

Welcome and Oath

- Now that you have been selected as jurors, you need to take another oath. Please stand and raise your right hand and I will administer this oath.
- Do you solemnly swear or affirm that you will well and truly try this case and render a true verdict based upon the evidence and the law? If so, please give me a thumbs up. [State for the record that every juror gave a thumbs up.]
- Now, let's discuss the rules for your participation in this Zoom jury trial.
- You are some of the very first people in the United States to participate in a Zoom jury trial, and we are grateful that you are here.
- We are having Zoom jury trials in part because, on the one hand, parties in lawsuits have a constitutional right to a jury trial, but on the other hand, the public health crisis means that we must take measures to minimize the spread of coronavirus.
- Courts in Washington are actually not covered by the Governor's current order.
- We could require you to come participate in trial in-person, but we're not doing that.
- This means that we must work even harder to give the parties to this lawsuit a fair trial, and you as jurors play a very important role.

Juror Conduct During Zoom Trial

- While this trial is taking place over Zoom, this is still a court hearing.
- I am physically present at the King County Courthouse in Seattle, and these proceedings are being recorded to make an official court record.
- Accordingly, you and all of us must conduct ourselves just as if we were all physically present in court.
- While we are in session, you must give your full, undivided attention to these proceedings. You must not try to multitask. You must not try to work, engage in childcare, or do anything other than provide your full attention to these proceedings. While we are on breaks during the day, you may tend to your personal affairs.

- While we are in session, you should not move about your space. You should remain seated, and should not leave the screen for any reason.
- You should not speak during the proceedings.
- You should not gesture to the court, a witness, or a lawyer on screen during the proceedings.
- Other than as instructed, you should not use the Zoom chat function during the proceedings.

Juror Zoom Rules

- While we are in session, you must always have your video enabled. Please do not turn off your video and switch to a photo or your screen name.
- Relatedly, when you appear, I will change your screen name to your juror number. Please do not attempt to change your screen name.
- While we are in session, you must keep your microphone muted unless you are directed to unmute.
- While we are in session, you must always have your speaker enabled so that you can hear the proceedings.
- While we are in session, you must always have the screen on your device visible so that you can see the proceedings.
- While we are in session, no one else should appear on your screen with you, and no one else should be attempting to view the proceedings using your device.
- We will use the same Zoom link every day.

Juror Security Rules

- Relatedly, you are not to share the link to the Zoom trial with anyone, for any reason.
- The public is allowed to come to the courthouse and observe the proceedings on a screen in the courtroom, but the Zoom link you were provided is not for the public, and should not be shared with anyone, including your family or friends.

Juror Zoom Connection Rules

- If you become disconnected at any time, please attempt to reconnect immediately.
- If you cannot immediately reconnect, please call _____ right away at _____, or email at _____. It is critical that we reconnect you right away, because we cannot continue the proceedings without all jurors present.
- If you have an urgent matter requiring my attention during the proceedings, please email Ms. Marquez at keenan.court@kingcounty.gov.

Schedule

- We will usually start at 9:00 a.m. each day and end at 4:00 p.m. There may be times when I will want to adjust our schedule; I will let you know if I plan to do that.
- At the beginning of the court day, please join the Zoom at least 15 minutes before the trial resumes; generally, that means you should join the Zoom no later than 8:45 a.m.; I will keep you posted.

Virtual Jury Room

- When you join the Zoom in the morning for the resumption of trial, I will put you in the virtual jury room.
- When we are ready to start hearing testimony, I will bring you into the virtual courtroom.
- While you are in the virtual jury room, you are welcome to socialize with the other jurors. However, as I will explain to you in more detail, you may not discuss the facts or the law in this case until you are sent to deliberate on a verdict.
- At times during the trial, I may also send you into the virtual jury room so that I can discuss matters with the lawyers, outside of your presence. You may hear me at times refer to these instances as sidebars.

Breaks

- We will also take breaks during the day.
- Generally, we take a 15-minute break in the middle of the morning, a 90-minute break from 12:00 to 1:30, and a 15-minute break in the middle of the afternoon.
- During breaks, you will be sent to the virtual jury room. You are welcome to attend to your personal affairs during your breaks.
- Please do not leave the Zoom during your breaks.
- You are welcome to turn off your video during your break, but please do not leave the Zoom.
- You should remain logged into the Zoom for the entire trial day.
- At the beginning of a break, I will tell you what time you must return from break; you must not be late, because we cannot resume without all jurors.
- At the end of the break, I will return you from the virtual jury room to the virtual courtroom.

Trial Overview

- I will now say a few words about the role and function each of us plays during a jury trial.
- Jury selection is important but what jurors say in jury selection is not evidence.
- From this point forward, it is essential that all of your decisions be based upon the evidence and the law that come to you in this courtroom and only in this courtroom.
- You must not allow yourself to be exposed to any outside information about this case.
- Do not permit anyone to discuss or comment about it in your presence, and do not remain within hearing of such conversations.
- This includes electronic conversations as well as oral ones.

