

JUROR INSTRUCTIONS ALONG W/ QUESTIONS & ANSWERS FOR POTENTIAL JURORS

As a Juror, there are certain responsibilities you will be asked to fulfill.

A Juror must be prompt. A trial cannot begin or continue unless all jurors are present.

A Juror must give his/her undivided attention to the trial. A juror should listen carefully to all questions by both parties on direct or cross examination of the witness, the testimony given in response to the questions, and the judge's instructions to the jury. A juror's verdict can only be based upon the evidence presented.

A Juror must not research the case through broadcast and newspaper accounts. A juror may not listen to radio or television accounts concerning the trial, or read articles about the trial. During a trial, if a juror has personal knowledge about any facts in the case, the juror has a duty to disclose his/her knowledge to the judge. A person who knows a fact which could materially affect the case should not serve as a juror.

A Juror must not discuss the case with anyone, including relatives, friends, or trial participants. Once selection of a jury begins, a potential juror should not discuss the case with anyone. After deliberations begin, a juror can discuss the case only with the other jurors. If someone attempts to talk to a juror, (s)he should report it to the judge. However, after the trial has concluded, a juror may discuss the case with anyone, but the juror is not obligated to do so.

A Juror must not conduct independent investigations or experiments to verify testimony given in the case. The jury's verdict can only be based upon evidence presented in court. If the court finds it necessary for the jury to inspect the scene of an accident or alleged crime, the judge will arrange for the entire jury to do so together. Thus, a juror must not conduct investigations or experiment by himself/herself.

A Juror must be impartial until (s)he hears all the evidence and law applicable to the case. A juror should listen to the evidence presented by both sides carefully and avoid "taking sides" until (s)he has an opportunity to hear all the evidence and the judge's instructions as to the law applicable to that particular case.

Questions Jurors often ask

Q. What happens if I do not come to court for jury service on the date that I am summoned to appear?"

The law in Alabama (Ala. Code 1975 § 12-16-82) provides that if a person fails to appear for jury duty on the date summoned, that an order shall be entered directing that person to appear in Court to show cause why he or she "shall not be adjudged guilty of contempt and punished accordingly." If you have a good excuse for not being able to attend a particular court session you should contact the Office of the Cullman County Circuit Court Clerk and ask for your jury service to be postponed to a later date. You CANNOT simply ignore your jury summons.

Q. Who may serve?

To qualify for jury service, a person generally must have a reputation for being honest and intelligent, must possess good character and sound judgment, and also must:

- Be a United States citizen;
- Be over the age of 19 years;
- Be a 12-month resident of the county;
- Read, speak, and understand the English language;
- Be physically and mentally capable; and
- Not have been convicted of a crime involving "moral turpitude" (a crime which violates accepted standards of the community, including crimes involving dishonesty) which resulted in the suspension of a person's right to vote.

Q. How long will I serve?

Service as a juror depends upon many factors, one of which is the type and complexity of the case. Rarely does service exceed five workdays.

Q. Will I be paid for Jury service?

For each required service day, you are entitled to be paid by the circuit clerk or court administrator an expense allowance of \$10.00 plus a mileage allowance of \$.05 for each mile traveled in going to and returning from court to your residence.

Q. May I waive or forego my expense and mileage allowances if I choose to do so?

Yes. By obtaining from the circuit clerk or court administrator and filling out the form, "Affidavit - Waiver of Payment for Services as a Juror," you may forego all the expense and mileage allowances due to you.

Q. Will my expense allowance be deducted from my salary?

No. Section 12-16-8(b), Code of Alabama 1975, specifically provides that a "full time employee" is entitled to their usual wages during jury service.

Q. Who would be considered a "Full Time Employee" in terms of being able to receive their salary or wages during jury service?

The courts have defined "full time" as the amount of time considered as the normal or standard amount of work time for a given period, such as a day, week, or month. In most employment situations, "full time" means 40 hours a week. Also, the phrase "full-time employee" may be defined by industry standards, in addition to the standards of that particular community. The Attorney General of Alabama has concluded that the phrase "full-time employee" includes an employee who is paid hourly wages as well as a salaried employee.

Q. If I am summoned to court as a juror, but I was not chosen to serve, am I still entitled to an expense allowance and mileage?

Yes. As a summoned juror, you are entitled to an expense and mileage allowance regardless of whether you actually served on a jury that particular day. However, you are not authorized to receive an expense and mileage allowance if you are notified in advance that your services are not needed for that day, or if you report only to be excused.

Q. If I work outside the state of Alabama and I am summoned as a juror in the county where I reside in the state of Alabama, am I entitled to my usual compensation from my employer?

