

IN THE SUPREME COURT OF IOWA

No. 21-0777

ROSA CHAVEZ,

Petitioner-Appellant,

vs.

MS TECHNOLOGY, LLC and WESTFIELD INSURANCE COMPANY,

Respondents-Appellees.

**APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
HONORABLE JUDGE SARAH CRANE
Polk County No. CVCV060899**

**AMICUS CURIAE BRIEF
LULAC IOWA**

**Andrew W. Bribriesco
2407 18th Street, Suite 200
Bettendorf, Iowa 52722
Ph.: 563-359-8266
Fax: 563-359-5010
Email: andrew@bribriescolawfirm.com**

ON BEHALF OF LULAC IOWA

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STATEMENT OF INTEREST

The League of United Latin American Citizens of Iowa (hereinafter, “LULAC Iowa”) is the state chapter of LULAC National, which is an organization that has approximately 150,000 members throughout the United States and Puerto Rico. LULAC is the oldest and largest Latino civil rights organization in the United States. The mission of LULAC is to “advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States.”

LULAC Iowa is charged with promoting and advocating LULAC’s mission throughout the state of Iowa. With over 500 members state-wide, LULAC Iowa consists of and works in collaboration with twenty local councils (*i.e.*, local chapters) throughout the state of Iowa. There are LULAC councils present in the following Iowa cities: Davenport; Fort Madison; Des Moines; Iowa City; Storm Lake; West Liberty; Columbus Junction; Muscatine; Mt. Pleasant; Cedar Rapids; Ottumwa; Marshalltown; and Denison.

LULAC Iowa is interested in the outcome of this matter because Latinos make-up a large segment of the labor force in Iowa, especially in large meatpacking plants, and the rights of these workers will be significantly impacted by the Supreme

Court's decision in this matter.¹ Specifically, the health, safety, and economic condition of Latinos state-wide, including numerous members of LULAC Iowa, will be greatly impacted by how the Court interprets the word "shoulder" pursuant to Iowa Code section 85.34(2)(n).

If the Court upholds the ruling of the district court, not only will there be a detrimental impact on Iowa workers generally, but this detrimental impact will undoubtedly fall harder and disproportionately on Latino workers based upon the unique demographics of the Latino labor force in Iowa. This is primarily true for Latinos who work in the perils of the Iowa meatpacking industry.

LULAC Iowa – whose mission is to advance the economic condition, educational attainment, political influence, housing, health, and civil rights of the Latino population in Iowa – has a unique perspective to provide for the Court when arriving at its decision.

No party's counsel or other person authored this Amicus Curiae Brief, in whole or in part. *See* Iowa R. App. P. 6.906(4)(d). No party's counsel or other person made a monetary contribution to fund the preparation or submission of this Amicus Curiae Brief. *See id.*

¹ There is no coincidence that there are LULAC councils in cities like Storm Lake, West Liberty, Columbus Junction, Ottumwa, Marshalltown, and Denison because there are large meatpacking plants located there and, concomitantly, a significant Latino population.

ARGUMENT SUMMARY

In 2017, the Iowa Legislature amended Iowa Code section 85.34(2) to add “shoulder” to the list of “scheduled member” injuries for which workers’ compensation benefits are arbitrarily limited. Iowa Code §85.34(2)(n)(2017). The legislature did not define the word “shoulder” and, thus, it is an ambiguous term. The Court should adopt the position of Appellant Rosa Chavez because, to do otherwise, would cause detrimental impacts to the health, safety, and economic condition of Iowa workers. From the perspective of LULAC Iowa, these detrimental impacts will fall even harder and disproportionately on Latino workers, Latino families, and Latino communities.

The Court should consider these real impacts, including the fact that the district court’s decision will have a disproportionate impact on Iowa Latinos, when determining whether to apply a broad and liberal interpretation of the word “shoulder.” Although the Legislature may not have purposefully discriminated against Latinos in Iowa when it amended the Iowa Workers’ Compensation Act, the implicit and systemic effects on Iowa Latinos cannot be ignored.

Based upon these impacts, LULAC Iowa urges the Court to interpret the term “shoulder” broadly and liberally in favor of the injured worker consistent with the arguments presented by Appellant Rosa Chavez.

