

FILED
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STATE OF WASHINGTON
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NO. 96990-6

**IN THE SUPREME COURT OF THE
STATE OF WASHINGTON**

NICOLE BEDNARCZYK and CATHERINE SELIN, individually
and on behalf of all others similarly situated,

Petitioners/Plaintiffs,

v.

KING COUNTY,

Respondent/Defendant.

**MOTION BY AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON, THE FRED T. KOREMATSU CENTER
FOR LAW AND EQUALITY, AND THE KING COUNTY
DEPARTMENT OF PUBLIC DEFENSE FOR LEAVE TO
FILE *AMICI CURIAE* MEMORANDUM IN SUPPORT OF
PETITION FOR REVIEW**

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The American Civil Liberties Union of Washington (“ACLU”), the Fred T. Korematsu Center for Law and Equality, and the King County Department of Public Defense respectfully move, pursuant to RAP 13.4(h) and 10.6, to file a memorandum as *amici curiae* regarding whether the Supreme Court should accept review of the Court of Appeals decision in this case. In support of this motion, *amici* offer the following information:

I. IDENTITY AND INTEREST OF AMICI

The ACLU of Washington (ACLU) is a statewide, nonpartisan, nonprofit organization with over 135,000 members and supporters dedicated to the constitutional principles of liberty and equality. The ACLU has long been dedicated to protecting the constitutional right to a trial by a jury selected free of racial bias. It has submitted amicus briefs in numerous cases where that right is at stake. Additionally, it proposed a court rule to reduce racial bias in peremptory challenges in Washington (now GR 37), and has a seat serving on the Minority and Justice Commission’s Jury Diversity Task Force.

The Fred T. Korematsu Center for Law and Equality (Korematsu Center) is based at Seattle University School of Law and advances justice through research, advocacy, and education. The Korematsu Center is dedicated to advancing the legacy of Fred Korematsu, who defied the military orders during World War II that ultimately led to the incarceration of over 120,000 Japanese Americans. The Korematsu Center, inspired by his example, works to advance his legacy by promoting social justice and has a special interest in ensuring jury diversity and eradicating improper discrimination in the jury selection process. To this end, the Korematsu

Center submitted a comment to proposed General Rule (GR) 37 – Jury Selection and participated in the GR 37 workgroup, joining several organizations in an individual comment following the workgroup. The Korematsu Center does not, in this brief or otherwise, represent the official views of Seattle University.

The King County Department of Public Defense (DPD) previously participated as amicus in this case. It was created in 2013 to provide representation to individuals who are indigent and who are charged with crimes. DPD represents approximately 20,000 unique clients every year. Jury diversity has far-reaching implications for DPD’s clients who face misdemeanor and felony charges. Lawyers employed by DPD represent clients in jury trials in King County courts every year. DPD has strong interest in ensuring that King County’s juries match the diversity of King County.

II. FAMILIARITY WITH ISSUES

Amici have obtained copies of, and are familiar with, the briefing submitted by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. *Amici* are familiar with the scope of the argument presented by the parties and will not unduly repeat arguments raised by any of the parties or other *amici*.

III. ISSUES TO BE ADDRESSED BY AMICI

1. Why juror diversity is an issue of substantial public interest warranting review under RAP 13.4(b)(4).
2. Whether low juror compensation is an issue of substantial

public interest warranting review, because it presents a practical bar to achieving more representative, and thus, diverse juries, and is a neglected issue in Washington, because the very low rate of compensation has not changed in decades.

IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT

The Court's decision on whether to accept review of the Court of Appeals opinion below will significantly impact an important area of law in this state affecting a large segment of the public. A fully informed decision from Washington's highest court is essential, and the additional argument provided by *amici* will be helpful to the Court. RAP 13.4(h). *Amici* can provide a wider perspective, helping in the establishment of a rule that goes beyond the needs of the specific parties in this case.

V. CONCLUSION

For the foregoing reasons, *amici* respectfully request that the Court grant leave to file the attached *amicus* Memorandum in Support of the Petition for Review.

Respectfully submitted this 21st day of May, 2019.

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DECLARATION OF SERVICE

I, Sheila Cronan, a resident of the County of Kitsap, declare under penalty of perjury under the laws of the State of Washington that on May 21, 2019, I caused to be delivered via email a true and correct copy of this document together with any supporting pleadings and attachments thereto, addressed to the following counsel of record:

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DATED at Seattle, Washington this 21st day of May, 2019.

s/ Sheila Cronan

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