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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

UNEMPLOYMENT LAW PROJECT,
MCKEEZI TAYLOR BARRAZA,
and MARIANNE WHITE,

Petitioners,

v.

SUZAN LEVINE,
COMMISSIONER FOR THE WASHINGTON STATE
EMPLOYMENT SECURITY DEPARTMENT,

Respondent.

**AMICUS CURIAE MEMORANDUM OF
WASHINGTON STATE PSYCHOLOGICAL ASSOCIATION
IN SUPPORT OF PETITIONERS**

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IDENTITY AND INTEREST OF *AMICI CURIAE*

The Washington State Psychological Association (“WSPA”) is a nonprofit scientific and professional organization founded in 1947, and represents the majority of Washington psychologists holding doctoral degrees from accredited universities. RCW 18.83.010(1) defines the “practice of psychology” to mean: the observation, evaluation, interpretation, and modification of human behavior... for the purposes of promoting mental and behavioral health.

WSPA is submitting an amicus memorandum to show the likely harm to the mental and behavioral health that is being caused by the Employment Security Department (“ESD”) withholding unemployment benefits. Through no fault of their own, claimants are being denied prompt benefits that they are statutorily due. The ESD is failing thousands of Washington residents.

SUMMARY OF ARGUMENT

In preparing this brief, *amici* have been guided solely by criteria related to scientific rigor and reliability of studies and literature, not by whether a given study supports or undermines a particular conclusion.

Scientific research has established many negative outcomes from natural disasters, job terminations or layoffs due to catastrophic economic

conditions. Vulnerable individuals and families that experience downward spirals as a result of economic hardship and other losses typically take longer to recover when compared to those people with greater advantages.

In the current period of accumulated traumatic events, scientific research demonstrates that great harm is occurring for many. The protective buffer of income stability has been lost. As the cascading effects from not receiving timely unemployment benefits will impact many of Washington's residents, WSPA calls for the Court to issue the writ of mandamus:

It may be true that the law cannot change the heart, but it can restrain the heartless (King Jr., 1963).

ARGUMENT

I. THE NATURE OF SCIENTIFIC EVIDENCE AND ITS PRESENTATION IN THIS MEMORANDUM

To assist the Court, amici briefly explains the professional standards the WSPA has followed for selecting individual studies and literature for citation and for drawing conclusions from the research data:

(1) Members of the WSPA are ethically bound to be accurate and truthful in describing research findings, and in characterizing the current state of scientific knowledge;

(2) Members of the WSPA rely on the best empirical research available, and focus on findings that emerge from patterns of corroborating data rather than data from any single study; and

(3) Before citing any study, members of the WSPA critically evaluated their methodology, including the reliability and validity of the measures and tests it employed, and the quality of its data-collection procedures and statistical analyses.

II. THE IMPACT OF THE STATE OF WASHINGTON NOT FULFILLING ITS DUTY TO UNEMPLOYED RESIDENTS

A. The Effects of Unemployment

In Washington, the economic safety net of obtaining timely unemployment benefits is meant to buffer the detrimental effects of the loss of jobs (Green, 2010; Roelfs, Shor, Davidson & Schwartz, 2011; Washington State Department of Health, 2020). Federal Reserve documents highlight exigent financial need, as even before the COVID-19 pandemic nearly 40 percent of Americans were unable to afford a \$400 emergency expense (Board of Governors of the Federal Reserve System, 2019). For countless people, this emergency will be more costly, and have dire implications for Washingtonians' health and wellbeing.

Zivin, Paczkowski, & Galea (2011, p.1346) reviewed the scientific literature about the associations between economic downturns and mental

health data. They concluded:

There is a significant relationship between economic crises and psychopathology including suicide... Detrimental effects of economic crises most negatively affect the poor, less educated, and unemployed populations.

