

MODEL CIVIL JURY SELECTION—INDIVIDUAL VOIR DIRE

Introduction

Good morning. Welcome to the [*County*] Superior Court. I am Judge [*name*]. Thank you for being here today. We will be choosing [*number*] of you to serve as jurors in a civil trial. Before we start the process of selecting jurors, I would like to introduce our other court staff:

- Our courtroom clerk is [*name*].
- Our court officers are [*names*].

Our Clerk will now swear in our prospective jurors.

< *Clerk swears venire* >

Overview

For many of you, this may be your first jury service. Please relax; I will explain the process we are going to follow.

In a moment I will tell you a little about the case and explain the schedule for the trial. I will also explain some of the legal rules that will apply in this case.

The lawyers and I will then ask you all some questions, because we need to make sure that we choose jurors who will approach this case with an open mind and who have no reason to favor one side or another.

I will first ask some questions of all of you as a group. Then the lawyers and I will speak with each of you separately and ask you a few more questions.

Please listen carefully to each question and give us your honest answer.

There are no right or wrong answers. Our goal is to choose jurors who will be fair to both sides in deciding this case, will follow and apply the legal rules that I explain to the jury, and will decide the case based only the evidence and those legal rules.

Case Information

(a) Brief Description of the Case

As I mentioned, this is a trial of a civil case. < *add case description* >

(b) Counsel

I will now ask the lawyers to introduce themselves and their clients.

For Plaintiff[s]:

For Defendant[s]:

(c) Trial Schedule and Length

Today is < *date* >. We plan to start the trial itself < *this afternoon / other date* >. The parties estimate that it will take __ days to try this case and present all of the evidence. The jury will then meet to discuss and consider the evidence and issues in the case, which we call deliberation, and to reach a decision, which we call a verdict. There is no set time for a jury to decide a case; it is up to the jury to take the time it needs.

During the trial, while evidence is being presented our schedule will be < *explain* >. Once the jurors have heard all the evidence and start to meet privately to discuss the case, they will keep working until they reach a verdict or until 4:00 p.m., whichever comes first. If the jury has not reached a verdict by 4:00 p.m. or so, the jurors will return to court the next day and continue their deliberations.

Legal Principles

Before we begin choosing jurors, I will briefly explain some important legal rules that the jury must follow. At the end of the trial I will give you more detailed instructions on the legal rules that apply in this case.

(a) Standard of Proof

When a person [company/business] files a civil case, s/he/it has the burden of proof. That means that she/he/it must present enough evidence to prove his/her/its claims. What is enough evidence?

I will explain at the end of the trial each of the specific things that PLF must prove during this trial. PLF must show that each of these things is **more likely true than not true**, based upon evidence and any reasonable conclusions from the evidence. The lawyers or I may use the phrase “more probable than not,” and that means the same thing as “more likely true than not true.”¹

(b) Elements of the Claims: *<include if needed for jury selection>*

Cautions During Jury Selection and Trial

There are a few important rules you must follow during our jury selection process and until your jury service is over.

It is important that you keep an open mind about this case. Do not discuss this case or the questions we ask during our jury selection process with any of the other potential jurors or with anyone else. Do not send any electronic communications or posts, and do not look things up or do any kind of research, about the jury selection we are doing now, or about the case or people involved in the case.

If you are chosen to serve on the jury, you may tell people that you are serving on a jury and give them the trial schedule, and how long your jury

¹ This model instruction does not use the phrase “preponderance of the evidence,” because such legal language often confuses jurors. Some judges may prefer to use that traditional phrase, either on the court’s own initiative, or in response to a party’s request or objection. If a party starts using that phrase in front of the jury, a judge may find it necessary to explain the meaning of “preponderance of the evidence,” instead of leaving the jury to wonder what it means. The judge may want to explain: “The parties may refer to proof by a ‘preponderance of the evidence,’ but that legal phrase simply means the same thing I have told you, namely proof that something is more likely true than not true.” See, e.g., [*Sargent v. Mass. Accident Co.*](#), 307 Mass. 246, 250 (1940).

service is likely to last—but you must not tell them anything else about the case until the trial is over and the jury has reached a verdict.

