STATE OF MINNESOTA

IN SUPREME COURT

A17-0141

Court of Appeals

Chutich, J.
Dissenting, Anderson, J., Gildea, C.J.

Keith Daniel,

Appellant,

vs.

Filed: February 27, 2019
Office of Appellate Courts

City of Minneapolis,

Respondent.

Joshua R. Williams, Minneapolis, Minnesota, for appellant.

Susan L. Segal, Minneapolis City Attorney, Sarah McLaren, Sharda Enslin, Assistant City Attorneys, Minneapolis, Minnesota, for respondent.

Leslie L. Lienemann, Culbreth & Lienemann, LLP, Minneapolis, Minnesota, for amicus curiae Employee Lawyers Association of the Upper Midwest.

Brian T. Rochel, Phillip M. Kitzer, Teske, Katz, Kitzer & Rochel, PLLP, Minneapolis, Minnesota; and

Frances E. Baillon, Baillon Thome Jozwiak & Wanta, LLP, Minneapolis, Minnesota, for amicus curiae Minnesota Chapter of the National Employment Lawyers Association.

S Y L L A B U S

The exclusivity provision of the Minnesota Workers' Compensation Act, Minnesota Statutes section 176.031 (2018), does not bar claims for disability discrimination brought under the Minnesota Human Rights Act, Minnesota Statutes sections 363A.01–.44 (2018).

Reversed and remanded.

O P I N I O N

CHUTICH, Justice.

In this interlocutory appeal, we consider whether an employee—who was injured while working and received workers' compensation benefits—may bring claims for disability discrimination against his employer under the Minnesota Human Rights Act. Appellant Keith Daniel, a firefighter for the Minneapolis Fire Department ("Department"), sued respondent City of Minneapolis ("City"), alleging that, while he was working for the Department, the City discriminated against him by failing to accommodate his disability and retaliating against him for seeking an accommodation.

The City moved for summary judgment, arguing that Daniel's claims are barred by the exclusivity provision in the Minnesota Workers' Compensation Act. The district court denied summary judgment, the court of appeals reversed, and we granted Daniel's petition for review.

To give effect to the plain language of the workers' compensation act and the human rights act, we hold that an employee can pursue claims under each act because each act provides a distinct cause of action that redresses a discrete type of injury to an employee. The human rights act holds employers liable for discrimination, a public harm that violates

a person's civil rights and self-worth; the act affords broad relief, including equitable, compensatory, punitive, and public remedies for unlawful workplace discrimination. By contrast, the workers' compensation act holds employers liable for work-related, personal injuries; it requires employers to pay monetary compensation to employees to help injured employees recover physically and financially. Therefore, for the reasons explained below, we overrule our decision in *Karst v. F.C. Hayer Co.*, 447 N.W.2d 180 (Minn. 1989), reverse the decision of the court of appeals, and remand the case to the district court for further proceedings.

FACTS

Because this case appears before us on the City's motion for summary judgment, we view the evidence in the light most favorable to Daniel, and resolve all doubts and factual inferences against the City. *See Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015). Daniel worked as a firefighter for the Minneapolis Fire Department for 14 years. While employed, Daniel suffered numerous work-related injuries, including many injuries to his right ankle and to his shoulders. His complaint focuses on the Department's response to his request for a footwear accommodation.

While performing rescue duties in August 2014, Daniel injured his right ankle. After this injury, Daniel's doctor gave him a prescription for supportive "tennis shoes with arch support + high rescue boot high ankle" to reduce pain and improve ankle stability.

Daniel filed a claim petition for workers' compensation benefits to pay for the cost of the shoes and inserts prescribed by his doctor, as well as for lost wages. As part of the claim process, a doctor conducted an independent medical examination for the City. The

doctor concluded that Daniel's ankle issues were "aggravated by his . . . need to walk on uneven surfaces wearing heeled shoes at work." He recommended that Daniel wear flat shoes but opined that Daniel could work full time without restrictions. The City accepted liability for Daniel's workers' compensation claim in January 2015.

After a captain told Daniel that he could wear black tennis shoes in the station house, Daniel purchased black tennis shoes and fitted them with special inserts. The City compensated Daniel for the black tennis shoes, orthotic inserts, supportive rescue boots, and lost wages. Daniel then wore the tennis shoes at the station house for about 6 to 8 weeks, until May 2015, when the Deputy Chief told him that he could no longer wear them because they did not comply with the Department's policy for station shoes.[1]

Daniel asserts that wearing the tennis shoes "did not re-aggravate his ankle injury," but after he reverted to wearing station shoes, his ankle started to "swell" again and "exacerbated his pain." Two months after being told that he could not wear his prescribed tennis shoes, Daniel reinjured his ankle and soon thereafter seriously injured his shoulder when he lost his footing climbing down from a fire truck.

The Department placed Daniel on light-duty status after the shoulder injury. While working on light-duty status, the Department did not allow Daniel to wear his prescribed tennis shoes. Because Daniel claimed that not being able to wear the prescribed shoes made the light-duty job fall outside of his physical restrictions, the Department placed him

[1] The City describes "station shoes" as shoes that are worn "all day, every day, unless [they] need a specific shoe for a specific thing, like a technical rescue boot for a technical rescue, or a fire boot for [a] fire run." The station-shoe procedure requires that station shoes be "plain toe, black leather boots" that do "not interfere with response time."

on leave. The Department told him that he could return to work if his work restrictions allowed him to wear shoes that complied with the Department's footwear policy.

While on injury leave, Daniel and the Department engaged in "numerous" meetings to discuss a shoe that would comply with the Department's uniform policy and Daniel's footwear prescription; they never agreed on an acceptable shoe. The Department informed Daniel that if he wished to receive workers' compensation benefits for his injury and continue his employment, he would have to comply with the Department's uniform guidelines.

Daniel then sued the City in December 2015, asserting claims under the Minnesota Human Rights Act, Minn. Stat. §§ 363A.01–.44 (2018), and the Minnesota Workers' Compensation Act, Minn. Stat. §§ 176.001–.862 (2018). He claims that the City violated the human rights act by not allowing him to wear doctor-prescribed tennis shoes inside the station house, which, he alleges, was a reasonable accommodation. He also maintains that the City retaliated against him for seeking an accommodation.[2]

One month after he sued the City, Daniel completed a functional-capacity examination for the City. The examination revealed that he was "not able to reach shoulder level with his left arm" and that "he could only carry 40 pounds seldom and only 20 pounds

[2] Daniel further asserts that the City violated the workers' compensation act because the Department threatened to terminate his workers' compensation benefits if he complied with his doctor's prescription. *See* Minn. Stat. § 176.82, subd. 1. He also alleges that the City retaliated against him for seeking workers' compensation benefits and failed to provide continued employment when it was available. *See id.*, subd. 2. Our review is limited to considering Daniel's claims under the human rights act.

over his head seldom." These examination results prompted the City to seek early retirement benefits for Daniel.

Daniel accepted the early retirement benefits in March 2016, ending his employment with the City. In a deposition, he stated that he could have had surgery for his shoulder injury and not retired early, but he agreed to early retirement because he was told that even if he had the surgery, "the fire department did not have a position for [him] to wear tennis shoes."

In June 2016, Daniel settled his workers' compensation claims for about $125,000. The settlement agreement identified and covered specific work-related, physical injuries that Daniel sustained between 2001 and 2015, including his ankle injuries.

The City moved for summary judgment on the remaining claims 2 months later, arguing in part that the exclusivity provision of the workers' compensation act bars Daniel's claims under the human rights act. Daniel also moved for summary judgment. The district court denied both motions, concluding that (1) the claims under the human rights act were not barred because the workers' compensation act does not provide a remedy for the discrimination claims that Daniel alleged under that act, and (2) factual disputes precluded summary judgment on Daniel's claims.

