

JUROR'S HANDBOOK

8th CIRCUIT COURT



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YOUR RESPONSIBILITY AS A JUROR

I am a juror.

I am a seeker after truth.

I must listen carefully and with concentration to all the evidence.

I must heed and follow the instructions of the Court.

I must attentively follow the arguments of the lawyers, dispassionately seeking to find and follow the threads of truth through any conflicting assertions.

I must lay aside all bias and prejudice.

I must be led by my intelligence and not by my emotions.

I must respect the opinions of my fellow jurors, as they must respect mine, and in the spirit of tolerance and understanding must endeavor to bring the deliberations of the whole jury to agreement upon a verdict.

When my term of jury service is ended, I must leave it with honor and with a feeling of pride.

HANDBOOK FOR JURORS

PURPOSE OF THIS BOOKLET

The purpose of this booklet is to explain to you in a general way the manner in which lawsuits are tried and the part which you, as a juror, will have in seeing that justice is done.

SERVICE AN HONOR

To serve as a juror is an honor. It is also a very interesting experience. As a juror you will gain first-hand knowledge of the workings of a most important branch of government. Service will bring you satisfaction and pride in your government and in yourself. You should not overlook this opportunity.

JUSTICE CALLS

In a country where the life, liberty and property of each of us is safe and secure, it is necessary that there be courts of justice in which the disputes that arise between people can be settled justly and peaceably. It is necessary that persons charged with crime shall be fairly and justly tried, and that the public safety and welfare be protected on the one hand, and private rights and liberties be safe-guarded on the other. It is the *business of every citizen to see that this is done*, and it is a duty which the people must do for themselves if life, liberty and property are to be kept secure for yourself and your children.

YOUR INTEREST

Suppose Mr. Jones and Mr. Smith have a lawsuit. They may be strangers to you, and in one sense you do not care who recovers a verdict. But as a citizen, as one of "the people" of your community, you do care how he recovers and it is very important to you and all citizens that there should be a way by which disputes between people can be settled peaceably and justly. Remember that some day you may become involved in a dispute and you would want that settled peaceably and justly.

John Doe may be accused of a crime. He may be a stranger to you, and you may never have heard of the offense with which he is charged. Still, it is important to you as a citizen that the laws should be so enforced as to punish and discourage crime in order that you may be safe and secure in your person, your property, and your rights; and it is equally important to you that no innocent person should be sent to prison, for if that could happen to another, it could happen also to you.

UPHOLDING THE LAWS

The oath taken by a judge and juror require each of them to accept and apply the law as it is. Neither one is free to disregard the law because he thinks that the law might be better otherwise. Laws are made, repealed or changed by those who are elected to make laws. Judges and jurors do not make the laws - they only apply them, and must be careful not to usurp power which does not belong to them. People look at the law as it is written to know what their rights are and decide what they may or may not do with safety. Such people should not be expected to guess whether a court or jury will uphold the law.

HASTY JUDGEMENT

The people and lawyers involved in a lawsuit have spent considerable time preparing for the trial. Each party will bring in evidence and argument to prove his side of the case. Judges and jurors (who also are judges of the facts) must be patient and careful not to form conclusions until they have heard all of the evidence and argument, have received the instructions of the court on the law, and have deliberated on the matter.

POWER AND DUTY OF JUDGE AND JURY

During the trial the judge decides all disputes about the law and the rules for trying the case. At the close, he will instruct you on the law and tell you the principal questions you are to decide. The case is then turned over to the jury. The power and the responsibility moves from the bench to the jury room. The jury must decide what the facts are. They must decide what testimony they will believe. If it is a damage case, you will fix the amount of the damages if any are awarded. If it is a criminal case, you will decide whether the defendant is guilty or innocent. If you do your duty well, your verdict is generally final. However, it is the duty of the judge to sentence a person found guilty. With this you have no responsibility. It should not enter into your deliberations on the issue of guilt or innocence.