Holmes E.A., O'Connor, R.C., Perry, V.H. & *et al.* (2020, p. 548)

compared the current context with the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) epidemic of 2003, the virus that causes COVID-19, they concluded:

The ...epidemic in 2003 was associated with a 30% increase in suicide in those aged 65 years and older; around 50% of recovered patients remained anxious; and 29% of health-care workers experienced probable emotional distress. Patients who survived severe and life-threatening illness were at risk of post-traumatic stress disorder and depression, homelessness, and relationship breakdown.

In addition, the economic impact of the coronavirus pandemic has harmed communities of color disproportionately (Artiga, Orgera, Pham & Corallo, 2020). Data demonstrate that in May 2020, the 16.8% unemployment rate for African American people did not drop from the COVID-19 lays offs, even though it did drop for European American people from 14.7 to 13.3% (Gould & Wilson 2020). Ethnic minorities are especially vulnerable and most at risk. According to the Centers for Disease Control and Prevention (CDC):

These disparities are linked to social determinants of health, including but not limited to employment, housing, health insurance

and medical care, neighborhood pollution, and food deserts (CDC, 2020).

Without economic relief, the problem for all races is perpetuated and exacerbated but it will be graver for people of color.

B. The High Rates of Unemployment Are Associated with Homelessness

Before the pandemic, 71 percent of cities reported an increase in the number of people requesting food assistance for the first time, and 41 percent cited unemployment as one of the three drivers for the increase in hunger and food insecurity (U.S. Conference of Mayors, 2017). Also, before the pandemic the west coast was singled out for its continuing increase in homelessness due to the worsening conditions related to the COVID-19 pandemic (U.S. Department of Housing and Urban Development, 2020).

Not surprisingly, roughly half of the 1,000 workers surveyed at the beginning of the COVID-19 pandemic said they did not have enough money to pay rent for May and beyond (Ananat & Gassman-Pines, 2020). Although an eviction moratorium in Washington exists until August, at that point landlords can file to evict tenants and use law enforcement to remove tenants. No meaningful State action has addressed rental debt, and according to Washington specific research, it is expected that we will “see a surge of evictions soon” after the Governor Inslee’s orders expire in

August (Eviction Lab- Princeton University, 2020). Consequences of mass evictions will have further negative cascading impacts on homelessness, worsening health, hunger, and the already taxed lifeline services such as shelters, emergency rooms, and foodbanks (Barile, Pruitt & Parker, 2018).

C. The High Rates of Unemployment Lead to the Loss Of Employer-Provided Health Insurance and the Chronically Uninsured Are Denied Early Diagnosis and Treatment

In mid-April, 2020, the Economic Policy Institute published data about the numbers of unemployed people in the United States who had lost their employer-provided health insurance. They reported that more than a third of the unemployed people in Washington have lost their employer-provided health insurance: “It is especially terrifying for workers to lose their health insurance as a result of, and during, an ongoing pandemic” (Zipperer & Bivens, 2020). The Washington Department of Health estimated that before the COVID-19 outbreak 650,000 Washingtonians were receiving treatment for behavioral health concerns, while 700,000 people with mental health concerns were not receiving services (Washington State Department of Health, 2020). Access to the physical and mental health system, which was already insufficient, will be drastically reduced simultaneous with a greatly increased need for services.

D. The High Rates of Unemployment and Inability to Access Benefits Are Associated with an Increase in Mental Health and Substance Abuse Related Consequences

The U.S. Census Bureau devised and have conducted the weekly Household Pulse Survey (U.S. Census Bureau, 2020). Survey questions asked people about their experiences including their emotional and physical health. Data collection began on April 23, 2020, and were gathered on a weekly basis to inform federal and state response and recovery planning. For the Household Pulse Survey, the combined Anxiety or Depressive Disorder results for Washington State during the course of collecting the data each week follow: Week 1- 35%; Week 2- 35%; Week 3- 33%; Week 4- 31.8%; and Week 5- 36.7%. Before the pandemic, elevated levels for symptoms of anxiety disorder or depressive disorder for all adults were found in only 11% of those people interviewed for the period of January – June, 2019 (CDC & NCHS (2020)).

