



Your
Role as
a Juror

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Your Role as a Juror

You have been called to serve as a juror. Nothing a citizen can do is more important. You will help decide what happens to the liberty or property of other people. You will want to do your best to assure that the jury you serve on returns a fair and impartial verdict.

This booklet is designed to answer the most frequently asked questions about how trials work and what jurors do. It does not replace the instructions the judge will give you in the courtroom. Those instructions will govern the trial. If any information in this booklet is different than the judge's instructions, follow the judge's instructions.

What is the Purpose of a Trial?

A trial is an orderly method for determining the facts of a dispute, applying the law to those facts, and deciding the case. It is a civilized society's way of settling arguments peaceably and fairly, in place of "might makes right." The goal of a trial is simply to do justice.

What is a Juror's Role in a Trial?

You've heard the phrase "a jury of one's peers." This phrase reflects that in our country, the job of determining the facts and reaching a just decision does not rest with the government or some other "higher authority." Instead, that job rests with a jury, which is a small cross-section of the people in the community—fellow citizens of the parties to the lawsuit.

During the trial, the judge will decide the technical questions of law. But you, the jury, will have the vital role of deciding all disputed questions of fact. In other words, you and your fellow jurors will consider all the evidence and, from what you see and hear during the trial, determine what the true facts of the case really are. Then *you* will decide the case by applying the law (as explained by the judge at the end of the trial) to the facts that *you* have determined to be true.

What Kinds of Cases Might I Decide as a Juror?

Some court cases are *civil* matters and some are *criminal* matters. Here's a brief description of each:

Civil Cases

A civil case is filed to resolve a dispute between people, groups, or entities. Those people, groups, or entities are called the *parties* to the lawsuit. The party who starts a civil suit is called the *plaintiff*. The party being sued is called the *defendant*.

The plaintiff starts the lawsuit by delivering to the defendant the *summons* and the *complaint*. The summons does just that: it calls the defendant before the court. The complaint also does what its name

suggests: it lists the plaintiff's complaints against the defendant.

The complaint claims that the defendant has committed some wrong against the plaintiff, such as causing bodily injury or property damage, or depriving the plaintiff of something. It also asks the court for *relief*—a remedy for the wrong. That relief might be, for example, an award of *damages* (money) to repay the plaintiff for his or her loss. Or it might be a court order requiring that the defendant do something or stop doing something.

The defendant responds to the complaint with a document called an *answer*, which responds to the plaintiff's claims.

The parties exchange these documents, called *pleadings*, long before trial.

We've described a very simple civil case. It can be more complicated. For example, there may be more than one plaintiff or defendant.

The plaintiff or the defendant may or may not be a person. For example, some or all of the parties may be business entities, like partnerships or corporations, or a city, state, or federal government. Whoever the parties are, the purpose of a civil trial is to decide the disputes between them.

Criminal Cases

A criminal case is filed to determine whether the defendant, who has been charged, has committed a *crime*.

A criminal case is brought by the government in the name of *The People* because a crime is a violation of a law—a rule of conduct—established by the people as a whole to keep order in the community. A criminal case is usually prosecuted by the county prosecuting attorney—or by the city attorney if the law involved is a city ordinance.

The charges against the defendant are listed in a document called an *information* or an *indictment*, which is filed with the court before the trial.

An information or indictment may include several *counts* (charges or accusations), but each count must be stated separately. For example, one count may charge that the defendant committed one act against the *complainant*, while a second count may charge that the defendant also committed another act against the same or a different complainant.

A criminal case goes to trial when the defendant pleads *not guilty*. The mere fact that the defendant was charged with a crime is not evidence of guilt.

These are just some of the differences between civil and criminal cases. Remember that whether you sit for a civil case or a criminal case, the judge will explain in more detail the specific rules governing the trial.

How Are Jurors Selected?

