

*SECOND JUDICIAL CIRCUIT OF THE UNITED STATES
UNITED STATES COURTHOUSE
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DENNIS JACOBS
CHIEF JUDGE

KAREN GREVE MILTON
CIRCUIT EXECUTIVE

MEMORANDUM
October 9, 2013

JUDICIAL COUNCIL
APPROVED

OCT 17 2013

C/E

To: Second Circuit Judicial Council

From: Karen Greve Milton, Circuit Executive

cc: Chief Judge Janet Hall
Robin Tabora, Clerk of Court

Re: Amendments to the Jury Plan for the United States District Court for the District of CT

The Jury Plan for the United States District Court for the District of Connecticut says that jury service by members of certain occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and excusing such members would not be inconsistent with 28 U.S.C. §§ 1861 and 1862. Persons who are over 70 years of age are included in that group.

The Board of Judges of the District of Connecticut has approved amendments to increase the age from 70 to 75, and have updated the Jury Plan to reflect this change

Attached is a copy of the amended Plan. **Kindly return your ballot, by email or by fax to 212-857-8680, by October 17, 2013. Thank you.**

Ballot

Name: _____

_____ Yes, I approve the amendments to the Jury Plan for the United States District Court for the District of CT

_____ No, I do not approve the Jury Plan for the United States District Court for the District of CT

_____ I request additional information and/or further discussion.

FILED

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U.S. DISTRICT COURT
NEW HAVEN, CT.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

JUDICIAL COUNCIL
APPROVED

OCT 17 2013

C/E



JURY PLAN

Approved by Chief Judge Janet C. Hall: September 13, 2013

Approved by the Second Circuit Judicial Council: October 17, 2013

**THIRD RESTATED
PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT
FOR RANDOM SELECTION OF GRAND AND PETIT JURORS**

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**THIRD RESTATED
PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT
FOR RANDOM SELECTION OF GRAND AND PETIT JURORS**

I. PRIOR PLAN

The jury plan adopted by this Court for the random selection of grand and petit jurors dated November 23, 1992, including all amendments to that jury plan, is hereby revoked and rescinded, and the plan set forth herein is hereby adopted to become effective on the date it is approved by the Reviewing Panel of the Judicial Council of the Second Circuit.

II. STATUTORY AUTHORITY

Pursuant to the Jury Selection and Service Act of 1968, 28 U.S.C. §§ 1861 *et seq.*, as amended (the "Act"), the Judges of the United States District Court for the District of Connecticut (the "Court") adopt the following "Third Restated Plan of the United States District Court for the District of Connecticut for Random Selection of Grand and Petit Jurors" (the "Plan") to provide judicial machinery for the random selection of federal juries, subject to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

III. POLICY

It is the policy of this Court that, in accordance with 28 U.S.C. § 1861, all litigants 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 of Connecticut (the "District"). It is further the policy of this Court that all citizens shall have the opportunity to be considered for service on grand and petit juries impaneled in the District and shall have an obligation to serve as jurors when summoned for that purpose.

IV. DISCRIMINATION PROHIBITED

No citizen shall be excluded from service as a grand or petit juror in this Court on account of race, color, religion, sex, national origin, age, sexual orientation, or economic status.

V. PLACES FOR HOLDING COURT

The Court has considered parts of the District from which grand and petit jurors should be selected for the places where court is held and finds that a designation of the counties from which jurors will be drawn for each place of holding court will result in the random selection of jurors from a fair cross-section of the community, as required by 28 U.S.C. § 1863. This Plan shall apply to all divisions in the District pursuant to 28 U.S.C. § 1863(a). Accordingly, the District is hereby divided into divisions for jury selection purposes only, pursuant to 28 U.S.C. §§ 1863(b)(3) and 1869(e) as follows:

- | | | |
|----------------------|---------------------|---|
| <u>FIRST</u> | Hartford Division | Consisting of the counties of Hartford, Litchfield, Windham, Tolland; |
| <u>SECOND</u> | New Haven Division | Consisting of the counties of New Haven, New London, Middlesex; and |
| <u>THIRD</u> | Bridgeport Division | Consisting of the county of Fairfield. |

VI. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

In accordance with 28 U.S.C. § 1863(b)(1), the Clerk of Court (the "Clerk") manages the jury selection process under the supervision and control of the Chief Judge or his/her designee. In accordance with 28 U.S.C. § 1869(a), the Clerk may delegate responsibility for the day-to-day operations of the jury selection process to a Jury Administrator, who shall be an authorized deputy clerk. The Clerk and the Jury Administrator will be assisted by the jury staff.

