



## SPECIAL PRETRIAL INSTRUCTIONS

HONORABLE JOSEPH F. ANDERSON, JR., CHIEF UNITED STATES DISTRICT JUDGE

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### ATTENDANCE

All attorneys and unrepresented parties with cases listed on the bar meeting roster are required to attend the bar meeting or to send an attorney knowledgeable about the case.

### PENDING MOTIONS

Counsel or unrepresented parties should be prepared to argue any pending motions at the bar meeting that have not already been scheduled for a hearing.

### REQUESTS FOR PROTECTION

Counsel shall advise the court **in writing** of any **compelling** scheduling conflicts for the upcoming term at least **3 business days before the bar meeting**. The court will **attempt** to provide protection for requests that are timely received.

### TRIAL DATES

When possible, parties will be informed of the tentative date for jury trials on the day of jury selection. Non-jury cases will be interspersed among the jury trials depending on available trial time and the estimated length of the proceedings. Cases may not be called in docket order. Unless a specific trial date is assigned, parties and witnesses should be on stand-by for appearance on short notice.

## **MAGISTRATE JUDGES**

United States magistrate judges of the district court, may conduct any or all proceedings in a civil case, including jury or non-jury trials, upon consent of all parties and with the approval of the district judge. 28 U.S.C. § 636(c). Magistrate judges are normally able to provide a date certain for trial. For any parties who wish to consent to a trial before a magistrate judge, the NOTICE OF AVAILABILITY OF A U.S. MAGISTRATE JUDGE TO EXERCISE JURISDICTION FORM is attached to this notice. To avoid scheduling problems, this form should be submitted on or before the date set for the bar meeting. A magistrate judge cannot be assigned until the signed form is filed with the Clerk's Office.

## **SETTLEMENTS**

If any cases are settled, please notify the court immediately at 803-765-5136. Normally, the court will enter a conditional order of dismissal ("Rubin Order") which allows the parties an additional sixty days to effect the agreed-to settlement. If the conditional order of dismissal is not acceptable to the parties, counsel shall be responsible for prompt submission of dismissal papers (within two weeks, absent express extension).

## **PRETRIAL CONFERENCES**

The court will conduct pretrial conferences in all cases to be tried. The dates of the pretrial conferences will be announced at the bar meeting. Pretrial conferences in cases to be tried by a magistrate judge will be scheduled by that magistrate judge.

## **PRETRIAL DISCLOSURES AND PRETRIAL BRIEFS**

All attorneys and unrepresented parties are reminded of their obligations under the Federal Rules of Civil Procedure and Local Civil Rules of this district, including their obligations under Fed. R. Civ. P. 26(a)(3). Counsel shall ensure that all counsel and support staff involved in the pretrial or trial process have reviewed these materials.

Absent an order to the contrary, pretrial briefs are not filed or served, except for the responses to Local Civil Rules 26.05(n) and (g). These two portions of the pretrial brief (witness and exhibit lists) should be filed and exchanged using a separate caption and cover page. The deadline for pretrial briefs is by 5:00 p.m. exactly one week prior to jury selection. Submissions with the pretrial brief include: special voir dire, special jury instruction requests, exhibit list, witness list, and certificate of compliance with Local Rule 26.07 (meet, mark, and exchange exhibits).

**Counsel shall review the Conference and Scheduling Order issued in their respective cases. All deadlines set therein shall be strictly adhered to.** *See also* attached PRETRIAL CHECKLIST.

## MEET, MARK & EXCHANGE EXHIBITS

The date to meet, mark, and exchange exhibits is exactly one week prior to jury selection. Proper organization of this meeting should result in substantially fewer evidentiary disputes which must be resolved at trial. Attached is a CERTIFICATE OF COMPLIANCE WITH LOCAL CIVIL RULE 26.07 FORM to be completed by counsel. This Certificate should be submitted with the pretrial brief.

The parties shall not renumber their exhibits after the exhibit list is prepared and this meeting has occurred. If items are deleted, they should simply be struck through or marked "WITHDRAWN." The final exhibit list required by the pretrial brief should reflect only disputes as to the exhibits which were not resolved prior to the submission of the pretrial brief. *See* Local Civil Rule 26.07(c).

## DEPOSITION DESIGNATIONS

Please use the attached DEPOSITION DESIGNATION FORM in preparing and exchanging deposition designations and objections. The form may be completed by hand, so long as it is legible. The **final** form shall be provided to the court **1 full day before the start of trial**. Please follow the instructions set forth below.

- Any parties intending to introduce deposition testimony at trial (other than for impeachment during the examination of a witness) shall designate the pages and lines of the testimony to be introduced using the first column of the attached DEPOSITION DESIGNATION FORM.
- The opposing party shall note any objections or counter designations in the second and third columns and return the form to the original designating party. The basis of any objections shall be expressly stated (*e.g.*, hearsay, relevancy, or by Federal Rule of Evidence number, etc.).
- The original designating party shall then complete the fourth column, indicating any objection to any counter designations or any objections which are conceded.
- To the extent possible, the parties should resolve any objections during the meeting set to meet, mark, and exchange exhibits.
- A **final** DEPOSITION DESIGNATION FORM reflecting all sections to be read and all unresolved objections shall be provided to the court **1 full day before the start of the trial**.