You and the others on the *jury panel* were selected at random to be called for jury duty. The first step in a trial is to select from among you the number needed to try the case: 6 or 12, depending on the type of case. More may be selected as a safety precaution in case one of the jurors cannot finish the trial.

Names will be drawn at random from the jury panel, and those who are called will take seats in the jury box. The judge will explain what the case is about. If you're among those seated in the jury box, the judge and/or attorneys will question you to see if it is appropriate for you to serve as a juror in that case. This is called the *voir dire* examination.

The questions asked during voir dire may be based on your answers to the Juror Personal History Questionnaire, which you have already filled out. Questions may deal with whether you know or have heard anything about the case; whether you, a close friend, or a relative has ever been involved in a similar situation; or whether you know any of the parties, witnesses, or attorneys. The questions may even deal with your personal life or beliefs because these could affect your attitude toward one party or the other. You may also be asked about your use of electronic devices or the Internet because in order for the parties to receive a fair trial, the only information you may use in deciding the case must come from the courtroom.

You should answer these questions fully and frankly. And if for any reason you feel that you should not serve as a juror in the case, you should say so and tell why.

Each side can excuse a certain number of jurors without giving a reason. These are called *peremptory* challenges. Each side can also ask the judge to excuse jurors *for cause*, meaning for some specific reason. If a juror is challenged for cause, the judge will decide whether there is a valid reason to excuse the juror.

If you are challenged and excused, with or without a reason, you should understand that it is no reflection on your worth as a person. In fact, you may be selected to sit on another trial.

When both sides are finished with their challenges, the jurors who have been seated will be sworn to try the case.

How Do Trials Work?

Opening Statements

Civil and criminal trials are conducted in much the same way. The plaintiff (in a civil case) or the prosecuting attorney (in a criminal case) will generally begin with a short *opening statement*. The defendant may make an opening statement immediately after that, may wait until after the plaintiff or prosecutor finishes presenting evidence, or may not

make an opening statement at all.

In the opening statements, the parties tell you their version of the facts and outline what they expect the evidence to be. Remember that the opening statements are not themselves evidence; they are only the parties' versions of the facts as they claim them to be.

Sequence of the Parties' Proofs

The plaintiff or the prosecuting attorney presents evidence first. Once finished, that side will *rest*. Then the defendant may present evidence, but he or she is not required to do so. If the defendant chooses to produce evidence, the plaintiff or prosecuting attorney may be allowed to offer *rebuttal* evidence, meaning evidence explaining or denying evidence initially produced by or a theory developed by the defendant.

Types of Evidence

Evidence is *testimony* or *exhibits* that relate to a disputed fact. Testimony means statements made under oath by a witness. An exhibit is a physical item, such as a document, an object, or a photograph. The evidence at trial may also include *stipulations* by the parties. A stipulation is when the parties agree that a fact exists.

Witness Testimony

The parties may call witnesses to testify. Witnesses are sworn to tell the truth. The side who calls a witness will ask questions designed to bring out facts that his or her side is trying to prove. This is called *direct examination*.

Cross-examination is when the opposing side questions a witness, usually after the direct examination is finished. Its purpose is to bring out information about the witness's testimony or reliability, which may affect your understanding of, or reliance on, the witness's testimony.

When cross-examination is finished, the side who called the witness may ask further questions to clarify points raised during cross-examination. This is called *redirect examination*.

Sometimes one side calls the opposing party—or someone connected with the opposing party—to testify. Such a witness is called an *adverse* (or *hostile*) witness. Even though this witness is testifying on direct examination, the side who called the witness may treat it like a cross-examination.

Sometimes a witness testifies outside the courtroom before the trial. This is called a *deposition*. The written record of that testimony is called a *deposition transcript*. Or the witness may have testified at a different trial, in which case the written record is called a *trial transcript*. Testimony recorded in a deposition or an earlier trial may be read to the jury or, if videotaped, shown to the jury.

You should pay close attention to each witness. Remember, you will

be deciding the case based on what you hear and see in the courtroom. If there is conflicting testimony, you may have to decide which witness to believe.