VII. RANDOM SELECTION FROM VOTER REGISTRATION LISTS AND THE LICENSED MOTOR VEHICLE OPERATOR LISTS

The Court finds that the lists of registered voters and licensed motor vehicle operators represent a fair cross-section of the populace in the District. Therefore, the names and addresses for the jury selection system established by this Plan shall be selected from the following:

- (1) The latest list of registered voters published by the Secretary of the State that is available at the time the Master Jury Wheel is emptied and refilled, or supplemented; and
- (2) The latest list of licensed motor vehicle operators published by the Connecticut Department of Motor Vehicles that is available at the time the Master Jury Wheel is emptied and refilled, or supplemented.

The Clerk or Jury Administrator shall request by mail that the Secretary of the State deliver to the Office of the Clerk, or to the vendor designated by the Clerk, the complete and current list of registered voters. The Clerk or Jury Administrator shall also request by mail that the Connecticut Department of Motor Vehicles deliver to the Office of the Clerk, or to the vendor designated by the Clerk, a copy of the latest list of licensed motor vehicle operators. The requests shall instruct the Secretary of the State and the Connecticut Department of Motor Vehicles to certify that the list produced is the current and complete list of registered voters or latest list of licensed motor vehicle operators, as the case may be. These certifications shall be retained by the Clerk or the Jury Administrator.

Subject to Article XVIII, the random selection procedure shall be accomplished by selecting approximately four percent of the names appearing on each voter registration list and each list of licensed motor vehicle operators as follows: a starting number from 1 to 25 shall be

drawn by lot and that name shall be selected from each along with each 25th name thereafter. Thus, if the starting number drawn is 8, the 8th, 33rd, 58th, etc., names shall be picked.

VIII. THE MASTER JURY WHEEL

The Jury Administrator shall provide for a Master Jury Wheel for the District into which the master numbers representing the names of all persons selected at random in accordance with Article VII shall be placed. The Master Jury Wheel shall be emptied and refilled, as provided herein, between the first Tuesday in November not falling on the first day of the month and the 30th day of April every two (2) years, or sooner as may be ordered by the Chief Judge. In addition, the Chief Judge may order additional names to be placed in the Master Jury Wheel from time to time as necessary.

Prospective jurors will be drawn from two sources, so there is a possibility that "double entries" will occur when the name of the same individual is selected from both the list of registered voters and the list of licensed motor vehicle operators. Therefore, the Master Jury Wheel shall be examined for double entries. Where double entries occur, one entry shall be removed from the Master Jury Wheel. Whenever practicable, the entry from the list of licensed motor vehicle operators is to be retained and the entry from the list of registered voters is to be removed.

After the jury staff has drawn at random the names of as many persons as may be required to refill or fill the Master Jury Wheel, the jury staff shall mail a juror qualification form to every person whose name is so drawn, with instructions to complete, sign and return such form by mail or through the Internet, within 10 days. If it appears that there is an omission, ambiguity or error in a form, the jury staff shall return the form with instructions to make such additions or corrections as may be necessary and return the revised form within 10 days.

Any person who fails to return a completed juror qualification form may be summoned by the jury staff to appear and complete such a form, unless the envelope bearing the form has been

returned by the Post Office as undeliverable. Any person who fails to appear as directed, or who willfully misrepresents a material fact on a juror qualification form for the purpose of evading service as a juror, may be ordered by the Court to appear and show cause why he/she should not be sanctioned.

Commencing with the first time the Master Jury Wheel is emptied and refilled after the effective date of this Plan, the following steps shall be taken with respect to each juror qualification form returned by the Post Office as undeliverable: For each such juror qualification form, the jury staff shall draw at random, in accordance with the process last used pursuant to Article VII, the name of a resident who lives in the same zip code to which the undeliverable juror qualification form had been sent. The jury staff shall then mail a juror qualification form to that resident and, thereafter, follow the procedures set forth in this Plan with respect to that prospective juror.

The physical form of the Master Jury Wheel and of the Qualified Jury Wheels may include electronic format.

