

Handbook
for
Trial Jurors

THE SIXTH JUDICIAL CIRCUIT COURT
OAKLAND COUNTY PROBATE COURT

Handbook for Trial Jurors

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

Every citizen summoned for jury service is entitled to dignified treatment by all the court personnel. Complaints about your treatment in these courts should be directed to:

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Instructions

WHILE SERVING AS A JUROR, PROPER ATTIRE IS REQUIRED. NO SHORTS, HALTER TOPS, TANK TOPS, SWEAT SUITS, CAMOUFLAGE GARMENTS, SWIMSUITS, SWIM TRUNKS, OR EXERCISE GARB ARE PERMITTED. ADDITIONALLY, HATS, CAPS AND HOODS MUST BE REMOVED IN THE COURTROOM.

You are not allowed in the building with guns, knives of any size, spray devices (mace, etc.), scissors with pointed edges, sharp-bladed tools, cameras, cell phones with photographic or video capabilities, or any other device equipped with camera or recording features.

If you are selected to participate in a trial, the judge will tell you the days and time to appear. Usually, court hours are from 8:30 a.m. to 5:00 p.m. The judge will tell you if the hours are different. You must be prompt. If you have an emergency that will make you late or you cannot come in, make sure you call the judge's office to tell the court your problem.

As a general rule, there are no jury trials on Wednesday; however, there are exceptions. The judge will tell you if you are to come in on Wednesday.

If you are chosen for a trial, the judge will instruct you not to discuss the case with anyone else, including other jurors, until it is finished and you begin to deliberate. This is very important. If you disobey this instruction you could be disciplined.

Pay close attention to the testimony of the witnesses. Typed transcripts are not available for your deliberations. If you want to review testimony, the court and all the parties must reconvene.

Introduction

This handbook is designed to help you during your term of service in our court. However, you must not consider the information contained in this booklet as law. The judge will instruct you as to the law.

Oakland County Circuit Court is a court of general jurisdiction serving all of Oakland County. Both civil and criminal cases are heard. Civil cases are suits in which persons disagree over their rights and duties. Criminal cases are those in which an individual is charged by the State of Michigan with breaking the criminal laws. Charges in this court include murder, robbery armed, larceny, and breaking and entering. Typical jury trials in the Family Division of the Circuit Court involve child protective proceedings (neglect or abuse) and delinquency proceedings.

Oakland County Probate Court is a civil court of statutorily defined jurisdiction serving all of Oakland County. Jury trials involve will contests and determinations of whether a person is a legally incapacitated individual in need of a guardian, a protected individual in need of a conservator, or a mentally ill individual requiring treatment under the Mental Health Code.

Jurors perform a vital role in the American system of justice. The protection of our rights and liberties is largely achieved through the teamwork of the judge, jury and lawyers, who, working together in a common effort, put into practice the principles of our greatest heritage of freedom. The jury is assigned the duty of rendering a decision based upon questions of fact involved in the pending case. The trial judge rules upon questions of law. A fair and impartial trial and the rendition of a just verdict depend upon the joint efforts of the jury as arbiters of the facts, the judge as presiding officer and authority on the law, and the lawyers as examiners and advocates.

Efficient jurors are men and women of sound judgment, absolute honesty and a complete sense of fairness. The juror aids in the maintenance of law and order, and upholds justice. To serve as a juror is an honor, as well as an interesting experience. As a juror, you will gain firsthand knowledge of the functions of an important branch of the government. It may be inconvenient for some of you to serve as jurors and it may even cause you financial loss. Unfortunately, this cannot be helped if citizens are to take part in seeing that justice is done.

