



COUNTY OF MONROE
STATE OF MICHIGAN

HANDBOOK FOR TRIAL JURORS

To the Juror:

You have been selected according to law to act as an officer of this Court by serving as a juror. This booklet is designed to give you some basic information concerning case procedures. Please read all of it before the time at which you are scheduled to report for jury duty.

Respectfully,

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JUDGE, 38TH JUDICIAL CIRCUIT

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JUDGE, 38TH JUDICIAL CIRCUIT

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JUDGE, 38TH JUDICIAL CIRCUIT

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I

INTRODUCTION

In a country where the life, liberty and property of each of us should be 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, that the public safety and welfare be protected on the one hand, and private rights and liberties be safeguarded 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.

Suppose Mr. or Mrs. Jones and Mr. or Mrs. Smith have a lawsuit. They may be strangers to you, and in one sense you do not care who wins. But as a citizen, one of the *people*, you do care and it is *very important* to you and all the people that there should be a way by which disputes between people can be settled peaceably and justly, because some day you may become involved in a dispute and you would want that settled peaceably and justly.

John Doe or Jane Doe may be accused on a crime. He/she may be a stranger to you, and you may never have heard of the offense with which he/she 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 also happen to you.

Many citizens are never called to serve as a juror. You may never be called again. If you serve, you can-

not be called again for a long time.

To serve as a juror is an honor, and 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.

The oath taken by a judge and juror requires each of them to accept and apply the law as it is. Neither one is free to disregard the law because he/she 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 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.

The people and lawyers involved in a lawsuit have spent considerable time preparing for the trial. Each of them will bring in evidence and arguments to prove his/her side of the case. Jurors (who decide what the facts are) must be patient and careful not to form conclusions until they have heard all of the evidence and arguments, and have received the instructions of the judge.

During the trial the judge decides all disputes about the law and the rules for trying the case. At the close, he/she will instruct you on the law and tell you the principal questions you are to decide. The case is then turned over to you. The power and the responsibility moves from the bench to the jury room. You must decide what the facts are and what testimony you 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. All the power given by the people is in your hands. Yours the duty and yours the responsibility! Your verdict is generally final.

II KINDS OF CASES

There are two kinds of cases: civil and criminal. In a civil case generally, but not always, you will be asked to award money to a party to reimburse for *damages* which he/she sustained through taking or destruction of property or by way of injury or death. In a criminal case you will be asked to determine whether a person is guilty of having violated a law (*also called a statute*) which provides a certain type of penalty for its violation. Some of the differences between these two kinds of cases will be noted in this booklet. However, the manner of selection of the jury for each is basically the same.

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

1. The parties have more peremptory challenges in some criminal cases in selecting the jury.
2. In a criminal case the defendant makes no written answer to the charge but announces his plea verbally.
3. More proof is required to find one guilty of crime than is required to return a verdict in many civil cases. Crime must be proved "*beyond all reasonable doubt*," while a verdict may be returned for a claimant in a civil case if the evidence weighs more heavily in his favor.

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

III CIVIL CASES

A person starting a lawsuit is known as the plaintiff. A person against whom suit is brought is called a *defendant*. Suit is commenced by the filing of a *complaint*, and the giving of a *summons* to the defendant telling him that suit has been started.

The plaintiff's claim and demand are stated in a *complaint*. The defendant's answer is called an *answer*. The plaintiff may file a *reply* to the defendant's answer.

If a defendant makes claim against the plaintiff, he/she may file a *crossclaim* or a *counterclaim*.

If a third party enters the case and makes a claim against another party, his/her claim is called a *third party complaint*.

These papers, called the *pleadings*, have been exchanged between the parties sometime before the trial commences.

Each claim of one party against another is called a *cause of action*.

Before the case reaches the trial stage, a *pre-trial conference* is held, at which time the case is readied for trial.

IV CRIMINAL CASES

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*. In most of the cases you hear, the charges

will be by way of 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, (count 1) robbed the complainant, and (count 2) that he/she assaulted and beat the complainant.

