

PRETRIAL INSTRUCTIONS TO THE JURY PANEL

The Court may go over all or some of these while the attorneys exercise peremptory challenges so that everyone is not sitting in the courtroom just doing nothing.

Ladies and Gentlemen, I would like to go over some pretrial information with you which may aid you in your role as a juror on this case.

Each case starts by the plaintiff filing a document called a complaint with the Clerk of the Court. In this complaint, the plaintiff makes certain allegations as to why he/she is suing the defendant. The document is served on the defendant and he/she files an answer. In the answer, the defendant will admit some of the allegations in the complaint and deny others. Let's say we are talking about a motor vehicle collision. Both parties may agree as to the date and the time and the location of the collision but they may disagree as to who was at fault or who was most at fault. They may disagree as to the amount of damages and things of this sort. The purpose of a jury trial is to arrive at a resolution of the dispute in a courtroom setting based upon very strict rules of both law and procedure.

All parties to this lawsuit start out on a level playing field. They are even/steven. The plaintiff has what is called the burden of proof. It is the plaintiff's job to show you by the end of the trial that its side of the case is more convincing than that of the defendant.

If you imagine the scales of justice at rest at perfect equilibrium at the start of the trial, the plaintiff must tip those scales in his favor by the end of the trial or

the plaintiff cannot win the lawsuit. The burden of proof in a civil case is called "preponderance of the evidence." This is different than the standard used in criminal cases which is called "beyond a reasonable doubt." Preponderance simply means when you stack up all the factors for and against each party that the scale is slightly heavier on the plaintiff's side.

We ask that you do not make up your mind about the ultimate verdict in this case until you have heard all the witnesses and seen all of the evidence. We ask that you keep an open mind throughout the trial and not begin to make up your mind about what the facts are until you and your fellow jurors go to the jury room to deliberate.

We ask that you base your verdict solely upon the evidence brought out at the trial and the law that applies to the evidence and not based upon sympathy or public opinion.

If the attorneys have finished marking their peremptory challenges, you would then announce the jury and alternates' names. Before you can do this, you must state:

The bailiff has handed me the juror list. Before I announce who will be with us as our jurors and alternates jurors, does either party wish to assert a Batson or J.E.B. vs. Alabama challenge to the exercise of a peremptory challenge by the other side?

A Batson challenge is as to the racial or ethnic background of the juror. A J.E.B. v Alabama challenge is a gender-based challenge.

If no:

The following persons will be with us as our jurors and alternates: (read the first ten on the list who have not been challenged by one of the parties.) The alternates will not know who they are until the case goes to the jury room for deliberation.

If yes...there is a challenge, then the court must conduct a hearing outside the presence of the jury but on the record as follows:

_____ has challenged the use of a peremptory challenge by _____. Counsel, which peremptory challenge are you challenging and why? Counsel what is your reason(s) for exercising a peremptory challenge against juror ____?

A complete and thorough record must be made and kept as to such challenges. Please read Diomampo v State of Nevada, 185 P.3rd 1031; 2008 Nev. LEXIS 44; 124 Nev. Adv. #41 wherein the Supreme Court reversed the trial court and remanded the case for a new trial based on the court overruling Batson challenges.

Your challenge is granted/overruled. *(If granted, the challenge is vacated and that side then exercises the challenge as to another juror.) (When these issues are resolved, the jury is brought back in and the jurors and alternates are announced, as set forth above.)*

Ladies and Gentlemen, those of you whose names or badge numbers I have not read may be excused. Please do not feel hurt or slighted that you were not chosen as a juror in this trial. The important thing for you to know and understand is that each of you qualifies as a juror in this case and that we are simply following our statutory procedure for jury selection. You may leave now and go back to the jury commission office on the third floor and thank you for being here today and being willing to serve your community.

The 10 of you who will be our jurors and alternates, please be seated in the chairs in the jury box.

The Clerk will now issue the juror oath to you.

Clerk issues the oath.