



JURY PLAN

FOR THE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

April, 2008

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FOR
THE UNITED STATES DISTRICT COURT
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Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274), 28 U.S.C.A §§ 1861-1869, the following plan is hereby adopted by this court, subject to approval by a reviewing panel and to such future rules and regulations as may be adopted by the Judicial Conference of the United States. This plan revises the jury plan in effect since March, 2006; reference to the Thomasville Division has been removed since that division is now closed and names of counties previously assigned to the Thomasville Division now appear as assigned to the Albany and Valdosta Divisions. The purpose of this plan is to define procedures and requirements for the random selection of grand and petit jurors in the Middle District of Georgia.

I. OTHER PLANS

This plan supersedes all other plans for random jury selections and amendments thereto.

II. APPLICABILITY OF THE PLAN

This plan is applicable to the Middle District of Georgia which consists of five divisions each comprised of the counties specified below¹:

¹ This distribution of counties within the five divisions is different from the listing contained in Title 28 U.S.C.A. § 90 because the court closed the Americus and Thomasville Divisions as places of holding court. Counties for these divisions were assigned to other divisions in an effort to balance caseload distribution.

- A. Albany Division:** Baker Ben Hill Calhoun
Crisp Decatur Dougherty
Early Grady Lee
Miller Mitchell Schley
Seminole Sumter Terrell
Turner Webster Worth
- B. Athens Division:** Clark Elbert Franklin
Greene Hart Madison
Morgan Oconee Oglethorpe
Walton
- C. Columbus Division:** Chattahoochee Clay Harris
Marion Muscogee Quitman
Randolph Stewart Talbot
Taylor
- D. Macon Division:** Baldwin Bibb Bleckley
Butts Crawford Dooly
Hancock Houston Jasper
Jones Lamar Macon
Monroe Peach Pulaski
Putnam Twiggs Upson
Washington Wilcox Wilkinson
- E. Valdosta Division:** Berrien Brooks Clinch Cook
Colquitt Echols Irwin Lanier
Lowndes Thomas Tift

The provisions of this plan apply to all divisions in the district.

III. POLICY REGARDING SELECTION OF JURORS

This plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 26 United States Code as follows:

“§ 1861. Declaration of Policy

It is the policy of the United States that all litigants in the 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 summoned for that purpose.

§ 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.”

IV. 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 and there shall be no jury commission. The phrase “Chief Judge of this district” wherever used in this plan shall mean the Chief Judge of the district, an active or senior district judge designated by the Chief Judge, or in the Chief Judge’s or his designee’s absence, disability or inability to act, the 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 of 1968 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 district court judge above mentioned is hereby designated to act. The use of the word “Clerk” in this plan includes not only the Clerk but any and all of his deputies.

V. USE OF ELECTRONIC DATA PROCESSING METHODS FOR JURY ADMINISTRATION

The Court finds that electronic data processing methods can be advantageously used for selecting and copying names from the voter registration lists. Therefore, a properly programmed electronic data processing system will be used to select names for the Master Jury Wheel from voter registration lists, or lists of actual voters, of any or all counties in the district provided that the required proportions of names from each county are maintained.

Similarly, an electronic data processing system will be used to select names from the Master Jury Wheel for purposes of qualification, from the Qualified Jury Wheel for summoning persons to serve as grand or petit jurors, and for the creation of any papers and records needed by the court to administer the recruitment, selection, and payment of jurors.

A. RANDOM SELECTION

Master Wheel -

Whereas the court elects to use electronic data processing methods in connection with all of the district’s voter records for purposes of building the Master Jury Wheel, the name selection system shall be planned and programmed according to a “starting number” and “quotient” formula. This formula will ensure that any group of names chosen will represent all segments or source files from which names are

drawn and that the mathematical odds of any single name being picked are substantially equal.

The “quotient” is defined as the number of names in the source list(s), or wheel, divided by the number of names to be selected in any one drawing. In other words, the quotient is the increment of names passed for each name taken. For example, if there are 200,000 names on county voter lists, and questionnaires are to be sent to 4000 of these names to establish the Master Jury Wheel, the “quotient” for this drawing would be 50 (i.e. $200,000 / 4000 = 50$).

The “starting number”, for purposes of creating the Master Jury Wheel, is a number drawn by lot from a box containing consecutively numbered cards covering the same range of numbers as the “quotient”. For example, in the Master Jury Wheel drawing mentioned above, the Clerk would place consecutively numbered cards from one to fifty in a box and draw one number. If the randomly selected number was “5”, the computer would be programmed to first select the 5th name in the wheel and then select every 50th name thereafter (i.e. the 55th, the 105th, and so on).

