

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

North Carolina Jury Innovations

1. Note Taking

Except where the judge, on the judge's own motion or the motion of any party, directs otherwise, jurors may make notes and take them into the jury room during their deliberations.

N.C.G.S.A. § 15A-1228

2. Juror Handbooks/Notebooks

N/A

3. Juror Questions and Questioning of Witnesses

N/A

4. Juror Pay/Compensation

It is against the law for an employer to fire or demote an employee because they serve as a juror. However, the law does not require that the employee be paid in full while serving.

(<http://www.nccourts.org/Courts/CRS/Councils/Courts/Documents/05-18-01Minutes.doc>)

North Carolina does not have a statute pertaining to employers having to pay their employees when they serve on jury duty. Therefore the presumption is they do not have to pay their employees for jury service.

(http://www.fija.org/state_juror_compensation_statutes.htm)

North Carolina General Statute §7A-312 states that petit jurors and coroner's jurors "shall receive twelve dollars per day, except that if any person serves as a juror for more than five days in any twelve month period, the juror shall receive thirty dollars per day for each day of service in excess of five days." Further, grand jurors will receive twelve dollars a day.

(http://www.fija.org/state_juror_compensation_statutes.htm)

5. Alternate Jurors

Whenever the presiding judge deems it appropriate, one or more alternate jurors may be selected in the same manner as the regular trial panel of jurors in the case. Each party shall be entitled to two peremptory challenges as to each such alternate juror, in addition to any unexpended challenges the party may have after the selection of the regular trial panel.

Alternate jurors shall be sworn and seated near the jury with equal opportunity to see and hear the proceedings and shall attend the trial at all times with the jury and shall obey all orders and admonitions of the court to the jury. When the jurors are ordered kept together in any case, the alternate jurors shall be kept with them. An alternate juror shall receive the same compensation as other jurors and, except as hereinafter provided, shall be discharged upon the final submission of the case to the jury. If before that time any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. If more than one alternate juror has been selected, they shall be available to become a part of the jury in the order in which they were selected.

N.C.G.S.A. § 9-18 (WEST 2005)

6. Discussions pre-deliberation

N/A

7. Deliberation

N/A

8. Length of Service

Length of Service (One-Day One Trial)

One day or one trial is recommended and is in use in the 15 North Carolina counties that include most of our urban areas.

(<http://www.nccourts.org/Courts/CRS/Councils/Courts/Documents/05-18-01Minutes.doc>)

Jurors are summoned for a specific day of the week. If sent to a courtroom or selected to sit on a jury panel for a trial, a juror will serve until released by the Judge. If not selected or released by the Judge, the juror will be excused at the end of the day.

(http://www.aoc.state.nc.us/data/Old_MECKLENBURG/~jury.htm)

9. Length of Time Restrictions on Trials

N/A

10. Judge's Responses to Jury Questions

N/A

11. Jury Size

Except in actions in which a jury is required by statute, the parties may stipulate that the jury will consist of any number less than 12 or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

Rules Civ.Proc., G.S. § 1A-1, Rule 48 (WEST 2005)

Since jury trial may be waived entirely, it is certainly appropriate with the consent of the parties that trial be by a jury of less than 12 and that the usual rule of unanimity not prevail. The rule recognizes the exception in actions for divorce provided by G.S. 50-10. Under the rule therefore, if there is a jury trial in a divorce action (there may not be: G.S. 50-10 provides for waiver when the ground alleged is one year's separation) it will be by a jury of 12 and the rule of unanimity will prevail.

Rules Civ.Proc., G.S. § 1A-1, Rule 48 Comment (WEST 2005)

Agreement to a verdict or a finding of a stated majority of jurors need not be made before the jury begins its deliberations; such agreement may be made at any time, including during jury deliberations.

