

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

NOTICE TO EMPLOYER - PROTECTION OF JURORS'S EMPLOYMENT

Your employee has been selected to serve as a juror in the United States District Court.. Under our current Jury Plan, jurors are on call to serve over a period of ninetydays.

As an employer you should be aware that Title 28 of the United States Code, Section 1875 states:

(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent 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.

(b) Any employer who violates the provision of this section:

(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/her jury service; and

(3) shall be subject to a civil penalty of not more than \$5,000.00 for each violation as to each employee and may be ordered to perform community service.

(C) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his/her period of jury service, shall be reinstated to his/her position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

(D) An individual claiming that his/her employer has violated the provisions of this section may make an application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by Section 3006A of Title 18, United States Code.

(2) In any action or proceeding under this section, the court may award a prevailing employee, who brings such action by retained counsel, 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 fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.

If you have any questions regarding your obligation as an employer, please feel free to contact the Jury Administration Office at (716) 551-1721 (Buffalo) or (585)-613-4017(Rochester).

MARY C. LOEWENGUTH,
Clerk of Court

BY: Molly A. Schaus.
Jury Administrator