

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO



NOTICE FROM THE CLERK
NO. 04-27

IN THE MATTER OF PROTECTION OF JURORS' EMPLOYMENT
(supersedes Notices Nos. 95-13, 00-17, 00-18, 01-02, and 01-06)

Pursuant to the laws of the United States of America and the Commonwealth of Puerto Rico, any employer who discharges, threatens to discharge, intimidates, harasses or coerces any employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States, is subject to both civil liabilities and criminal penalties. See, 28 U.S.C. § 1875; 2003 P.R. Laws 281, Art. 13; 33 L.P.R.A. § 4445.

Specifically, any employer who violates the pertinent provisions of the Jury System Improvements Act of 1978, as amended, 28 U.S.C. §§ 1875:

- (1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;
- (2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and,
- (3) shall be subject to a civil penalty of not more than \$1,000.00 for each violation as to each employee.

In addition, pursuant to the Jury Services Administration Act ("Ley para la Administración del Servicio de Jurado"), 2003 P.R. Laws 281, Art. 13, any employer who dismisses a person or threatens to dismiss a person for having served as a juror, or refuses to reinstate him for this reason, or reinstates him in a position of an inferior category, status, or retribution than what he held at the moment he started to serve as a juror, shall be liable for a sum equal to twice the amount of damages caused by his action to this person, or for an amount not less than \$1,000.00 or greater than \$3,000.00, at the court's discretion, if monetary damages cannot be determined.

(continues on reverse)

The purpose of the federal legislation includes both the protection of the status of employment after jury duty as well as during the period of jury service. Thus, among others, federal courts have determined that it is unlawful for an employer to:

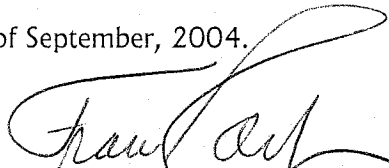
- (1) react with hostility to the news of the employee's jury duty, withdraw customary assistance to the employee; criticize, reprimand or discharge the employee without cause, but rather for reasons related to the jury service.¹
- (2) pressure an employee to submit a materially misleading statement to the court in an attempt to avoid jury duty.²
- (3) coerce an employee into requesting postponement of the jury duty until the employee has earned sufficient vacation time for it.³
- (4) cut back the work hours, change work assignments or conditions and/or discharge an employee serving on jury duty because his absences upset the employer's work schedule.⁴
- (5) obligate jurors to work overtime after jury service hours or assigning jurors to work on their personal days from jury duty.⁵

An individual claiming that his/her employer has violated any of the provisions set forth above may request that this court, upon finding probable merit in such a claim, appoint an attorney to represent such individual in any action in the District Court necessary to the resolution of such claim.

In any action or proceeding under any of the aforementioned provisions brought by a juror with retained counsel, the court may award a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney's fees and expenses incurred on behalf of a prevailing employee. The court may award a prevailing employer a reasonable attorney's fees as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.

BY ORDER OF THE COURT.

In San Juan, Puerto Rico, this 7th day of September, 2004.


FRANCES RIOS DE MORAN, ESQ.
CLERK OF COURT

¹ Hill v. Winn-Dixie Stores Inc., 934 F.2d 1518 (11th Cir. 1991).

² U.S. ex rel. Perkins v. Sara Lee Corp., 839 F. Supp. 393 (W.D.Va. 1993), vacated on other grounds, 852 F.Supp. 1321 (1994) (stipulation of dismissal vacating judgment).

³ Jones v. Marriott Corp., 609 F. Supp. 577 (D.D.C. 1985).

⁴ In Re Webb, 586 F. Supp. 1480 (N.D. Ohio 1984).

⁵ U.S. ex rel. Madonia v. Coral Springs Partnership Ltd., 731 F.Supp. 1054, 1056 (S.D. Fla. 1990).