U. S. Industries, Inc. v. Tharpe, 1980, 268 S.E.2d 824, 47 N.C.App. 754, review denied 273 S.E.2d 311, 301 N.C. 90.

12. Number of Jurors Needed to Return a Verdict

Except in actions in which a jury is required by statute, the parties may stipulate that the jury will consist of any number less than 12 or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

Rules Civ.Proc., G.S. § 1A-1, Rule 48 (WEST 2005)

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Rules Civ.Proc., G.S. § 1A-1, Rule 48 Comment (WEST 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

Not all judges give preliminary instructions about the role of the jury and note-taking. Not all judges provide copies of instructions, although increasingly they do.

<http://www.nccourts.org/Courts/CRS/Councils/Courts/Documents/05-18-01Minutes.doc>

Additional Jury Instructions

North Carolina General Statutes § 15A-1254:

(a) After the jury retires for deliberation, the judge may give appropriate additional instructions to:

- (1) Respond to an inquiry of the jury made in open court; or
- (2) Correct or withdraw an erroneous instruction; or
- (3) Clarify an ambiguous instruction; or
- (4) Instruct the jury on a point of law which should have been covered in the original instructions.

(b) At any time the judge gives additional instructions, he may also give or repeat other instructions to avoid giving undue prominence to the additional instructions.

(c) Before the judge gives additional instructions, he must inform the parties generally of the instructions he intends to give and afford them an opportunity to be heard. The parties upon request must be permitted additional argument to the jury if the additional instructions change, by restriction or enlargement, the permissible verdicts of the jury. Otherwise, the allowance of additional argument is within the discretion of the judge.

(d) All additional instructions must be given in open court and must be made a part of the record.

N.C.G.S.A. § 15A-1234 (WEST 2005)

Requests for special instructions

North Carolina General Statutes § 1-181

(a) Requests for special instructions to the jury must be--

- (1) In writing,
- (2) Entitled in the cause, and
- (3) Signed by counsel submitting them.

(b) Such requests for special instructions must be submitted to the trial judge before the judge's charge to the jury is begun. However, the judge may, in his discretion, consider such requests regardless of the time they are made.

(c) Written requests for special instructions shall, after their submission to the judge, be filed as a part of the record of the same.

N.C.G.S.A. § 1-181 (WEST 2005)

18. Child-Care for Jurors

N/A

19. Jury Room

N/A

20. Accommodation

N/A

21. Juror's Bill of Rights

N/A

22. Materials Permitted in Possession of the Jury

Permitting Exhibits in Jury Deliberations

The current rule for permitting exhibits in the jury deliberation room is that if one side opposes it, exhibits cannot be made available. Under the current rule, the judge would have to call everyone back into the courtroom, have the exhibits passed around, and the jurors look at them individually and without comment.

<http://www.nccourts.org/Courts/CRS/Councils/Courts/Documents/05-18-01Minutes.doc>

23. Various Rules

N/A

24. Various Recommendations

Recommendations

Recommendations from the American Judicature Society Study of Citizen Response to increase the numbers of people responding to the summons include:

- Court outreach efforts. Give information on the length of trials, the probability of actually serving, the court's deferral and excuse policies, the average length of time jurors spend waiting, and clear information in a non-threatening summons.
- Fix known problems. Provide parking, improve facilities, increase efficiency of usage, and use the one-day one-trial system, enforce the summons selectively so as to not make people angry, and update the source list frequently.
- Address economic barriers. Require employers to pay employee while on jury duty, work with community businesses to encourage employers to continue to pay employees so they are not punished economically for serving on a jury, provide child care, increase juror pay.

A survey of jurors in North Carolina revealed that four major recommendations for improvements in the jury system needed to be adopted:

- Better use of their time,
- Better facilities,

- Restructuring of the jury selection process, and
- Improving the financial ease of jury service.

The surveys revealed that jurors did not like to sit around when they did not know what was going on. People want information on what to expect from jury duty before they report for service. They want schedules to be set and followed. They want reserved parking or at least parking that is easily accessible, free and safe. They want better courthouse facilities, such as a separate jury assembly room, and refreshments. They want to avoid repetition of questions in the jury selection process so it does not take so long. They suggested the use of a jury questionnaire so they would not have to answer private questions in front of the public. They want higher juror pay and a requirement for employers to continue to pay jurors while they are on jury duty. They want childcare facilities or pay for childcare for jurors' children provided.

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