Washingtonians are currently experiencing three times the typical levels of anxiety and depression. DOH also forecasted that “approximately half of the individuals who experience a behavioral health diagnosis will develop a substance-related disorder, and vice versa. As a result, we can expect substance-related symptoms and disorders to increase [underline inserted for emphasis by DOH] as behavioral health symptoms and disorders increase” (Washington State Department of Health, 2020).

Recent data collected in May by the American Psychological Association (APA) showed significantly higher levels of stress for parents with children than adults without children (APA, 2020). Pediatricians reported an alarming increase in child injuries and deaths as COVID-19 has led to no other adults providing a warning or prevention system for child abuse (Paul & Elinson, 2020). Within our State, all types of interpersonal violence offenses have increased 17%, and it is believed that a significantly higher increase has occurred because of the low reporting rate of several law enforcement agencies (Washington State Department of Health, 2020).

Prominent economists at the University of Chicago are predicting that 42 percent of all jobs will end in permanent job losses due to COVID-19 staffing reductions; Continuing concerns about infectious disease transmission “...suggest that the reallocative consequences of the COVID-19 pandemic will continue to play out for many months and years to come” (Barrero, Bloom, & Davis, 2020, pg. 18). As a result, a smaller real estate footprint “...will directly reduce traffic in entertainment and service business such as nearby restaurants, and retail shops” (PRN Newswire (2020).

Desperate individuals are more likely to take risky actions in the service of survival and it may mean more workers returning to work when

it's not safe for them, putting themselves and the public at increased risk (Working Washington, 2020, <http://www.workingwa.org/esd-fraud>).

III. LIFE LONG AND PERMANENT IMPACT ON CHILDREN'S DEVELOPMENT

There will be a lifelong and permanent impact on Washington State children that is directly related to environmental stressors. According to the ongoing program of research on child development conducted at the Center for the Developing Child at Harvard University, "Excessive and persistent adversity early in life can overload biological systems and lead to long term consequences" (National Center for the Developing Child, p.4). Long term psychological and biomedical consequences related to the responses to the COVID-19 pandemic are likely to result in permanent impacts on the development of children's brains and other parts of the body's biological systems (National Scientific Council on the Developing Child, 2020, p.1).

Developing biological systems interact with each other and adapt to the environmental context in which the child is developing. These interactions between environmental conditions and developing biological systems have lifelong consequences for physical and mental health that can be positive or negative (National Scientific Council on the Developing Child, 2012). When hardships or threats are extreme or persistent,

particularly in the context of intergenerational poverty and/or systemic racism (National Academies of Sciences, Engineering, and Medicine, 2017), multiple biological systems can be disrupted. The downstream results of these disruptions are poor educational achievement, lower economic productivity, higher rates of crime, and increased healthcare costs (Campbell et al 2014; Heckman, 2012; Capsi et al 2016; Moffit et 2011). Untimely unemployment payments further exacerbate the stress on the families and their children.

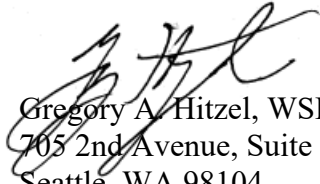
CONCLUSION

The extreme challenges of this year including the COVID-19 pandemic and requirements for social distancing, the economic impact that social distancing has caused, including the loss of income and stable employment to the most economically fragile, and the disparate impact on those who must seek work even if it means exposure have become apparent. It is essential that the Department of Employment respond immediately to mitigate the consequences of unemployment, hunger, poor health and chronic emotional distress.

Scientific research demonstrates the great harm that is occurring for many. The cascading effects from not receiving timely unemployment benefits will impact many more Washington residents. WSPA calls for the court to issue the writ of mandamus to ameliorate this impact.

DATED this 22nd day of June, 2020.

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A handwritten signature in black ink, appearing to read 'G. Hitzel', is written over the printed name and address.

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