Not necessarily. Alabama law does not govern employers of other states. If you wish to find out whether you can be compensated for Alabama jury service, you must consult the law of the state in which you are employed. Note: The Attorney General in Georgia has concluded that it is unlawful for an employer in Georgia to fire an employee working in Georgia because the employee was absent from his/her employment for the purpose of serving as a juror in Alabama. For example, if a person is a resident of Alabama and works in Georgia and that person is summoned for jury duty in Alabama, the person's employer in Georgia cannot fire the person for being absent for serving as a juror. To do so would subject the employer to civil liability.

Q. If I work a second or third shift (classified as a shift other than the typical 8-5 workday), must I return to work after I have served on a jury for six to eight hours during the day and am expected to report for jury duty the next day?

No. The law requires that a juror be excused until the next day so the juror may be fully attentive to his/her duties as a juror.

Q. Will my employer excuse me from work?

A prospective juror must present the summons for jury duty to his/her employer to be excused from work for the days (s)he is required to serve. Should you be released earlier than expected, you should return to your job. Alabama law states that a full-time employee will receive his/her usual wages while serving as a juror. A "Certificate of Jury Service" may be obtained from the circuit clerk as proof of jury service for your employer.

State law prohibits an employer from dismissing an employee because (s)he is summoned for jury service. If an employee is discharged solely because (s)he has been summoned for jury service, the employee may sue the employer in any state court and may be entitled to recover both actual and punitive damages.

Q. Can I be excused from or postpone service?

Jury service may be inconvenient, but no one is excused unless serving on a jury would present an undue hardship, extreme inconvenience, or be required by public necessity. If you believe you have a good reason to be excused from jury service, notify the court in advance. The court may postpone jury service to a later date rather than grant an excuse.

Q. How should I dress?

Wear comfortable clothing, which reflects the seriousness of jury service.

Q. What if I have an illness or an emergency during service?

Should an illness of a family member or a personal emergency arise, immediately inform the judge or other court official and explain the situation.

Q. Will there be periods of waiting?

Be prepared to wait before and during trials. Delays result for many reasons: settlement or plea negotiations, record checking, points of law, etc.

Q. Will I have to stay overnight?

On occasion, it is necessary to "sequester" or isolate a jury from contact with the public during the course of the trial. Should the judge order sequestration, you have to spend the night away from your family. You may telephone a relative or friend to bring personal necessities. The court will pay for your meals and lodging during the stay. A bailiff or deputy sheriff will be in charge of the jurors who are sequestered to ensure that no one contacts them and to protect them.

Q. What can I expect when I report to the courthouse for jury service?

After roll call, you may be asked your address, employment, and spouse's name and employment. The judge will ask general questions to determine whether you are qualified to serve as a juror. After qualification, you will be sworn in with the following juror's oath:

"You do solemnly swear (or affirm) that you will well and truly try all issues which may be submitted to you during the present session and true verdicts render according to the evidence, so help you God."

Q. What happens after the trial?

After the trial's completion, you are not obligated to answer questions presented by attorneys or the press. If unwanted questions persist, contact the court immediately.

Q. How is a civil case different from a criminal case?

A **civil case** is an action between parties seeking an impartial settlement of a dispute. The "plaintiff" sues and brings the case to court usually asking for money damages to compensate the plaintiff for certain losses. These are called "compensatory damages." Sometimes the plaintiff may ask for damages in addition to the compensatory damages, in order to punish the defendant and to prevent the defendant from doing the same act again. These are called "punitive damages." The "defendant" is the party being sued.

A **criminal case** is an action brought by the state against a person or corporation charged with violating the law. In criminal cases, the state is the prosecutor, while the defendant is the person charged with committing the crime. In most criminal cases on which you may be asked to serve, the crime with which the defendant is charged will be a "felony." A felony is a crime punishable by at least one year and one day in the penitentiary and may also include a fine of \$5,000 or more. Sometimes, a jury will be demanded by a defendant in a misdemeanor case. A misdemeanor is a crime punishable by up to one year in the county jail or a fine of \$2,000 or both.

Q. What is the difference between a petit and a grand jury?

A petit jury is generally composed of 12 people impaneled to try a criminal or civil case. In a criminal trial, the jury must determine whether the state has presented proof beyond a reasonable doubt that the defendant is guilty. In a civil trial, the jury decides all questions of fact and determines whether the plaintiff has a valid complaint and should be awarded the relief requested.

An 18 member grand jury may be impaneled to hear evidence and to determine whether there is sufficient evidence to formally charge the defendant with committing a crime and to require an accused to stand trial. The grand jury does not determine the accused's guilt or innocence.

