

# PAYING ALTERNATE JURORS

Submitted by Sabra Forbes, Solano ~ September/2010

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Solano County has a long standing practice of paying alternate jurors on criminal and civil trials per diem and mileage for the length of the trial, including jury deliberations. We're interested in knowing what your court is doing.

1. Are you paying alternate jurors **per diem** during jury deliberations?
2. Are you paying alternate jurors **mileage** during jury deliberation?
3. If yes to either of the above, do you pay regardless of the case type (criminal vs. civil)?

I believe another court may have requested the same information not long ago. Unfortunately, I don't recall the responses and apologize for the repeat inquiry.

1	Edwina Harper	In Yolo County we pay our alternates per diem and mileage during deliberations for both criminal and civil trials.
2	Diana Gifford-Tuggle	Shasta pays daily and mileage on all alternate jurors on all case types
3	Rebecca Hayes	Monterey pays alternates on both civil and criminal – but only for the days they are present. The alternates are excused when the jury begins deliberations and are excused from service upon return with a verdict. If they do not get called in to replace a sworn juror during deliberations, they are not paid for that time.
4	Debbie Cravea	Napa is the same a Yolo.
5	Diane Collins	Mendocino County pays alternate jurors both per diem and mileage during deliberations
6	Lupe Castaneda	Santa Clara does not pay the alternate juror on phone standby. We only pay then if they report to the courthouse.
7	Keri Shane ***SEE BELOW	In El Dorado County we do not pay the alternates if they are not physically here at the court. This is for both civil and criminal.
8	Therese Phelps	Plumas is the same as Monterey
9	Bea Gin	San Joaquin pay alternate jurors
10	Kathleen Shambaugh	Same for Contra Costa.
11	Debbie Jurevich	San Benito pays alternates the same as the panel jurors <u>unless</u> the Judge has excused them prior to the date deliberations begin. It does not matter if it is criminal or civil.
12	Sherry Spears	Fresno is no to both – if the juror isn't here they don't get attendance therefore, no mileage or juror pay. **Then there's CCP 215 that says that jurors are paid \$15.00 a day for each day's attendance as a juror after the first day. So that's what we go by and if they aren't here for the deliberations, they don't get attendance.
13	Frances Johnson	Los Angeles - Depending on the courtroom, alternates may be on-call or ordered to appear and wait in the jury assembly room. If they are placed on-call, they will not receive any fees or mileage. If they are ordered to appear, they will receive fees and mileage.
14	Tulare	No payment if they do not report to the court? We only pay jurors who are physically present so if alternates are on telephone standby we would not. We pay the standby alternates as they have to be available to report within 20 minutes, if necessary
15	Calaveras	Only pays jurors who appear in court. We do not pay alternates on phone standby
16	Madera	DO pay our alternates for being on standby because they have to be available at a moment's

		notice to appear if needed. (The only exception to this rule is if it is a CIVIL trial, the attorneys are paying the daily fees so the alternates DO NOT get paid for being on standby).
17	Amador	We do pay our alternate Jurors while on telephone standby as they are told to be available within 30 minutes if needed.
18	Santa Cruz	Pays alternate jurors
19	Mariposa	Alternates DO get paid for being on standby because they have been sworn in. The alternates for Mariposa do not appear by phone they sit on the Jury Panel with the Sworn Panel and follow along with the trial proceedings, they just do not deliberate or discuss proceedings as instructed, therefore, if there is a need the juror can just slide into the new seat and proceed w/o delay. So they have to be available at a moment's notice to appear when needed. Same would go with the civil Trials, and the counsel stipulates to how many alternates they are in need of because on those trials, the attorneys are paying the daily fees. *There has been times where the alternates could go home during deliberations and be available within 30 minutes to 1 hour (depending on the sitting Judge) and the Court would need to contact them by phone. But each day they would need to make a physical appearance check in then the clerk would take their number.
20	Kings	Does not pay for alternate jurors
21	Solano	Does Pay for alternate jurors when on telephone standby
22	Alpine	Does not pay for alternate jurors on telephone standby during deliberations
23	Tehama	Does pay alternates as they could be requested at anytime to fill in if needed.

I have already replied for El Dorado County, however, I did a little research. CCP 234 talks about alternate jurors and that they shall be treated the same as regular jurors as far as pay, mileage, etc.

Which now that I have read this code, I believe that El Dorado County has not been properly handling the pay for alternates. My interpretation would be that they should receive their pay but I would not say that they should get mileage if they are not actually coming to the court.

Hope this helps, and would like to see what the final outcome of responses is. - Keri

CCP: 234. Whenever, in the opinion of a judge of a superior court about to try a **civil** or criminal action or proceeding, the trial is likely to be a protracted one, or upon stipulation of the parties, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

These alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications, as the jurors already sworn, and shall be subject to the same examination and challenges. However, each side, or each defendant, as provided in Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as there are alternate jurors called.

The alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and shall, unless excused by the court, attend at all times upon the trial of the cause in company with the other jurors, but shall not participate in deliberation unless ordered by the court, and for a failure to do so are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff or marshal during the trial of the cause, the alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury, the alternate jurors shall be kept in the custody of the sheriff or marshal who

shall not suffer any communication to be made to them except by order of the court, and shall not be discharged until the original jurors are discharged, except as provided in this section.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his or her duty, or if a juror requests a discharge and good cause appears therefore, the court may order the juror to be discharged and draw the name of an alternate, who shall then take his or her place in the jury box, and be subject to the same rules and regulations as though he or she has been selected as one of the original jurors.

All laws relative to fees, expenses, and mileage or transportation of jurors shall be applicable to alternate jurors, except that in **civil** cases the sums for fees and mileage or transportation need not be deposited until the judge directs alternate jurors to be impaneled.