

# **DOMESTIC BATTERY JURY TRIAL**

## **I. CALL CASE:**

A. This is the time set for Trial in case # \_\_\_\_\_, State of Nevada v. \_\_\_\_\_.

B. Let the record reflect that the Defendant, \_\_\_\_\_, is present, in court, with his Attorney, \_\_\_\_\_. The State of Nevada is present and represented by \_\_\_\_\_, DA/DDA.

ARE THE PARTIES READY TO PROCEED?

## **II. JURORS - ROLL CALL:**

A. Counsel has received a list of the prospective jurors? Stipulate that we proceed in the absence of those that failed to appear?

B. THE DEFENDANT IS ADVISED THAT CHALLENGES TO INDIVIDUAL JURORS MUST BE MADE BEFORE THE JURY IS SWORN.

## **III. STATEMENT OF CASE - DA:**

The District Attorney will now explain the nature of the case to the prospective jurors. Please pay close attention as many of you will be called and seated during the selection process.

## **IV. SELECTION OF JURY:**

The Clerk will now call 14 prospective jurors that have been randomly drawn. Those 14 will be seated in the jury box and qualified for cause. Any juror excused shall be replaced by another member of the panel in random order. Once 14 jurors have been passed for cause, we will select (3 or 4) alternate jurors in the same manner.

Once all prospective jurors have been qualified, we will recess so that Counsel may exercise their peremptory challenges to reduce the number of jurors to 6, and alternates to (1 or 2), who will actually try this case. In the event peremptory challenges are waived, an equal number of jurors will be stricken, in reverse order in which they were called.

The Clerk will now call your names. Please step forward and be seated in the jury box in the order in which your name is called . . . :

(Clerk Calls pre-drawn jurors to the box or draws jurors in court)

**V. SWEAR IN JURY:**

The Clerk will now swear in all prospective jurors, both seated in the box and in the gallery. Ladies and Gentlemen, Please rise, face the Clerk, raise your right hand and be sworn.

DO EACH OF YOU SOLEMNLY SWEAR THAT  
YOUR WILL WELL AND TRULY ANSWER ALL  
QUESTIONS PUT TO YOU TOUCHING UPON  
YOUR QUALIFICATIONS TO SERVE AS TRIAL  
JURORS IN THE CASE NOW PENDING BEFORE  
THIS COURT, SO HELP YOU GOD OR UNDER THE  
PAINS AND PENALTIES OF PERJURY?

**VI. JURY QUALIFICATION / VOIR DIRE:**

**A. INTRODUCTION**

The following comments are directed to all prospective jurors—those seated in the jury box as well as those still in the gallery. It is important that all of you pay close attention to what is going to happen now. It is not only possible but probable that some of the people now in the jury box will be excused and that some of you will take their places.

The purpose of what now follows is to ascertain if you are qualified under the law to serve as a juror in this particular case. That is: are you so unrelated to the parties their attorneys and the facts of the case that you would be able to act as a fair and impartial juror. To make this determination, I will first ask you a number of questions. The attorneys will then be permitted to ask you questions on matters not covered by the Court. You are obligated by the oath you just took to answer all such questions fully and truthfully.

If any of your answers appear to reveal a legal basis for you to be excused as a juror, one of the attorneys will challenge you. That is, he will request that

you be excused. If the Court agrees with the reasons stated for the challenge, you will be excused from further service in this case, and the name of another prospective juror will be drawn. These challenges are called challenges for cause.

Once 14 jurors have been qualified for cause, the attorneys may then exercise another type of challenge—called a peremptory challenge. Each side is allowed to four peremptory challenges. If either side—for any reason or for no reason at all—makes this type of challenge against you, the Court has no alternative but to excuse you. If that happens, don't feel that anything is wrong with you. It simply means that the attorney who so challenges you believes—rightly or wrongly—that you would not be as receptive to his case as another prospective juror might be. You will know if such a challenge has been exercised against you when the Court calls the roll of those who will serve as trial jurors.

During this questioning I ask all of you to bear in mind that neither I nor the attorneys want to embarrass you or to match wits with you. We are only seeking relevant information upon which to decide your qualifications as a possible juror.

Initially, Mr. District Attorney, will you introduce yourself to the Court and advise the prospective jurors of the names of other attorneys in your office and the names of your office staff.