Q. How is a petit jury selected?

A prospective juror is asked questions to determine whether he or she has knowledge of or has an interest in the case to be tried. The questioning of a prospective juror is called a "voir dire examination" and may be conducted by the judge and attorneys. Upon completion of a "voir dire examination", each attorney may strike the names of jurors from the list of prospective jurors until only 12 names remain. The court may require alternate jurors to serve who shall have the same qualifications, be subject to the same examination, take the same oath, and have the same functions and powers as regular jurors. Being struck does not reflect on a juror's honesty or intelligence. There are many reasons why an attorney may prefer some jurors to others for a particular trial.

Q. How is a grand jury selected?

A circuit judge randomly selects the grand jury from the qualified juror pool. The grand jury may be summoned to serve one term or several short terms.

Trial Participants

A jury trial involves many people, directly or indirectly. The judge, attorneys, parties, witnesses, and jurors are all direct participants in the courtroom proceedings. The following is a description of their roles:

The **Judge** is an elected or appointed official who administers proceedings between the parties. The judge conducts the trial, rules on questions of law raised by the attorneys, and, at the close of the trial, instructs the jury on the law that applies to the case.

Attorneys represent and advise the parties on the law and all aspects of the trial. They are employed by the parties or, if a defendant is indigent and unable to pay for an attorney in his/her criminal case, an attorney will be appointed by the court at state expense. The court, however, can require the defendant to reimburse the state for these costs, if s(he) is able. The **District Attorney** is an elected official who is the prosecutor for the state in criminal cases and represents the **victim** of a crime.

The **parties** in a civil trial are the plaintiff and the defendant; in a criminal trial, they are the state, represented by the District Attorney or prosecutor, and the defendant.

Witnesses present testimony under oath regarding what they have seen or know about the facts in the case. A witness may testify as an expert based on professional experience. Usually, others indirectly involved provide essential services but are not active trial participants:

The court's business manager is the **Circuit Clerk**. This elected official is responsible for court records, issuing summonses and subpoenas, collecting court-ordered monies, and conducting other business activities.

The **Sheriff** is as an elected official and the county's chief law enforcement officer. The sheriff serves summons or process on witnesses, jurors, and defendants. They also provide court security.

The **Judicial Assistant** assists the judge(s) in performing court administrative activities.

The **court reporter** records a word-for-word account of all court testimony and proceedings. In the event of an appeal and upon request of one or both of the parties, the court reporter will transcribe the record into a written transcript.

The **court attendant** (also known as a "bailiff") maintains courtroom order and assists jurors.

Sequence of trial events

1. Opening Statements
2. Plaintiff's or State's Case
3. Defendant's Case
4. Rebuttal
5. Closing Arguments
6. Judge's Charge to the Jury
7. Jury Deliberations
8. Verdict

The **opening statements** are made at the beginning of the trial and outline the facts expected to be presented to the jury. Opening statements are not evidence but are only explanations of what each side expects the evidence to prove.

After the opening statements from both sides, the **plaintiff's or state's case** is presented in the form of evidence. This presentation is intended to prove the claims made. Evidence can be testimony given by a witness at trial or a physical exhibit such as a gun or a photograph. The presentation of the case begins with the plaintiff's or the district attorney's direct examination of a witness. *Direct examination* discloses points important to the case. Next, the defendant's attorney may cross-examine the witness to disclose facts favoring the defendant; the defendant's attorney may demonstrate there is reason to doubt the testimony given by the witness on direct examination. Upon completion of *cross-examination*, the plaintiff's attorney or district attorney may, on *redirect examination*, clarify statements previously made by the witness.

The **defendant's case** is presented after the plaintiff's or state's case. The defendant's case presentation follows the same format as the plaintiff's or State's case.

After the defendant's case, the plaintiff or state may present **rebuttal** witnesses or evidence designed to disprove the testimony and evidence presented by the defendant.

Closing arguments follow evidence presentation, at which time both sides summarize the case from their viewpoint. Closing arguments are not evidence but are the attorneys' summaries of the evidence presented during the trial.

The judge's charge to the jury follows closing arguments. The charge instructs the jury on the issues to be decided and the rules of law that apply to the case.

After listening to the judge's oral charge, the jury retires to begin **jury deliberations**. Selection of a foreman is the jury's first duty. This person presides over the discussion of the case, acting as chairman and spokesman for the jury.

Jury deliberations generally conclude when a unanimous verdict has been reached. If the jury is unable to agree upon a verdict after lengthy deliberations, the foreman must notify the judge. If the jury cannot reach a verdict, referred to as "deadlock," a mistrial must be declared and a new jury empaneled to try the case over.

