

# 13<sup>th</sup> Judicial District Court



## Juror Handbook

### Valencia

James Lawrence Sánchez  
District Judge, Division I  
Allen R. Smith  
District Judge, Division III  
Cindy M. Mercer  
District Judge, Division VI  
**Contact Jury Clerk at  
505-865-4639 or email at  
lludjuror@nmcourts.gov**

### Cibola

Judge Pedro G. Rael  
District Judge, Division IV  
**Contact Jury Clerk at  
505-287-8831 or email at  
gradjuror@nmcourts.gov**

### Sandoval

George P. Eichwald  
District Judge, Division II  
Louis P. McDonald  
District Judge, Division V  
John F. Davis  
District Judge, Division VII  
Cheryl H. Johnston  
District Judge, Division VIII  
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505-867-2376 or email at  
berdjuror@nmcourts.gov**

**JURY PANEL # \_\_\_\_**

**Cibola County Term of Service December 18, 2014 through April 18, 2015**

***You must check one of the following every Friday any time after 5:00 PM:***

***Jury Message Phone (505) 287-8831, ext.1***

**OR**

***www.13districtcourt.com, then Jury Duty – Cibola – Jury Duty/Panel Update***

***\*\*Always verify your attendance the night before you are scheduled to report\*\****

***The 13th District Court will never call and ask for payment of any fines by phone using a credit card. New Mexico law enforcement does not collect fines on behalf of the courts. If you have had a similar call, please call your county courthouse at the numbers above, and, notify your local sheriff's department and the New Mexico Attorney General at (505) 222-9000.***

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## Right to a Jury Trial

The constitutions of the United States and the State of New Mexico guarantee the right of a trial by jury. Juries may consist of six or twelve members depending on the court and type of case.

## How You Were Selected

The State of New Mexico in Section 38-5-3 NMSA 1978 provides for the selection of potential jurors from the Information Systems Division of the General Services Department. These jurors are submitted by a list of **registered voters, licensed drivers and personal income tax filers** from each county and are merged to form a master Jury Database so a random selection of Jurors can be made.

## Who May Serve/Qualifications

To be qualified to serve as a juror in New Mexico you must meet the following conditions:

1. United States Citizen
2. 18 years or older
3. Not currently on felony probation or parole
4. Must be a resident of the county (Valencia) where you are called to jury service

**\*\*If you do not meet these qualifications you must contact the jury clerk immediately.**

## Obligation of Employers

Pursuant to New Mexico Statute 38-5-18 and 38-5-19 Employers who deprive their employees of employment or threaten or coerce them with respect to jury service are guilty of a petty misdemeanor and are subject to prosecution.

## Emergency or Illness

If illness or other emergency requires that you be delayed or absent please see the cover page for information to telephone or email the jury clerk as soon as possible. Leaving a message the night before or the morning of a jury trial indicating that you have a doctor's appointment or that you cannot come in is not acceptable.

## Requesting Excusal for Specific Dates

The court requires that any request for excusal be submitted to the jury clerk as soon as possible. Some of those requests may be for any of the following: **doctor's appointment, medical appointment, work-related travel or training, vacations, school functions, field trips or any other planned absence.** If you wait until your panel is called for service your request may be denied and you may be required to report. Please call the court at (505)-287-8831 or email your request to [gradjuror@nmcourts.gov](mailto:gradjuror@nmcourts.gov).

## Failure to Appear

Willful failure to appear as a juror is a criminal offense. Jurors failing to appear for a scheduled jury trial place unnecessary burdens upon the entire system. The first time a juror fails to appear will result in a courtesy phone call to the juror from the jury clerk. If a juror fails to appear a second time, a written warning/reprimand may be mailed to the juror. If a juror fails to appear a third time a Contempt Order may be issued for the juror to appear before a judge and explain their absence. The juror may be sentenced to a Detention Center for up to thirty (30) days for failure to comply with the court's order.

