JURY HANDBOOK

From Trial Selection to Final Verdict

The Trial Process

The following five steps outline the trial process, which begins with jury selection and ends with a verdict. You may be asked to participate in some or all of these steps.

Step 1: Selection of a Jury

When a jury trial is about to begin, the trial judge asks for a group of people (potential jurors) to come to the courtroom so the jury selection process can begin. This group of potential jurors is called a *jury panel*. When you report to the courtroom, one of the first things you do is swear under oath to tell the truth when answering questions. It is very important that you answer all questions truthfully. If at any time you realize you have an answer to a question that, for whatever reason, you failed to respond to, raise your hand and let the judge know you have something to add. It is never too late.

You and the other jurors promise to tell the truth by saying "I do." Then the court clerk calls 12 or more people to take seats in the jury box. The judge will introduce the attorneys to you, and you will hear some information about the case. The judge and the attorneys will then ask questions to determine whether there are any reasons you cannot be fair and impartial. This process is called *voir dire* and is an important part of jury selection. During this process, the judge will balance your privacy with the rights of the people involved in the case. If at any time you are concerned about issues you would like to remain private, let court staff, the bailiff, or the judge know. The judge will do what they can to ensure that your privacy is protected and may, in some cases, arrange for you to speak privately.

The law allows the attorneys and the judge to excuse individual jurors from service for various reasons. If an attorney wants to have a juror excused, they must use a *challenge* to excuse the juror. Challenges are either "for cause" or

"peremptory." *Challenges for cause* are based on specific biases jurors may have that could prevent or appear to prevent them from being impartial in a particular case. *Peremptory challenges* can be used without any explanation or stated reason.

The process of questioning and excusing jurors continues until the jury is selected. If you are selected, you will be asked to take another oath. You should think seriously about the oath and understand what you are promising to do. The oath asks you to promise to decide the case using only the evidence from the trial. You cannot consider any other evidence or information you may be aware of from sources other than the court. You also are asked to promise to follow the judge's instructions about the law. You must listen to what the judge tells you and not make a decision based on your personal feelings.

To help you, it is a good idea to take some time to think about implicit bias. *Implicit bias* refers to the attitudes, stereotypes, or preferences that unconsciously affect our understanding, actions, and decisions. These biases, which can be both favorable and unfavorable, are involuntarily, occurring without an individual's awareness or intentional control. The implicit associations we hold in our subconscious cause us to have feelings or attitudes about other people based on characteristics such as race, ethnicity, age, appearance, gender, and sexual orientation.

These types of biases are held by everyone, even if they do not match someone's stated beliefs. Usually these biases favor groups we identify with, but not always. These biases may also cause us to be skeptical of groups that we do not identify with. However, our implicit biases can change and be unlearned over time. Recognizing them is the first and most important step to doing so.

When you serve as a juror, it is important to uphold your oath to decide the case based only on the evidence at trial and the law that the judge explains

applies to the case, using your reason and common sense in deliberation with your fellow jurors. Recognizing the prejudices, stereotypes, sympathies, generalizations, personal likes or dislikes, and gut feelings we all possess can help to ensure they do not influence your decisionmaking as a juror.

Note: The implicit bias information has been adapted and modified for distribution among trial courts within the State of California from materials by the Ohio State University's Kirwan Institute for the Study of Race and Ethnicity, the United States District Court for the Western District of Washington, the National Center for State Courts' Center for Jury Studies, and the *UCLA Law Review*.

Remember that your role as a juror is critical in making sure that justice is done. You and your fellow jurors are the true triers of facts.

Step 2: The Trial

Your Responsibilities During the Trial

Do not talk to others about the case. In particular, you should not talk with the attorneys, witnesses, other jurors, or anyone else connected with the case. The attorneys and the judge understand this rule. Even if it seems rude or unfriendly, they have to avoid casual conversation or contact with you, so please do not misunderstand their obligations. You also cannot talk to anybody else about the case—not even family or friends. You cannot post about the case or parties involved on social media or other websites. If a reporter or even a friend of one of the people involved in the case approaches you during the trial, let them know you are not allowed to talk about the case and then let the judge know you were contacted. This kind of contact is improper during a trial and can cause a mistrial.

There are important reasons for these restrictions. A case must be decided only on the evidence presented in the courtroom and the law that the judge explains applies to the case. If you discuss the case with your family, friends, or others, you may hear their ideas or opinions, which may influence you, even though they have not heard all the facts.