- You must keep your mind free of outside influences so that your decision will be based entirely on the evidence presented during the trial and on my instructions to you about the law.
- Until you are dismissed at the end of this trial, you must avoid outside sources such as the internet, print publications, radio, or television broadcasts that may discuss this case or issues involved in this trial.
- If you start to hear or read information about anything related to the case, you must act immediately so that you no longer hear or see it.
- By giving this instruction I do not mean to suggest that this particular case is newsworthy; I give this instruction in every case.
- During the trial, do not try to determine on your own what the law is. Do not seek out any evidence on your own.
- Do not consult dictionaries or other reference materials.
- Do not conduct any research into the facts, the issues, or the people involved in this case.
- This means you may not use Google or other internet search engines to look into anything at all related to this case.
- Do not inspect the scene of any event involved in this case.
- If your ordinary travel will result in passing or seeing the location of any event involved in this case, do not stop or try to investigate.
- You must keep your mind clear of anything that is not presented to you in this courtroom.
- During the trial, do not provide information about the case to other people, including any of the lawyers, parties, witnesses, your friends, members of your family, or members of the media.
- If necessary, you may tell people (such as your employer or your child's daycare provider) that you are a juror and let them know when you need to be in court. If

people ask you for more details, you should tell them that you are not allowed to talk about the case until it is over.

- I want to emphasize that the rules prohibiting discussions include your electronic communications.
- You must not send or receive information about anything related to the case by any means, including by text messages, email, telephone, internet chat, blogs, or social networking web sites.
- Do not even mention being on a jury when using social media, such as updating your status on Facebook or sending a message on Twitter.
- You don't want to do anything that will invite others to talk to you about your jury duty.
- In short, do not communicate with anyone, by any means, concerning what you see or hear in the courtroom, and do not try to find out more about anything related to this case, by any means, other than what you learn in the courtroom.
- These rules ensure that the parties will receive a fair trial. If you have any questions about these restrictions, please contact the bailiff.
- If you become exposed to any information other than what you learn in the courtroom, that could be grounds for a mistrial.
- A mistrial would mean that all of the work that you and your fellow jurors put into this trial will be wasted.
- Retrials are costly and burdensome to the parties and the public
- After you have delivered your verdict, you will be free to do any research you choose and to share your experiences with others.
- Throughout this trial, you must come and go directly from the Zoom courtroom and the Zoom jury room.
- Please do not communicate with me, the court staff, or anyone else connected to this case except as directed.

- I have instructed the lawyers, parties, and witnesses not to communicate with you outside of this Zoom courtroom.
- I want to comment on one other aspect of your role and that is the importance of keeping an open mind throughout the various stages of these proceedings.
- First: The lawyers will have an opportunity to make opening statements outlining the testimony of witnesses and other evidence that they expect to be presented during trial.
- The lawyers will appear remotely, over Zoom, from various locations, and with various backgrounds behind them when they appear.
- You are to draw no inferences from a lawyer's location or background when they appear remotely.
- Next: The plaintiff will present the testimony of witnesses or other evidence to you.
- When the plaintiff has finished, the defendant may present the testimony of witnesses or other evidence.
- Each witness may be cross-examined by the other side.
- The witnesses will appear remotely, over Zoom, from various locations, and with various backgrounds behind them when they appear.
- You are to draw no inferences from a witness's location or background when they appear remotely.
- Exhibits will be presented to you on screen, over Zoom, using Zoom's screen sharing function.
- Generally, the parties will use an application called ShareFile, which is an application utilized by the Superior Court Clerk's Office to store exhibits.
- Lawyers for both sides have access to these exhibits.
- Next: When all of the evidence has been presented to you, I will instruct you on what law applies to this case.
- I will read the instructions to you out loud.

- You will have copies of the written instructions with you in the virtual jury room during your deliberations, which we will email to you.
- Next: The lawyers will make closing arguments.
- Finally: You will be sent to the virtual jury room where you will select a presiding juror.
- The presiding juror will preside over your discussions of the case, which are called deliberations.
- You will then deliberate in order to reach a decision, which is called a “verdict.”
- During your deliberations, you must apply the law that I provide to you in my instructions to the facts that you find to have been proven.
- Once you have been sent to deliberate on a verdict, you will be provided electronic access to a folder containing the exhibits admitted into evidence, along with instructions for accessing those exhibits.
- Until you are in deliberations, you must make sure you are maintaining open minds. If you were to form premature opinions about the case, this would interfere with your ability to get the benefit of each of the subsequent stages.
- The attorneys' role is to represent and advocate for the positions of their respective clients.
- The lawyers' remarks, statements, and arguments are intended to help you understand the evidence and apply the law.
- However, the lawyers' statements are not evidence or the law.
- evidence is the testimony and the exhibits.
- The law is contained in my instructions.
- You must disregard anything the lawyers say that is at odds with the evidence or the law in my instructions.
- You may hear objections made by the lawyers during trial.
- Each party has the right to object to questions asked by another lawyer.