The City filed an interlocutory appeal,[3] asserting that the district court lacks subject-matter jurisdiction over Daniel's claims under the Minnesota Human Rights Act because the exclusivity provision of the Minnesota Workers' Compensation Act bars such

[3] The district court stayed the case pending the appeal.

claims.[4] The court of appeals agreed and reversed the district court's decision to deny summary judgment on the human rights act claims. *Daniel v. City of Minneapolis*, No. A17-0141, 2017 WL 6418220, at *5 (Minn. App. Dec. 18, 2017). The court remanded the case for the district court to address Daniel's remaining claims. *Id.* at *6. Daniel petitioned for review, which we granted.

ANALYSIS

We consider whether the district court has subject-matter jurisdiction over Daniel's claims under the human rights act. *McGowan v. Our Savior's Lutheran Church*, 527 N.W.2d 830, 832–34 (Minn. 1995). The court has no subject-matter jurisdiction over claims barred by the exclusivity provision of the workers' compensation act. *Id.* An order denying summary judgment based on subject-matter jurisdiction is immediately appealable. *Id.* at 833. Subject-matter jurisdiction is a question of law that we review de novo. *Nelson v. Schlener*, 859 N.W.2d 288, 291 (Minn. 2015).

In general, "unless a statute provides that its remedy is exclusive," a party may bring claims that arise out of the same set of facts under different statutes. *Abraham v. Cty. of Hennepin*, 639 N.W.2d 342, 346–47 (Minn. 2002). Daniel has asserted claims under two acts, both of which contain exclusivity provisions: the Minnesota Workers' Compensation Act and the Minnesota Human Rights Act. The exclusivity provision in the workers' compensation act states: "The liability of an employer prescribed by this chapter is

[4] Issues regarding whether Daniel is a "qualified disabled person" and whether he established a prima facie case of disability discrimination under the human rights act are not before us. *See* Minn. Stat. § 363A.03, subd. 36.

exclusive and in the place of any other liability to such employee . . . on account of such injury or death." Minn. Stat. § 176.031. Similarly, the exclusivity provision in the human rights act states: "as to acts declared unfair by [the human rights act], the procedure herein provided shall, while pending, be exclusive." Minn. Stat. § 363A.04.

We previously considered the relationship between these two exclusivity provisions in *Karst v. F.C. Hayer Company*. There, an employee who had received workers' compensation benefits for work-related injuries brought a discrimination claim under the human rights act for the employer's refusal to rehire him. 447 N.W.2d at 182–83. We held that the exclusivity provision under the workers' compensation act barred the employee's claims for disability discrimination under the human rights act. *Id.* at 186.

In reaching this conclusion, we rejected the employee's argument that he could bring claims under the human rights act because discrimination was an injury "separate and distinct" from the loss of employment. *Id.* at 184. We concluded, without explanation, that "[a]lthough the injuries suffered by Karst as a result of [the employer's] refusal to rehire him may be conceptually distinct from his work-related injuries, any difference is immaterial." *Id.*

Instead of focusing on the "exact nature and cause of these injuries," and whether the *injury* from disability discrimination fell within the coverage of the workers' compensation act, we considered whether that act provided the employee a "remedy" for the employer's refusal to rehire the injured employee. *Id.* After determining that a remedy existed under the workers' compensation act, we noted that when that act applies, we have

been unwilling to extend existing "narrow" exceptions to its exclusivity clause absent clear legislative intent. *Id.* at 184–85.

Turning next to the human rights act, we acknowledged the Legislature's policy declaration to " 'secure for persons in this state, freedom from discrimination . . . [i]n employment because of . . . disability.' " *Id.* at 185 (quoting Minn. Stat. § 363.12, subd. 1 (1988)). We further acknowledged that the plain language of the act could reasonably be read to cover "people disabled as a result of work-related physical injuries." *Id.* Without first finding any ambiguity in the act's language, we reviewed the legislative history of the human rights act. Because the legislative history did not discuss the likely impact of the reasonable-accommodation provision on the workers' compensation act, we interpreted this legislative silence to mean that the "legislature did not intend to authorize virtually every injured worker who is not rehired to bring a disability discrimination action." *Id.*

We further determined that because the two acts were substantially amended in the same legislative session, we could not resolve the conflict that existed between each act's exclusivity provision by looking at which one was enacted last. *Id.* at 186. Concerned with the potential for an employer's dual liability and persuaded by the reasoning of a single case from the Wisconsin Court of Appeals,[5] we "decline[d] to interpret the Human Rights Act as applicable here." *Id.*

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[5] Notably, this sole decision, *Schachtner v. Dep't of Indus., Labor & Human Relations*, 422 N.W.2d 906 (Wis. Ct. App. 1988), was later explicitly overruled by the Wisconsin Supreme Court. *Byers v. Labor & Indus. Review Comm'n*, 561 N.W.2d 678, 685 (Wis. 1997). That the Wisconsin Supreme Court overruled this decision less than one decade after our decision in *Karst* is a relevant consideration in our analysis of the continuing vitality of *Karst*.

Here, the parties dispute whether *Karst* is good law and whether this case is distinguishable from *Karst*. The City argues that we must follow *Karst* under the doctrine of stare decisis because the Legislature has not amended either act in response to *Karst*. Reasoning that this case is indistinguishable from *Karst*, the City asserts that Daniel's claims under the human rights act are barred by the workers' compensation act.[6]

Daniel urges us to overrule *Karst* and hold that the two exclusivity provisions do not conflict. He contends that he can pursue his claims under the human rights act because they relate to discrimination, an injury that is separate and distinct from a workplace injury that may precede the discrimination. Alternatively, even if we continue to adhere to *Karst*, Daniel argues that his claims are distinguishable because *Karst* is limited to claims for an employer's refusal to rehire a disabled employee and does not apply to claims for an employer's discrimination against an employee during an "ongoing working relationship."

In considering whether to reaffirm our decision in *Karst*, we recognize that we do not overturn past precedent lightly. We are "extremely reluctant to overrule our precedent under principles of stare decisis and require a compelling reason before overruling a prior decision." *Cargill, Inc. v. Ace Am. Ins. Co.*, 784 N.W.2d 341, 352 (Minn. 2010) (citation omitted) (internal quotation marks omitted). But we are not bound to "unsound principles." *Id.* (citation omitted) (internal quotation marks omitted). Stare decisis is a "guiding

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[6] The City cites to Minnesota state and federal court decisions to support its argument. *See Neumann v. AT & T Commc'ns.*, 376 F.3d 773, 785 (8th Cir. 2004); *see also Ciszewski v. Engineered Polymers Corp.*, 179 F. Supp. 2d 1072, 1084 n.10 (D. Minn. 2001); *Braziel v. Loram Maint. of Way, Inc.*, 943 F. Supp. 1083, 1102 n.20 (D. Minn. 1996); *Benson v. Nw. Airlines, Inc.*, 561 N.W.2d 530, 541 (Minn. App. 1997), *rev. denied* (Minn. June 11, 1997). These decisions, however, do not bind our court.

policy," not an "inflexible rule" or a "shield" for an error of law. *Johnson v. Chi., Burlington & Quincy R.R. Co.*, 66 N.W.2d 763, 771 (Minn. 1954) (citation omitted) (internal quotation marks omitted).

We begin with well-established principles of statutory interpretation because *Karst*, and this case, rest on the language of the exclusivity provisions in two different statutes. We interpret statutes de novo, *Burt v. Rackner, Inc.*, 902 N.W.2d 448, 451 (Minn. 2017), to "ascertain and effectuate" the Legislature's intent, Minn. Stat. § 645.16 (2018). "When the words of a law in their application to an existing situation are clear and free from all ambiguity," the plain language of the statute controls. Minn. Stat. § 645.16. To ascertain the Legislature's intent, we construe the law to "give effect to all its provisions," *id.*, presume that the Legislature "intends the entire statute to be effective and certain," and presume that the Legislature "intends to favor the public interest as against any private interest," Minn. Stat. § 645.17(2), (5) (2018). Applying these principles here, we are compelled to conclude that the decision in *Karst* is contrary to the plain language of the workers' compensation act and the human rights act.

