

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
12/14/2017 2:54 PM  
BY SUSAN L. CARLSON  
CLERK

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
12/12/2017  
BY SUSAN L. CARLSON  
CLERK

No. 94525-0

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

---

BRANDON APELA AFOA,

Respondent/Cross-Petitioner,

v.

PORT OF SEATTLE,

Petitioner.

---

BRIEF OF AMICUS CURIAE ASSOCIATED GENERAL  
CONTRACTORS OF WASHINGTON

---

Eileen I. McKillop, WSBA #21602  
SEDGWICK, LLP  
600 University Street, Suite 2900  
Seattle, WA 98101  
Tel: 206-462-7581  
Fax: 877-541-3918  
eileen.mckillop@sedgwicklaw.com

Jamie Becker, WSBA # 40762  
Osborne Construction Company  
10602 NE 38<sup>th</sup> Place, Suite 100  
Kirkland, WA 98033  
Tel: 425-827-4221  
Fax: 425-828-4314  
Jaime.Becker@osborne.cc

**TABLE OF CONTENTS**

I. IDENTITY AND INTEREST OF AMICUS CURIAE.....1

II. CONTEXT OF ARGUMENT BY AMICUS AGC.....2

III. ISSUES ADDRESS BY AMICUS CURIAE.....5

IV. STATEMENT OF THE CASE.....5

V. ARGUMENT.....5

    A. With Respect to Issue A, This Court’s Interpretation of the 1993 Amendments to RCW 4.22.070 In *Edgar v. The City Of Tacoma*, 129 Wn.2d 621, 919 P.2d 1236 (1996) Conclusively Establishes that a General Contractor or Landowner Has a Right to Defend Itself Against a Claim by an Injured Worker of an Immune Employer and Prove that the Sole Proximate Cause of the Injury to the Worker Was the Fault of the Immune Employer. ....5

    B. With Respect to Issue B, Under RCW 4.22.070(1), a General Contractor or Landowner Has the Right to Prove That Non-Immune Subcontractors, Who Concurrently Owe the Injured Worker a Duty to Comply With WISHA Safety Regulations, Are at Fault for the Injury to the Employee of the Immune Employer.....7

    C. With Respect to Issue C, Where a Jury Has Determined That a General Contractor or Landowner and Non-Immune Defendant(s) Have Breached Their Concurrent Duties Owed to the Injured Worker, Neither a General Contractor Nor a Landowner Can Be Held Per Se Vicariously Liable Under RCW 4.22.070(1) for the Fault of Such Non-Immune Defendants.....8

VI. CONCLUSION.....16

## TABLE OF AUTHORITIES

### Cases

<i>Afoa v. Port of Seattle (Afoa I)</i> , 176 Wn.2d 460, 296 P.3d 800 (2013).....	14, 15
<i>Afoa v. Port of Seattle (Afoa II)</i> , 198 Wn.App. 206, 393 P.3d 802 (2017). 6, 7, 10, 11, 12, 13, 14, 15, 16	
<i>Carabba v. Anacortes School District</i> , 72 Wash.2d 939, 435 P.2d 936 (1967).....	13
<i>Degroot v. Berkley Const., Inc.</i> , 83 Wn. App. 125, 920 P.2d 619 (1996).....	6
<i>Edgar v. The City Of Tacoma</i> , 129 Wn.2d 621, 919 P.2d 1236 (1996).....	5, 6, 7, 13, 16
<i>Lamborn v. Phillips Pac. Chemical Co.</i> , 89 Wn.2d 701, 575 P.2d 215 (1978).....	6, 7, 16
<i>Millican v. N.A. Degerstrom</i> , 177 Wn. App. 881, 313 P.3d 1215 (2013).....	11, 12
<i>Stute v. P.B.M.C., Inc.</i> , 114 Wn.2d 454, 788 P.2d 545 (1990).....	10