- These objections should not influence you.
- Do not make any assumptions or draw any conclusions based on a lawyer's objections.
- When there is an objection, it is my job to rule on it.
- One of my duties as judge is to decide whether or not evidence should be admitted during this trial.
- What this means is that I must decide whether or not you should consider evidence offered by the parties.
- For example, if a party offers a photograph as an exhibit, I will decide whether it is admissible.
- Do not be concerned about the reasons for my rulings.
- You must not consider or discuss any evidence that I do not admit or that I tell you to disregard.
- Our state constitution prohibits a trial judge from making a comment on the evidence.
- For example, it would be improper for me to express my personal opinion about the value of a particular witness's testimony.
- Although I will not intentionally do so, if it appears to you that I have indicated my personal opinion concerning any evidence, you must disregard that opinion entirely.
- The reason for this constitutional rule is that it is solely the role of the jurors to weigh and evaluate the evidence in the case.
- You will be allowed to propose written questions to witnesses after the lawyers have completed their questioning.
- You may ask questions in order to clarify the testimony, but you are not to express any opinion about the testimony or argue with a witness.
- If you ask any questions, remember that your role is that of a neutral fact finder, not an advocate.

- Before I excuse each witness, I will offer you the opportunity to write out questions using the chat function in Zoom.
- I will first send the witness to another virtual room.
- I will then ask you to write out your questions in the chat.
- I will then send you to the virtual jury room while I talk with the lawyers about your questions.
- I will also review the question to determine if it is legally proper.
- I will then return the witness and you to the virtual courtroom.
- There are some questions that I will not ask, or will not ask in the wording submitted by the juror.
- This might happen either due to the rules of evidence or other legal reasons, or because the question is expected to be answered later in the case.
- If I do not ask a juror's question, or if I rephrase it, do not attempt to speculate as to the reasons and do not discuss this circumstance with the other jurors.
- By giving you the opportunity to propose questions, I am not requesting or suggesting that you do so.
- It will often be the case that a lawyer has not asked a question because it is legally objectionable or because a later witness may be addressing that subject.
- All of your questions will be copied from the Zoom chat onto court forms and filed in the court record.
- All proceedings in this trial are recorded through an audio recording system.
- We are not using Zoom's record feature to make the official court record.
- We may record some portions of these proceedings using the Zoom record feature, but only for training purposes.
- Deliberating juries are rarely, if ever, given access to transcripts or recordings of trial testimony. For this reason, you must pay close attention as the testimony is being presented.

- The related point is that you are allowed to take notes during trial. I am not instructing you to take notes, nor am I encouraging you to do so.
- Taking notes may interfere with your ability to listen and observe.
- If you choose to take notes, I must remind you to listen carefully to all testimony and to carefully observe all witnesses.
- While you may take notes concerning the testimony of witnesses and exhibits admitted into evidence, you may not, under any circumstances, for any reason, record any of the proceedings, take photos or screen captures or screen grabs of any of the proceedings, or copy and paste anything from the proceedings.
- You may take notes in any format you would like, whether they are handwritten or on a computer, so long as you ensure that your note taking does not interfere with your ability to listen to and observe the witness and exhibited admitted into evidence.
- However, during breaks, and when court is not in session, you must not read your notes.
- In addition, you must not discuss your notes with anyone or show your notes to anyone until you begin deliberating on your verdict.
- This includes other jurors. During deliberation, you may discuss your notes with the other jurors or show your notes to them.
- You are not to assume that your notes are necessarily more accurate than your memory.
- We allow you to take notes to assist you in remembering clearly, not to substitute for your memory.
- You are also not to assume that your notes are more accurate than the memories or notes of the other jurors.
- After you have reached a verdict, you must destroy your notes, whether by disposing of your handwritten notes or deleting your electronic notes.
- No one should be allowed to read them.

- Having taken your oath as jurors, you are now what the law calls officers of this court.
- As such, you must not let your emotions overcome your rational thought process.
- You must decide the case solely on the evidence and the law before you and must not be influenced by any personal likes or dislikes, opinions, prejudices, sympathy, or biases, including unconscious bias.
- Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention.
- Like conscious bias, unconscious bias, too, can affect how we evaluate information and make decisions.
- To assure that all parties receive a fair trial, you must act impartially with an earnest desire to reach a just and proper verdict.
- Thank you for your willingness to serve this court and our system of justice.

Zoom Practice

- Before we proceed to opening statement, let's practice some of the functions we'll use in Zoom during this trial.
- First, let's practice using the virtual jury room and how you ask for help.
- In a moment, I will send all of you to the virtual jury room.
- Once you are in the virtual jury room, please do not attempt to leave the jury room.
- Once you are there, I want Juror # 1 to use the Ask for Help button to test that feature. That will alert us that you need assistance.
- So I'm going to send you briefly to the virtual jury room now, and once there, Juror # 1 should use the Ask for Help button.
- Now, let's practice using the chat function to ask questions.
 - Each of you please type into the chat the following question: "What time is our first break?"