*Note: This form is used by the court to follow the testimony as it is being read and to address objections as they arise. It is, therefore, helpful for the final form to be fully in the order that it will be read (including counter-designations). This form is also filed to reflect what portions of the deposition were read into evidence. The court reporters normally take down only the discussion of objections and not the portion of the deposition that is read.*

*Note: Failure to comply with the relevant deadlines may be treated by the court as waiver of the right to offer deposition testimony or the right to object to any portions properly designated.*

## JURY LISTS, QUESTIONNAIRES, AND VOIR DIRE

- **JURY LIST.** A copy of the jury list will be available from the Clerk of Court seven (7) working days before the date the jury is scheduled to appear.

*Note: Upon arrival at the jury assembly room, members of the jury panel will be shown a Juror Orientation Video. A copy of the transcript of the orientation video, narrated by Judge Anderson, is included in this package.*

- **JUROR QUESTIONNAIRES.** Pursuant to Local Civil Rule 47.02, this district requires jurors to complete an extensive juror questionnaire. A sample JUROR QUESTIONNAIRE is attached hereto and is available on the district's web site ([www.scd.uscourts.gov](http://www.scd.uscourts.gov)). The juror questionnaire is intended to: (1) provide more thorough information to counsel than would otherwise be available and; (2) minimize the time necessary to conduct *voir dire*.

The completed juror questionnaires are available for purchase at Franklin's Printing, 1114 Washington Street, Columbia, SC 29201 (803-252-6310) beginning 7 working or business days prior to jury selection. Copies will also be available for review in the Clerk of Court's office during the same period. To protect the privacy of jurors, prior approval must be obtained on a JURY QUESTIONNAIRE REQUEST FORM (attached) to secure the questionnaires. See Local Civil Rule 47.02 .

- **ADDITIONAL STANDARD QUERIES.** In addition to these written questionnaires, the court will ask potential jurors during jury selection if they know or have any connection with any of the attorneys, parties, or witnesses listed by either party in their pretrial briefs. The court will also summarize the allegations and ask if any juror is familiar with the dispute or has preconceived views which may impair their ability to be impartial.
- **SPECIAL VOIR DIRE.** Requests for special voir dire shall be **submitted with the pretrial brief**. If you intend to seek special *voir dire*, you must certify that the questions you seek are *not* duplicative of those asked in the juror questionnaires or the additional standard queries discussed above. See Local Civil Rule 47.04 (prohibiting requests for *voir dire* repetitive of questionnaires). Your certification may be attached to your proposed *voir dire* and should be substantially in the following form:

*I have examined the court's standard juror questionnaires and believe the attached proposed voir dire does not duplicate these questionnaires or the court's standard inquiries as set forth in Judge Anderson's SPECIAL INSTRUCTIONS. I believe the following questions are reasonably necessary for selection of an impartial jury.*

Special *voir dire* requests should be written in such a manner that they call for response only from persons whose bias might justify exclusion or provide a rational basis for a peremptory strike (e.g., NOT "has any juror ever shopped at ABC store?"; BUT "has any juror/family member/close friend had an experience shopping at ABC store which might make them favor one side or the other in this case?")

## JURY INSTRUCTION REQUESTS

- The court's preliminary and boilerplate jury instructions are attached hereto. It is not necessary for counsel to submit proposed instructions as to the matters contained in the attached instructions. Nonetheless, if you in good faith believe that these standard instructions could be improved or need to be tailored for the trial in your case, you may propose alternative instructions.
- Proposed instructions shall be **submitted with the pretrial brief** and should be submitted in the following format: **Each instruction must identify the submitting party and be numbered.** Only one idea or concept should be expressed on each numbered page. The procedure of settling the jury charge during the charge conference is greatly simplified if all counsel and the court work from the same stack of numbered instruction proposals, with each proposal being contained on a separate sheet. Do not submit requests with blanks for insertion of numbers.
- Each requested instruction should contain a citation of authority. In accordance with the Local Civil Rules of this district, if out-of-state or unreported decisions are relied upon for support, copies of these decisions must be attached to the jury charge request. **Do not**, however, attach copies of any cases reported in *Federal Reporter*, *Federal Supplement* or *South Eastern Reporter*.
- Frequently, attorneys submit numerous variations of the same legal principle. While in some cases it may be appropriate and desirable to restate a doctrine of law using slightly different language to be sure the jury understands it, it is generally not helpful (and may be confusing) to repeat the same idea to the jury five or six times in different ways. Therefore, do not submit repetitive requests for the same legal concept. If you submit good faith jury instruction requests, tailored to the case, without undue repetition, the court will give conscientious consideration to your request.
- Principal trial attorneys sometimes delegate the task of jury instruction preparation to law clerks, new associates, or other attorneys who are not actively involved in the case. This sometimes results in a flood of jury instruction requests, some of which have no direct relationship to the issues. In some cases, after the court has laboriously tried to determine how the requested charge fits into the case, counsel will concede that the request was submitted in error. Trial counsel should review all pretrial submissions to insure no irrelevant or unnecessary jury instructions or other requests (*e.g., voir dire*) are included.
- Some attorneys incorrectly assume that the only way to charge a jury is to quote directly from reported appellate decisions. Appellate judges do not write opinions with jury instructions in mind. Sometimes quotes from appellate opinions need to be reworded to make them more understandable to a jury. Restatements, hornbooks, treatises and similar sources may also be used. Don't hesitate to quote and cite authorities such as these in your jury charge requests.
- These instructions should not be construed as any attempt by the court to discourage counsel from submitting jury charge requests. Frequently, these submissions are helpful to the court and, in many cases, are adopted and incorporated into the final charge. By submitting separate legal principles on separately numbered pages, without undue repetition, attorneys can be of great assistance to the court in attempting to fashion a thorough and understandable jury charge.

