

Sample Form 46

Civil Jury Trial Checklist

NOTE: Roll will have been taken, and the appropriate number of prospective jurors will have been seated in "the box" in front of the bar.

1. Call case. Are the parties present and ready?

2. The entire jury panel will please stand and be sworn for examination on voir dire.

3. Ladies and gentlemen, the court will now ask you questions to determine whether you can sit as fair and impartial jurors in this case. I hope you understand that these questions are not intended to embarrass you or to pry into your personal affairs. If your answer to a question is "yes," please raise your hand so that additional questions can be asked. If the answer to a question is "no," you need do nothing; we will assume by your silence that your answer is no. Those jurors who have not been seated in "the box" should listen closely to these questions, because you may be seated in "the box" if other prospective jurors are excused. If in response to any question you would feel more comfortable responding to the court at the bench, please let me know.

4. The case which will be tried today is entitled _____ vs. _____. The plaintiff claims _____ which occurred on _____ at _____. The defendant denies any responsibility for the damages claimed by plaintiff.

a. Have any of you ever seen or heard anything about this case from any source whatsoever? (I take it by your silence that none of you have.)

b. The plaintiff is seated at counsel table. Mr./Ms. _____, will you please stand. Do any of you know the plaintiff? Plaintiff is represented by _____. Mr./Ms. _____ is a member of the firm of _____. Do any of you know Mr./Ms. _____ or any member of their firm on a social or professional basis? (Or introduce the attorney and let him introduce his client.)

c. The defendant is seated at the other counsel table. Mr./Ms. _____, will you please stand? Do any of you know the defendant? Defendant is represented by Mr./Ms. _____. Mr./Ms. _____ is a member of the firm of _____. Do any of you know Mr./Ms. _____ or any member of their firm on a social or professional basis?

d. I am going to read a list of witnesses who may be called during this trial. Please raise your hand if you know any of these persons (read list).

e. I have briefly described the nature of this case. Have you, any members of your family or close friends ever been involved in a (insert appropriate facts). When did the accident take place? Who was driving? Who was hurt? How badly? Was any claim made for injuries? Was there litigation? Do you feel that this accident might have some bearing on your judgment if you were chosen as a juror in this trial?

f. The plaintiff claims the following injuries: _____. Have you, any member of your family or close friends ever sustained similar injuries?

g. Have any of you, any member of your family or close friend ever been a plaintiff or a defendant, or a witness in any lawsuit other than a domestic relations or a probate proceeding?

h. Do any of you have strong feelings either for or against a party who brings a personal injury suit?

i. Do any of you not drive a car?

j. Is there anything which has occurred to any of you or are there any facts which you think we should know about which might have a bearing on your judgment in this case?

k. Do all of you understand that this is a civil case which is to be decided by the relative weight of evidence on each side? And that this is different from a criminal case where the government has to prove its case beyond a reasonable doubt?

l. Do all of you understand that you are to wait until all the evidence has been presented and you have been instructed as to the law which is to be applied before making up your minds as to any fact or issue in this case?

m. (If you were either the plaintiff or the defendant, would you be willing to have six jurors with the same frame of mind that you now have sit in judgment in your case?)

n. This case is expected to take ___ days. Would the length of the trial create an undue hardship for any of you?

o. Do any of you have any other reasons whatever, such as a physical defect, a health problem or home problems which might interfere with your serving as fair and impartial jurors in this case?

p. Pose questions submitted by counsel.

5. Ladies and gentlemen, on the easel you will see a number of questions. (See jury questions at end of checklist.) Starting with _____, please stand and answer the questions. The last question asks you about your service on prior juries. With respect to civil cases, please indicate the nature of the subject matter involved in each of the civil juries you have been on.

Do counsel have any additional questions to be presented to panel? **Do counsel pass the panel?**

6. (After the court has finished voir dire) Those jurors who have not been called forward and seated in "the box" are excused subject to call by the jury clerk. Thank you for assisting us in this selection process.

7. Ladies and gentlemen, we will now take a 15 minute recess while counsel are selecting those of you who will serve as jurors on this case. I admonish you not to discuss this case among yourselves or with anyone else during the entire course of the trial. NOTE: Any *Batson* challenge should be asserted at this time so that, if necessary, corrective action can be taken before seating the jury.

8. (After recess) The record may show the presence of the defendant and the presence of the jury panel of ___ with roll call waived. The clerk will please read the names of the jurors selected to try this case. As your name is called, please come forward and be seated as directed by the bailiff.

9. Those members of the jury panel who were not selected as trial jurors are excused subject to call by the jury clerk. Thank you for assisting in this jury selection process.

10. Will those who have been chosen as jurors in this case please stand and be sworn.

11. Admonition and instructions to jury prior to the commencement of a civil case.

Admonitions and General Instructions to Jury Prior to
Commencement of Civil Case

Ladies and gentlemen, you have been sworn as the jury to try this case. I take this opportunity to explain to you your function and duties, the role of the court, and the part the lawyers will play in the trial.

