JUROR'S MANUAL

"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 constitutions."

Letter to Thomas Paine (1779)

~ Thomas Jefferson

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OTTAWA COUNTY JUDGES

Circuit Court Judges:

**Jon A. Van Allsburg, Chief Judge*
**Kent D. Engle*
**Paul F. Kraus*
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West Olive, MI 49460

Karen J. Miedema
Jon H. Hulsing
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Probate Court Judge:

**Derek W. Dalman*
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Craig E. Bunce
414 Washington Ave.
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Denotes Family Court Judges

JUROR'S MANUAL

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

If you have never been a juror before, you may have questions about what happens in the courtroom and about your role as a juror.

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.

YOUR ROLE AS A JUROR

You've heard the term "jury of one's peers". In our country, the job of determining the facts and reaching a just decision rests not with "the government" or any other "higher authority", but with a jury, which is a small cross-section of the people in the community; fellow citizens of the parties to the lawsuit.

Your part as a juror is vital. You and your fellow jurors will decide all disputed questions of fact. The Judge who presides over the trial will decide the questions of law, but you, the jury, will have to consider all the evidence and, from what you see and hear during the trial, determine what the facts of the case really are.

Then you will apply the law (as explained by the Judge at the end of the trial) to the facts you have determined and decide the case.

In other words, you, the jury -- not the Judge, not "the system" -- will decide the case. Justice depends upon you.

CIVIL AND CRIMINAL CASES

You know that some lawsuits are civil matters and some are criminal matters. In a civil case, the Court is asked to decide a dispute between private individuals or groups. In a criminal case, the Court must determine whether someone has violated a law.

The party who starts a civil suit is called the Plaintiff. The party against whom a suit is brought is called the Defendant. The lawsuit is started by delivery to the Defendant (called Service) of two documents: 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. It will claim that the Defendant has committed some wrong against the Plaintiff, such as causing bodily injury or property damage or depriving the Plaintiff of something.

The Complaint will also ask the Court for relief (a remedy for the wrong), such as an award of damages (money) to repay the Plaintiff for his or her loss or an order to the Defendant to 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 and explains why the Defendant believes the claim is untrue.

All of these documents, called Pleadings, were exchanged between the parties before the trial begins.

We've described a very simple civil case. It can be more complicated. There may be more than one Plaintiff or Defendant. The Defendant may also be asking for damages from the Plaintiff (a Counter-Claim) or from another Defendant (a Cross-Claim) or from someone else not originally involved but later added to the case (a Third Party Defendant).

The Plaintiff or Defendant may not be individuals; they may instead be partnerships or corporations. A government -- city, state, federal -- may be a Plaintiff or Defendant. Whoever the parties are, the purpose of a civil trial is to decide disputes between them.

The purpose of a criminal trial is to determine whether or not the Defendant 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 the 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 representing the People of the state, or by the city attorney if the law involved is a city ordinance.

The charges against the Defendant are listed in a document filed before the trial called an Information if the charges are filed by the prosecuting attorney, or an Indictment if the charges are made by a grand jury. Most criminal cases are filed by the prosecuting attorney.

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 robbed someone (the Complaint), while a second Count may charge that the Defendant also assaulted him.

After the Information is filed but before the trial, the Defendant is arraigned (brought before a Judge to be informed of the charges) at which time the Defendant is asked to plead Guilty or Not Guilty to each Count separately.

There are other differences between civil and criminal cases; too many to be discussed in this booklet. The Judge will explain specific rules governing the trial in which you will participate as a juror. If you do not understand something or if you have any questions about any of the Judge's instructions, the Foreperson should submit the question to the Judge in writing.

JURY SELECTION

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 -- six or twelve depending on the type of case.

Names are drawn at random from the jury panel, and those who are called take seats in the jury box. The judge will make a short statement telling what the case is about. Then the attorneys for both sides, and perhaps the judge, will question each of you to see whether there is any reason why you cannot be a fair and impartial juror in that case. This is called the Voir Dire examination.