## STRIKING THE JURY

If you intend to move to strike any juror for cause based on responses to the juror questionnaires, you must submit a list of the intended strikes to the court **no later than 1 business day before the date set for jury selection**. Attached is a REQUEST TO STRIKE JURORS FOR CAUSE FORM which you may use for this purpose. This form may be completed by hand, but must contain all requested information.

To speed the jury selection process, the court generally first selects a panel for each case from the full venire. The court will then determine whether any jurors on the panel are listed on any properly submitted strike-for-cause list and, if so, whether the grounds are adequate to strike the juror for cause. The court will *voir dire* the remaining panel as to any case specific matters including the standard inquiries as to witnesses, parties and counsel, as well as any properly submitted and approved special *voir dire*. If this process reduces the number below that is necessary to allow for a full jury after peremptory strikes, additional names will be added to the panel at that time. In order for this process to work effectively, **all requests to strike jurors for cause and all special *voir dire* requests must be timely submitted.**

### ATTACHMENTS:

- Pretrial Checklist
- Certificate of Compliance with Local Civil Rule 26.07 Form
- Juror Questionnaire Request Form
- Request to Strike Jurors for Cause Form
- Deposition Designation Form
- Jury Instructions (preliminary and boilerplate)
- Consent to Trial before U.S. Magistrate Judge Form
- Jury List / Questionnaire Request Form
- Sample Juror Questionnaire Sample
- Transcript of Juror Video Orientation Speech

# PRETRIAL CHECKLIST

JUDGE JOSEPH F. ANDERSON, JR.

The court is providing the checklist below to assist you in complying with the pretrial requirements of the federal and local rules, and specific instruction required by this court. Please note that a number of the special requirements referenced in the third column are procedures specific to Judge Joe Anderson's court. The court intends to strictly enforce compliance with these requirements by refusing to accept late or improper submissions or, when that is not feasible, by imposing a fine.

ITEM	LOCAL CIVIL RULE	SPECIAL INSTRUCTIONS	TIME FRAME
Consent to Trial by Magistrate Judge	73.02(B)	form attached	any time prior to trial
Requests for Protection	6.02		3 days before Bar Meeting
Pretrial Disclosures - FRCP 26(a)(3)	26.00		at least thirty days before trial
Meet, Mark & Exchange Exhibits	26.07		one week prior to jury selection
MM&E Certificate of Compliance		form attached	submit with pretrial brief
Jury List	47.03		available 7 days before jury selection
Juror Questionnaires	47.03	sample attached	available 7 days before jury selection
Juror Questionnaire Request Form	47.02	form attached	submit to Jury Clerk before purchase
Request to Strike Jurors for Cause	47.01-.04	form attached	1 day before jury selection
Special Voir Dire	26.05(o); 47.04		submit with pretrial brief
Special Jury Instructions	26.05(o)	standard attached	submit with pretrial brief
Pretrial Brief	26.05		one week prior to jury selection
Exhibit List	26.05(n)		submit with pretrial brief
Witness List	26.05(g)		submit with pretrial brief
Pretrial Conference			1 or 2 days before jury selection
Deposition Designations; Counter-Designations; and Objections	FRCP 26(a)(3)	form attached	1 day before start of trial (submit in final, completed form)
Exhibit & Witness Objections			1 day before start of trial

**PLEASE REFER TO THE CASE'S SCHEDULING ORDER FOR SPECIFIC DEADLINES.**



**REQUEST TO STRIKE JURORS FOR CAUSE FORM**  
BASED ON RESPONSES TO COURT'S QUESTIONNAIRES

CASE NAME:
C/A NUMBER:
REQUESTING PARTY:

JUROR NUMBER	QUESTION AT ISSUE <i>(number)</i>	CONCERN <i>(if not self-evident)</i>

\_\_\_\_\_  
*Signature of Counsel*

Print Name: \_\_\_\_\_

Fed. ID number: \_\_\_\_\_



**JURY INSTRUCTIONS - PRELIMINARY AND BOILERPLATE**  
**JUDGE JOSEPH F. ANDERSON, JR.**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

	)	C/A No.: _____
Plaintiff(s),	)	
	)	
v.	)	
	)	
Defendant(s).	)	

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**COURT'S INSTRUCTIONS TO THE JURY**

**Duties of Jury to Find Facts & Follow Law**

Members of the jury, now that you have heard all the evidence and the arguments of the lawyers, it is my duty to instruct you on the law which applies to this case. These instructions will be in three parts: first, the instructions on general rules that define and control the jury's duties; second, the instructions that state the rules of law you must apply, *i.e.*, what the plaintiff must prove to make the case; and third, some rules for your deliberations.

It is your duty to find the facts from all the evidence in the case. To those facts you must apply the law as I give it to you. You are bound to accept the rules of law as I give them to you whether you agree with them or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. That means that you must decide the case solely on the evidence before you and according to the law. You will recall that you took an oath promising to do so at the beginning of the case.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. And you must not read into these instructions or into anything I may have said or done any suggestion as to what verdict you should return - that is a matter entirely for you to decide.

**Burden of Proof**

At the beginning of the case, I told you that the plaintiff has the burden of proving the case by a preponderance of the evidence. That means that the plaintiff has to produce evidence which, considered in the light of all the facts, leads you to believe that what the plaintiff claims is more likely true than not. To put it differently, if you were to put plaintiff's and defendant's evidence on opposite sides of the scales, the plaintiff would have to make the scales tip slightly on that side. If the plaintiff fails to meet this burden, the verdict must be for the defendant.