The exclusivity provision under the workers' compensation act states that an employer's liability under the act displaces "any other liability . . . on account of *such injury*." Minn. Stat. § 176.031 (emphasis added). Whether the exclusivity provision bars claims under the human rights act therefore depends on the meaning of "such injury."

We have previously interpreted the language "such injury" by looking at the scope of an employer's liability under section 176.021, subdivision 1. *See Kaluza v. Home Ins. Co.*, 403 N.W.2d 230, 235 (Minn. 1987). In *Kaluza*, we stated that an "employer's liability

under the workers' compensation act is exclusive only if it is prescribed by the act; that is, if the injury or damages arose out of or in the course of employment." *Id.* (citing Minn. Stat. §§ 176.021, .031 (1984)). *Karst* itself recognized that the critical question presented by the two exclusivity provisions at issue here becomes, "Are injuries resulting from disability discrimination within the coverage of the Minnesota Workers' Compensation Act?" 447 N.W.2d at 184. Accordingly, we must first examine the scope of the workers' compensation act.

The plain language of section 176.021 limits the meaning of "injury" in the exclusivity provision to "personal injury." Specifically, section 176.021, subdivision 1, states: "Every employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of *personal injury* . . . of an employee arising out of and in the course of employment without regard to the question of negligence." (Emphasis added.)

"Personal injury" encompasses both a "mental impairment," including "a diagnosis of post-traumatic stress disorder,"[7] and a "physical injury" that arises out of and in the course of employment. Minn. Stat. § 176.011, subds. 15(d), 16. In other words, the phrase "such injury" in the exclusivity provision of section 176.031 of the workers' compensation act clearly refers to the discrete categories of "personal injury."

[7] Subdivision 16 also states that a "personal injury" includes "[p]hysical stimulus resulting in mental injury and mental stimulus resulting in physical injury. . . ." Minn. Stat. § 176.011, subd. 16.

The dissent takes a different approach, focusing on the words "on account of" in the phrase "on account of such injury." This phrase, read as a whole, means that an employer's workers' compensation liability is exclusive of "any other liability" *only* if the injury itself falls within the coverage provisions of the workers' compensation act.[8] *See* Minn. Stat. § 176.031. Whether an injury is a physical injury or mental impairment "arising out of and in the course of employment," Minn. Stat. § 176.011, subd. 16, therefore, necessarily depends upon the exact nature and cause of the injury. This approach is endorsed by the leading authority on workers' compensation, which adheres to the view that "an exclusivity challenge will hinge upon the *type of injury* sustained." 9 Lex K. Larson, Larson's Workers' Compensation Law § 104.05[4] (Matthew Bender Rev. ed. 2017) (emphasis added).

In *Karst*, however, we focused on whether the workers' compensation act provided a *remedy* to the employee for the injury claimed, and considered the "exact nature and cause" of the injury to be irrelevant. 447 N.W.2d at 184. In light of the statutory language set out above, *Karst*'s focus on remedy was misplaced. Rather, whether the exclusivity provision bars an employee's claims depends precisely upon the "exact nature and cause" of the injury because the exclusivity provision, by its express language, only applies if the *injury* is one that is covered by the act. *Accord*, 9 Larson, *supra*, § 100.04 (stating that the

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[8] The dissent's focus on the meaning of the phrase "on account of" is misplaced for a separate reason. Determining whether liability arises "on account of" a compensable workplace injury does not help to resolve the question raised here: whether "such injury" includes the injury caused by an employer's prohibited discriminatory conduct. Accordingly, our inquiry focuses on the meaning of "such injury." Minn. Stat. § 176.031.

exclusivity provision extends only to an injury that "come[s] within the fundamental coverage provisions of the act."); *id.*, § 100.01[4] ("The operative fact in establishing exclusiveness is that of actual coverage, not of the election to claim compensation in a particular case."); *id.*, § 100.03[1] (noting the general exception to workers' compensation exclusivity for claims under state anti-discrimination laws).

Employer liability under the workers' compensation act turns on the exact nature and cause of the injury because the workers' compensation scheme was meant to replace the tort system of fault-based adjudication for workplace injury claims, with a system of strict liability that ensured that injured workers would receive expedient relief. *See Lunderberg v. Bierman*, 63 N.W.2d 355, 364–65 (Minn. 1954). Although the workers' compensation act makes employers strictly liable for a personal injury encompassed by the act, Minn. Stat. § 176.021, subd. 1, the act also limits an employer's liability for a covered "personal injury" to statutory compensation that includes lost wages and reimbursement for medical expenses and treatments. *See, e.g.*, Minn. Stat. §§ 176.021, .061, subd. 7, .221, subd. 9.[9]

[9] Under section 176.82, subdivision 2, employees, through a civil action independent of workers' compensation benefits, can also be compensated for up to 1 year of lost wages if an employer discontinues an injured employee's employment without reasonable cause "when employment is available within the employee's physical limitations." *Id.*; *see also Schmitz v. U.S. Steel Corp.*, 852 N.W.2d 669, 677 (Minn. 2014). Notably, however, section 176.82, subdivision 2, only provides an employee with compensation for the financial loss from *losing a job* because of a personal injury. Section 176.82, subdivision 2, does not address the separate public wrong caused by discrimination, which is addressed by the human rights act.

Here, the workers' compensation act functioned as the Legislature intended. Regardless of the City's fault for Daniel's ankle injury, the City accepted liability under the workers' compensation act and compensated him because his ankle injury was a "physical injury" that arose out of and during the course of his employment with the Department. *See* Minn. Stat. §§ 176.011, subd. 16, .021, subd. 1. Specifically, Daniel received financial compensation for the cost of medical expenses and for the wages that he could not earn while recovering from his ankle injury. He was also reimbursed for the price of the prescribed tennis shoes and the orthotic inserts that he purchased to comply with his doctor's prescription.

Daniel's claimed injury under the human rights act, on the other hand, is different from the physical injury that he sustained at work. He claims a distinct injury arising from the City's later response to his disability, an alleged deliberate failure to accommodate his disability by refusing to allow him to wear his doctor-prescribed tennis shoes. His claims arise under the human rights act's disability-accommodation requirement, which makes it unlawful for an employer to fail "to make reasonable accommodation to the known disability of a qualified disabled person" unless the employer can demonstrate that the accommodation would impose an "undue hardship" on the employer. Minn. Stat. § 363A.08, subd. 6(a).

Unlike the workers' compensation act, the human rights act is a *civil rights* law that protects employees from unlawful employment discrimination.[10] Minn. Stat. § 363A.02,

[10] The Legislature first enacted the human rights act in 1955 (over 40 years after enacting the workers' compensation act). Act of April 19, 1955, ch. 516, 1955 Minn. Laws

subd. 2 (stating that the "opportunity to obtain employment . . . without such discrimination . . . is . . . a civil right"); *cf. Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, ___ U.S. ___, 138 S. Ct. 1719, 1727 (2018) (explaining that a state civil rights law prohibiting discrimination serves to protect "dignity and worth"). In this remedial act, the Legislature instructed courts to "liberally" construe the act's provisions to ensure that the act would secure the right to be free from discrimination. Minn. Stat. § 363A.04. Recourse under the human rights act, including via a private cause of action for violations of the act, *see* Minn. Stat. § 363A.28, subd. 1, is the exclusive remedy for an employee to challenge an employer's discriminatory conduct as a violation of civil rights. Minn. Stat. § 363A.04.

