THE JUROR'S HANDBOOK

INTRODUCTION

You have been summoned to render interesting and important service as a juror. When you are chosen as a juror, for a short time you are a part of the governmental machinery of this state for the judicial determination of a lawsuit. In a criminal case, you will be called upon to decide if a defendant is guilty or not guilty. Your services as a juror are as important as those of the judge. You are obligated to perform these services honestly and conscientiously, without fear or favor. You must base your verdict on the evidence as you will hear it in court and stipulations made by the parties, and on the law as the judge will instruct you in it. You should disregard any personal prejudices.

Judges and lawyers are familiar with what goes on in a courtroom and the various terms used. To other people courtroom procedure is often mystifying and the language strange. The purpose of this booklet is to help you understand the things that happen and the terms that are used during a trial and to let you know what is expected of you. It is hoped that it will make you better able to do your part in administering justice.

In each case on which you act as juror, the judge will give you instructions applicable to that case. The information contained in this booklet is not a substitute for the instructions given you by the judge. You should disregard anything which is in conflict with such instructions.

WHY TRIAL BY JURY

The United States Supreme Court, speaking of trial by jury in essence said:

Twelve persons of the average of the community, comprising those of little education, those of learning and those whose learning consists only in what they have themselves seen and heard; the merchants, the mechanic, the farmer, the laborer; these sit together, consult, apply their experience of the affair of life to the facts proven and draw a conclusion. This average judgment thus given, it is the great effort of the law to obtain. It is assumed that twelve persons know more of the common affairs of life than does one.

FUNCTIONS OF A JURY

Every jury trial involves some dispute as to what has happened. One side presents evidence that shows the facts to be different from what the other side claims. It is the jury's job to find, from the evidence and stipulations, what actually happened. In doing this, the jury must decide what evidence to believe and what evidence to reject. The judge aids the jury in performing this task by informing it of certain guides which should be followed in judging testimony.

The jury does not decide what law to apply. The judge tells the jury what the law is. Thus the jury, after it decides what the facts are, applies to these facts the law as stated by the judge. The result is then stated by the verdict.

BENEFITS OF JURY SERVICE

"What's In It For Me"

If you perform your duties as jurors conscientiously, the community should derive lasting benefits from your services and you will have the satisfaction of knowing that you have done your duty as a citizen.

You will have learned something of how the judicial branch of your government works.

You will have had an important part in seeing that justice was done.

You may have had the responsible and difficult task of finding the needle of truth in a haystack of conflicting evidence.

You will be in a position, when you are through, to enjoy the gratifying feeling that your faithfulness in the discharge of your duties as a juror has strengthened the faith of the people in our form of government and in democracy.

KINDS OF CASES

Generally Speaking, a Jury May Be Called Upon to Try Two Kinds of Cases

— Civil

A civil case ordinarily is one for money damages. The party suing is called the "plaintiff," and the party sued (or against whom action is brought) is known as the "defendant." In a civil case, a person who brings the suit against another does so by setting out his claim in a written "complaint." The person being sued, if he disputes the claim, usually does so by filing an "answer."

— Criminal

In a criminal case the action is brought in the name of the people of the State of California as "plaintiff," against the person charged with a crime, who is called the "defendant." The defendant is brought before the Superior Court either by an "indictment" or an "information," (both of which are written documents) and in Municipal and Justice courts by a written complaint. If the charge is brought by a grand jury, it is known as an indictment. If the charge is made by the District Attorney, it is known as an information. The person charged with an offense, if he/she admits the charge, does so by entering a plea of "guilty." If he/she denies the charge, he/she does so by pleading "not guilty." A defendant may also plead not guilty by reason of insanity, in any of the trial courts.

WHO IS QUALIFIED FOR JURY SERVICE

From time to time lists are made up of prospective jurors selected from among the citizens of the county. Persons on the jury lists are notified to appear in Court as they are needed.

Under the law, a juror must be a citizen of the United States of the age of 18 years or more; in possession of mental faculties and of ordinary intelligence, and physically able to serve, and must be possessed of a sufficient knowledge of the English language.

Certain definite disqualifications are also set up by the legislature. One cannot serve who has been convicted of malfeasance in office or any felony or other high crime. Other special rules applicable to the various classes of counties in California are also set up.