If you do not hear a question or an answer clearly, do not hesitate to interrupt and tell the judge that you did not hear.

Objections to Testimony

Rules of evidence govern what evidence the jury may consider and how attorneys question witnesses. Those rules are designed to ensure fairness to the parties. For instance, a witness generally may testify only about things he or she knows firsthand; in other words, witnesses must have personal knowledge of the things they testify about. A witness is generally not allowed to say what someone else said happened (*bearsay*) because the witness doesn't know firsthand what happened.

During witness questioning, one side may object to the other side's question. If the judge agrees that the question was improper, the judge will *sustain* the objection and will not permit the witness to answer. If the judge thinks the question was proper, the judge will *overrule* the objection and permit the witness to answer. A witness must answer a proper question.

A witness's answer must respond to the specific question asked. If a witness's answer goes beyond a direct answer to the question, the side asking the question may object. The judge may direct the jury to disregard any portion of the witness's answer that was improper. When this happens, you must disregard that improper statement when you decide the case.

Closing Arguments

After both sides have presented all their evidence, each side delivers a closing argument summarizing his or her side's case and the reasons why the jury should decide in his or her side's favor. If there is conflicting testimony, each side tries to show why the jury should believe his or her side's witnesses instead of the other side's witnesses.

Listen to these arguments very carefully, but remember that closing arguments are not themselves evidence. These arguments are simply each side's summary of the case.

The Judge's Instructions to the Jury

Either before or after closing arguments, the judge will give *jury instructions*. These instructions state the rules of law that apply in the case you've just heard. After the jury has deliberated and determined the facts, the jury applies the law to those facts to reach its verdict. You should not make up your mind about the outcome until you have heard all the evidence and considered it in light of the judge's instructions. Below is a more detailed discussion of this process.

How Do Juries Decide Cases?

After hearing the arguments and the jury instructions, the jury moves to the jury room to consider the case and reach its verdict. The jury may only discuss the testimony and other evidence while in the jury room (nowhere else), and the jury may only discuss the case when all jurors are present.

What's the First Step Once Inside the Jury Room?

Once inside the jury room, the first order of business is to select a foreperson. The foreperson sees that discussions are carried out in an orderly fashion, that the issues before the jury are fully and fairly discussed, and that every juror has a chance to speak out.

The foreperson conducts any ballots that are taken. The foreperson is also the juror who signs any requests that the jury makes of the judge.

Are Jury Discussions Secret?

Yes. Although a trial is public, what occurs in a jury room is private; that is, during jury discussions about the case, no one except the jurors may be present. This secrecy promotes a full and frank discussion of the case. Each juror must feel free to say what he or she thinks about the case without fear that it will be repeated outside the jury room. Without that assurance, there may not be the full and frank discussion needed for the jury to reach a fair verdict.

May Jurors Look at the Evidence?

Yes. To assist in its deliberation, the jury may ask, in writing, for exhibits that were admitted into evidence during the trial. The jury may also ask for clarification or reinstruction on an issue, or that some testimony be read (or played) back.

Any exhibit brought into the jury room should be handled with care to avoid damaging or changing it in any way.

Must the Jury's Verdict Be Unanimous?

That depends on whether the case is a civil or criminal case. The verdict in a criminal case must be unanimous. A civil case is tried by six jurors, and a verdict requires the agreement of five of them, unless the parties have agreed to something else.

What Can I Expect During Deliberations?

As stated, discussion in the jury room should be open and frank. Each juror should feel free to say what he or she thinks—and why. Each juror should listen to other jurors and should respect other jurors' right to express their opinions.

You should not hesitate to change your mind if you are persuaded that your first opinion was mistaken, but you should not change your mind unless you *are* convinced of that.

The goal of jury deliberation is agreeing on a verdict, but no juror

should try to force another to adopt his or her position. Courteous and reasonable discussion will usually make it possible to reach an agreement.