## **Compensation**

Jurors may be reimbursed for mileage for travelling to and from their place of residence to the court at the rate of \$0.46 per mile. In addition, a juror may receive compensation at the New Mexico Supreme Court approved rate of \$6.75 per hour for each hour of service.

Jurors will not receive a W-2 or 1099 at the end of the year if they do not receive over \$600.00 in compensation for jury service. The process of issuing checks may take up to six (6) weeks. **\*\*Notice\*\*** Jurors who request compensation must notify the jury clerk if payment has not been received after six (6) weeks.

## **Public Employees**

Pursuant to the Administrative Office of the Courts' jury guidelines, a public employee, including a state, local government or public school employee **shall not** be personally compensated for jury service during normal working hours, the exception is federal employees who will be paid unless they otherwise notify the court.

## **Meals (Final Deliberation)**

The only time the court may provide meals to jurors when trial is completed and the jury is in final deliberations. You are not required to eat with other jurors except when you are in final deliberations or otherwise restricted by the judge. Court Security will allow jurors to bring in meals, bottled water and other drinks as long as items can be scanned or cleared by Court Security following their protocols.

## **Attire**

Jurors are representatives of the court and should dress comfortably and conservatively in order to avoid distracting others by their attire. Shorts, tank-tops or cutoffs are not considered appropriate attire for a courtroom. Formal dress is not required and men are not required to wear coats and ties.

## **Juror Identification**

Jurors shall be given a juror badge when selected for a jury trial. Jurors are to wear their badges while in the courthouse. If jurors leave the building for lunch or a break, they must remove their badges from public view. Once jurors have been selected for a trial the attorneys and their clients are not allowed to communicate or interact with the jurors.

## **Electronic Devices and Prohibited Items**

Court Security prohibits cellular phones, computers, pagers, recorders, cameras, scissors, knitting needles, needlepoint, crochet hooks, knives, tools, guns and any other item not allowed by their protocol. Attorneys, court officers and occasionally the news media may bring in certain electronic devices at the discretion of the judge or for use in conducting business before the court.

## ***Certificates of Attendance***

Upon request the clerk's office will provide jurors with a certificate of attendance for employers. Employers will be furnished with a juror's specific attendance record upon request to include time reporting to court and time released from court.

## ***Function of Jurors/Types of Cases***

Jurors judge the facts in both criminal and civil cases. In a criminal case a jury determines whether the accused is guilty or not guilty of committing a criminal offense based on a standard of “*beyond a reasonable doubt*.” In a civil case a jury determines disputes involving money, property and other things of value based upon a standard of the “*preponderance of evidence*.” Jurors are called upon to hear both criminal and civil cases.

Criminal cases are brought by the State of New Mexico (District Attorney’s Office), or in some cases, by a city or county, against an individual charged with a crime. The individual is not guilty unless the jury unanimously makes that determination beyond a reasonable doubt.

Civil cases vary somewhat from criminal cases in that the dispute is between individuals, business organizations or governmental entities, such as the state, a county or a municipality. Ordinarily, one party, called the plaintiff, will be making a claim for damages against another party called the defendant. In some instances, the defendant will also make a claim for damages against the plaintiff, call a ***counterclaim***. A third party, called a third-party defendant may also be a party in the action and damages or other relief may be requested from this party. In civil cases the jury determines the amount of money or damages to be awarded based upon the preponderance of evidence.

In both civil and criminal cases after the evidence has been presented, an explanation of the law applicable to the case and other instructions are given to the jury. This is usually followed by ***closing arguments*** or statements by the lawyers. The jury is then asked to ***deliberate*** and reach a verdict in the manner directed by the court.