Mr. \_\_\_\_\_, will you introduce yourself and your client and also advise the prospective jurors of the names of other attorneys and staff in your office.

I will now ask the questions I mentioned earlier. If any juror in the box would answer the following questions affirmatively, please raise your hand. If any juror indicates an affirmative answer, I will explore the matter further. I encourage you not to hesitate to raise your hand should you feel it appropriate. The integrity of our entire judicial system depends upon obtaining jurors who are disinterested, unbiased and unprejudiced, and the **only** way we can do this is through the question and answer process we are now to begin.

**B. QUESTIONS / GENERAL BIAS:**

1. Are you any of you acquainted with any member of:  
– the District Attorney's office of the county?

– any of the attorneys involved in this case or with any of his associates? (State the name of members of firm).

– the Defendant?

– any law enforcement personnel—police officer, sheriff, deputy sheriff, highway patrolman, corrections officer, military police, etc.?

2. Does anyone know anything about the facts of this case?

3. Have any of you read any newspaper accounts of, or seen or heard any radio or television broadcasts concerning this case?

4. Has any juror formed or expressed any opinion as to the guilt or innocence of the Defendant or as to any other matter connected with this case?

5. Do any of you have other than a passing interest in the outcome of this case? Previous victim, accused, witness to ... DV?

6. Does any juror entertain any bias or prejudice for or against:

– the State of Nevada?

– the Defendant?

The prospective witnesses in the case are \_\_\_\_\_.

7. Are any of you related to or acquainted with any of the perspective witnesses?

8. Has anyone served in the military or coast guard? Follow up with any law enforcement experience in the military.

9. Have any of you ever served on a jury before—criminal, civil or grand jury? (If yes, type of jury and whether verdict was returned, and whether anything in that experience would prevent juror from being fair and impartial in this case.)

10. Does any juror harbor any prejudice whatsoever against the

race or nationality of the attorneys or of the Defendant?

11. Are any of you now, or have you ever been, involved in any type of litigation—civil or criminal? (If yes, the nature of litigation and involvement, and whether that experience would prevent juror from being fair and impartial in this case.)

12. Sometimes harsh and foul words will be used by counsel quoting witnesses and by witnesses testifying as to the facts as they recall them. This can be embarrassing to those of you who do not use and hear such words in your ordinary life. Will that cause any of you to be so embarrassed as to prevent you from paying full attention to the evidence or serving as a fair and impartial juror?

**C. QUESTIONS / LAW:**

1. At the conclusion of the evidence, I will state to you the law applicable to this case. I will instruct you that it is your duty to apply the law to the facts as found by you. Would any juror be reluctant to apply the general principles of law which will be so stated by the Court?

2. In this case the Defendant is charged with\_\_\_\_\_. Does any juror have any quarrel with the principle that \_\_\_\_\_ is declared to be a criminal offense in this state?

3. If the Court were to instruct you at the conclusion of this case that, “A DEFENDANT IN A CRIMINAL ACTION IS PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS PROVEN BEYOND A REASONABLE DOUBT, AND IN CASE OF A REASONABLE DOUBT AS TO WHETHER THE DEFENDANT’S GUILT IS SATISFACTORILY SHOWN, HE IS ENTITLED TO BE ACQUITTED,” would each of you accept and follow that instruction?

4. If the Court were to instruct you that, “A REASONABLE DOUBT IS ONE BASED ON REASON. IT IS NOT POSSIBLE DOUBT, BUT IS SUCH DOUBT AS WOULD GOVERN OR CONTROL A PERSON IN THE MORE WEIGHTY AFFAIRS OF LIFE. IF THE MINDS OF THE JURORS, AFTER THE ENTIRE COMPARISON AND CONSIDERATION OF ALL THE EVIDENCE, ARE IN SUCH CONDITION THAT THEY CAN SAY THEY FEEL AN ABIDING CONVICTION OF THE TRUTH OF THE CHARGE,

THERE IS NOT A REASONABLE DOUBT. DOUBT TO BE REASONABLE MUST BE ACTUAL NOT MERE POSSIBILITY OR SPECULATION,” would each of you accept and follow that instruction?

