JUROR INFORMATION

YOU AS A JUROR

You have been selected by law to act as an officer of this court by serving as a juror. Because this may be the first time that you have ever been called for jury service, this information has been provided to you, and you are urged to read it very carefully. This information is not intended to take the place of the instructions given by the judge in any case. In the event of a conflict, the judge's instructions will prevail.

As citizens of South Carolina, and of the United States, each of us has an obligation to make a contribution to the American system of justice. You are now being called upon to participate in one of the cornerstones of the judicial process--trial by jury. The mandate of justice for all can only be achieved through the combined efforts of judges, lawyers and citizens serving as jurors. Your role as juror, as the "judge" of the facts, will require you to carry out your duties attentively, intelligently and fairly. Remember, your vote as a juror is usually final.

Upon reaching the courthouse, jurors should report to the courtroom or juror room as instructed. In accordance with an August 25, 2000 order from Chief Justice Toal, all cell phones, pagers, and other communication devices, such as palm pilots, should be turned off, or placed in a silent mode prior to being carried into any courtroom. Every reasonable effort will be made by the court to make your service as a juror comfortable and without inconvenience. Cases set for trial may be postponed or settled just as they are scheduled to begin, which causes delays. Please help the court operate more smoothly by being patient and cooperative and by being on time as instructed. It may happen that during your service as a juror you may never be called upon to actually sit in on the trial of a case. However, your very presence and availability as a juror is a contribution of great importance.

ROLL CALL

The juror's roll call is held in the courtroom or jury pool room to which you were instructed to report. When your name is called, you should be prepared to stand and give your name, occupation and the mileage from your home to the courthouse. After the roll call, the presiding judge may ask certain questions to determine whether each individual is qualified to serve as a juror. At the end of each day or if dismissed earlier, you should make sure that you understand where you are to report for service the following day. Each morning as you report to the appointed courtroom or jury pool room, roll call will be held to record your presence. When you are on duty as a juror, your proper place is that area which has been set apart for jurors.

SELECTION OF THE JURY

The first step in the actual trial of a jury case is the selection of the number of jurors from the jury panel required to try the case--sometimes six, but most often twelve. At the beginning of this process, there are usually fifty to sixty prospective jurors present in the courtroom.

The juror selection process in any particular case usually begins with a brief explanation by the judge of the general nature of the case and the names of the parties and their attorneys. The judge then begins the procedure by the questioning of the jurors in order to determine their ability to serve as a juror. Some questions may be directed to all the jurors at once, while others may be directed to individual jurors. The judge determines the types of questions that are asked with suggestions from the attorneys representing the parties. These questions may inquire as to whether a juror has any knowledge of the case. The questioning process, called the voir dire, is designed to permit the attorneys to become acquainted with the prospective jurors and to determine whether a juror can serve fairly and impartially in the case.

If during the questioning, a prospective juror indicates by his answer that he or she is not legally qualified to act as a juror (for instance, if the juror were related to or employed by one of the parties), that juror may be excused "for cause." This excuse, "for cause", may be decided on the judge's initiative or upon motion of one of the parties' attorneys, but there is no limit to the number of jurors who may be excused for cause. After voir dire has been concluded and there are no further challenges for cause by either attorney, the attorneys may finally choose their jury by exercising a certain number of peremptory challenges. This means that each attorney may excuse a certain number of jurors without having to show a reason. A juror who is challenged and thereby excused from service should not be offended, as each attorney has a different idea as to the type of juror that would be most beneficial to the trial of the case.

The manner in which the peremptory challenge period is conducted varies between civil and criminal cases. In civil cases, if a computer is not used for the drawing of jurors, a responsible and impartial person will draw from the jury panel box a total of twenty names. The clerk writes these down, and a copy is given to the attorneys for both sides. The attorneys then strike jurors by number until the plaintiff and the defendant have each struck four names. The remaining twelve names make up the jury. The clerk calls out the names and these people take their seats in the jury box. The judge appoints one of the jurors to act as foreman. Jurors selected to serve on a jury must leave all cell phones, pagers, or other communication devices, including palm pilots, with the clerk of court, bailiff, or other individual identified by the presiding judge.

In criminal cases, if a computer is not used for the drawing of jurors, a responsible and impartial person draws a name and hands it to the clerk. The clerk calls out the name of the juror. This juror comes forward and stands in front of the jury box. The clerk says, "What sayeth the State?" The Solicitor, representing the State, will say either (1) "Excuse the juror," in which event the juror takes his or her seat back in the courtroom; or (2) "Present the juror," or "Swear the juror." The clerk will then ask, "What sayeth the defendant?" The defendant's attorney may say (1) "Excuse the juror," in which event the juror takes his or her seat back in the courtroom; or (2) "Swear the juror," in which event the juror takes a seat in the jury box as directed by the clerk.

