

FILED
SUPREME COURT
STATE OF WASHINGTON
4/19/2019 4:31 PM
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CLERK

NO. 96990-6

SUPREME COURT OF THE STATE OF WASHINGTON

NICOLE BEDNARCZYK, AND CATHERINE SELIN,
INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

Appellants,

v.

KING COUNTY, A MUNICIPAL CORPORATION,

Respondent.

**RESPONDENT KING COUNTY'S ANSWER TO APPELLANTS'
PETITION FOR REVIEW**

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I. INTRODUCTION

Washington's 39 counties, including King County, pay jurors within a range pursuant to statute, as established by the Legislature in RCW 2.36.150. Jury service is an important part of the judicial system and King County takes its role in the administration of justice seriously by ensuring that all eligible citizens are considered for jury service.

Appellants make no challenge to King County's master jury list or how it is generated. State law sets forth the policy that all qualified citizens have the opportunity to be considered for jury service and may not be excluded from jury service on account of membership in a protected class recognized in RCW 49.60.030, or on account of economic status. King County complies with state law by including all eligible citizens on its master jury list. Although the opportunity to be considered for jury service is provided by statute, actual service on a jury is not guaranteed. Jurors also have the ability to seek excusal from jury service if service works a hardship, economic or otherwise. But granting a juror's request to be excused from jury service is not an action initiated by King County to exclude residents from jury service based on their economic status.

Appellants' original claims based on race were voluntarily dismissed and are not before the Court. This case is solely about the statutory construction of the statutes relating to jury service, juror pay, and

whether jurors are employees for purposes of the Washington Minimum Wage Act (WMWA). It is undisputed that King County fully complies with the statutes regarding juror summoning and juror pay.

Whether and what citizens must be paid for their time as jurors is strictly the decision of the Legislature. As Appellants have made no constitutional challenges, only the Legislature can change the controlling statute for juror pay. Appellants' argument, urging the Court to exercise supervisory power over the administration of justice, is an invitation to intrude on the power of the Legislature that this Court should decline.

II. COURT OF APPEALS DECISION

The Court of Appeals affirmed the trial court's order granting King County's motion for summary judgment and dismissing all of Appellants' claims.

First, the Court of Appeals held as a matter of law that Appellants may not bring a disparate impact claim under the Washington Law Against Discrimination (WLAD) because it does not include economic status as a protected class. Slip Op. at 4. Further, Appellants did not plead a disparate impact claim under constitutional principles and the court declined to address whether such a claim could be established. *Id.*

Second, finding that an implied cause of action and remedy of increased juror pay is inconsistent with the legislative intent or the

underlying purpose of the statute, the Court of Appeals held that Appellants failed to demonstrate that RCW 2.36.080(3) creates an implied cause of action based on juror pay. Further, the Court held that the statute “prohibits conduct that excludes persons from the *opportunity to be considered for jury service* based on economic status.” Slip Op. at 8 (emphasis added). The court held that economic hardship excusals are not exclusions for purposes of the jury statute protections because they do not exclude persons from the opportunity to be considered. *Id.* As the court stated, it is undisputed that Appellants were, and continue to be, included in the master jury list, and therefore, Appellants continue to have the opportunity to be considered for jury service. *Id.*

Finally, the Court of Appeals also held that jurors are not employees for purposes of the WMWA because the Act’s definition of employee “does not transform the fundamental nature of jury service as a civic duty.” Slip Op. at 11. Based on these holdings, the Court determined that Appellants lacked standing under the declaratory judgment act, 7.24 RCW.

III. ISSUES

- A. Does RCW 2.36.080(3) allow for a disparate impact claim based on economic status? Answer: No.
- B. Are jurors employees under the Washington Minimum Wage Act?

Answer: No.

C. Do Appellants have standing to seek declaratory judgment? Answer:

No.

IV. STATEMENT OF THE CASE

A. Substantive Facts

Juror pay has been set by statute in Washington since its statehood. *See* Code of 1881§ 2086, part. Since 1979, RCW 2.36.150 has provided that jurors “*shall* receive for each day’s attendance, besides mileage as determined under RCW 43.03.060,” the following payments: grand, petit, coroner, and district court jurors “*may* receive up to twenty-five dollars but in no case less than ten dollars.” RCW 2.36.150 (emphasis added).¹ In essence, the statute directs that a county “shall” pay jurors, but “may” choose any amount between \$10.00 and \$25.00. A majority of Washington’s 39 counties, like King County, currently pay jurors a \$10.00 per diem plus reimbursement for mileage or travel costs for each day of service. CP 128, 143.