## ***Juror Responsibilities/Disqualification of Jurors***

Persons selected must not have personal knowledge regarding the facts of the particular case which could influence their decision. In order to reach this objective, the judge and attorneys question the jurors concerning their family relationship with or their personal knowledge of the parties or the attorneys and their personal knowledge of the facts of the case. This is called “*Voir dire*”, meaning “to tell the truth.” If the relationship or knowledge would influence the juror’s decision in the case, the juror is disqualified from serving in the case. The qualification of jurors is one of the most important aspects of any trial, thus making honest and forthright answers to the questions of the judge and attorneys is extremely important. Jurors may be selected or rejected for many and various reasons, none of which reflect upon the individual juror. Jurors should not take it as a personal insult if they are not selected to serve. In the event that the questions asked by the judge or attorneys become offensive, a juror may request permission of the court to refuse to answer or a juror may ask to approach the bench to speak to the judge.

## ***Juror Oath***

Once a jury is selected, each juror is required to take an oath or affirmation that he/she will return a verdict based on the law and evidence as presented in court.

## ***Evidence***

Evidence is usually presented in the courtroom by question and answer. The attorneys or a party will question the witnesses and the answers become the evidence which a juror considers. At times, the court will prohibit a witness from answering to avoid the jury from hearing improper evidence. The lawyers may object to certain evidence and the judge then decides if the evidence may be presented to the jury. The jury should not consider as evidence any statement made by a witness or a lawyer which the judge has ruled to be improper evidence. In listening to testimony, the jury should consider whether or not a witness is truthful. Any documents, photographs or objects admitted into evidence are to be considered in determining the facts along with testimony and other competent evidence which has been

admitted. The jury may also be asked to consider evidence in the form of depositions which are statements made by witnesses prior to trial. These will be read by the parties or attorneys and are just as important as other evidence.

### ***Juror Conduct***

Jurors remain seated throughout the proceedings in court except when requested by the bailiff or the court to stand. The attitude and conduct of each juror throughout the trial is equally as important as that of the judge, parties, attorneys and witnesses. Because the jury has the important duty of deciding the facts and applying those facts to the law applicable to the particular case, it is important that each juror understand the facts and apply the applicable law in order to reach a proper result. It is important that jurors arrive at the time scheduled for the case to begin. Jurors must remain alert throughout the trial. If a juror is unable to hear or see the evidence presented it is the juror's duty to inform the court so appropriate arrangements can be made. **District Court will provide Assistive Listening Devices to anyone who requests them.** Jurors may not discuss the case with anyone including the other jurors (if anyone attempts to discuss the case with a juror, it is the juror's duty to report this to the judge through the bailiff: discussions concerning evidence, witnesses or any aspect of the case with family members or friends are prohibited).

Jurors must avoid news accounts of the trial, whether they are on radio, television, internet, in the newspapers, or other written publications. Jurors may not inspect the scene of the occurrence which is the subject of the trial unless the court specifically makes provision for a view of the scene. (This is important because the place where the incident occurred may be entirely changed from what it was at the time of the occurrence).

Only in rare cases are members of the jury kept away from their home continuously during the trial. Typically jurors can leave to go home at night, but they **cannot discuss the case with anyone, not even a member of their family!**

### ***Deliberations of a Jury***

After the judge has provided the jury with the law applicable to the case, it is the juror's sworn duty to follow the law as explained by the judge and apply it to the facts presented in court. The manner in which the jury deliberates in the jury room is completely within the jury's control. The jurors should first select a foreperson (the foreperson may be either a woman or a man.) Once the foreperson of the jury is selected by the jurors **the foreperson acts as chairperson for the procedural guidance of the jury during its deliberations and to communicate with the court on behalf of the jury.** The foreperson has only one vote and should not be permitted to influence the other jurors any more than any other juror. Each juror's vote should reflect the juror's opinion. No juror should permit himself to be pressured or pushed into a decision. Each juror should carefully consider the opinions and reasons of other jurors and avoid a stubborn attitude in order to prove a point. A juror may not agree with the law as explained by the judge in the instructions to the jury. Any disagreement as to the law should have no effect on the decision of the juror. The jury is not deciding the law, but is determining the true facts. The juror's duty is to carefully listen to the judge, witnesses and lawyers, to deliberate, and deliberate calmly and fairly, and to decide intelligently and justly.

