

**CIVIL**  
**JURY TRIAL CHECKLIST**

- \_\_\_\_\_ 1. Bailiff opens Court (after everyone is in place).
- \_\_\_\_\_ 2. Call the case: "Will the Clerk, please call the case?"  
\_\_\_\_\_ versus \_\_\_\_\_.  
The \_\_\_\_\_ County Circuit Court, Case No. \_\_\_\_\_
- \_\_\_\_\_ 3. Introduce self and Court personnel. Make a brief statement of the nature and type of case.

"Ladies and Gentlemen You have been summoned here as prospective jurors in a civil case. This is a case involving a (vehicle collision, etc.) and the events allegedly occurred on or about (date) \_\_\_\_\_ at or near (location) \_\_\_\_\_."

- \_\_\_\_\_ 4. Introduce parties and attorneys or ask attorneys to do so.
- \_\_\_\_\_ 5. The Clerk will call individual jurors to the jury box. Seat remaining jurors in front of box and in benches. ADMINISTER OATH after all potential jurors have been called and seated. (ALTERNATE METHOD: Clerk will have already seated jurors before judge comes in.)

"Ladies and Gentlemen, please stand and raise your right hand:

"DO YOU SWEAR OR AFFIRM THAT YOU WILL ANSWER TRUTHFULLY ALL QUESTIONS TOUCHING UPON YOUR COMPETENCY TO SERVE AS A JUROR IN THIS CASE, SO HELP YOU GOD?"

- \_\_\_\_\_ 6. Is the Rule Requested ? If so, explain the Rule.
- \_\_\_\_\_ 7. ADMONITIONS. If the court takes a recess before completion of voir dire, the jurors should be given the Admonitions (attached as Appendix One).
- \_\_\_\_\_ 8. Prepare seating chart: (juror name, occupation, community). Assign jurors a number.
- \_\_\_\_\_ 10. Instruct the Jury Before Voir Dire: (TPI Civil 1.01)

You will be asked questions by the attorneys. Although some of the questions may seem to be personal, they are intended to find out if you have any knowledge of this particular case, if you have an opinion that you cannot put aside or if you have had any experience in life that might cause you to identify yourself with one party or another. Jurors must be as free as humanly possible from bias, prejudice, or sympathy and must not be influenced by preconceived ideas about the facts or the law. The parties are entitled to jurors who approach this case with open minds until a verdict is reached.

Each party has a right to request that a certain number of prospective jurors be excused. If you are excused you should not consider it a reflection on you in any way, because a lawyer who challenges you today might want you to serve on a different type of case tomorrow. The attorneys are simply engaging in a process of "educated" guessing as to whether or not you will be favorable to his/her side of the case or the other side of the case; so, do not take it personally if you are challenged. If you are challenged and

therefore excused, you will need to call back \_\_\_\_\_  
\_\_\_\_\_ after \_\_\_\_\_ p.m.

\_\_\_\_ 11. (a) BEFORE LAWYERS BEGIN VOIR DIRE  
INSTRUCT JURY:

Ladies and Gentlemen, before the attorneys begin asking you questions, I am going to give you the law as to the burden of proof in a civil case. A party who has the burden of proof on a claim must prove that claim by a preponderance of the evidence. I will charge you again with this instruction at the end of the trial.

The term "preponderance of the evidence" means the amount of evidence that causes you to conclude that a claim is probably true. To prove a claim by a preponderance of the evidence, a party must convince you that the claim is more likely true than not true.

If the evidence on a particular claim is equally balanced, that claim has not been proven by a preponderance of the evidence and the party having the burden of proving that claim has failed.

You must consider all the evidence on each claim.

(Consider giving the "balance scale" definition.)