**D. QUESTIONS / OTHER BIAS:**

1. Does any juror have any health reason which would prevent him or her from serving as an unbiased and impartial juror in this case, such as impaired vision or hearing, back injury, etc.

2. Do any of you have any business or personal reason which you feel would interfere with your impartiality as a juror in this case?

**E. INTRODUCE JURORS:**

– I would now like each juror to please stand, starting with juror 1 and:

- state his or her name;
- residence;
- occupation, & if retired, your former occupation;
- marital status;
- spouse’s occupation; and,
- ages of children, if any.

**E. SUPPLEMENTAL VOIR DIRE BY ATTORNEYS:**

The attorneys may now proceed with any supplemental examination of the jurors on matters not covered by the Court. (Continue until able to pass those seated for cause.)

– The State may now examine the jurors.

– The Defense may now examine the jurors.

**(If any juror is excused for cause.)** The Clerk will now draw one additional name from the jury list to fill the vacant seat.

**DOES BOTH THE STATE AND THE DEFENSE PASS THE PROSPECTIVE JURY PANEL FOR CAUSE?**

**(Determine whether alternate jurors are needed.)**

Limited to 4 alternates. Clerk directed to draw 1 to 4 additional names from jury list as alternates. After all are qualified for cause, each side has 1 peremptory challenge if there are 1 or 2 alternates, or 2 peremptory challenges if there are 3 or 4 alternates.

VOIR DIRE ALTERNATES!

**DOES BOTH THE STATE AND THE DEFENSE PASS THE PROSPECTIVE ALTERNATE JURORS FOR CAUSE?**

(After 14 jurors and alternates are passed for cause, recess and allow counsel to exercise peremptory challenges in chambers.)

Now, we are going to take that recess I told you about earlier to allow the attorney's to exercise their peremptory challenges. I am asking each of you to remain at this point until a final jury is seated in this matter. The jurors in the box have all been passed for cause, however, an unexpected situation may arise requiring additional juror qualification. The attorney's will have a chance to reduce the total jurors to 6 and the alternates to (1,2, etc) so you may still be excused.

We are going to take a \_\_\_\_ minute recess. When you return to the courtroom, please be seated outside of the rail.... When the Court reconvenes, we will call those jurors who will be trying the case.

In the meantime, I would admonish you: (READ ADMONISHMENT).

**F. SEAT JURORS & EXCUSE NON-SELECTED:**

MADAM CLERK, PLEASE CALL THE JURORS WHO WILL TRY THIS MATTER.

The members of the panel whose names were not called and who are seated outside the bar may now be excused from further attendance at this trial. Any of you who wish to do so are invited to remain as spectators.

But, before you go, I'd like to thank all of you on behalf of the Court and the parties. Our system of trial by jury cannot operate without a sufficient number of prospective jurors from which the actual trial panel may be chosen. Your

attendance at, and attention to, these proceedings has permitted us to reach the stage where this case can be tried and finally decided. Checks for the statutory juror's fee will be mailed to each of you within the next few days. THANK YOU.

**VII. SWEARING IN AND PRELIMINARY INSTRUCTIONS TO THE JURY:**

Ladies and gentlemen of the jury, I would now like to explain briefly the role each person in the courtroom is to play in these proceedings. You will, at the conclusion of the evidence, determine the facts in the case, apply to those facts the law which will be stated to you by the Court and, on that basis, reach a verdict consistent with the facts and the law.

It is the duty of the attorneys to present their respective cases in the most favorable light consistent with the truth and the law. But statements and arguments of counsel made during the trial are not to be treated by you as evidence, except as to matters of fact which have been stipulated by both attorneys.

Keep an open mind. Refrain from forming or expressing any opinion concerning the case until all of the evidence is in, the attorneys have made their closing arguments, you have received the Court's instructions as to the law, and you have retired to the jury room to find your verdict.

During the trial do not discuss the case among yourselves or with any other person. Do not allow anyone to speak of it in your presence. You are not to read, listen to or observe any newspaper, radio or television account of the trial while it is in progress.

Not only must your conduct as jurors be above reproach, but you must avoid even the appearance of any improper conduct. Do not talk to the Defendant, the attorneys or the witnesses during the trial, even upon matters unconnected with the case. In the event that any person should attempt influence you with respect to it, you are to advise the Bailiff who will, in turn, advise the Court.

