

**MYTH: Juries can't be trusted to make a fair decision.**

1

**Truth:** Our system of justice depends upon the participation and support of all citizens. Jury service is among our most important duties as American citizens. By willingly serving when called to jury duty, each of us helps to ensure that disputes are resolved fairly and impartially by a jury of the litigant's peers.

Most court cases take a long time and involve lots of evidence. In nearly all cases, most people would agree with the decisions of the juries if they had the opportunity to sit with the jury and see all the evidence firsthand. In the rare situation in which a jury makes a mistake, the trial judge and the appellate courts are there to correct the problem.



It is also important to remember that jurors are required to take an oath, before qualifying as jurors, that they as individuals 1) will not make a decision about the merits of any particular case until all of the evidence has been presented; and 2) will make a decision based solely upon the evidence presented in court, under oath, and not from any other source. In spite of this unbiased system, however, the media inadvertently or otherwise encourages the general public to have an opinion on a particular jury verdict based solely upon what is printed in the paper or seen on television. The media is rarely present for an entire trial, and thus, is not in a position to create value judgments about the merits of any particular case. The television viewers and the newspaper readers, in turn, have even less information on which to base an opinion about a fair and reasonable verdict. Therefore, opinion based on limited information should not serve as the basis for an attack on a jury verdict, much less the entire system.

**MYTH: The jury system is not worth keeping.**

2

**Truth:** Jurors have always played a key role in the United States' legal system and democratic traditions. For over 200 years, our country has been unique in having juries of ordinary citizens decide both civil disputes and criminal cases. Citizen juries give legitimacy to our justice system because facts are determined and verdicts are reached by ordinary people of varying backgrounds and life experiences. Throughout our history, American juries have asserted the conscience of the community against unjust laws, arbitrary government authority and social wrongs. Juries have been responsible for verdicts which have generated public recognition of problems with products like asbestos and defective heart valves, and promoted greater product safety.

Our founding fathers thought a jury was so important to the workings of a democracy and the protection of individual liberties that they protected the jury system in three different places in the Constitution and Bill of Rights. Thomas Jefferson said: "I consider trial by jury as the only anchor yet imagined by man by which government can be held to the principles of its constitution."

**MYTH: Lawyers are selfish and greedy.**

3

**Truth:** The legal profession has a long tradition of volunteerism. All across Mississippi, thousands of lawyers give generously of their time and expertise to help our state's low-income residents. Annually, lawyers in Mississippi donate millions of dollars of legal services to persons who otherwise could not afford them.



Lawyers care about their communities, and their service extends far beyond legal work. A 2001 survey found that in

addition to providing pro bono (free) legal assistance to poor people, Mississippi lawyers participate in community-services organizations, tutor or teach, and coach sports. They also work as volunteer fire fighters, serve on volunteer search-and-rescue teams, volunteer at hospitals, work at food banks and community shelters, and participate in many other service activities.

In addition, lawyers care about those who have lost money or property in those rare cases when a Mississippi lawyer was dishonest or mishandled a client's money. The Bar's Clients' Security Fund makes a payment to those who have suffered a direct financial loss caused by the dishonest conduct of a lawyer in connection with the practice of law. The fund is financed entirely by lawyers and not tax dollars.

**MYTH: Lawyers stir up litigation for their own personal profit.**

4

**Truth:** Most legal cases are not the result of lawyers advising clients to sue, but are the result of circumstances in which the parties have no choice but to get legal help. Criminal and family law cases (including divorce) are by far the majority of cases handled by our courts. Real estate transactions, setting up small businesses, collections, tax problems – the largest part of legal work – all come from people who seek out legal advice on their own.

People usually think of personal injury cases, or class actions, when they suspect lawyers of stirring up litigation. In a personal-injury case, it is the victim who seeks out the lawyer for help. Even then, court rules and Mississippi Rules of Professional Conduct prohibit an attorney from starting any lawsuit until he or she has made a "reasonable inquiry" into the facts, and determined that the case is "well-grounded in facts." A lawyer can start and pursue class-action cases.

However, class actions are a very small percentage of all cases, and very few lawyers work on them.

**MYTH: Huge punitive damage awards are frequent and on the rise.**

5

**Truth:** Surprisingly few Mississippi citizens understand that punitive damages are neither frequent nor on the rise, and they are allowed only to punish very reprehensible conduct. According to William Glaberson, "When the Verdict is Just a Fantasy" (Sunday, *The New York Times*, Section 4, p. 1, June 6, 1999), a study of the courts in the nation's 75 largest counties conducted by the National Center for State Courts found that only 364 out of 762,000 cases resulted in awards of punitive damages – only about 0.047 percent! Glaberson reports: "... a study of 16 states by the same center showed that the number of liability suits has declined by nine percent since 1986."