Although the method described above is to be used for creation of the Master Wheel, at the Clerk’s option, and after consultation with the court, the selection of names from complete electronic source list databases for purposes of creating the master jury wheel may be accomplished by using a purely randomized process as part of 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. § 1863 (b)(3). The pure random selection of names from the source list must also ensure that the mathematical odds of any single name being picked are substantially equal.

Qualified Wheel -

For purposes of selecting jurors from the Qualified Jury Wheel, a properly programmed electronic data processing system for pure randomized selection will be used to select names from the qualified wheel for summoning persons to serve as grand or petit jurors. The selection of names from the source list must also ensure that the mathematical odds of any single name being picked are substantially equal.

B. DOCUMENTATION OF PROCEDURES REGARDING USE OF ELECTRONIC DATA PROCESSING EQUIPMENT

In order to ensure exercise of proper supervision and management over the automated aspects of jury selection and its accordance with statutory requirements, the Clerk shall comply with the following

procedures:

(1) The Clerk shall issue to the operator of the computer facilities, which includes both court-owned facilities and outside contractor facilities, written instructions describing the operations which shall be performed by the computer equipment. Such instructions shall be consistent with this plan.

(2) Upon completion of the data processing work required by outside computer contractor facilities, the agency or person providing the computer service shall execute an affidavit. The affidavit shall state under penalty of perjury that the procedures set forth in this plan governing the selection of jurors have been fully complied with in the automated selection process. For purposes of automated jury processing performed locally within the court, an affidavit will not be required. Instead, an operational manual exists for the court automated jury system which sets forth the procedures to be followed for selection and maintenance of the Qualified Jury Wheel.

(3) Upon receipt of any affidavit of compliance produced by a representative of an outside computer facility, the Clerk shall receive into the permanent records of the court the affidavit and the selection instructions that were provided to the computer facility.

VI. CREATION OF THE MASTER AND QUALIFIED JURY WHEELS

A. RANDOM SELECTION FROM VOTER LISTS AND MASTER JURY WHEEL

Voter registration lists represent a fair cross section of the community in each division of the Middle District of Georgia. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan shall be selected at random from the voter registration lists of all the counties for each respective division.

The Clerk shall maintain a master jury wheel in automated form, hereinafter referred to as Master Jury Wheel, for each of the divisions within the district. The Master Jury Wheel consists of those names randomly selected from the registered voters list, but who have not yet been qualified for jury service.

In order to assure that a fair cross section of persons residing in the district and individual divisions are represented in the Master Jury Wheel and to assure that each county in the District or division is substantially proportionally represented in the Master Jury Wheel as required by 28 U.S.C.A §1863(b)(3), the portion of the Master Jury Wheel for each division shall have a number of names which is in the same proportion that the number of registered voters in the division bears to the total number of registered voters in the entire district, provided that the smallest division in number of registered voters shall have 3500 names in the Master Jury Wheel.

The Clerk shall ascertain the total number of registered voters in the smallest division and divide that number by 3500 in order to obtain a quotient. Once the Clerk has determined the quotient, he shall then draw by lot a new number

for each division, not less than one and not greater than the quotient. The number drawn shall be the starting number. Then for the registered voters list for each division, selection of prospective jurors will be accomplished by automated means, that is, the first name to be selected will correspond to the starting number for that division and each name corresponding to the quotient thereafter will be selected throughout the remainder of the list. For example, if the quotient is 21 and the starting number for the Macon Division is 14, then the 14th, 35th, 56th, 77th, 98th, 119th, etc., names on the registered voter list for counties in the Macon Division would constitute the Macon Division portion of the Master Jury Wheel.

Experience with jury selection in this district has shown that this method of constituting the Master Jury Wheel will adequately fulfill the juror requirements of each division in view of the fact that many juror questionnaire forms will not be returned or that prospective jurors will be exempt, excused, or disqualified from service. The Chief Judge of this district may order additional names to be placed in the Master Jury Wheel from time to time as necessary.

The Master Jury Wheel shall be emptied and refilled every four years between the date of the November presidential general election and the following September 1st. Once the Master Jury Wheel has been refilled, the Qualified Jury Wheel shall also be emptied and refilled with names from the newly filled 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 of 1968 will be fully

accomplished and implemented by the use of voter registration lists (as supplemented by the inclusion of subsequent registrants to the latest practicable date), as the source of an at random selection of prospective grand and petit jurors who represent a fair cross section of the community. 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 Eleventh Circuit Jury Working Committee and the Judicial Council of the Eleventh Circuit.