ARGUMENT

I. THE TERM “SHOULDER” IS AMBIGUOUS AND, THUS, SHOULD BE INTERPRETED IN FAVOR OF INJURED WORKERS BECAUSE, TO DO OTHERWISE, WOULD CAUSE A DETRIMENTAL IMPACT TO COUNTLESS IOWA WORKERS, ESPECIALLY LATINO WORKERS, WHICH THE LEGISLATURE DID NOT INTEND.

This Brief will begin by discussing background demographic information of Latinos in Iowa, which provides context to the current educational and economic condition of this group. The next section discusses the meatpacking industry in Iowa and how Latinos are overrepresented in its workforce. The prevalence of injuries by workers in the meatpacking industry, which is inextricably linked to the industry’s production goals and line speeds, will be the subject of the next section.

The next two sections thereafter discuss how – if the district court’s decision is upheld – the health, safety, and economic condition of Latino workers will be detrimentally worsened. This will be especially true for those working in the meatpacking plants and other hazardous occupations that require minimal education, minimal training, and English proficiency.

This Brief ends with a discussion about the origin and purpose of workers’ compensation laws and, with those principles in mind, how the Court should adopt Appellant Rosa Chavez’s argument because adopting her position will be in the best interest of Iowa workers, especially Iowa’s most vulnerable workers (Latino workers, immigrant workers, meatpacking workers, etc).

A. Demographic Background: Latinos in Iowa

According to the State Data Center of Iowa, there is an estimated 198,550 Latinos living in Iowa. *See Latinos in Iowa: 2020 Report*, State Data Center of Iowa & The Office of Latino Affairs,² September 2020, p. 1 available at <https://www.iowadatatcenter.org/Publications/latinos2020.pdf>.

Approximately seventy-seven percent (77%) of the Latino population over the age of 16 is in the labor force; in other words, there are tens of thousands of Latinos active in the Iowa labor force. *See id.* at p. 3. Approximately one-third (1/3) of Iowa Latinos are foreign born *i.e.*, immigrants. *Id.* at 4.

When compared to Iowans generally, Iowa Latinos fair much worse when it comes to education, income, and poverty rates. *Id.* at pp. 2 & 3. Here are some pertinent data results:

- \$48,346.00 is the median income for Latinos in Iowa, which is compared to all Iowans of \$61,691.00.
- 17.3% is the poverty rate for Latinos in Iowa, which is compared to all Iowans at the rate of 11.2%.

² In 1976, Governor Robert Ray signed into law the Spanish-Speaking People's Commission. In 1986, the Commission was reorganized under the Iowa Department of Human Rights. In 1990, the Commission was renamed the Division of Latino Affairs and finally, in 2011, it was renamed again as the "Office of Latino affairs." Iowa Department of Human Rights Webpage (last visited July 30, 2021) available at <https://humanrights.iowa.gov/cas/welcome-office-latino-affairs/commission>.

- 67.5% of Latinos over the age of 25 have a high school education, which is compared to all Iowans at the rate of 92.6%.
- 13.8% of Latinos over the age of 25 have a bachelor's degree, which is compared to all Iowans at the rate of 29.3%.
- 52.7% of Latinos own their own home, which is compared to all Iowans at the rate of 70.5%.

Id. at pp. 2-4.

Asides from urban areas such as Polk County and Scott County, there are significant Latino populations in rural counties such as Louisa County (16.1%), Crawford County (28.9%), Buena Vista County (26.4%), Sioux County (11.2%), Woodbury County (17.4%), and Marshall County (23%). *Id.* at 4.

Migration patterns to rural counties in Iowa have largely been the result of the meatpacking industry. See Everest, Mary Patricia, *Immigrant Vulnerability in High-Risk Industry: A Socio-Occupational Examination of Counties with Large Meatpacking Plants in Iowa and Nebraska* (2005), pp. 88-96 available at <https://scholarcommons.usf.edu/etd/2872> (analyzing the connection between immigration of Latinos to counties where there are large meatpacking plants in Buena Vista County, Crawford, Dallas, Louisa, Wapello, Woodbury, and other Iowa Counties); see also Grey, Mark and Anne C. Woodrick, *Unofficial Sister Cities: Meatpacking Labor Migration Between Villachuato, Mexico, and Marshalltown*, 61 HUMAN ORGANIZATION 4 (Winter 2002), pp. 364-376 available at <https://www.jstor.org/stable/44127576>.