After both sides have completed their challenges and the jury box has been filled with the required number of jurors, the process of selection is concluded and the jury is then administered the oath by the court. The oath you will take as a juror is as follows:

IN CRIMINAL CASES (GENERAL SESSIONS)

"Mr. Foreman or Madam Foreman, Ladies and Gentlemen of the Jury. Please stand and raise your right hand to be sworn:

You shall well and truly try, and true deliverance make, between the State of South Carolina, and the defendant at bar, whom you shall have in charge, and a true verdict give, according to the law and evidence. SO HELP YOU GOD."

IN CIVIL CASES (COMMON PLEAS)

"Mr. Foreman or Madam Foreman, Ladies and Gentlemen of the Jury. Please stand and raise your right hand to be sworn:

You shall well and truly try the issues joined in this case and a true verdict give according to the law and evidence. SO HELP YOU GOD."

TWO KINDS OF CASES--CIVIL AND CRIMINAL

In general, juries are called upon to decide two kinds of cases--civil and criminal.

A civil case usually involves a claim for money damages or some claim with respect to property. The party initiating the case is called the plaintiff. The filing of the plaintiff's written claim, called the complaint, which is filed with the Clerk of Court, begins the suit.

The defendant, or party who is being sued, responds to the complaint by filing his answer in which he admits or denies the claims made by the plaintiff. In some instances, the defendant may make a counterclaim against the plaintiff or a cross claim against one of the other defendants. All of these documents make up what are called the pleadings. A juror should always remember that these pleadings are merely written claims of the parties and not evidence.

A criminal case is brought in the name of, and by, the State of South Carolina against a person, the defendant, charged with breaking the law. The attorney who represents the state is called the Solicitor or prosecutor. The case is ordinarily begun by the grand jury of a county. The written charge or accusation that is brought against the defendant is called an indictment. The indictment merely describes the crimes that the defendant is accused of committing and is not evidence. The fact that the grand jury brought an indictment against the defendant should also not be considered as evidence that the accused is guilty. The accused is not required to make a written answer to the indictment. He may plead guilty if he so chooses or he may plead not guilty and go to trial.

THE STAGES OF TRIAL

The trial of both civil and criminal cases is conducted under similar rules of procedures and in much the same manner. The stages of trial usually include:

(1) Opening Statements. An opening statement is made first by the attorney for the plaintiff and then by the attorney for the defendant. The purpose of this opening statement is to outline to the jury the facts of the case and what each side will attempt to establish through the

presentation of evidence. This is only an explanation of what each side claims. Occasionally, the judge will make a preliminary charge which substitutes for opening statements.

(2) Presentation of Evidence. After both sides have been given the opportunity to make opening statements or the judge has made a preliminary charge, the trial moves to the stage in which evidence is presented by each side. The plaintiff first presents all the evidence that supports his contentions and is then followed by the defendant who presents his evidence. The plaintiff may then give evidence to disprove or explain some evidence presented by the defendant.

Evidence may be in the form of a written document, an object, a photograph, or an X-ray. Such pieces of evidence are called exhibits. This physical evidence will be taken with you to the jury room and may be considered in your deliberation.

Most evidence is presented in the form of spoken testimony of witnesses who have taken an oath to tell the truth. The attorney who has called the witness first asks questions of that witness; this is called direct examination. After direct examination is concluded, the lawyer for the other party may ask further questions of that witness, or cross-examine. After cross-examination, the lawyer who called the witness has a final opportunity to ask questions, which is called re-direct examination.

You should pay close attention to each witness as he testifies, not only to what he says but his manner and actions. If at any time you are unable to hear clearly, make the judge aware of the problem by raising your hand.

In some instances, the testimony of a witness who cannot be present at the trial may have been taken before the trial and written down. Such testimony, called a deposition, is given under oath, and if entered into evidence, should be treated as though the witness were testifying in court. All testimony, as well as remarks of the judge, attorneys, and other court officials are recorded by the court reporter. This constitutes the official trial record, which may be of importance in later proceedings.

From time to time during the trial, you may hear the attorneys make "objections". Objections may be made for several reasons, including objections to the conduct of the parties or their attorneys, to the form of a question during the examination of a witness, or to the introduction of evidence. If the objection is deemed improper or not well founded by the judge, he will "overrule" it, and allow the proceedings to continue or the evidence to be introduced. If the judge finds the objection to be valid and proper, he may "sustain" it, thereby discontinuing that conduct or question or he may refuse to allow the introduction of evidence.

