

# IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

## New York Jury Innovations

### 1. Note Taking

N/A

### 2. Juror Handbooks/Notebooks

N/A

### 3. Juror Questions and Questioning of Witnesses

N/A

### 4. Juror Pay/Compensation

#### **Fees and travel expenses of jurors**

(a) [Until April 1, 2003] Except as provided in subdivision (b) of this section, trial and grand jurors in each court of the unified court system, except town and village courts, shall be entitled to an allowance equal to the sum of forty dollars per day for each and every day of physical attendance wherein the court convenes, except that no person who is employed shall be entitled to receive such allowance if, pursuant to section five hundred nineteen of this article, his or her employer is prohibited from withholding the first forty dollars of wages of such person during such period and such person's daily wages equal or exceed forty dollars. If such person's daily wages are less than forty dollars, he or she shall be entitled to receive an allowance hereunder equal to the difference between forty dollars and the amount of his or her daily wages. Such fees and those expenses actually and necessarily incurred in providing food and lodging for jurors shall be a state charge payable out of funds appropriated to the office of court administration for that purpose.

(a) [Eff April 1, 2003] Except as provided in subdivision (b) of this section, trial and grand jurors in each court of the unified court system shall be entitled to an allowance equal to the sum of forty dollars per day for each and every day of physical attendance wherein the court convenes, except that no person who is employed shall be entitled to receive such allowance if, pursuant to section five hundred nineteen of this article, his or her employer is prohibited from withholding the first forty dollars of wages of such person during such period and such person's daily wages equal or exceed forty dollars. If such person's daily wages are less than forty dollars, he or she shall be entitled to receive an allowance hereunder equal to the difference between forty dollars and the amount of his or her daily wages. Such fees and those expenses actually and necessarily incurred in providing food and lodging for jurors shall be a state charge

payable out of funds appropriated to the office of court administration for that purpose.

(b) No employee shall be entitled to receive the per diem allowance authorized by subdivision (a) of this section for any regularly scheduled workday on which jury service is rendered if, on such day, his or her wages are not withheld on account of such service.

(c) Notwithstanding any other provision of this section, a trial or grand juror may waive entitlement to the allowance authorized by subdivision (a) of this section. In such event the amount of such allowance shall be available to the chief administrator of the courts solely for the purposes specified in paragraph (m) of subdivision two of section two hundred twelve of this chapter, except that any such amounts not expended in such fashion as of the close of the fiscal year in which they became available shall be transferred by the comptroller to the supplemental jury facilities fund established pursuant to section ninety-four-c of the state finance law.

NY CLS Jud § 521 (2005)

#### **Right of juror to be absent from employment**

Any person who is summoned to serve as a juror under the provisions of this article and who notifies his or her employer to that effect prior to the commencement of a term of service shall not, on account of absence from employment by reason of such jury service, be subject to discharge or penalty. An employer may, however, withhold wages of any such employee serving as a juror during the period of such service; provided that an employer who employs more than ten employees shall not withhold the first forty dollars of such juror's daily wages during the first three days of jury service. Withholding of wages in accordance with this section shall not be deemed a penalty. Violation of this section shall constitute a criminal contempt of court punishable pursuant to section seven hundred fifty of this chapter.

NY CLS Jud § 519 (2005)

### **5. Alternate Jurors**

#### **Alternate jurors**

Unless the court, in its discretion, orders otherwise, one or two additional jurors, to be known as "alternate jurors", may be drawn upon the request of a party. Such jurors shall be drawn at the same time, from the same source, in the same manner, and have the same qualifications as the regular jurors, and be subject to the same examinations and challenges. They shall be seated with, take the oath with, and be treated in the same manner as the regular jurors, except that after final submission of the case, the court shall discharge the alternate jurors. If, before the final submission of the case, a regular juror dies, or becomes ill, or for any

other reason is unable to perform his duty, the court may order him to be discharged and draw the name of an alternate, who shall replace the discharged juror in the jury box, and be treated as if he had been selected as one of the regular jurors.

NY CLS CPLR § 4106 (2005)

## **6. Discussions pre-deliberation**

N/A

## **7. Deliberation**

### **Disagreement by jury**

(a) Unanimous verdict not required. A verdict may be rendered by not less than five-sixths of the jurors constituting a jury.

(b) Procedure where jurors disagree. Where five-sixths of the jurors constituting a jury cannot agree after being kept together for as long as is deemed reasonable by the court, the court shall discharge the jury and direct a new trial before another jury.

NY CLS CPLR § 4113 (2005)

## **8. Length of Service**

### **Length of juror service**

In all counties except Erie, Monroe, Onondaga, Niagara, and Oneida, in the Fourth Judicial Department, the County Court Judge assigned to a jury term may extend juror service any period of time up to the start of the next jury term in that county.

NY CLS County Ct § 1590.11 (2005)

Review Court Orders Which May Amend This Rule

### **Trial and grand jurors; duration of service**

(a) Except as provided in subdivision (d) of this section, service of trial jurors in courts of the unified court system shall not be more than five court days actual attendance or for such shorter period as the commissioner of jurors shall determine, except that such service shall continue until the conclusion of any trial in which a juror may be engaged.