Here, Daniel asserts that the City's alleged discriminatory response to his disability not only prevented him from working, but violated his civil rights by harming his dignity and self-respect as a disabled employee. These human rights act claims focus solely on the employer's allegedly intentional conduct in responding to Daniel's disability and the alleged injuries that flow from that response. They fit easily within the human rights act. Employers cannot, based on an employee's membership in a protected class, discharge an employee or discriminate against an employee regarding the terms, conditions, or privileges of employment. Minn. Stat. § 363A.08, subd. 2(3). Just as an employer cannot discriminate on the basis of race or gender, an employer cannot refuse to make reasonable accommodations "to the known disability of a qualified disabled person," unless doing so would be an undue hardship to that employer. *Id*., subd. 6(a). If an employer commits an

802, 802–12. And the act's protections were extended to disability discrimination in 1973. Act of May 24, 1973, ch. 730, 1973 Minn. Laws 2158, 2159–62.

unfair employment practice against a disabled employee, that employer has, by law, discriminated against that employee in violation of the act, and the employee can sue the employer for that discrimination.

As we recognized in *Karst*, the definition of a "qualified disabled person" under the human rights act "does not exclude people disabled as a result of work-related physical injuries." 447 N.W.2d at 185; *see* Minn. Stat. § 363A.03, subd. 36. We also recognized that the phrase "qualified disabled person or job applicant," in the reasonable-accommodation provision "could be construed to include existing employees and employees who became disabled while employed, as well as job applicants, within the coverage of the [human rights act]." *Karst*, 447 N.W.2d at 185 (citing the statutory predecessor to Minn. Stat. § 363A.08, subd. 6). That Daniel's disability resulted from an earlier workplace injury, therefore, is immaterial to his discrimination claim under the human rights act.

More importantly, the damage to Daniel's individual dignity, as well as the loss of a fair employment opportunity because of the alleged failure to accommodate his physical disability, are alleged injuries distinct from the ankle injury suffered by Daniel many months before the dispute over accommodation arose. *Cf. Reese v. Sears, Robuck & Co.*, 731 P.2d 497, 502 (Wash. 1987) (distinguishing between a physical workplace injury and "a particular employer action taken months after" the employee became disabled), *overruled on other grounds*, *Phillips v. City of Seattle*, 766 P.2d 1099 (Wash. 1989). As a distinct injury, the alleged discrimination falls outside the "industrial bargain" embodied in the workers' compensation act. *Boryca v. Marvin Lumber & Cedar*, 487 N.W.2d 876,

879 n.3 (Minn. 1992); *accord City of Moorpark v. Super. Ct. of Ventura Cty.*, 959 P.2d 752, 759 (Cal. 1998) (concluding that disability-discrimination claim was not barred by workers' compensation exclusivity provision because it was a separate injury that fell "outside the compensation bargain").

Under the dissent's view, Daniel has no recourse for the City's alleged violation of the human rights act because his disability arose from a compensable workplace injury. This view conflates two distinct injuries, a work-related physical injury and the injury resulting from disability discrimination. According to the dissent, Daniel's recourse to the civil rights laws depends upon *where*, *when*, and *how* his disabling injury occurred, rather than upon the separate conduct of the City in allegedly failing to accommodate his disability.

The dissent's approach would immunize workplace discrimination, otherwise unlawful under the human rights act, simply because an employee's disability arose from a workplace injury. This approach would also leave a class of disabled employees without a remedy at the same time that others who have injuries or disabilities that are not work-related are fully protected from discrimination by employers. This result strikes us as both anomalous and wrong.[11]

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[11] We note that the rationale of *Karst* could conceivably preclude other types of claims for physical injuries or mental impairments resulting from the stress of workplace discrimination. *See* Minn. Stat. § 176.011, subd. 16. Accordingly, employees who claim that workplace discrimination—whether based upon race, religion, national origin, sex, sexual orientation, or other protected status—also resulted in a physical injury, could find their claims barred by the exclusivity provision of the workers' compensation act under *Karst*.

Critically, nothing in the language of the human rights act demonstrates that the Legislature intended an employee's civil right to be free from discrimination to hinge on *where*, *when*, or *how* the disability arose. Rather, the statute simply prohibits an employer from discriminating "against a person with respect to . . . conditions . . . of employment" because of that person's disability. Minn. Stat. § 363A.08, subd. 2(3). This prohibition includes an employer's failure to "make [a] reasonable accommodation to the known disability of a qualified disabled person." *Id.*, subd. 6(a). Under this plain language, whatever the source of the employee's disability, the human rights act protects employees from an employer's discriminatory *response* to that disability. *Id.*, subd. 2; *see also Karst*, 447 N.W.2d at 185 (acknowledging that the plain language of the human rights act "could be construed to include existing employees who became disabled while employed").

The broad remedies provided by the human rights act, including monetary damages, equitable relief, and civil penalties, further show that the personal and societal injuries caused by discrimination are different in nature and scope from the physical and mental work injuries that are compensable under the workers' compensation act. *See* Minn. Stat. § 363A.29, subds. 3–5 (setting forth available relief). The statute explicitly extends its anti-discrimination protections broadly to ensure that every person receives equal treatment without regard to race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, age, disability, or public-assistance-beneficiary status. Minn. Stat. § 363A.08, subd. 2. This remedial scheme stands in sharp contrast to the more circumscribed statutory compensation provided by the workers' compensation act for

personal injuries suffered at the workplace. *See, e.g.*, Minn. Stat. §§ 176.021, .061, subd. 7, .221, subd. 9.

Accordingly, reading the plain language of each statute, we conclude that the Legislature intended claims under the two exclusive acts to coexist. The human rights act exists to protect an employee's civil rights; it provides the exclusive remedy for discrimination injuries caused by any employer conduct that the statute defines as "unfair." Minn. Stat. § 363A.04. The workers' compensation act, by contrast, provides the exclusive remedy for financial and medical losses arising from a work-related "personal injury." Minn. Stat. § 176.011, subd. 16. Stated differently, even if injuries giving rise to claims under each act arose in the workplace, the acts hold employers liable for different types of injuries and provide different remedies. *See, e.g.*, Minn. Stat. § 645.16 (stating that a law should be construed to give effect to all its provisions). Given that the exclusionary provisions of the workers' compensation act and the human rights act do not extend to the same types of injuries, we find no conflict in allowing Daniel to seek compensation for conduct by the City that allegedly injured his civil rights simply because he also sought compensation for personal injuries that he suffered in the course of his employment.

This conclusion harmonizes the legislative intent behind each act. We have recognized that the "overriding purpose" of the human rights act is "to free society from the evil of discrimination that threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy." *Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374, 378 (Minn. 1990) (citation omitted) (internal quotation marks omitted). And one of the "avowed public policies" of the act has been "to foster the

employment of all individuals in this state in accordance with their fullest capacities." *Id.* (citation omitted) (internal quotation marks omitted). Daniel's claims under the human rights act, whatever their merits, seek to enforce legislative policies that aim to "change society's biases or prejudices" that emerge from "society's discriminatory tendencies." *Id.* at 378–79. Under the human rights act, the civil rights and dignity of all disabled employees, regardless of the source of their disability, will be protected from an employer's discrimination based on their disability, just like any other protected class. *See id.* at 378. Under the workers' compensation act, employees will continue to receive the certain but limited remedy for personal injuries, and employers will continue to have limited liability for personal injuries occurring at work. *See Minn. Brewing Co. v. Egan & Sons Co.*, 574 N.W.2d 54, 58 (Minn. 1998).

The holding of *Karst* is inconsistent with the plain language of the workers' compensation act and the human rights act, and the legislative policies reflected in those acts. We therefore overrule it. Failing to take this step would thwart the Legislature's intent to protect the civil rights of disabled employees under the human rights act. In addition, nothing in the plain language of either act compels us to conclude that the Legislature intended the workers' compensation act to foreclose an employee's separate cause of action under the human rights act for unlawful discrimination that violates an employee's civil rights.

