



PRESIDENT'S PAGE

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"I just received a jury summons. How do I get out of jury duty?"

If your experience is anything like mine, chances are you have been asked a question like the one above at some point during your legal career. My perspective on how to deal with a question like this has changed over the years as I've developed a greater appreciation of the important role juries play in our justice system.

The ability to have criminal charges or civil disputes decided by an impartial jury is essential to our system of justice and is a right set out in both the United States and California Constitutions. The U.S. Supreme Court summed up the importance of this right when it stated that "[a] right to jury trial is granted to criminal defendants in order to prevent oppression by the Government. Those who wrote our constitutions knew from history and experience that it was necessary to protect against unfounded criminal charges brought to eliminate enemies and against judges too responsive to the voice of higher authority. . . . Providing an accused with the right to be tried by a jury of his peers gave him an inestimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased, or eccentric judge."¹ Historically, marginalized groups, including women and Black people, were prevented from serving as jurors and, accordingly, precluded from guarding against the unjust application of law.

Given the important role juries play in our system of justice, promoting jury service and making it easier for individuals to serve enhances justice. So, my response to the above question today is much different than it would have been in my earlier years of practice before my "enlightenment." In fact, I was recently asked by an individual how they could avoid jury service and the response I gave is not what the person wanted to hear. This is not to say that jury service does not present potential hardships. For those who envision jury service as waiting around in a courthouse for days on end, we can remind them that California employs a one-day or one-trial policy. Generally, this policy provides that if an individual is not assigned to jury selection after one day at the courthouse, they are deemed to have completed their service for at least twelve months. In addition, individuals selected to serve on a jury discharge their service obligation for at least the following twelve

months. While the one-day or one-trial policy reduces some of the obstacles to jury service, others certainly remain.

One obvious impediment to jury service is the financial strain it may cause. Generally, jurors in California state courts are paid a fee of fifteen dollars per day and receive reimbursement of thirty-four cents a mile from their home to the courthouse (one-way) starting on the second day of service. Federal jurors are paid a fee of fifty dollars per day. These fees do not appear to provide any incentive to serve. In addition, federal and California state laws do not require that businesses compensate employees who miss work because of jury service. Lost income resulting from jury service may make it difficult for many to meet their financial obligations.

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Businesses in Orange County and beyond can support our system of justice by making it easier for their employees to fulfill their jury service obligations by considering providing some form of compensation or reimbursement for employees on jury duty. The pandemic highlighted the potential adverse impacts on communities, businesses, and justice when courts are not able to efficiently conduct jury trials. Businesses benefit when they make it easier for employees to fulfill their jury service obligations because it makes our legal system more efficient. Businesses also benefit when their employees have a voice in deciding cases that may impact their industries or business. Law firms should also consider providing billable credit and or adopting other policies that do not hit attorneys in their pocketbook

for serving on a jury.

While our first instinct may be to avoid jury service, our system of justice does not work without jurors. So, the next time someone asks you for advice on how to avoid jury service, what are you going to say?

ENDNOTE

(1) *Duncan v. Louisiana*, 391 U.S. 145, 155-56 (1968).



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