(b) Service of grand jurors in courts of the unified court system shall be for the duration of the term for which they have been drawn, unless sooner discharged; except that if the term of a grand jury has been extended by written order of the court having supervision of such grand jury, service shall continue until such grand jury has been discharged.

(c) For the purposes of this section, actual attendance shall include a juror's actual physical attendance wherein the court convenes or service by

means of a telephone standby system whereby a juror shall remain available to report for jury service upon notification by means of telephone or other electronic communication.

(d) If the commissioner of jurors, after consultation with and concurrence of the district administrative judge or judges, or in the counties within the city of New York the deputy chief administrative judge, shall determine that sufficient numbers of potential jurors cannot be provided to any term or part of court the commissioner may extend such period of jury service for such additional period as may be necessary.

NY CLS Jud § 525 (2005)

## **9. Length of Time Restrictions on Trials**

### **Length of juror service**

In all counties except Erie, Monroe, Onondaga, Niagara, and Oneida, in the Fourth Judicial Department, the County Court Judge assigned to a jury term may extend juror service any period of time up to the start of the next jury term in that county.

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(b) Service of grand jurors in courts of the unified court system shall be for the duration of the term for which they have been drawn, unless sooner discharged; except that if the term of a grand jury has been extended by written order of the court having supervision of such grand jury, service shall continue until such grand jury has been discharged.

(c) For the purposes of this section, actual attendance shall include a juror's actual physical attendance wherein the court convenes or service by means of a telephone standby system whereby a juror shall remain available to report for jury service upon notification by means of telephone or other electronic communication.

(d) If the commissioner of jurors, after consultation with and concurrence of the district administrative judge or judges, or in the counties within the city of New York the deputy chief administrative judge, shall determine that sufficient numbers of potential jurors cannot be provided to any term

or part of court the commissioner may extend such period of jury service for such additional period as may be necessary.  
NY CLS Jud § 525 (2005)

### **10. Judge's Responses to Jury Questions**

N/A

### **11. Jury Size**

#### **Number of jurors**

A jury shall be composed of six persons.  
NY CLS CPLR § 4104 (2005)

### **12. Number of Jurors Needed to Return a Verdict**

#### **Disagreement by jury**

- (a) Unanimous verdict not required. A verdict may be rendered by not less than five-sixths of the jurors constituting a jury.
- (b) Procedure where jurors disagree. Where five-sixths of the jurors constituting a jury cannot agree after being kept together for as long as is deemed reasonable by the court, the court shall discharge the jury and direct a new trial before another jury.
- NY CLS CPLR § 4113 (2005)

### **13. Juror Admonition**

N/A

### **14. Jury Nullification**

N/A

### **15. The Use of Plain English**

N/A

### **16. Absence of the Jury**

N/A

### **17. Jury Instructions**

#### **Instructions to jury; objection**

At the close of the evidence or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The court, out of the hearing of the jury, shall inform counsel of its proposed action upon the requests prior to their arguments to the jury, but the court shall instruct the jury after the arguments are completed. No party may assign as error the

giving or the failure to give an instruction unless he objects thereto before the jury retires to consider its verdict stating the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury.

NY CLS CPLR § 4110-b (2005)

**18. Child-Care for Jurors**

N/A

**19. Jury Room**

N/A

**20. Accommodation**

**Food and lodging for certain jurors**

When so ordered by the court in a county wholly included within the city of New York, the court shall provide food and lodging for jurors kept together pending a trial and their deliberation thereon anywhere in the city of which such county is a part, and the cost thereof, not exceeding twelve dollars per day per juror, shall be a county charge.

NY CLS County § 940-a (2005)

**Right of sequestered jurors to be provided with food conforming to religious tenets**

1. Every juror shall have the right to be provided upon request meals consisting of food or food products prepared in accordance with the religious requirements of the person when meals would be otherwise provided during any period in which the jury has been sequestered by the court.

2. Upon the swearing in of every jury, the court shall inform the jury of the provisions of subdivision one of this section and shall request each juror electing the benefits thereof to so signify and shall direct an appropriate public officer or employee to accordingly make suitable arrangements for the provision of conforming food or food products for meals provided during any period in which the jury is sequestered.

NY CLS Jud § 519-a (2005)

**21. Juror's Bill of Rights**

N/A

**22. Materials Permitted in Possession of the Jury**

N/A

### **23. Various Rules**

#### **Trial jury; viewing of premises**

1. When during the course of a trial the court is of the opinion that a viewing or observation by the jury of the premises or place where alleged injuries to person or property were sustained in an accident or occurrence claimed to have been the cause thereof or of any other premises or place involved in the case will be helpful to the jury in determining any material factual issue, it may in its discretion, at any time before the commencement of the summations, order that the jury be conducted to such premises or place for such purpose in accordance with the provisions of this section.
2. In such case, the jury must be kept together throughout under the supervision of an appropriate public servant or servants appointed by the court, and the court itself must be present throughout. The parties to the action and counsel for them may as a matter of right be present throughout, but such right may be waived.
3. The purpose of such an inspection is solely to permit visual observation by the jury of the premises or place in question and neither the court, the parties, counsel nor the jurors may engage in discussion or argumentation concerning the significance or implications of anything under observation or concerning any issue in the case.

NY CLS CPLR § 4110-c (2005)

### **24. Various Recommendations**

N/A