### Statutes

Const. Art. I, § 21.....	6
RCW 4.22.030 .....	8, 9
RCW 4.22.070 .....	3, 5, 6, 8, 9, 13
RCW 4.22.070(1(a)).....	16
RCW 4.22.070(1).....	3, 4, 6, 7, 8, 9, 10, 13, 14, 16
RCW 4.22.070(1)(a) .....	4, 9, 10, 13, 14
RCW 4.22.070(1)(b).....	9

RCW 49.17.060(2).....	7
RCW 5.22.070(1).....	11
Title 51 RCW .....	2, 4, 6, 7, 8, 11

**Other Authorities**

Restatement (Second) of Torts (1965).....	12
Restatement (Third) of Torts: Liability for Physical and Emotional Harm .....	12
Washington Industrial Safety and Health Act of 1973 (WISHA).....	2, 3, 4, 6, 7, 10, 12, 13, 14, 15, 16

## I. IDENTITY AND INTEREST OF AMICUS CURIAE

Amicus Curiae Associated General Contractors of Washington (the “AGC”), respectfully submits this brief *amicus curiae* in support of Petitioner Port of Seattle. The AGC in existence since 1922, is the state’s largest, oldest, and most prominent construction industry trade association, representing and serving the commercial, industrial and highway construction industry. The three chapters of the AGC serve more than 1,000 general contractors, subcontractors, construction suppliers and industry professionals. AGC members perform both private and public sector construction, and are involved in all types of construction in the state, including office, retail, industrial, highway, healthcare, utility, educational and civic projects.

The construction industry’s contribution to the state’s economy is significant. A 2012 University of Washington annual study revealed that, in 2011, more than 192,800 workers were employed by contractors, construction services and material suppliers in the state, and the workers in the construction industry comprised 8.3% of the state’s private sector workforce. When the construction industry grows, the state’s economy exponentially grows with it. For each dollar invested in new construction, an additional \$1.97 in economic activity is generated throughout the state. AGC members have built and are presently constructing many of the state’s most significant public works projects.

Because the subject case directly involves issues of vicarious liability of a general contractor or lane owner for a subcontractor's violation of WISHA regulations, allocation of fault, and other matters of common interest to general contractors and AGC members, the AGC believes its input will be helpful to this court in resolving the "vicarious liability" issue presently before this Court. The AGC takes no legal position with regard to any other issue before this Court.

## **II. CONTEXT OF ARGUMENT BY AMICUS AGC**

The arguments set forth below are made in the context of multi-party worksites, where general contractors, landowners who have retained the right to control (hereinafter "landowners" unless the context indicates otherwise), independent contractors immune under Title 51 RCW, and other independent subcontractors each owe a duty to comply with Washington's Industrial Safety and Health Act of 1973 (WISHA) regulations for the benefit of the safety of all workers on the job site. The legal arguments set forth below also are made in the context of a trier of fact having determined that the general contractor or landowner breached its non-delegable duty to ensure compliance with WISHA regulations. Unless the context indicates otherwise, the use of the word "defendant" is meant to include both party and non-party defendants.

As discussed below, it is well-established in Washington that general contractors and certain landowners have a primary, non-delegable duty to ensure compliance with WISHA regulations for the benefit of all workers at a worksite. All employers on the construction site, including independent subcontractors and third parties, also have their own concurrent duty to comply with WISHA regulations at such worksites. If, and only if, such contractors or landowners choose to delegate their own non-delegable duty to ensure compliance with WISHA regulations to another subcontractor, independent contractor, or a third party, can these delegating parties be held vicariously liable for the negligence of the delegee in failing to fulfill the delegor's non-delegable duty. It also is well-established under Washington law that the party owing the non-delegable duty, or the delegee who has undertaken the obligation to perform a non-delegable duty on the delegor's behalf, has a right to defend itself and prove that it was not negligent in fulfilling this non-delegable duty.