CONDUCT OF ATTORNEYS

Canon 23 of the Canons of Professional Ethics provides that: "All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel looking to the comfort or convenience of jurors, and propositions to

dispense with arguments, should be made to the court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause."

It must be remembered that a lawsuit is neither a popularity contest or a beauty contest. Lawyers who attempt to influence the jury by winking and smiling, and nodding their heads in affirmance or disaffirmance of matters which are developed during the course of the trial, are guilty of unprofessional conduct. If this conduct should be indulged in by any attorney, it would be the duty of the jury or any member thereof to report same to the presiding Judge. Certainly a juror should not be influenced by this type of conduct.

CIVIL JURY TRIALS

THE PARTIES AND PLEADINGS

A person starting a lawsuit is known as the plaintiff. A person against whom suit is brought is called a defendant. Suit is usually commenced by service of a summons and a complaint. The plaintiff's claim and demand is stated in the complaint. The defendant's answer is called an answer. If the defendant claims from the plaintiff, such claim is called a counterclaim. These papers, called the pleadings, are exchanged between the parties sometime before the trial commences. If a party has more than one claim against the other, each claim may be stated as a separate count.

SELECTION OF A JURY

A group of citizens qualified to serve as jurors is summoned. The entire group is called the jury panel. The first step in a trial is to select from this panel the number required to try the case - six who will ultimately return a verdict, and one or two alternates who will sit through the entire case. At the close of the trial, one or two names will be drawn at random and the six remaining jurors will deliberate and decide the case.

Names are drawn from the jurors present until the jury box is filled. Those called are required to answer truthfully all questions asked of them touching on their qualifications to act as a juror in the case. After a short statement telling what the case is about and the parties who are involved, the judge will question the jurors in the jury box to see if they are qualified to act as fair and impartial jurors. Anyone who is related to any of the parties, or who recently has had business with one of the lawyers, or who knows so much about the case

that he already has an opinion, will be challenged for cause and excused.

Also, under the law, each side has the right peremptorily to challenge a certain number of jurors without cause. Should you be challenged and excused for any reason, you should not be embarrassed or consider it a personal affront. The attorneys are obliged to exert their best efforts in behalf of their clients, who often instruct their attorney, for one reason or another, to challenge this or that juror. When all the challenges are used up, or the attorneys announce they are satisfied with the jury, the jurors who have been called but not excused are sworn to try the case upon the merits.

THE TRIAL

As the trial begins, the lawyer for the plaintiff (the party who brought the action) will make an opening statement telling you what his client claims and outlining the evidence that he expects to present to prove his case. The defendant's lawyer, either thereupon or after plaintiff rests, usually will make a similar statement, telling you what his client claims and the evidence he expects to produce. These statements of the lawyers are not evidence. Their purpose is to give you the framework, the points of conflict, the issues of the case. Be careful that you do not let them assume the place of evidence in your mind.

Evidence may be in the form of a written document, an object such as a gun or an implement, a photograph or an x-ray or some other tangible thing, in any of which cases it is called an exhibit. Normally, however, the greater part of the evidence consists of the sworn statements of witnesses. This evidence is called testimony. The testimony of an absent witness may have been

taken before the trial and reduced to writing. Such testimony was taken under oath, with both sides represented or having had the opportunity to be present. Such written testimony is called a deposition, and if read into evidence, should be given the same consideration as would be given the testimony of the same witness spoken from the witness stand.

Pay close attention to each witness as he testifies, not only to hear what he says, but also to note his manner and action. If you cannot hear plainly, interrupt the proceedings by raising a hand.

The trial of every lawsuit is governed by rules laid down by the Supreme Court from experience gained over many, many years, and some of these rules exclude certain evidence because it would unduly prolong the trial, or is not trustworthy or is privileged. An attorney has the right and in some cases even the duty to object to such testimony. In such cases he may ask that the jury be excused while he argues the law with the court and opposing counsel. That is done so that the jury will not improperly be influenced by matters that may arise during such argument and which are not admissible under the rules. Sometimes objectionable evidence gets into the record before the lawyer can object and before the court can rule on the matter. If such evidence, or any other evidence, is ordered stricken from the record by the court, the jury must not consider it in any way in arriving at their verdict, and you must do your utmost to prevent it influencing your verdict.