What Happens if the Jurors Can't Agree?

When a jury cannot agree on a decision, the foreperson may report to the judge that the jury is deadlocked. The judge may ask whether the jury needs any points clarified. Unless persuaded that it would be useless to do so, the judge will almost certainly ask the jury to return to the jury room for further deliberations.

It is natural that differences of opinion will arise. When they do, each juror should not only express his or her opinion but also the reasons on which it is based. By reasoning the matter out, it is often possible for all the jurors to agree.

Again, do not hesitate to re-examine your views and change your opinion if you are convinced that it is wrong. But you should not surrender your honest conviction solely because of your fellow jurors' opinions or for the mere purpose of returning a verdict.

How Does a Jury Deliver Its Verdict?

The foreperson will report to the judge when the jury has reached a verdict. Then the verdict will be read in open court. Any party may ask for a *poll* of the jury, meaning that the clerk will ask each juror whether that is his or her verdict.

The losing party may later appeal to a higher court on technical questions of law or procedure, but the jury's findings of fact are almost always considered final; they are rarely set aside by the judge or a higher court. You can understand, then, how important it is for each juror to do the very best to deliver a fair and impartial verdict.

How Must Jurors Behave During a Trial?

There are rules jurors must follow during a trial to assure fairness to all parties. The judge will review them with you at the beginning of the trial. Here is some information on the most important rules:

Can I Discuss the Case with Family Members, Friends, Strangers, Attorneys, Witnesses, or Reporters During the Trial?

No. Your decision as a juror must be based only on the evidence admitted during the trial. Therefore, you should not talk about the case during the trial with family members, friends, strangers, attorneys, witnesses, or reporters. Nor should you remain in the presence of others who are discussing the case.

If anyone tries to talk to you about the case, say that you are a juror and that you cannot discuss it. If the person persists, report it to the judge at the first opportunity. When the trial is over, you may discuss the case with anyone.

May I Read, Watch, or Listen to Media Reports About the Case?

No. You should not read, watch, or listen to news reports about the case during the trial. However careful and conscientious reporters and editors may be, news reports about the trial will inevitably be incomplete, and they could be incorrect. The parties involved in the trial have no opportunity to respond to or correct those reports.

Can I Use My Cell Phone, Laptop, or Other Electronic Devices?

You may not use a telephone, computer, cellular phone, or other electronic device with communication capabilities during the trial, except during breaks or recesses. And even during breaks and recesses, you must follow strict rules limiting how you use these devices. You may not use these devices *at any time* during the trial to obtain or disclose any of the following information:

- a. information about a party, witness, attorney, or court officer;
- b. news stories about the case; or
- c. information about any topics raised during the trial. (This includes topics raised in witness testimony or by an exhibit. It also includes information you might think would be helpful in deciding the case, whether that information is collected through your research, another juror's research, or a non-juror's research.)

You must abide by this restriction in the interest of justice and fairness to the parties.

May I Visit the Scene of the Crime, Accident, or Other Event?

No. It may seem like a good idea to go, for example, out to the corner where an incident took place to see it for yourself. But it isn't. Conditions may have changed, or there may be other factors that you don't know about. You could come away with an incomplete or mistaken impression of the situation, and because the parties don't know you were there, they have no opportunity to show you the mistake.

If the judge determines that it would be helpful for the jury to inspect the scene, the judge will send you there as a group, under the court's supervision. Any independent visit by jurors could cause a *mistrial*, which means that the trial is stopped and the case will have to be retried before a different jury.

If Something Confuses Me During the Trial, May I Ask the Judge for Help?

Yes. If you do not understand something, or if you have a question about any of the judge's instructions, you are free to ask the judge for further explanation. In fact, it's your duty to ask.

Thank You for Serving

Jurors like you make our judicial system work. We cannot overstate how valuable your jury service is to the community. When you've completed your jury service, you can go home with a sense of an important job well done.

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