Do not make up your mind before hearing all the evidence. Also, do not express an opinion about the case. You must keep an open mind until you have heard the evidence from all sides, have been instructed by the judge about the law in the matter, and have listened carefully to the arguments each side has presented to you. You will have to wait until you begin deliberations to discuss the case with your fellow jurors, and then you may do so only when all jurors are present.

Do not investigate the case yourself. For example, you must not visit the scene of an accident, an alleged crime, or any other place involved in the case. You must not conduct experiments, read books for more information, or use the internet to do research on any person or topic related to the case. Do not consult people you think are experts. If the judge believes that an inspection of a scene is necessary or would be helpful, they will arrange a supervised visit by the whole jury. Additionally, if you witness or are told of another juror engaging in this type of behavior, please inform the judge immediately. It is improper and could result in a mistrial.

Opening Statements

As the trial begins, the attorney for the plaintiff or the prosecutor usually makes an opening statement. The *plaintiff* is a party in a civil case. The *prosecutor* is a party in a criminal case. The *defendant* is the other party in both types of cases. The defendant's attorney may choose to give an opening statement after the plaintiff's attorney or prosecutor, or they may wait until later. The opening statements tell you what the attorneys expect the evidence to prove.

The attorneys' statements are not evidence. They are meant to give you the framework of the case. They are each side's outline of the case and the issues that you will need to decide. Be careful that you do not let opening statements become evidence in your mind. The attorneys' statements are only their versions of what the evidence will show. You must wait to hear and see the actual evidence.

Presentation of Evidence

The attorney may present evidence during the trial. Attorneys must use evidence to try to prove their sides of the case. They also may use evidence to counter the other side's evidence. Evidence includes what witnesses say under oath. This is called *testimony*. Evidence can also be written documents or objects (a weapon, a document, a photograph, an x-ray, or another physical object). These are called *exhibits*.

Closing Arguments

After all the evidence has been presented in court, attorneys for each side will summarize the case. These summaries are referred to as *closing arguments*. The attorneys can talk about the evidence and urge you to believe their side of the case. They can explain why you should view the evidence a certain way. But like opening statements, closing arguments are not evidence. They are efforts to persuade you to view the evidence as the attorneys have presented it. You, the jury, ultimately decide what the facts are.

Step 3: Judge's Instructions on the Law

Before or after the closing arguments, the judge will explain the law that applies to the case. You must apply these instructions to the facts to arrive at your verdict. Keep in mind that you must follow the law as the judge states it to you, even if you disagree with it. If the judge gives you an instruction that seems different from what you read here or something you heard somewhere else, you must accept the instruction the judge gives you. Be sure to ask questions if you do not understand an instruction. If you cannot follow the law for any reason, you must tell the judge immediately.

When you evaluate the evidence, there is an important difference between criminal and civil cases. It has to do with how much evidence is required (called the *burden of proof*) to reach a

verdict against a defendant. To convict someone in a criminal case, you and your fellow jurors must decide that the person is guilty "beyond a reasonable doubt." In a civil case, you must decide which party has established that a "preponderance of the evidence" proves their version of the case. The judge will explain to you what these phrases mean. Please pay careful attention to these instructions.

Step 4: Jury Deliberations

After you hear the closing arguments and receive the judge's instructions, you will begin your deliberations. During jury deliberations, you are allowed to discuss the case with each other for the first time, but you must do so only when all jurors are present in the deliberation room. You and the other jurors must review the evidence and make decisions as a group.

You will be instructed on the law in this case and have access to the evidence presented during the trial. You are free to deliberate in any way you wish. Please read this brochure for suggestions to help you proceed with deliberations in a calm and timely way in order to reach a verdict.

Getting Started

At first, you might want to:

- Take some time to get to know one another;
- Talk about your feelings and what you think about the case;
- Talk about how you want to go ahead with the deliberations, and lay out some rules to guide you; and
- Talk about how to handle voting.

Selecting the Presiding Juror

Every jury must select a presiding juror. Below are some qualities to consider when choosing your presiding juror:

- Are they a good discussion leader?
- Are they fair?
- Are they a good listener?
- Are they a good speaker?
- Are they organized?

Presiding Juror Responsibilities

Once selected, the presiding juror should:

- Encourage discussions that include all jurors;
- Keep the deliberations focused on the evidence and the law;
- Let the court know if there are any questions or problems; and
- Tell the court when a verdict has been reached.

Discussing the Evidence and the Law

You could start discussing the evidence and the law by reviewing the judge's instructions on the law, because the instructions tell you what to do.

There is no set way to examine and weigh the evidence and to apply the law. Unless, the judge's instructions tell you that special rules or set processes must be followed, you are free to conduct your deliberations in whatever way is helpful.

