



Better By The Dozen

House Bill 1122 and Senate Bill 824

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Larger Juries Give Higher Quality Verdicts

Juries represent a defining feature of American law, one which speaks to this country's commitment to participatory democracy. Whereas foreign legal systems rely on institutional bureaucracies, the American jury enlists the petitioner's fellow citizens to settle disputes in their own community. The theory being that the deliberation and consensus of local stakeholders produce wiser, fairer, and more fact-sensitive outcomes than top-down edicts from disconnected public officials.

However, like all repositories of state power, juries need certain structural checks in order to ensure that the quality of their verdicts is high and consistent as well as ensure that the panels' discussions are not diverted by one or two strong personalities. On that front, the weight of sociological research has found that larger jury panels are better positioned to resist bad influences and smooth over any single individual's lapse in judgment.¹ Indeed, when comparing 12-person to six-person juries, the former proved more likely to have a diverse makeup, exhibit better recall of trial testimony, embark on longer and more forensic deliberations, and ultimately arrive at verdicts that are more closely aligned with the evidence.²

Applied to civil cases, a 12-person jury not only means less erroneous decisions, but it also means greater verdict predictability case to case and smaller pendulum swings in regard to award amounts.³

Texas Civil Trials Lack Consistency

Texas does not provide a 12-person jury for every major civil case. That right is reserved for trials heard in state district court. Cases heard in county court only qualify for a six-person panel, even if the facts and amount in controversy are identical.

More often than not, the discrepancy has only a limited impact on the quality of the jury's verdict, seeing as most county courts preside over smaller claims, which fall well inside the competency of a scaled-down bench. Fourteen Texas counties, however, give their courts full concurrent jurisdiction in civil matters with no upper monetary limit, meaning that many complex and high-stakes lawsuits are being tried by a jury in its weakest form. In these exceptional circumstances, the disparate treatment opens a door to forum shopping as enterprising attorneys attempt to take advantage of the six-person jury's diminished, in-house resources to coax judgments not sufficiently supported by facts.

HB 1122 / SB 824 Create Uniformity in the Law

Having two jury types creates a crack in Texas' otherwise healthy tort system, where litigants are denied equal treatment under the law, along with a predictable liability climate in which to conduct their business. HB 1122 and SB 824 seek to seal that fissure by directing statutory county courts to empanel a 12-person jury for any pending civil case in which the amount in controversy is \$200,000 or more. They also provide that the court's method of selecting jurors conform to the one prescribed for district courts located in the same county—likewise for the practices and procedures that govern the jury's conduct.

The jury has become an emblem of justice in this country. But, as it stands, Texas law permits lawyers to wield the jury as a weapon and not as the shield it was intended. By aligning the size and modus operandi of Texas juries, HB 1122 and SB 824 dispense with the discrepancy that enables the manipulation to take place. They bring greater uniformity to state law and make it so defendants in a high-stake civil action will not face looser standards or lower quality factfinders merely because of the venue in which the plaintiff filed. ★

NOTES

- ¹ Nicole L. Waters, "[Does Jury Size Matter? A Review of the Literature](#)," *National Center for State Courts* (2004), p. 3-6.
- ² Michael J. Saks and Mollie Weighner Marti, "A Meta-Analysis of the Effects of Jury Size," 21 *Law and Human Behavior* 451 (1997).
- ³ Michael J. Saks, "The Smaller the Jury, the Greater the Unpredictability," 79 *Judicature* 263 (1996).

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