Under the rules of law governing the introduction and admission of evidence, a lawyer is within his rights to object to the introduction of any evidence, which he believes is not proper. The judge is the sole authority on what evidence is proper. Since the evidence may be excluded, the jury is usually not allowed to hear arguments as to admissibility. Thus, the judge may send the jury out of the courtroom to allow the attorneys to argue to him whether the evidence should be admitted. Sometimes evidence is viewed by the jury before the attorney has a chance to object. The judge may order the jury to disregard such evidence completely, and if so ordered, it should be disregarded and not considered as evidence.

(3) Final or Closing Arguments. After both sides have had an opportunity to present their evidence and have both "rested" their cases, they are given a chance to make final or closing arguments to the jury. First, the plaintiff's attorney, or the prosecutor in a criminal case, followed by the defendant's attorney will make closing arguments in which they sum up the evidence and testimony and try to persuade the jury to find in favor of their respective clients. These arguments, like the opening statements, should be listened to attentively but should not be considered as evidence in themselves.

(4) Instructions. After the lawyers have concluded their final arguments, the judge 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 are bound under your oath to give full effect to the law as the judge states it to you. You must pay close attention to his instructions.

If the judge should give you any instruction that is different from any statement in this pamphlet, you should accept his instruction as correct and be guided by it.

(5) Jury Deliberation. Following the instructions, or charge by the judge, the bailiff will escort the jury to the jury room where you will conduct your deliberations. The foreman that was designated by the judge presides during the deliberations. The foreman acts as the chairman of the jury. It is his duty to see that discussion is carried on in a free and orderly manner, that the matters and issues submitted for your decision are fully and freely discussed, and that every juror is given an opportunity to express himself. No cell phones, pagers, or other communication devices, such as palm pilots, are allowed in the jury room. Such devices should be relinquished to the clerk of court, bailiff, or other court personnel until the conclusion of your jury service.

After you retire to the jury room, you are entitled to have all exhibits brought to you. Should you feel that it is necessary to be reinstructed, or receive additional instruction on the law or to have certain testimony read to you, you may inform the judge through the bailiff. You should not, however, make such requests lightly, for they can be answered only by returning the jury to the courtroom where the Court will resume in full session. The procedure may require considerable time but is justifiable if you seriously believe it to be necessary or helpful to you in discharging your duty.

In weighing evidence, an important distinction exists between civil and criminal cases in the degree of proof required to sustain an allegation. In a criminal case, the defendant must be proven guilty beyond a reasonable doubt in order to be convicted. In a civil case, the party who has made an affirmative allegation against another must prove that allegation by a preponderance of the evidence to support a finding in his favor on that allegation. In each case, the judge will carefully explain to you the degree of proof required to support particular findings. You should pay the same careful attention to his instructions on this subject, as you are required to pay to all other instructions.

In the jury room, differences of opinion arise among the jurors quite often. When this occurs, each juror should be allowed to express his 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 mind where there is good reason for doing so, but one who has a definite opinion on a question should not change that opinion unless he conscientiously is moved to do so as a result of the deliberations, his consideration of the views of his colleagues, or his own 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 another juror to express his own opinions. All jurors should deliberate and vote on each issue to be decided. A juror should never vote against his conscience or his own judgment. He should vote only according to his own honest convictions, arrived at after a full and free discussion with his fellow jurors. After a verdict or after a 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.

BEHAVIOR OF JURORS DURING TRIAL

There are certain rules that a juror should follow throughout the trial. All jurors are required to be on time. Since each juror must hear all the evidence, the result of your being late is a delay and inconvenient to the judge, the lawyers, the parties, the witnesses and the other jurors. When a court session begins and the judge enters the courtroom, everyone, including jurors, should rise. You should give your undivided attention to every question and answer during the trial. If you are unable to hear clearly, you should notify the judge or bailiff.

Jurors should not discuss the case with their family, friends or any lawyer, party or witness in the case, nor should they allow it to be discussed in their presence. Furthermore, jurors should not discuss the case among themselves until such time as the judge sends them to the jury room to deliberate a verdict. If any person persists in talking to you about the trial or otherwise attempts to influence you as to its outcome, you should report that to the judge immediately.

Often a case may involve an item or location familiar to the juror or readily accessible to him. A juror should never make an independent investigation or inspection of an item or location, which is related to the case. If it is thought necessary and proper that the jury make such an inspection, the judge will send the jury as a group under the supervision of the bailiff.

Jurors should not listen to radio or television accounts of the trial or read articles about it in a newspaper.

In most cases, a juror can leave to have lunch each day and go home each night, but he cannot discuss the case with anyone.

Only on rare occasions are members of a jury required to be kept together and away from home during the course of the trial. This is called sequestration. Sequestration occurs in cases involving considerable public interest and is resorted to by the judge when it is deemed necessary to protect the jury from undue exposure to publicity about the trial. While sequestration may be inconvenient, the juror must realize that the judge has determined the measure necessary to assure that justice is done. When the jury must be kept together, the court will see to it that your family is notified, and every possible effort will be taken to ensure your comfort.