¹ In 2004, the Legislature amended RCW 2.36.150, which referred to the juror payment as “compensation,” to call it an “expense payment.” The legislative history shows that the sole purpose for this change was that federal employees serving as jurors had to remit their juror payment to the federal government if it was “compensation,” which often cost more to collect than the per diem itself. The issue was rectified by calling the juror payment an “expense payment.” Final Bill Report, 2004 Reg. Sess. S.B. 6261. Because it is evident that the juror payment – regardless of what it is called – is a per diem, Appellants’ argument that the semantic change allows King County to pay wages to jurors in addition to the per diem is unavailing.

Appellants make no challenge to King County's master jury service list or how it is generated. Each year, King County receives a jury source list from the Washington Administrative Office of the Courts (AOC) that includes the county's registered voters, licensed drivers, and identicard holders. CP 128; RCW 2.36.055; GR 18. After duplicate and invalid entries are removed, the resulting list is King County's master jury list, which is certified by King County Superior Court, filed with the county clerk, and then used by both the Superior and District Court to summons jurors. CP 128. *Id.*; RCW 2.36.055; GR 18 Persons appearing on the master jury list are identified by last name, first name, middle initial where available, date of birth, gender, and county of residence. CP 128; GR 18.

When a venire is requested, it is created at random from the list of jurors assembled and those jurors complete a brief biographical form, which is provided to the requesting trial court and the litigants. CP 129-30, 144-45. The form does not ask for the juror's race, ethnicity, or income. *Id.*; CP 150.

Upon receipt of a summons, potential jurors are asked to declare under penalty of perjury that they possess the qualifications to perform jury duty: at least eighteen years of age, a citizen of the United States, a resident of the county in which he or she has been summoned to serve,

able to communicate in the English language, and have no felony convictions without a corresponding restoration of civil rights. CP 129, 132, 143, 147-48; RCW 2.36.070. If a potential juror does not meet these qualifications, he or she is excused from jury duty. *Id.*

Potential jurors may also be excused from jury duty upon a showing of undue hardship, extreme inconvenience, public necessity, or any other reason deemed sufficient by the summoning court. RCW 2.36.100; GR 28. These potential jurors may be excused from service altogether or their service may be deferred to another term within the following twelve month period. *Id.*

Under King County Superior and District Court guidelines, court staff may excuse people who are physically fragile or are essential caregivers. CP 129, 144. Potential jurors who are not paid by their employers for jury service may only be excused if service will result in the potential juror being unable to meet his or her basic needs or those of his or her family. *Id.* Using these guidelines, court staff may excuse potential jurors, but in practice will first offer a deferral. *Id.* Once potential jurors appear in response to their summonses, anyone seeking to be excused from service must make their request to a judge. In response to a juror's request, judges have discretion to excuse jurors and have a statutory duty to do so if a juror is not fit to serve. CP 129, 144; RCW 2.36.110.

Appellant Selin was summonsed as a juror in 2015, served on a jury, and was paid for her service as required by law. CP3; CP 45.

Appellant Bednarczyk was summonsed for jury duty in King County in 2012. CP 46. She requested to be excused on the basis of financial hardship and her request was granted. CP 46. Appellants have not alleged and there is no evidence that either Selin or Bednarczyk claimed when they were summonsed that they were entitled to receive minimum wage for jury service, or that Bednarczyk could serve if paid minimum wage.

B. Procedural Facts

This suit was filed in Pierce County Superior Court as a putative class action. The lead plaintiff was Ryan Rocha, who was the sole plaintiff in the “Black and African-American Racial Disparity Class.” CP 5.

Appellants claims based on race were voluntarily dismissed. Extensive discovery was produced by King County. No class was ever certified.

King County moved for summary judgment on all claims against all plaintiffs. CP 83-126. 7. The Honorable Gretchen Leanderson granted the County’s summary judgment motion, dismissing the complaint. CP 675-678. Division II of the Court of Appeals affirmed the trial court’s decision. Appellants filed a timely petition for review.

V. ARGUMENT

There are no RAP 13.4(b) considerations that warrant review.² The decision of the Court of Appeals is sound. First, juror pay is strictly the purview of the legislature. Second, RCW 2.36.080(3) does not create an express or implied disparate impact cause of action. Third, jurors are not employees under the WMWA, for reasons that do not conflict with this Court's decision in *Bolin*.³ Finally, because Appellants' race-based claims were voluntarily dismissed, whether juror pay results in a lack of racial diversity in King County juries (Petition at 9) is not before the Court in this appeal.