HOW THE TRIAL JURY IS CHOSEN

A group of citizens qualified to serve as jurors has been summoned. This group is called a jury panel. The names of these persons are each written on a separate piece of paper and put into a box, and from this box by lot the clerk, in civil case, draws 12 names. These names are called and those 12 persons take seats in the jury box. They, and often the remaining prospective jurors in the courtroom, are then sworn to answer truthfully all questions affecting their qualifications as jurors. The jurors are then told the nature of the action, the parties and attorneys who are interested in the case, and in a general way what the case is about. They are then questioned by the judge and by the lawyers concerning their qualifications to sit as jurors in the case then before the Court.

There are many reasons why a person originally on the panel might not be selected as a juror, such as: close relationship to one of the litigants; have a business relationship with one of the lawyers; or have personal knowledge of the case to be tried. The person may show some leaning, one way or the other, regarding the type of case being tried that would make that person an undesirable juror. It is very important to the rights of litigants that jurors answer the questions put to them frankly and truthfully.

Lawyers are within their rights asking questions to test a jury's state of mind. If a juror's qualifications are challenged by a lawyer, and if the juror is excused by the judge for cause, the challenge must not be taken as a reflection on the juror's integrity or intelligence. It simply means that, in one particular case, the judge may deem it proper to excuse the juror. What everyone wants, and is entitled to, is a jury of 12 disinterested persons who will try the case on the law as stated by the judge, and on the evidence admitted at the trial. In civil cases a jury may be fewer than 12 if both parties agree.

After the questioning is over each side may excuse a certain number of those who have been called into the jury box, without giving any excuse or reason. This is known as the peremptory challenge. The number of "challenges" varies with the nature of the case—civil, criminal involving the death penalty, and other criminal cases.

After these processes have resulted in the selection of 12 jurors, an oath to try the case impartially, according to the law and the evidence, is administered.

HOW JURY CASES ARE TRIED

After the jury has been sworn in, each lawyer has the right to outline the evidence that will be offered by the respective sides. This is called an "opening statement." It is not intended to be an argument. Then witnesses are usually called on behalf of the plaintiff.

After the plaintiff has put in evidence, the lawyer for the defendant then produces witnesses. When all of the evidence is in, the next order of business is generally the arguments of the lawyers. The party having the burden of proof (generally the plaintiff) has the opening and closing arguments. It is the duty of each attorney to tell the jury what his/her client contends the evidence shows and to analyze that evidence in the light of the instructions to be given by the Court. After the attorneys have argued the case, the Court then reads to the jury its instructions on their duties and gives them the law applicable to the case.

After the instructions have been read and the arguments completed, the bailiff is given an oath to conduct the jury to the jury room where the jurors will deliberate on their decision.

HOW JURORS SHOULD ACT DURING THE TRIAL

After You Are Sworn in as a Juror in a Case on Trial
There are Some Rules of Conduct You Should Observe

— Don't Be Late for Court Sessions

Since each juror must hear all the evidence, tardiness causes delay, annoyance to the judge, the lawyers, the witnesses and the other jurors.

— Always Sit in the Same Seat

This enables the judge, the clerk, and the lawyers to identify you more easily.

— Listen to Every Question and Answer

Since you must base your verdict on the evidence, you should hear every question asked and the answer given. If you do not hear some of the evidence—for any reason—ask to have it repeated. If you do not understand some phrase or expression used, it is proper to ask the judge to have it explained. You must not doze or read magazines or newspapers while Court is in session. You may make notes on the testimony if you wish.

— Don't Talk About the Case

While you are a juror you should not talk to your fellow jurors or anyone else about the case or permit anyone to talk to you about it until you retire to the jury room for deliberation. If any person persists in talking to you about it, or attempts to influence you as a juror, you should report that fact to the judge immediately. You should be particularly careful not to talk to the attorneys, witnesses, or parties about anything, for irrespective of what is said, other persons may get the wrong impression. Lawyers know the impropriety of talking to jurors, and do not desire to jeopardize their case by allowing jurors to talk to them. Accordingly, if an attorney or judge seems to ignore you, you should not interpret this as snobbishness but merely a desire to observe proper rules of conduct.

— Don't be an Amateur Detective

You are not allowed to make an independent investigation or visit any of the places involved in the lawsuit. If it is proper or necessary for you to inspect a property or place involved in the case, arrangements will be made for the jury to go there as a group with the judge and the attorneys and the parties.