In some instances, after the jury has been selected and the case partially tried, the parties may settle the case or, in a criminal matter, the defendant may plead guilty. It is the very presence of the jury that is responsible for the actual settlement of the case or the plea by the defendant. In other cases, the judge may hand down a "directed verdict", which means that for

some legal reason, the judge has determined that it is unnecessary to submit the case to the jury. This is the judge's decision and not yours. In the event that a jury is unable to reach a verdict as required by law, the judge may declare a mistrial, and the case will then have to be tried at another time before another jury.

In arriving at a verdict, jurors are expected to bring to bear all the experience, common sense and knowledge they possess in weighing the evidence, testimony and the law as charged. Jurors are expected not to rely on any private sources of information as discussed above. Jurors should form no opinion until all the evidence is introduced, arguments presented and instructions on the law are given.

COMPENSATION

The amount of per diem and mileage a juror may receive for his service varies from county to county. Everyone who serves as a juror, whether he actually sits on a case or not, is entitled to the same compensation. Payment of per diem and mileage is generally made by the clerk of court at the conclusion of jury service and will usually be mailed to each juror.

SOME TERMS YOU WILL HEAR IN COURT AND THEIR MEANINGS

Action, Case, Suit, 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 answers the claims of the plaintiff.

Argument. The presentation of the review of the evidence and summation by the attorneys at the end of the case after all of the evidence is in and both parties have rested.

Bailiff. The bailiff is a court officer who waits upon the court and the jury and maintains order in the court.

Civil Case. A lawsuit is called a "civil case" when it is between persons in their private capacities or relations, or when the government, whether federal, state or local, or some department thereof, sues an individual under the law, as distinguished from prosecuting a criminal charge. It results generally in a verdict for the plaintiff or for the defendant and, in many cases, involves the awarding or denying of damages.

Clerk. The clerk sits at the desk in front of the judge, is an officer of the court and keeps a record of papers filed. He has custody of the pleadings and records of the trial of the case, orders made by the court during the trial and the verdict at the end of the trial. He also administers the oath to the jurors and all witnesses before they testify.

Complaint. The paper in which the person who brings the lawsuit sets forth his claims against the defendant.

Court Reporter. The court reporter takes down in shorthand or on a machine everything that transpires, which constitutes the stenographic record in the case. The notes made are subject to transcription later, should occasion, such as appeal, require it. The court reporter marks all exhibits when they are received in evidence.

Cross-Examination. The questions which a lawyer puts to the opposing party and his witnesses.

Defendant. In a civil case, the defendant is the person against whom the lawsuit is brought. In a criminal case, the defendant is the person charged with an offense.

Deposition. Testimony which is written out in question and answer form just as it would have been given in court is called a "deposition" and may be read at the trial. This is ordinarily done because of illness or absence of a party, or for a similar reason.

Examination, Direct Examination. The questions which the lawyer asks his own client or his own witnesses are often referred to as "examination," "direct examination," or "examination in chief."

Exhibits. Objects, including 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.

Instructions or "Charge" to Jury. The outline of the rules of law, which the jury must follow in their deliberations in deciding the factual issues submitted to them is called either the judge's "charge" to the jury or his "instructions" to the jury.

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 is chosen.

Objection Overruled. This term means that, in the judge's opinion, the lawyer's objection is not well taken under the rules of law. The judge's ruling, so far as a juror is concerned, is final and may not be questioned.

Objection Sustained. When a lawyer objects to a question or the form of a question, the judge may say "objection sustained." This means that the judge agrees that, under the rules of law, the lawyer's objection was well taken. This ruling likewise is not subject to question by jurors.

Opening Statement. Before introducing any evidence for his side of the case, a lawyer is permitted to tell the jury what the case is about and what evidence he expects to bring in to prove his side of the case. This is called the "opening statement."

Parties. The plaintiff and defendant in the case. They are also sometimes called the "litigants."

Plaintiff. The person who starts a lawsuit.

Pleadings. The parties in a lawsuit must file in court papers stating their claims against each other. In a civil case, these usually consist of a complaint filed by the plaintiff, an answer

filed by the defendant and, oftentimes, a reply filed by the plaintiff. These are called "pleadings."

Record. This refers to the pleadings, the exhibits and the word-for-word record made by the court reporter of all the proceedings at the trial.

Reply. The paper in which the plaintiff answers any claims made by the defendant in his answer.

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

Striking Testimony. On some occasions, after a witness has testified, the judge will order certain evidence stricken from the record and will direct the jury to disregard it. When this is done, the jury will treat the evidence stricken, as though it had never been given.

Subpoena. The document which is issued for service upon a witness to compel his appearance in court.

Verdict. The finding made by the jury on the issue submitted to them is the "verdict."