### ***Reaching a Verdict***

In twelve (12) person or six (6) person criminal cases the agreement of all jurors is required to reach a verdict. In civil cases, if the jury consists of twelve (12) persons, ten or more must concur in a verdict. If the jury consists of six (6) persons, five or more must concur in a verdict. After a verdict is reached by the jury, the foreperson should notify the bailiff that the jury is ready to report to the judge.

## ***Questions during Deliberations***

Jurors' questions that cannot be resolved among the jurors may be submitted by a note to the judge through the foreperson setting forth the question. The note should be folded so that it cannot be seen by anyone. It is delivered to the bailiff for delivery to the judge. Jurors should make every effort possible to resolve all questions among themselves in order to avoid any outside influence from anyone including the judge.

## ***Time Spent Waiting***

Jurors may be required to sit and wait for periods of time prior to and during a trial. This time is usually spent by the judge and attorneys considering legal matters necessary for a fair determination of the rights of the persons involved or to save time later on in the proceedings. Oftentimes, however, the judge may be called upon to consider emergency matters. Conflicts in schedules may sometimes develop which result in delays. Please bring a book, magazine, crossword puzzles, newspaper or other form of printed media to peruse during times of inactivity. (The courts are constantly searching for and implementing new ways to eliminate or avoid jurors having to spend unnecessary waiting time. The courts will appreciate any suggestions on how the process may be improved.)

## ***Civic Duty***

You have been summoned to render an important service as a juror. As a juror, you will serve as an officer of the court, along with lawyers and the judges. Trial by jury has long been one of the cornerstones of judicial administration. The right has survived through the centuries as a vigorous and necessary force in the lives of free men and women. The decisions of the jury affect the property rights, and even the life and the liberty of those whose cases come before it. Those chosen for jury service should take pride in performing this most important duty to their country and to their fellow men and women. The proper and efficient functioning of the jury system requires that each juror exercises intelligence, integrity, sound judgment and complete impartiality in the performance of their duty. When you give to the performance of jury service the best combined efforts of your mind, heart and conscience, you will feel that you are making a substantial contribution to the stability and perpetuation of an institution which must be preserved if freedom under a democratic government is to endure.

## ***Terms Jurors Will Hear in Court and Their Meaning***

***Action, Case, Suit, and Lawsuit:*** These words mean the same thing. They all refer to a legal dispute brought into court for trial.

***Answer:*** The paper in which the defendant answers the claims of the plaintiff.

***Bailiff:*** The bailiff is an officer of the court who waits upon the court and the jury and maintains order in the court.

***Civil Case:*** A lawsuit is called a "civil case" when it is between persons in their private capacities or relations, or when the government, whether federal, state or local, or some department thereof, sues an individual under the law, as distinguished from prosecuting a criminal charge. It results generally in a verdict for the plaintiff or the defendant and, in many cases, involves the giving or denying of damages.

***Complaint:*** The document or legal pleading in which the person who brings the lawsuit sets forth allegation, accusations or charges against another person.

***Court Monitor:*** The court monitor records the record for the case. The record is made should an appeal require it.

**Court Reporter:** The court reporter takes down in shorthand or on a machine everything that transpires which constitutes the stenographic record in the case. The notes so made are subject to transcription should occasion, such as an appeal, require it.

**Criminal Case:** A lawsuit is called a “criminal case” when it is between the state on one side, as plaintiff, and a person on the other side, as defendant, charging the defendant with committing a crime, the verdict usually being “guilty” or “not guilty”.

**Cross Examination:** The questions asked by a lawyer to the opposing party or witnesses of the opposing party.

**Defendant:** In a civil case, the defendant is the person against whom the lawsuit is brought. In a criminal case, the defendant is the person charged with an offense.

**Deposition:** Testimony taken under oath in the same manner as during a trial. This is ordinarily done because of illness or absence of a party, or to determine prior to trial how a witness will testify at trial.

**Examination, Direct Examination:** The questions which the lawyer asks the lawyer’s client or the client’s own witnesses.