The questions may be based on your answers to the Juror Personal History Questionnaire you have already filled out. They may deal with your personal life and your beliefs because these could affect your attitude toward one side or the other.

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.

A juror who is related to any of the parties, or who has unfinished business with any of the lawyers, or who knows or has heard so much about the case that he or she has already formed an opinion about it, may be challenged for cause and be excused. MCR 2.511 (D).

In addition, each side can excuse a certain number of jurors without giving reason. These are called peremptory challenges.

If you are challenged and excused, with or without reason, you should understand that it's nothing personal and has no reflection on you. You may, in fact, be selected later to sit on another trial.

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

CONDUCT OF THE TRIAL

Civil and criminal trials are conducted in much the same way. The attorney for the Plaintiff (in a civil case) or the prosecuting attorney (in a criminal case) will generally begin with a short opening statement. The Defendant's lawyer may then make a similar opening statement or may wait until after the Plaintiff's case has been fully presented.

The opening statements tell you what each party claims the facts are, and they outline the evidence by which the parties expect to prove what they say are the facts. Remember, the opening statements are not themselves evidence; they are only the parties' respective versions of the facts which must be proved by evidence.

Evidence is testimony or things (exhibits) which relate to a fact in dispute. Testimony is statements made by a witness under oath at the trial. An exhibit is a physical article, such as a document, a weapon, a photograph, introduced at the trial to be considered by the jury in determining the facts of the case.

Sometimes the testimony of a witness will have been given outside the courtroom and is read to the jury. The record of that testimony is called a deposition. Or the testimony may have been given at a different trial, in which case the written record is called a transcript. Sometimes videotaped depositions are presented.

WITNESSES

Parties to a lawsuit are entitled to call witnesses to testify. Witnesses are sworn to tell the truth.

The attorney who calls a witness will ask questions designed to bring out answers which support the facts his or her side is trying to prove. This is called direct examination.

Sometimes the attorney may call the opposing party, or someone connected with the other side. Such a witness is called an adverse witness. The attorney is permitted to cross-examine an adverse witness just as if that witness had been called by the other side.

Cross-examination is questioning of a witness by the attorney for the other side after direct examination is completed. Its purpose is to bring out additional information about the witness's testimony or reliability, which may affect the jurors' impressions or understanding of or reliance on what the witness testified to on direct examination.

When cross-examination is completed, the attorney who called the witness may ask further questions to clarify points raised in cross-examination. This is called redirect examination.

Questioning of witnesses is conducted under rules designed to insure fairness to the parties. For instance, a witness may testify about things he or she knows firsthand. The witness is generally not permitted to say what someone else said happened when that person is not present for cross-examination (the "hearsay" rule) because the witness doesn't know firsthand what happened, only what he or she was told.

During the examination of a witness, an attorney may object if the attorney for the other side asks a question he or she thinks is improper under the rules. If the Judge agrees that the question was improper, the Judge will sustain the objection and the witness is not permitted to answer. If the Judge considers the question a proper one, her or she will overrule the objection and permit the witness to answer.

A witness must answer a proper question and is permitted to answer that question only. If the witness goes beyond a direct answer to the question, the attorney for the other side may object. The Judge may direct the jury to disregard an improper statement by the witness. When this happens, you must exclude that particular testimony from your consideration of the case. You should pay close attention to each witness. Remember, you will be deciding the case on the basis of what you hear and see in the courtroom. If there is conflict between the testimony of different witnesses, you will have to decide which to believe.

If at any time you do not hear a question or an answer clearly, do not hesitate to interrupt and tell the Judge that you cannot hear.

ORDER OF PRESENTATION

When the Plaintiff's attorney (in a civil case) or the prosecuting attorney (in a criminal case) has finished presenting evidence, that side will rest. Then it is the turn of the Defendant's attorney to present witnesses and evidence. After the defense has rested, the Plaintiff's attorney or prosecuting attorney may attempt to explain or deny the Defendant's evidence by offering witnesses and evidence in rebuttal.