Any rulings made by the Court during the course of this trial will be based upon the controlling law of the State of Nevada. Accordingly, you must not infer any leaning on my part based upon such rulings or infer any feelings on my part for or against either side in this case.

If any objection to the admission of evidence is sustained, you must not speculate as to what the answer might have been or draw any inference from the question itself.

During the course of the trial, matters may arise which must be determined by me—as a matter of law—outside of the presence of the jury. Again, you are not to speculate or be concerned in any way as to the reasons for such occurrences. I assure you that they will be as limited in frequency and in duration as the law permits.

Observe carefully each witness as he testifies and consider carefully all of the evidence as it is presented for it is you who must determine the credibility of the witnesses and wherein the truth lies.

If, during the examination of witnesses, some question occur to you, be patient. The answers will probably be given before the case is concluded. If not, write your question on a slip of paper and hand it to the Bailiff during a recess. He/she will then give it to me, and, if the questions is a proper one under the law, I will see that it is answered.

At the end of the trial you will have to make your decision based on what you recall of the evidence. To assist you in your recall of the evidence, you may individually take notes during the trial, and for that purpose you have been or will be provided with pencils and note pads. You are cautioned, however, that in the event of an irreconcilable conflict between the notes of the individual jurors during deliberations, you are not to rely upon your notes, as the reporter's notes contain the complete and authentic record of the trial. You will not have a written transcript to consult, and it is difficult and time consuming for the reporter to read back lengthy testimony. I urge you to pay close attention to the testimony as it is given to avoid the necessity of difficult and time-consuming read backs by the reporter.

**THE CLERK WILL NOW SWEAR THE JURY AND THE  
ALTERNATE(S).**

Ladies and gentlemen of the jury, you are admonished that (a) No juror may declare to his fellow jurors any fact relating to the case as of his own knowledge; and (b) If any juror discovers during the trial or after the jury has retired that he or she or any other juror has personal knowledge of any fact in controversy in the case, he or she shall disclose such situation to the Judge out of the presence of the

other jurors.

You are to use the jury room during all short recesses in the trial. The Bailiff will open the jury room for you following each noon or overnight recess. If you should need anything for your personal comfort during the course of the trial, please advise the Bailiff, who will make every effort to accommodate you. Please do not enter the courtroom at any time during the course of this trial until notified by the Bailiff.

**VIII. READING OF THE CRIMINAL COMPLAINT:**

The Clerk will now read to the jury the complaint filed by the State in this case and state to the jury the plea(s) thereto entered by the Defendant.

**IX. TRIAL OF THE CASE:**

**A. OPENING STATEMENTS:**

We have now reached the stage of the proceedings where the attorneys may make their opening statements. The law provides that the District Attorney make his opening statement first. Defense counsel may then make his opening statement or reserve it until the conclusion of the State's evidence. Mr./s \_\_\_\_\_, you may proceed.

Mr./s \_\_\_\_\_, do you want to make your opening statement now or reserve it until the close of the State's evidence?

**B. STATES CASE:** The State may call it's first witness.....

– Does the State rest its case?

**C. DEFENSE CASE:** The Defense may call it's first witness .....

– Does the Defense rest its case?

**D. REBUTTAL:** Does the State have any rebuttal evidence it would like to present?

– Does the State rest?

## **X. JURY INSTRUCTIONS:**

**A. SETTLING OF INSTRUCTIONS:** Ladies and gentlemen of the jury, before the case may be argued by counsel and submitted to you for deliberation, it is necessary that the Court and counsel meet out of the presence of the jury for the purpose of settling the instructions that will be given to you on the law applicable to this case. We will attempt to expedite this process as much as possible. However, it is an extremely critical stage of this entire proceeding, and both counsel and myself ask that you bear with us during this unavoidable delay. Court is in recess, subject to call.

(Discussion in chambers of Court's proposed instructions and additional proposed instructions and objections to instructions.)

### **Court reconvenes outside presence of jury to settle instructions on record.**

The record will reflect that Court has reconvened outside the presence of the jury for the purpose of settling the jury instructions. The record will further reflect that the Court has provided to the State and to the defense copies of those instructions which the Court proposes to give. Is that correct, Counsel?