Each year over 22,000 lawsuits are filed in the circuit courts of Mississippi. Overwhelmingly, these are resolved reasonably and satisfactorily to all involved. Only a handful results in verdicts which attract media attention. On occasion, one of these will be sensationalized. These verdicts are the exception, not the rule.

**MYTH: The McDonald's verdict shows how foolish juries are.**

6

**Truth:** We've all heard about the woman awarded "millions" just for spilling coffee on herself. But how many people know the actual facts of the case: That McDonald's brewed its coffee about 20 degrees hotter than its competitors, despite the risk of spilling as patrons fumbled with their cups while in the drive-through lane? That this scalding coffee could cause third-degree



burns in just two seconds? That several hundred other McDonald's patrons had suffered burn injuries before this one? How many people know that the plaintiff – an 81-year-old woman – required skin grafts for third degree burns and that the McDonald's defense team had refused an early request to settle with just the payment of medical bills? As is common with large punitive damage awards, the judge reduced the jury's award by more than 80 percent, from \$2.9 million to \$480,000. Most people don't know the whole story. While the original \$2.9 million verdict got extensive front-page coverage, only about half the newspapers even carried articles when the judge later reduced the award.

**MYTH: When there's an accident, lawyers are among the first on the scene, soliciting business.**

7

**Truth:** Commonly called "ambulance chasing," this behavior is very rare and is considered by the legal profession to be unethical. In fact, it is prohibited by the Mississippi Rules of Professional Conduct, which govern all Mississippi lawyers. The Preamble to the Rules of Professional Conduct states: "Lawyers, as guardians of the law, play a vital role in the preservation of society... A consequent obligation of lawyers is to maintain the highest standards of ethical conduct."

If you are injured in an accident, it may be advisable to consult a lawyer. He or she can provide important advice and assistance, and work to protect your rights. But if a lawyer appears at an accident scene to solicit business, he or she is not acting ethically and you should not engage their services.



**MYTH: Contingent fees are just a way for lawyers to make more money.**

8

**Truth:** Contingent fees have an appropriate place in the legal system because this type of arrangement allows people with little money to have their case brought to court. Without contingent fees, many people would not have access to the legal system. A contingent fee is a contract between a lawyer and a client in which the lawyer's fee is set as a percentage of the amount the lawyer recovers on behalf of the client. The percentage often depends on the amount itself and the circumstances of the case, and it can be negotiated between the client and the lawyer. A client does not have to pay the lawyer until after the case is over and the money has been collected. This allows people who cannot afford to pay a lawyer by the hour to hire good lawyers to represent them. If a contingent fee is used, the lawyer may work many hours and be paid nothing if he or she loses. In effect, the contingent fee operates as a safeguard against the pursuit of nonmeritorious lawsuits.

**MYTH: Lawyers who defend criminals are just promoting crime.**

9

**Truth:** We all have rights, guaranteed under the U.S. Constitution, which are designed to protect every citizen from arbitrary government conduct. Any one of us can be accused of a crime, and sometimes innocent people are charged with crimes. Sometimes guilty people are charged with more crimes, or more serious crimes, than they should be.

Our Constitution guarantees everyone the right to be free from unreasonable government searches and seizures, the right to have a jury trial, the right to a lawyer, and the right to be free from cruel or unusual punishment. Further,

reflecting the importance of individual liberty in our society, every citizen is innocent until proven guilty beyond a reasonable doubt.

You may have heard about the DNA-testing project which has recently established the innocence of a number of death-row prisoners. Unfortunately, innocent people sometimes find their way into the system.

Lawyers defend persons *accused* of crimes – some of whom are, in fact, not guilty at all. It is not for the lawyer to determine guilt or innocence. That is for the judge, or a jury of ordinary citizens. The defense attorney's role is to make certain that the government follows the rules, respects the individual's constitutional rights, and proves guilt beyond a reasonable doubt. In doing so, defense lawyers are themselves bound by ethical and procedural rules designed to ensure that the trial is fair. For example, a defense lawyer cannot ask a client a question on the witness stand if he or she knows the client is going to lie in response. Neither can the lawyer tell the judge or jury anything which he or she knows to be untrue. Lawyers who defend accused persons are not "pro-crime." They are simply protecting constitutional rights guaranteed to every citizen.

# Myths Truths About Lawyers



THE MISSISSIPPI BAR

Post Office Box 2168  
Jackson, Mississippi 39225-2168  
601-948-4471 • 800-682-6423  
www.msbar.org



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