

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI



JURY SELECTION PLAN

Approved by the Chief Judge: Beth Phillips

Dated: 3/15/19

Approved by the Eighth Circuit Judicial Council, Dated: _____

**AMENDED PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

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**AMENDED PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

Revised March 2019

Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861, et seq., (the “Act”) the following Jury Selection Plan is hereby adopted by this court, subject to approval by the reviewing panel for the Eighth Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference.

Effective Date and Duration

28 U.S.C. § 1863(a)

This plan for jury selection shall be placed in operation after approval by the reviewing panel. This plan shall remain in force and effect until approval of one or more modifications of this plan by said reviewing panel. Modifications of this plan may be initiated by the court and submitted to the reviewing panel for approval; and this plan shall be modified as and when directed by the said reviewing panel.

Applicability of Plan

28 U.S.C. § 105

This plan applies to each of the divisions of this district as now established by law. The Western District of Missouri is divided as follows:

The **Western Division** consisting of the counties of Bates, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Ray, St. Clair, and Saline;

The **St. Joseph Division** consisting of the counties of Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, Platte, Putnam, Sullivan, and Worth;

The **Central Division** consisting of the counties of Benton, Boone, Callaway, Camden, Cole, Cooper, Hickory, Howard, Miller, Moniteau, Morgan, Osage, and Pettis;

The **Southern Division** consisting of the counties of Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Oregon, Ozark, Polk, Pulaski, Taney, Texas, Webster, and Wright; and

The **Southwestern Division** consisting of the counties of Barry, Barton, Jasper, Lawrence, McDonald, Newton, Stone, and Vernon.

Declaration of Policy

28 U.S.C. § 1861

All litigants in this court 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 each division where court convenes, and all citizens who reside within the district shall have the opportunity to be considered for service on grand and petit juries and shall have an obligation to serve as jurors when summoned for that purpose.

Discrimination Prohibited

28 U.S.C. § 1862

No citizen shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin, or economic status.

Management and Supervision of Jury Selection Process

28 U.S.C. § 1863(b)(1)

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge or any other district judge acting as his/her designee. In managing and supervising the jury selection process, the Clerk is authorized to delegate to the deputy Clerks duties as may be necessary in the jury selection process.

Method and Manner of Random Selection

28 U.S.C. § 1863(b)

The court uses a two-step process to select jurors. First, a master jury wheel is created by selecting names at random from the list of registered voters maintained by the Missouri Secretary of State and the lists of individuals over the age of 18 who possess Missouri non-driver identification cards or drivers licenses maintained by the Missouri Department of Revenue. Accordingly, names of grand and petit jurors serving in this court shall be selected by randomized procedures from the merged lists of registered voters, Missouri non-driver identification cards, and licensed drivers.

Names are then randomly drawn from the master jury wheel to receive juror qualification letters. Individuals' answers to these questions determine whether they are legally qualified to serve. If qualified, the names of those persons are put in a second wheel, a qualified jury wheel. As prospective jurors are needed for a specific trial or grand jury, jury summonses are sent to persons randomly selected from the qualified jury wheel. All of these selections are carried out through a properly programmed electronic data processing system for pure randomized selection. The pure randomized process ensures that the mathematical odds of any single name being picked are substantially equal.

At the discretion of the Clerk, the selection of names to fill the master jury wheel may be performed by court personnel or by an outside vendor. If an outside vendor is used, the Clerk shall issue written instructions directing the vendor to select the names in accordance with this plan and to certify the work done was in accordance with this plan.

The Jury Management System (JMS) developed by the Administrative Office of the United States Courts or other properly programmed electronic data processing system, may be used to select names from the master jury wheel to fill the qualified wheel; to select names from the qualified wheel for persons to be summoned to serve as grand or petit jurors; and for the recording of names and other information on any paper and records needed by the court to administer the selection and payment of jurors.