Voting

There is no best time to take a first vote. But if you spend a reasonable amount of time considering the evidence and the law and listening to each other's opinions, you will probably feel more confident and satisfied with your eventual verdict than if you rush things.

Additionally, there is no correct way to take the vote. Any way is okay. You might vote by a show of hands, a written ballot, or a voice ballot. Eventually, a final vote in the jury room will have to be taken, with each of you expressing your verdict openly to the other jurors. If you cannot reach a verdict after trying many times to do so, you should ask the judge for advice on how to proceed.

Getting Assistance From the Court

If you don't understand or are confused by something in the judge's instructions, such as a legal principle or definition, ask the judge. You must understand the instructions to do a good job. To get more information, write your questions on a piece of paper, and have the presiding juror give the paper to the jury bailiff.

If you ask for information that the judge is unable to give you, the judge will tell you so.

Step 5: The Verdict

After the jurors have reached a verdict and signed the verdict forms, the following steps are usually taken:

- The presiding juror tells the attending jury bailiff that a verdict has been reached.
- The judge calls everyone, including the jurors, back into the courtroom.
- The clerk in the courtroom asks the presiding juror for the verdict.
- The verdict is read into the record in open court by the clerk, the judge, or some other court official.

The judge may ask for an individual poll of each juror to see if they agree with the verdict. You need only answer "yes" or "no" OR "not guilty" or "guilty" to the question asked by the judge.

Once Jury Duty Is Over

Now that the case is over, you may speak with others about the case and the deliberations, if you so choose.

If you are concerned whether you did the right thing, know that if you tried your best, you did the right thing. Making decisions as jurors about the lives, events, and facts in a trial is always difficult. Regardless of the outcome of this case, you have performed an invaluable service for the people in this case and for the system of justice in our community.

Note: The deliberation guidelines are copyrighted by the American Judicature Society, 1998. They have been modified for distribution in the State of California.

This guide is not intended to take the place of any instructions given to you by the judge.

GLOSSARY

admonishment: A statement made to the jury by the judge regarding members' conduct as jurors. Admonishments usually tell jurors what they must do or not do and what their duties are.

anonymous: When a person's identity is unknown or withheld from others' knowledge.

ascertained: Determined, or proved to be true.

bailiff/deputy: A specially trained law enforcement officer who maintains courtroom order, as well as jury custody and safety. They are typically your main connection to the judge throughout the trial. Sometimes this person will be known as a *court attendant*.

beyond a reasonable doubt: Proof that leaves you with an abiding conviction that the charge is true. In a criminal case, the accused's guilt must be established beyond a reasonable doubt.

burden of proof: The amount of proof necessary to prove a case; sometimes called the *degree of proof*. In a criminal case, the burden of proof must be *beyond a reasonable doubt*. In civil cases, the burden of proof is *by a preponderance of the evidence*. The judge will explain what these terms mean for a given case in the jury instructions.

California Labor Code: A collection of laws regarding the broad spectrum of activities concerning the relationship between employers and employees.

California Rules of Court: The rules that regulate the practices and procedures in state courts.

challenges: When the attorneys or judge move to excuse a juror or jurors from a particular case for various reasons, as authorized by law. If an attorney wishes to have a juror excused, they must use a challenge for that juror. Challenges, or reasons to dismiss a juror, are of two kinds:

a. for cause: The law states a number of reasons that jurors may be excused *for cause*. There is usually a specific reason that a person may not be part of a particular jury because it may appear that they simply cannot be a fair and impartial juror for this case. For example, a juror who is related to or employed by one of the parties in the case may be excused for cause. There is no limit to the number of for-cause challenges that may be used.

b. peremptory: Each side in a case has a certain number of challenges that can be used without giving a reason. These are called *peremptory challenges*. Each side may ask the judge to excuse particular jurors. If a juror is excused, this does not imply something bad and does not mean the juror is not competent. It frequently happens that a prospective juror will be excused in a certain case and accepted in a different one. The number of peremptory challenges each side may use is set by law.

civil case/civil suit: A lawsuit between two or more individuals, businesses, or organizations involved in a dispute. A civil case or suit is usually about awarding monetary damages or prohibiting a certain conduct.

common law: The body of law derived from judicial decisions, rather than from constitutions or statutes; often called *case law*.

compulsory: Compelled; mandated by legal process or by statute.