Main Steps of a Jury Trial

Civil or Criminal

SELECTION OF A JURY

- a. Challenges
 - 1. Cause
 - 2. Peremptory
- b. Juror's Oath

THE TRIAL

- a. Opening statements by counsel (not evidence)
- b. Evidence
 - 1. Testimony of witnesses
 - 2. Exhibits
 - 3. Depositions
- c. Objections to evidence
- d. Closing arguments by counsel (not evidence)
- e. Judge's instructions to jurors during trial
- f. Juror behavior
- g. Instructions to jurors on the law after completion of testimony of arguments

DELIBERATIONS BY JURY

- a. Selects foreperson
- b. Weighs evidence
 - 1. Civil case - preponderance of evidence
 - 2. Criminal case - beyond reasonable doubt
 - 3. Some Probate Cases - clear and convincing evidence

THE VERDICT

- a. Civil and most Probate cases - 5 of 6 jurors
- b. Criminal, Delinquency and Mental Health Cases - unanimous

SELECTION OF A JURY

A jury trial begins with the selection of the jury. In Circuit Court civil cases and all Probate Court cases, six or more jurors are chosen. In Circuit Court criminal cases, twelve or more jurors are chosen. The prospective jurors, upon reporting to the courtroom, are first required to swear or affirm that they will answer truthfully all questions that will be asked them about their qualifications to serve as trial jurors in the pending case. The court clerk calls the jurors to take their seats in the jury box. The judge then addresses the jurors, informing them of the names of the litigants and their attorneys, and stating the subject matter of the case. The judge or attorneys question the jurors for the purpose of determining whether their minds are free of any bias or prejudice which might interfere with their ability to act as fair and impartial jurors.

CHALLENGES

The law authorizes the judge and the attorneys to excuse individual jurors from service in a particular case for various reasons. If a lawyer wishes to have a juror excused, he or she must "challenge" the juror. Challenges are of two kinds:

1. FOR CAUSE

The law sets forth a number of reasons for which a juror may be excused "for cause." For example, a juror who is related to or employed by one of the parties in the case may be excused for cause. If a legal ground exists, there is no limit to the number of such challenges that may be exercised.

2. PEREMPTORY

Each party to an action is allowed a certain number of challenges for which no cause need be stated. These are called peremptory challenges and they are exercised simply by an attorney indicating to the judge that he or she wishes the particular juror excused. If jurors are excused, this is in no way a reflection upon them nor does it question their competence in any way. It sometimes occurs that a prospective juror will be excused in one case, or in a certain type of case, and yet be accepted in others.

The process of questioning and challenging continues until a jury is selected. The judge and the attorneys have faith and confidence that the jurors are qualified to decide the issues of fact in the case impartially and intelligently. When the selection of the jury is completed, the judge orders the clerk to swear the jury to try the case.

JUROR'S OATH

The oath you will take as a jury to try the cause is as follows:

"Each of you do solemnly swear (or affirm) that, in this action now before the court, you will justly decide the questions submitted to you, that, unless you are discharged by the court from further deliberation, you will render a true verdict, and that you will render your verdict only on the evidence introduced and in accordance with the instructions of the court, so help you God."

This is not to be taken lightly or soon forgotten. By taking your oath, you have given your word that you will reach your verdict solely upon evidence received into the record by the court and permitted to remain, and upon the court's instructions as to the law. You must not consider any other instructions. As a juror, your position will be equally important as that of the judge, in the administration of justice in the case at hand.

The Trial

OPENING STATEMENTS

As the trial begins, the lawyer for the plaintiff/petitioner (the party who brought the action) usually will make the opening statement telling you what his or her client claims and outlining the evidence that they expect to present to prove their case. The defendant/respondent's lawyer, either then or after plaintiff/petitioner rests, may make a similar statement, telling you what his or her client claims and the evidence they expect to produce. These statements of the lawyers are not evidence. Their purpose is to give you the framework, the points of conflict and the issues of the case. Be careful that you do not let them assume the place of evidence in your mind.

EVIDENCE AND WITNESSES

Evidence may be in the form of a written document, an object, a photograph, an x-ray, or some other tangible thing. In any case, it is called an exhibit. Normally, however, the greater part of the evidence consists of the sworn statements of witnesses. This evidence is called testimony. The testimony of an absent witness may be taken under oath, with both sides represented or having had the opportunity to be present. Such written testimony is called a deposition, and, if read into evidence, should be given the same consideration as would be given the testimony of the same witness spoken from the witness stand. Pay close attention to the witnesses as they testify, not only to hear what they say, but also to note their manner and actions. If you cannot hear plainly, interrupt the proceedings by raising a hand.