The person charged is the *defendant*. The person who made the original complaint to the authorities — *usually the victim* — is called the *complainant*, *complaining witness*, or *prosecuting witness*. The state is the prosecutor, and all crimes are prosecuted in the name of the state. The people of the state are named as plaintiff. The lawyer who represents the state is called the *prosecuting attorney*.

Some time before the case is called, the defendant has been *arraigned*. That is, he/she has been brought before the judge and the charge is read to him/her. For each offense he/she has been asked “*How do you plead?*” and in a case requiring trial, he/she has pleaded “*not guilty*”.

V JURY TRIAL (CIVIL AND CRIMINAL)

A. SELECTION OF JURY

A group of citizens qualified to serve as jurors has been 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 — usually 12. More than 12 may be selected when the case is scheduled to last a lengthy period, or when other good reasons require. Names are drawn from the jurymen present until the *jury box* is filled. Those called are required to answer truthfully all questions asked of

them touching 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 (sometimes referred to as “The Court”), and if he/she permits, the lawyers, will question the jurors in the box to see if they are qualified to act as fair and impartial jurors. This is called the *voir dire* examination.

If a juror is related within a certain degree to any of the lawyers or parties, and for certain other reasons, such as the juror’s having already formed an opinion about what the outcome of the case should be, a juror will be *challenged for cause* and excused.

In addition, each side has a right to excuse a certain number of jurors without giving any reason. These are called *peremptory challenges*. The lawyer may suspect that a prospective juror has had some experience such as a similar lawsuit, or has some feeling about a party or lawyer, or has some social or business connection with one party, or that there is some other reason which, although not a legal ground of challenge for cause may yet be good reason for excusing the juror. In order to obtain information which may be the basis of a challenge, the judge or the lawyers, or both, may ask you questions about your personal life and beliefs. You should answer these questions fairly, and if there is any reason why you feel that you should not serve as a juror, you should make it known.

When both sides are satisfied with the jury, the jurors who have been called but not excused are sworn to try the case upon the merits.

Each juror is required to take solemn oath (or to affirm). When you take this oath you become a judge

of all questions of fact, and are in duty bound to act fairly and impartially. You are no longer free to act upon your feelings or emotions, but are bound to use your reason and judgment.

B. OPENING STATEMENTS

The plaintiff's lawyer may then make a short *opening statement* telling you what his client, the plaintiff, claims and will outline to you the evidence by which he/she expects to prove this claim. The defendant's lawyer, before he/she opens his/her side of the case, will make a similar statement as to what his/her client claims and the evidence he/she expects to produce. If there are more than two sides to the case, the attorney for the other parties may also make such a statement. You should remember that these statements of the lawyers are not evidence, but only explanations of what each side claims, and that claims must be proved by evidence. The conflicting claims constitute the *issues*.