B. *Latinos in the Iowa Meatpacking Industry*

According to the Economic Policy Institute, Iowa has the second greatest number of meatpacking workers in the United States with 26,543 workers. Stuesse, Angela & Nathan Dollar, *Who are America's meat and poultry workers?*, Economic Policy Institute, September 24, 2020, available at <https://www.epi.org/blog/meat-and-poultry-worker-demographics>.

Iowa was just behind Nebraska, who has about 50 more workers in the industry. *Id.*; see also Fremstad, Shawn, Hye Rho, & Hayley Brown, *Meatpacking Workers Are A Diverse Group Who Need Better Protections*, Center for Economic Policy & Research, April 29, 2020, available at <https://cepr.net/meatpacking-workers-are-a-diverse-group-who-need-better-protections> (noting that Iowa is in the top five of number and percentage of meatpacking workers in the United States).

The largest of U.S. meatpacking companies are present in Iowa. See *When We're Dead and Buried, Our Bones Will Keep Hurting*, September 4, 2019, Human Rights Watch available at <https://www.hrw.org/report/2019/09/04/when-were-dead-and-buried-our-bones-will-keep-hurting/workers-rights-under-threat> (noting that “Tyson Foods, Cargill Meat Solutions, JBS USA, and National Beef slaughter and package about 85 percent of the beef cattle [and that the] top four pork producers—Smithfield Foods, Tyson Foods, JBS USA, and Hormel—control nearly 65 percent of the market in hog protein.”).

In Iowa, the labor required for the meatpacking industry has fallen on immigrants. Artz, Georgeanne, Rebecca Jackson, & Peter Orazem, *Is it a Jungle Out There? Meat Packing, Immigrants, and Rural Communities*, 35 J. OF AGRIC. & RESOURCE ECON. 2 (Aug. 2010), p. 299 available at <http://www.jstor.org/stable/41960519>; see also Everest, *Immigrant Vulnerability in High-Risk Industry*, at pp. 18-21.

While the meatpacking plants of the past turned to immigrants from Germany, Poland, and other European nations, the current industry, especially in Iowa, has been built upon Latino immigrants. Everest, *Immigrant Vulnerability in High-Risk Industry*, at pp. 18-21. The meatpacking industry in Iowa has been known to actively court and recruit non-citizens from Mexico and Central America. *Id.*; Worrall, Michael, *Meat Packing Safety: Is OSHA Enforcement Adequate*, 9 DRAKE J. AGRIC. L. 301 (2005) at 306, 320.³

Latinos and Latino immigrants have become instrumental to the meatpacking industry in Iowa, with some plants making up to ninety percent (90%) of the labor force. See Wahl, Ana-Maria, Steven Gunkel, & Thomas Sanchez, *Death and*

³ This is no different from trends nationwide as well, as Latinos make up 35% of all workers in the animal slaughtering and meatpacking industry, while comprising only 16.8% of all workers in the United States. Fremstad et al., *Meatpacking Workers Are A Diverse Group Who Need Better Protections*. Moreover, immigrants are overrepresented in frontline meatpacking operations at over 50%, while comprising only 17% of all workers in the United States. *Id.*

Disability in the Heartland: Corporate (Mis)Conduct, Regulatory Responses, and the Plight of Latino Workers in the Meatpacking Industry, 10 Great Plains Research 2 (Fall 2000), p. 333 available at <https://www.jstor.org/stable/23778287>.

Latino and immigrant overrepresentation in the meatpacking labor force is present despite the perils and hazards⁴ that come with the job. *See id.* at 332-33.

C. *Injuries and Hazards of the Meatpacking Industry*

The meatpacking industry has the highest rate of repetitive-motion injuries when compared to other industrial settings. Worrall, 9 DRAKE J. AGRIC. L. at 303-04; *see also* Everest, *Immigrant Vulnerability in High-Risk Industry*, at pp. 25-30; Fremstad et al., *Meatpacking Workers Are A Diverse Group Who Need Better Protections*. “Pressed by mounting market pressures, meatpackers have increased the pace of production speeds that, though legal, are excessive and cause thousands of cumulative trauma disorders each year.” Wahl et al., *Death and Disability in the Heartland*, at p. 352.

Much of the time, these injuries lead to permanent disabilities to fingers, arms, hands, and shoulders. *Id.* at p. 331 (“In many of the 15,900 cases recorded [by OSHA], the results will be long-term pain and disability, including irreversible loss of motion in fingers, arms, hands, shoulders, and backs.”).

