No. 27701-1-III

Brown, J. (dissenting) • Considering footnote 6 of *Williams v. Leone & Keeble, Inc*., 171 Wn.2d 726, 735 n.6, 254 P.3d 818 (2011), I understand Delbert Williams' desire to skip past the two-part test of *Johnson v. Spider Staging Corporation*, 87 Wn.2d 577, 580, 583, 555 P.3d 997 (1976), and the application of *Restatement (Second) of Conflict of Laws* § 145 (1971). In my view, Chief Justice Madsen in her concurring opinion aptly frames my analytical discomfort in approaching this straight-forward conflict of law dispute. *Williams*, 171 Wn.2d at 736. In footnote 6 the *Williams'* majority directs us to apply *Restatement* section 146 and the policy considerations of *Johnson* without mention of *Restatement* section 145. This has created confusion about whether a full contacts analysis is required. And, as Chief Justice Madsen observes, the majority's footnote "suggests the analysis that it wishes the Court of Appeals to follow and strongly hints at the result it wishes that court to reach." *Williams*, 171 Wn.2d at 736 (Madsen, C.J., concurring). In good conscience and in principle, I must resist.

In competently honoring the significant-relationship test we have consistently followed since *Johnson* in 1976, we should apply a two-stage analysis. First, we should

decide if the contacts favor Idaho or Washington. Let the chips fall where they may. If the contacts favor Idaho or Washington, the trial court applies either Idaho or Washington law. *Restatement* section 145 gives a nonexclusive list of contact factors to consider. Solely when the contact factors are evenly balanced should we reach the second analytical stage and examine the policies and interests of the two states to decide what law should apply to the case. *Johnson*, 87 Wn.2d at 581-82.

Applying a contacts analysis under Restatement (Second) Conflict of Laws section 145, I, like the trial court, would hold Idaho law should apply: The injury occurred in Idaho and we generally presume in personal injury cases, the law of the place of the injury applies; the place where the conduct causing the injury occurred in Idaho; the place where the relationship between the parties was centered was in Idaho; and, as Leone & Keeble offered at oral argument, the reasonable or justified expectations of the parties place the dispute in Idaho. Idaho workers' compensation laws have already been utilized by Mr. Williams and the work was performed under Idaho work standards. The sole factor that may favor Washington is the domicile, residence, and place of incorporation of the parties.

I would not conflate Washington superior court personal and subject matter jurisdiction over the parties as found by the *Williams* court and what law may be best for Mr. Williams with our task of deciding what state's law the superior court should now

apply under our long-held conflicts analysis. I would not reach the second, policy and interest stage of our traditional conflicts analysis.

I would affirm. Therefore, I respectfully dissent.

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Brown, J.