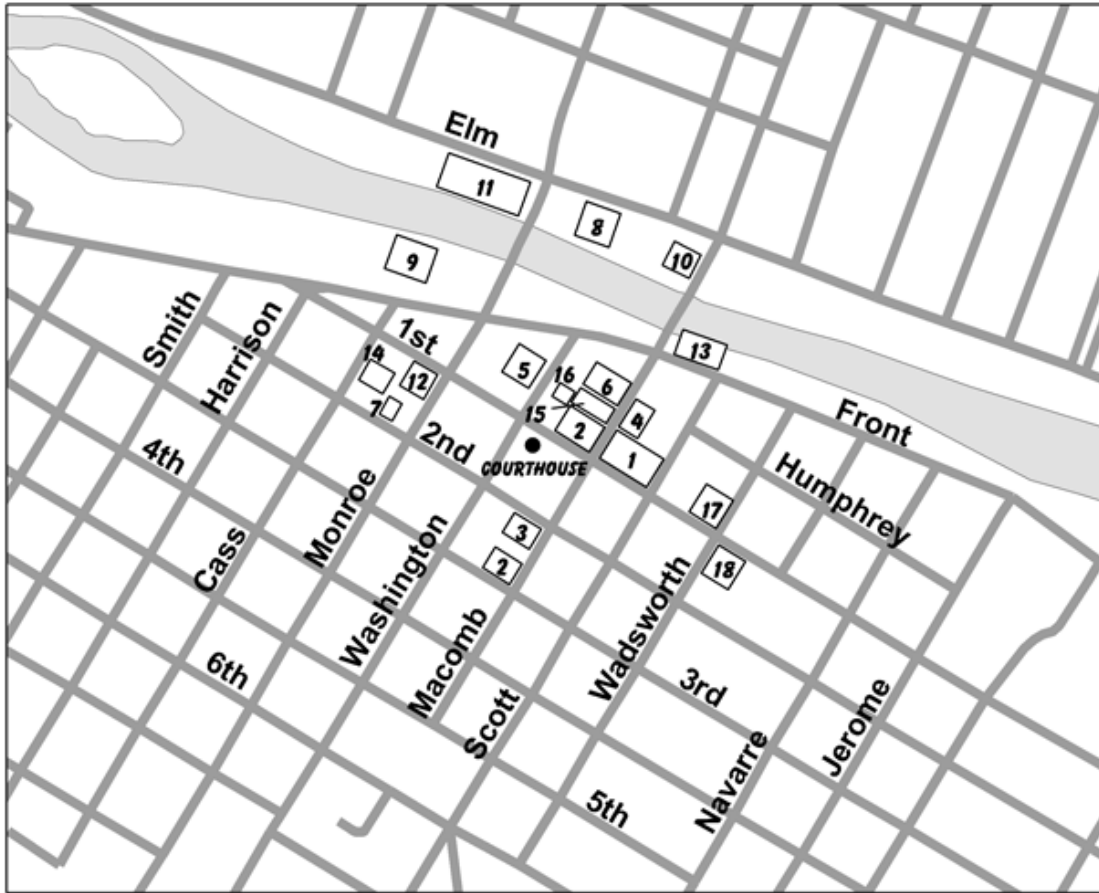
C. WITNESSES AND EVIDENCE

Anything which tends to prove or disprove a claim about the facts is called *evidence*. Evidence may be something in writing, or it may be an article such as a gun, a photo or the like, in which case it is called an *exhibit*. Evidence may also be the statement of a person under oath, in which case it is called *testimony*. If a witness is absent, his/her testimony may have been taken before trial and reduced to writing. Such testimony is taken under oath and both sides have been given a chance to be present. If such written testimony is received in evidence because the witness is not present, it too is entitled to the same weight as though given in your presence.

D. EXAMINATION OF WITNESSES

Unless his/her case can be proven by writings, the

PARKING AVAILABILITY



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| <ol style="list-style-type: none"> 1. County Employee Parking Lot (Seniority Employees Only) 2. County Employee Parking Lot (Seniority Employees Only) 3. County Management Parking Lot (Management Employees Only) 4. Treasurer's, Register of Deeds and Equalization (Employees Only) 5. Privately Owned Lot (Hourly paid parking) 6. Monroe Bank & Trust Lot (Hourly paid parking) 7. Museum Parking Lot (Employees Only) 8. Public Lot (East Elm Avenue) 9. Public Lot (Finzel Lauer) | <ol style="list-style-type: none"> 10. Public Lot (North Macomb Street) 11. Public Lot (St. Mary's) 12. Public Lot - Metered 13. Public Lot - Metered (by Maedel Camera) 14. Public Lot - Metered (Johnson - Phinney) 15. Public Lot - Metered (South Macomb Street) 16. Public Lot - Metered
Stoner Kemmerling Building Lot (Circuit Court Probation Employees) 17. Missionary Baptist Church Lot 18. Missionary Baptist Church Lot |
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plaintiff will call witnesses to testify. The witnesses are sworn (or affirm) to tell the truth, the whole truth and nothing but the truth. If the lawyer has called his/her client or some disinterested person, the person called is "*his/her witness*," but if he/she has called the opposite party, the person called is referred to as an *adverse witness*.