A. No implied disparate impact cause of action exists because RCW 2.36.080(3) provides only the opportunity to serve.

Appellants repeatedly refer to RCW 2.36.080 as the "Juror Rights Statute." This is a misnomer. By its plain language, RCW 2.36.080 is a policy statement. The only rights referenced are litigants' statutory rights to peremptory and for cause challenges. RCW 2.36.080 articulates a *policy* that all qualified citizens have the opportunity to be considered for jury service and that a citizen shall not be excluded from jury service in this

² The Court of Appeals decision is not in conflict with a decision of the Supreme Court or with a published decision of the Court of Appeals; Appellants do not raise a constitutional question; and to the extent the petition involves an issue of substantial public interest, it must be determined by the Legislature, not the Supreme Court. RAP 13.4(b)(1)-(4).

³ *Bolin v. Kitsap County*, 114 Wn.2d 70 (1990).

state on account of membership in a protected class recognized in RCW 49.60.030, or on account of economic status.

In analyzing RCW 2.36.080(3), the Court of Appeals properly held that it both imposes an obligation to serve when summonsed, and relevant to this case, protects the *opportunity* be considered for service. The Court rejected Appellants' assertion that the statute was intended to confer a right to actually serve on a jury or guarantee the ability to serve by providing adequate financial compensation. Slip Op. at 7. The court further rejected Appellants' disparate impact claim under RCW 49.60, recognizing that economic status is not a protected status. *Id.* at 4.

The Court of Appeals analyzed Appellants' assertion of an implied cause of action under the test set forth by this Court in *Bennett v. Hardy*, 113 Wn.2d 912 (1990). Slip Op. at 5-8. While the Court of Appeals held that Appellants could satisfy the first part of the test by being within the class for whose "especial" benefit the statute was enacted, the court properly held Appellants could not satisfy the second or third part of the *Bennett* test. *Id.* at 7-8. It held that in enacting the statute, the Legislature did not intend to guarantee the right to serve on a jury by providing some level of financial compensation and it would therefore be inconsistent to imply a remedy based on compensation. *Id.*

Moreover, as the Court of Appeals noted, considering the intent of

the statute an implied cause of action would not have helped Appellants because they were not excluded. The statute protects the opportunity to be considered for service and it is undisputed that Appellants were included on King County's master jury list and as a result they have had, and continue to have, the opportunity to serve. "Because economic hardship excusals do not prevent potential jurors from being summonsed for jury duty or from being included in the master jury list, they are not exclusions for the purposes of RCW 2.36.080(3)." Slip Op. at 8-9.

Appellants' reliance on *Thiel*, *Ballard* and *Taylor* is misplaced since unlike the present case, in each of those cases eligible individuals were systematically excluded from jury lists and therefore deprived of the opportunity to serve. In *Thiel v. Southern Pac. Co.*, 328 U.S. 217 (1946), all persons who worked for a daily wage had been deliberately and intentionally excluded from the jury lists. In *Ballard v. U.S.*, 329 U.S. 187 (1946), women were not included in the panel of grand and petit jurors and in *Taylor v. Louisiana*, 419 U.S. 522 (1975), women were excluded from the jury panels from which petit juries were called. They could only be included in the panels if they affirmatively "opted in." Individuals in these cases were systematically and intentionally excluded from jury lists; they were denied the opportunity to even receive a juror summons and therefore had no opportunity to serve. That is the crucial distinction

between those cases and this case and demonstrates Appellants' failure to recognize the fundamental difference between having to affirmatively opt in to receive an opportunity owed and having the option to forego an opportunity bestowed.

Appellants and the dissent assert that low-income citizens summonsed for jury duty face a Hobson's Choice are therefore functionally excluded, but as the majority recognized, even if hardship excusals were characterized as exclusions under RCW 2.36.080(3), the appropriate remedy would be to eliminate hardship excusals, not to increase juror pay. Slip Op. at 9, n.5.

In this case, not only do Appellants have the opportunity to serve, both of the named appellants have actually been summonsed for jury duty in King County. CP 3, 45, 46. Appellant Selin actually served on a jury and Appellant Bednarczyk's request to be excused from service was granted. Although Bednarczyk claims that her choice was influenced by economic circumstances, King County gave her the opportunity serve as required by the statute.