You are to decide the facts solely upon the testimony given in open court and the exhibits admitted in evidence. This is the most important part of your duty. The testimony reaches you in the presence of both parties in the case under the right to cross examination and under the sanctity of an oath. If you go outside the testimony in reaching your verdict, you violate your oath as a

Juror and debase the whole process of justice under law. If you use your vote as a juror to reward or to punish, or to show your sympathy or bias, or even to be charitable, you are violating your oath to "render a true verdict according to the law and the evidence".

You are not to consider as evidence any statement of counsel unless such statement was made as an admission or stipulation conceding the existence of a fact or facts. He is the advocate for one of the parties. His duty requires him to present the best case or defense for his client that he honestly and reasonably can. He is entitled to present his views, reasons, and conclusions, but you are not bound by them. Of course, a juror should not make up his mind finally on any issue until he has heard all sides and the instructions of the judge and has discussed the case with the other jurors after having retired for that purpose.

JURORS' CONDUCT DURING TRIAL

There are certain rules that jurors should follow throughout the trial in order that they may be fair to all sides.

These are:

Discussing the Case: During the trial the jurors should not talk about the case with each other, or with other persons, or allow other people to talk about it in your presence. If anyone should insist upon talking about the case to you, tell him that you are on the jury and must not listen to him. If he insists, then learn his name if you can and report the matter to the judge at the first opportunity.

Radio and Newspaper Accounts: In order that the mind of each juror be kept open until all the evidence, argument, and the instruction of the court have been heard, jurors ought not to listen to radio or television accounts of the trial or read articles about it which may appear in newspapers during the trial. Such articles sometimes give one biased or unbalanced opinion of the case.

Discussion: Do not talk with parties, witnesses or lawyers during a trial. Someone may believe that something unfair is going on. Section 27.1021 of Michigan Statutes Annotated provides that: "No juror shall be questioned for any verdict rendered by him, nor shall he be subject to any action, civil or criminal, on account of such verdict, except to indictment for corrupt conduct in rendering such verdict in the cases prescribed by law".

Promptness: It is most important that jurors should not be late in reporting for duty. One juror who is late wastes the time of all the other jurors, the judge, the lawyers, the witnesses, the parties and the other court employees. A lawyer, witness or juror may be fined for contempt of court for being tardy.

Inspecting the Scene: It may be that the suit involves some place or thing, such as the scene of an accident, the operation of traffic lights or the like. If it is thought necessary and proper that the jury should make an inspection, the judge will send the jury in a body with the court officer. It would be improper for any juror to make an inspection unless ordered by the court, so be careful not to do so. Conditions may have changed. An unauthorized inspection might force a retrial of the case.

DELAYS DURING THE TRIAL

During the trial there may be delays for any one of many reasons. Something may have happened to delay someone. Possibly the judge is looking up the law on some point which has suddenly arisen. The parties may be trying to work out a settlement. The lawyers may be presenting to the judge a point of law which ought not to be argued in your presence. You may not know the reason for a delay and should not guess at it. Very often a delay actually saves time and more quickly brings the case to an end. Be patient.

GUESSING AT THE JUDGE'S OPINION

While a trial is going on, jurors sometimes try to guess at what the judge thinks about it, or the way he thinks it should be decided. This is a mistake. The judge will not intentionally express an opinion on questions of fact. As a rule it is for the jury to decide what the facts are if there is any dispute about them. Even though the judge's rulings may be mostly or entirely in favor of one party, that fact does not indicate how he thinks the case should be decided. If the judge has an opinion about the facts and it is one which you ought to know, he will make it plain to you in his directions or instructions. If he does not express an opinion on the facts, it is because he does not wish you to know his opinion or because he ought not to indicate his opinion on questions of fact.