A lawyer who has called his/her own witness proceeds with his/her *direct examination*. In so doing, the lawyer asks questions to bring out the facts he/she wishes to show. In any important matter, depending on the circumstances, he/she is not allowed to *lead* the witness by asking questions in such form as to suggest the answer. The question asked must appear to have some bearing on the case, and the witness shown to know what he/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 improper, he/she rules that the *objection is sustained*, which means that the question cannot be answered. If the question is proper, the *objection is overruled*, and the answer is given.

When the direct examination is finished, the first lawyer may ask questions on *redirect examination* regarding points developed on cross examination.

To keep out improper matter, witnesses are allowed only to answer the questions asked. Both sides may ask questions and find out all he/she knows that is proper. If the witness makes a statement which is not an answer to a question, it may be *stricken*, that is, you must disregard it entirely if the judge rules that it must be stricken.

Each juror should pay close attention to the witness who is testifying, both to hear what the witness says and to watch his/her manner and actions. If you

cannot hear plainly, do not hesitate to interrupt and let the judge know that you cannot hear.

E. RESTING THE CASE

When the plaintiff has put in all his evidence, he/she indicates that he/she is through by “*resting*” his/her case.

After the plaintiff rests his/her case the defendant calls his/her witnesses and offers his/her evidence. When the defendant is through, he/she also “*rests*”.

F. DEFENSE AND REBUTTAL

After the defendant has rested his/her case the plaintiff may offer evidence in *rebuttal* to explain or deny the defendant’s evidence. Thereafter the defendant may offer evidence in *surrebuttal*.

G. MOTIONS

When a lawyer requests a court to take action, it is usually done by making a motion. Thus, he/she may make a *motion to strike* certain testimony because it was not properly received. If the judge orders that testimony stricken the jury should disregard the stricken testimony.

H. DIRECTED VERDICT

At the close of the plaintiff’s case, or at the close of the defendant’s case, or at the end of all the evidence, 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. Often the judge refuses to grant a motion. That does not mean that the judge thinks the other side is entitled to a verdict. It only means

that the jury ought to consider the matter.

I. DELAYS DURING 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 come up. 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!

J. ARGUMENTS

After all the evidence has been given, each lawyer will make his/her *argument* to the jury, giving the reasons why he/she thinks his/her side should win. If the testimony of witnesses is conflicting, he/she will tell you why he/she thinks the witnesses on his/her side should be believed rather than those on the other side.

You should listen to these arguments carefully; always remembering that a lawyer is giving only his/her side of the case – that what he/she says is not *evidence* but is only a statement of his/her reasons, and that reasoning is likely to be unsound unless it is based on the facts as you find them to be. Of course, a juror should not make up his/her mind on anything until he/she has heard all sides and the instructions of the judge. No prejudice or bias of any sort should ever be allowed to enter your deliberation or to sway your verdict.

K. 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. When necessary, the judge will instruct you on some matters during the course of the trial.

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.

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.

L. VERDICT OF THE JURY

In criminal trials verdicts are required to be unanimous; the verdict of each of the jurors must be the same to be received. In civil trials (generally damage suits), a verdict of ten or more of the jurors is a legal verdict and will be received by the Court.

In criminal cases, if the verdict is for the People it is in form "*Guilty as Charged*", or where allowed by the instructions on law, guilty of a lesser offense included in the major charge. If for the defendant, the verdict is in form "Not Guilty".

In civil actions the verdict for the defendant is in form "*No Cause of Action*". If for the plaintiff, the verdict is generally required to specify the amount of damages awarded by the jury.

When the jury after deliberating a reasonable time cannot arrive at a verdict, and believes that it will not be able to, the Court may end the case in a mistrial, commonly referred to as a "*Hung Jury*". Another trial before another jury panel is usually then required.

VI

JUROR'S CONDUCT DURING TRIAL

There are certain rules that a juror should follow throughout the trial in order that he/she may be fair to all sides. These are:

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 in charge of the bailiffs. 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.