OBJECTIONS TO EVIDENCE

The trial of every lawsuit is governed by rules laid down by the Supreme Court from experience gained over many years. Some of these rules exclude certain evidence because it would unduly prolong the trial, or it is not trustworthy or is privileged. Attorneys have the right and, in some cases, even the duty to object to such testimony. In such cases they may ask that the jury be excused while they argue the law with the court and the opposing counsel. That is done so that the jury will not be improperly influenced by matters that may arise during such argument and which are not admissible under the rules. Sometimes, objectionable evidence gets into the record before the lawyer can object and before the court can rule on the matter. If the judge instructs you not to consider that evidence, you must do your utmost to prevent it from unconsciously influencing your verdict.

CLOSING ARGUMENTS

After all the evidence has been introduced, counsel on each side may present their final arguments, the attorneys each giving the reasons why they think their client should prevail. Where the testimony of witnesses has been conflicting, the attorneys may suggest reasons for believing the witnesses whose testimony has favored their side, rather than those who testified to the contrary. You should listen to these arguments carefully and consider them thoughtfully.

You are to decide the facts solely upon the testimony given in open court and the exhibits admitted in evidence. This is the most important part of your duty. The testimony reaches you in the presence of both parties in the case under the right of cross-examination and under the sanctity of an oath. If you go outside the testimony in reaching your verdict, you violate your oath as a juror. If you use your vote as a juror to reward or to punish, or to show your sympathy or bias, or even to be charitable, you are violating your oath to render a true verdict according to the law and the evidence.

You are not to consider as evidence any statement of counsel unless such statement was made as a stipulation conceding the existence of a fact or facts. The attorneys are the advocate for one of the parties. Their duty requires them to present the best case or defense for their client that they honestly and reasonably can. They are entitled to present their views, reasons and conclusions, but you are not bound by them. Of course, a juror should not make up his or her mind finally on any issue until the juror hears the arguments of the attorneys, the judge's instructions, and participates in jury deliberation at the close of the trial.

JUDGE'S INSTRUCTIONS TO JURORS DURING TRIAL

After you have taken the oath as a juror, the judge will admonish you that it is your duty not to converse with or permit any other person to address you on the subject of the trial. Any communication by a juror to any person, including a husband or wife, with respect to the case on which that juror is serving is an act of contempt and may be punished by fine and/or imprisonment. It is also your duty not to form or express an opinion until the case is finally submitted to you for your verdict.

As previously emphasized in this pamphlet, a case must be decided solely on the evidence received in the courtroom. If you were to discuss the facts of the case or your impressions of it with your family or friends, or with any person having any connection with the case, you would hear their ideas and thus expose your mind to influence from outside sources. Additionally, the admonition that you should neither form nor express an opinion on the case requires that you keep an open

mind until the case is finally submitted to you, and, of course,

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before then you are not at liberty even to discuss the matter with your fellow jurors. Even an inadvertent violation of the instruction would be a violation of your oath as a juror. If you believe that someone purposely has tried to engage you in conversation concerning the case, it is your duty to report the incident to the judge immediately. A wise policy for you to follow is to avoid even the appearance of an improper discussion. The lawyers understand this rule and you will find that, even at the risk of seeming unfriendly, they will avoid even a casual conversation with you.

JUROR BEHAVIOR

In all your conduct as a juror, place yourself beyond the possible reach of suspicion. Don't do anything, even innocently or carelessly, which might reflect upon your integrity as a juror. Integrity is evidenced by conduct. Accept no gifts or favors, no matter how trivial, from litigants or their attorneys or representatives, either during or after the trial. Avoid all familiarity and all appearance of familiarity with anyone interested in your decision. Receive no communication from any one connected with a case in which you are or may be a juror. You must not, in courtrooms, corridors, lunchroom or elsewhere, talk with lawyers, litigants, their witnesses or agents, or with any other person in the trial of any case. You are not permitted to consume alcoholic beverages while serving as a juror, including during your lunch period.

