

**JUDICIAL COUNCIL
OF
THE UNITED STATES ELEVENTH JUDICIAL CIRCUIT**

JAMES P. GERSTENLAUER
CIRCUIT EXECUTIVE

TEL. 404/335-6535
56 FORSYTH STREET, NW
ATLANTA, GEORGIA 30303

5 May 2010

Honorable Federico A. Moreno
Chief United States District Judge
U. S. District Court, Southern District of Florida
400 North Miami Avenue, Room 13-3
Miami, FL 33132

Dear Chief Judge Moreno:

The Reviewing Panel of the Judicial Council of the Eleventh Circuit has approved the amended Plan for the Random Selection of Grand and Petit Jurors of the United States District Court for the Southern District of Florida submitted on 17 March 2010.

We will send copies of the action of the Reviewing Panel and your amended plan to the Attorney General of the United States, the Director, Administrative Office of the United States Courts, and the Clerk, United States Court of Appeals for the Eleventh Circuit.

Sincerely,



Secretary to the Judicial Council

/kla

Attachment

c: Members of the Judicial Council
Honorable Eric Holder
Honorable James C. Duff
Mr. John P. Ley, Jr., Circuit Clerk of Court
Mr. Steven M. Larimore, Clerk of Court

ELEVENTH JUDICIAL CIRCUIT

Reviewing Panel, Jury Plan

The attached Jury Plan as amended 17 March 2010, for the United States District Court for the Southern District of Florida, having been reviewed by the Reviewing Panel of this Circuit is approved.

The following judges comprised and acted as the Reviewing Panel:

(a) Members of the Judicial Council

Chief Circuit Judge Joel F. Dubina
Circuit Judge Gerald Bard Tjoflat
Circuit Judge J. L. Edmondson
Circuit Judge Stanley F. Birch, Jr.
Circuit Judge Susan H. Black
Circuit Judge Ed Carnes
Circuit Judge Rosemary Barkett
Circuit Judge Frank M. Hull
Circuit Judge Stanley Marcus
Circuit Judge Charles R. Wilson

(Alabama)

Chief District Judge Sharon Lovelace Blackburn
Chief District Judge Mark E. Fuller
Chief District Judge William H. Steele

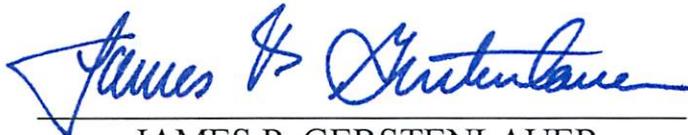
(Florida)

Chief District Judge Stephan P. Mickle
Chief District Judge Anne C. Conway
Chief District Judge Federico A. Moreno

(Georgia)

Chief District Judge Julie E. Carnes
Chief District Judge C. Ashley Royal
Chief District Judge William T. Moore, Jr.

Entered for the Reviewing Panel at Atlanta, Georgia, this 5th day of May 2010.



JAMES P. GERSTENLAUER
Circuit Executive

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**PLAN FOR THE RANDOM SELECTION OF
GRAND AND PETIT JURORS**

Pursuant to the Jury Selection and Service Act (Public Law 90-274), a Jury Plan was adopted by this Court and approved by the Fifth Circuit Judicial Council on September 10, 1968. The Plan was amended and approved by the Fifth Circuit Judicial Council through April 27, 1981. The Plan was subsequently amended and approved by the Eleventh Circuit Judicial Council on January 31, 1997, June 14, 2002, and again on January 31, 2007.