(b) SEE NEXT PAGE FOR "Judge's Voir Dire Questions"

### **Judge's Questions for Voir Dire**

1. Occupation (Place of work, type of work, how long). Also occupation of spouse, if married.
2. Have you served on a jury before (civil or criminal)?
3. Have you (or your family) ever been a party to a lawsuit? (If so, a few details: type of lawsuit, Plaintiff or Defendant, personal injuries involved (if so, give details), was case tried or settled before trial, satisfied with outcome?)
4. Have you (or a family member) ever been involved with any incident that resulted in personal injuries (including job injuries)? (If so, give details of personal injury: what part of body, medical treatment received, do you or they still suffer from effects of the injury?)
5. Will you apply the law given to you by the Judge at the end of the trial, whether you agree with that law or not?

(Other questions to consider for Voir Dire:)

1. Community in \_\_\_\_\_ County
2. Do you have any type of major medical, health, work, family, financial, emotional or philosophical difficulty that would cause you to be unable to serve as a juror in a trial expected to last three weeks?
3. Does your job bring you in contact with lawsuits or other legal matters?
4. Does your job bring you in contact with engineers or technical support personnel?
5. Have you or has any member of your family ever made a claim for workers' compensation benefits?
6. Have you or has any member of your family ever made a claim against someone for personal injury, even though no lawsuit was brought?
7. Have you or has any member of your family ever worked for a company that has been sued and you were involved?
8. Have you ever appeared as a witness or an expert in a civil case?
9. Have you ever served on a grand jury?
11. Do you have any difficulty in reading, hearing or understanding English that might interfere with your serving as a juror?
12. Is there anything else about you that you feel might affect your ability to decide this case fairly and impartially and only on the basis of the evidence and testimony you hear in this case?



- \_\_\_\_ 12. ALLOW PLAINTIFF'S ATTORNEY TO VOIR DIRE.
- \_\_\_\_ 13. ALLOW DEFENDANT'S ATTORNEY TO VOIR DIRE.
- \_\_\_\_ 14. PEREMPTORY CHALLENGES ARE SUBMITTED BY ATTORNEYS. (Four (4) challenges per party, no more than eight (8) per side.)  
(Check for Batson or Woodson considerations.)
- (a) Clarify with attorneys which jurors are being considered (each round).
  - (b) Check each name off challenge sheet.
  - (c) Keep count number of challenges per side.
  - (d) Advise each excused juror when to call back.
- \_\_\_\_ 15. SEAT THE PERSONS SELECTED TO SERVE IN THE JURY SECTION. (DO NOT YET EXCUSE REST OF VENIRE.)
- \_\_\_\_ 16. "LADIES AND GENTLEMEN OF THE JURY, IN JUST A FEW MOMENTS WE WILL TAKE A BREAK, BUT BEFORE WE DO, I WILL CHARGE YOU WITH CERTAIN ADMONITIONS THAT YOU ARE ORDERED TO FOLLOW THROUGHOUT THIS TRIAL"; ADMONITIONS. (See "Appendix No. One")
- \_\_\_\_ 17. SWEAR JURY. OATH:
- "LADIES & GENTLEMEN, PLEASE STAND AND RAISE YOUR RIGHT HAND"
- "DO YOU SOLEMNLY SWEAR OR AFFIRM THAT IN THIS CASE NOW FOR TRIAL YOU WILL WELL AND TRULY TRY THE ISSUES JOINED AND A TRUE VERDICT RENDER ACCORDING TO THE LAW AND THE EVIDENCE, SO HELP YOU GOD?"
- "PLEASE BE SEATED."

\_\_\_\_ 18. AFTER VOIR DIRE AND BEFORE TRIAL GIVE JURY PRELIMINARY INSTRUCTIONS:

You have now been sworn as jurors in this case. Before we begin the trial, I will explain about trial procedures, what your duties will be, and how you must conduct yourselves during the trial.

After I have given you this information, the attorneys will make their opening statements. The opening statements will be brief outlines of what the attorneys expect the evidence to be.

After the opening statements, you will hear the evidence. The evidence generally consists of the testimony of witnesses and the trial exhibits. The plaintiff will present evidence first and then the defendant will be allowed to present evidence.

