

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Merritt v. Cogley

No. 3:23-cv-01031-CAB-KSC (S.D. Cal. Feb. 21, 2025) · No. 3:23-cv-01031-CAB-KSC · Decided February 21, 2025

SUMMARY

The United States District Court for the Southern District of California denied Defendant Jonathan Cogley’s ex parte motion for leave to interview jurors after a verdict for Plaintiff Ian Merritt. The court held that Cogley had shown neither juror misconduct nor that extraneous prejudicial information reached the jury, and that his asserted basis was speculative. The court emphasized protections against postverdict inquiry into jury deliberations and the presumption that jurors follow court instructions.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	February 21, 2025
DOCKET	3:23-cv-01031-CAB-KSC
DISPOSITION	other
PROCEDURAL POSTURE	After a jury returned a verdict for Plaintiff, Defendant moved ex parte for leave to interview jurors concerning alleged juror exposure to extraneous prejudicial information.
STANDARD OF REVIEW	Abuse of discretion applies to the denial of postverdict juror interrogation when no showing of juror misconduct has been made.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- discovery dispute
- motion in limine
- evidence
- civil procedure

PRACTICE AREAS

- civil procedure
- evidence

QUESTIONS PRESENTED

1. Whether Defendant established a sufficient basis for postverdict juror interviews by showing possible juror misconduct or exposure to extraneous prejudicial information.
2. Whether speculation that jurors may have researched Defendant's wealth, based on the evidence and the size of the verdict, justified ex parte juror interviews.

HOLDINGS

1. A party is not entitled to postverdict interrogation of jurors absent a showing of juror misconduct or that extraneous prejudicial information reached the jury; speculative allegations are insufficient.
2. The jury is presumed to follow instructions not to consider a party's wealth and not to conduct independent research absent a sufficient showing to overcome that presumption.

KEY QUOTATIONS

“It is incumbent upon the courts to protect jurors from the annoyance and harassment” of being interviewed “on the course of their deliberations in the jury room.” (at 1)

“Indeed, “it is improper and unethical for lawyers to interview jurors to discover what was the course of deliberation of a trial jury.” (at 1)

“The Court finds the uncertain language Defendant employs in his own motion as demonstrative of the speculative basis for this request.” (at 3)

FACTUAL BACKGROUND

Following a jury verdict for Plaintiff, Defendant sought to interview jurors to determine whether they had conducted independent research concerning Defendant's wealth. Defendant relied on references to evidence that he sold a damaged Porsche, purchased another vehicle for more than \$300,000, and took a flying lesson, as well as the size of the damages award. The court had ruled that the evidence was relevant to Defendant's post-incident conduct, instructed the jury not to consider any party's wealth, and repeatedly instructed jurors not to conduct independent research.

PROCEDURAL HISTORY

The jury found in favor of Ian Merritt on January 28, 2025. Defendant Jonathan Cogley filed an ex parte motion on February 13, 2025, seeking leave to conduct juror interviews; Plaintiff opposed the motion. The district court denied the motion.

DISPOSITION

other

CASES CITED

- Bryson v. U.S., 238 F.2d 657, 665 (9th Cir. 1956)

- Smith v. Cupp, 457 F.2d 1098, 1100 (9th Cir. 1972)
- Mitchell v. U.S., 958 F.3d 775, 787 (9th Cir. 2020)
- Deck v. Jenkins, 814 F.3d 979 (9th Cir. 2016)
- Weeks v. Angelone, 528 U.S. 225, 234 (2000)

OPINION

Merritt v. Cogley

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 IAN MERRITT, Case No.: 3:23-cv-01031-CAB-KSC 12 Plaintiff,

ORDER DENYING EX PARTE

13 v. MOTION

14 JONATHAN COGLEY, et al., 15 Defendants. 16 17 On January 28, 2025, the jury in this matter found in favor of Plaintiff Ian Merritt. 18 [Doc. No. 143.] On February 13, 2025, Defendant Jonathan Cogley filed this ex parte 19 motion seeking leave to conduct juror interviews. [Doc. No. 148.] Plaintiff Ian Merritt 20 filed a response in opposition. [Doc. No. 149.] For the reasons set forth below, 21 Defendant's motion is DENIED.

