

Trial Jurors



INFORMATION



You have been selected according to law to act as an officer of this court by serving as a juror. This pamphlet is to aid you in performing this important duty. You are urged to read it with great care.



"Jury service is one of the highest duties of citizenship, for by it the citizen participates in the administration of justice between man and man and between government and the individual."

Harlan F. Stone
Late Chief Justice
of the United States

INFORMATION FOR JURORS

This Handbook is published by The Missouri Bar under the authority of Missouri Supreme Court Rule 69.02.

Purpose Of This Handbook

The purpose of this Handbook is to explain the manner in which lawsuits are tried and the part which you, as a juror, play in seeing that justice is done. As an American citizen, you enjoy the privileges and protection of your government. In exchange for these freedoms, we each have certain responsibilities. Jury service is one of them.

It is an honor to serve as a juror. It is also a very interesting experience. As a juror, you will gain first-hand knowledge of the workings of the judicial branch of government. Under our system of justice, the jury determines the facts of the case, something that a judge most often does not get the opportunity to do. Jury service is an important part of not only our judicial system, but of our entire system of government. You should not overlook nor seek to avoid this opportunity.

Everyone is entitled to a fair trial. All parties are entitled to be represented by an attorney, if they want one.

Attorneys are required be advocates for the interests of their clients, so long as they do not mislead the judge or the jury. The juror's role is to keep an open mind, listen to all of the facts, and to render a decision in accordance with the jury instructions. If this is done, litigants, whether they win or lose, should accept the result and end their conflict.

to Serve as a juror

is an honor.

STEPS OF A JURY TRIAL

A group of citizens qualified to serve as jurors is summoned. This entire group is called the jury panel. The first step in a trial is to select from the panel the number of jurors required to try the case. This process is called voir dire, which means to tell the truth. After a short statement is given describing the case and the parties involved, the lawyers or the judge will question you to see if you are qualified to act as a fair and impartial juror. Some of these questions may be about your personal life and beliefs. These questions should be answered fairly, openly, candidly and without embarrassment. If there is any reason why you feel you should not serve, you should make it known at this time.

There are certain legal grounds for which a juror may be challenged for cause and excused. Some of these grounds are established by state statute, such as for relatives by blood or marriage to the parties in the lawsuit. In addition, each side will excuse a certain number of jurors without giving any reason. These are called peremptory challenges. The parties may suspect that a prospective juror has had some experience, or that there is reason which, although not a legal ground of challenge for cause, may yet be justification for excusing a juror.

When all the challenges have been used, the jurors who have been called and not excused are sworn to try the case upon its merits. If you are excused or stricken from jury service as a result of the voir dire process, you should not consider this as a reflection on your integrity or intelligence. None was intended by the judge, the lawyers or the parties in the lawsuit.

Note: If you have a hearing or sight problem or if you have a need for a reasonable accommodation because of a condition covered by the Americans with Disabilities Act (ADA), you should advise the judge so that reasonable accommodations can be made.

Oaths of A Juror

After the jurors are selected, they are required to take a solemn oath (or to affirm) that they will "well and truly try the matters in issue and a true verdict render according to the evidence and the law." When jurors take this oath, they become a judge of all questions of fact, and are duty bound to follow instructions on the law and to act fairly and impartially in considering them.

Opening Statements

The lawyers may make an opening statement explaining the position of their clients. These statements of the lawyers are not evidence, but only explanations of what each side claims and expects to prove. The claims must be proved by evidence.

Presentation of Evidence

Evidence may be something in writing, or it may be an article such as a document, an object, a photo or the like. Evidence may also be the statement of a person. If a witness is absent, written testimony, or a video recording of testimony from that witness, may have been taken before trial. This testimony, called a

deposition, is taken under oath and after both sides have been given a chance to be present. If a witness has already testified under oath, this testimony has been taken down in shorthand and typed. This testimony is called a transcript.



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Examining The Witnesses

Unless the case can be proved by writings, the parties will call witnesses to testify. The witnesses swear (or affirm) to tell the truth. A lawyer who has called a witness proceeds with direct examination, asking questions to bring out facts. In any important matter, the lawyer is not allowed to "lead" the witness by asking questions in a form that would suggest the answer. The question asked must appear to have some bearing on the case, and the witness must be shown to know what he or she is talking about.