Normally, the plaintiff will present all of the plaintiff's evidence before the other party presents any evidence, although we sometimes change this procedure to accommodate a witness.

The witnesses will testify in response to questions from the attorneys. Witnesses are first asked questions by the attorney who calls the witness to testify and the other attorney is allowed to cross-examine the witness. The attorneys questions are not evidence. Only the witnesses answers are evidence. You should not think that something is true just because an attorney's question suggests that it is true. You should consider a question only as it gives meaning to a witness's answer.

Evidence may be presented by deposition. A deposition is testimony taken under oath before the trial and preserved in writing or on videotape. You are to consider deposition testimony as if the witness appeared in court.

During the trial, each side has the right to object to evidence offered by the other side. If I do not agree with the objection, I will say it is overruled. If I overrule an objection, the witness will answer and you may consider the evidence. If I agree with the objection, I will say it is sustained. If I sustain an objection, you must ignore the question. If the witness did not answer, you must not guess what the witness might have said or why I sustained the objection. If the witness has already answered, you must ignore the answer.

Any arguments by the lawyers about objections or motions are usually required to be made outside the jury's hearing. One of my duties as presiding judge is to make sure that any information that the jury hears is legally admissible information under the rules of evidence and procedure. I may exclude information because it is not legally admissible under Tennessee law. You cannot consider excluded information in deciding this case. Any rulings I make will be based on the law. You must not infer from any of my rulings, or from anything that I say, that I hold any view or opinion for or against any party in this lawsuit.

After you have heard all of the evidence and I have instructed you on the law, the attorneys will make their closing arguments. In the closing arguments the attorneys will point out to you what they believe the evidence has shown, what inferences they suggest you should draw from the evidence, and what decisions they contend you should reach as your verdict. The plaintiff will argue first, then the defendant, and then the plaintiff is allowed to close by responding to the defendant's argument.

Unless I instruct you otherwise, statements made by the attorneys are not evidence. Those statements are made only to help you understand the evidence in this case. You should ignore any statement that is not supported by the evidence.

At the end of the trial, I will explain the law that you must follow to reach your verdict. You must follow the law as I explain it to you, even if you do not agree with the law. Your duty is to decide what the facts are and to apply the law that I give you to those facts. You are the sole and exclusive judges of the facts.

As the sole judges of the facts, you must decide which of the witnesses' testimony you will accept, what weight to attach to it, and what inferences you will draw from it. You are not required to accept all of the evidence as true or accurate. In deciding what evidence to accept, you must evaluate each witnesses' testimony and decide the weight you will give to that testimony. You must decide which witnesses you believe and how important you think their testimony is. You are free to believe all, none, or part of any person's testimony.



You should use your common sense and your everyday experience in deciding which testimony you believe. There are no written rules to use in deciding whether you believe a witness, but it may help you to ask yourself the following questions:

1. Was the witness able to see or hear or be aware of the things that the witness testified about?
2. How well was the witness able to recall and describe those things?
3. How long was the witness watching or listening?
4. Was the witness distracted in any way during the event?
5. Did the witness have a good memory?
6. How did the witness look and act while testifying?
7. Did the witness make an honest effort to tell the truth, or evade questions?
8. Did the witness have any interest in the outcome of the case?
9. Did the witness have any motive, bias, or prejudice that would influence the witness's testimony?
10. How reasonable was the witness' testimony when you consider all of the evidence in the case?
11. Was the testimony contradicted by what the witness had said or done at another time, by the testimony of other witnesses, or by other evidence?

[Substantive instructions before trial begins.]

\_\_\_\_ 19. OPENING STATEMENTS.

Plaintiff's counsel:	Begin	_____	am/pm
	End	_____	am/pm

Defendant's counsel:	Begin	_____	am/pm
	End	_____	am/pm

\_\_\_\_ 20. NOTEPADS.



