

STANDARD REMARKS TO JURORS (CIVIL)

Remarks to Jurors Before Selection of Jury in a Specific Case

Source: NORTH CAROLINA TRIAL JUDGES' BENCH BOOK, SUPERIOR COURT, VOL. 2 (Civil), Appendix, Pretrial and Trial Section at pp. 27-28 (3rd ed.) (Institute of Government 1999)

I address myself now to all of you who have been selected and sworn to serve as jurors at this civil session of Superior Court in _____ County.

The Court has now called for trial the case(s) entitled [name plaintiff], plaintiff, versus [name defendant]. defendant.

The plaintiff and the defendant are the parties in this case.

The plaintiff in the case is [name plaintiff], who is seated [identify where plaintiff is seated].

The plaintiff's lawyer is [name lawyer], who is seated [identify where lawyer is seated].

The defendant in this case is [name defendant], who is seated [identify where defendant is seated].

The defendant's lawyer is [name lawyer], who is seated [identify where lawyer is seated].

This case is a civil action; that is, it is a dispute or disagreement between the plaintiff and the defendant. The case arises out of [describe nature of dispute].

The plaintiff seeks in this case [describe relief plaintiff is requesting].

The defendant, on the other hand, [describe defendant's position].

The parties are now prepared to select a jury of twelve persons who will sit in this case.

After a jury has been selected and impaneled in this case, you will hear the evidence. The evidence is presented according to certain rules of law. The judge enforces those rules and determines what evidence may be admitted.

After all of the evidence has been presented and after you have listened to the arguments of counsel, I will instruct you as to all of the law that you are to apply to the evidence in this case. It is your duty to apply the law as I will give it to you, and not as you think the law is, or as you might like it to be. This is important because justice requires that the law be applied uniformly to all parties in every county of our State.

At this point you are not expected to know the law. Counsel should not question you about the law except to ask whether you will accept and follow the law as given by the court.

Jurors in a civil case are the triers of fact — that is, it is the duty of a juror to decide what the facts are. Once you decide what the facts are, you must then apply to those facts the law which I will give you in my charge or instructions.

Your verdict in a civil action, such as this one, takes the form of answers to certain written questions or issues. I will submit these issues to you in my charge or instructions, which I will give you after you have heard all the evidence and after the attorneys have made their final arguments. At that time, I will discuss each issue with you and will explain the law that you will consider as you deliberate upon your verdict. As to each issue, I will tell you which party — the plaintiff or the defendant — has the “burden of proof.” The party having the burden of proof on a particular issue is required to prove, by the greater weight of the evidence, the existence of those facts which entitle the party having the burden of proof to a favorable answer to the issue.

[The greater weight of the evidence does not refer to the quantity so much as it does to the quality and convincing force of the evidence. It means that you must be persuaded, considering all of the evidence, that the necessary facts are more likely than not to exist. If you are so persuaded, it is your duty to answer the issue in favor of the party with the burden of proof. If you are not so persuaded, or if you are unable to

determine where the truth lies, it is then your duty to answer the issue against the party with the burden of proof.]

(At this point the court may wish to initiate questioning of the jurors concerning their fitness and competency to serve.)

Now, ladies and gentlemen, the lawyer for the plaintiff and the lawyer for the defendant are going to have the opportunity to ask you certain questions concerning your service as jurors in this case. I would request, counsel, that each of you be discreet in the questions you ask and that questions be asked of the entire panel collectively whenever possible.

The jurors are with the plaintiff.