It is in this context that RCW 4.22.070 must be construed. RCW 4.22.070(1) provides that liability shall be apportioned among all non-immune at-fault parties and that such liability shall be several only. In the case of a multi-employer work site, there can be multiple parties with concurrent obligations to comply with WISHA regulations, and there can be multiple parties found to have breached those duties. Although RCW

4.22.070(1) provides an exception for allocating fault to employers immune under Title 51 RCW, this statute does not provide an exception from the allocation of fault to any other employer who breached its duty to comply with WISHA regulations on a multi-party site. Consequently, designating a general contractor's duty as "non-delegable" or "primary" does not make it liable for another employer's breach of this other employer's duty to comply with the WISHA regulations. The literal language of RCW 4.22.070(1) requires that fault must be allocated to every non-immune entity which caused the worker's injury.

The issue addressed in this amicus brief is whether a general contractor or landowner can be held vicariously liable for another employer's breach of this other employer's duty to comply with the WISHA regulations which caused injury to the worker. As discussed below, and as required by RCW 4.22.070(1), no such vicarious liability can occur in the absence of a determination under RCW 4.22.070(1)(a) that the concurrently negligent non-immune subcontractor was the delegee for the purpose of carrying out the general contractor's or landowner's non-delegable duty to ensure compliance with WISHA regulations.

### III. ISSUES ADDRESS BY AMICUS CURIAE

- A. Under RCW 4.22.070, does a general contractor or landowner have a right to present evidence of an immune employer's fault to negate an essential element of the Plaintiff's case -- proximate cause?
- B. Under RCW 4.22.070, does a general contractor or a landowner have the right to prove that one or more non-immune independent subcontractors were also at fault and caused plaintiff's injuries?
- C. Under RCW 4.22.070, is either the general contractor or the landowner vicariously liable for the fault of the non-immune independent subcontractors whose fault caused plaintiff's injuries?

### IV. STATEMENT OF THE CASE

AGC adopts the Petitioner Port of Seattle's Statement of the Case.

### V. ARGUMENT

- A. **With Respect to Issue A, This Court's Interpretation of the 1993 Amendments to RCW 4.22.070 in *Edgar v. The City Of Tacoma*, 129 Wn.2d 621, 919 P.2d 1236 (1996) Conclusively Establishes that a General Contractor or Landowner Has a Right to Defend Itself Against a Claim by an Injured Worker of an Immune Employer and Prove that the Sole Proximate Cause of the Injury to the Worker Was the Fault of the Immune Employer.**

In *Edgar v. the City of Tacoma*, 129 Wn.2d 621, 630, 919 P.2d 1236 (1996), this Court considered a challenge by the City to the constitutionality of the 1993 amendments to RCW 4.22.070. These amendments prevent a

jury from assigning fault to an entity who is immune from liability under Title 51 RCW, i.e., the employer of the injured worker. Therein, the trial court held “that the 1993 amendments to RCW 4.22.070(1) violated the right of the City of Tacoma (City) to a jury trial under Const. art. I, § 21 [and that] the City had the right to ask the jury to assign a percentage of fault to Edgar’s immune employer. . . .” In so holding, the trial court reinstated the 1986 version of RCW 4.22.070(1), which allowed fault to be attributed to the injured worker’s employer. *Edgar*, 129 Wn.2d at 623.

In rejecting the City’s constitutional challenge and reversing the trial court, this Court followed its holding in *Lamborn v. Phillips Pac. Chemical Co.*, 89 Wn.2d 701, 706, 575 P.2d 215 (1978). *Edgar* specifically and succinctly held that under RCW 4.22.070 “[n]on-immune defendants, like the City, may still avoid liability by establishing that the negligence of the plaintiff’s employer was the sole proximate cause of the accident.” *Edgar*, 129 Wn.2d at 630 (emphasis supplied.)<sup>1</sup> In assessing the significance of the *Edgar* ruling relative to the holding in *Afoa Court of Appeals II*,

---

<sup>1</sup> See also *Degroot v. Berkley Const., Inc.*, 83 Wn. App. 125, 920 P.2d 619 (1996), wherein Division III of the Court of Appeals clearly recognized the ability of the general contractor to defend itself against a claim by an injured worker by, among other things, offering evidence that the general contractor, as part of its exercise of reasonable care to ensure compliance with WISHA safety regulation, required strict compliance by the immune subcontractor with all safety regulations.

