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Weighed down by recession woes, jurors are becoming disgruntled

As more people seek dismissal for financial hardship, their claims face much tighter scrutiny. In one case the jury pool was so rebellious and 'scary' that both sides agreed to let the judge decide.

By Carol J. Williams

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Spurned in his effort to get out of jury duty, salesman Tony Prados turned his attention to the case that could cost him three weeks' pay: A Los Angeles County sheriff's deputy was suing his former sergeant, alleging severe emotional distress inflicted by lewd and false innuendo that he was gay.

Prados, an ex-Marine, leaned forward in the jury box and asked in a let-me-get-this-straight tone of voice: "He's brave enough to go out and get shot at by anyone but he couldn't handle this?" he said of the locker-room taunting.

Fellow jury candidate Robert Avanesian, who had also unsuccessfully sought dismissal on financial hardship grounds, chimed in: "I think severe emotional distress is what is happening in Haiti. I don't think you could have such severe emotional distress from that," he said of the allegations in the deputy's case.

The spontaneous outbursts of the reluctant jurors just as Los Angeles County Superior Court Judge James R. Dunn was about to swear them in emboldened others in the jury pool to express disdain for the case and concerns about their ability to be fair, and to ratchet up the pathos in their claims of facing economic ruin if forced to sit for the three-week trial.

In this time of double-digit unemployment and shrinking benefits for those who do have jobs, courts are finding it more difficult to seat juries for trials running more than a day or two. And in extreme cases, reluctance has escalated into rebellion, experts say.

After three days of mounting insurrection, lawyers for both the deputy and the sergeant waived their right to a jury trial and left the verdict up to Dunn.

"We can't have a disgruntled jury," said attorney Gregory W. Smith, who represents Deputy Robert Lyznick in the lawsuit against his former supervisor. He called the panel "scary" and too volatile for either side to trust.

Money woes inflicted by the recession have spurred more hardship claims, especially by those called for long cases, say jury consultants and courtroom administrators. More than a quarter of all qualified jurors were released on hardship grounds last year, according to court statistics. And judges say they have seen more people request such dismissals in the last year.

"There's a lot of tension, a lot more stress people are dealing with these days," said Gloria Gomez, director of juror services for the Los Angeles County Superior Court.

In Lyznick's suit against the county, Dunn granted hardship dismissals for more than half of the 65 people sent to his courtroom. In a neighboring courtroom, where Judge Robert H. O'Brien was about to try an asbestos case, 66 of 107 prospective jurors were excused for financial difficulties before the individual questioning, or *voir dire*, got started.

"The economic situation has really put attorneys and judges in an awkward position of having to say to someone who is the sole wage earner in a family or someone who is self-employed and doesn't get paid when they don't work that they have to serve, and we have more and more of those," said Jaine E. Fraser, a psychologist and jury consultant who sat in for the asbestos jury selection before the parties settled.

People on the margins of society tend to be more sympathetic with victims bringing suit, and excluding them on hardship grounds can disadvantage plaintiffs, Fraser said. But it's also risky, she noted, to force people into jury service that will cut deeply into their paychecks.

With shrinking budgets, courts are under pressure to do more with less. Los Angeles County courthouses were summoning 55,000 people a week, at \$15 a day each, until the economic crisis imposed more belt-tightening. The county is now making do with 45,000 summonses a week -- only about half are even answered -- compelling stricter scrutiny of those claiming financial, medical and child-care problems, Gomez said. The county has also tightened sanctions for repeat no-shows, imposing fines of as much as \$1,500.

Fraser, who is based in Dallas, said jurors there have been more willing to serve since the city raised daily jury compensation from \$6 to \$40. California courts have been trying for years to get the daily stipend raised to \$40, without success, Gomez said.

As he struggled with the mounting pleas for dismissal, Dunn alluded to pressures on the court "to be very diligent in reviewing excuses."

High school teacher Sharon Friedman told the judge she had no savings and would lose 60% of her February pay. Substitute teacher Martine Tomczyk argued that she needed to be free to take work days when they surfaced. Freelance producer Robert Thatcher said he could lose contracts to competitors if he missed deadlines while on the jury.

As excuses were flying and Dunn struggled to maintain order, one of the few jurors who hadn't sought dismissal interrupted the questioning to offer his take on the unusually passionate resistance.

"I think with what is going on in the country, there are a lot of angry people," said retired Broadway actor Sammy Williams. "Money is such an issue and to give money to someone for results of a case, it's really important that they're getting it for a real reason, an important reason."