22 I. BACKGROUND

23 Defendant seeks leave from the Court to interview the jury to explore whether the 24 jury "consulted extraneous prejudicial information." [Doc. No. 148 at 7.] Defendant's 25 proffered basis is that (1) Plaintiff's counsel made repeated references to Defendant's 26 wealth allegedly in violation of a motion in limine and (2) that the awarded damages were 27 so high it "creates a strong inference that the jury conducted its own research into 28 [Defendant's] publicly verifiable wealth." [Id. at 3.] Defendant argues that there is no 1 basis for the jury's verdict and, therefore, there is an "unmistakable inference" that 2 extraneous information influenced the jury. [Id. at 6.] Thus, Defendants purportedly 3 should be granted leave to interview jurors. The Court disagrees.

4 II. ANALYSIS

5 "It is incumbent upon the courts to protect jurors from the annoyance and 6 harassment" of being interviewed "on the course of their deliberations in the jury room." 7 Bryson v. U.S., 238 F.2d 657, 665 (9th Cir. 1956). Indeed, "it is improper and unethical 8 for lawyers to interview jurors to discover what was the course of deliberation of a trial 9 jury." Smith v. Cupp, 457 F.2d 1098, 1100 (9th Cir. 1972). The Ninth Circuit has held 10 that "in cases where there has been no showing of juror misconduct . . . a district d[oes] not 11 abuse [its] discretion in refusing to allow postverdict interrogation of jurors." Mitchell v. 12 U.S., 958 F.3d 775, 787 (9th Cir. 2020) (alterations in original) (internal quotation marks 13 omitted). 14 Defendant Cogley fails to show any juror misconduct or that any extraneous 15 prejudicial information was brought to the jury's

attention. Indeed, Defendant only 16 speculates that the jury may have done its own research into Defendant's wealth because it 17 heard evidence that Defendant sold his damaged Porsche after the incident for half its 18 purchase price, immediately purchased another for over \$300,000, and then took a flying 19 lesson—all allegedly in violation of a motion in limine to preclude reference to wealth. 20 Defendant states that such behavior is “out of the ordinary for an American not of 21 considerable wealth” and “could have prompted internet research about [Defendant].” 22 [Doc. No. 148 at 7 (emphasis added).] 23 The Court previously ruled on Defendant's challenge that the aforementioned 24 evidence violated the motion in limine. [Doc. No. 128 at 491–92.] The Court stated that 25 it did not violate the motion, that the evidence was relevant to Defendant's post-incident 26 behavior, and that the jury would be instructed to not “make any speculation about wealth 27 or consider wealth in determining liability in the case.” [Id.] Indeed, the Court instructed 28 the jury in Jury Instruction No. 36 to not consider any party's wealth in reaching its verdict. 1 [Doc. No. 141 at 16.] Moreover, regarding Defendant's speculation of research by the jury, 2 Court instructed the jury daily to not do its own research into the case. [See, e.g., Doc. 3 || No. 128 at 76; see also Doc. No. 135 at 117.] Ninth Circuit and Supreme Court precedent 4 || instruct that a jury is presumed to follow court instructions. See *Deck v. Jenkins*, 814 F.3d 5 979 (9th Cir. 2016); see *Weeks v. Angelone*, 528 U.S. 225, 234 (2000). The Court 6 || finds the uncertain language Defendant employs in his own motion as demonstrative of the 7 || speculative basis for this request. As such, the ex parte motion is DENIED. 8 It is SO ORDERED. 9 10 Dated: February 21, 2025 (GR 11 Hon. Cathy Ann Bencivengo 12 United States District Judge 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28