If these and other rules are not followed, the other lawyer may properly object and, if for any reason the judge thinks the question is improper, the judge will sustain the objection, which means that the question cannot be answered. If the question is proper, the judge will overrule the objection, and the answer is given.

When the direct examination is concluded, the lawyer for the other side may cross-examine the witness. The cross-examining lawyer may ask "leading" questions. At the conclusion of the cross-examination, the first lawyer may ask questions on redirect examination to clear up points developed on cross-examination.

To keep out improper information, witnesses are allowed to answer only the questions asked. Both sides may ask questions to find out all a witness knows that is relevant to the case. If the witness makes a statement that is not an answer to a question, it may be stricken out. The jury must disregard that answer entirely.

Hearing and Seeing Witnesses

Each juror should pay close attention to the witness who is testifying, both to hear what the witness says and to watch the manner and actions of the witness. If a juror cannot hear or see clearly, he or she should not hesitate to interrupt the proceedings and advise the judge of that fact.

Taking Notes

The judge will decide whether the jury is allowed to take notes or not. No notes may be taken unless allowed by the judge. If the judge allows note taking, you are not required to take notes.

Resting the Case

When all evidence for a party has been submitted, the lawyer indicates this by "resting" the case.

Directed Verdict

At the close of either party's case, or after all the evidence in the case has been presented, one or both sides may ask the court for a directed verdict. If the undisputed facts show that either one of the parties is entitled to judgment as a matter of law, the judge directs the verdict, because there is nothing for the jury to decide. In such a case, the judge alone is responsible and the jury must do as the judge directs. In most cases, the judge refuses to grant the motion. That does not mean that the judge thinks the other side is entitled to a verdict in its favor. It only means that the jury ought to consider the matter.



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Arguments of Counsel

After all the evidence has been presented, lawyers may make their arguments to the jury, giving the reasons why their clients should win. If the testimony has been contradictory, the lawyers will tell the jury why their clients' witnesses should be believed rather than those for the other side.

Jury Instructions on the Law

At the start of the case, the judge will read general instructions on the way the case will proceed and on the proper conduct of jurors. Toward the close of the case, the judge will read instructions stating the law that applies to that case.

You should listen to all of these instructions very carefully. They are the law of the case. These instructions will be given to you in writing to take into the jury room for deliberation.

Differences Between Civil and Criminal Trials

The steps described above will remain largely the same in any trial. However, some principal differences between civil and criminal cases do exist:

1. More proof is required to find a person guilty of a crime in a criminal case than is required to return a verdict for a plaintiff in a civil case. The crime must be proved "beyond a reasonable doubt." In order for a plaintiff to win a civil case, it is only necessary to "cause you to believe" the propositions necessary to support the plaintiff's claim are more likely true than not true.
2. In a civil case, nine or more jurors may return a verdict, whereas in a criminal case the verdict must be unanimous.



3. In a civil suit, the party filing a lawsuit is called a plaintiff. The party against whom the lawsuit is filed is called a defendant. The plaintiff's claim and demand are stated in a petition. The defendant's response is stated in an answer. If the defendant makes a claim against the plaintiff, such a claim is called counterclaim. If a counterclaim is made, the plaintiff's answer is called a reply. These papers, called pleadings, will have been exchanged between the parties some time before the actual trial begins. If one party has more than one claim against the other party, each claim may be stated as a cause of action.
4. In a criminal case, the person charged with a crime is the defendant. The state is the prosecutor, and all crimes are prosecuted in the name of the State of Missouri. This is because 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. The lawyer who represents the state is called the prosecuting attorney or the circuit attorney. The charge or complaint in a criminal case is made in writing. If made by a grand jury, the charge or complaint is called an indictment. If made by the prosecuting attorney, it is called an information. If more than one offense is charged, the charges may be combined but they are separately stated and each charge is called a count. For instance, an information may charge that the defendant (count 1) robbed the prosecuting witness, and (count 2) that the defendant assaulted and beat the prosecuting witness.

Jurors' Conduct During The Trial

There are certain rules that a juror should follow throughout the trial in order to be fair to all sides.

