

Committee Opinion
August 12, 1993

LEGAL ETHICS OPINION 1549

JURORS:COMMUNICATION WITH
JURORS, AFTER THEIR TERM HAS
EXPIRED, TO DETERMINE IF
EXTRANEOUS FACTORS
CONSIDERED IN REACHING THEIR
VERDICT.

You have presented a hypothetical situation in which an attorney alleges that a jury in a civil matter rendered a verdict contrary to the vast preponderance of the evidence.

You have asked the committee to opine whether, under the facts of the inquiry, an attorney may contact and question individual jurors, after their term has expired, to determine if extraneous factors were considered in reaching their verdict.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:7-107(C), which states that after discharge of the jury from further consideration of a case with which the lawyer was connected, the lawyer shall not ask questions or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service.

The committee has previously opined that it is improper for a lawyer to communicate by letter with members of a jury his or her thanks for the manner in which they completed their service. The committee was concerned that such communications by a lawyer would create at least the appearance of an effort to influence a juror's actions in future jury service in violation of DR:7-107(C). LE Op. 416 and LE Op. 417.

In the situation you pose, the committee is of the opinion that it would not be improper for an attorney to contact jurors, after the expiration of the term, to determine if extraneous factors were considered in reaching their verdict. Were an attorney to be prevented from post-trial communications with a juror, he could not ascertain if the verdict might be subject to legal challenge, which could lead to undetected invalidity of a verdict. *See* EC:7-26; *Lind v. Medevac*, 219 Cal. App. 3d 516, 268 Cal. Rptr. 359 (1990). The committee believes that, here, the attorney's contact does not appear to be calculated to either harass or embarrass jurors or to influence their actions in future jury service. Thus, the committee opines that it would not be improper, under DR:7-107(C) for the attorney to contact and question jurors as to what factors were considered in reaching their verdict, after the conclusion of the case. For purposes of this opinion, the committee assumes that the contact with jurors violates no Rule of the court in which the jury was empaneled.

Committee Opinion
August 12, 1993