Open Forum

DCBS takes injured worker fight to Supreme Court — and wins

To The Editor:

Injured workers who have settled their cases can still get attorney help to pursue their rights to medical services, thanks to a recent Oregon Supreme Court decision sought by the Oregon Department of Consumer and Business Services.

The case involved a worker who had entered into a claims disposition agreement. In a claims disposition agreement, workers release their rights to disability benefits, and receive a lump-sum payment from their employer or workers' comp insurer. More than 3,000 injured workers enter into claims disposition agreements every year. But by law, a claims disposition agreement can't release a worker's right to medical services — the worker is entitled to have those paid for life.

Here's the problem. Workers' comp insurers have argued that although a claims disposition agreement can't release the right to medical benefits, it does release the right to attorney fees — including the attorney fees needed to get the medical benefits in the event of a dispute.

The Department of Consumer and Business Services, through its Workers Compensation Division, disagreed. In our view, the injured worker's right to medical benefits also included the right to the attorney fees needed to obtain the medical benefits if they are disputed. But in a ruling in 2008, the Oregon Court of Appeals sided with the insurer.

When the Court of Appeals rules against us, we don't always ask the Supreme Court to step in. But in this case, we felt the issue was important enough that we couldn't let the ruling stand. We argued that the law protects not only medical benefits, but also the right to attorney fees if those medical benefits are disputed. Otherwise, the right to medical benefits would be meaningless for those who couldn't afford to pay an attorney on their own.

The case, Liberty Northwest v. Watkins, was argued before the Oregon Supreme Court in November 2009. In late February, we got the result. The Court ruled that injured workers who enter into claims disposition agreements do not waive their right to receive attorney fees when they use an attorney to help access medical benefits.

It's a good outcome for the workers' compensation system — not just right as a matter of law, but right for injured workers as well.

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Did Washington legislators commit to killing a bill for Boeing, Paul Allen, McCaw money?

Sen. Pflug: Legislators agreed they 'would not unionize child care centers'

By DAVID GROVES

Imagine if a union contributed millions of dollars to a public-private partnership with the stipulation that the State Legislature would kill a bill that the union opposed — and that state legislators agreed to this. We can see the headline now: "Union bribes legislators; arrests imminent!"

That's why the Senate Ways and Means Committee hearing last month was so extraordinary. Not only did such an arrangement possibly exist — not involving a union, but involving some of the state's biggest charitable foundations — a state legislator openly admitted it and publicly reminded her colleagues of what she considered their "commitment" to kill a piece of legislation.

During a public hearing on HB 1329, which would allow child care center directors and workers to bargain collectively with the state over subsidy rates and professional development, Sen. Cheryl Pflug, R-Maple Valley, reminded her fellow senators that when she and other legislators negotiated the State Department of Early Learning's role in the formation of a public-private partnership called "Thrive By Five," they made an agreement "that we would not unionize child care centers."

"Not doing this bill was the bright-line promise that we made to the Paul Allen Foundation, The Boeing Company and the McCaw family that contributed the funding for this (Thrive By Five)," Sen. Pflug said. "We might want to remember that when we make a commitment to somebody that gives us $70 million, we might want to keep it."

Sure enough, the Senate Ways and Means Committee didn't vote on HB 1329, which passed the House more than a month ago on a 62-35 vote, so the bill died at the cutoff deadline.

Last year, the bill met a similar fate, passing the House but dying in the Senate, which attempted to amend it into just a study.

Um. Is this legal?

(Editor's Note: David Groves is the communications director of the Washington State Labor Council.)

Supreme Court ruling — could it be a good thing?

To The Editor:

In the last issue of the Labor Press it was nice to see AFL-CIO President Richard Trumka and Change to Win Chairwoman Anna Berger in agreement about the recent Supreme Court ruling "Citizens United v. F.E.C." Both leaders are appalled that corporations have been granted the ability to spend unlimited amounts of money in our corrupt political system. Maybe this ruling will unify us and be the one issue that many of our citizens will rally around — and finally WAKE UP!

If there is one matter of importance that influences all decisions in our many political arenas, it is the role money plays in shaping legislation that affects all of us. I have noticed that the controversial 5-4 ruling has sparked a lot of internet discussion. *Movetoamend.org* sprung up overnight. Constitutional rights for people, not corporations ... imagine that!

Change.org is sponsoring a contest for new ideas. The idea to amend the Constitution, regulating corporate rights is one of the most popular ideas.

All of us can take part in a variety of ways. Lobby your representatives, participate in rallies and demonstrations when called upon, network with friends and others, strategize at your local union hall, join and support social justice groups such as "Jobs with Justice," or just simply get involved in whatever way you prefer.

If we sit on the sidelines and do nothing, we cannot expect to accomplish any more than that ... nothing.

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