You and I are to be the judges in this case. You are the judges of the facts. I will decide all questions of law that arise during the trial. At the conclusion of the trial, I will instruct you on the law governing this case.

You must not discuss this case among yourselves or with anyone else during the course of the trial. You are not to permit anyone to talk about the case within your hearing. You are to avoid visiting the scene of any incidents referred to in the trial.

You must not form any opinion regarding any fact or issue in the case until you have received the entire evidence, have heard arguments of counsel, have been instructed as to the law of the case, and have retired to the jury room.

In order that you decide this case only upon the evidence presented, I direct you not to read, listen to, or observe any newspaper, radio or television account of the trial while it is in progress.

You must avoid even the *appearance* of any improper conduct. In this regard, I caution you not to talk with any of the parties, lawyers, or witnesses in the case at any time during the trial, even upon matters

unconnected with the case. Should anyone approach you about the case in any manner, report it promptly to me or to one of the bailiffs.

From time to time I will be asked to rule on the admissibility of evidence or the propriety of questions asked of witnesses. You are not to be concerned with the reasons for the court's rulings. You must not attempt to draw any inference in favor of either side, because the rulings will simply be based upon the law.

In our adversary system, it is the duty of the lawyers to present their client's case in its most favorable light. You must remember, however, that arguments and comments of counsel are not evidence in the case and must not be treated by you as evidence.

You will be the sole judges of the credibility of witnesses and the weight to be given to the testimony of each of them. You may consider each witness's ability and opportunity to observe, their manner while testifying and any interest they may have in the case.

You will be permitted to take notes during the trial—for your use only—don't be too detailed. The court will maintain custody of the notes during recesses and they will be destroyed after the trial has concluded.

You are not permitted to ask questions of witnesses. However, if you have a question relating to any significant matter, write it out and give it to the bailiff so that it may be brought to the court's attention.

(Include if appropriate) If any of you from out of town have any questions concerning accommodations, transportation or other arrangements, please see the bailiff during the recess.

On our staff we have a bailiff. If you need anything, the bailiff will assist you.

At this time, I would like to introduce the court staff to you.

Making a verbatim record of the trial proceedings is our court reporter _____.

Swearing in all witnesses, keeping the exhibits in order and entering all minutes relating to the trial is our courtroom deputy clerk _____.

Finally, to assist in the smooth function of this trial is my law clerk and courtroom bailiff _____.

12. Rule of Exclusion of Witnesses. Will all the witnesses please come forward and give your names to the clerk. (Note: more dignity is given to the oath if each witness is sworn individually just before he testifies. This procedure is recommended.)

To Witnesses: Ladies and gentlemen, the rule of exclusion of witnesses has been invoked in this case. This means that you are to remain outside the courtroom during the entire progress of this trial except when you are called to the witness stand. You are not to discuss your testimony with anyone except counsel and then, only when no one else is present, until after the trial has been completed. You may now leave the courtroom until you are called by the bailiff to testify.

13. Opening statements of counsel.

14. Short Admonition to Jury. Ladies and gentlemen, we will now take a short recess. Please remember the admonition given to you by the court about not discussing this case or forming any conclusions until after all of the evidence is in. You are to be back in the jury box at _____.

Admonition at Noon and Evening Recess. Ladies and gentlemen, we are now going to take the noon (evening) recess. Please remember the admonition given to you by the court about not discussing any aspect of this case with anyone. You are not to make up your mind as to any fact or issue until all the evidence has been presented and the case is finally submitted to you. You are to avoid visiting the scene of any incident that may have been referred to in the evidence. I instruct you not to read, listen to, or observe any newspaper, radio or television account of this trial while it is in progress. Please be back in the jury box at _____. (The audience will remain seated while the jurors retire from the courtroom.)

15. (After each recess) The record may reflect the presence of the jury with roll call waived.

16. Presentation of evidence.

17. Settlement of instructions—permit counsel to make record in absence of jury. (See Fed. R. Civ. P. 51)

18. Arguments of counsel.

19. Instruct the jury. (NOTE: Consider instructing jury before counsel present closing arguments.)

20. Do counsel have any additions or corrections to the instructions.

21. Designate by lot, then dismiss and thank alternate juror.

22. The clerk will please swear the bailiffs.

23. The bailiffs will conduct you to the jury room. Ladies and gentlemen, if you have any questions during your deliberations which pertain to the evidence, the instructions or the verdicts, please write them out and give them to the bailiff. You need not write out requests for coffee, phone calls or for care of your car. (Give anticipated time for meal, if appropriate.) The jury will now retire to deliberate.

24. (After jury returns) Ladies and gentlemen, have you reached a verdict? (Foreman hands verdict to bailiff, who gives it to the court. The court reads it and hands it to the clerk.) The clerk will please read and record the verdict.

25. Does either counsel wish to have the jury polled?

26. Ladies and gentlemen, thank you for your services in this case. I am proud of the fact that citizens such as yourselves are willing to serve on juries. The jury is dismissed.

Release Jurors
From Admonitions