IX. JUROR QUALIFICATION FORM

The juror qualification form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States shall be used to elicit the information necessary to determine whether a person is qualified for, unqualified for, exempt from, or excused from jury service. After completed juror qualification forms are returned by prospective jurors, the forms will be reviewed by the jury staff under the supervision of the Court pursuant to 28 U.S.C. § 1865(a). The determination as to whether a person is unqualified for, exempt from, or to be excused from jury service shall be made solely on the basis of information furnished on the juror qualification form and other competent evidence.

Upon review, such determination shall be entered in the space provided on the juror qualification questionnaire or shall appear on the appropriate database listing. The jury staff shall maintain a procedures manual to be followed in its review of juror qualification forms.

X. QUALIFICATION FOR JURY SERVICE

Any person shall be qualified to serve on grand and petit juries pursuant to 28 U.S.C.

§ 1865 unless he/she:

- (1) is not a citizen of the United States at least 18 years old who has resided for a period of one year within the 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/her 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/her civil rights have not been restored.

XI. AUTOMATIC EXEMPTION FROM JURY SERVICE

The following occupational classes are exempt from jury service pursuant to 28 U.S.C. § 1863(b)(6);

- (1) members in active service in the Armed Forces of the United States;
- (2) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; and

XIII. QUALIFIED JURY WHEELS; ASSIGNING JURORS TO PANELS

The Jury Administrator shall maintain a Qualified Jury Wheel for each seat of court containing the names of all persons drawn from the Master Jury Wheel who are qualified as jurors and not exempt or excused pursuant to this Plan. Sufficient names shall be drawn from time to time to maintain a revolving pool of potential jurors who are available for service as petit or grand jurors. The jury staff shall draw at random from the Qualified Jury Wheel such number of names as may be required for assignment to grand or petit jury panels. The names so drawn shall not be disclosed before the date of appearance. The jury staff shall prepare a separate list of names of persons assigned to grand and petit jury panels. The jury staff shall issue and send by first class mail summons to the persons whose names are so drawn. Any person summoned for jury duty who fails to appear as directed may be ordered by the Court to appear forthwith to show cause why he/she should not be sanctioned for his/her failure to comply with the summons.

XIV. TEMPORARY EXCUSES AND EXCLUSIONS

Any person summoned for jury service may be:

- (1) deferred by the Judge, or jury staff under the supervision of the Court pursuant to 28 U.S.C. § 1866(c), upon a showing of undue hardship or extreme inconvenience, for such period as deemed necessary, at the conclusion of which such person shall be summoned again for jury service in accordance with this Plan;
- (2) excluded by the Judge on the ground that such person may be unable to render impartial jury service or that his/her service as a juror would be likely to disrupt the proceedings;
- (3) excluded upon peremptory challenge as provided by the law;
- (4) excluded pursuant to the procedure specified by law upon challenge by any party for good cause shown; or

- (5) excluded upon determination by the Judge that his/her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations.

Any person excluded from a particular jury under Clause (2), (3), or (4) above shall be eligible to sit on another jury if the basis for his/her initial exclusion would not be relevant to his/her ability to serve on such other jury.

No person shall be excluded under Clause (5) above unless the Judge, in open court, determines that such an exclusion is warranted and will not be inconsistent with 28 U.S.C. §§ 1861 and 1862. The number of persons excluded under Clause (5) shall not exceed one percent of the total number of persons who return executed juror qualification forms during the course of two consecutive fillings of the Master Jury Wheel. The names of persons excluded under Clause (5), together with detailed explanations for the exclusions, shall be forwarded immediately to the Judicial Council of the Second Circuit.

XV. TERM OF SERVICE

In any two-year period, a prospective juror will (1) be on call to appear for service as a petit juror for a total of two months, except when necessary to complete service in one or more trials; (2) not serve on more than one grand jury; and (3) not serve as both a grand and petit juror. If a juror appears at least once during the two-month period, he/she may be permanently excused at the discretion of the Judge or jury staff.

XVI. GRAND JURIES

The names of 23 grand jurors plus alternates will be selected for service on the grand jury panel. Each grand jury shall serve for a period of 18 months unless discharged earlier by the Court. The period of service of a grand jury can be extended up to six additional months, upon request of the U.S. Attorney's Office, based on the status of the proceedings before that grand jury,

upon order of the Judge who selected that grand jury. When there are two or more regular grand juries in an active status at a seat of court, they shall be called to serve in regular rotation unless the Court, for good cause shown, directs otherwise. The names of grand jurors chosen and sworn shall not be disclosed except upon order of the Court.

