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BIAW Offers Amicus Brief in Contractor Liability Case

Labor & Industries interpretation is too broad

Olympia, WA The Building Industry Association of Washington (BIAW) filed today an amicus brief in *Gildardo Crisostomo Vargas, et al. v. Inland Washington, LLC, et al.* pending the Washington State Supreme Court to challenge the Department of Labor & Industries' (L&I's) broad interpretation of general contractor liability.

"The Court needs to know that there are serious legal and policy problems with L&I's position," stated Jackson Maynard, BIAW's General Counsel. "L&I's position effectively allows it to serve as judge, jury, and executioner in citations and raises significant state and federal constitutional concerns."

Gildardo Vargas was injured while working for a subcontractor on a project. The general contractor for the project, Inland Management, LLC. was not cited by L&I for a single safety violation. Vargas recovered from his employer for his injuries under the state's Industrial Insurance Program, filing suit against two other subcontractors and Inland. After the general contractor was dismissed from the suit, arguing it did not control the work of the concrete company. Vargas and L&I filed briefs in the case in which they argued that a general contractor should be liable in suit for the safety violations of a subcontractor even when L&I's own inspectors failed to find the general contractor violated a single safety rule.

BIAW's brief shows that a general contractor is not strictly liable for a subcontractor's safety violations and may raise defenses in court about whether an accident was avoidable. "We feel that L&I's position is unfair, unconstitutional, and undermines the goals of worker safety implicit in the system Industrial Insurance put in place over a hundred years ago." concluded Maynard. "We are hopeful the Court will agree that a general contractor's liability on a project, while substantial, is not unlimited."

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The Building Industry Association of Washington is the voice of the housing industry as the state's largest trade association with nearly 8,000 member companies employing approximately 265,000 people. The association is dedicated to ensuring and enhancing the vitality of the building industry for the benefit of its members and the housing needs of the citizens. Learn more at: www.biaw.com

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