– Does the State object to any of the Court's proposed instructions? (If yes, objectionable instructions must be designated and objection stated.)

– Does the defense object to any of the Court's proposed instructions? (If yes, objectionable instructions must be designated and objection stated.)

– Does the State wish to offer any instructions in addition to those proposed by the Court? (If yes, instruction must be offered, endorsed "**not given**," and made a part of the record.)

– Does the defense wish to offer any instructions in addition to those proposed by the Court? (If yes, instruction must be offered, endorsed "**not given**," and made a part of the record.)

– Will counsel stipulate on the record that the instructions have been settled in open court?

– Does either party request that the jury be instructed prior to argument?

**B. INSTRUCT JURY:** (Jurors return.)

Ladies and gentlemen of the jury, I am about to instruct you upon the law as it applies to this case. I would like to instruct you orally, without reading to you. However, these instructions are of such importance that almost every word is critical. Therefore, it is necessary for me to read to you from carefully prepared, written instructions. The instructions are relatively long and complicated. If they are not especially clear when I read them to you, please bear in mind that when you go to the jury room, you will be able to take these written instructions with you, so that you can read and consider them carefully.

**Instructions read IN FULL to the jury.** (Clerk may read Criminal Complaint instruction for the Court if requested)

**X. CLOSING ARGUMENTS:**

Mr. (District Attorney), you may now make your closing argument.

Mr. (Defense Attorney), you may now make your closing argument.

Mr. (District Attorney), you may now conclude the arguments.

(Alternate juror must now be placed in charge of officer, held apart from other jurors and taken to jury room if a vacancy occurs OR allowed to go home with admonishment.)

The jury may take with them to the jury room all papers and other items which have been received as evidence in this case, except depositions; the written instructions given by the Court; and all notes taken by the members of the jury during the trial. The jury may request, through the Bailiff, further information or instruction. From this point forward, any question or request must be made by the foreperson on behalf of the jury.

**OATH OF OFFICERS IN CHARGE OF JURY**

Court: The Clerk will now swear the officers to take charge of the jury.

Oath: You do solemnly swear that you will conduct this jury to some private and convenient place for their deliberation; there keep them together; that you will suffer no person in any manner to speak to or communicate with them, nor do so

yourselves, except to ask them if they have agreed upon a verdict, and when they have agreed, that you will conduct them into Court, unless otherwise ordered by the Court, so help you God.

Court: The Clerk will now swear the officers to take charge of the alternate juror(s)

Oath: You do solemnly swear that you will conduct this (these) alternate juror(s) to some private and convenient place, other than where the jury is in deliberation, that you will suffer no person in any manner to speak or communicate with (him) (her) (them), nor do so yourselves; that you will keep (him) (her) (them) in your charge until the further order of this Court.

**COURT WILL BE IN RECESS, SUBJECT TO THE CALL OF THE JURY.**

**XI. JURY VERDICT:** (Jury returns and court reconvenes.)

**A. JUROR ROLL:**

The Clerk will now call the roll of the jury.

**B. RETURN OF VERDICT:**

1. Ladies and gentlemen, which of you has been selected as Foreman?

2. Mr./Mrs. \_\_\_\_\_, (without indicating what it is) have you reached a verdict?

3. The Foreman will please hand the verdict to the Bailiff who will, in turn, hand it to the Court.

4. The Clerk will now read the verdict.

5. Ladies and gentlemen of the jury, is this your verdict so say you one, so say you all?

6. Before the verdict is recorded, does either the State or the defense request that the jury be polled?

7. The Clerk will now record the verdict of the jury in the minutes

of this Court.

(**Thank the jury**, explain that they are excused from further service for the balance of the year and the following year and that checks for statutory jury fees will be mailed to them within a few days.)

(If verdict **Not Guilty**.) The jury having found the Defendant not guilty, the Court now enters upon the minutes a Judgement of Acquittal. The Defendant is ordered released from custody and any bail posted exonerated.

(If verdict **Guilty**.) The jury having found the Defendant guilty, the Defendant is remanded to the custody of the Sheriff of this county to await the judgement of the Court on the verdict. (Or Bail previously made) The \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, is fixed as the date and time for pronouncing judgement and imposing sentence.

(Bail at this stage is discretionary with the Court.)

**RECESS COURT**