By the same principle, it would be a violation of your duty as a juror to conduct any investigation of the case except with all the other jurors and under the direction of the judge. As a juror, you must not become an amateur detective. For instance, you must not visit the scene of an accident, an alleged crime or any event or transaction involved in the case. If the judge feels that an inspection of a place is necessary or will be helpful, he or she will arrange and supervise an inspection by the whole jury.

JUDGE'S INSTRUCTIONS ON THE LAW

At the conclusion of the final arguments by the lawyers, the next step, and a most important one, is taken by the judge. He or she will instruct you on the law that applies to the case, and you must apply that law to the facts as you find them in arriving

at your verdict. You must give close attention to all instructions.

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Bear in mind constantly that you must be governed by the law as the judge states it to you. He or she is duty-bound to define it for you. Do not attempt to change or ignore the law, even if you disagree. Not even the judge may do that. You are duty-bound under oath to give full effect to the laws of Michigan as the judge states them to you.

If the judge should give you any instruction that seems to conflict with or be different from any statement in this pamphlet, you should accept that instruction as correct and be guided by it.

Deliberations by Jury

Six persons in civil and probate cases and 12 persons in a criminal case deliberate a case. Sometimes more than this number are chosen to ensure the case can continue even if an emergency arises and the judge needs to dismiss a particular juror from that case. If more have been chosen, the extra jurors are selected by lot to be removed from that jury before the rest of the jurors retire to deliberate.

After the judge has instructed you on the law, the court officer will conduct you to the jury room for your deliberation. Your first duty upon retiring to the jury room is to select a foreperson. The foreperson acts as the chairperson of the jury. It is his or her duty to see that discussion is carried on in a free and orderly manner, that the matters and issues that are submitted for your decision are fully and freely discussed, and that jurors are given an opportunity to express themselves. When it is time for the taking of a ballot, he or she will see that this is done. Careful consideration should be exercised in selecting your foreperson so that he or she will be well qualified for the duties.

After you retire to the jury room, you are entitled to have all exhibits brought to you.

In weighing evidence, an important distinction exists between civil and criminal cases in the degree of proof required to sustain an allegation. To be convicted in a Circuit Court criminal case, or in a Family Division delinquency case, a person must be proved guilty beyond a reasonable doubt. In a civil case

the party who has made an allegation against another must prove by a preponderance of the evidence to support a finding in his or

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her favor. In other Probate cases, the burden of proof will be "clear and convincing." In each case, the judge will carefully explain to you the degree of proof required to support particular findings, and you should pay the same careful attention to instructions on this subject as you are required to pay to all other instructions.

Quite often in the jury room, differences of opinion arise among the jurors. When this occurs, each juror should express his or her opinions and reasons. By the process of careful and thorough reasoning, it is generally possible for jurors to reach a verdict. A juror should not hesitate to change his or her mind where there is good reason for doing so, but one who has a definite opinion should not abandon that opinion unless the juror is conscientiously moved to do so as a result of deliberations, consideration of the views of the colleagues, and further thought on the matter.

It would be wrong for a juror to refuse to listen to the arguments and opinions of the others, or to deny the right of other jurors to express their own opinions. All jurors should deliberate and vote on each issue to be decided. A juror should never vote against his or her conscience or judgment. You should vote only according to your own honest convictions, arrived at after a full and free discussion with your fellow jurors.

After a verdict, mistrial, or disagreement, jurors are under no duty or obligation to discuss what took place in the jury room with the lawyers in the case or anyone else.

The Verdict

The judge will instruct you that in criminal, delinquency, and mental health cases, a unanimous agreement of all jurors is required. In civil cases, at least five of six jurors must agree on the verdict. If a jury cannot arrive at a verdict within a reasonable time, the judge can order the jury dismissed. The result is that another trial of the case usually follows, with consequent added expense to all parties. It is, therefore, highly desirable that a verdict be rendered if that can be done with the sincere and honest judgment of all the jurors.

