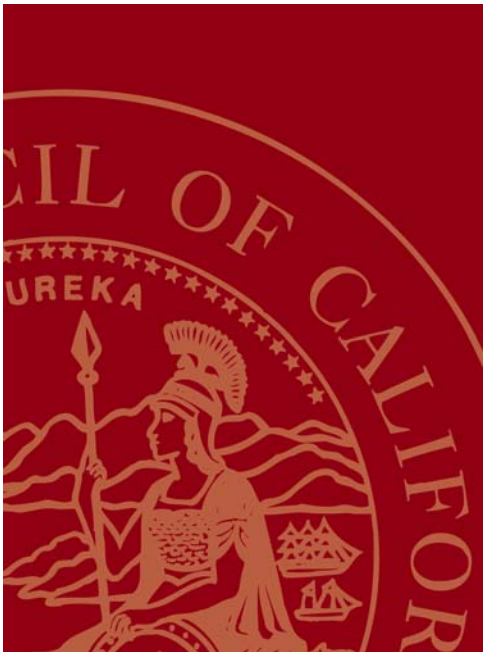

Jury Sanctions Procedure (Code of Civil Procedure Section 209(b))

REPORT TO THE LEGISLATURE

JUDICIAL COUNCIL OF CALIFORNIA

Jury Sanctions Procedure (Code of Civil Procedure Section 209(b))

The Judicial Council submits to the Legislature this report on the jury sanctions procedure authorized under Code of Civil Procedure section 209(b). The sanctions procedure allows the courts, after providing notice and an opportunity to be heard to jurors who fail to appear as required by a jury summons, to impose monetary sanctions in lieu of contempt penalties. If a juror does not respond to an initial summons within 12 months and then fails to appear following a second summons and subsequent notice, the juror may be sanctioned. Sanctions for the first offense may not exceed $250, for the second offense $750, and for the third and subsequent offenses $1,500. Fines may be reduced or waived by the judge.

The overall goal of section 209(b) is to reduce the rates of failures to appear (FTAs) and ensure that prospective jurors fulfill their jury service obligations. Sanction monies collected under section 209(c) are to be deposited in a special account and transmitted monthly to the State Controller for deposit in the Trial Court Trust Fund. It is the intent of the Legislature that the funds derived from the monetary sanctions authorized in this section be allocated, to the extent feasible, to the family courts and the civil courts. A motion to set aside sanctions imposed by default may be made by completing and filing Judicial Council form MC-070, *Juror's Motion to Set Aside Sanctions and Order,* as provided in rule 862 of the California Rules of Court.

Recommendations to Enhance Legislative Objectives

Staff of the Jury Improvement Program of the Administrative Office of the Courts offers the following recommendations furthering the Legislature's goals:

- Repeal the January 1, 2007, sunset provision of Code of Civil Procedure section 209(e) to continue courts' authority to use this tool; and
- Allocate the monies collected to pay for jury improvements, such as Juror Appreciation Week activities, refurbishing jury assembly rooms, and improving the rate of juror pay, rather than seeking to reallocate the funds to the family and civil courts.

Findings

The data in this report reflect sanctions imposed through September 2005. The Superior Courts of Los Angeles, San Bernardino, and Sacramento Counties are currently using the section 209(b) sanctions procedure. The Superior Court of Sacramento County began implementation in October 2005 and, therefore, is not included in this report.

The Superior Court of Los Angeles County imposed approximately 13,800 sanctions between January 2004 and September 2005, collecting a total of $196,350. Because the court has been running a similar program for several years, there is no measurable change

in juror responses as a result of section 209(b). It is the court's observation, however, that media and press coverage related to the Order to Show Cause (OSC) hearings at which the sanctions are imposed increases juror response temporarily. The court estimates the cost of implementing the section 209(b) sanctions procedure to be $17,375 per month in direct and indirect costs. No actions to set aside the sanctions using Judicial Council form MC-070 have been recorded. Monies collected are deposited in the state's Trial Court Trust Fund.

The Superior Court of San Bernardino County began implementing the procedure in October 2004 and collected $3,600 for 120 sanctions imposed over a 12-month period. The court serves notice of an OSC by deputy sheriff on a randomly selected group of jurors who fail to appear for jury service after a final notice is sent by certified mail. Service of notice by deputy sheriff is not required by section 209(b) but is the method followed by the court. The court serves approximately 10 jurors per month in this fashion. At the OSC hearing, jury service is rescheduled and the amount of the sanction is waived, except for $30 assessed to recoup the cost of serving notice. The total, $3,600, has been remitted to the Trial Court Trust Fund. The court reports that the percentage of prospective jurors who fail to appear has been reduced from 24 percent to 11 percent for the same period the year before. The court estimates that the cost of implementing the section 209(b) sanctions procedure has averaged $4,200 per month.

It is unknown to what degree the money collected under section 209(b) has been allocated to the family and the civil courts, owing to the lack of a feasible mechanism to segregate and track the funds once they are deposited in Trial Court Trust Fund. The courts in both Los Angeles and San Bernardino Counties have indicated that the sanctions collected are transmitted to the state.

I. Information regarding any change in rates of response to juror summons

Changes in Rates of Response to Juror Summons	
Los Angeles	N/A
San Bernardino	FTAs are down from 24% to 11%

II. Amount of sanctions paid and transmitted monthly to the Controller for deposit in the Trial Court Trust Fund

Full Amount of Sanctions Paid	
Los Angeles	$196,350
San Bernardino	$3,600 (10 jurors per month X 12 months X $30 avg. sanction)

Average Sanction Imposed	
Los Angeles	$250 avg.
San Bernardino	$30 avg.

Transmitted to State Trial Court Trust Fund	
Los Angeles	Yes
San Bernardino	Yes

III. Allocated, to the extent feasible, to the family courts and the civil courts

Allocated to Family Courts and Civil Courts	
Los Angeles	N/A
San Bernardino	N/A

IV. Efficacy of the procedures to set aside sanctions adopted in rule 862 of the California Rules of Court

A motion to set aside sanctions imposed by default may be made by completing and filing Judicial Council form MC-070.

Sanctions Imposed	
Los Angeles	13,800
San Bernardino	120

Sanctions Set Aside Under Rule 862	
Los Angeles	0
San Bernardino	0