

# Chapter 8 Humor

By J. SCOTT BOVITZ

## A Bankruptcy Lawyer Does His State Court Jury Duty

The state court jury summons came in the mail, along with the usual junk and pleadings. At first, I thought it was for someone else. The envelope was addressed to “James Bovitz,” rather than “J. Scott” or “Scott.” But then Los Angeles County never asked me why I use my first initial and middle name in business. (The answer: Because my mother liked the name F. Scott Fitzgerald.) While I am an active bankruptcy litigator, I have almost no jury experience. Twenty-five years ago, I was second chair in a federal district court jury trial; it was all very polite. I turned to my personal assistant. “Siri! Jury duty! What else could go wrong?”<sup>1</sup> Ping.

Siri said, “Let me check on that. Jury duty. What else could go wrong? Here is what I found. You could break your leg. You could lose your hair. You could forget your lines during a major speech. You could send an email from your ex-girlfriend to your spouse.” Siri went on for several minutes. My brother-in-law works for Apple, so I’m not sure that I use the same Siri server as the general public.

I’ve already lost my hair, so I cross that item off the Siri parade of horrors. Drat those hair follicle genes in the Bovitz blood line. But based on its findings, Siri inspired me to write an original song about jury service.<sup>2</sup>

Courthouse parking was free at the Walt Disney Concert Hall. Nice! This is the most beautiful parking garage in downtown Los Angeles with nary a stain on the concrete. Apparently, cars are prohibited from leaking fluids.

The Edward R. Roybal Federal Building and U.S. Courthouse houses the nearest bankruptcy court. Just outside the public entrance, visitors are greeted by American sculptor and printmaker Jonathan Borofsky’s massive artwork, “Molecule Man.”<sup>3</sup> The regulars affectionately call this “100 Bullet Hole Man.” Go look for it on the web. I’ll wait. It’s said that if an attorney touches Molecule Man’s heel, it will protect that professional from personal sanctions.

Just outside the Los Angeles County courthouse, you will find Abraham Lincoln’s oversized bronze head.<sup>4</sup> People must like to touch Mr. Lincoln’s head,

because his giant nose is shiny. It reminded me of the bronze foot of St. Peter by Arnolfo di Cambio at the Vatican.<sup>5</sup> Maybe Disneyland can replace that whole “Great Moments with Mr. Lincoln” attraction with brass heads of famous presidents.<sup>6</sup> I went ahead and touched Mr. Lincoln’s nose, but no immediate benefit was apparent.

Los Angeles sheriffs are seemingly more laid-back than U.S. Marshals. Note to self: No need to take off my jacket, watch, belt, shoes and socks in the state courthouse. Interestingly, the U.S. Marshals Service also operates the Justice Prisoner and Alien Transportation System (JPATS).<sup>7</sup> Since there is a JPATS hub in Las Vegas, and JPATS handles alien transport, I presume that the U.S. Marshal handles the special needs of Area 51.<sup>8</sup>

I am federal court lawyer; therefore, I can dress in the dark because all of my suits are the same color. State court lawyers are more casually dressed. The men wear sport coats and slacks. Mix-and-match is the rule. Think “Saul Goodman” (“Breaking Bad” and “Better Call Saul”) with his bright ties.<sup>9</sup>

I was born in downtown Los Angeles.<sup>10</sup> Three years after I was born, the sprawling, nine-story Los Angeles courthouse opened nearby. People routinely get lost in its hallways and dead ends.<sup>11</sup>

I was amused that the Los Angeles courtrooms are randomly numbered. Perhaps this is like professional sports, where a courtroom department number can be “retired” after a famous trial. Or maybe the department number follows a senior judge. But even Kobe Bryant was willing to change his jersey number. So why the courtroom numbering mystery?<sup>12</sup>

The carpet was blue and industrial, but the walls were polished walnut, just like in Perry Mason’s office. As I was growing up, Perry Mason was often seen outside of the Los Angeles County Superior