**Exhibits:** Objects including pictures, books, letters and documents which are produced as evidence in a case.

**Instructions or “Charge to the Jury:** The outline of the rules of law which the jury must follow in their deliberations in deciding the factual issues submitted to them.

**Issue:** A disputed question of fact is referred to as an “issue”. It is sometimes spoken of as one of the “questions” which the jury must answer in order to reach a verdict.

**Jury Panel:** The whole number of prospective jurors from which the trial jury is chosen.

**Objection:** A reason or argument by a lawyer that a question asked or statement made was not proper or in accordance with the law.

**Objection Overruled:** This term means that, in the judge’s opinion, the lawyer’s objection is not proper or correct under the rules of the law. The judge’s ruling, so far as a juror is concerned, is final and may not be questioned.

**Objection Sustained:** When a lawyer objects to a question or the form of a question, the judge may say “objection sustained”. This means that the judge agrees that under the rules of the law, the lawyer’s objection to a statement or a question is proper. This ruling, likewise, is not subject to question by the jurors.

**Opening Statement:** Before introducing any evidence for their side of the case, lawyers are permitted to tell the jury what the case is about and with what evidence they intend to prove their side of the case.

**Parties:** The plaintiff and defendant in the case. They are also sometimes called the “litigants”.

**Plaintiff:** The person who starts a lawsuit.

**Pleadings:** The parties in a lawsuit must file in court papers stating their claims against each other. In a civil case, these usually consist of a complaint filed by the plaintiff, an answer filed by the defendant.

**Record:** This refers to the pleadings, the exhibits and the word-for-word record made by the court of all the proceedings at the trial.

**Rests:** This is a legal phrase which means that the party has concluded the evidence he/she wants to introduce in that stage of the trial.



**Striking Testimony:** On some occasions, after a witness has testified, the judge will order certain evidence deleted from the record and will direct the jury to disregard it. When this is done, the jury will treat this evidence as though it had never been given and will wholly disregard it.

**Subpoena:** The document which is issued for service upon a witness to compel the witness to appear in court.

**Verdict:** The finding made by the jurors on the issues submitted to them in the “verdict”.

### **TIPS FOR COPING AFTER JURY SERVICE**

This section reviews ways to cope with symptoms of distress. Not everyone feels anxiety or increased stress after jury service. However, it may be helpful to be aware of the symptoms if they arise.

#### **Temporary Signs of Distress:**

- Anxiety
- Sleep or appetite changes
- Moodiness
- Physical problems (headaches, stomach aches, etc.)
- Feeling guilty, feat, trouble dealing with issues or topics related to the case
- A desire to be by yourself
- Decreased concentration or memory problems

#### **Techniques for Coping:**

- Talk to family members and friends after the trial is over (**never during the trial when serving as a juror**). One of the best ways to put your jury experience in perspective is to discuss your feelings and reactions with loved ones;
- Maintain your normal daily routines - return to your normal schedule as soon as possible. Don't isolate yourself;
- Prior to leaving the court, get names and telephone numbers of some of your fellow jurors - it may be helpful to talk to people who went through the experience with you. This can help remind you that you were part of a group, and not alone;
- Remember jury service is an unusual experience and you are responding normally;
- Cut down on alcohol, caffeine, and nicotine - substances can increase anxiety, fatigue and make sleep problems worse;
- Sleep problems - increase your daily exercise, but do not exercise before bedtime;
- Do “boring” activities before bedtime;
- Listen to relaxation tapes or relaxing music before bedtime.

#### **Things to Think About:**

- Jury service is the responsibility of good citizens;
- Resist negative thoughts about the verdict;
- No matter what others think about the verdict, your opinion is the only one that matters;
- You don't have to prove yourself to anyone;
- Sometimes it takes a lot of courage to serve on a jury. Cases may be violent and brutal which make them hard to deal with. When the case is over it is important for you to get on with your life;
- If you are fearful of retaliation or if you are threatened after the trial, tell the court and/or law enforcement immediately.

If signs of distress persist for two weeks after jury service has ended, you may wish to contact your physician or a counselor.

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