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STATE OF ALABAMA

MAR 30 1990

90-00190

Honorable John L. Lazenby
Circuit Clerk
P. O. Box 320
Wetumpka, AL 36092

Courts - Jurors - Compensation
- Expenses

The payment for jury service as provided in Code of Alabama 1975, § 12-19-210, is an expense allowance and should not be deducted from a juror's usual compensation due from his employer.

Dear Mr. Lazenby:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTIONS

1. Is the payment to jurors by the Circuit Clerk to be considered compensation or an expense allowance?
2. In the absence of an employment agreement to the contrary, should payments to jurors be deducted from the usual salary that the juror is entitled to receive from his/her employer for the time period in which he/she is serving on jury duty?

FACTS AND ANALYSIS

Code of Alabama 1975, § 12-19-210, states:

"(a) Regular jurors, grand and petit, shall be entitled to \$10.00 expense allowance for each day's services, \$.05 for each mile traveled in going to and returning from court and ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate, stating therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid and the amount of expense allowance to which he is entitled. The certificate shall be payable out of the state treasury." (Emphasis added.)

Code of Alabama 1975, § 12-16-8 states:

"(a) Upon receiving a summons to report for jury duty, any employee shall on the next day he is engaged in his employment exhibit the summons to his immediate superior, and the employee shall thereupon be excused from his employment for the day or days required of him in serving as a juror in any court created by the constitutions of the United States or of the state of Alabama.

"(b) Notwithstanding the excused absence provided in subsection (a) of this section, any full-time employee shall be entitled to his usual compensation received from such employment less the fee or compensation he received for serving as such juror.

"(c) It shall be the duty of all persons paying jurors their fee or compensation for services to issue to each juror a statement showing the daily fee or compensation and the total fee or compensation received by the juror." (Emphasis added.)

This office has previously held that the payment for jury service provided in § 12-19-210 is an expense allowance rather than a fee or compensation, as those terms are used in

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§ 12-16-8, and as such is not deductible from a juror's usual compensation. Opinion to Honorable Robert E. Albright, State Representative, under date of February 23, 1979.

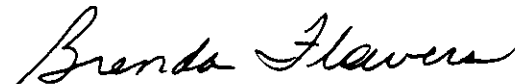
CONCLUSION

The payment for jury service as provided in Code of Alabama 1975, § 12-19-210, is an expense allowance and should not be deducted from a juror's usual compensation due from his employer.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:



BRENDA FLOWERS
Assistant Attorney General

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