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1 According to Wikipedia, “Siri is an application for Apple Inc.’s iOS which works as a personal assistant and knowledge navigator.” See [en.wikipedia.org/wiki/Siri](http://en.wikipedia.org/wiki/Siri) (unless otherwise specified, all of the links within this article were last visited on Feb. 26, 2015).  
2 Search for the song entitled, “Jury Duty! What Else Could Go Wrong?” at [bovitz.biz/Mp3/337%20Jury%20duty!%20What%20else%20could%20go%20wrong.mp3](http://bovitz.biz/Mp3/337%20Jury%20duty!%20What%20else%20could%20go%20wrong.mp3).  
3 See [wilsonneate.tumblr.com/post/81118615834/jonathan-borofskys-molecule-man-roybal-federal](http://wilsonneate.tumblr.com/post/81118615834/jonathan-borofskys-molecule-man-roybal-federal).  
4 “Grand New Park With Grand Old Flags,” Travels with Mai Tai Tom, available at [travelswithmaitaitom.com/grand-park-los-angeles/](http://travelswithmaitaitom.com/grand-park-los-angeles/).

5 For photos, see [www.tripadvisor.com/ShowUserReviews-g187793-d195266-r145304384-St\\_Peter\\_Enthroned-Vatican\\_City\\_Lazio.html#photos](http://www.tripadvisor.com/ShowUserReviews-g187793-d195266-r145304384-St_Peter_Enthroned-Vatican_City_Lazio.html#photos).

6 “Great Moments with Mr. Lincoln,” Wikipedia, available at [en.wikipedia.org/wiki/Great\\_Moments\\_with\\_Mr.\\_Lincoln](http://en.wikipedia.org/wiki/Great_Moments_with_Mr._Lincoln).

7 “Justice Prisoner and Alien Transportation System,” U.S. Marshals Service, available at [www.usmarshals.gov/jpats/index.html](http://www.usmarshals.gov/jpats/index.html).

8 For more information on Area 51, visit the UFO Museum’s website at [www.roswellufo-museum.com/research/ufonews/area51exhibit.html](http://www.roswellufo-museum.com/research/ufonews/area51exhibit.html).

9 See [en.wikipedia.org/wiki/Saul\\_Goodman](http://en.wikipedia.org/wiki/Saul_Goodman).

10 Mom told me so. Her statement is admissible as a “family record” under Federal Rule of Evidence 803(13).

11 A history of the Los Angeles Courthouse is available on the website for American Architect Paul Revere Williams at [www.paulwilliamsproject.org/gallery/1950s-civic-buildings](http://www.paulwilliamsproject.org/gallery/1950s-civic-buildings).

12 To learn why Bryant changed his jersey number, visit [answers.yahoo.com/question/index?qid=20060912082848AAbKeCJ](http://answers.yahoo.com/question/index?qid=20060912082848AAbKeCJ).

Court. My respected *ABI Journal* editors suggested that the millennials might not know about the fictional attorney Perry Mason. Ouch! This comment made me feel as old as the orators in ancient Athens. To Generation Y, I say look up Perry Mason and watch a few episodes! Kids, you should aim to be as successful as Raymond Burr in his seminal role as the best trial lawyer of the black-and-white television generation. Perry Mason was an expert on cross-examination and could always get a witness to break down on the witness stand. However, you will never be able to rely on your very own Della Street (Perry Mason's world-class secretary), given the modern ratio of six attorneys to one overworked professional assistant.<sup>13</sup>

A few paintings were hung on the wall. Someone said that these were portraits of famous criminals. Another juror disagreed: "These are famous lawyers." A third person cracked the obvious joke, "Is there a difference?" Ouch.

The jurors were a cross-section of Los Angeles: a drummer, an auto mechanic, a FedEx accountant, students, a few "extras" from the movies (all dead zombies in a recent horror film), one lawyer, telecommuters, quiet coffee drinkers and the "Chatty Cathys."<sup>14</sup> Among California jurors, "business casual" is a very flexible standard. The jurors were not dressed for success, but who am I to judge (so to speak)? I was the only person wearing a suit with a rose in my lapel (my trademark).

I anticipated that power outlets would be at a premium, so I brought an extension cord with eight outlets. I made friends, since some of the jurors need to charge their phones and computers.

The walls of the assembly room are also covered with signs. "Please no eating or drinking on carpeted area." Understood. But what about, "Please use refuse containers." This is a confusing sign in a town where English is often a juror's second or third language. Hon. Elihu Berle once told me that his Los Angeles County Superior courtroom has interpreters on call for approximately 185 languages.