Maintaining the Master Jury Wheel

28 U.S.C. § 1863(b)(3), (4)

The Clerk shall maintain a master jury wheel for the district, with juror names from each of the five divisions as subsets of the wheel. The initial selection of names to fill the master jury wheel shall be of a sufficient number as deemed necessary for a two-year period. The minimum number of names to be placed in the master jury wheel shall be at least one percent of the total number of persons on the lists used as a source of names of prospective jurors for the division. The Chief Judge or any other district judge acting as his/her designee, may order additional names to be placed in any divisional master jury wheel as necessary.

The master jury wheel shall be refilled following each general election at which an electoral college for choosing a President of the United States is elected, and again two years later. The refilling of each divisional master jury wheel shall be accomplished within 270 days after each such election unless, for a good cause, the time shall be further extended or shortened by order of the Chief Judge or any other district judge acting as his/her designee.

Drawing of Names from the Master Jury Wheel; Completion of Juror Qualification Forms

28 U.S.C. § 1864(a)

The Clerk shall, at periodic intervals, utilize JMS to draw a sufficient number of names from the master jury wheel to maintain an adequate number of names in the qualified jury wheel to meet the needs of the court. The Clerk 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 drawn.

The number of names to be drawn from the master jury wheel shall be determined by the Clerk based upon anticipated juror demands of the court, plus a margin of extra names sufficient to compensate for those individuals who will be ineligible or unavailable. Generally, all persons randomly selected for inclusion in the master jury wheel will be sent qualification letters at the time the master jury wheel is refilled.

The lists of names drawn for the master jury wheel shall not be exhibited to any person except

as provided in the Act or this Plan. Lists of names so drawn are generated by JMS and are maintained in the Clerk's office.

The Clerk shall prepare, by means of JMS, and mail to every person whose name is so drawn, a juror qualification letter accompanied by instructions to execute through the court's internet website, a juror qualification form, duly signed and sworn to, within ten days.

If any person is unable to complete the juror qualification form through the court's internet website, he/she may request a paper juror qualification form. The Clerk shall mail a paper juror qualification form to the individual with instructions to execute, duly sign and swear to, and return by mail within ten days. If any person is unable to fill out the form, another person may do so for them and indicate that he or she has done so and the reason therefore. If there appears to be an omission, ambiguity, or error on the form, the Clerk shall return the form with instructions to make corrections as necessary within ten days. If any person fails to return or submit a completed juror qualification form, the Clerk may thereupon pursue the matter in accordance with 28 *U.S.C. § 1864(a) & (b)*.

For all qualification letters returned to the court as "undeliverable," the Clerk as soon as practicable, shall mail the same number of new juror qualification letters to addresses within the same zip code to which the undeliverable juror qualification letters were originally sent. The Clerk shall randomly draw these names from the master jury wheel. If the master jury wheel contains no names from the same zip code no additional qualification letters will be mailed. If the second qualification letters are returned as "undeliverable" no additional qualification letters will be mailed.

Qualifications for Jury Service

28 *U.S.C. § 1865(b)*

Any citizen of the United States who has reached the age of 18 years and has resided for a period of one year within the district shall be deemed qualified to serve on grand or petit juries unless he or she:

1. is unable to read, write or understand the English language with a degree of proficiency sufficient to satisfactorily complete the juror qualification questionnaire;
2. is unable to speak the English language;
3. is incapable by reason of mental or physical infirmity to render satisfactory service; or
4. has a charge pending against him or her for the commission of, or has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored by pardon or amnesty.

28 *U.S.C. § 1863(b)*

The following persons are barred from jury service on the ground that they are exempt:

1. members in active service in the Armed Forces of the United States;
2. members of the fire or police departments of the state or subdivision thereof (not

- including volunteer or non-governmental departments); or
3. public officers in the executive, legislative, or judicial branches of the Government of the United States, or the state, or subdivision thereof, who are actively engaged in the performance of official duties.

Excuse from Jury Service Upon Individual Request

28 U.S.C. § 1863(b)(5)

By the adoption of this plan, the court finds that jury service by members of the following occupational classes or groups of persons may entail undue hardship or extreme inconvenience to the members thereof, and that excuse of such members is not inconsistent with *28 U.S.C. § 1861* and *§ 1862*:

1. persons over 70 years of age whose health and/or safety would be jeopardized by serving on a jury;
2. persons who are active volunteer safety personnel;
3. persons who have within the past two years, served on a federal grand or petit jury; or
4. persons having active care and custody of a child or children less than 10 years of age whose health and/or safety would be jeopardized by their absence for jury service.