In addition to our conclusion based on a comprehensive reading of the plain language of the statutes, a careful review of *Karst* shows that the grounds for its holding are weak. Our opinion acknowledged the plain language of the workers' compensation act

and the human rights act, but did not identify any ambiguity in the language of either provision. Nor did the opinion explain how we could elevate the plain language of the workers' compensation act over the human rights act when the Legislature has long commanded that "[w]hen the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded." Minn. Stat. § 645.16.[12] Further, as noted above, the sole foreign precedent relied upon in *Karst* was explicitly overruled by the Wisconsin Supreme Court. *Karst*, 447 N.W.2d at 186 (citing *Schachtner v. Dep't. of Indus., Labor & Human Relations*, 422 N.W.2d 906 (Wis. Ct. App. 1988), *overruled by Byers v. Labor & Indus. Review Comm'n*, 561 N.W.2d 678, 685 (Wis. 1997) (noting that sole reliance on the workers' compensation statute would neither address nor deter employment discrimination)).

The development of anti-discrimination law, which has advanced considerably since *Karst*, also leads us to conclude that *Karst* must be overruled. Since we decided *Karst* in 1989, disability-discrimination law has significantly developed. In 1990, Congress passed the Americans with Disabilities Act. 42 U.S.C. §§ 12101–213 (2012). The Act prohibits discrimination against disabled employees, including an employer's failure to reasonably accommodate an employee's disability. *Id.* § 12112, subds. (a),

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[12] Moreover, even if we had identified an ambiguity, *Karst*'s reliance on the legislative history of the human rights act was unsound. *Karst* concluded that the "legislature did not intend to authorize virtually every injured worker who is not rehired to bring a disability discrimination action." 447 N.W.2d at 185. This conclusion, however, was based on the *absence* of any discussion in the legislative history of the likely impact of the reasonable-accommodation provision on the workers' compensation act. *Id.* In this case, silence in the legislative record proves nothing.

(b)(5)(A). As a federal right under the Supremacy Clause of the Constitution, employees can assert claims under the Americans with Disabilities Act for disability discrimination regardless of any exclusivity provision in a state workers' compensation act. *Jones v. Gale*, 405 F. Supp. 2d 1066, 1087 (D. Neb. 2005); 9 Larson, *supra*, § 100.03[1]; *cf. Karcher v. Emerson Elec. Co.*, 94 F.3d 502, 509 (8th Cir. 1996) (holding that a state workers' compensation exclusionary provision cannot preempt the federally-created right to recover damages under Title VII's analogous anti-discrimination provisions).

Accordingly, Minnesota employers subject to the federal act are already exposed to the "seeds" of disability-discrimination claims that the dissent discusses. The Americans with Disabilities Act, however, does not apply to certain employers. *Compare* 42 U.S.C. § 12111(5)(A) (excluding employers with fewer than 15 employees from the act's definition of "employer"), *with* Minn. Stat. §§ 363A.20–.26 (listing exemptions from liability for unfair discriminatory practices). Therefore, after this provision of the federal act took effect, employees working for employers with 15 or more employees could make claims under the workers' compensation act *and* under the Americans with Disabilities Act; those employees working for employers with fewer than 15 employees, on the other hand, had no recourse for disability-discrimination claims. *See* Edward T. Wahl & Jenny B. Wahl, *Disability Discrimination & Workers' Compensation After the Americans with Disabilities Act: Sorting Out the Rights & Duties*, 16 Hamline L. Rev. 81, 94–96 (1992) (discussing employees' potential claims after *Karst*). Our decision today fills in this gap.[13]

[13] We note that the human rights act provides a limited exemption for employers with fewer than 15 employees from the responsibility to comply with the reasonable-

Finally, our decision today comports with the decisions of many other state supreme courts—most issued after *Karst*—that have concluded that employment-discrimination claims are not barred by the exclusivity provision of state workers' compensation laws.[14] These decisions confirm our view that *Karst* is not persuasive, but instead has become an outlier.

Each of these decisions by other state supreme courts identified discrimination as a distinct injury that is remedied by the state's anti-discrimination act. *See* 9 Larson, *supra*, §§ 100.03[1], 104.05[5] (stating that, as a national "trend," "state antidiscrimination laws . . . have been held immune to exclusivity based upon the belief that state legislatures did not intend workers' compensation systems to subvert the important social policies embodied in civil rights laws"). The workers' compensation acts in these states have operated alongside state anti-discrimination acts, some for decades.

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accommodation requirement. Minn. Stat. § 363A.08, subd. 6(a). The act does not, however, exempt any employer from the general prohibition against disability discrimination. Minn. Stat. § 363A.08, subd. 2; *see also* Minn. Stat. § 363A.03, subd. 16 (defining "employer" as "a person who has one or more employees").

[14] *See, e.g.*, *Whitson v. City of Hoover*, 14 So. 3d 98, 103 (Ala. 2009) (age discrimination); *Davis v. Dillmeier Enters., Inc.*, 956 S.W.2d 155, 160–61 (Ark. 1997) (disability discrimination); *Moorpark*, 959 P.2d at 761 (disability discrimination); *Meyers v. Chapman Printing Co.*, 840 S.W.2d 814, 818–19 (Ky. 1992) (sex discrimination); *Cox v. Glazer Steel Corp.*, 606 So. 2d 518, 520 (La. 1992) (disability discrimination); *King v. Bangor Fed. Credit Union*, 568 A.2d 507, 508–09 (Me. 1989) (disability discrimination); *Boscaglia v. Mich. Bell Tel. Co.*, 362 N.W.2d 642, 646 (Mich. 1984) (sex discrimination), *superseded on other grounds by statute*, Mich. Comp. Laws Serv. § 37.2803 (LexisNexis 2010), *as recognized in Eide v. Kelsey-Hayes Co.*, 427 N.W.2d 488, 489–90 (Mich. 1988); *Anderson v. Save-A-Lot, Ltd.*, 989 S.W.2d 277, 281 (Tenn. 1999) (disability discrimination); *Reese*, 731 P.2d at 503 (disability discrimination); *Messer v. Huntington Anesthesia Grp. Inc.*, 620 S.E.2d 144, 160–61 (W. Va. 2005) (disability discrimination); *Byers*, 561 N.W.2d at 685–86 (sex discrimination).

We observe, as other courts have, that although the injuries for which claims arise under each act are separate and distinct, the damages for a discrimination claim and payments for a workers' compensation injury could overlap in some cases. *See, e.g.*, *Byers*, 561 N.W.2d at 685 n.13 (holding "that an employe[e] may pursue a claim under the [Wisconsin Fair Employment Act] when the facts that are the basis for the discrimination claim might also support a [Wisconsin Workers' Compensation Act] claim," recognizing "the possibility of double recovery . . . if claims are brought under both statutes," but declining to reach that issue); *see also Reese*, 731 P.2d at 503 (concluding that "any possible double recovery" problems from the two distinct wrongs can be "easily avoided").

To the extent that claims brought under the human rights act and the workers' compensation act give rise to duplicative liability, we agree that the employee cannot receive "double recovery for the same harm." *Wirig*, 461 N.W.2d at 379 (holding that a statutory cause of action under the human rights act and a claim for common-law battery could be brought together but a plaintiff could not recover duplicative money damages). Consequently, Daniel may bring concurrent claims under the workers' compensation act and the human rights act, but he may not receive double recovery under the two acts.[15]

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[15] The dissent complains that our decision leaves "much unsaid" about how to resolve double-recovery issues. This question is not one for an advisory opinion, but is one that trial courts are more than capable of answering based on the facts and circumstances in each particular case. *See Goodman v. Boeing Co.*, 899 P.2d 1265, 1268 (Wash. 1995) ("No double recovery could occur in compensation for separate harms, and the trial court could deduct [workers' compensation] benefits from [human rights act] damages if necessary."); *see also, e.g.*, *Miller v. Bolger*, 802 F.2d 660, 665–66 (3d Cir. 1986) (separating workers' compensation damages from damages for workplace-retaliation claim under Title VII); *Oswald v. Laroche Chems., Inc.*, 894 F. Supp. 998, 1001 (E.D. La. 1995) (interpreting workers' compensation settlement as not precluding damages for mental anguish arising

In sum, Daniel's claims under the human rights act are not barred by the exclusive-remedy provision of the workers' compensation statute. Because Daniel's alleged injury under the human rights act arose not from his original ankle injury but from his employer's alleged discriminatory response to that injury, his injury is not a covered injury under the workers' compensation act. The two statutory schemes address distinct injuries. As a result, we conclude that no conflict exists between the exclusivity provisions of the workers' compensation act and the human rights act and we therefore overrule *Karst*'s conclusion to the contrary. Accordingly, we hold that the district court has subject-matter jurisdiction over Daniel's claims under the human rights act.