The judge has many duties in connection with a trial. He must see that the trial is conducted in an orderly manner according to prescribed rules. These rules cover the selection of the jury, the presentation of evidence, the arguments of the lawyers, the instructions to the jury, and the rendition of the verdict. He must pass on the propriety of the questions put to prospective jurors as to their qualifications, and on requests to excuse jurors. He must rule on the objections to the admission of evidence. He must see that litigants, lawyers and witnesses conduct themselves properly. He must not permit any disturbances by the public. He must see that the lawyers remain within the proper limits in questioning witnesses, in arguing to the jury, and in their attitude toward each other and the judge.

He must tell the jurors what issues of fact they must decide; by what law the rights of the litigants are controlled; and what their responsibilities as jurors are. He must see that the verdict is proper in form. He must decide any requests for rulings by lawyers. If there is no issue of fact for the jury, he must direct the jury to return the proper verdict or otherwise dispose of the case.

In cases involving disputed questions of fact, the judge ordinarily is not expected to indicate his views on the weight of evidence or the credibility of any witness, nor to express any opinion as to which side ought to win.

FINAL ARGUMENTS

After all the evidence has been given, each lawyer will make his argument to the jury, giving

the reasons why he thinks his side should win. If the testimony of witnesses is contrary to each other, he will tell you why he thinks the witnesses on his side should be believed rather than those on the other side.

You should always listen to these arguments carefully; always remembering that a lawyer is giving only his side of the case - that what he says is not evidence but is only a statement of his reasons why he believes you should decide for his client. That reasoning is likely to be unsound from your viewpoint unless it is based on the facts as you find them to be. Of course, a juror should not make up his mind on anything until he has heard all sides, received instructions from the judge, and has deliberated on the matter.

INSTRUCTIONS

Toward the close of the case the judge will give you his instructions, which will tell you what you are to decide, and will state the law which applies to the case. You should listen to these instructions very carefully and try to understand and remember them. The judge will try to give you all the instructions you need.

JURY ROOM CONDUCT AND DELIBERATIONS

Jurors should deliberate with open minds, give respectful consideration to the opinions of fellow jurors, freely exchange views or opinions concerning the case, and not be hesitant to change their minds when reason and logic so dictate.

To reach a verdict in a civil case, it is necessary for five or more jurors to agree.

FOREMAN

Your first duty upon retiring at the close of the case is to select your foreman. The foreman acts as chairman. It is his duty to see that discussion is carried on in sensible and orderly fashion, to see that the issues submitted for your decision are fully and fairly discussed, that every juror has a chance to say what he thinks upon every question. Where ballots should be taken, he will see that it is done. He will sign any written requests made of the judge. In selecting your foreman, it is well to select someone of experience and general knowledge, if possible, for a good foreman keeps the discussion in due bounds, much time is saved and better results secured.

JURY ROOM SECRECY

Until you retire to the jury room, all proceedings are public. The proceedings in the jury room are secret. The interest of the public is just as much concerned in preserving the secrecy of the jury room proceedings as it is in making public the proceedings in the open court room.

Experience has demonstrated that both publicity in your proceedings before you retire and secrecy afterwards are essential to the administration of justice. In the jury room you necessarily discuss the credibility of the witnesses. Every juror should feel free to urge any legitimate reasons for accepting or rejecting their testimony. Many such reasons would not be advanced if it was supposed that the public would know what was stated. You should feel that your relation with your fellow jurors is one of sacred confidence. Feel that they will so regard what you say. You should so regard what they say. You violate that confidence when you tell anyone any part of the proceedings of the jury room (unless

something has occurred which it is your duty under these instructions to report to the court because it indicates corruption), and in violating that confidence you betray a public trust and prove yourself unfit to be a juror. Such action discredits the court and destroys public confidence in our whole judicial system.

EXHIBITS

If any papers or other things marked as "exhibits" are sent out for your examination, care should be taken not to injure or change them in any way. No marking should be put on them.