Subject to approval by the Reviewing Panel of the Eleventh Circuit Judicial Council, the present Plan is hereby further amended in its entirety by substituting in lieu thereof the following Jury Plan for the Southern District of Florida:

I. APPLICABILITY OF PLAN

This Plan is applicable to the Southern District of Florida, which consists of nine counties, as follows:

| County | County Seat |
|---------------|--------------------|
| Broward | Fort Lauderdale |
| Miami-Dade | Miami |
| Highlands | Sebring |
| Indian River | Vero Beach |
| Martin | Stuart |
| Monroe | Key West |
| Okeechobee | Okeechobee City |
| Palm Beach | West Palm Beach |
| St. Lucie | Fort Pierce |

Title 28 U.S.C. Section 89(c) provides that “Court for the Southern District of Florida shall be held at Fort Lauderdale, Fort Pierce, Key West, Miami, and West Palm Beach.” Special sessions may be held at such places in the District as the nature of the business may require (28 U.S.C. Section 141). Pursuant to this statutory requirement and in compliance with Section 1869(e) of the Jury Selection and Service Act, as amended, the Southern District of Florida is hereby divided into five (5) divisions as follows:

- Miami Division**, consisting of Miami-Dade County;
- Fort Lauderdale Division**, consisting of Broward County;
- West Palm Beach Division**, consisting of Palm Beach County;
- Fort Pierce Division**, consisting of the Counties of St. Lucie, Martin, Indian River, Okeechobee, and Highlands;
- Key West Division**, consisting of Monroe County.

In conformance with the Local Rules of this Court, civil and criminal proceedings or trials may upon order of the Court, for the purpose of ensuring compliance with the requirements of the Speedy Trial Act and for such other compelling, justifiable reasons as the Court may determine, be accordingly transferred and conducted within any of the foregoing divisions.

II. POLICY

This Plan is adopted pursuant to and in recognition of the Congressional policy declared in 28 U.S.C., as follows:

“Section 1861 Declaration of Policy”

“It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.”

“Section 1862 Discrimination Prohibited”

“No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status.”

III. MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge of this District. The use of the word “Clerk” in this Plan contemplates the Clerk of the Court and any and all of his deputies, including duly authorized non-court officials. The phrase “Chief Judge” wherever used in this Plan shall mean the Chief Judge of this District or, in his absence, disability or inability to act, the active District Court Judge who is present in the District and has been in service the greatest length of time. Wherever the Jury Selection and Service Act, as amended, requires or authorizes the Plan to designate a District Court Judge to act instead of the Chief Judge, the above definition shall apply and such active District Court Judge above mentioned is hereby designated to act.

The United States District Judge of this Court who shall be designated by Order of the Chief Judge to preside over a particular jury division of this Court, shall supervise and control the management, selection, impaneling process of both grand and petit jurors of this District.

IV. COMPOSITION, SUPPLEMENTATION AND DURATION OF MASTER JURY WHEELS

Voter registration lists represent a fair cross section of the community in each jury division of the Southern District of Florida. Accordingly, names of grand and petit jurors shall be selected at random for each jury division from the voter registration lists of all of the counties in that jury division. Every two years, the Clerk shall obtain, following the general election, a list of registered voters for each county in each jury division.

The Clerk shall maintain, or cause to be maintained, a master jury wheel for each of the divisions within the District. The Clerk shall utilize electronic data processing technology to perform the selection procedures set forth in this Plan.

The Clerk shall make, or cause to be made, the random selection of names for the master jury wheels as follows. The following number of names shall be selected for the master jury wheel as a minimum for each division:

| | |
|--------------------------|---------|
| Miami Division | 250,000 |
| Fort Lauderdale Division | 150,000 |
| West Palm Beach Division | 100,000 |
| Fort Pierce Division | 18,000 |
| Key West Division | 35,000 |

The minimum number of names for each division shall be at least one-half of one percent of the total number of registered voters for the division. The Court may order additional names to be placed in the master jury wheels from time to time as necessary.

The Clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For example, if there are 900,000 registered voters in the Miami Division and if it is necessary to place 250,000 names in the master wheel for the Miami Division for the period in question, that number, 250,000, will be divided into 900,000, thus producing a "quotient" of 4 rounded off to the nearest integer. The Clerk shall then prepare and deposit into a closed container separate slips numbered 1 to 4 inclusive from which the Clerk shall draw by lot one of said numbers for a "starting number." Thus, if the starting number drawn is 2, the Clerk will designate the 2nd name appearing upon the voter registration list of each county for that division, and then the 6th, 10th, 14th, and each and every 4th name which appears thereafter to be placed into the master jury wheel for that division.