Those of you who have sat on criminal cases will have heard of proof beyond a reasonable doubt. That is a stricter standard, *i.e.*, it requires more proof than a preponderance of evidence. The reasonable doubt standard does not apply to a civil case and you should therefore put it out of your mind.

## **Evidence**

The evidence from which you are to decide what the facts are consists of:

- (1) the sworn testimony of witnesses, both on direct and cross-examination, regardless of who called the witness;
- (2) the exhibits which have been received into evidence; and
- (3) any facts to which all the lawyers have agreed to stipulate.

## **What Is Not Evidence**

In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence and you may not consider them in deciding what the facts are. I will list them for you:

1) Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.

2) Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it.

3) Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition, if testimony or exhibits have been received only for a limited purpose, you must follow the limiting instructions I have given.

4) Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

## **Direct and Circumstantial Evidence**

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is indirect evidence, that is, proof of a chain of facts from which you could find that another fact exists, even though it has not been proved directly. You are entitled to consider both kinds of evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

It is for you to decide whether a fact has been proved by circumstantial evidence. In making that decision, you must consider all the evidence in the light of reason, common sense, and experience.

## **Credibility of Witnesses**

In deciding what the facts are, you must consider all the evidence. In doing this, you must decide which testimony to believe and which testimony not to believe. You may disbelieve all or any part of any witness's testimony. In making that decision, you may take into account a number of factors including the following:

- 1) Was the witness able to see, or hear, or know the things about which that witness testified?
- 2) How well was the witness able to recall and describe those things?

3) What was the witness's manner while testifying?

4) Did the witness have an interest in the outcome of this case or any bias or prejudice concerning any party or any matter involved in the case?

5) How reasonable was the witness's testimony considered in light of all the evidence in the case?

6) Was the witness's testimony contradicted by what that witness has said or done at another time, or by the testimony of other witnesses, or by other evidence?

In deciding whether or not to believe a witness, keep in mind that people sometimes forget things. You need to consider therefore whether a contradiction is an innocent lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or with only a small detail.

These are some of the factors you may consider in deciding whether to believe testimony.

The weight of the evidence presented by each side does not necessarily depend on the number of witnesses testifying on one side or the other. You must consider all the evidence in the case, and you may decide that the testimony of a smaller number of witnesses on one side has greater weight than that of a larger number on the other.

All of these are matters for you to consider in finding the facts.

#### **Summaries Not Received In Evidence [if needed]**

Certain charts and summaries have been shown to you in order to help explain the facts disclosed by the books, records, and other documents which are in evidence in the case. Such charts or summaries are used for convenience. They are not themselves evidence or proof of any facts. If they do not correctly reflect the facts or figures shown by the evidence in the case, you should disregard these charts and summaries and determine the facts from the underlying evidence.

#### **Charts And Summaries Received In Evidence [if needed]**

Certain charts and summaries have been received into evidence to illustrate facts brought out in the testimony of some witnesses. Charts and summaries are only as good as the underlying evidence that supports them. You should therefore give them only such weight as you think the underlying evidence deserves.

#### **Use of Depositions [if needed]**

During the trial of this case, certain testimony has been read to you by way of deposition or shown to you by way of videotape. The deposition or videotape testimony of a witness who, for some reason, cannot be present to testify from the witness stand is usually presented in writing under oath in the form of a deposition or videotape. Such testimony is entitled to the same consideration, and, insofar as possible, is to be judged as to credibility and weighed by you in the same manner as if the witness had been present.

#### **Opinion Evidence, Expert Witness [if needed]**

You have heard testimony from persons described as experts. Persons who, by education and experience, have become expert in some field may state their opinion on matters in that field and may also state their reasons for the opinion.

Expert opinion testimony should be judged just as any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.

**Separate Consideration of Each Defendant [if needed]**

Although there is more than one defendant in this action, it does not follow that if one is liable, all are liable. Each defendant is entitled to a fair consideration of that defendant's own defense, and is not to be prejudiced by the fact, if it should become a fact, that you find against another. Unless otherwise stated, all instructions given apply to the case against each defendant.

**Joint Consideration of Both Defendants [if needed]**

In this case, the two defendants are related corporations. Their positions in this lawsuit are identical. This means that they are both either liable or not liable. In other words, even though there are actually two defendants in the case, you should consider them as one unit in your deliberations.

**Corporations [if needed]**

The fact that a plaintiff or defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

**Liability of Corporations [if needed]**

A corporation under the law is a person, but it can only act through its employees, agents, directors, or officers. The law therefore holds a corporation responsible for the acts of its employees, agent, directors, and officers, if but only if those acts are authorized. An act is authorized if it is a part of the ordinary course of employment of the person doing it. Whether a particular act was authorized is a question you must decide on the evidence.

The fact that a plaintiff or defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

**Transition To Liability**

The plaintiff's claim in this case is based upon \_\_\_\_\_ alternative or concurrent theories. I will first identify these theories for you and then we'll go back and discuss each one with you in detail. The \_\_\_\_\_ theories are:

- 1.
- 2.
- 3.
- 4.

The plaintiff is not required to prove all of these theories in order for it to recover. Proof of its claim under any one of these theories would enable you to find that it is entitled to a verdict in its favor.