198 Wn. App. 206, 393 P.3d 802 (2017), one cannot lose sight of the context in which the *Edgar* holding was made. That is, under RCW 49.17.060(2), an immune injured worker's employer owes a concurrent duty to comply with WISHA regulations with a general contractor or landowner who have a duty to ensure compliance with WISHA regulations. Thus, contrary to the holding in *Afoa Court of Appeals II*, this Court's holdings in both *Lamborn* and *Edgar* conclusively establish that neither a general contractor nor a landowner are per se vicariously liable for its subcontractor's violation of WISHA, even though the general contractor or landowner has a primary duty to ensure compliance with WISHA regulations.

**B. With Respect to Issue B, Under RCW 4.22.070(1), a General Contractor or Landowner Has the Right to Prove That Non-Immune Subcontractors, Who Concurrently Owe the Injured Worker a Duty to Comply With WISHA Safety Regulations, Are at Fault for the Injury to the Employee of the Immune Employer.**

RCW 4.22.070(1) cannot be any clearer. It provides that "the trier of fact shall determine the percentage of fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW." (Emphasis supplied.) The intent and effect of the 1993 amendments, as identified in *Edgar*, 129 Wn.2d at 632, was to not reduce the fault of a non-immune defendant to the extent the injured worker's damages were also proximately caused by the

fault of the injured worker's immune employer. The legislature's use of the words "every entity ... except entities immune from liability to the claimant under Title 51 RCW" is a clear embodiment of such a narrow intent. Given this very narrow intent to except only immune employers from fault allocation, any interpretation of RCW 4.22.070(1) that fault cannot be allocated to any other non-immune employer whose fault caused plaintiff's injuries is completely contrary to the narrow legislative intent identified by this Court.

**C. With Respect to Issue C, Where a Jury Has Determined That a General Contractor or Landowner and Non-Immune Defendant(s) Have Breached Their Concurrent Duties Owed to the Injured Worker, Neither a General Contractor Nor a Landowner Can Be Held Per Se Vicariously Liable Under RCW 4.22.070(1) for the Fault of Such Non-Immune Defendants.**

The general rule of liability expressed by the legislature in RCW 4.22.030 is that if more than one person is liable to a claimant on an indivisible claim for the same injury, death, or harm, the liability of such persons shall be joint and several, **except as provided in RCW 4.22.070**. RCW 4.22.070 provides that "[i]n all actions involving fault of more than one entity, the trier of fact shall determine the percentage of fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under RCW Title 51. In many work site injury lawsuits, the injured worker's damages are frequently caused

by more than one entity or employer. Under such factual scenarios, it is RCW 4.22.070, not RCW 4.22.030, that determines whether a general contractor or a landowner is either severally liable or jointly and severally liable for the injuries to an injured worker proximately caused by more than one non-immune entity.

In RCW 4.22.070(1), the rule of liability explicitly expressed by the legislature in actions involving the fault of more than one entity is that “[t]he liability of each defendant shall be **several only and shall not be joint**”. (Emphasis supplied.) There are only two exceptions thereto, which are set forth in RCW 4.22.070(1)(a) and in RCW 4.22.070(1)(b).<sup>2</sup> As such, under RCW 4.22.070(1), a defendant can be jointly and severally liable only if one

---

<sup>2</sup> RCW 4.22.070(1) provides that the liability of each defendant “shall not be joint except:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of a party.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the claimants [claimant’s] total damages.

or both of these two exceptions apply under the facts of the case as determined by the trier of fact.

