FREQUENTLY ASKED QUESTIONS

FOR ATTORNEYS AND PARTIES

Nonrefundable Jury Fee

(Assem. Bill 1481 (2011-2012 Reg. Sess.))

Effective September 17, 2012

1.1	**Q.** What is the nonrefundable jury fee?	**A:** At least one party demanding a jury on each side of a civil case must pay a non-refundable fee of one hundred fifty dollars ($150), unless the fee has been paid by another party on the same side of the case. (Code Civ. Proc., § 631(b).)).) If there are multiple plaintiffs and/or defendants in the same case, only one jury fee per side is *required* to avoid waiver of a jury under Code of Civil Procedure section 631(f).
1.2	**Q:** What are the deadlines for paying the nonrefundable jury fee?	**A:** The nonrefundable jury fee must be paid on or before the date scheduled for the initial case management conference in the action, except as follows: 1. In unlawful detainer actions the fees shall be due at least five days before the date set for trial. 2. If no case management conference is scheduled in a civil action, or the initial case management conference occurred before June 28, 2012 and the initial complaint was filed ***after*** July 1, 2011, the fee shall be due no later than 365 calendar days after the filing of the initial complaint. 3. If the initial case management conference was held before June 28, 2012 and the initial complaint in the case was filed ***before*** July 1, 2011, the fee shall be due at least 25 calendar days before the date initially set for trial. 4. If the party requesting a jury has not appeared before the initial case management conference, or first appeared more than 365 calendar days after the filing of the initial complaint, the fee shall be due at least 25 calendar days before the date initially set for trial. (Code Civ. Proc., § 631(c).)

1.3	**Q:** What if a party misses the deadline to pay the nonrefundable jury fee?	**A:** Except under the circumstances provided in Code of Civil Procedure section 631(d), (discussed in FAQ 1.4), a party has waived the right to a trial by jury in that action, unless another party on the same side of the case timely paid the nonrefundable jury fee. (Code Civ. Proc., § 631(f)(5).) Note: The court may, in its discretion upon just terms, allow a trial by jury despite the waiver. (Code Civ. Proc., § 631(g).)
1.4	**Q:** What if a party missed a deadline to pay the nonrefundable jury fee between June 27, 2012 and November 30, 2012?	**A:** If a party failed to timely pay a nonrefundable jury fee that was due between June 27, 2012, and November 30, 2012, inclusive, the party will be relieved of a jury waiver on that basis only, if the party pays the fee on or before December 31, 2012 or 25 calendar days before the date initially set for trial, whichever is earlier. (Code Civ. Proc., § 631(d).)
1.5	**Q:** May a clerk accept payment of a nonrefundable jury fee after the deadline has passed?	**A:** There is nothing in the recent amendments to Code of Civil Procedure section 631 that directs or authorizes courts to refuse a late payment of the nonrefundable jury fee. Absent this direction or authority, the clerk likely should accept advance jury fees tendered by a party, provide a receipt, and record in the court file the date the fees were received. (See *People v. Funches* (1998) 67 Cal.App.4th 240, 244 [court clerks "must act in strict conformity with statutes, rules, or orders of the court" defining their duties, and have "no power to decide questions of law nor any discretion in performing" their duties.]) Note: Except as provided in Code of Civil Procedure section 631(d), only a judge has the authority to grant a jury trial following a waiver.
1.6	**Q:** Is payment of the nonrefundable jury fee required if the party does not want to retain the right to a jury in the action?	**A:** No. Only parties that want to retain the right to a jury must pay the nonrefundable jury fees.
1.7	**Q:** May the nonrefundable jury fee be waived because of a party's financial condition?	**A:** Yes. A court may (but is not required to) waive jury fees and expenses, and other fees or expenses itemized in an application for a fee waiver under rule 3.56(1) and (6) of the California Rules of Court.

1.8	**Q:** May the court waive the nonrefundable jury fee for government entities under Government Code section 6103?	**A:** No. Government Code section 6103 explicitly states: "This section does not apply to civil jury fees or civil jury deposits." Although this exception to the fee waiver for government entities predates the creation of the nonrefundable jury fee, the plain language of the exception applies to the nonrefundable jury fee.
1.9	**Q:** If more than one party on a side pays the nonrefundable jury fee, is any refund of the additional fee due?	**A:** No. Code of Civil Procedure 631(b) requires "***at least*** one party demanding a jury on each side" to pay the nonrefundable jury fee, "unless the fee has been paid by another party on the same side of the case." (Emphasis added.) In addition, Code of Civil Procedure section 631.3, which governs refunds of jury fees states in subdivision (c) that the "fee described in subdivision (b) of Section 631 shall be nonrefundable and is not subject to this section. Therefore, although they are not required to pay the jury fee, if additional parties on a side pay the nonrefundable jury fee, that fee is still nonrefundable. The additional fee may not be used to offset actual juror fees or mileage, either.
1.10	**Q:** Are any jury fees refundable?	**A:** Yes. Any $150 advance jury fee deposited ***before*** June 28, 2012 may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3. Similarly, any jury fees other than the $150 advance jury fees that are deposited, but not used, may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3.