⁴ For an analysis of COVID-19 infections in the Iowa meatpacking industry, *see* Fremstad et al., *Meatpacking Workers Are A Diverse Group Who Need Better Protections*.

The meatpacking industry has even been investigated by Human Rights Watch, an organization dedicated to uncovering facts of human rights abuses. *See* “*When We’re Dead and Buried, Our Bones Will Keep Hurting*”, September 4, 2019, Human Rights Watch available at <https://www.hrw.org/report/2019/09/04/when-were-dead-and-buried-our-bones-will-keep-hurting/workers-rights-under-threat>.⁵

In Iowa, one study had meatpacking injuries or illnesses as 51 per every 100 full-time employees, which is compared to 9.8 per every 100 employees for all of the private sector. Worrall, 9 DRAKE J. AGRIC. L. at 309.⁶ Another study suggests that there are more accidents in Iowa meatpacking plants than in the other two big meatpacking states of Nebraska and Kansas. Wahl et al., *Death and Disability in the Heartland*, at pp. 337, 349.

The hazards and injuries that are prevalent in the meatpacking industry, moreover, are even greater for Latino immigrants. *See generally id.* Due to barriers that come with age, educational attainment, and English proficiency, Latino

⁵ Human Rights Watch concluded that “workers can be at risk of serious, potentially life-threatening, injury, and illness. *In particular, disabling musculoskeletal illnesses, fueled by rapid line speeds that compound the highly repetitive, forceful movements required by meat and poultry slaughtering and processing work...*” Human Rights Watch, September 4, 2019, (emphasis added).

⁶ These numbers likely demonstrate an underestimate as many injuries go unreported due to language and cultural barriers. Worrall, 9 DRAKE J. AGRIC. L. at 311.

immigrants are “more likely than others to be maimed and killed” in meatpacking plants in Iowa and throughout the Midwest. *Id.* at 330.⁷

The vulnerability of Latino and Latino immigrants working in meatpacking plants are compounded by the decline of unions. *See id.* at 333 (describing that Latino meatpacking workers feel pressured to keep-up with the speed of the line despite having physical injuries for the fear of losing their job). Injuries, illnesses, and work-related hazards therefore “pose one of the most serious obstacles to the better life” being sought by Latino and Latino immigrants. *Id.* at 330.

D. The District Court’s Ruling Will Not Incentivize the Meatpacking Industry to Prioritize the Health and Safety of Its Workers.

The hazardous conditions – including the exorbitant number of finger, hand, arm, and shoulder injuries – that face Iowa meatpacking workers, especially Latino and immigrant meatpacking workers, will only become worse if the district court’s ruling is upheld.

The occupational hazards that face meatpacking workers stem from the industry’s pursuit for profit, which is inextricably connected with production outputs and line-speeds. *See Wahl et al., Death and Disability in the Heartland*, at p. 337, 352; *see also* Human Rights Watch, September 4, 2019.

⁷ One author has suggested that lack of public concern for the prevalence of injuries in meatpacking plants is because the workers suffering these injuries are predominantly Latino immigrants. Worrall, 9 DRAKE J. AGRIC. L. at 320.

The industry will only decrease line-speeds or make ergonomic changes if there is an economic incentive to do so. *See* Worrall, 9 DRAKE J. AGRIC. L. at 317-322 (describing the ineffectiveness of OSHA); *See* Wahl et al., *Death and Disability in the Heartland*, at p. 352 (describing the industry as “criminogenic” where “worker health and safety is routinely compromised by corporate conduct and misconduct.”).⁸

Many argue that economic incentives are the key to workplace safety, which includes the higher payment of workers’ compensation awards:

Some have even called for the abolition of OSHA, arguing that economic incentives, by themselves, will protect workers. Economic incentives take the form of (1) higher wages paid to workers in more hazardous jobs; and (2) in the workers’ compensation paid to workers who are hurt.

Id. at 320-21.

As will be discussed in more detail in the next section, the district court’s interpretation of the word “shoulder” will *significantly* decrease the compensation the industry will pay to workers who suffer permanent disability from a rotator cuff injury (or any disability located proximal to the glenohumeral joint). *See* Schott, Emily, Matthew Glasson, & Colin Gordan, *Giving Workers the Cold Shoulder: Shifting the Risk Under Iowa Workers’ Compensation Law*, Iowa Policy Project

⁸ For a more detailed account of how regulatory agencies, such as OSHA, come-up short on providing protections for workers, *see generally* Wahl et al., *Death and Disability in the Heartland*.