Appellants also rely upon *Thiel* and *Ballard* to urge the Court to exercise power of supervision over the administration of justice. Petition at 9. While the Supreme Court's power of supervision is not limited to constitutional matters, it has exercised such power in cases where

administrative or evidentiary procedure is contrary to federal statute. *See, e.g. Thiel and Ballard, supra* (systematic exclusion of eligible citizens from jury service); *McNabb v. U.S.*, 318 U.S. 332 (1943) (overturning conviction based on coerced confession). This Court has relied upon an inherent powers doctrine in a variety of circumstances relating to judicial administration. *See State v. Wadsworth*, 139 Wn.2d 724, 740–41 (2000) (approving inherent power of courts to restrict weapons from county courthouse). Nonetheless, juror pay is not an appropriate issue for the exercise of the Court’s inherent or supervisory powers because juror pay in Washington is statutory; King County follows the law related to jury service and juror pay and Appellants make no constitutional challenge to these statutes.

B. There is no conflict with *Bolin* and its application of the Industrial Insurance Act to Jurors.

In support of their petition for review, Appellants argue the Court of Appeals’ decision is in conflict with this Court’s decision in *Bolin v. Kitsap County*, 114 Wn.2d 70 (1990), in which the Court held that the provisions of the Industrial Insurance Act (IIA) applied to jurors. However, as explained by the Court of Appeals, the issues in this case are distinguished from those in *Bolin* and there is no conflict between the two decisions that warrants review by this Court.

The decision in *Bolin* is limited to the treatment of jurors under the IIA and was based primarily on the distinction between the definitions of employee in the IIA and the Washington Minimum Wage Act (WMWA). Thus, in *Bolin*, the Court relied on the fact that the IIA did not exclude jury service from its reach. Slip Op. at 11 (citing *Bolin*, 114 Wn.2d at 72). In *Bolin*, this Court did not need to apply the economic-dependence test to determine whether jurors were employees under IIA because it held that the determinative question was whether they were excluded from the IIA. Finding they were not, the Court held that the IIA applied.

The inquiry is different under the WMWA, which defines “employee” as any individual employed by an employer,” RCW 49.46.010(3). Under the act’s definition, even if an individual is employed by an employer, he or she is not an “employee” for purposes of minimum wage if “an employer-employee relationship does not in fact exist.”

Appellants cite to *Anfinson v. FedEx Ground Package Sys., Inc.*, 174 Wn.2d 851 (2012), and its test for determining whether a person is an “employee” for purposes of the WMWA.⁴ In *Anfinson*, the Court held that

⁴ The issue in *Anfinson* was whether FedEx drivers were employees under the WMWA or independent contractors. The Court interpreted the WMWA’s definition of “employee” for purposes of this question only and in analyzing the statutory definition of “employee” specifically stated that it was “subject to multiple exceptions not relevant here.” *Anfinson*, 174 Wn.2d at 867. In the present case those exceptions are relevant, specifically as explained above, the exception where no employer-employee relationship exists.

“the relevant inquiry is ‘whether, as a matter of economic reality, the worker is economically dependent upon the alleged employer or is instead in business for himself.’” 174 Wn.2d at 871 (quoting *Hopkins v. Cornerstone Am.*, 545 F.3d 338, 343 (5th Cir. 2008)).

Even when analyzed under the *Anfinson* test, jurors are not employees for purposes of the WMWA because they cannot be economically dependent on a court that summons them for service. Prospective jurors are drawn at random from eligible community members, and there is no guarantee of actually serving on a jury, or the length of service.⁵ Jurors do not voluntarily serve, but are compelled to do so. Considering these factors, there is no basis on which to argue that prospective jurors could be economically dependent on the County. Instead, a juror’s association with the judicial system is similar to that of a subpoenaed witness. Witnesses receive a per diem payment for their services as well as mileage. *See* RCW 2.40.010. If Appellants’ arguments were to prevail, a subpoenaed witness should also be considered an “employee” of the County. Neither jurors nor witnesses are employed by the County. The obligations of both a juror and a witness stem, not from

⁵“The jury term and jury service should be set at as brief an interval as is practical given the size of the jury source list for the judicial district. The optimal jury term is one week or less. Optimal juror service is one day or one trial, whichever is longer.” RCW 2.36.080(2).

any purported employment relationship, but from the obligation of citizenship and the governing statutes. As noted by the Court of Appeals, “The MWA definition of employees, even considering the economic-dependence test, does not transform the fundamental nature of jury service as a civic duty.” Slip Op. at 11.