ARGUMENTS

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

Listen to these arguments very carefully, but remember that closing arguments are not themselves evidence. The lawyers were not present and did not see the facts firsthand. They are simply each party's summary of the case. As a juror, you should not make up your mind about the outcome until you have heard all of the evidence and considered it in light of the Judge's instructions to the jury.

JURY INSTRUCTIONS

After the closing arguments, the Judge will give the Jury Instructions, which are statements of the rules of law which apply in the case you have just heard. After the jury has deliberated and determined the facts in the case, it must apply these rules of law to those facts in order to reach its verdict.

JURY DELIBERATION

After hearing the Jury Instructions, the jury moves to the jury room to consider the case and reach its verdict. All of the jury's discussion of testimony and evidence takes place in the jury room, nowhere else.

The first item of business is to elect a Foreperson. The Foreperson acts as chairman of the jury and sees that discussions are carried on in an orderly fashion, that 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 and is the one who signs any requests the jury may make of the Judge.

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

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 respect the rights of others to their opinions and be willing to listen to them.

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 deliberations is agreement 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 agreement.

In the rare instance where a jury cannot reach agreement, the Foreperson may report to the Judge that the jury needs any points clarified, but in any event will almost certainly ask the jury to return to the jury room and keep trying.

THE VERDICT

The Foreperson will report to the Bailiff when the jury has arrived at a verdict, which will then be read in open court. Any party may ask for a poll of the jury, meaning that the clerk will ask each juror individually whether that is his or her verdict.

DURING THE TRIAL

There are some commonsense rules jurors must follow to assure fairness to all parties. The Judge will review them with you before testimony begins. Here are some of the more important ones:

DISCUSSING THE CASE

Your decision as a juror must be based only on what you have seen or heard in the courtroom and the deliberations which take place in the jury room. Relying on any information from other sources could be unfair to one party or another because there will be no chance to demonstrate why the information may be unreliable.

Accordingly, you should not talk about the case during the trial with anyone -- family members, friends, strangers, attorneys, witnesses, even other jurors -- nor should you remain in the presence of others who are discussing it.

If anyone tries to talk to you about the case, say that you are a juror and cannot discuss it. If the person persists, report it to the Judge at your first opportunity.

COMPUTER/NEWSPAPER/RADIO/TELEVISON REPORTS

For the same reasons, you should not read, watch, or listen to news reports about 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.

VISITING THE SCENE

Don't do it. It may seem like a good idea, for instance, to go out to the corner where an accident took place and see 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 lawyers don't know you were there, they have no opportunity to show you the mistake.

If either party thinks 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 cut off and the case will have to be retried.

As stated above, the purpose of a trial is to do justice by deciding a dispute between parties fairly and impartially. The value to the community of your service as a juror in that effort cannot be overstated. You can go home when your period of duty is over with a sense of an important job well done.

SIX MAIN STEPS OF A CIVIL/CRIMINAL JURY TRIAL

SELECTION OF JURY

a. Voir Dire Examination (questions to the jurors)
b. Challenges (cause or peremptory)
c. Completion of Jury
d. Oath

THE TRIAL

a. Opening Statements by Counsel (not evidence)
b. Evidence
    1. Testimony of witnesses
    2. Exhibits
    3. Depositions
c. Closing Arguments by Counsel (not evidence)

JUDGE'S ADMONITIONS TO THE JURORS DURING THE TRIAL

a. Admonitions to jurors not to discuss the case among themselves or with anyone else until the case is finally submitted to the jury for a verdict.

JUDGE'S INSTRUCTIONS ON THE LAW

a. Instructions to jurors on the law after completion of testimony and arguments.

DELIBERATIONS BY THE JURY

a. Select Foreperson
b. Weigh Evidence
    1. Civil case: preponderance of the evidence
    2. Criminal case: beyond a reasonable doubt

THE VERDICT

a. Civil case – 5 or 6 Jurors
b. Criminal case – unanimous