In your efforts to reach a verdict, bear in mind constantly that you are to consider only the evidence that was presented to you in the courtroom. You should not guess or speculate although

you may draw reasonable inferences, and you must follow the court's instructions, if any, as to presumptions of law. Do not

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assume that a case is unimportant and that you should not be called upon to give much of your time to its decision. If it were your case, it would be important to you, and you would want it to receive earnest and conscientious consideration, whether your cause might appear great or small to others.

The verdict resulting from your deliberations will not only determine the outcome of the particular case, but also influence the general caliber of justice rendered in our community. Juries in this court have been doing meritorious service. They have set a worthy standard. It is the responsibility of our judges, of you, and of all future jurors to insure the continuance of jury service at that high level.

You may also be sent into our Probate Court for jury selection. The Probate Court is an entirely separate court from the Circuit Court, but both are located in the Oakland County Courthouse. To save money for the taxpayers of Oakland County, both courts use the same pool of jurors for jury selection.

We hope that the relations between you and the court will be pleasant, and that when you are discharged at the end of your term, we shall have nothing but commendation for the intelligent, honest and faithful manner in which you have discharged the important trust the people of this State have reposed in you.

Definitions of Words and Phrases

The following definitions of words and phrases commonly used in trials will be helpful:

Action, Case, Lawsuit:

These words mean the same thing. They all refer to a legal dispute brought into court for trial.

Answer:

The paper in which the defendant/respondent answers the claims of the plaintiff/petitioner.

Argument:

After all the evidence on both sides of a lawsuit is in, lawyers on each side are permitted to tell the jury what they think the evidence proves and why they think their side should win. This is usually called an "argument" or "summing up."

**Calling the Adverse Party for
Cross-Examination Under the Rules:**

In civil cases it is not uncommon for lawyers to call the opposing party for "cross-examination under the rules." This means that the law gives them the right to cross-examine the opposing party even though that person has not been a witness in their own behalf.

Cause of Action:

The legal grounds on which a party to a lawsuit relies to get a verdict against their adversary is usually referred to as a "cause of action."

Challenge for Cause:

Lawyers, after examining a prospective juror, think his or her state of mind indicates bias in favor of one side or the other in a lawsuit, may ask the judge to excuse that juror. This process is called challenging for cause.

"Charge" or Instructions:

After all the evidence is in, and the lawyers have made their arguments, the judge may review the evidence and state the issues the jury must decide. He or she will state the law which must guide their deliberations and control their verdict. This is called either the judge's "charge" to the jury or "instructions." A judge may give an instruction to the jury on some point of law at any stage of the trial.

Child Protective Proceeding:

A Family Division proceeding in which parent(s) or guardian(s) is/are accused of the neglect and/or abuse of a minor.

Civil Case:

A lawsuit is called a civil case when it is between persons in their private capacity or relations. It results generally in a verdict for the plaintiff or for the defendant, and in many cases, involves the giving or denying of damages(money).

Complaint:

The document filed by the person who brings the suit (plaintiff) sets forth claims against the defendant, is called a complaint.

Conservator:

Person appointed by the court to exercise powers over the estate of a protected individual.

Counterclaim:

A "counterclaim" results when the defendant, in answer to the complaint, claims he or she is entitled to damages or other relief from the plaintiff.

Criminal Case:

A lawsuit is called a criminal case when it is between the State of Michigan on one side as plaintiff, and a person or corporation on the other as defendant. It involves a question of whether the defendant has violated one of the laws defining crimes, and the verdict is usually "guilty" or "not guilty."

Cross-Examination:

The questions which a lawyer puts to the litigant or witnesses on the opposing side are designated as cross-examination.

Defendant:

The person against whom a lawsuit is started - in a criminal case, the person charged with an offense is called the defendant.