At the Clerk's option, and after consultation with the Court, the selection of names for the master jury wheel from complete source list databases in electronic media may be accomplished by either a systematic or a purely randomized process through a properly programmed electronic data processing system. Such random selections of names from the source lists for inclusion in the master

wheel by data computer personnel must ensure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. Section 1863 (b) (3) . These selections must also ensure that mathematical odds of any single name being picked are substantially equal.

Each master jury wheel for each jury division of this Court shall be emptied and refilled every two years, specifically during the odd numbered years following a November general election. These master jury wheels will be filled with names obtained from the voter registration lists of each county within the respective jury division.

As required by the Judicial Conference of the United States, a report will be compiled within six months after each periodic refilling of the master jury wheel for each jury division, or upon implementation of any amendment such as to affect the composition of the master jury wheel on forms approved by the Judicial Conference giving general data relating to the respective master jury wheel, the time and manner of juror name selection, the source and number of names placed in the wheel and related information including an analysis of the race, sex and ethnicity of prospective jurors based on returns from a minimum of 300 juror summons and questionnaire forms of those persons drawn at random from each master jury wheel.

This Plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act, as amended, will be fully accomplished and implemented by the use of voter registration lists as the source of a random selection of prospective grand and petit jurors who represent a fair cross section of each of the five Jury Divisions of this District. This determination is supported by all the information this Court has been able to obtain after diligent effort on its part, and after full consultation with the Judicial Council of the Eleventh Circuit.

V. USE OF AUTOMATED DATA PROCESSING METHODS FOR JURY ADMINISTRATION

This Court finds that automated data processing methods are more efficient, effective, and economical in performing many of the procedures outlined heretofore in this Plan. In addition, as authorized by 28 U.S.C. Section 1869(a) as amended, the Clerk may employ a private computing firm to assist these automated functions. Therefore, an automated data processing system shall be used to select names for the master wheel from voter registration lists of all counties in the District. The operator of the data processing system shall certify that the names for the master jury wheel are randomly selected from voter registration lists in accordance with this Plan and such additional written instructions as provided by the Clerk.

Similarly, an automated data processing system shall be used to select names from the master wheel for summoning persons to serve as grand or petit jurors, and for the creation of those documents or records required to administer the selection, summoning, qualification, and payment of jurors. Finally, the Clerk is authorized to utilize change of address software to update the addresses of prospective jurors, when deemed necessary.

VI. PROCEDURE FOR THE RANDOM SELECTION OF NAMES FOR SUMMONS

The name selection system shall be planned and programmed according to the same starting number and quotient formula utilized above in the construction of the master wheels, or, at the option of the Clerk and after consultation with the Court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheels for the purpose of summoning persons to serve as grand or petit jurors. The selection of names from the master wheels must ensure that the mathematical odds of any single name being picked are substantially equal.

VII. DRAWING OF NAMES FROM THE MASTER JURY WHEEL; COMPLETION OF JUROR SUMMONS AND QUESTIONNAIRE FORM

Pursuant to 28 U.S.C. Section 1878, at the option of this District Court, jurors are summoned and qualified in a single procedure, in lieu of the two separate procedures otherwise provided for by the Jury Selection and Service Act.

This Plan hereby incorporates the provisions of 28 U.S.C. Section 1864, which reads as follows:

(a) From time to time as directed by the district court, the clerk or a district judge shall draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk or jury commission shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn. The clerk . . . may, upon order of the court, prepare an alphabetical list of the names drawn . . . the clerk . . . shall mail to every person whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk . . . within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is omission, ambiguity, or error in a form, the clerk . . . shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk . . . within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk . . . forthwith to appear before the clerk . . . fill out another juror qualification form in the presence of . . . the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk . . . may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order, or who fails to show good cause for noncompliance with the summons may be fined not more than \$1000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$1000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

VIII. DETERMINATION OF QUALIFICATIONS, DISQUALIFICATIONS, EXEMPTIONS, EXCUSES AND DEFERRALS

This Plan hereby incorporates the provisions of 28 U.S.C. Section 1865, as amended. The Clerk, under the supervision of the Court:

(a) . . .shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such facts shall be noted on said list.