Qualified Jury Wheels and Summons for Jury Service

28 U.S.C. § 1863(b)(8); 1866

Separate qualified jury wheels shall be maintained in JMS for each division and the names of all persons from the master jury wheel not disqualified, exempt or excused pursuant to this plan shall be placed in the qualified jury wheel. The Clerk shall ensure that at all times an adequate number of names is contained in each such qualified jury wheel to meet the needs of the court.

From time to time as directed by the court, the Clerk shall cause to be drawn at random by means of JMS, from the qualified jury wheel of each division such number of names of persons as may be required for assignments to grand and petit jury panels. The Clerk shall prepare, by means of JMS, and mail to every person whose name is so drawn, a summons for jury service.

Grand juries may be drawn for and from any separate division or combination of divisions. Grand juries drawn for and from a combination of divisions shall be drawn proportionately from the number of names in the divisional master jury wheel bearing to the sum of the total number of names in the master jury wheels of the divisions in the combination.

Petit jurors shall be called from the following Divisions:

1. Western (101)
2. St. Joseph (601)
3. Southern (301) and Southwestern (501) Combined
4. Central (401).

Petit Juries that are drawn for and from a combination of divisions shall be drawn proportionately from the number of names in the divisional master jury wheel bearing to the sum of the total number of names in the master jury wheels of the divisions in the combination.

For those who have been summoned for jury service, the Clerk is authorized to grant temporary excuses from jury service to jurors whose service on a particular day or days would create undue hardship or extreme inconvenience. The Clerk is authorized to reinsert the names of those individuals temporarily excused back into the qualified wheel. Examples of undue hardship and extreme inconvenience are scheduled medical appointments, scheduled vacation plans, and business travel.

Names of persons summoned and appearing for service may be inserted in a panel assignment wheel, from which separate trial panels will be selected by lot. The Clerk shall prepare for the use of the court and counsel a separate list of names of persons assigned to each petit jury panel.

Disclosure of Juror Information

The names of prospective jurors drawn from the qualified jury wheel shall not be disclosed prior to their reporting for service except when ordered by the court.

The Clerk shall make available to counsel for the parties, or to any party appearing pro se, a jury list which sets forth the name, general address and occupation of each person assigned to individual petit jury panels in both civil and criminal cases at the time of voir dire proceedings.

Disclosure of any prospective jurors or persons assigned to individual petit jury panels will be made to the public or the media only upon request and only when ordered by the court.

The list of names of persons summoned to any court in this district for prospective grand juror service shall remain confidential. The names of persons chosen to serve as grand jurors in this district shall remain confidential in the interest of justice until otherwise ordered by the court.

The names of individuals comprising the qualified jury wheel shall not be disclosed to the public or the press provided: the Chief Judge or any other district judge acting as his/her designee, may by special order require that the Clerk disclose these names where the interests of justice so require.

Exclusion from Jury Service

28 U.S.C. § 1866(c)

Any prospective juror who has been summoned for jury service may be excluded by the Chief Judge of this court or the district judge, bankruptcy judge or US Magistrate upon whose order the summons was issued upon the following grounds:

1. that such person may be unable to render impartial jury service;
2. that the service of such person as a juror would be likely to disrupt the proceedings;
3. that such person would be peremptorily challenged as provided by law;

4. that such person would be excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown.

Any person excluded from a particular jury under the above listed subparagraphs shall be eligible to serve on another jury if the basis for his/her initial exclusion would not be relevant to his/her ability to serve on such other jury.

A prospective juror may be excluded from further service if the court has determined that the service of such person as a juror would likely threaten the secrecy of the proceedings or otherwise adversely affect the integrity of the jury deliberation; however, no person shall be excluded upon such grounds unless the judge in open court determines that such exclusion is warranted and that the exclusion of the person is not inconsistent with 28 U.S.C. § 1861 and § 1862.