- (a) Pass out notepads and pencils.
- (b) Give the charge on **JUROR'S NOTES**. (See "Appendix Number Two.")
- (c) Give the charge on **JURORS ASKING QUESTIONS**. (See "Appendix Number Three.")

\_\_\_\_21. TESTIMONY. Plaintiff calls the first witness.

**Be sure each witness is sworn!**

Direct Examination, Cross-Exam, Re-Direct, Re-Cross

"Call your next witness."

\_\_\_\_22. WHEN THE PLAINTIFF RESTS:

(Ask counsel: "Are there any motions at this time?"  
If so, tell the jury:)

"Members of the jury, we have a matter  
we need to take up outside your  
presence. Take a short break in the  
jury room. Remember the admonitions  
the court gave you earlier."

\_\_\_\_23. WHILE JURY IS OUT, DISCUSS THE FOLLOWING:

- (a) Length of defense proof (number of witnesses).
- (b) Can any jury instructions be agreed on now?

Note: If defense has no witnesses, or very few, agree  
on jury instruction, NOW – to avoid jury in-and-out.

\_\_\_\_24. JURY BROUGHT BACK IN.

\_\_\_\_25. DEFENDANT PRESENTS CASE.

Direct Examination, Cross-Exam, Re-Direct, Re-Cross

\_\_\_\_ 26. DOES THE PLAINTIFF WISH TO PRESENT REBUTTAL WITNESSES?

(If yes, "call first witness".)

\_\_\_\_ 27. DEFENDANT'S SURREBUTTAL. (if Plaintiff presents rebuttal.)

\_\_\_\_ 28. AFTER ALL PROOF IS CONCLUDED.

Take break if jury charges not already agreed upon.  
Remind Jury of the Admonitions.

\_\_\_\_ 29. JURY CHARGE CONFERENCE.

While Jury is on break meet with counsel outside of presence of Jury. Prepare Jury instructions. Put discussion on the record. "We have reviewed the proposed charges and all attorneys agree to its content except: (Note, any objections and rulings on the record.) "Counsel is that correct?"

\_\_\_\_ 29 (a) PUNITIVE DAMAGES (if applicable). Charge content. Bifurcation of damages. Judge's Finding of Facts. U. S. Supreme Court case of Campbell vs. State Farm, 538 U.S. 408 (2003).

\_\_\_\_ 30. BRING THE JURY BACK IN. COURT CHARGES THE JURY.

\_\_\_\_ 31. "COUNSEL, ARE THERE ANY ADDITIONAL CHARGES REQUESTED?"

\_\_\_\_ 32. CLOSING ARGUMENTS.

"We are now ready to proceed with closing arguments."

Time Limits? Record beginning and ending times.  
Enforce time limitations, if any.

Plaintiff  
Defendant  
Plaintiff—Rebuttal argument

\_\_\_\_ 33. \*\* DRAW NAMES OF ALTERNATE  
JUROR(S) OUT OF BOX \*\*

Excuse alternates, tell them not to go with the jury into deliberation room. "Remain here in your seats, I will give you further instructions after the jury leaves to begin deliberations."

\_\_\_\_ 34. SWEAR COURT OFFICER/BAILIFF. OATH:

"Please state your name for the record.  
Do you solemnly swear or affirm that you will:

1. Take charge of this jury, and
2. Keep them separate and apart from all others, and
3. Not allow them to communicate with any other people, and
4. Bring them back at the appointed time, so help you God?"

\_\_\_\_ 35. INSTRUCTIONS TO THE BAILIFF:

- WHERE DOORS ARE TO BE LOCKED.
- SIT AT THE DOOR (ONLY ONE ENTRANCE).
- BREAKS AND PROVISIONS FOR SMOKERS.



- IF JURORS HAVE QUESTIONS, SEND NOTE BY BAILIFF.
- JURORS SHALL NOT ASK COURT OFFICER/BAILIFF ANY QUESTIONS ABOUT THE TRIAL OR PROCEEDINGS.
- TELL THE COURT OFFICER NOT TO DISCUSS ANYTHING REGARDING THE CASE OR PROCEEDINGS WITH THE JURORS.

