*Please be sure to include claim number on form.*

| Claimant's name | Claim Number |
|---|---|
| | |

# THIRD PARTY ELECTION FORM

☐ Check here if address has changed, and enter new address below

Claimant's mailing address

City State ZIP

| Name of third party responsible for accident (excludes employer or co-employee) | Date of accident / / | Time of accident ☐AM ☐PM |
|---|---|---|

Responsible party's address City State ZIP

Description and location of accident

Witness' to accident Address City State ZIP Phone number

**PLEASE SELECT AND COMPLETE OPTION A *OR* OPTION B**

## OPTION A. MY ATTORNEY OR I WILL PURSUE THIRD PARTY ACTION

I wish to seek recovery from the third party myself. I understand that if any recovery is made I must repay the Department of Labor & Industries for my industrial insurance benefits. I also understand that I must notify the department if and when I file a lawsuit. Finally, I authorize the department to communicate with my attorney.

SIGNATURE **X** Date: / /

| Attorney's name | Attorney's address |
|---|---|
| Attorney's phone number | City State ZIP |

## OPTION B. I ASSIGN THE ACTION TO THE DEPARTMENT

I wish to assign any cause of action that I may have against a third party to the Department of Labor and Industries. I do not intend to pursue a third party action on my own and no recovery has yet been made. I authorize the release of information from my claim file so that a third party action may be pursued. I understand that this assignment does not pertain to loss of consortium (love, affection and companionship) claims of spouses, children or beneficiaries.

SIGNATURE **X** Date: / /

***Please complete entire form and mail to:*** Department of Labor and Industries
Third Party Section
PO Box 44288
Olympia WA 98504-4288

**You ordinarily cannot sue your employer or co-workers for damages caused by a workplace injury or occupational disease. However, if your workplace injury or occupational disease was caused by a defective product, a defective machine or someone who is not a co-worker, the law requires that they be asked to pay for your medical treatment and other claim expenses. This is done through a formal legal process called a "Third Party Action."**

**If you believe your workplace injury or occupational disease was caused by someone else, you have a decision to make. You either may pursue a third-party action yourself, or you may ask the Department of Labor and Industries to consider pursuing it.**

**Please take a moment to review this pamphlet before making your choice. Then complete the *Third Party Election* form attached to this pamphlet, fold and mail.**

**If you have questions, write us at the address shown below or call (360) 902-5100.**

**Third Party Section**
**Department of Labor and Industries**
**PO Box 44288**
**Olympia, WA 98504-4288**

***Labor and Industries is an Equal Opportunity and Affirmative Action employer. The department complies with all federal rules and regulations and shall not discriminate on the basis of race, color, national origin, sex, creed, marital status, sexual orientation, age, disabled and Vietnam-era veteran status, religion, or disability as defined by applicable state and/or federal regulations or statutes.***

***If you have special communication or accommodation needs, please contact the Third Party Section at the above address and phone number.***

## Field service locations

Labor and Industries operates local offices to serve your needs. If you have questions, please look in the government or white pages of your telephone book for the office nearest you.

Service locations are listed under **Washington State of** in the white pages or government listings of your telephone book.

**Region 1, Northwest Washington**
Bellingham
Everett
Mount Vernon

**Region 2, King County**
Bellevue
Seattle
Tukwila

**Region 3, Pierce County/Peninsula**
Bremerton
Tacoma
Port Angeles

**Region 4, Southwest Washington**
Aberdeen
Longview
Tumwater
Vancouver

**Region 5, Central Washington**
East Wenatchee
Kennewick
Moses Lake
Okanogan
Walla Walla
Yakima

**Region 6, Eastern Washington**
Colville
Pullman
Spokane

F249-008-000 [9/00]

# Third Party

## Action

▶ This pamphlet reviews your legal rights and duties concerning any possible third party action on your workers' compensation claim. After you have read it, please complete the attached form and mail it postage-free to Labor and Industries.

Department of LABOR AND INDUSTRIES

F249-008-000 [9/00]

**Q** **Why was I sent this form?**

**A** Because your injury or illness may have been caused by a third party.

**Q** **What is a third party?**

**A** Someone other than your employer or a co-worker who may have caused your injury or illness.

Examples include:
- The driver of the car that hit you.
- The manufacturer of a defective product that injured you.
- A property owner who failed to properly maintain the premises.
- A fall that was someone else's fault.
- The owner of an animal that bit you.

**Q** **What is a third-party action?**

**A** A legal action against the liable party.

**Q** **Do I have to pursue a third-party action?**

**A** No. However, the law does require you to make a choice. You must either pursue the action yourself, with or without an attorney (Option A), or assign the action to the Department of Labor and Industries. (Option B).

**Q** **What if I do nothing?**

**A** You are required to complete this form. Failure to complete this form and return it to the department within the required time may result in assignment of third-party action to the department. Any further action is at the discretion of the department.

**Q** **What are my responsibilities if I decide to pursue the action myself (Option A)?**

**A** First, you must notify the department of your election to pursue the action. The law also requires that you or your attorney notify the department when a lawsuit is filed and keep the department informed of the progress of the action. In fact, if the action is not diligently pursued, the department can petition the court to have it assigned to the department.

In addition, the law requires that you or your attorney obtain department approval of a settlement under certain circumstances. If a settlement is insufficient to cover the cost to reimburse the department of your industrial insurance claim, the department can deny approval or can declare void any settlement to which you have agreed.

Finally, the law requires that you or your attorney advise the department of the amount that has been recovered and the attorney fees and costs associated with the recovery and repay the department for your industrial insurance benefits.

**Q** **What are my responsibilities if I decide to assign the action to the department (Option B)?**

**A** The department will decide whether to pursue the action. Your help may be necessary in making this decision. In addition, if an action is filed, your deposition testimony or in-court testimony may be required. This, of course, is true whether you assign the action to the department or pursue it yourself.

**Q** **If I assign the action to the department (Option B), what will the department do?**

**A** When you assign the action to the department, you are freed from personal responsibility to pay the legal costs involved in such actions. However, you also give up your right to control the action. The department will decide whether to pursue the action.

If the department pursues the action, it will attempt to recover the full amount of damages available under the law. If a recovery is made, the department will distribute the recovery in compliance with the statute and issue an order and notice confirming the distribution.

**Q** **How does the third-party action affect my industrial insurance claim?**

**A** You are entitled to workers' compensation benefits regardless of fault. However, your industrial insurance benefits must be repaid from any third-party recovery. Workers' compensation benefits may stop once you've recovered from the third party depending upon the amount recovered.

**Q** **How does the third-party action benefit me?**

You will receive a portion of any recovery made. The law specifies how a recovery is to be apportioned among you, your attorney (if any) or the department's attorney (if any), and the department on behalf of the industrial insurance funds.

**Q** **What do I do now?**

**A** After reviewing this material, please make your decision, sign the form, and mail it to the department.

**PLEASE NOTE**: The department believes that all the information in this pamphlet is correct. However, this pamphlet is intended only as a general guide. It is not intended to address specific cases or every possible situation. Moreover, the law regarding third-party recoveries can change and can be complex. This pamphlet is not intended to be an interpretation of the law. You are free to consult with an attorney or call the department for more information.