— Control Your Emotions

You should not indicate by exclamation, facial contortion, or any other expression, how any evidence or any incident of the trial affects you.

— When in Doubt Ask the Judge

If you are in doubt about your rights or duties as a juror, you should not ask anyone but the judge for information, and this must be done only in open Court.

If an emergency affecting your services should arise, consult the judge about it in open Court.

You may also consult the judge in chambers under certain situations.

Many words and phrases you are likely to hear during the trial are explained later in this booklet.

HOW JURORS SHOULD ACT IN THE JURY ROOM

The first thing you should do on retiring to the jury room is to select one of your number as foreman. He or she should preside at your deliberations and bring your verdict into Court and sign it.

Your deliberations should be characterized both by a free and fearless expression of your own opinions and a patient and tolerant attention to the opinions of others. You should respect the opinion of your associates, which appear reasonable and yield your own when better reasoning shows them to be unsound. Those views should prevail which, after full and frank discussion and calm and unbiased consideration, appear most sensible and sound.

You must base any decision as to the facts on the evidence in the case. But in considering the evidence you should keep in mind what the judge may have said about weighing the evidence, how to decide what evidence to believe, and the burden of proof. Also, take into consideration the arguments of the lawyers insofar as they are fair and reasonable. And, of course, you must keep in mind the law as the Court instructed you in it.

WHAT IS EVIDENCE

Since Your Verdict Must Be Based on the Evidence
You Should Know What You May Take Into
Consideration as Evidence.

— Evidence

If a lawyer, during the trial admits some statement of fact made by the other side to be true, or if the lawyers of both sides, either before or during the trial, agree or stipulate that certain things are true, you must accept as true the facts admitted or stipulated.

— Evidence

Answers to questions are evidence.

— Evidence

Exhibits are evidence. A deposition is the written testimony of a witness.

— Not Evidence

Matters offered to be proved but not admitted by the Court are not evidence.

— Not Evidence

Statements made by lawyers on what they expect to prove or what they claim they have proven, are not evidence.

If any statement is made by a lawyer which differs from your recollection of what the evidence was, you must rely on your own recollection.

— Not Evidence

Information on the case, the litigants, the lawyers or the witnesses, gained from sources other than the evidence presented in Court, is not evidence and must not be considered.

— Not Evidence

Sometimes remarks reflecting favorably or unfavorably upon the case or upon someone connected with it, are made in the hearing of jurors. Presumably, you do not know the person who makes the remark. Such person has not been sworn nor cross-examined and you do not know that person's interest, motive, bias or source of

information. The remark may have been made in the hope that a juror would overhear and be influenced by it. Such remarks are not evidence and must be disregarded.

OBJECTIONS TO EVIDENCE

It sometimes happens during trials that the lawyers on one side will object to a question asked, or an exhibit offered, by the other side. Under the rules of law governing admission of evidence, a lawyer is exercising a right and is performing a duty in objecting to the introduction of any evidence which the lawyer believes is not proper in the case. If the judge thinks the evidence objected to is not proper, the judge will exclude it or if the judge thinks the lawyer is mistaken in his objection, it will be admitted. In either event, the matter to be decided is a legal question which the judge alone is competent to decide. Objections by the lawyers, or the ruling of the judge with regard to them, should not cause the jury to draw inferences for or against either side. A trial is not a contest of learning, skill, or tactics between lawyers, but a proceeding to find out the truth according to the evidence received and the law as explained by the judge.

HOW TO JUDGE A WITNESS

In order to reach a correct verdict, you must determine what part of the evidence you will believe and what part you will reject as not worthy of belief.

Unfortunately, there is no "fool proof" way of sifting the true from the false. As yet, no one has discovered an infallible truth detector. In forming your opinions you must take into consideration various factors affecting the credibility of the witnesses, as far as the evidence discloses them. Some of these may be age, education, occupation, or appearance and conduct on the witness stand. Other factors influencing testimony may be a relationship between the witness and the parties in the lawsuit; interest in the outcome of the case; a possible motive for testifying as they have; a bias or prejudice, if one appears; the degree of intelligence displayed; the strength or weakness of the witness' recollection, the opportunities they have had to see, hear, and know the things to which they have testified; their frankness and candor or lack of it; the extent to which their testimony sounds reasonable and is in line with the probabilities.