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and remand the case to the district court for further proceedings on the merits of Daniel's claims under the human rights act.

Reversed and remanded.

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from discrimination); *Nichols v. Frank*, 732 F. Supp. 1085, 1089 (D. Or. 1990) (allowing backpay damages for Title VII discrimination claim to the extent it is not double recovery for workers' compensation claim); *VECO, Inc. v. Rosebrock*, 970 P.2d 906, 917 (Alaska 1999) (allowing damages for emotional distress caused by discrimination when not duplicative of damages under workers' compensation statute); *Reese*, 731 P.2d at 503 (noting that double recovery can be prevented by deducting workers' compensation benefits from discrimination damages).

D I S S E N T

ANDERSON, Justice (dissenting).

The question here is whether workers' compensation liability on the part of respondent City of Minneapolis for appellant Keith Daniel's ankle injuries "is exclusive and in the place of" disability-accommodation liability for the same injuries. Because Daniel's failure-to-accommodate claim is "on account of" the same physical injuries that gave rise to the City's workers' compensation liability, I would hold that the City's workers' compensation liability is exclusive. In concluding otherwise, the court undermines the foundational exclusivity principle on which our workers' compensation system rests, ignores the plain statutory language of the exclusivity provision, and overrules our decision in *Karst v. F.C. Hayer Co.*, 447 N.W.2d 180 (Minn. 1989), without addressing the principles upon which it stands. I respectfully dissent.

I.

I begin with the statutory text of the exclusivity provision. Statutory interpretation is a question of law, which we review de novo. *Webster v. Hennepin County*, 910 N.W.2d 420, 430 (Minn. 2018). Our object in statutory interpretation is to ascertain and effectuate the intent of the Legislature. *See* Minn. Stat. § 645.16 (2018). We read the text of a statute according to its plain and ordinary meaning. *State v. Prigge*, 907 N.W.2d 635, 638 (Minn. 2018). We must construe a statute "to give effect to all its provisions." Minn. Stat. § 645.16.

There is no question that the City incurred liability to Daniel under the Minnesota Workers' Compensation Act. "The liability of an employer prescribed by this chapter" is

"to pay compensation in every case of personal injury or death of an employee arising out of and in the course of employment without regard to the question of negligence." *See* Minn. Stat. § 176.021, subd. 1 (2018). Daniel suffered personal injuries to his ankle during his employment with the City and settled workers' compensation claims against the City, based on those injuries, for about $125,000.

The question is what other liability is displaced by the City's workers' compensation liability. The exclusivity provision of the workers' compensation act, as relevant here, states that "[t]he liability of an employer prescribed by this chapter is exclusive and in the place of any other liability to such employee . . . on account of such injury. . . ." Minn. Stat. § 176.031 (2018). This provision "has been a part of workers' compensation law in Minnesota since its inception in 1913" and operates as a quid pro quo. *U.S. Specialty Ins. Co. v. James Courtney Law Office, P.A.*, 662 N.W.2d 907, 911 (Minn. 2003); *see also Quid pro quo, Black's Law Dictionary* (10th ed. 2014) (Latin: "something for something . . . a substitute"). One liability is substituted for another—the "liability prescribed by" chapter 176 displaces "any other liability . . . on account of such injury." *Cf. Sandy v. Walter Butler Shipbuilders, Inc.*, 21 N.W.2d 612, 614 (Minn. 1946) ("[T]he compensation act in its origin and development is substitutionary and exclusive of all other remedies . . . ."). This substitution is the bargain an employer accepts by "assum[ing] a new liability without fault" in return for which the employer "is relieved of the prospect of large damage verdicts." 9 Lex K. Larson, *Larson's Workers' Compensation Law* § 100.01[1] (Matthew Bender Rev. ed. 2017); *see also Boryca v. Marvin Lumber & Cedar*, 487 N.W.2d 876, 879 n.3 (Minn. 1992) (stating that "[t]he whole scheme of workers' compensation is one of

reciprocal concessions by the employer and employee," which "some call an 'industrial bargain' "); *Wandersee v. Brellenthin Chevrolet Co.*, 102 N.W.2d 514, 516–17 (Minn. 1960) (explaining that "in exchange for being made liable without fault, the employer is given an immunity from the hazards of a common-law action by his injured employee" and that liability is "exclusive and in the place of any other liability to the employee").

When liability for a compensable injury arises, the workers' compensation act is exclusive. "The workmen's compensation act, insofar as it provides *any compensation* to an employe accidentally injured in the course of his employment, is exclusive of all other remedies." *Breimhorst v. Beckman*, 35 N.W.2d 719, 732 (Minn. 1949) (emphasis added). "An injury is compensable and subjects the employe to coverage by the Workmen's Compensation Act as his sole and exclusive remedy if by reason thereof he is entitled to receive *any compensation* under the act . . . ." *Frank v. Anderson Bros.*, 51 N.W.2d 805, 807 (Minn. 1952); *see also Hyett v. Nw. Hosp. for Women & Children*, 180 N.W. 552, 552–53 (Minn. 1920) (holding that an employee whose work-related injury was compensated under the act, but whose "associate[d] injury not amounting to a disability, either temporary or otherwise and for which no compensation is provided," cannot pursue a separate tort claim). It is undisputed that Daniel received compensation and medical benefits under chapter 176.

Of course, the exclusivity provision does not govern an injury that did not arise out of or in the course of employment. *See Kaluza v. Home Ins. Co.*, 403 N.W.2d 230, 235 (Minn. 1987). Thus, the exclusive remedy provided by chapter 176 extends only to a claim that is "*on account of such injury*," Minn. Stat. § 176.031—that is, a claim that is made on

account of the same injuries that were the basis of the employee's workers' compensation claim that established the City's liability.

"On account of" is not defined in chapter 176. "Absent statutory definitions, we often look to dictionary definitions to determine the plain meanings of words." *Gilbertson v. Williams Dingmann, LLC*, 894 N.W.2d 148, 152 (Minn. 2017) (citation omitted) (internal quotation marks omitted). "On account of" means "by reason of" or "because of." *Webster's Third New International Dictionary* 13 (2002). Thus, the liability under the workers' compensation act is "exclusive of" any other liability that an employer has to an employee "by reason of" or "because of" the covered injury. Accepting as true the allegations that the City failed to accommodate Daniel's ankle injuries, this failure-to-accommodate claim is "by reason of" or "because of" his work-related ankle injuries. The liability prescribed by the workers' compensation act therefore is exclusive.

II.

We reached this same conclusion in *Karst*. In that case, the employee sought to recover damages under the Minnesota Human Rights Act because his employer failed to rehire him after he received workers' compensation benefits for a shoulder injury. 447 N.W.2d at 182–83. The employer also "flatly refused to discuss any accommodations" that would have allowed the employee to return to work in some position. *Id*. at 183. The specific question we addressed was whether "injuries resulting from disability discrimination [are] within the coverage of the Minnesota Workers' Compensation Act." *Id*. at 184. To answer this question, we focused on two issues.