XVII. DISCLOSURE AND NON-DISCLOSURE OF RECORDS OR PAPERS

The contents of records or papers used by the jury staff in connection with the jury selection process shall not be disclosed except pursuant to this Plan, or as may be necessary for the preparation or presentation of a motion under 28 U.S.C. § 1867(a), § 1867(b) or § 1867(c). In the event of such a motion, the parties shall be permitted to examine, copy, and reproduce such records or papers at reasonable times, by appointment, during the preparation and pendency of the motion. Otherwise, disclosure shall not occur until after the Master Jury Wheel has been emptied and refilled in accordance with 28 U.S.C. § 1863(b)(4), and after all persons selected to serve as jurors before the Master Jury Wheel was emptied have completed their service.

Except as herein provided, biographical information of persons whose names are drawn from the Qualified Jury Wheels may be disclosed to parties when the jurors appear in open court for jury duty. Such biographic information shall be limited to name, town of residence, gender, age, race/ethnicity, occupation, education, employer name, marital status, number of children, and spouse's occupation. Upon request and with the authorization of the Judge, the names drawn from the Qualified Jury Wheels may be disclosed to the public and/or the media when the jurors appear in open court for jury duty; this is in addition to, not in lieu of, the qualified right of the public and the media to access to the examination of jurors during voir dire and transcripts thereof. The Judge in any case may keep these names confidential in the interests of justice pursuant to 28 U.S.C. § 1863(b)(7).

Contact with trial jurors and grand jurors is subject to the provisions of the District's Local Rule pertaining to secrecy of jury deliberations.

All records and papers compiled and maintained by the jury staff during the term of a Master Jury Wheel shall be preserved in the custody of the Clerk for four years following the emptying of the Master Jury Wheel, and after all persons selected to serve as jurors before the Master Jury Wheel was emptied have completed their service, or for such longer period as may be ordered by the Court, and shall be available for inspection for the purpose of determining the validity of the selection of any jury.

The names of jurors and potential jurors will not be disclosed in the public docket or in transcripts, absent an order of the Court. Transcripts will be filed in redacted form in the public docket. All requests for unredacted transcripts shall be submitted in writing to the Judge.

XVIII. AUTOMATION

The Court finds that electronic or automated means can be advantageously used for selecting and/or copying names from voter registration lists or licensed motor vehicle operator lists maintained in electronic format. Accordingly, an electronic data processing system will be used to select names for the Master Jury Wheel. Appropriate software will be used to select names for the Master Jury Wheel, for selecting names from the Qualified Jury Wheels, for summoning persons to serve as grand or petit jurors, and for the creation of any papers and records required by the Court to administer this Plan.

At the Clerk's option, and after consultation with the Chief Judge, the selection of names from source lists in electronic media for the Master Jury Wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system.

Similarly, at the option of the Clerk, and after consultation with the Chief Judge, a properly programmed electronic data processing system for purely randomized selection may be used to

select names from the Master Jury Wheel for the purpose of determining qualification for jury service, and from the Qualified Jury Wheels for summoning persons to serve as grand or petit jurors. All random selections of names from the source lists for inclusion in the Master Jury Wheel must insure that each town within the division is substantially proportionally represented in the Master Jury Wheel in accordance with 28 U.S.C. § 1863(b)(3). The process for selection of names from the source lists, the Master Jury Wheel, and the Qualified Jury Wheels must also ensure that the mathematical odds of any single name being picked are substantially equal.

XIX. MODIFICATIONS

Modifications to this Plan may be made from time to time by the Court, upon the approval of the Reviewing Panel of the Judicial Council of the Second Circuit, and shall be made when so directed by the Reviewing Panel. The Court shall promptly notify the Reviewing Panel, the Administrative Office of the United States Courts, and the Attorney General of the United States of the initial adoption and future modifications of the Plan by filing copies with each.

XX. EFFECTIVE DATE

This Plan shall become effective on the date fixed by the Reviewing Panel pursuant to the Act. This Plan shall apply to jury selections from the Master Jury Wheel on or after September 30, 2013.