\_\_\_\_ 36. INSTRUCT THE JURY:

“If a question arises during deliberations and you need further instructions, please print your question on a sheet of paper, knock on the door of the jury room, and give the question to my court officer. Again, do not discuss the case with the officer.”

“I will read your question and I may call you back into the courtroom to try to help you. Please understand that I may only answer questions about the law and I cannot answer questions about evidence.”

\_\_\_\_ 37. “LADIES AND GENTLEMEN, YOU MAY NOW RETIRE TO DELIBERATE.”

Record Time-Out \_\_\_\_\_ a.m. / p.m.

\_\_\_\_ 38. JURY SENDS WORD THEY HAVE A VERDICT.

Record time \_\_\_\_\_ a.m. / p.m.

Round up attorneys, parties, court reporter and clerk.

\_\_\_\_ 39. GO ON RECORD BEFORE JURY COMES IN:

1. “Let the record reflect the Plaintiff(s) and the

Defendant(s) are present in the courtroom along with their attorneys."

2. "Do you waive polling of the jury individually?" "If so, would an individual show of hands suffice?"

\_\_\_\_ 40. "BRING IN THE JURY."

\_\_\_\_ 41. COURT RECEIVES THE VERDICT:

"Ladies and gentlemen, would you please identify the presiding juror."

"Have you reached a verdict in this case?"

"What is your verdict?"

"Do each of you agree that is your verdict; if so, please raise your right hand."

"Let the record reflect that each member of the jury has raised their hand and there are no dissenting votes"

\_\_\_\_ 42. HAVE JURY PASS VERDICT FORM TO THE COURT.

Verify with attorneys the content of the verdict form, and mark it as the next numbered exhibit.

\_\_\_\_ 43. PUNITIVE DAMAGE ISSUES. Bifurcated trial TPI 14.55 and 14.56

\_\_\_\_ 44. GIVE THE POST TRIAL INSTRUCTION TO JURY. (See "Appendix Number Four.")

\_\_\_\_ 45. DISMISS THE JURY.

"THANK YOU. THE SYSTEM WORKS

BECAUSE OF CITIZENS LIKE YOU.  
THANKS ON BEHALF OF COURT,  
ATTORNEYS AND COURT PERSONNEL.”

AFTER JURY FILES OUT

- \_\_\_\_ 46. IF THE CASE IS A COMPARATIVE FAULT CASE,  
CALCULATE THE AMOUNT OF DAMAGES AND TO  
WHOM.
- \_\_\_\_ 47. ASK WHO WILL DRAW THE ORDER.
- \_\_\_\_ 48. “THE CIRCUIT COURT OF \_\_\_\_\_  
COUNTY, DIVISION/PART \_\_\_\_\_, IS HEREBY  
ADJOURNED UNTIL \_\_\_\_\_.”



### ADMONITIONS

There are also several rules concerning your conduct during the trial, including any recesses or adjournments that you must obey.

First, do not conduct your own private investigation into this case, although you might be tempted to do so. For example, do not visit the scene of the incident, read any textbooks or articles concerning any issue in this case, or consult any other source of information, including internet sources, such as, Facebook, Myspace, Twitter, Google or others. If you were to do that, you would be getting information that is not evidence. You must decide this case only on the evidence that you see and hear in this courtroom and on the law I give you. If you get any information about this case other than the evidence presented in the courtroom you must report it immediately to the Court officer, but do not tell anyone else about it, including the other jurors.

Second, do not discuss the case with anyone during the trial, including your fellow jurors or family members or friends. You must keep an open mind until you have heard all the evidence, my final instructions about the law and the attorneys' closing arguments. Any discussions about the case before the end of the case would be improper and a violation of your oath as a juror.