As required by the Judicial Conference of the United States, a statistical report will be prepared after each periodic refilling of the Master and Qualified Jury Wheels and will be kept on file in the Clerk's Office. The report will provide general data including the date the new wheels were completed, the source and number of names in the Master Jury Wheel and related information, and an analysis of the race, sex, and ethnicity of prospective jurors in both the Master Jury Wheel and the Qualified Jury Wheel.

B. QUALIFICATION OF PROSPECTIVE JURORS FROM THE MASTER WHEEL - JURY QUALIFICATION QUESTIONNAIRE FORM

Upon completion of a Master Jury Wheel for each division in the district, the Clerk shall mail to each person in the Master Jury Wheel a jury qualification questionnaire form accompanied by instructions to complete and return the form, duly signed and sworn, to the Clerk within ten (10) days. The plan hereby incorporates the following provisions of 28 U.S.C.A. § 1864:

“(a).....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 an omission,

ambiguity, or error in a form, the clerk or jury commission 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 or jury commission within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk or jury commission forthwith to appear before the clerk or jury commission to fill out a juror qualification form. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the clerk or jury commission may, at the discretion of the district court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under section 1871 of this title. At the time of his appearance for jury service, any person may be required to fill out another jury qualification form in the presence of the jury commission or the clerk of 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 or jury commission 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 \$100 or imprisoned not more than three days, or both. 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 \$100 or imprisoned not more than three days, or both.”

The Clerk shall maintain a record of all questionnaire forms returned including those returned by the Post Office as undeliverable. Insofar as possible, the

clerk shall investigate forms which are not returned or not delivered and locate and encourage the addressees to complete and return the forms.

(1) **Determination of Qualifications, Excuses, and Exemptions**

The plan hereby incorporates the provisions of 28 U.S.C.A.

§ 1865, which reads as follows:

“§ 1865. Qualifications for Jury Service

(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk or jury commission, or the clerk under supervision of the court if the court’s jury selection plan so authorizes, 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 the alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, or the clerk if the court’s jury selection plan so provides, 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 by imprisonment for more than one year and his civil rights have not been restored.”*

Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to appropriate election officials for verifying voter registration eligibility.

(2) Excuses on Individual Request

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, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse will not be inconsistent with the act and may be claimed, if desired, and shall be granted by the court upon individual request:

- (a) All persons over 75 years of age at the time of completion of the juror qualification questionnaire form or at the time of being called to serve;
- (b) Persons having active care and custody of a minor whose health and/or safety would be jeopardized by their absence for jury service;
- (c) A person who is essential to the care of aged or infirmed persons;
- (d) A person who serves, without compensation, as a

volunteer firefighter or member of a rescue squad or ambulance crew for a federal, state, or local government.

(3) Exemption from Jury Service

This court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, not inconsistent with the act, and shall be automatically barred from jury service:

- (a) Full-time members in active service of the armed forces of the United States;
- (b) Full-time members of any governmental police or regular fire department (not including volunteer or non-governmental departments);
- (c) Full-time public officials of the United States, state, or local governments (public official shall mean a person who is either elected to public office or who is an officer directly appointed by a person elected to public office.).

For purposes of this jury plan, the clerk of court, or a deputy clerk under supervision of the clerk of court, is authorized to determine when persons are qualified, unqualified, exempt, or excused from jury service.

C. POLICIES REGARDING SELECTION OF JURORS FROM THE QUALIFIED JURY WHEEL

The Clerk shall also maintain a Qualified Jury Wheel for the district and shall enter in such wheel the names of all persons from the Master Jury Wheel who are not disqualified, exempt, or excused pursuant to this plan. Each qualification form as called for by Section 1864, supra, shall bear the number

which its addressee bears on the voter list. The Clerk shall ensure that at all times at least 300 names are contained in such Qualified Jury Wheel. The Qualified Jury Wheel in each division shall be emptied and refilled with names when the Master Jury Wheel is emptied and refilled.

(1) **Drawing of and Assignment to Jury Panels**

When ordered by the court, the Clerk, after notice to the public, shall electronically draw at random from the Qualified Jury Wheel such number of names of persons as may be required for assignment to grand or petit jury panels. The Clerk shall then prepare a separate list of names of persons assigned to each grand or petit jury panel.

For court policy on disclosure of identifying information about Jurors, refer to Section VII., Part B., of this plan.

