

SUPREME COURT OF WASHINGTON

Locke v. City of Seattle

172 P.3d 705 (Wash. 2007) · No. Nos. 79222-4, 79381-6 · Decided December 13, 2007

SUMMARY

The Washington Supreme Court held that the LEOFF Act's right-to-sue provision abrogates a municipality's sovereign immunity for covered claims. The court further held that the City of Seattle lacked standing to challenge the provision under Washington's privileges and immunities clause, and that Locke was a fire fighter and LEOFF Plan II member while attending recruit training. The court also upheld the handling of excess damages and the jury's future economic damages award, affirming and remanding the consolidated cases for further proceedings.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Justice Owens; Chief Justice Gerry L. Alexander; Justice Tom Chambers; Justice Charles W. Johnson; Justice Barbara A. Madsen; Justice Mary E. Fairhurst; Justice Richard B. Sanders; Justice James M. Johnson; Justice Bobbe J. Bridge
JURISDICTION	Washington
DECIDED	December 13, 2007
DOCKET	Nos. 79222-4, 79381-6
DISPOSITION	remanded
PROCEDURAL POSTURE	Consolidated appeals and review proceedings concerning the constitutionality of the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act's right-to-sue provision. In Locke, a jury found the City negligent and awarded damages; the trial court denied posttrial relief and the Court of Appeals affirmed. In Lindell, the trial court denied the City's summary-judgment motion, a Court of Appeals commissioner denied review, and the Court of Appeals denied modification. The Washington Supreme Court accepted review and consolidated the matters.
STANDARD OF REVIEW	Statutory interpretation and summary judgment are reviewed de novo. Denial of a motion for a new trial or remittitur is reviewed for abuse of discretion.

PRECEDENTIAL VALUE	Published, precedential opinion of the Washington Supreme Court, decided en banc.
PARTIES	The City of Seattle, The City of Seattle Fire Department v. Kevin J. Locke, Tori Locke, The marital community composed of Kevin J. Locke and Tori Locke, Margaret A. Lindell, personal representative for the estate of Gary R. Lindell

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QUESTIONS PRESENTED

1. Whether RCW 41.26.281's LEOFF right-to-sue provision, together with RCW 4.96.010, abrogates Seattle's sovereign immunity.
2. Whether Seattle had standing to challenge the LEOFF right-to-sue provision under article I, section 12 of the Washington Constitution.
3. Whether a firefighter attending a 12-week recruit training program qualifies as a LEOFF Plan II firefighter.
4. Whether the trial court's instruction concerning excess damages was erroneous and prejudicial.
5. Whether the evidence supported Locke's award of future economic damages.

HOLDINGS

1. RCW 4.96.010 waives Seattle's sovereign immunity for suits brought under RCW 41.26.281's LEOFF right-to-sue provision.
2. Seattle lacked standing to challenge the LEOFF right-to-sue provision under article I, section 12 of the Washington Constitution.
3. Locke was a firefighter for purposes of LEOFF while attending the City's 12-week recruit training program.
4. Any error in instructing the jury concerning which party had to establish the amount of workers' compensation benefits was harmless because the parties stipulated to that amount.
5. The trial court did not abuse its discretion in denying Seattle's motion for a new trial or remittitur because evidence supported the jury's \$514,000 future economic damages award.

KEY QUOTATIONS

“We hold that RCW 4.96.010 waives the City's sovereign immunity for suits under LEOFF.” (at 708-709)

“Accordingly, we affirm on this issue.” (at 710-711)

“Based on the evidence presented at trial, the jury could have concluded that Locke's permanent injuries would require continued treatment for his life expectancy to manage the permanent injuries and increasing pain.” (at 712)

FACTUAL BACKGROUND

Seattle firefighter recruit Kevin Locke was injured when he fainted from dehydration and fell from a 50-foot ladder while performing a training rescue with a 120-pound mannequin. He sued Seattle under the LEOFF right-to-sue provision, and a jury found the City negligent and awarded future damages. Gary Lindell, a Seattle police officer, died from injuries sustained when he fell from his service horse during a mounted-patrol training exercise; his personal representative brought a wrongful-death action against Seattle under the same provision.

PROCEDURAL HISTORY

Kevin Locke sued Seattle for injuries sustained during firefighter recruit training, and a jury returned a verdict in his favor. The trial court denied the City's motion for a new trial or remittitur, and the Court of Appeals affirmed. Margaret Lindell, as personal representative of Gary Lindell's estate, sued Seattle for wrongful death arising from injuries sustained during a police training exercise; the trial court denied Seattle's summary-judgment motion challenging the LEOFF right-to-sue provision. The Washington Supreme Court accepted review, consolidated the cases, affirmed the lower courts on the merits, and remanded for further proceedings consistent with its opinion.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The consolidated cases were remanded for further proceedings consistent with the opinion. The Court of Appeals and trial court were affirmed on all other issues in Locke.

CASES CITED

- Fray v. Spokane County, 134 Wash. 2d 637, 952 P.2d 601 (1998)
- Hauber v. Yakima County, 147 Wash. 2d 655, 56 P.3d 559 (2002)
- Berrocal v. Fernandez, 155 Wash. 2d 585, 121 P.3d 82 (2005)
- Enterprise Leasing, Inc. v. City of Tacoma, 139 Wash. 2d 546, 988 P.2d 961 (1999)
- Kelso v. City of Tacoma, 63 Wash. 2d 913, 390 P.2d 2 (1964)
- Coulter v. State, 93 Wash. 2d 205, 608 P.2d 261 (1980)
- Locke v. City of Seattle, 133 Wash. App. 696, 137 P.3d 52 (2006)

- Taylor v. City of Redmond, 89 Wash. 2d 315, 571 P.2d 1388 (1977)
- J & B Development Co. v. King County, 100 Wash. 2d 299, 669 P.2d 468 (1983)
- Meaney v. Dodd, 111 Wash. 2d 174, 759 P.2d 455 (1988)
- Beal v. City of Seattle, 134 Wash. 2d 769, 954 P.2d 237 (1998)
- Larson v. Seattle Popular Monorail Authority, 156 Wash. 2d 752, 131 P.3d 892 (2006)
- Alton V. Phillips Co. v. State, 65 Wash. 2d 199, 396 P.2d 537 (1964)
- City of Seattle v. State, 103 Wash. 2d 663, 694 P.2d 641 (1985)
- State ex rel. Northwest Electric Co. v. Superior Court, 28 Wash. 2d 476, 183 P.2d 802 (1947)
- City of Spokane v. Spokane County, 179 Wash. 130, 36 P.2d 311 (1934)
- McCormacks, Inc. v. City of Tacoma, 170 Wash. 103, 15 P.2d 688 (1932)
- Bilger v. State, 63 Wash. 457, 116 P. 19 (1911)
- City of Sequim v. Malkasian, 157 Wash. 2d 251, 138 P.3d 943 (2006)
- Bunch v. King County Department of Youth Services, 155 Wash. 2d 165, 116 P.3d 381 (2005)
- Aluminum Co. of America v. Aetna Casualty & Surety Co., 140 Wash. 2d 517, 998 P.2d 856 (2000)
- Palmer v. Jensen, 132 Wash. 2d 193, 937 P.2d 597 (1997)

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