Notwithstanding this clear expression of several liability under RCW 4.22.070(1), the decision in *Afoa Court of Appeals II*, nevertheless, makes a general contractor or landowner vicariously liable a subcontractor's violation of its duty to comply with WISHA regulations. It did so by holding as a matter of law that a general contractor or landowner is vicariously liable for the violation of a subcontractors' duty to comply with WISHA regulations. The *Afoa Court of Appeals II* decision established this rule of law **without any factual finding by the trier of fact under RCW 4.22.070(1)(a)** that the subcontractors, which in the *Afoa* case were non-party defendant airlines, were in any way acting in concert to accomplish an unlawful result or in any way acting as either servants or agents who had undertaken for the Port its non-delegable duty to ensure compliance with WISHA regulations for the benefit of the injured worker, Mr. Afoa. This finding of vicarious liability for the subcontractors' breach of its separate duty to comply with WISHA regulations totally abrogates the Supreme Court's ruling in *Stute v. P.B.M.C., Inc.*, 114 Wn.2d 454, 788 P.2d 545 (1990), which held that every employer has a specific duty to comply with WISHA regulations. In addition, this finding of vicarious liability, per se, in the absence of a factual finding that

the general contractor delegated this duty, also abrogates the rule of several liability under RCW 5.22.070(1).

The *Afoa Court of Appeals II* decision rationalizes its vicarious liability holding by misconstruing *Millican v. N.A. Degerstrom*, 177 Wn. App. 881, 896, 313 P.3d 1215 (2013). *Millican* involved a case where a worker of an immune employer was killed as the result of an alleged worksite safety violation. Defendant N.A. Degerstrom (“Degerstrom”) was the general contractor for a road project where Mr. Millican worked. Sharp-Line Industries (“Sharp-Line”) was Mr. Millican’s employer and was immune from liability under Title 51 RCW. Mr. Millican’s estate sued only Degerstrom. The trial court incorrectly allowed Degerstrom to defend itself by arguing that Sharp-Line had contractually assumed sole responsibility for the safety of its own employees. In doing so, the trial court allowed the contract to be admitted into evidence, allowing the Degerstrom’s attorney to present:

extensive evidence and argument on duty, informing the jury in opening statement, through evidence, and in closing argument that it is “typical,” “reasonable,” “industry standard,” and most important, “appropriate” and “allowable under Washington law” for a general contractor like Degerstrom to delegate its responsibilities, and for subcontractors like Sharp-Line to agree, by contract, to assume sole responsibility for the protection and safety of its own employees.

*Millican*, 177 Wn. App. at 890.

The contractor prevailed at trial, and the plaintiff appealed. The *Millican* Court reversed and held that the contract between Degerstrom and Sharp-Line, which delegated responsibility to Sharp-Line to ensure compliance with WISHA regulations and to provide a safe work site, did not discharge Degerstrom's primary responsibility to ensure compliance with WISHA. The *Millican* Court remanded the case for a retrial of the estate's claims.

Thus, it was in the context of a factual scenario where a general contractor had purported to delegate its primary duty to ensure compliance with WISHA regulations to a subcontractor that the *Millican* Court discussed the concept of vicarious liability by referencing the Restatement (Second) of Torts (1965) and to the Restatement (Third) of Torts: Liability for Physical and Emotional Harm. Nowhere did the *Millican* Court discuss whether a general contractor was vicariously liable for the acts of a non-immune subcontractor, in the absence of such a purported delegation. Consequently, it was incorrect for *Afoa Court of Appeals II* to construe the *Millican* Court's holding as finding that a general contractor can be vicariously liable for a non-immune subcontractor's independent duty to comply with WISHA regulations. Although a general contractor or owner may have a primary non-delegable duty to ensure compliance with WISHA regulations, this does not mean that a general contractor or landowner is vicariously liable for a

subcontractor's violation of WISHA regulations. This is not a case where the Port attempted to delegate its non-delegable duty to ensure compliance with WISHA regulations, wherein vicarious liability can attach.<sup>3</sup> Under RCW 4.22.070(1), there can be no joint and several liability **except** where it is proved under (1)(a) there is actual evidence of and a determination by a trier of fact of the delegation of a non-delegable duty by a non-immune contractor or landowner so as to make this exception applicable. Otherwise, only several liability applies, not joint and several vicarious liability.