First, we asked whether the employee's injury—failing to be rehired—fell within the workers' compensation act. We noted that the employee's failure-to-rehire injury "may be conceptually distinct from his work-related injuries," but the exact nature or cause of the injuries was "immaterial" and "not the issue in this case." *Id.* The issue was "whether the [workers' compensation act] provides a remedy for [the] injuries." *Id.* The workers' compensation act at the time of Karst's injury awarded him compensation for the employer's failure to rehire him. This remedy, we stated, was "clear evidence that the legislature intended the decision of whether or not to rehire an injured worker and the consequences flowing from that decision to be within the scope of the [Act]." *Id.* Thus, we concluded, the "liability . . . prescribed by this chapter," Minn. Stat. § 176.031, displaced the human rights claim on account of the same injury.

Second, although the human rights act also provided a remedy for a discriminatory failure-to-rehire claim, *see Karst*, 447 N.W.2d at 185 (discussing Minn. Stat. § 363.03 (1988)), we were unconvinced that the Legislature "intend[ed] to authorize virtually every injured worker who is not rehired to bring a disability discrimination action," *id.* Further, the employee had already collected the benefits provided by the workers' compensation act, and thus was not "without a remedy." *Id.* at 186. But because "dual liability will fundamentally change the workers' compensation system," we concluded that "[s]uch a dramatic change in employer liability should be made, if necessary, by the legislature following hearings and legislative debate." *Id.* Thus, "in the absence of a clear legislative intent to impose the liability of the Human Rights Act in addition to that under the Workers' Compensation Act," we held that Karst's sole remedy was under the latter. *Id.*

III.

Our decision in *Karst* stands on three principles that are central to the workers' compensation system. First, we have historically viewed exceptions to the exclusive remedy provided by the workers' compensation act narrowly. *See, e.g.*, *Meintsma v. Loram Maint. of Way, Inc.*, 684 N.W.2d 434, 439 (Minn. 2004) (stating that "[w]e have narrowly construed the assault exception" when rejecting an employee's argument that an injury claim was excluded from workers' compensation coverage); *Gunderson v. Harrington*, 632 N.W.2d 695, 703 (Minn. 2001) (requiring that an employer "consciously and deliberately intend[] to injure" an employee for the intentional-injury exception to apply); *Kaess v. Armstrong Cork Co.*, 403 N.W.2d 643, 644 (Minn. 1987) ("Through the years we have upheld the legislative mandate of the exclusive remedy provision by maintaining the narrowness of the intentional tort exception."); *see also Flaherty v. Lindsay*, 467 N.W.2d 30, 33 (Minn. 1991) (applying a "narrow construction of the term 'obstruction' " when rejecting an employee's tort claim for interference with benefits "in deference to the mandate of exclusivity"); *Bergeson v. U.S. Fid. & Guar. Co.*, 414 N.W.2d 724, 727 (Minn. 1987) (requiring clear and convincing evidence of an employer's obstruction of a claim for benefits, done "in a manner which is egregiously cruel or venal").[1]

[1] The City's insistence on one, but not another, shoe type may not have been a wise course of action in attempting to deal with this employee's work conditions. But this point does not take Daniel's claim outside the exclusive remedy provided by the workers' compensation act. It is worth noting that the facts here are not close to the hypothetical offered at oral argument where an employer "viciously harasses" and "denigrates" an employee with a limp, which under the cases cited above, could lead to a different exclusivity result. But we need not answer this hypothetical question today.

Second, we have repeatedly rejected attempts to divide work-related injuries into personal injuries compensable by workers' compensation and separate consequences of those injuries that are compensable outside of the workers' compensation system. For example, in *Frank*, an employer negligently caused a bucket of hot tar to spatter on the plaintiff's face, head, neck, and body. 51 N.W.2d at 806. Although the employee received compensation for his medical expenses, he was not compensated for the resulting permanent disfigurement because the burns did not affect his employability. *Id.* at 806–07. We rejected his common-law claim based on "consequent embarrassment and humiliation," stating that "[i]f an accident produces certain injuries which in part entitle the employe to compensation benefits of any kind and such accident simultaneously therewith also causes the employe to sustain a serious permanent disfigurement which does not affect his employability, the employe's sole and exclusive remedy is under the Workmen's Compensation Act." *Id.* at 806–08. Similarly, in *Breimhorst*, an employee was injured when a spring gun, concealed in the employer's linen cabinet, discharged and caused flecks of powder to become embedded in her face, neck, arms, upper chest, and eyes. 35 N.W.2d at 724. Workers' compensation covered the employee's medical expenses. *See id.* The employee sued the employer, seeking to recover damages for the injury not covered by workers' compensation benefits—disfigurement. *See id.* at 731. We said: "It is elementary that a single wrongful act affecting only one person gives rise to but a single cause of action." *Id.* at 732. Thus, the remedy provided by the workers' compensation act was the employee's exclusive remedy for all injuries on account of the work-related injury. *Id*.

Third, as we did in *Karst*, we have consistently called upon the Legislature to amend the exclusivity provision if in fact the Legislature intends to allow employees to pursue claims against employers *outside* the workers' compensation system for work-related injuries. "[C]hange should come about by legislation and not by rule of court," *Hyett*, 180 N.W. at 553, because the Legislature must "limit or extend the operation of its enactments," *Donnelly v. Minneapolis Mfg. Co.*, 201 N.W. 305, 307 (Minn. 1924). The remedy provided by the workers' compensation act is "*solely* a creature of statute" based on "policy decisions" that "are properly for the legislature." *Meils ex rel. Meils v. Nw. Bell Tel. Co.*, 355 N.W.2d 710, 713 (Minn. 1984) (emphasis added). "[T]he rule of exclusiveness of remedy may seem harsh, but the remedy therefor is wholly legislative." *Frank*, 51 N.W.2d at 808; *cf. Costly v. City of Eveleth*, 218 N.W. 126, 127 (Minn. 1928) (stating that loosening the "restrictive definition" of "accident" under the former workers' compensation act "requires amendment rather than construction[,] . . . and amendment is not for us"). In deference to the Legislature's central role in maintaining the balance between employer and employee, we have declined to do precisely what the court does here: create new rights for employees, outside of the workers' compensation act, to remedy work-related injuries. *See Minn. Brewing Co. v. Egan & Sons Co.*, 574 N.W.2d 54, 62 (Minn. 1998) (declining to "carve out a wholly new cause of action" by allowing an employer's subrogation claim for workers' compensation benefits against a common-enterprise party, stating that "[c]reating a new right that is not within the language of Minnesota's statutory workers' compensation scheme, and is in fact contradictory to the plain language of the Act," is a "role . . . fulfilled solely by the legislature"); *see also Parson*

v. Holman Erection Co., 428 N.W.2d 72, 76 (Minn. 1988) (warning against "judicial reconstruction of the Workers' Compensation Act" as the Legislature, not the court, must "judge the social utility of this statutory system, which has no common law counterpart, to balance the interests of employees and employers, and to make whatever adjustments and corrections it deems appropriate.").

IV.

Apart from failing to consider the principles that support our decision in *Karst*, the court fails to appreciate the troubling consequences of its decision. The court's reasoning undermines workers' compensation exclusivity, implicates double-recovery by employees, and likely will result in a proliferation of failure-to-accommodate litigation over workplace injuries.

