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Right of officers, firefighters to sue is challenged

Seattle contesting two lawsuits

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Kevin Locke just wanted to be a firefighter, but an injury in recruit class ensured that would never happen.

Gary Lindell loved being a police officer, but when he was hurt in a training accident, he lost first his job, then his life.

Locke and Lindell's widow, Margaret Lindell, ended up filing lawsuits against the city of Seattle, both arguing the city was negligent. Locke won his suit in 2004 and was awarded \$1.8 million in damages, but he has yet to collect his money,

Margaret Lindell's suit, filed in February 2005, has yet to go to trial.

That's because the city wants both cases dismissed for the same reason -- arguing in part that the state law allowing lawsuits such as these to be filed by police officers and firefighters violates the state constitution because it "gives extra compensation to public employees," according to documents filed in Lindell's lawsuit.

The Lindell and Locke cases have now been joined as one and arguments from all parties will be heard before the state Supreme Court on June 26.

But the city's strategy already has leaders of both police and fire unions upset.

"Here's a person who dies as a result of injuries while on duty, is considered fallen in the line of duty, and we have the city saying his family doesn't have the right to sue them," said Sgt. Rich O'Neill, president of the Seattle Police Officers' Guild. "I just find that despicable."

The law Seattle is fighting, the Law Enforcement Officers' and Fire Fighters' Retirement Systems Act, has been on the books for more than 30 years. One provision allows public servants or their survivors to sue if they can prove negligence or an intentional act led to the injury or death.

The question before the state justices will be whether the act violates the state's constitution by allowing a police officer or firefighter to collect compensation benefits and sue for negligence. The city argues it is unconstitutional because the same benefit is not available to every employee in the state.

Chris Vick, an attorney who counts among his clients the Seattle Police Officers' Guild and the King County Police Officers Guild, said officers and firefighters across the state are keeping an eye on this case.

"It affects everybody," he said.

Vick filed a brief on behalf of the two police guilds supporting Locke and Lindell.

He called the state's retirement system for public servants among the worst in the country, and said the law is one way to ensure that employers provide police and firefighters with proper safety equipment and training.

"I sure like that the law is there 'cause it keeps the employers honest," he said.

But those most immediately concerned with the case are Locke and Margaret Lindell.

Locke was a 37-year old firefighter recruit when he was hurt June 29, 2000, during a drill at the Washington State Fire Academy in North Bend. He had climbed a 55-foot ladder to rescue a mannequin from a rooftop.

But weakened by dehydration in the warm weather, Locke passed out, fell more than 30 feet, and broke several bones in his legs, feet and back. He spent months in the hospital and undergoing therapy.

His injuries meant he couldn't be a firefighter, but the city hired him as a dispatcher in the fire alarm center, where he still works.

Before the accident, Locke was an avid athlete and participated in several triathlons. Now, he limits his physical exercise to swimming and an occasional bicycle ride.

To help manage his pain, he takes aspirin regularly and gets massages and rolfing treatments.

"I still hurt all the time, but I try not to get down about it," Locke said.

Jurors found the city negligent for failing to designate a safety officer during the drill and failing to provide adequate water and rest breaks.

Lindell's lawsuit also argues that negligence led to her husband's death. A mounted patrol officer with more than 30 years on the force, Lindell was training with his horse at a now-defunct facility in West Seattle on May 4, 1999, when he was thrown and landed on his head, suffering a severe injury.

For almost a week, doctors weren't sure he would live. He spent the next month at Harborview Medical Center where doctors removed part of his skull to alleviate brain swelling.

In August 1999, they were able to put the piece back in, Margaret Lindell said.

"It was about a month later he had his first seizure," she said.

For the remaining three years of his life, Gary Lindell suffered headaches, had trouble with his balance, sometimes struggled to speak, and suffered seizures.

He could no longer be an officer, so the Police Department gave Lindell a civilian job at the firing range. Lindell, 55, was found dead on March 13, 2002, at the range, sitting in a truck to stay warm.

"I honest to God didn't know he could die of a seizure," Margaret Lindell said.

Two years ago, she filed a wrongful-death suit, alleging the city was negligent in several ways, including failing to provide protective headgear (at the time, mounted officers wore cowboy hats), an adequate riding facility, or safety personnel at the training center.

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