Other courts that have addressed the issue of juror compensation in the context of minimum wage laws have rejected claims for minimum wage, finding that no employment relationship exists. For example, in *Brouwer v. Metro Dade County*, 139 F.3d 817, 819 (11th Cir. 1998), a former juror sued the county on behalf of herself and all other similarly situated jurors, alleging that failure to pay jurors for jury service violated the Fair Labor Standards Act (FLSA). The Eleventh Circuit held that the relationship between a juror and the county was not an employment relationship covered by FLSA. *Id.*

“Jury service is a duty as well as a privilege of citizenship; it is a duty that cannot be shirked on a plea of inconvenience or decreased earning power.” *Thiel v. Southern Pac. Co.*, 328 U.S. 217, 222–24, 66 S.Ct. 984, 987, 90 L.Ed. 1181 (1946). This duty and privilege does not amount to employment. *See generally North Carolina v. Setzer*, 256 S.E.2d 485, 488 (N.C.App. 1979) (“[J]ury duty is not a form of employment....”).

We see the relationship between Plaintiff (and those similarly situated) and Dade County as the district court did. The district court described the true relationship of jurors to the county:

Jurors are completely different from state [or county] employees. Jurors do not apply for employment, but are randomly selected from voter registration lists. Jurors are not

interviewed to determine who is better qualified for a position; the State summons all available persons who meet the basic requirements.... Jurors do not voluntarily tender their labor to the state, but are compelled to serve. Jurors are not paid a salary, rather they receive a statutorily mandated sum regardless of the number of hours worked. Jurors are not eligible for employment benefits, do not accrue vacation time, annual or sick leave and do not qualify for health or life insurance. The state does not have the power to fire jurors for poor performance, but must accept their verdict. In short, there is no indicia of an employment relationship between state court jurors and Dade County.

District Court Order at 7–8; *see generally Johns v. Stewart*, 57 F.3d 1544, 1558–59 (10th Cir.1995) (using similar considerations such as lack of application by plaintiff for employment, lack of sick or annual leave, no job security, no Social Security or pension benefits). We agree with the district court's analysis of the circumstances. No employment relationship existed in this case; and, thus, Plaintiff is entitled to no minimum wage under the FLSA.

Id. at 819.

As in *Brouwer*, there is no employment relationship between King County and potential jurors. *See also North Carolina v. Setzer*, 256 S.E.2d 485, 488 (N.C. 1979) (state statute provided jurors shall receive eight dollars per day; "jury duty is not a form of employment, but a responsibility owed by a citizen to the State"); *St. Clair v. Com.* 451 S.W.3d 597 (Ky. 2014) (there is no employer-employee relationship between the state and jurors when jurors carry out their civic duty of jury service).

We sympathize with the plight of jurors, especially those with family obligations, who must forego their usual compensation and receive the minimal statutory compensation in order to serve as jurors. In Florida the legislature has provided for jurors to receive ten dollars

per day and fourteen cents per mile for travel expenses while in attendance at court. §40.24, Fla.Stat. (1979). To receive far less than the federal minimum wage, particularly in an extended trial situation, undoubtedly imposes a severe financial hardship on many jurors. A juror's right to compensation, however, is purely statutory and a matter of legislative and not judicial prerogative. *See Maricopa County v. Corp.*, 39 P.2d 351 (Ariz. 1934); 50 C.J.S. Juries s 207 (1947). Therefore, the legislature may find it prudent to re-examine the statutory compensation for jurors.

Patierno v. State, 391 So.2d 391, 392-93 (Fla.Dist.Ct.App. 1980).

The Attorney General has also addressed the issue of minimum wage for jurors. In response to the question “Must jurors be paid at least the minimum wage set forth in RCW 49.46.020 for time spent on jury duty?” the Attorney General answered in the negative, noting that “[t]he Legislature, of course, may choose to amend the relevant statutes to provide for payment of the minimum wage to jurors. However, it has not as yet done so.” April 2, 1990 letter from Assistant Attorney General Trautman to State Senator Rasmussen.⁶

As further evidence that the legislature did not intend jurors to be employees, RCW 2.36.165 requires employers to provide employees with sufficient leave to serve when summonsed for jury duty. If the juror was the county's employee, the county could not comply with RCW 2.36.165's

⁶ Although attorney general letters are generally accorded little weight, they may be helpful legal authority when the question to which the letter responds is known, as it is here. *Cf. Spokane Research & Def. Fund v. Spokane Cty.*, 139 Wn. App. 450, 459 (2007), *as amended on reconsideration* (Oct. 23, 2007).

