

THIRD PARTY ELECTION FORM

Please complete this form and return within 60 days to:
City of Seattle, Workers' Compensation Unit
P. O. Box 34028
Seattle, WA 98124-4028

Please read the instructions enclosed with this form before completing the following:

Name:	Claim Number (the number printed in red on the SIF-2 form):
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Address of Injured Person:	City:	State:	Zip:
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Date of Incident:	Time of Incident:	Location of Incident:	Street:	City:	County:
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At the time of injury, I was at the above location for the following purpose(s):

Name of Third Party:	Address:	City:	State:	Zip:
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License No. of Third Party's Car (if auto accident):	Did the Police come to the scene?:
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Please describe how the injury occurred in as much detail as possible with specific reference to the conduct of the third party:

List Witnesses (include names, addresses & phone numbers, if possible):

ELECTION: SIGN EITHER A OR B

_____ **A.** I elect to seek recovery from the other party or parties involved in the accident described above and I agree to keep the City of Seattle / Workers' Compensation Unit advised of the progress and results of this action. I understand that the City has a statutory lien against the proceeds of any such award or settlement for reimbursement of the compensation and benefits paid under the Washington industrial insurance laws during the pendency of the action.

Signature of Employee

_____ **B.** I hereby elect to seek compensation and benefits solely under the Washington industrial insurance laws, and I hereby assign and transfer to the City of Seattle / Workers' Compensation Unit, any and all rights, claims, demands and causes of action against any and all persons, firms or corporations arising out of the accident described above. No settlement has been made with any other party or parties involved in the accident.

Signature of Employee

I, _____ fully understand the nature of election, as explained with this form. I further authorize the City of Seattle / Workers' Compensation Unit to copy this election form and furnish copies to such persons as may be necessary in order to properly manage this claim.

Signature of employee

Date

Witness Signature

Date

ELECTION

By law, you cannot sue your employer or coworkers for damages when a work-related injury or disease occurs. But you can sue someone not working for your employer -- a third party -- if that person, another company or a defective product was responsible for your injury. You may choose to initiate legal action yourself to recover damages. If so, you may wish to consult an attorney. Or, you may have the City of Seattle / Workers' Compensation Unit initiate action on your behalf. In either case the City may recover its claims costs from the settlement. Because the City's insurance costs may be affected by your injury, we may decide to take legal action even if you don't.

Your right to workers' compensation benefits is not jeopardized by initiating a third-party legal action. You'll receive all benefits for which you qualify regardless of the outcome. If you believe a third party may have been responsible for your injury, fill out the election form on the front of this sheet and return it to the City of Seattle's Workers' Compensation Unit. You have 60 days to decide on your election preference, under the provisions of RCW 51.24.070. If you do not notify us within 60 days, we will assume that you wish the City of Seattle to take responsibility for the claim, and we will pursue the third party involved. Listed below are the Washington State laws governing election:

51.24.030 Action against third person -- Election by injured person or beneficiary authorized. If the injury to a worker is due to the negligence or wrong of a third person not in the same employ, the injured worker or beneficiary may elect to seek damages from the third person. (1977 ex.s. c 85 § 1.)

51.24.040 Action against third person -- Election or recovery not bar to compensation or benefits. The injured worker or beneficiary shall be entitled to the full compensation and benefits provided by this title regardless of any election or recovery made under this chapter. (1977 ex.s. c 85 § 2.)

51.24.050 Action against third person -- Election not to proceed assigns cause of action to department or self-insurer. (1) An election not to proceed against the third person operates as an assignment of the cause of action to the department or self-insurer, which may prosecute or compromise the action in its discretion in the name of the injured worker, beneficiary or legal representative.

(2) The injured worker or beneficiary shall be entitled to the remaining balance of any award or settlement recovered by the department or self-insurer after deduction of the following amounts:

(a) The expenses incurred in making the recovery including reasonable costs of legal services; and
(b) The compensation and benefits paid to or on behalf of the injured worker or beneficiary by the department or self-insurer.

(3) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made. (1977) ex.s. c 85 § 3.)

51.24.060 Action against third person -- Distribution of award or settlement recovered by injured worker or beneficiary -- Lien. (1) In an action by the injured worker or beneficiary against the third person, any award or settlement shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid;
(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award:

Provided, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department or self-insurer shall be paid the balance of the award, but only to the extent necessary to reimburse the department or self-insurer for compensation or benefits paid;

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made.

(2) The award or settlement shall be subject to a lien by the department or self-insurer for its share under this section. (1977 ex.s. c 85 § 4.)

51.24.070 Action against third person -- Requiring injured worker or beneficiary to exercise right of election -- Procedures. (1) The department or self-insurer may require the injured worker or beneficiary to exercise the right of election under this chapter by serving a written demand by registered mail, certified mail, or personal service on the worker or beneficiary.

(2) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department or self-insurer, the injured worker or beneficiary is deemed to have assigned the action to the department or self-insurer. The department or self-insurer shall allow the worker or beneficiary at least ninety days from the election to institute or settle the action.

(3) If an action which has been filed is not diligently prosecuted, the department or self-insurer may petition the court in which the action is pending for an order assigning the cause of action to the department or self-insurer. Upon a sufficient showing of a lack of diligent prosecution the court in its discretion may issue the order. (1977 ex.s.c 85 § 5.)

51.24.080 Action against third person -- Notice of election or copy of complaint to be given department or self-insurer -- Filing notice. (1) If the injured worker

or beneficiary elects to seek damages from the third person, notice of the election must be given to the department or self-insurer. The notice shall be by registered mail, certified mail, or personal service. If an action is filed by the injured worker or beneficiary, a copy of the complaint must be sent by registered mail to the department or self-insurer.

(2) A return showing service of the notice on the department or self-insurer shall be filed with the court but shall not be part of the record except as necessary to give notice to the defendant of the lien imposed by RCW 51.24.060 (2). (1977 ex.s c 85 § 6.)

51.24.090 Action against third person -- Compromise or settlement less than benefits -- Approval by department or self-insurer. Any compromise or settlement of the third party cause of action by the injured worker or beneficiary which results in less than the entitlement under this title is void unless made with the written approval of the department or self-insurer. (1977 ex.s c 85 § 7.)