At 8 a.m., Hon. Debra Katz Weintraub of the Los Angeles County Superior Court came by to address the jurors.<sup>15</sup> Judge Weintraub told us that she was selected for jury duty herself a few months ago and that it wasn't that bad. I raised my hand to ask how the lawyers handled evidentiary objections in that trial, with two judges watching over the testimony. Judge Weintraub ignored my hand and jetted off to handle her morning *ex parte* matters.<sup>16</sup>

The clerk played a DVD on the history of jury duty. I think I heard Thomas Jefferson say, "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution." Or maybe he said something else; I couldn't hear the muffled dialogue very well.<sup>17</sup>

In any case, I always thought that the "principles of its constitution" were embodied in 28 U.S.C. § 1334. None of the nearby jurors wanted to hear me go on about the early 1980s, when bankruptcy judges could hear anything at all.

As author Seth A. Stuhl said, "[a]ttorneys entering the profession in the early 1980s remember this as a brave — and chaotic — new world."<sup>18</sup>

The Los Angeles County Superior Court<sup>19</sup> clerk asked us to fill out our summons forms. "No, for the last time, I am not a convicted felon," I muttered to myself as I checked the box on the form. Why do they send a jury summons to any convicted felon? Can you imagine the *voir dire* with a felon?

"Miss Mathews," a Los Angeles County Superior Court jury clerk for decades, conducted the second part of the juror orientation. She used the microphone like a comedy club veteran. "Do not wear clothing with messages. (Pause.) If you wear a shirt with 'Guilty!' on the front, you will be sent home and asked to return in a few weeks." Her dry, kindergarten-teacher delivery was perfect. (I could almost imagine her saying, "Hi, I'm Miss Mathews. I'm here on Thursday nights.")

Miss Mathews continued. "Most trials will last from five to seven days." I was surprised. Most bankruptcy trials last one or two days. Are we more efficient in federal court? Do we just talk fast to avoid boring the judge? Hon. Vincent P. Zurzolo of the Central District of California has seen almost everything. He encourages bankruptcy lawyers to get right to the heart of the matter. Don't bore the judge and don't make silly evidentiary objections. Stipulate to undisputed facts and the admission of most exhibits.

Miss Mathews says that we are prohibited from speaking to the press during our jury service. But what if I am a member of the press as an *ABI Journal* coordinating editor?!<sup>20</sup>

Thirty minutes later, we receive the first juror break! Fifteen minutes of freedom. Not enough time to return all my calls. But still, a little sunlight felt great.

By late morning, this juror assembly room chair was getting a little hard. Only seven hours to go. At least the wireless connection was solid. "Is the Wi-Fi connection secure?" asks Tracy, my neighbor. "I doubt it," I replied. But I thought, "Why do you care? Are you looking to see if your felony conviction was expunged?"

Thirty feet away, a 63-year-old recording engineer was talking too loudly. His hearing is probably impaired from all those late nights in small, loud venues on Hollywood Boulevard. Tracy whispers, "Did he have too much coffee?" I try not to laugh out loud.

Miss Mathews calls the first batch of juror candidates. About 50 people are sent to Department 48. For some reason, Miss Mathews does not call my name; I am a little disappointed, but I don't know why. As I don't have time for a two-week jury trial, I am also relieved.

The recording engineer drifted into my personal space, so I tried to impress him. I asked, "Have you heard about Gary Greene's Big Band of Barristers? This was the top legal band in the country in 2013, as picked in an American Bar Association competition. I am the recording engineer for that big band and the Los Angeles Lawyers Philharmonic."<sup>21</sup>

13 Perry Mason, Wikipedia, available at [en.wikipedia.org/wiki/Perry\\_Mason\\_%28TV\\_series%29](http://en.wikipedia.org/wiki/Perry_Mason_%28TV_series%29); Della Street, Wikipedia, available at [en.wikipedia.org/wiki/Della\\_Street](http://en.wikipedia.org/wiki/Della_Street).