(Sept. 2018), p. 15 (concluding that workers with less education, fewer occupational skills, or minimal English proficiency will see their compensation reduced by more than ninety percent (90%)).

Thus, the meatpacking industry, especially self-insured employers, will not have any economic incentive to decrease the number of rotator-cuff injuries if it is known that permanent disability will be limited to the functional impairment rating.⁹ Simply put, the decrease in money compensation for rotator-cuff injuries will not encourage the slowing of production or encourage ergonomic improvements.

E. The District Court's Ruling Will Cause Harsh, Unjust, and Detrimental Economic Impacts, especially on Latinos in Iowa.

In addition to not incentivizing the meatpacking industry to decrease the number of injuries, the district court's ruling will also cause detrimental impacts on the economic situation of Iowa workers. These detrimental impacts will fall even harder and disproportionately on Latinos, especially those who work in the meatpacking industry and other hazardous occupations that attract workers with minimal education, minimal transferable skills, and minimal English proficiency.

⁹ In 2017, there were 87 cases out of 322 (over 25%!) decided before the Iowa Workers' Compensation Agency that involved a "shoulder" injury. Schott et al., *Giving Workers the Cold Shoulder* at p. 11.

The economic impacts of the 2017 Amendments of the Workers' Compensation Act were highlighted in the Iowa Policy Project's¹⁰ article: *Giving Workers the Cold Shoulder: Shifting the Risk Under Iowa Workers' Compensation Law*, by Emily Schott, Matthew Glasson, and Colin Gordan, available at [180920-workers_comp \(iowapolicyproject.org\)](https://www.iowapolicyproject.org/workers_comp).

After the analysis of sixty-six (66) cases decided before the Iowa Workers' Compensation Agency in 2017,¹¹ the Iowa Policy Project concluded:

The “typical worker” with a shoulder injury could expect to lose about 75 percent of his/her compensation. *The change will have the largest impact on the most vulnerable workers. Older workers with less education, fewer skills, learning disabilities, or language issues will be particularly hard hit. Some of these workers will see their compensation reduced by more than 90 percent.*

Id. at p. 13 (emphasis added).

¹⁰ “Formed in 2001, the Iowa Policy Project is a nonpartisan, nonprofit organization [that] promotes public policy that fosters economic opportunity while safeguarding the health and well-being of Iowa’s people and the environment.” Schott et al., *Giving Workers the Cold Shoulder* at p. ii. The Iowa Policy Project advances accountable, effective, and fair government by providing fact-based and objective research. *Id.*

¹¹ The Iowa Policy Project arrived at 66 cases as follows:

There were 322 arbitration cases in 2017. Of that number, 87 involved an alleged shoulder injury. The claimants prevailed in 76 of these cases and were awarded permanent partial disability benefits in 70 of them (80.5 percent). We removed from the analysis four cases that involved injuries to more than one body part (e.g., shoulder and neck, or injury to both shoulders), leaving us with a sample of 66 cases.

Id. at 9.

To begin with, the demographics of the 66 “shoulder” cases are illuminating. Thirty-one (31) of the workers were injured in the meatpacking industry and other manufacturing settings, which is almost half of all the cases. *Id.* at 9. About a third of the workers (23) had less than a high school education, many of them receiving this education outside of the United States. *Id.* Another 26 workers had a high school degree or GED equivalent. *Id.*

Assuming that all “shoulder” injuries would be reduced to functional impairment compensation, the Iowa Policy Project concluded that the total compensation awarded in cases would decline substantially: **75% for a “typical worker” and about 90% for “most vulnerable workers.”** Schott et al., *Giving Workers the Cold Shoulder* at 10, 13 (emphasis added). The Iowa Policy Project also provided context regarding which workers would see the most drastic reductions:

Among the “top 10,” those with the largest percentage loss, one worked in retail, one in agriculture, two in construction and six in meatpacking or other food processing. A majority had less than a high school education, three were immigrants, and one had a learning disability. Under the old system, these factors led the deputies to award these individuals significant amounts of industrial disability. Under the new system these factors would not be considered. For example, the 49-year-old asbestos removal worker in our sample would see his total compensation reduced from \$91,389 to \$1,219. The 31-year old woman from Liberia, injured in a meatpacking plant, would see her compensation reduced from \$121,989 to \$4,504. The 52 year-old Mennonite truck driver would receive \$25,378 instead of \$211,484.