**General Denial**

The defendant has offered several defenses. The first is what is known as the defense of general denial. By this, the defendant simply says that it denies the material allegations of the complaint. The defendant denies that it [made or breached any warranties] to the

plaintiff, and contends that [even if warranties were made, the plaintiff did not rely on these representations.] The general denial places the burden of proof upon the plaintiff to come forward with evidence to prove these material allegations.

\* Alternative Form:

[was negligent and further denies that its negligence, if any, was the proximate cause of the plaintiff's injuries.]

#### **Affirmative Defenses - Burden of Proof [if needed]**

In addition to denying all of the material allegations of plaintiff's complaint, the defendant has asserted two affirmative defenses. These are the defenses of contributory negligence and assumption of the risk.

Just as the plaintiff has the burden of proving his case by a preponderance of the evidence, the defendant has the burden of proving that one or both of these affirmative defenses apply to it by a preponderance of the evidence. In other words, the burden of proof with regard to these two affirmative defenses rests with the defendant.

Contributory negligence, if established, provides a complete defense to the negligence claim. Assumption of the risk, if established, provides a complete defense to both the negligence claim and the implied warranty claim.

#### **Transition to Damages**

If you should find in accordance with these instructions that the plaintiff has failed to establish the essential elements of any of his causes of action by a preponderance of the evidence then your verdict should be for the defendant.

If, on the other hand you find that the plaintiff has established the essential elements of one or more of his causes of action by a preponderance of the evidence your verdict should be for the plaintiff and you should next consider the question of damages.

#### **Damages - Cautionary Instruction**

The fact that I have instructed you on the proper measure of damages should not be considered as an indication of any view of mine as to which party is entitled to your verdict in this case. Instructions as to the measure of damages are given only for your guidance, in the event that you should find in favor of Plaintiff on the question of liability, by a preponderance of evidence and in accord with the other instructions.

#### **Duty to Deliberate**

When you retire to the jury room, you should first elect one from among you to serve as your foreperson. The foreperson you select will preside over the deliberations and speak for the jury here in court.

When you retire to the jury room, you should discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.

Remember at all times that you are not partisans. You are judges - judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

### **Consideration of Evidence**

Your verdict must be based solely on the evidence and on the law as I have given it to you in these instructions. However, nothing that I have said or done is intended to suggest what your verdict should be - that is entirely for you to decide.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

### **Return of Verdict**

After you have reached unanimous agreement on a verdict, your foreperson will fill in the form that has been given to you, sign and date it, and advise the marshal (or bailiff) outside your door that you are ready to return to the courtroom.

### **Communicating With the Court**

If it becomes necessary during your deliberations to communicate with me, you may send a note through the marshal (or bailiff), signed by your foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing; and I will communicate with any member of the jury on anything concerning the case only in writing, or orally here in open court. Remember that you are not to tell anyone - including me - how the jury stands, numerically or otherwise, until after you have reached a unanimous verdict or have been discharged.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

v. Plaintiff, Defendant. ) NOTICE, CONSENT AND ORDER OF REFERENCE - EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE ) C/A No.: \_\_\_\_\_

NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION

In accordance with the provisions of 8 U.S.C. § 636(c), and Fed.R.Civ.P. 73, you are hereby notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c) and Fed.R.Civ.P. 73, the parties in this case hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Table with 3 columns: Signatures, Party Represented, Date. Includes four rows of dashed lines for input.

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case be referred to \_\_\_\_\_, United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S.C. § 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties.

\_\_\_\_\_ Date United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF COURT ONLY IF ALL PARTIES HAVE CONSENTED ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

# JUROR QUESTIONNAIRE / LIST REQUEST FORM

Judge: \_\_\_\_\_ Jury Selection Date: \_\_\_\_\_

Case Name: \_\_\_\_\_

Name of Requester: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Relationship to Case:

Attorney For:       Plaintiff       Defendant

Party:       Plaintiff       Defendant

Other - Explain \_\_\_\_\_

Purpose of Request:

To inspect Juror Questionnaires with struck Jury List

To purchase a copy of Jury Questionnaires with struck Jury List

To obtain copy of Jury List

I understand the confidential information contained in these juror questionnaires and jury list is to be used solely for the purpose of evaluating potential jurors for jury service for this case and is not to be used or disseminated for any other purpose. The questionnaires and list will remain in my custody as the ordering party. All copies of the questionnaires and jury list, on paper or disk, will be destroyed at the conclusion of the case. The questionnaires or jury list will not reside on any computer.

\_\_\_\_\_  
Signature of Requester

\_\_\_\_\_  
Date

**This request can be approved via facsimile at (803) 765-5283.**

Clerk's Office approval by: \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Date

Panel # \_\_\_\_\_

STANDARD JUROR QUESTIONNAIRE

INSTRUCTIONS

- 1. Complete and return within 3 days of receipt to: Clerk, U.S. District Court Attn: Jury Administrator 901 Richland Street Columbia, S.C. 29201
2. Use a black pen.
3. You must send a SEPARATE LETTER if you want to ask to be excused.

Juror's Name: (Print) \_\_\_\_\_

Mailing Address: (Street) (City, state & zip) (County) Permanent Address (If Different): (Street) (City, state & zip) (County)

Telephone Numbers: Home ( ) Work ( )

Do you rent or own (purchasing)? Years at this address?

1. Juror's Age: \_\_\_\_\_

How would you describe the condition of your health? \_\_\_\_\_

If you have any physical or medical problems which would make jury duty difficult or which require accommodation, please explain them here \_\_\_\_\_

NOTE: If you are requesting to be excused due to a problem listed above, you must submit a separate letter which can be mailed with this questionnaire.