This Court in *Edgar*, 129 Wn.2d at 632, specifically identified the legislative intent for the 1993 amendments to RCW 4.22.070 as follows:

The intent and effect of the 1993 amendments is to create a tort system under which the plaintiff's recovery, the right of the Department of Labor & Industries to reimbursement, and the third-party defendant's liability are **not reduced** by the extent to which the plaintiff's damages were also proximately caused by the fault of the plaintiff's immune employer.

(Emphasis supplied.)

The vicarious liability determination in *Afoa Court of Appeals II* is not appropriate in this case. This vicarious liability holding under RCW

---

<sup>3</sup> Under Washington law one who retains another to perform a non-delegable duty is liable for the negligence of the delegee in the performance of the delegated non-delegable duty. *Carabba v. Anacortes School District*, 72 Wn.2d 939, 956-958, 435 P.2d 936 (1967). As the facts of the *Carabba* case reflect, **there must be actual evidence of delegation** and now, under RCW 4.22.070(1)(a), there must be a factual determination thereof before vicarious liability actually attaches. *Id.*

4.22.070(1), without evidence of actual delegation of a non-delegable duty as required by RCW 4.22.070(1)(a), is contrary to this legislative intent in at least four ways.

First, finding vicarious liability for the fault of a subcontractor party or non-party defendants does not reduce the fault of non-immune entities, such as the general contractor or landowner whose fault also proximately caused the plaintiff's damages. This result is contrary to the explicit language and intent of RCW 4.22.070(1).

Second, vicarious liability for the fault of a non-immune party or non-party defendants also makes the general contractor or landowner jointly and severally liable for fault of other employers who have a concurrent duty to comply with WISHA regulations. Indeed, *Afoa Court of Appeals II* simply skipped over the rule of several liability in RCW 4.22.070(1) and jumped straight to RCW 4.22.070(1)(a) without requiring any factual determination that the general contractor or land owner actually delegated its non-delegable duty to another non-immune party or non-party defendant. This result is contrary to the explicit language and intent of RCW 4.22.070(1) and (1)(a).

Third, the *Afoa Court of Appeals II* decision misconstrues this Court's statement in *Afoa I* that the purpose of the retained control doctrine is "to place the safety burden on the entity in the best position to ensure a safe working environment." *Afoa v. Port of Seattle (Afoa I)*, 176 Wn.2d 460, 479,

296 P.3d 800 (2013). The *Afoa Court of Appeals II* decision misconstrues this statement by incorrectly inferring therefrom that “if the purpose of that [retained control] doctrine is to identify the entity best situated to ensure a safe workplace, then that entity should not be entitled to escape or reduce its vicarious responsibility to a tort victim based on others whose negligence also contributed to the injury.” *Afoa v. Port of Seattle (Afoa II)*, 198 Wn. App. 206, 233, 393 P.3d 802 (2017). Contrary to *Afoa Court of Appeals II*, the purpose of the *Afoa I* statement was to place upon a landowner who retained the right to control the same duty to ensure compliance with WISHA regulations as that of a general contractor. The purpose thereof was not to make the landowner vicariously liable for the fault of either the immune employer or non-immune party or non-party defendants for violation of WISHA regulations as that issue was not an issue before this Court in *Afoa I*.

Fourth, the practical extension of the vicarious liability per se holding of *Afoa Court of Appeals II* is as follows. Once an injured worker proves his or her injury was caused by the violation of a WISHA regulation, regardless of whether his employer or any other employer on the job site violated WISHA regulations which proximately caused his injuries, and even where the general contractor or the landowner are without fault, they, nevertheless, are strictly liable for his employer’s and any other employer’s violation of WISHA regulations. That result necessarily logically follows from the *Afoa*

*Court of Appeals II* decision because each of these employers owe the same duty to comply with WISHA regulations, which is concurrent with the general contractor's or landowner's duty to ensure compliance with WISHA regulations.