(2) **Excuses on Individual Request After Summons Issued**

In addition to the excuses provided in section VI.B.(2) of this plan, any judge of this district or the Clerk of Court may excuse any person who has been summoned for grand or petit jury service when it is believed that jury service by the prospective juror would entail undue hardship or extreme inconvenience. A person who has been summoned for service may request such an excuse before a judge in open court at the time for reporting for service or in writing before the time for reporting for service. An application for an excuse for undue hardship and extreme inconvenience made prior to reporting for service must set forth

the reason or reasons for the excuse and must be addressed to the Clerk of Court. Upon receipt of the application for an excuse, the Clerk shall make any investigation into the circumstances of the application that is deemed necessary and shall approve or disapprove the request. The Clerk shall maintain a record of all applications for excuse and dispositions thereof. Any district judge while in open court, or the Clerk in all other situations, shall inform each temporarily excused juror that his/her name will be returned to the Qualified Jury Wheel and he/she will be subject to subsequent random selection for jury service. However, if a juror is permanently excused from jury service for purposes of the existing Qualified Jury Wheel, his/her name will not be placed back into the wheel for possible selection at a later date.

The plan hereby incorporates the definition of “undue hardship or extreme inconvenience” in the Jury Selection and Service Act of 1968 at 28 U.S.C.A § 1869(j):

“undue hardship or extreme inconvenience”, as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or travel time, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where its anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during

the period of such service.

When there is an excess of jurors present, either grand or petit, and their absence is required for only one day, the court shall, in its discretion upon excusing the excess jurors, inform them that their names will be put back in the Qualified Jury Wheel, subject to subsequent random selection.

(3) Selection of Grand Juries

When the court orders a grand jury to be impaneled, the Clerk, using an electronic data processing system, shall randomly draw from the Qualified Jury Wheel for the entire district a sufficient number of names from which twenty-three plus two alternate grand jurors can be selected, giving consideration to jurors who may be excused, may have died, or may have moved from the district. In order that all counties or political subdivisions in the district are substantially proportionally represented in the grand jury venires as required by 28 U.S.C.A. § 1863(b), the Clerk shall apportion the number drawn from each division according to the proportion which the total number of registered voters in the division bears to the total number of registered voters in the entire district. The automated system being used will ensure the appropriate number of names are drawn from each division and the complete list of names for all divisions combined reflects the pure random order in which the names were selected. The Clerk shall send notices and summons via certified mail to the persons whose names were drawn in this manner. Upon appearance

before the court by the jurors summoned, the court may excuse any juror, then the first twenty five names on the list of those who appear and are not excused shall serve as grand jurors. The 24th and 25th names on the list shall represent alternate jurors. The jurors not impaneled shall be dismissed.

VII. DISCLOSURE OF INFORMATION REGARDING JURY SELECTION

A. Disclosure of Documents

The office of the Clerk of Court shall provide public access to the following documents:

- The court's Jury Plan which includes a verbatim description of the method employed in determining the "quotient" and "starting number" and also a description of the procedures for automated selection of jurors.
- A copy of the court's authorization and instruction order to the employee or official from the computer service organization who performs the automated name selection tasks for the court.
- Formal public notice of courts orders executed for purposes of refilling the Master Jury Wheel indicating the date, time, and place of random drawings of starting numbers to be used and also for orders executed for drawing of individual jury panels indicating date, time, and place of the drawing. Public observance of the actual computer operations for drawing a jury shall not be required.

B. Disclosure of Identifying Information Regarding Prospective and Sitting Jurors

1. To Counsel and/or Parties in a Specific Case -

A list of names drawn from the Qualified Jury Wheel along with the court's questionnaire form completed by each prospective juror for **petit juries only** will be available upon request to counsel or parties with cases on the relevant trial calendar seven (7) working days prior to the date jurors are summoned to appear in court. The contents of any of this information shall not be disclosed to anyone other than counsel or parties in the case. The court will not make available any information about persons serving on **grand jury panels** unless permission by court order is received from a judge of this court.

2. To the Media or General Public -

A request for disclosure of **petit juror names** and any other identifying information to the media or the public may be made to the judge to whom the particular case is assigned. In the case of **grand juries**, requests for this same type of information should be made to the Chief Judge. The Clerk shall not release any of this type of information to the media or the public unless specifically authorized by the judge.

VIII. SANCTIONS FOR LATE SETTLEMENT IN CIVIL CASES

In any civil case in which a settlement is reached and the Court is notified of settlement later than the close of business on the last business day before jurors are scheduled to appear for jury selection, the court may assess reasonable charges reflecting the costs to the government of compensating said jurors for

their unnecessary appearance. Said charges may be assessed against one or more of the parties, or against one or more counsel, as the Court deems proper, and the amount collected shall be deposited by the Clerk into the Treasury of the United States.

SO ORDERED, this 25th day of April, 2008.

Hugh Lawson
Chief United States District Judge