2. Juror's Education: (please check most appropriate)

- less than 6th grade technical, business or two year degree
more than 6th grade some college but no degree
but no high school degree four year college degree in
high school graduate post graduate work or degree in

3. List any special training or skills you have: \_\_\_\_\_

4. What is your current job status? (Please check most appropriate answer)

- working full time unemployed homemaker
working part time retired full time student

5. Who is your present (or most recent) employer? \_\_\_\_\_
6. What is your present (most recent) job title? \_\_\_\_\_
7. Describe the duties of your current (or most recent) job: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
8. If retired, disabled, or unemployed, indicate the date of your retirement or your latest employment: \_\_\_\_\_
9. Has your occupation changed in the last five years? \_\_\_\_\_  
 If yes, indicate all occupations held in the last five years: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
10. List all other types of jobs you have had throughout your life (not listed above):  
 \_\_\_\_\_  
 \_\_\_\_\_
11. Have you ever served in the military? \_\_\_\_\_ If yes, indicate the following:  
 branch of service \_\_\_\_\_ years of service \_\_\_\_\_  
 rank at discharge \_\_\_\_\_ form of discharge \_\_\_\_\_
12. Juror's Marital Status:  
 \_\_\_\_\_ single, never married \_\_\_\_\_ widow/widower  
 \_\_\_\_\_ single but previously married for \_\_\_\_\_ years \_\_\_\_\_ other \_\_\_\_\_  
 \_\_\_\_\_ currently married, have been for \_\_\_\_\_ years \_\_\_\_\_
13. **If currently married**, provide the following information:
- a. Spouse's education: \_\_\_\_\_
- b. Spouse's present employment status: \_\_\_\_\_
- c. Spouse's present occupation and employer: \_\_\_\_\_
- d. Other types of jobs your spouse has held: \_\_\_\_\_  
 \_\_\_\_\_

14. **If you have children**, please give their ages, gender and occupations:

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**Some of the questions below refer to your “family.” This is intended to include your mother, father, sisters, brothers, children, and spouse.**

15. Other than the military, have you or any member of your family been employed by the United States government or any state or local government?  yes  no

If yes, who was so employed, when and where? \_\_\_\_\_  
\_\_\_\_\_

16. Have you or any member of your family ever worked for a law enforcement organization?  yes  no

If yes, who was so employed, when and where? \_\_\_\_\_  
\_\_\_\_\_

17. What are your hobbies, special interests, recreational pastimes and other spare-time activities, including sports? \_\_\_\_\_  
\_\_\_\_\_

18. What is/are your primary source(s) of news?  
 TV  Newspaper  Radio  
 Magazines  Other \_\_\_\_\_

What magazines and newspapers do you regularly read? \_\_\_\_\_  
\_\_\_\_\_

19. Have you ever been a member of a professional or job-related organization (including labor unions)?  yes  no

If yes, identify the organization(s): \_\_\_\_\_

20. What social, political, civic, religious, and other organizations do you belong to or are you associated with? \_\_\_\_\_  
\_\_\_\_\_

21. Are you or any member of your family a member of **any group** which encourages strict enforcement of criminal laws or modification of our present laws such as Mothers Against Drunk Drivers (MADD), Citizens Against Violence (CAVE)?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, identify the family member (by relationship) and the group to which they belong:

\_\_\_\_\_

\_\_\_\_\_

22. Have you displayed any bumper stickers on your automobile in the last twelve months?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please list each bumper sticker: \_\_\_\_\_

\_\_\_\_\_

23. Have you or any member of your family ever suffered long-term or permanent disability?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

24. Have you previously served on a jury? \_\_\_\_\_ yes \_\_\_\_\_ no

If so, what type of case was it? \_\_\_\_\_ criminal \_\_\_\_\_ civil

Was a verdict reached? \_\_\_\_\_ yes \_\_\_\_\_ no

What was the verdict? \_\_\_\_\_

Did anything happen during your previous jury service which might affect your ability to make a decision if you are selected as a juror during this term of court?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain \_\_\_\_\_

\_\_\_\_\_

25. Have you ever been a witness in a civil or criminal trial?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain \_\_\_\_\_

\_\_\_\_\_

26. Have you or anyone in your family ever been involved in a lawsuit, including a suit involving a workers' compensation claim? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, indicate the following:

Family member involved: (relationship) \_\_\_\_\_  
Was that person the plaintiff (person who sues) or the defendant? \_\_\_\_\_  
What type of case was it? (example, auto accident) \_\_\_\_\_  
Who was your family member's lawyer? \_\_\_\_\_

27. Have you or any member of your family ever complained to any seller or manufacturer that a product they sold or made was defective or unreasonably dangerous?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain \_\_\_\_\_  
\_\_\_\_\_

28. Have you or a member of your immediate family ever filed a claim with an insurance company (other than a health insurance claim)? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, what was the nature of the claim and when was it filed? \_\_\_\_\_  
\_\_\_\_\_

Was the claim paid? If not, how was the matter resolved? \_\_\_\_\_  
\_\_\_\_\_

29. Have you or a member of your immediate family ever filed a complaint against a law enforcement officer or agency? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, what was the nature of the complaint and when was it made? \_\_\_\_\_  
\_\_\_\_\_

30. Have you, or any close friends or relatives been the victim of a crime?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain who the victim was and the type of crime: \_\_\_\_\_  
\_\_\_\_\_