(b) . . .shall deem any person qualified to serve on grand and petit juries in the district court unless he -

- (1) is not a citizen of the United States, eighteen years old who has resided for a period of one year within the judicial district;
- (2) is unable to read, write and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) is unable to speak the English language;
- (4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- (5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable for more than one year and his civil rights have not been restored.

This Court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, consistent with the Act, and shall be automatically granted, pursuant to 28 U.S.C. Section 1863(b) (6):

- (1) Members in active service of the Armed Forces of the United States;
- (2) Members of the fire or police departments of any State, district, territory, possession or subdivision thereof;
- (3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or any State, District, Territory, Possession or subdivision thereof who are actively engaged in the performance of official duties (public officer

shall mean a person who is either elected to public office or who is an officer who is directly appointed by a person elected to public office).

This Court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excusal will not be inconsistent with the Act and may be claimed, if desired and shall be granted upon individual request, pursuant to 28 U. S. C. Section 1863 (b) (5) :

- (1) Persons over 70 years of age at the time they request excuse;
- (2) Volunteer safety personnel who serve without compensation as firefighters, members of a rescue squad or ambulance crew of the United States or any unit of a state or local government;
- (3) Persons who have served as grand or petit jurors in a federal court during the past two years immediately preceding their call to serve.

Additionally, the Clerk may, under supervision of the Court, excuse persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other ground of excusal as set forth in 28 U.S.C. Section 1866(c) (1) and Section 1869(j) , for such period of time as the Court may deem necessary and proper. This Court finds and hereby states that jury service by members of the following groups of persons would entail undue hardship and extreme inconvenience to the members thereof:

- (1) Persons who have active care and custody of a child or children under the age of 10 whose health and/or safety would be jeopardized by absence of juror, or a person who is essential to the care of aged, elderly or infirmed persons.
- (2) Persons whose services are so essential to the operation of a business, commercial or agricultural enterprise that it may close or cease to function if they were required to perform jury duty.
- (3) Persons having no access to a private vehicle and residing in a remote location, where public transportation is unavailable or is not feasible.

This Court finds and hereby states that the Clerk may excuse jurors under the categories defined in this Plan only. Categories not so defined shall be referred to the Court for disposition.

This Court finds and hereby states that the Clerk may, under the supervision of the Court, grant temporary excuses (deferrals) to persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other grounds for such period of time as the Court may deem necessary and proper. At the conclusion of the deferral period, these jurors may be re-summoned.

IX. EFFECTIVE DATE

The effective date of this Plan shall be established by a separate Order of this Court after this Plan has been approved by the Judicial Council of the Eleventh Circuit. The current Jury Plan of this Court shall remain effective and operative until the effective date of this revision. Nothing in this Plan shall affect the composition or preclude the service of any juror duly summoned or impaneled on or before the date upon which this Jury Plan shall become effective.

X. PUBLIC ACCESS AND DISCLOSURE

The office of the Clerk of the Court shall retain and, when requested, provide public access to the following:

- the Court's "Plan for the Random Selection of Grand and Petit Jurors. "
- a verbal or graphically charted description of the procedure employed in the automated selection system.
- a copy of the Court's authorization and instruction order to the person or computer service organization which carries out automated name selection tasks for the Court.
- the venire list for a particular panel. However, the Court may at any time order that a venire list or lists be kept confidential in any case where the interest of justice so requires. 28 U.S.C. Sect. 1863 (b) (7).
- a copy of the report on the Operation of the Jury Selection Plan, JS-12., in addition, the Clerk may disclose for grand juries: impanelment dates, dates of service, and expiration dates.

All other juror information is to be kept confidential, and may not be released to the parties or the public without a Court order.