The Jury Selection Process

When the lawyers or I ask you questions, we are not trying to pry or make you uncomfortable. Instead, we ask these questions to determine whether you are able to serve as a fair juror, whether you have any reason to favor one side or the other, and whether you are confident you can decide the case based only on the evidence that will be presented during the trial and the legal instructions I will give.

If we do not choose you to serve on the jury, please do not be offended. Sometimes a person who would be a fair juror in one case might have difficulty being fair in another case. For example, a potential juror who knows someone involved in the case, or has had a personal experience that is very similar to issues raised in the case, might have difficulty being completely fair to both sides.

Please keep these thoughts in mind when you answer the questions that the lawyers and I ask you.

Questions

(a) Questions to Entire Venire

Let's turn to the first round of questions, which I am going to ask to you all as a group. Please listen to each question carefully. If your answer is "Yes," raise your hand with your juror card facing forward so that the number is showing. Keep your hand raised until the court officer reads your juror number out loud; you may then put your hand back down.

1. Are you related to or do you know any of the parties in this case?
2. Are you related to or do you know me, any of the lawyers in this case, or anyone who works with them?
3. I am now going to read a list of other people you may hear from or about at trial. Some of these people may testify during trial;

others might just get mentioned in passing. We need to find out whether you know or have heard of any of these people:

< insert or read list of witnesses and others who may be mentioned during trial, other than parties addressed in Q.1—include city/town of residence, professional affiliation, or both, as appropriate >

Do you know, or have you heard of, any of the people whose names I just read to you?

4. *< if relevant >* Have you ever worked for, or had any other relationship with, *< business—hospital—other entity >*?
5. Have you seen, heard, or read, or do you know anything about this case other than what I just told you?
6. Is there any way the outcome of this case might cause you to gain or lose something, or affect you in some other way?
7. Have you or someone close to you ever been involved in a legal dispute or lawsuit about *< insert relevant topic(s) >*?
8. Have you formed or expressed any opinion about this case?
9. *< if requested by counsel >* Do you have any strong feelings about people who seek money in a lawsuit?
10. Would you have any trouble deciding this case based only on the evidence at trial and the legal rules I explain to the jury?
11. Is there anything else that, in fairness, we should know about your ability to be a juror in this case?

< Add group questions suggested by the parties as appropriate. >

(b) Individual Voir Dire

< Explain method of individual voir dire, e.g. sending venire to another courtroom and bringing in one juror at a time, or at side bar >

When you [return and join us] [come up to the side bar], I will have a few more questions for you. The lawyers may also ask you some questions.

< if others can hear individual dire > If you feel that to answer a question you would have to reveal private information, just say “that’s private.” Then I

will decide whether we should ask you that question with the lawyers present but out of the hearing of everyone else.

Once we finish our questions, I will speak briefly with the lawyers. As you learned in the orientation video this morning, the parties have the right to ask that some jurors be excused. Our clerk will then let you know whether you have been selected to serve on the jury, or excused from this trial. If you are excused, [you have completed your jury service and may leave] [you must return to the jury pool]. Whether you get selected or excused, I thank you for being here today and participating in this process.

Questions for each prospective juror:

12. Do you have any trouble speaking or understanding English?
13. Do you have any scheduling problem or personal situation that would make it a serious hardship for you to serve on this jury on the schedule I described?
14. Will you approach this case with an open mind and be fair to both sides?

< follow up on "Yes" answers to group questions, then continue.>

15. Do you know of any bias or prejudice that would make it hard for you to be fair in this case?

< Add individual questions suggested by the parties as appropriate.>

Strikes for Cause – Finding Juror Is Indifferent – Peremptory Strikes – Seating Juror – Swear in Jury