31. Have you or any family member ever been **arrested or charged** with a crime other than a traffic offense? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain **who** was charged and with **what crime**: \_\_\_\_\_  
\_\_\_\_\_

32. Have **YOU** or any family member ever been **convicted** of a crime other than a traffic offense? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please explain **who** was convicted of **what crime** \_\_\_\_\_  
\_\_\_\_\_

**If YOU were convicted** of a crime, what was the nature of the crime charged?  
\_\_\_\_\_

Was the crime punishable by imprisonment for more than one year?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, were your **civil rights restored** and, if so, **in what manner**? \_\_\_\_\_  
\_\_\_\_\_

33. **Are any criminal charges now pending against YOU?** \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, what is the nature of the charge? \_\_\_\_\_  
Is the crime punishable by more than one year? \_\_\_\_\_

34. Have you or anyone in your family ever worked for:

	YES	NO	EMPLOYER & FAMILY MEMBER
A lawyer or law firm	_____	_____	_____
An insurance company	_____	_____	_____
The court system	_____	_____	_____
A large corporation	_____	_____	_____
A doctor, hospital, or health care organization	_____	_____	_____

35. Have you or any member of your family ever had a drug or alcohol abuse problem?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If so, did they receive treatment or participate in a support group (such as Alcoholics Anonymous)?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If either answer above is yes, please explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The following instructions relate to all of the remaining questions. Please read them carefully.**

It is very important in every trial to select jurors who will listen carefully to all of the evidence offered by both sides and who will decide the case fairly. Jurors must decide cases without any bias or preconceived ideas as to how a particular type of case should be decided. Sometimes, however, a juror's own personal feelings or views are so strong that the juror simply cannot weigh the evidence fairly in a particular type of case. The following questions are intended to help the court determine if there are any particular types of cases on which you should not serve. Please answer them carefully.

	I can be fair	I cannot be fair
36. Corporations have the same rights under the law as any individual. Do you feel that you can be fair to both sides in a lawsuit that involves an individual on one side and a company or corporation on the other?		
37. Foreign nationals are entitled to the same rights to a fair trial as any other person. Do you feel that you can be fair to both sides in civil or criminal cases involving a foreign national?		
38. Do you feel that you can fairly decide a case involving the U.S. government on one side and an individual accused of violating the law on the other?		
39. Do you have such strong feelings about firearms that you could not be fair and impartial in a case involving the alleged use or illegal possession of a firearm?		
40. Do you have such strong feelings regarding the use or sale of illegal drugs that you could not be fair and impartial in a case involving the alleged use or sale of illegal drugs?		
41. Do you have such strong feelings about alcohol or drug abuse that you could not fairly weigh the evidence in a case involving the alleged use or abuse of alcohol or drugs (legal or illegal)?		
42. Do you have such strong feelings for or against law enforcement officers that you would be unable to give both sides a fair trial in a criminal case (or in a civil case involving a law enforcement officer)?		
43. Would any personal experiences prevent you from being fair to both sides in a case involving a person with a personal injury or disability?		



## JUROR ORIENTATION VIDEO TRANSCRIPT

Good morning and welcome to the United States District Court for the District of South Carolina. My name is Joe Anderson, Jr. and I am one of the trial judges here in Columbia. You ladies and gentleman have been randomly selected as potential jurors for a term of court to be held here in Columbia. Serving as a juror is one of the most important responsibilities you have as a citizen of this country. That's why we'd like to take a few minutes and tell you about your role as a juror, and to give you a general idea of what to expect.

Let me say at the outset that we all recognize that your presence here today — and if you are chosen for a trial, your presence at that trial — is a burden and a hardship for many of you. You've had to drop whatever you were doing, leave your jobs and families, and sacrifice days out of your lives to come and sit here with a room full of strangers. Even if you don't have outside commitments, there are still probably many things that you would rather be doing than sitting here in this courthouse.

But it's also important that you understand and appreciate the fact that your presence here today is what makes our system of justice in this country the fairest in the entire world. The right to a trial by a jury is one of the most important and sacred of the rights guaranteed by our Constitution.

In fact, when the American colonists declared their independence from England, one of the complaints listed in the Declaration of Independence was that the King had denied the colonists the right to trial by jury. In the Revolutionary War that followed, people died to restore that right — the right to trial by jury. As a result, the right to trial by jury is guaranteed under our Constitution in both civil and criminal cases.

If you think about it, there are really only two occasions when citizens are afforded the opportunity to directly involve themselves with the operation of our government. One is when you go into the polling booth to vote in an election. The other is when you are empaneled to sit on a jury and resolve a dispute between your fellow citizens.

In short, ladies and gentlemen, jury service is hard work, but it is also a rare privilege. If you are selected, you will become an active participant in the public administration of justice in the United States. Many of your fellow citizens never have the opportunity to become directly involved in the operation of the judicial branch in such a fashion.

Let me now explain about the jury selection process itself. As I mentioned earlier, all of you are here today because you were randomly selected from all walks of life as potential jurors for a term of court here in Columbia. Whether you will actually be selected to sit on any particular jury remains to be seen. That will be determined in the jury selection process which will follow this orientation video.

In just a few moments, the jury clerk will randomly select a small number of you to go upstairs to my courtroom to answer some questions about the first case to be tried. There, you and I will meet in person for the first time. I will first give you some information describing the case to be tried, and then I will ask you a series of questions designed to determine if you can be fair and impartial in that particular case. You will be under oath in giving your answers.