Penalty for Failure to Appear for Jury Summons

28 U.S.C. § 1866(g)

Any person summoned for jury service who fails to appear as directed may be ordered by the court to appear and show cause for failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

Supplemental Attendance Fee for Petit Jurors Serving on Lengthy Trials

28 U.S.C. § 1871(b)(2), (3)

A petit juror required to attend more than ten days of service on one case shall be paid an additional attendance fee of \$10, for each day in excess of ten days on which the juror is required to hear such case. A grand juror may be paid an additional attendance fee of \$10, for each day in excess of forty-five days of actual service. The presiding judge may, at their discretion, order that the supplemental fee be reduced or not paid at all.

Frequency of Service

28 U.S.C. § 1866(e)

In any two year period, no person shall be summoned or required to serve as a juror or to attend court for prospective service as a petit juror after he or she has served either as a juror in one trial or has attended court for prospective service as a petit juror for a total of three days, nor shall any person be required to serve upon more than one grand jury or to serve both as a grand and petit juror.

Penalty for Employers Who Retaliate Against Employees Serving on Jury Duty

28 U.S.C. § 1875(b)(3)

No employer shall discharge, threaten to discharge, intimidate or coerce any permanent employee by reason of such employee's jury service or the attendance or scheduled attendance in connection with such service. Any employer who violates the provisions of this section shall be subject to a civil penalty of not more than \$5,000 for each violation as to each employee, and may be ordered to perform community service.

Maintenance of Records

28 U.S.C. § 1868

After any master jury wheel is emptied and refilled as provided in this plan, and after all persons selected to serve as jurors before the master jury wheel was emptied have completed such service, all papers and records compiled and maintained by the Clerk before the master jury wheel was emptied shall be preserved in the custody of the Clerk for four years or for such longer period as may be ordered by this or any other court having jurisdiction to make such order. Such papers and records shall be available for public inspection for the purpose of determining the validity of the selection of any jury or of the history of the operation of this plan.

Sanctions for Late Notification of Settlement

Local Rule 83.10

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual jury trial, then, except for good cause shown, jury costs, including Marshal fees, mileage and per diem, may be assessed equally against the parties and their counsel, or otherwise assessed by the court unless the Clerk of the Court is notified before twelve noon of the last business day preceding the time when the action is scheduled for trial in time to advise the jurors that it will not be necessary for them to attend. Likewise, when any civil action is settled at trial in advance of the verdict, then, except for good cause shown, jury costs, including Marshal fees, mileage and per diem, may be assessed equally against the parties and their counsel or otherwise assessed as directed by the court.

Challenging Compliance with this Plan and with the Law

28 U.S.C. § 1867

In civil and criminal cases, the exclusive method of challenging compliance with this plan shall be provided by any existing statute and rule of criminal and civil procedure, including but not limited to 28 U.S.C. § 1867.


**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

ORDER

IT IS **HEREBY ORDERED** that in accordance with Title 28 U.S.C. § 1861, et. seq., the United States District Court for the Western District of Missouri hereby adopts the revised Jury Selection Plan for the random selection of jurors.

This plan becomes effective upon approval of the 8th Circuit.

ENTERED this 15th day of March 2019



BETH PHILLIPS
CHIEF UNITED STATES DISTRICT JUDGE

United States Courts
Judicial Council of the Eighth Circuit
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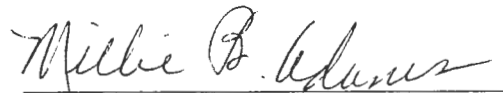
Millie B. Adams
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EIGHTH CIRCUIT JUDICIAL COUNCIL

ORDER

I hereby certify that the Eighth Circuit Judicial Council has approved the amended Jury Selection Plan for the Western District of Missouri, as adopted by the court on March 15, 2019.



Millie B. Adams
Circuit Executive

St. Louis, Missouri
April 8, 2019

cc: Judicial Council Members
Chief Judge Beth Phillips
Paige Wymore-Wynn, Court Executive
Administrative Office

Approval was given by the Jury System Committee.

JCO 3046