Id. at 13. Thus, **nine-out-of-ten** workers with the largest reduction in compensation for permanent “shoulder” disabilities are in occupations that require minimal

education and English proficiency *i.e.*, occupations that Latinos in Iowa are overrepresented in. *See id.*

As highlighted by the Iowa Policy Project, the district court's interpretation of the term "shoulder" will cause detrimental impacts to Iowa's most vulnerable workers, especially meatpacking workers. Implicitly or not, the impacts will fall harder and disproportionately on Latinos in Iowa. *See Latinos in Iowa: 2020 Report*, pp. 2-4 (demonstrating how Iowa Latinos already fair much worse when it comes to education, income, and poverty rates); *see also Barriers to Employment*, Central Iowa Latino Laborforce Survey, Iowa Workforce Development (March 2001), p. ii available at <http://publications.iowa.gov/3097/1/latinoreport.pdf> (noting that education and English proficiency are the largest barriers for Latinos seeking and obtaining gainful employment).

A drastic reduction of compensation for a life-long permanent shoulder disability is very clear, yet the impacts to the worker (and the worker's family) will become **catastrophic** if that worker is no longer able to perform the fast-paced and physical demands of meatpacking work due to a rotator-cuff injury. *See Wahl et al., Death and Disability in the Heartland*, at p. 333. Without the ability for the Iowa Workers' Compensation Agency to consider industrial disability factors (age, education, permanent restrictions, transferable skills, etc) after a worker loses a job

from a rotator cuff injury,¹² meatpacking workers will be essentially relegated to “faceless production robots.” *See Everest, Immigrant Vulnerability in High-Risk Industry*, at p. 9.

Especially in smaller, rural communities where the meatpacking plant is the largest employer (like in Denison), the economic impacts will undoubtedly extend into the entire community. *See Everest, Immigrant Vulnerability in High-Risk Industry*, at pp. 109-110, 116-118 (noting that rural communities in Iowa present an environment of “social disorders, personal injury, homelessness, isolation, and marginalization” for Latino meatpacking workers).

Within this already precarious context, the district court’s decision will cause even more economic and societal strain to entire cities and communities throughout Iowa. *See id.*

¹² It is pertinent to note that under Appellant Rosa Chavez’s argument, which LULAC Iowa supports, a worker with a permanent disability located proximally to the glenohumeral joint (*e.g.*, a rotator cuff injury) would still be limited to the functional disability of the permanent disability so long as the employer continues to offer and pay work at the same or greater wages than before the injury. *See Iowa Code §85.34(2)(v)* (2017).

F. *The Supreme Court Should Adopt Appellant Rosa Chavez's Argument As Her Interpretation of Iowa Code Section 85.34(2)(n) Is a Broad and Liberal Interpretation that Benefits Injured Workers in Iowa, Especially Iowa's Most Vulnerable Workers.*

The Workers' Compensation Act is the oldest social insurance program in Iowa "representing a century-old commitment to sharing the costs associated with workplace injuries on an industry-wide basis." Schott et al., *Giving Workers the Cold Shoulder* at p. 1. This commitment of the Act was noted in early Iowa Supreme Court decisions:

It is of the very spirit of the Workmen's Compensation Act, the fundamental idea that is its basis, that the disability of a workman resulting from an injury arising out of and in the course of his employment is a loss that should be borne by the industry itself as an incident of operation, in a sense an item of the cost of production, and as such passed on to the consumer of the product and not suffered alone by the workman or the employer, depending on individual fault or negligence.

Tunnickliff v. Bettendorf, 204 Iowa 168, 214 N.W. 516, 517-18 (1927).

Since the passing of the Act, the Court has consistently acknowledged that workers' compensation laws are to be broadly and liberally construed in favor of the worker in keeping with the humanitarian objective of the statute. *See Pierce v. Bekins Van & Storage Co.*, 185 Iowa 1346, 172 N.W. 191, 192 (1919) ("The statute is highly remedial, and is to be construed as such statutes are. Howsoever the cases may differ, there is no difference as to the rule that such statutes as this shall have a broad and liberal construction in aid of accomplishing the object of the enactment.");

Secrest v. Galloway Co., 239 Iowa 168, 30 N.W. 793, 795 (1948) (“Under the Iowa Act, there is created a system for arriving at a just settlement for injuries sustained by an employee... This fact, together with the purpose of the Act, has brought about a policy of liberal construction.”); *Gregory v. Second Injury Fund of Iowa*, 777 N.W.2d 395, 399 (Iowa 2010) (“We will not defeat the statute’s beneficent purpose by reading something into it that is not there, or by a narrow and strained construction.”).

