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THE ALLIANCE
for Equal Justice

SUPPORTER

March 3, 2017

Clerk of the Supreme Court

Temple of Justice

P.O. Box 40929

Olympia, WA 98504-0929

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Washington State
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To the Clerk of the Supreme Court:

The Access to Justice (ATJ) Board supports the goal of the proposed General Rule 36 – to reduce discrimination in judicial proceedings. The ATJ Board recognizes that access to justice should extend to all participants in judicial proceedings. This includes jury venire members. The United States Supreme Court recognized in Batson vs. Kennedy that discrimination in jury selection violates the rights of both the litigants and prospective jurors. Discrimination in jury selection on any basis is contrary to access to justice.

As outlined in the materials filed by the sponsors of proposed GR 36, experience demonstrates that the three-step analytical framework for trying to identify discrimination in jury selection set forth in Batson vs. Kennedy and its progeny is not working. Improvement is needed. And it would appear to the ATJ Board that it is better to have a procedure that over-protects against discrimination than the present one that allows discrimination to remain unaddressed. The ATJ Board defers to the many advocates that have contributed to the proposed GR 36 as to whether it strikes the right balance in active litigation.

The ATJ Board also supports the sponsors' decision to amend proposed GR 36 to include gender based discrimination as provided in their comment to their proposal. In jury selection, discrimination on the basis of gender often goes unaddressed.

If you have any questions or need more information, please contact the ATJ Board Manager, Diana Singleton, at dianas@wsba.org and 206-727-8205.

Respectfully,

Geoffrey Revelle, Chair

Access to Justice Board

cc: Paula Littlewood, Washington State Bar Association