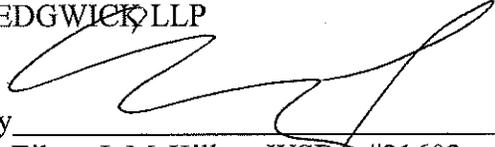
The interpretation afforded RCW 4.22.070(1) by *Afoa Court of Appeals II*, and the logical extension thereof, is clearly incorrect as vicarious liability for the liability of a subcontractor under RCW 4.22.070(1) is the antithesis to the *Lamborn* and *Edgar* holdings that non-immune defendants may still “**avoid liability** by establishing that the negligence of the plaintiff's employer was the sole proximate cause of the accident.” *Edgar*, 129 Wn.2d at 630 (Emphasis supplied.) In other words, the vicarious liability holding in *Afoa Court of Appeals II* is directly contrary to the *Lamborn* and *Edgar* holdings, as well as the holding in *Degroot*, because it eliminates the ability of the general contractor or landowner to introduce evidence of third party “fault” to determine which entities were at fault and proximately caused plaintiff's injuries RCW 4.22.070(1)(a).

## VI. CONCLUSION

For the reasons set forth herein, the AGC believes that this Court should reverse that portion of the *Afoa Court of Appeals II* decision holding that the Port of Seattle vicariously liable for the fault of the non-party defendant airlines.

Dated this 4<sup>th</sup> day of December, 2017.

SEDGWICK LLP

By 

Eileen I. McKillop, WSBA #21602  
Attorneys for Amicus Curiae Associated  
General Contractors of Washington

By \_\_\_\_\_

Jaime Becker, WSBA #40762  
Attorneys for Amicus Curiae Associated  
General Contractors of Washington

Dated this 4<sup>th</sup> day of December, 2017.

SEDGWICK LLP

By \_\_\_\_\_  
Eileen I. McKillop, WSBA #21602  
Attorneys for Amicus Curiae Associated  
General Contractors of Washington

By g. h. #40762  
Jaime Becker, WSBA #40762  
Attorneys for Amicus Curiae Associated  
General Contractors of Washington

**SEDGWICK LLP**

**December 04, 2017 - 2:54 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 94525-0  
**Appellate Court Case Title:** Brandon Apela Afoa v. Port of Seattle  
**Superior Court Case Number:** 09-2-06657-4

**The following documents have been uploaded:**

- 945250\_Briefs\_20171204143147SC200173\_8572.pdf  
This File Contains:  
Briefs - Amicus Curiae  
*The Original File Name was AGC Contractors - Brief of Amicus Curiae.pdf*
- 945250\_Motion\_20171204143147SC200173\_2424.pdf  
This File Contains:  
Motion 1 - Amicus Curiae Brief  
*The Original File Name was AGC Contractors Washington - Motion for Leave to File Amicaus Curaie Brief.pdf*

**A copy of the uploaded files will be sent to:**

- Mark.Dombroff@leclairryan.com
- andrew\_biggs@northcraft.com
- cesar@bishoplegal.com
- derek@bishoplegal.com
- iglitzin@workerlaw.com
- jpitre-williams@rmlaw.com
- mark.mckinnon@leclairryan.com
- mark\_northcraft@northcraft.com
- merickson@rmlaw.com
- mschein@sullivanlawfirm.org
- pokano@rmlaw.com
- ray@bishoplegal.com

**Comments:**

---

Sender Name: Eileen McKillop - Email: eileen.mckillop@sedgwicklaw.com

Address:

600 UNIVERSITY ST STE 2915

SEATTLE, WA, 98101-4172

Phone: 206-462-7581 - Extension 29758

**Note: The Filing Id is 20171204143147SC200173**