These are:

Discussing the Case: During the trial, you should not talk about the case with other jurors, or with other persons, or allow other people to talk about the case in your presence. A person who insists upon talking about the case to you should be told that you, as a member of the jury, cannot discuss the case. If the person persists, you should attempt to learn that person's name and then should report the matter to the judge at the first opportunity.

Radio, Television and Newspaper Accounts: To ensure that the mind of each juror is kept open until all the evidence, arguments and the instructions of the court have been heard, you should not listen to radio or watch television reports of the trial or read articles about it that may appear in newspapers during the trial. Such reports or articles sometimes give a biased or unbalanced account of the case.

Talking with Parties or Lawyers: You should not talk with parties, witnesses or lawyers, or anyone else having a relationship with any of them, during a trial. Someone may believe that something unfair is going on, even though the discussion may have nothing to do with the trial.

Promptness: It is most important that you 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 other court employees. A lawyer, witness or juror may be fined for contempt of court for being tardy.

Delays During Trial

During the trial, there may be delays for any one of many reasons. Something may have happened to delay someone. Perhaps the judge is looking up the law on some point which has suddenly come up. The lawyers may present a point of law to the judge which ought not to be argued in the presence of the jury. You may not know the reason for a delay and should not guess at it. Very often a delay actually saves time and brings the case to a quicker conclusion. You should be patient during these delays.

Conference Out of Hearing of the Jury

There are occasions during a trial when the judge may call the lawyers to the bench, or the lawyers may approach the bench, to discuss a point of the case out of the hearing of the jury. At such times, matters of law or procedure are being discussed. Because such discussions are between the judge and lawyers only, having the lawyers approach the bench avoids the inconvenience of sending the jury from the courtroom.

Because the jury decides a case on factual issues alone, it has become policy to discuss law and procedure out of the jury's hearing to avoid any chance of confusion to the jurors. This practice should not concern you and you should not attempt to draw any conclusions as to what is being said out of your hearing.



CONDUCT & DELIBERATIONS WITHIN THE JURY ROOM

Foreperson

Your first duty upon retiring at the conclusion of the case is to select a foreperson. The foreperson acts as the chairperson of the jury and is responsible to see that discussion is carried on in a sensible and orderly fashion, to see that the issues submitted for the jury's decision are fully and fairly discussed, and to guarantee that every juror has a chance to say what he or she thinks upon every question. When votes should be taken, the foreperson will see that this is done.

Secrecy

Discussion in the jury room should never be so loud that it can be heard outside the room. Until a verdict is announced, no outsider should ever know what goes on in the jury room.

Exhibits

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



Views of Others

Quite often, differences of opinion arise between jurors. When this happens, all jurors should give their opinion and the reason for their opinion. By reasoning the matter out, jurors will generally reach an agreement. You should not hesitate to change your mind if you decide that your first opinion was not right. On the other hand, you should not change your opinion unless your reason and judgment tell you that your original opinion was in error.

It is wrong for one juror to try to bully other jurors into changing their minds. It is just as wrong for a juror to refuse to listen to the arguments and opinions of others.

When you have listened to the opinions of all the other jurors, have considered the reasons for their opinions, and have reasoned the matter out and formed your own opinion, you should stick to that opinion unless you are persuaded to change your mind. You should vote according to your honest judgment, using the instructions the judge gave you.

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 to you.

Jurors should never
vote against
their own **conscience.**

Your Verdict

Your verdict will show how reasonable, fair, just and sensible the jury system is. Verdicts may indicate to other people who have disputes in the future that they can wisely and safely submit their disputes to a jury for settlement.

After The Verdict Is Announced

Someone may ask you about the verdict after it is delivered. You have no legal obligation to discuss the verdict or your deliberations. On the other hand, the general public, the lawyers and the parties are interested in what evidence you considered significant.

You should consider that, as with any form of one-way communication, the lawyers' presentation of their case results in very little feedback. They may seek your post-trial comments in an earnest attempt to improve their skills as advocates.

If you feel that you have been improperly approached, you should make the communication known to an officer of the court. However, do not be alarmed if a lawyer or a reporter asks questions about the verdict and your comments about the evidence and the conduct of the trial.

Conclusion

The importance of jurors cannot be overstated. It might be that others could serve as well as you and with less loss and trouble, but you have been selected according to law. Jury service should prove interesting, and you are expected to do your full duty as a citizen and a juror.