Tellingly, the "on account of" language in the statute that guides my reading plays *no* part in the court's analysis. Rather, the key distinction that drives the analysis of the court is that an ankle injury differs in kind from a human rights violation. The court states that the human rights act "provides a distinct cause of action that redresses a discrete type of injury to an employee." Unlike the workers' compensation act, which provides a remedy for discrete categories of personal injury, the human rights act provides a remedy for an injury to an employee's dignity and self-respect.[2]

[2] Contrary to the court's claim, I do not conflate a physical injury with disability discrimination. I admit these injuries are distinct. But the fact that one injury is distinct from another misses the point. The relevant question is whether the injury alleged to fall outside the workers' compensation act is "on account of" a compensable injury. *See* Minn. Stat. § 176.031. The court does not dispute that the City's alleged failure to accommodate Daniel's ankle injuries was "on account of" the same ankle injuries for which Daniel has

Taken at face value, this analysis guts the exclusivity provision. For example, "[t]here is no place in compensation law for damages on account of pain and suffering, however dreadful they may be." 1 Larson, *supra*, § 1.03[4]. But as we noted nearly a century ago, "*[e]very* personal injury causes pain and suffering . . . [and some personal injuries] must be carried through life to the mental distress of the victim." *Hyett*, 180 N.W. at 552 (emphasis added). This means that an action for pain and suffering damages *always* "redresses a discrete type of injury" that the workers' compensation act does not. Under the court's logic, this action would always lie for workplace injuries, section 176.031 notwithstanding. If the court really means what it appears to say—that any discrete injury not specifically redressed by the workers' compensation act can be redressed *outside* the workers' compensation act—then the exclusivity provision, the quid pro quo, the one liability for another, the legislative bargain, are all nothing but words. If we allow employees to pursue claims outside the workers' compensation system "in every case where some injury not mentioned in the act was present," then the workers' compensation act will "become a farce." Case Comment, *Recent Cases*, 34 Minn. L. Rev. 134, 176 (1950) (discussing *Breimhorst*).

The result is not much better if the court's analysis is limited to the facts of this case. Even so limited, the result here implicates more than simply a recovery by Daniel. That is because the workers' compensation act establishes a structure for rehabilitating injured employees that can include accommodations to allow the employee to continue in the job.

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received compensation. Absent narrow exceptions, *see, e.g.*, *Meintsma*, 684 N.W.2d at 439, or further legislative enactment, this should be the end of our inquiry.

See Minn. Stat. § 176.102, subd. 4(a) (2018) (stating that a "rehabilitation consultation must be provided by the employer to an injured employee upon request," and "[i]f the consultation indicates that rehabilitation services are appropriate . . . the employer shall provide the services"). In some cases, the rehabilitation services that the employer must provide specifically include "job modification." *See* Minn. R. 5220.0100, subp. 29 (2017) (defining "rehabilitation services" as a "program consist[ing] of the sequential delivery and coordination of services by rehabilitation providers . . . [that] may include, but are not limited to, vocational evaluation, counseling, job analysis, *job modification*, job development, [and] job placement" (emphasis added)). There is little doubt that "accommodation" under the human rights act overlaps with "job modification" under the workers' compensation act. *Compare* Minn. Stat. § 363A.08, subd. 6(a) (2018) (defining "reasonable accommodation" as "steps which must be taken to accommodate . . . a qualified disabled person" that may include, for example, "job restructuring, modified work schedules, reassignment to a vacant position, [and] acquisition or modification of equipment or devices"), *with* Minn. R. 5220.0100, subp. 17 (2017) (defining "job modification" as "altering the work environment *to accommodate physical or mental limitations* by making changes in equipment, in the methods of completing tasks, or in job duties" (emphasis added)).[3]

[3] My approach therefore does not "immunize" from liability employers who fail to accommodate employees disabled by workplace injuries. Following the plain language of Minn. Stat. § 176.031 and principles of exclusivity, my approach limits the liability of employers to that prescribed by the workers' compensation act, including liability for rehabilitation services.

The holding today therefore implicates double-recovery by employees. Almost any work-related injury carries with it the seeds of a failure-to-accommodate claim, and as just seen, both the human rights act and the workers' compensation act provide a potential remedy. In the past, we have not allowed an injured employee to proceed with claims that duplicate the remedies provided by chapter 176. *See, e.g.*, *McDaniel v. United Hardware Distrib. Co.*, 469 N.W.2d 84, 85 n.1 (Minn. 1991) (noting that a "common law action for *obstruction* of workers' compensation benefits . . . might be barred by the exclusive remedy provision" in chapter 176 because the workers' compensation law "permits a penalty for a refusal to pay or a delay" in paying benefits); *Fox v. Swartz*, 36 N.W.2d 708, 710–11 (Minn. 1949) (holding that the benefits provided by the workers' compensation act were exclusive of the remedy provided by the civil damages section of the Liquor Control Act). But under the new regime the court has created (without the benefit of legislation), an employee now has a right to seek workers' compensation benefits, which may include rehabilitation, job modification, and accommodation, and a contemporaneous right to seek remedies under the human rights act for an employer's alleged failure to accommodate. If the Legislature really intended claims under the two exclusive statutes to coexist (as the court insists), there is little doubt which statute an employee seeking accommodation will choose, when a claim under the human rights act allows treble actual damages, pain and suffering damages, punitive damages, and opportunities for recovery of attorney fees.[4] *See* Minn. Stat. § 363A.29, subd. 4(a) (2018).

[4] The court concedes that double-recovery is not permitted but allows an employee to pursue coexisting workers' compensation and failure-to-accommodate claims

The inevitable effect of the holding here is an expansion of failure-to-accommodate litigation. But, a key purpose of exclusivity is that employers be "relieved of the *prospect* of large damage verdicts." *See* 9 Larson, *supra*, § 100.01[1] (emphasis added); *see also Lunderberg v. Bierman*, 63 N.W.2d 355, 364–65 (Minn. 1954) (stating that a purpose of the act is "to protect the employer against the hazards and expense of litigation"). Allowing accommodation claims for treble actual damages, pain and suffering damages, punitive damages, and attorney fees is not consistent with this purpose. Exclusivity under the workers' compensation act eliminates costly and protracted litigation over workplace injuries; the court here invites it. By allowing claims related to the accommodation of workplace injuries under the human rights act, the court disrupts the quid pro quo of Minn. Stat. § 176.031 by judicial reconstruction. It is not just *Karst* but perhaps the bargain struck between employer and employee, and codified by the Legislature, that is overturned.

V.

Daniel's failure-to-accommodate claim exists only because he suffered ankle injuries for which he has received compensation under the workers' compensation act. The

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concurrently. This is in apparent tension with the doctrine of election of remedies: a party must "adopt one of two or more coexisting and inconsistent remedies which the law *affords the same set of facts*." *Vesta State Bank v. Indep. State Bank of Minn.*, 518 N.W.2d 850, 855 (Minn. 1994) (emphasis added). There is only one set of facts here—Daniel suffered a work-related injury for which he was entitled to both job modification or accommodation under the workers' compensation act and—according to the court—accommodation under the human rights act. Daniel has "adopt[ed]" his remedy by settling his workers' compensation claim. But "once an available remedy is taken to its conclusion, the party cannot thereafter assert a new theory to enhance recovery." *Nw. State Bank, Osseo v. Foss*, 197 N.W.2d 662, 666 (Minn. 1972). Suffice it to say that the court's opinion leaves much unsaid in explaining the interaction of these two statutory causes of action with the doctrine of election of remedies.

City's liability under the human rights act is "on account of" Daniel's compensated injuries. Therefore, I would hold that the district court is deprived of jurisdiction over Daniel's failure-to-accommodate claim by reason of Minn. Stat. § 176.031.

The objectives of Minnesota's human rights act are worthy, and the court identifies valid policy reasons for ensuring that those objectives are widely available to employees. But whether and how those policies should be advanced in the context of a work-related injury is a legislative decision. *See Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 153 (Minn. 2014) (explaining that the Legislature is "equipped to balance the competing interests of employers, employees, and the public" in workplace matters).

When in *Karst* we held that the workers' compensation act was exclusive over the human rights act, we ended that decision by observing that "[i]f we have incorrectly defined the legislative intent, the legislature may quickly correct us." 447 N.W.2d at 186. Today we ignore not only this observation about legislative response to our interpretation but also a caution we offered nearly a century ago: if there is to be a change in the law, "change should come about by legislation and not by rule of court." *Hyett*, 180 N.W. at 553.

For the foregoing reasons, I respectfully dissent.

GILDEA, Chief Justice (dissenting).

I join in the dissent of Justice Anderson.