Third, do not let any other person discuss this case in your presence. If anyone tries to do so, end the conversation and report it immediately to the Court officer, but do not tell anyone else, including the other jurors.

Fourth, do not speak to any of the attorneys, parties or witnesses in this case, even to say good morning. They are also instructed not to talk to you. In no other way can all the parties feel assured of your absolute impartiality.

Fifth, do not use a computer, cellular phone, or any other electronic device with communication capabilities during the trial or deliberations. These devices may be used during breaks or recesses, but can not be used at any time during the trial to obtain or disclose information about any issues related to this trial.

TPI 3rd Civil 1.03 – Use of Juror Notes

(Give before trial starts as a part of Preliminary Instructions.)

You are permitted to take notes during the trial. You may take notes only of verbal testimony from witnesses, including witnesses presented by deposition or videotape. You may not take notes during the opening statements or closing arguments or take notes of objections made to the evidence. You may not take notes during breaks or recesses. Notes may be made only in open court while witnesses are testifying.

Your notes should not contain personal reactions or comments, but rather should be limited to a brief, factual summary of testimony you think is important. Please do not let your note-taking distract you and cause you to miss what the witness said or how the witness said it. Remember that some testimony may not appear to be important to you at the time. That same testimony, however, may become important later in the trial.

Your notes are not evidence. You should not view your notes as authoritative records or consider them as a transcript of the testimony. Your notes may be incomplete or contain errors and are not an exact account of what was said by a witness.

Juror Questioning of Witness During Trial

(May be given during Preliminary Instructions or before first witness is sworn)

I will allow you to ask questions of the witnesses who testify in this case. After the lawyers have finished questioning a witness you may ask the witness a question by putting your question in writing on a blank piece of paper. Please fold the paper, then hand it to the bailiff who will give it to me. Please do not put your name on the question.

I will review the question and allow the attorneys to do so. You may ask any question that you feel is necessary or appropriate, but please don't be offended if I do not ask your question or if I vary the wording of the question before I ask the witness the question. One of my functions as presiding judge is to make sure that all evidence admitted is legally admissible under the rules of evidence and procedure under Tennessee law. If I do not ask all or only a part of a question, or if I change the wording of a question, you must not draw any inference from my decision. Do not hold my decision against any party in this case.

You are not encouraged to ask large numbers of questions. The attorneys have the primary responsibility for asking questions. Keep in mind that the attorneys know the case better than either you or I do, and each of them will be attempting to place before you all the evidence you will need to assist you in reaching a proper verdict. Remember that you are not advocates for either party, but you are the judges of the facts.

You must direct your questions to the witness, not to the lawyers or the judge. Your questions should be to clarify evidence, not to explore theories of your own, or to attempt to discredit a witness.

You are only allowed to ask questions of a witness while that witness is on the witness stand. Once a witness leaves the witness stand you will not be allowed to ask that witness any further questions.



**POST - TRIAL INSTRUCTIONS TO JURY**

Now that you have concluded your service on this case, I thank you for your patience and conscientious attention to your duty as jurors. You have not only fulfilled your civic duty, but you have also made a personal contribution to the ideal of equal justice for all people.

You may have questions about the confidentiality of the proceedings. Because the case is over, you are free to discuss the case with any person you choose. However, you do not have to talk to anyone about the case if you do not want to. If you tell someone you do not wish to talk about it and they continue to bother you, let the court know, for we can protect your privacy. If you do decide to discuss the case with anyone, I would suggest you treat it with a degree of solemnity, so that whatever you say, you would be willing to say in the presence of your fellow jurors or under oath here in open court in the presence of all the parties. Also, if you do decide to discuss the case, please respect the privacy of the views of your fellow jurors. Your fellow jurors fully and freely stated their opinions in deliberations with the understanding they were being expressed in confidence.

Again, I thank you for your willingness to give of your time away from your accustomed pursuits and faithfully discharge your duty as jurors. You are now excused.