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MAY 31, 2005

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Mr. Chip Babcock
Supreme Court Advisory Committee
Jackson Walker, L.L.P.
1401 McKinney, Suite 1900
Houston TX 77010

Dear Chip:

It has come to my attention that the Supreme Court Advisory Committee recently considered a proposal to do away with the right to a jury shuffle. I was glad to see that the Committee voted not to make such a recommendation. I am writing in support of the Committee's decision. I understand that a Subcommittee is now studying this issue. Quite frankly, I believe that this is really a remedy in search of a problem.

I have been trying lawsuits for almost 20 years, and have only requested a shuffle on a few occasions. In fact, I can only recall 2 such instances. One case involved a medical liability case and the panel was overrepresented with healthcare professionals, and they were overrepresented in the first half of the panel. I cannot recall the specifics of the other occasion, however, I have every reason to suspect that it was for similar reasons. I can also recall an instance when the defense requested a shuffle in a case in which I was involved.

I do not believe that my experiences are unique. I do not believe there is any evidence that the jury shuffle is abused or overused. I believe it is an effective tool for litigants on both sides of the docket when, due to the luck of the draw, one gets a panel that appears to be "overrepresented" to one extent or the other.

Should there be *Batson* concerns with regards to the use of the shuffle, the rule can simply be amended to preclude the use of the shuffle for improper reasons.

Our current system acknowledges that our jury pools come with inherent biases and backgrounds that may make them unfit to serve as jurors in a particular case. That is why we are allowed to voir dire the jury, why we are allowed to challenge for cause, and why we are allowed to exercise peremptory challenges. All of these tools are available to litigants to help end up with a fair and impartial jury. The jury shuffle is simply one more tool for litigants to use in ensuring that justice is served.

Mr. Chip Babcock
May 31, 2005
Page 2

I strongly encourage you to not take that tool away, especially in the absence of any evidence of a problem.

I would be happy to visit with you or other members of the committee in more detail about my experience if you so desire.

Sincerely,



Scott Ozmun

SAO/jc

Cc: Honorable Nathan L. Hecht
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