Discussing the Case: During the trial 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/her that you are on the jury and must not listen to him/her. If he/she insists, then learn his/her 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 instructions of the court have been heard, jurors ought not to listen to radio accounts of the trial or read articles about it which may appear in newspapers during the trial. Such articles sometimes give one a biased or unbalanced idea of the case.

Talking With Parties or Lawyers: Do not talk with parties, witnesses or lawyers during a trial. Someone may believe that something unfair is going on.

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.

Guessing at the Judges Opinion: While a trial is going on, jurors sometimes try to guess at what the judge thinks about it, or the way he/she thinks it should be decided. This is a mistake. The judge will not form an opinion on questions of fact until all the evidence has been put in, and he/she may not then express any opinion on the facts. 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/she 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/she will make it plain to you in his/her directions or instructions. If he/she does not express an opinion on the facts, it is because he/she does not wish you to know his/her opinion or because he/she ought not to indicate his/her opinion on questions of fact.

VII JUROR'S CONDUCT IN DELIBERATIONS

FOREMAN

After the case has been submitted to you for decision, your first duty upon retiring at the close of the case is to select your ***Foreman***. The foreman acts as

chairman. It is his/her duty to see that discussion is carried on in a 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/she thinks upon every question. Where ballots should be taken, he/she will see that it is done. He/she will sign any written verdicts that are required, and any written requests made of the judge. In selecting your foreman, it is well to select someone of experience and general knowledge, if possible. A good foreman will keep the discussion in due bounds so that much time is saved and better results secured.

ISSUES

In his/her 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.

FURTHER INSTRUCTIONS AND REPEATING TESTIMONY

If, in considering the case in your jury room, there is any disagreement among you as to what the judge told you, or as to the meaning of what he/she told you, the jury can ask for further instructions. Such a request should be made in writing and handed to the bailiff. Do not make such requests, or requests for repetition of testimony, unless necessary.

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/she thinks *and why he/she thinks it*. By reasoning the matter out, it generally is possible for jurors to agree. A juror should not hesitate to change his/her mind if he/she decides that his/her first opinion was not right, but one who has an opinion on a question should not change it unless his/her reason and judgment is changed. It is wrong for one juror to try to bully another into changing his/her 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 bull-headed and stubborn. When one has listened to all the opinions of others, and considered the reasons for their opinions, and has reasoned the matter out and formed his/her own judgment, he/she should, of course, stick to it unless he/she is persuaded to change his/her mind. No juror should ever vote against his/her judgment. He/she should vote according to his/her honest judgment. If everyone is fair and reasonable, a jury can almost always agree. If a jury cannot agree within a reasonable time, it generally means a new trial, which is a great expense to the parties and the state, so jurors are expected to be fair, reasonable and courteous to each other, and try to reach an agreement.

YOUR VERDICT

Your verdict will show how reasonable, fair, just, and sensible the 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 judgment 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.

SECRECY

Until you retire to your jury room all the proceedings are public. The proceedings in this room are secret. The interest of the public is as much concerned in preserving the secrecy of the proceedings in the jury room as it is in making public the proceedings in the open court room. Every juror should feel free to urge any legitimate reason for accepting or rejecting the testimony of any witness. Many such reasons would not be advanced if it were supposed that the public would know what is said. You should feel that your relation with your fellow jurors is one of sacred trust. You violate that trust if you tell anyone any of the proceedings of the jury room.

VIII CONCLUSION

The importance of your position as a juror cannot be overstated. We hope you can and will serve. We think you will find the service interesting and informative.

At the end of the jury term, the Court Clerk will compute your jury fees and mileage and you will receive a check. Your finest pay, however, will be the knowledge that you have served in the impartial administration of justice under law.

Mark S. Braunlich
Judge, 38th Judicial Circuit

Michael A. Weipert
Judge, 38th Judicial Circuit

Daniel S. White
Judge, 38th Judicial Circuit