.119 or any other statute.

Respectfully submitted this 12<sup>th</sup> day of January, 2015.

ASSOCIATION OF  
WASHINGTON BUSINESS



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**IN THE SUPREME COURT  
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Linda Darkenwald,

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State of Washington Employment Security Department,

Respondent.

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**DECLARATION OF SERVICE**

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**AMENDED DECLARATION OF SERVICE**

I reside in the State of Washington, am over the age of eighteen, and not a party to this action. My business address is 1414 Cherry Street SE, Olympia, WA 98507. On January 12, 2015, I served the following:

**MOTION FOR LEAVE TO SUBMIT BRIEF OF  
AMICUS CURIAE ASSOCIATION OF WASHINGTON  
BUSINESS  
MEMORANDUM OF AMICUS CURIAE  
ASSOCIATION OF WASHINGTON BUSINESS**

by US Mail, postage pre-paid and e-mail, as follows:

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

Executed on this 12th day of January, 2015, at Olympia, Washington.



Connie Grande

## OFFICE RECEPTIONIST, CLERK

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**Subject:** Darkenwald v. State of Washington Supreme Court No. 90544-4

Dear Clerk:

Please find attached for filing in the above-referenced matter, electronic copies of the following documents:

- Motion for Leave to file Memorandum of Amicus Curiae of The Association of Washington Business
- Memorandum of Amicus Curiae The Association of Washington Business
- Declaration of Service

By copy of this e-mail, electronic service to counsel of record is made. In addition, hard copies have been sent via US mail.

Please let me know if there is any difficulty opening the .pdf files.

Yours,

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