Constitution: The fundamental law of our nation. It establishes the character and organization of America's sovereign power and the manner of its exercise. It also contains the nation's guiding rules and principles, descriptions of the power of the federal government, and essential rights of the people. California has a state Constitution as well.

controversy: A disagreement or a dispute that requires a definitive determination of how the law applies to the facts that are asserted to be true.

counsel: One or more attorneys who represent a person, organization, or entity.

criminal prosecution/criminal case: A trial in which the state has charged someone with a crime. The state is often referred to as *the People*.

defendant: In a criminal case, the person on trial because of a criminal charge. In a civil case, this can be a person, entity, or organization and is usually called the *respondent*.

deliberations: The time when the jury meets to discuss the case in order to reach a verdict at the end of the trial. As a group, the jury thinks about and discusses the evidence, testimony, and applicable law as explained by the judge.

directed verdict: When a judge tells the jury what verdict to return. This occurs only after evidence has been presented and if no issue of fact remains for the jury to determine. When a judge directs a specific verdict, the jury must return that verdict.

disqualification: The condition of having been found unable to serve as a juror in a given case and/or any case.

eligible/eligibility: To be allowed under the law to serve as a juror. Every person who is at least 18 years of age, a citizen of the United States, a resident of the respective county, able to understand the English language, and not currently serving on any other jury. eligible. However, other eligibility requirements set by law may affect your ability to serve as a juror, such as having a criminal history. You should speak with your local jury office if you are unsure whether you are eligible to serve as a juror.

evidence: Any type of proof that is legally presented during a trial. Evidence can be witness testimony, records, and/or exhibits.

exemptions/excuses/postponements: A set of reasons and criteria that can allow you to be exempt from jury service, be excused from serving in a particular case or at a given time, and have your service rescheduled. By law, no one who meets the basic criteria is automatically exempted from service. The law does provide for hardship excuses. *Hardship* is defined by law and includes no reasonable transportation, excessive travel, extreme financial burden, undue risk to physical property, a physical and/or mental impairment, deficiencies to public health and safety, or no available alternate care for a dependent. If you believe you fall into any of these categories, contact your local jury office. Postponement may be available if you have health problems, a vacation that has already been paid for, or other personal commitments that cannot be rescheduled at the time you are initially called. If you have already received one postponement during the past 12 months, you will probably have to come to court and speak to a judge to further delay your service.

exhibit: A document or object produced and identified in court as evidence in a case. Each of these documents or objects is ordinarily given a letter or number in alphabetical or numerical sequence when it is offered as evidence to identify it.

felon: A person convicted of a serious criminal offense punishable by imprisonment exceeding one year or the equivalent.

foreperson: The juror charged with overseeing jury deliberations; often called the *presiding juror*. (See *deliberations*, above, and *presiding juror*, below.)

impartial: Without bias, prejudice, or other preconception. The members of a jury should have no opinion about or vested interest in a case at the start of the trial and should base the verdict only on competent legal evidence presented during the trial and on the judges' instructions about the law.

implicit bias: The attitudes, stereotypes, or preferences regarding race, ethnicity, age, appearance, gender, and sexual orientation held by everyone that subconsciously affect our understanding, actions, and decisions. They may favor a group we identify with, but not always, and they may not match our stated beliefs. These biases may also cause us to be skeptical of groups that we do not identify with.

instructions: Guidance given by the judge at the beginning and end of a trial. The jury instructions explain the law in the case and guide the jurors when they look at the evidence. The instructions come from many years of legislation and court case law, binding the parties in the case as well as the jurors.

jury panel: A group of prospective qualified jurors who are sent to a courtroom for jury selection. Multiple panels can be sent to a given courtroom.

jury pool: A group of prospective qualified jurors appearing for assignment to trial jury panels.

jury selection: The process by which jurors for a particular trial are selected from the larger group of potential jurors summoned to the courthouse. To begin the jury selection process in their courtroom, the trial court judge sends a request to the jury assembly room for a panel of potential qualified jurors. Once the jurors arrive in the courtroom, the judge and attorneys ask the jurors questions to determine whether they are free of bias, prejudice, or anything that might interfere with their ability to be fair and impartial, as well as whether any individual would experience a hardship by serving as a juror in the case.

jury summons: The papers sent to potential jurors that require their attendance in court for possible service on a jury. California courts summon jurors no more than once in any given 12-month period.

litigants: Any person or persons, as well as group or groups, engaged in a lawsuit; often referred to as the *parties* in a case.

mistrial: When a trial becomes invalid and ends because of a significant error in the proceedings. Also, when a jury cannot agree on a verdict despite all its efforts.

one day/one trial: A system adopted by the California courts in which prospective jurors have to come to the court only once every 12 months. If they are not assigned to a courtroom for jury selection on the first day, then their term of service is complete. Alternatively, service can be completed by serving one day on call or five days on standby. If a person serves on a jury, that person will not be required to report for jury service for at least another 12 months.