It is not unusual for witnesses to differ in some details. Such discrepancies may be due to difference in the witnesses' powers to observe accurately, or in their ability to remember or to relate what they saw, heard or did. You should try to reconcile discrepancies as far as you reasonably can, taking into account these differing capacities to observe, to remember, and to relate.

You should consider the possible causes of untrue statements such as confusion, nervousness, mistake, poor memory, thoughtlessness, lack of intelligence and evil intent.

In reaching your conclusions, consider, examine and weigh all the evidence in the case, including the exhibits, if any. Act on the evidence only if you find it reasonable and probable.

Of course, you may disregard such parts of the evidence as you consider unworthy of belief.

THE JURY VERDICT

"We Have Reached A Verdict, Your Honor"

The word "verdict" literally means "truth speaking." It is assumed that the verdict speaks the truth on the disputed points between persons involved in a lawsuit. It is of the highest importance that each juror exercise the utmost of skill, fairness, and honesty to reach a just verdict.

In each case you will be furnished with the forms of the verdict. In California three-fourths of the jurors may reach a decision in a civil case. In a criminal case, the verdict must be unanimous.

When a verdict is reached, it is signed by the foreman and the jury is brought into the courtroom, taking their places in the jury box. The verdict is handed to the judge by the foreman. After the verdict is handed to the clerk, it is read aloud, copies are put into the record, and the jurors are asked if such is the verdict. Upon the demand of either party, each juror may be asked individually whether the verdict as read is his or her own verdict. This is known as polling the jury. In answer to the clerk's question, it is the duty of the juror to answer truthfully.

This procedure may seem rather tediously ritualistic to the onlooker, but it must be remembered that the judicial system guards the verdict of the jury very jealously.

THE FUNCTIONS OF THE JUDGE

The judge has many duties in connection with the trial. The judge sees that the trial is conducted in an orderly manner according to prescribed rules. These rules cover the selection of the jury, the presentation of evidence, the arguments of the lawyers, the instructions to the jury, and the rendition of the verdict. The judge must pass on the propriety of the questions put to prospective jurors as to their qualifications, and on requests to excuse jurors. The judge must see that litigants, lawyers, witnesses and jurors conduct themselves properly. The judge must not permit any disturbances by the public. The judge must see that the lawyers remain within proper limits in questioning witnesses, in arguing to the jury, and in their attitude toward each other and the judge and jury.

The judge must tell the jurors what issues of fact they must decide; by what law the rights of the litigants are controlled; and what their responsibilities as jurors are. The judge must see that the verdict is proper in form. The judge must decide any requests for rulings by lawyers or jurors: If there is no issue of fact for the jury, the judge must direct the jury to return the proper verdict or otherwise dispose of the case in civil cases.

RULES OF LAW GOVERNING TRIALS

Judges get the law by which they decide the legal questions arising in a lawsuit from many sources: federal and state constitutions; federal and state statutes; and from local ordinances and from previous judicial decisions. The latter state public standards of rights and duties in matters not covered by constitutions and statutes or ordinances. If judges and juries were not bound by these statements of the law—if, in each lawsuit, the judge or the juror could set up a private and personal standard of rights and duties as a basis for deciding that case—no one would know in advance of the decision how he/she should have acted in a particular situation. Cases arising out of similar circumstances would not be decided on settled principles but on the

notions of the trial judge or juror.

Because cases must be tried and determined on established and recognized public standards of right and wrong, we call ours a government of law and not a government of people.

Judges have access to these statements of the law and know which apply to the situation involved in any lawsuit. So that justice may be done according to law, it is imperative that the jurors in each case accept the law as the judge gives it to them. Jurors must base their verdicts on the judge's instructions as to the law rather than on their own notions of what the law is, or ought to be.

For somewhat similar reasons there are rules governing the way a case is to be tried in Court. These rules prescribe what must be stated in the complaint and answer, (in a civil case) in what order evidence must be presented, what evidence is proper, what form questions must take, in what order lawyers are permitted to argue, what is permissible and what is not permissible argument. If it were not for these rules no one could foresee what would happen during a lawsuit. It would be impossible to prepare properly for the trial. No one would know, until the judge had ruled, what he/she would be permitted to say or do, or in what order. Such a situation would inevitably result in confusion and injustice. Consequently, through experience, rules for the conduct of trials have been developed and adopted. These rules come to the attention of jurors primarily through rulings on the admission or exclusion of evidence—and sometimes on motions to dismiss the case or for a direct verdict, in civil cases.