14 Not familiar with the 1960s pull-string talking doll? Visit [en.wikipedia.org/wiki/Chatty\\_Cathy](http://en.wikipedia.org/wiki/Chatty_Cathy) to learn more. Note: This is the first footnote regarding "Chatty Cathy" since the *ABI Journal* was first published in 1982.

15 Learn more about Judge Katz at [judgepedia.org/Debra\\_Katz\\_Weintraub](http://judgepedia.org/Debra_Katz_Weintraub).

16 My first boss told me that a bankruptcy lawyer should never file an emergency motion unless there is a real emergency, but my *ABI Journal* editor asked me not to repeat words like "emergency" in the same sentence if I can avoid it. Sorry.

17 For a list of favorite quotes from one of America's founding fathers and our third president (among other notables), visit [famguardian.org/subjects/politics/thomasjefferson/jeff6.htm](http://famguardian.org/subjects/politics/thomasjefferson/jeff6.htm).

18 Seth A. Stuhl, *Vault Guide to Bankruptcy Law Careers* (Vault, 2003), p. 23, available at [www.amazon.com/Vault-Bankruptcy-Careers-Career-Library/dp/1581312571](http://www.amazon.com/Vault-Bankruptcy-Careers-Career-Library/dp/1581312571).

19 Did you know that the Los Angeles County Superior Court has a cafeteria with fresh doughnuts? We need more doughnuts in federal court cafeterias. This provides an opportunity for an uncontroversial executive order. See [en.wikipedia.org/wiki/Doughnut](http://en.wikipedia.org/wiki/Doughnut).

20 The publisher reminds me that I am not really a member of the press.

21 Los Angeles Lawyers Philharmonic, available at [www.lalawyersphil.org/get-involved/big-band-cd-album](http://www.lalawyersphil.org/get-involved/big-band-cd-album).

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The rock 'n' roll icon (turned engineer) stared at me for a full 15 seconds, then said, "Can't say that I have heard of your musical groups. Have you heard of Frank Zappa? I was his recording engineer." I smiled weakly. "Touché," I said, as I sank into my seat.

Miss Mathews called a second group of jurors to Department 57. Again, I was not on the list. In California state court, your jury duty is complete if you are not selected for a jury on the first day. Dare I hope that they lost my name and I won't be called to a panel today?

Miss Mathews again: "You have 90 minutes for lunch." I visited a local music school and consumed a tasty tuna sandwich, chips and iced tea from the upscale school cafeteria.

On the way back from lunch, I stick my head in Department 42. The paneled courtroom held a spacious and comfortable jury box. Why do bankruptcy courts have jury boxes? Jury boxes in bankruptcy courts are as silly as the Chinatown shopping district in Shanghai. (I went to Chinatown in Shanghai in 2014. Think about it.)<sup>22</sup>

The after-lunch jury crowd was sedate. "If I am very, very quiet, maybe they will forget that I am here," whispered an anonymous juror in her early 20s. For a minute, I contem-

plated that all jurors should have a little gray hair, but the mix of ages in the assembly room is actually refreshing.

I had a premonition that I would be called for a panel this afternoon. When called, I decided that I would be ready to answer the judge's and lawyers' questions truthfully. I practiced my line in the bathroom. "I am happy to serve, and I know that the court will accommodate my highly contagious leprosy." Well, no, I probably couldn't say that without laughing — but I wanted to. I figure that's the best way to get back to work, short of being exposed to Ebola.

Regardless, I was certain that I would be excused no matter what I said. No one wants a lawyer in the jury. A lawyer might actually follow the judge's instruction and ignore improper evidence after the judge sustains an objection and instructs the jury.

At 4 p.m., the remaining jurors (including yours truly) were dismissed from the assembly room with the thanks of the people. Applause broke out. I never got the chance to say my line to the judge. I joined the throng of 500,000 people who commute to and from downtown every day. The commute was slow but steady, made more difficult by the remnants of a truck fire that closed down one of our Los Angeles freeways.

I'll be watching for my federal jury summons. At least I will feel more comfortable in my dark blue suit in the federal jury box. **abi**

<sup>22</sup> Learn more about Shanghai Chinatown at [pic.templetons.com/brad/photo/china/oldcity](http://pic.templetons.com/brad/photo/china/oldcity).

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