pending: In process or not yet decided.

perjury: A false statement made willfully and knowingly while the speaker is under oath in a court proceeding.

plaintiff: In a civil case, the person(s) or organization(s) suing someone else.

polled/polling: The act of calling the names of the jurors and having them state what their final verdict is before it is recorded.

postpone: To put off until later.

postponement: Permission to put off serving as a juror until a later time. A postponement may be available if you have health problems, a paid vacation, or other personal commitments that cannot be rescheduled at the time you are initially called for jury service. See also *exemptions/excuses*.

preponderance of the evidence: A greater weight of evidence, or evidence that is more credible and convincing; refers to the amount of proof required to win in a civil case. It is that degree of proof that is more probable than not (lower standard than that required in criminal cases).

presiding juror: The juror charged with overseeing jury deliberations; often called the *foreperson*. (See *foreperson,* above.) At the beginning of

deliberations, the jury votes to select one of its members to be the foreperson. The jury foreperson's duty is to preside and see that discussion during deliberations is carried on in a free and orderly manner, that the case and issues are fully and freely discussed, and that every juror is given a chance to participate in the discussion. As the deliberations conclude, the foreperson counts the votes and completes and signs the verdict form.

propound: To offer for discussion or consideration.

prosecution/prosecutor: A criminal legal proceeding or action brought by the state (or "the People") against an individual or group. A prosecutor is the attorney who represents the state and the people of California.

prospective: Likely to come about; relating to or effective in the future.

reimbursement: Specific payment after incurring out-of-pocket expenses.

sequestration: A judge's condition that a jury be, usually, housed together at night in a hotel and prohibited from contacting people outside the court. Sequestration is extremely rare, but when it occurs it is meant for jurors' protection. It may be used to keep jurors away from the media during a controversial trial where widespread news coverage could influence a juror's decision. In very rare cases, there may be attempts to influence the jurors' deliberation through threats.

source list: The list or lists from which citizens are selected to receive a jury summons in California. Potential jurors are selected randomly from voter registration lists and the Department of Motor Vehicles' lists of drivers and identification card holders. Other lists may sometimes be used to supplement these sources, such as utilities lists, Franchise Tax Board filings, and Employment Development Department records.

subpoena: An official order to attend or appear in court at a stated time. The most common use of the subpoena is to summon witnesses to court to testify in a trial.

testimony: Evidence given by a witness under oath.

unable to serve: When you are unable to serve on a jury. If you have health problems, a paid vacation, or other personal commitments that cannot be rescheduled at the time you are initially called, a postponement may be available. If you have already received one postponement within the past 12 months, you will probably have to come to court and speak to a judge to further delay your service.

unanimous: When the full jury in a criminal case or three-quarters of the jury in a civil case have agreed on a verdict.

verdict: The formal decision or finding made by an impaneled jury and reported to the court. The jury must first be sworn for the trial of a case. Once the verdict has been reached, the jury is brought back into the courtroom. The verdict must be in writing, signed by the presiding juror, and read to the jury by the court clerk or judge.

voir dire: From old French, the legal phrase meaning "to speak the truth" or "to see them say." Voir dire is the preliminary examination of a prospective juror by a judge or attorney in the case to decide whether that person can serve on the jury.

witness: One who can give a firsthand account of something seen, heard, or experienced.

Please feel free to request a copy of our other brochures:

Jury Service Stress

Court and Community

A Guide to Jury Deliberations

One Day or One Trial—It's Better for Business

Navigating Social Media and the Internet for Jurors

NOTES

NOTES

You, the Jury

As a juror, you play an essential role in the American system of justice. Your presence here at court today is itself a patriotic act of which you can be proud and for which we thank you. Often jury service is the most direct participation the average citizen can have in the workings of government. Over and over, jurors who have served tell us how much they enjoyed being involved in making important civic decisions. Some jurors have even decided to go back to school or changed careers after their experience as jurors.

Without you, the jury system cannot work the way the authors of the Constitution envisioned. Your public service as a juror ensures the right to trial by jury for all Americans; through you, ideals are made real. We honor your presence and respect the fact that your service most likely has meant that you have had to make adjustments in your daily routines. With this in mind, please be assured that we are making every effort to use your time effectively.

Questions jurors often ask are answered in this handbook. It has been prepared to help you better understand the jury trial process. If you want to know more about jury service, please ask a representative from your local court or visit the California Courts website at www.courts.ca.gov/juryservice.htm.

Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courts.ca.gov