Delinquency Case:

A Family Division proceeding in which a juvenile is charged with criminal or prohibited behavior. While technically a civil action, trial procedures are similar to adult criminal proceedings.

Deposition:

The testimony of a party to a lawsuit or a witness may be written out in question and answer form before trial, just as it would have been given in court. This testimony is called a deposition. It may be read at the trial.

Directed Verdict:

A party may move for a directed verdict at the close of the evidence offered by an opponent. If there is no issue of fact for the jury to decide, the judge will instruct the jury regarding the kind of verdict to return. The jury must return such a verdict.

**Examination, Direct Examination,
Examination-in-Chief:**

The questions which lawyers ask their own client or their own witnesses are often referred to as examination, direct examination or examination-in-chief.

Exhibit:

Articles such as pictures, books, letters and documents are often received in evidence. These are called "exhibits."

Guardian:

A person appointed by the court to exercise powers over the person of a legally incapacitated individual.

Issue:

A disputed question of fact is referred to as an "issue." It is sometimes spoken of as one of the "questions" which the jury must answer in order to reach a verdict.

Jury Panel:

The whole number of prospective jurors, from which the trial jury of 6 or 12 is chosen.

Legally Incapacitated Individual:

A person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, to the extent that the person lacks sufficient understanding or capacity to make or communicate informed decisions concerning his or her person.

Litigant:

Parties to a lawsuit. Refers to plaintiff/petitioner and defendant/respondent in Circuit Court, petitioner and respondent in Probate Court.

Mental Health Case:

A Probate Court case involving a petition to determine if an individual requires treatment, as defined by the Michigan Health Code.

"Objection Overruled" or "Overruled":

This term means that, in the judge's opinion, the lawyer's objection is not well taken under the law. His or her ruling is not subject to question by jurors.

"Objection Sustained" or "Sustained":

When a lawyer objects to the form of a question, or the answer a question calls for, the judge may say "objection sustained" or merely "sustained." This means that the judge agrees that, under the law, the lawyer's objection was well taken. His or her ruling is not subject to question by jurors.

Opening Statement:

Before introducing any evidence for their side of the case, lawyers are permitted to tell the jury what the case is about and what evidence they expect to bring in to prove their side of the case. This is called an opening statement.

Parties:

In Circuit Court, the plaintiff/petitioner and defendant/respondent in the case are called parties. In Probate Court, parties are the petitioner and respondent. Sometimes there is more than one party on either side. In some cases, the parties make claims and counterclaims against each other.

Passed, Passed for Cause:

These are expressions used by lawyers while examining prospective jurors. They indicate that the lawyers do not intend to challenge the prospective juror.

Peremptory Challenge:

In all cases, the law provides that the lawyer on either side may demand that a set number of prospective jurors be excused, without being required to give reason for the demand. The judge must excuse the jurors designated. This is called a peremptory challenge.

Petition:

The document in which a person sets forth claims or allegations in a Circuit or Probate Court proceeding.

Petitioner:

The person who files a petition in a Circuit or Probate Court proceeding.

Plaintiff:

In Circuit Court, the person who starts a lawsuit.

Pleadings:

The parties in a lawsuit must file court papers stating their claims against each other. These are called "pleadings."

Protected Individual:

An individual who is unable to manage his or her property and affairs effectively.

Record:

Often the judge or the lawyers may declare that something is, or is not, for "the record." This refers to the word-for-word record made by the official reporter of all the proceedings at the trial. Several courtrooms use a videotape record of proceedings instead of a court reporter. In those courts, the entire proceedings are recorded on videotape.

Respondent:

A person to whom a petition is directed in a Circuit or Probate Court proceeding.

Rest:

This is a legal phrase which means that the lawyer has concluded the evidence he or she wants to introduce at that stage of the trial.

Testimony:

The sworn statements of witnesses made either in open court or by deposition.

Voir dire:

The preliminary questioning in court of prospective jurors.

Will Contest:

A Probate Court proceeding to determine the validity of a proposed will.

Witness:

A person, sworn to tell the truth, who states observations or experiences which relate to the case before the court.