Because the Iowa Legislature did not define the word “shoulder” under Iowa Code section 85.34(2), then the Court should interpret the term broadly and liberally in favor of the injured worker. The district court did not do so, as more fully described by Appellant Rosa Chavez.

Not only should the Court interpret the term “shoulder” in favor of the injured worker consistent with the arguments presented by Appellant Rosa Chavez, the Court should also consider how the district court’s interpretation will impact Latinos, immigrants, and other vulnerable workers in Iowa.

If affirmed by the Court, the district court’s interpretation of “shoulder” will cause detrimental impacts to the health, safety, and economic condition of Iowans. Whether implicit or not, the detrimental impact will fall even harder and disproportionately on Latino workers in Iowa, as they are overrepresented in the meatpacking industry (and other hazardous industries) that requires only a minimal

education and minimal English proficiency.¹³ This is on top of Latinos in Iowa already experiencing worse educational, economic, and working conditions than Iowans generally. *See Latinos in Iowa: 2020 Report*, pp. 2-4; *Barriers to Employment*, p. ii; Everest, *Immigrant Vulnerability in High-Risk Industry*, at pp. 109-110, 116-118.

The impacts of a work injury should be “borne by the industry itself,” as that is the very “spirit” and “commitment” that underlies the purpose of the Act. *See e.g., Tunnicliff*, 214 N.W. at 517-18. There is no indication that the Iowa Legislature in 2017 intended to defeat this core commitment; yet, affirming the district court’s ruling would essentially subsidize the meatpacking industry (along with other industries such as construction, agriculture, etc) for the health and economic harms that the very industry creates.

The industry will not be incentivized to reduce rotator cuff injuries (by changing the line speed or ergonomics of the industry) and it will have no financial incentive to accommodate disabled workers. *See Worrall*, 9 Drake J. Agric. L. at 320-21. The industry will, as it always has, continue to seek ‘fresh bodies’ by recruiting immigrants and other vulnerable workers. *See Des Moines Register*, July 21, 2021,

¹³ This is similar to trends nationwide, as nearly half of frontline meatpacking workers live in low-income families and are less educated with two and a half percent (2.5%) having a college degree or more. *See Fremstad et al., Meatpacking Workers Are A Diverse Group Who Need Better Protections.*

“Iowa’s Largest Pork Producer Urges Year-Round Visas for Foreign Workers to Meet Labor Shortages” (describing the need and shortage of labor in Iowa).

Many rural communities in Iowa that have large meatpacking plants already feel the strains produced by the meatpacking industry:

Comparatively exorbitant numbers of hurt and disabled employees, the majority of whom are probably Hispanic immigrants since they occupy an overwhelming presence in meatpacking plants today, add fuel to the fires of change that threaten said Midwestern communities. Extra pressures on social services, public assistance programs, and the physical and financial upheaval for work-disabled populations ultimately stem from the very bowels of the slaughterhouse that still remains mirrored in 19th century standards and practices.

Everest, *Immigrant Vulnerability in High-Risk Industry*, at p. 112.

The description above will undoubtedly become worse if the Court affirms the district court’s ruling, defeating the very “spirit” of the Act.

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PROOF OF SERVICE AND CERTIFICATE OF FILING

The undersigned certifies that this Amicus Curiae Brief was served and filed on the 3rd day of September 2021, upon the following persons and upon the Clerk of the Supreme Court by electronic filing and electronic delivery to the parties via the EDMS system, pursuant to Iowa R. App. P. 6.902(2) and Iowa Ct. R. 16.1221(2) to the following:

Erin M. Tucker
TUCKER LAW OFFICE
2400 86th Street, Ste 35
Des Moines, IA 50322

Lori N. Scardina Utsinger
BETTY, NEUMAN & McMAHON
1900 East 54th Street
Davenport, IA 52807

Andrew Bribriesco
Andrew W. Bribriesco