The ruling of the judge involves questions of the law—not of fact—and must neither be questioned by the jury as to their correctness nor made the basis of inferences for or against either side.

The whole purpose of laws and rules is to establish a single standard of rights and duties, applicable to all persons similarly situated; to avoid or reduce uncertainty; and to produce similar results in similar cases.

Definition of Words and Phrases

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

1. Action, Case, Suit, Lawsuit

These words mean the same thing. They all refer to a legal dispute brought into Court for trial in civil cases.

2. Answer

The paper in which the defendant in a civil case answers the claims of the plaintiff.

3. Argument

After all the evidence on both sides of a case is in, one of the lawyers on each side is permitted to tell the jury what that lawyer thinks the evidence proves and why that lawyer's side should win. This is usually called an "Argument" or "summing up."

4. Cause of Action

The legal grounds on which a party to a civil case relies to get a verdict against that party's adversary is usually referred to as a "cause of action."

5. Challenge for Actual or Implied Cause

If a lawyer, after examination, thinks a prospective juror's state of mind indicates bias in favor of one side or the other in the case, the lawyer may ask the judge to excuse that juror. This process is called challenging for cause. Disqualification for cause occurs when a juror is closely related to the parties to the action, or stands in some business relationship to one of the attorneys, etc.

6. "Charge" or Instructions

After the taking of evidence has been concluded, and either before or after the arguments of the attorneys, the judge will outline the rule of law which must guide the deliberations of the jurors and control the verdict. This is called "Instructing the Jury." Occasionally instructions are given to the jury during the taking of the evidence; generally such instructions apply to some unexpected incident that has taken place in the courtroom.

7. 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.

8. Complaint

The paper in a civil case or criminal case in which the (plaintiff) sets forth the claims against the defendant, is called a complaint.

9. Counterclaim or Cross Complaint

A "counterclaim" or "cross complaint" in a civil case results when the defendant, in the answer to the complaint, or in a cross complaint claims damages or other relief from the plaintiff.

10. Criminal Cases

A case is called a criminal case when it is between the State of California on one side as plaintiff, and a person or corporation on the other side 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."

11. Defendant

The person against whom a case is brought—in a criminal case the person charged with a criminal offense—is called the defendant.

12. Deposition

The definition of a deposition is as follows: A deposition consists of written testimony in question and answer form, made under oath, with opportunity for cross-examination. This testimony may be read at the trial, subject to the right of opposing counsel to object thereto.

13. Directed Verdict in a Civil Case

In a civil case after the evidence presented by both sides has been heard and no issue of fact for the jury to pass on has been disclosed, the judge will instruct the jury regarding the kind of verdict to return. The jury must return such a verdict. This is called a "directed verdict."

14. Exhibit

Articles such as pictures, books, letters and documents are often received in evidence. These are called "exhibits" and are generally given to the jury to take to the jury room while deliberating.

15. 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.

16. Jury Panel

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

17. Opening Statement

Before introducing any evidence for each side of the case, each lawyer is permitted to tell the jury what the case is about and what evidence they expect the testimony to show. These are called opening statements.

18. Parties

The plaintiff and defendant in the case—also called the "litigants," in a civil case.

19. 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 on any claim for implied or actual bias.

20. 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 a reason for the demand. The judge must excuse the jurors designated. This is called peremptory challenge.

21. Plaintiff

A person who starts a civil lawsuit, or the People of the State of California in a criminal case.

22. Pleadings

The parties in a civil lawsuit must file Court papers, such as a "complaint" or an "answer," stating their claims, denials or defenses. These are called "pleadings."

23. Record

Often the judge or the lawyers may declare that something is, or is not, for "the record" or "in the record." This refers to the word-for-word record made by the official reporter in shorthand of all the proceedings at the trial.

24. Rest

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

25. Trial Jury

The 12 jurors sworn in as the jury to try a particular case.

JUSTICE UNDER LAW .....

After you have read this booklet you should have a fairly clear idea of the duties and responsibilities of a juror. You should have a better understanding of the way in which the courts do their work. You should have a higher opinion of the privilege enjoyed by the free citizens of our country to participate in the administration of justice.

It is hoped that as you surrender your office as a juror and return to the affairs from which you were called, you will do so with the conviction that you have discharged a serious responsibility in a conscientious manner—that you have dealt out evenhanded justice according to the evidence and the law.

NOTES