After reaching a verdict, the foreman records the verdict and calls for the court attendant (or bailiff) to escort the jury to the courtroom. The verdict is read by the judge, circuit clerk, or foreman.

Legal and Judicial terms

Answer - the defendant's response to allegations in the complaint or pleading.

Civil case - a case that is not criminal in nature but one that pertains to the settlement of disputes between individuals, i.e. a suit seeking the recovery of damages incurred from an automobile accident, breach of contract action, divorce case.

Circuit court - a trial court of general jurisdiction hearing all civil matters where the amount in controversy exceeds \$10,000 and all criminal prosecutions involving felony offenses as well as misdemeanors and municipal ordinance violations arising out of felonies. The district court also has original jurisdiction concurrent with the circuit court in matters where the amount in controversy exceeds \$1,500 but does not exceed \$10,000, and in taking non-capital felony guilty pleas before an indictment is returned.

Closing argument - a summary of the evidence presented to the jury by the attorneys on both sides of a case.

Complaint (civil) - statements by the plaintiff stating the claims (s)he has against the defendant.

Complaint (criminal) - a formal statement charging an individual with a criminal offense.

Cross-examination - questioning of a witness by the opposing side.

Deadlock - a term used to refer to when a jury cannot reach a verdict, resulting in a mistrial.

Deposition - testimony taken under oath and outside the courtroom.

Direct examination - the first questioning of a witness by the party on whose behalf (s)he is called.

District court - a trial court of limited jurisdiction hearing all civil matters where the amount in controversy does not exceed \$1,500 and all criminal prosecutions of misdemeanors, unless the misdemeanors arise out of felony charges or have had an indictment returned. District courts also have concurrent jurisdiction with the circuit court in matters where the amount in controversy exceeds \$1,500 but does not exceed \$10,000, and in taking non-capital felony guilty pleas before an indictment is returned. District courts also have original jurisdiction to hold preliminary hearings in felony prosecutions.

Evidence - any legally presented proof which may be established by witnesses, testimony, records, documents, etc.

Exhibit - a paper, document, or other object used as evidence during a trial or hearing.

Felony - a serious criminal offense punishable by at least one year and one day in the penitentiary and may also include a fine of \$5,000 or more.

Indictment - a grand jury's written accusation charging a person or business with committing a crime.

Information - a written statement charging a defendant with the commission of an indictable offense, made under oath, signed and presented to the court by the district attorney without action by the grand jury.

Misdemeanor - a less serious criminal offense punishable by up to one year in the county jail or a fine of \$2,000 or both.

Mistrial - an erroneous or invalid trial; a trial declared defective and void because of prejudicial error in the proceedings or inability of the jury to reach a verdict.

Moral turpitude crime - an offense consisting of a base or vile act or the deprecation in private and social duties which man owes to his fellow man or to society in general. It is essentially an act or behavior which violates the accepted moral standards of the community.

Oath - a written or oral pledge to promise to speak the truth.

Objection - a statement by an attorney opposing specific testimony or admission of evidence.

Opening statement - outline of anticipated proof presented to the jury by the attorneys at the trial's beginning.

Overrule - court's denial of a motion or objection raised to the court; when a court overrules an objection to evidence (for example, testimony), the jury may properly consider it.

Probable cause - a reasonable belief that a crime has or is being committed; the basis for all lawful searches and arrests.

Prosecution - act of pursuing a lawsuit or criminal trial; the prosecution in a criminal case is brought by the state through the district attorney.

Rebuttal - the introduction of rebutting evidence to discredit statements of opposing witnesses.

Redirect examination - follows cross-examination and is exercised by the party who first examined the witness.

Restitution - a full or partial payment of money damages to a victim or its equivalent in services performed or work or labor done for the victim's benefit as determined by a judge.

"The rule" - (also known as "invoking the rule") - a request made by a party to a case asking the judge to rule that material witnesses who are to give testimony must stay out of the courtroom during the proceedings until they are brought into the courtroom to testify. This rule is invoked so that the witnesses will not be able to hear what has been said in the trial to ensure that they will give unbiased testimony.

Striking a Jury - process of selecting a trial jury where attorneys "strike" or excuse jurors until the number required remains.

Sustain - court's acceptance of any motion or objection; when a court sustains an objection to evidence (for example, testimony), the jury may not consider it.

Venire - the group of sworn jurors.

Verdict - the final formal trial decision made by a jury, read before the court, and accepted by the judge.

Voir dire examinations - the preliminary questioning of jurors to establish their qualifications. If there are other terms or phrases which you hear while serving as a juror that you do not understand, ask the judge to explain the term or phrase to you.