

# *Crandall v. State*

374 Or 699 (2026)

# Question

- Whether a provision in the Oregon Tort Claims Act that immunizes state employees from liability for injury or death when the injury or death is covered by workers' compensation law violates the remedy clause in Article I, section 10 of the Oregon Constitution

# Legal Framework

## Remedy Clause

- Article I, section 10 of the Oregon Constitution
- “[E]very man shall have a remedy by due course of law for injury done him in his person, property, or reputation”

## Oregon Tort Claims Act

- Waives state’s sovereign immunity for negligence claims
- Indemnifies negligent state employees
- Caps damages recoverable
- Immunizes state employees from negligence liability for injury or death covered by workers’ compensation law

# Facts

- The worker, a firefighter for a private employer, was severely injured in a bulldozer accident during a firefighting operation
- The injury was covered by workers' compensation through his private employer
- The Oregon Department of Forestry was directing the firefighting operation
- The worker filed a negligence action against ODF employees in circuit court asserting that they negligently directed him to operate the bulldozer in a dangerous way
- The state moved to dismiss under the provision in the Oregon Tort Claims Act immunizing state employees from liability for injuries covered by workers compensation law.

# Oregon Supreme Court

- The Supreme Court held that the Oregon Tort Claims Act provision immunizing negligent state employees for injury or death covered by workers' compensation law deprived the worker of a constitutionally adequate remedy for his injuries and therefore, violated the remedy clause in Article 1, section 10 of the Oregon Constitution.

Court must consider the extent to which the legislature has departed from the remedy available under common law measured against its reasons for doing so.

### **Departure from common law remedy**

- Common law allows a worker
  - Workers' compensation coverage
  - Third-party negligence claim if a work-related injury is caused by the negligence of a third party
- Substantial departure from common law remedy
  - Workers' compensation benefits cover only some economic damages and no noneconomic damages
  - Eliminates ability to pursue a third-party negligence claim

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**Reasons for the departure – 3 Factors**

- The state's need to indemnify its employees for liability they incur in carrying out state functions
- Whether the statute not only limited a remedy but provided a benefit that would not otherwise be available
- The legislature's efforts to accommodate the interests of injured persons

# Dissenting Opinion

- Workers' compensation system provides the worker with a sufficient remedy for purposes of the remedy clause.
- Workers' compensation system and Oregon Tort Claims Act are part of comprehensive statutory scheme in which individuals lost the ability to sue state employees for negligence but gained the certainty of recovery through the no-fault workers' compensation system.