VIEWS OF OTHERS

Quite often differences of opinion arise between jurors. When that happens each juror should say what he thinks and why he thinks it. By reasoning the matter out, it generally is possible for jurors to agree. A juror should not hesitate to change his mind if he decides that his first opinion was not right. It is wrong for one juror to try to bully another into changing his mind. It is just as wrong for a juror to refuse to listen to the arguments and opinions of others - in other words, to be bullheaded and stubborn. He should vote according to his honest judgement. If everyone is fair and reasonable, a jury can almost always agree. If a jury cannot agree within a reasonable time, it generally results in a new trial, which is a great expense to the parties and the county, so jurors are expected to be fair, reasonable, and courteous to each other, and try to reach an agreement which is a "true verdict".

THE ISSUES

In his instructions the judge will tell you the "issues" or questions you are to decide. If there is more than one question, it is usually well to consider them one at a time, after such general discussion as the jury thinks proper.

LAW OF THE CASE

The judge will tell you what the law is for each case, so that you may apply the law to the facts as you find them to be. The kind and amount of proof required will be pointed out.

YOUR VERDICT

Your verdict should show how reasonable, fair, just and sensible a jury is. Verdicts may indicate to other people who have disputes in the future whether they can wisely and safely submit their disputes to a jury for settlement or whether it is better judgement to suffer wrongs in silence, or to pay claims which are unjust, because they are afraid of jury justice. Your findings on a disputed question of fact are almost always final and will very seldom be set aside by the judge or a higher court, so in all verdicts you must be careful to be just.

The word "verdict" literally means "truth speaking." It is assumed that the verdict speaks the truth on the disputed points between persons involved in a lawsuit. It is of the highest importance that each juror exercise the utmost of skill, fairness and honesty to reach a just verdict.

CRIMINAL CASES

IN GENERAL

With some exceptions which will be pointed out, criminal and civil cases are tried under much the same rules and in much the same manner.

THE CHARGE

The charge or complaint is made in writing. If made by a grand jury it is called an indictment. If made by an attorney for the government it is called an information. If more than one offense is charged they may be combined but they are separately stated and each charge is called a count. For instance, an information may charge that the defendant (in Count I) robbed the complainant, and (in Count II) that he assaulted and beat the complainant.

THE PLEA

Sometime before the case is called, usually the defendant is arraigned. That is, he is brought before the judge and the charge is read to him. For each offense he is asked "how do you plead?" and he pleads "guilty" or "not guilty", or stands mute in which case a plea of "not guilty" is entered in his behalf.

THE PARTIES

The person charged is the *defendant*. The person who made the original complaint to the authorities - usually the victim - is called the complainant or complaining witness. The state is the prosecutor, and all crimes are prosecuted in the

name of the state, for when a crime is committed, it is the laws of the state that are broken, and the offense is against the people of the state. Sometimes the people of the state are named as plaintiff. The lawyer who represents the people is called the prosecuting attorney. He serves only within one county of the state. The attorney general serves in the entire state.

DIFFERENCES FROM CIVIL CASES

The principal differences in the manner of trial between civil cases and criminal cases are these:

1. The parties may have more peremptory challenges in a criminal case in selecting the jury.
2. There may be some differences on the part of the attorneys in the method of selecting the jury.
3. The defendant makes no written answer to the charge but announces his plea.
4. Greater proof is required to find one guilty of crime than is required to return a verdict in civil cases. Crime must be proved "beyond a reasonable doubt", while a verdict may be returned in a civil case if the evidence weighs more heavily in favor of one party than the other.
5. There are twelve jurors in a criminal case and in order to reach a verdict all jurors must agree.

There are other differences of importance and the judge will point them out to you in his instructions.

CONCLUSION

The importance of your position as a juror cannot be overstated. It might be that others could serve as well as you and with less loss and trouble, but you have been regularly drawn according to law. People might be suspicious about a substitute who might have to be especially selected to take your place if you were excused. We hope you can and will serve. We think you will find the service interesting. We believe and expect that you will do your full duty as a citizen and juror.