mandate to provide those jurors with leave from the very activity that Appellants argue makes them county employees. *See Estate of Bunch v. McGraw Residential Center*, 174 Wn.2d 425, 433 (2012) (when interpreting statutes, the court has a duty to avoid absurd results). The conclusion that jurors are not county employees is also supported by the fact that county governments that pay benefit-eligible employees their regular pay for jury service do not also pay them the juror per diem.⁷

Moreover, the Legislature enacted a specific statute for juror payment in RCW 2.36.150(2). There is no mention of the WMWA in the juror payment statute, even by cross-reference. If, as Appellants argue, jurors are employees who must receive minimum wage, it would render RCW 2.36.150 superfluous as there would be no need to pay per diem to an “employee” to whom the County is paying a wage for jury service. When two statutes apply, a specific statute will supersede a general one. *Bowles v. Washington Dept. of Retirement Systems*, 121 Wn.2d 52, 78 (1993) (general statute providing that judgments bear interest superseded by specific statute stating that untimely pension payments are not subject to interest). In this case, even if there was an argument that the wage provisions of the WMWA could be applied to jurors, RCW 2.36.150 is a specific statute governing

⁷ *See, e.g.* King County Code 3.12.240; Chelan County Code 1.20.870; Grant County Code 2.40.060; Pierce County Code 3.76.010; Snohomish County Code 3A.06.060, Wahkiakum County Code 2.60.020.

juror pay. It would supersede the general wage provisions of the WMWA, an act that does not refer to jurors at all.

RCW 2.36.150 is the juror payment statute and its plain and unequivocal language limits juror compensation – what jurors “may receive” – to no less than \$10.00 and no more than \$25.00 per day plus mileage. This meaning has been long understood. In 1901, this Court held that juror pay was limited by the statute. *State v. Lamping*, 25 Wash. 278, 282 (1901). In *Lamping*, jurors sought additional per diem compensation because they could not return home when court was not in session. This Court rejected the jurors’ position because it would allow compensation beyond that allowed by the statute. As the Court held, “[t]he statute prescribes the compensation for services of a juror, and his compensation cannot be extended beyond its terms, even though some slight inconvenience or actual hardship may be visited upon the juror.” *Id.*

Jury service is a civic duty, not an employment opportunity and RCW 2.36.150 is the statute controlling payment for that duty. The Court of Appeals correctly distinguished *Bolin* and held that jurors are not entitled to compensation under the WMWA; they are only entitled to payment as provided by the juror payment statute. Slip Op. at 11.

C. Appellants lack standing to seek declaratory judgment.

The Court of Appeals correctly held that Appellants cannot satisfy

the two-part test to establish standing under the declaratory judgment act, RCW 7.24, as to either RCW 2.36.080(3) or the WMWA. *See Save a Valuable Env't v. City of Bothell*, 89 Wn.2d 862, 866 (1978) (to establish standing, a plaintiff must show 1) that her interests are within the “zone of interests” protected by the statute and 2) that the challenged action has caused her injury in fact).

Because jurors are not employees under the WMWA for the reasons discussed above, Appellants’ interests are not within the zone of interests protected by the WMWA. Appellants cannot show an injury in fact because King County complies with RCW 2.36.080(3) by providing Appellants with an opportunity to serve by including them on the master jury list and paying them the statutory per diem if they are summonsed and serve. If they request excusal for hardship, they will have been excused by their own choice, not by any action of King County.

VI. CONCLUSION

Based on the foregoing, King County respectfully asks this Court to deny Appellants’ petition for review.

DATED this 19th day of April, 2019.

DANIEL T. SATTERBERG
King County Prosecuting Attorney

Respectfully submitted,

/s/Heidi Jacobsen-Watts

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CERTIFICATE OF SERVICE

I, NADIA RIZK, hereby certify that on April 19, 2019, I electronically filed the foregoing with the Clerk of the Court for the Washington Supreme Court by using the Washington State Appellate Courts' web portal system.

I certify that all participants in the case are registered electronic users and that service will be accomplished by the appellate portal system.

Dated this 19th day of April, 2019 at Seattle, Washington.

/s/ Nadia Rizk
NADIA RIZK
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KING COUNTY PROSECUTING ATTORNEYS OFFICE CIVIL DIVISION

April 19, 2019 - 4:31 PM

Transmittal Information

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Appellate Court Case Number: 96990-6
Appellate Court Case Title: Nicole Bednarczyk, et al. v. King County
Superior Court Case Number: 16-2-10105-0

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