This process is known as “voir dire,” which literally means, “to speak the truth” — which you are expected to do in answering the questions. Our overriding goal in every case is to select a jury that is completely fair and open-minded and that can give all parties a fair trial. The answers that you give to the questions during voir dire will help us achieve this result.

At this point I should mention the questionnaires that we asked you to complete and mail back several weeks ago. The questionnaires contained many questions that we would normally have asked you orally in the courtroom, but we learned from experience that it saves time for everyone to have that information on paper before jury selection begins. We appreciate your cooperation in completing and returning those questionnaires. It saves time for all of us here on jury selection day.

You may wonder about some of the questions you saw on the questionnaire or that you are asked in the courtroom. They may seem quite personal. But the parties have a right to know some things about the people who will decide their case.

The lawyers and I will listen carefully to the answers that you give during voir dire. If a lawyer thinks that there is a specific reason a juror may not be able to decide the case impartially, the lawyer may challenge that juror “for cause.”

For example, a juror’s answers to my questions may reveal that the juror has personally been involved in a dispute that is very similar to the dispute being tried. In such a case, it may be best to remove that juror from the jury panel for cause, to guard against the possibility that that person will bring his or her prior experiences to bear on the case. If you are excused from a particular case for cause, that means you will not sit on that case, though you may be sent back to the jury room for possible selection on another case.

Merely having read or heard something about the case will not automatically disqualify you from serving, nor will past experiences. What must be determined is whether you have made up your mind about the case or can decide it impartially.

There is another reason for the questions put to you during the voir dire process. This is to allow the attorneys to learn something about you so that the attorney can decide how to use his or her peremptory challenges.

With peremptory challenges or “strikes,” lawyers don’t have to give a reason to the judge for excusing a juror. Lawyers may make peremptory challenges because they have a hunch or gut feeling that a prospective juror won’t respond favorably to their cause. The challenge may be based on information the lawyers learned on voir dire, but cannot be based on reasons such as race or gender.

It is sometimes hard to figure out why certain people are excused, but the lawyers have their own reasons for making challenges based on what they know about their case. If you’re excused from a case, please don’t take it personally. It’s just a normal part of the jury selection process.

As I ask you questions during the voir dire process, you should listen very carefully to the question and if you decide that you need to respond, you should stand and when I recognize you, first state your name and then speak clearly and distinctly in giving your response. I know from experience that jurors need to make a conscious effort to speak loudly because the court reporter who is taking down the proceedings needs to hear what you say and you will not have a microphone to assist you in giving your answer.

If at any time you feel that your response to any of my questions is private, simply raise your hand and I will ask you to come up to the bench so that we can discuss the matter out of the hearing of the other jurors. However, the lawyers and court reporter must be present when you speak with me.

After the voir dire questioning is complete, I will take a brief recess to allow the lawyers to look over their notes and decide how to use their peremptory challenges. The challenges will be applied to the list that was selected and the jurors remaining on the list after the challenges will constitute the trial jury for that particular case.

Those jurors selected will be asked to come to the front of the courtroom and have a seat in the jury box. I will give you a sheet of paper that contains essential information about the case for which you have been selected. That paper will tell you the date on which the trial is expected to begin and will give you some other information such as suggestions for parking and other things you need to know about.

After the jury is selected in the first case, those jurors may be asked to return to the jury assembly room. We will then select a second small group of jurors to go upstairs to my courtroom and repeat this process for the next case, and so forth until juries for all of the cases to be tried this term have been selected.

In other words, you will learn today whether you have been selected to sit on any juries for this term of court. You will also know the dates on which the trials are tentatively scheduled to begin and you will know approximately how long each trial will last. Those of you who are not selected on any case will be free to leave after the selection process is complete and you will not be required to return.

As I will remind you if you are selected, it is critically important that you not discuss any case you have been selected to hear with anyone, not even your fellow jurors, and you also must not do any investigation or reading about the case on your own. Your only exposure to a case that you are to hear must come in the courtroom.

It has been my experience that potential jurors are sometimes concerned about the ability to fairly decide a case that might appear at first to be quite complicated. While it is true that some of our cases are complicated, you should remember that if you are selected for a jury, everything you need to know, you will see or hear in this courtroom.

All you will need to bring to the courtroom is your common sense. Every day you make judgments about people in situations based on information that you are given. This is what you need to do as a juror. Your every day common sense, combined with what you learn in the courtroom, will help you reach an impartial decision based on the evidence and the law. That's what a juror's job is all about.

If you have any other questions, such as how to get a slip from the Clerk to verify to your employer you have been here attending to jury duty or where to get lunch, the Clerk's Office personnel assigned to work with you will be happy to assist you with these matters. Also, I will certainly be glad to respond to any questions you may have in the courtroom during the jury selection process.

Long, long ago, if you were accused of a crime, you had to go through what they called "trial by ordeal." One of these ordeals actually called for you to plunge your hand into boiling water. Three days later, if the hand healed, you were pronounced innocent.

The idea of justice has come a long way since those medieval times. For us Americans, the very foundation of our democratic society is a guarantee to each and every one of us the right to a fair trial by an impartial jury. Each day across this country, thousands of individuals — judges, attorneys, court officials, law enforcement officers, and jurors — are called upon to uphold and protect our country's legal system that resolves disputes fairly in both civil and criminal cases. Today, it's your turn.

I look forward to working with you in the jury selection process that will follow this video. Thank you for your attention.