

APPENDIX A

**AMENDED PLAN
OF THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF GEORGIA, ALL DIVISIONS,
FOR THE
RANDOM SELECTION OF GRAND AND PETIT JURORS**

**AMENDED PLAN OF THE
UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA, ALL DIVISIONS,
FOR THE RANDOM SELECTION OF
GRAND AND PETIT JURORS**

This plan for the random selection of grand and petit jurors, amended as of May 1, 2017, is adopted, subject to the approval of the Reviewing Panel of the Eleventh Circuit Judicial Council, to become effective on the date of approval.

The previous plan by this Court, amended as of October 27, 2016, is revoked and rescinded upon the effective date of this amended plan.

I. APPLICABILITY OF PLAN

This plan is applicable to the Northern District of Georgia, which consists of four divisions encompassing 46 counties as follows:

1. **Atlanta Division:** Cherokee, Clayton, Cobb, DeKalb, Douglas, Fulton, Gwinnett, Henry, Newton, and Rockdale.
2. **Gainesville Division:** Banks, Barrow, Dawson, Fannin, Forsyth, Gilmer, Habersham, Hall, Jackson, Lumpkin, Pickens, Rabun, Stephens, Towns, Union, and White.
3. **Newnan Division:** Carroll, Coweta, Fayette, Haralson, Heard, Meriwether, Pike, Spalding, and Troup
4. **Rome Division:** Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield.

The provisions of this plan apply to all divisions in the district.

II. POLICY

This plan is adopted pursuant to and in recognition of the Congressional policies and objectives declared in Title 28, United States Code, as follows:

Section 1861 - - Declaration of policy:

It is the policy of the United States that all litigants in Federal courts 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 or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on the grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

Section 1862 - - Discrimination prohibited:

No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States or in the Court of International Trade on account of race, color, religion, sex, national origin, or economic status.

III. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

There will be no jury commission in this district. The Clerk of the Court will manage the jury selection process under the supervision and control of the Chief Judge or such other district judge or judges as the Chief Judge may from time to time designate. In the event of the simultaneous absence, disability, or inability to act, of the Chief Judge and any other judges designated, the active district court judge who is present in the district and has been in service the greatest length of time is authorized to act. The use of the word "Clerk" in this plan contemplates the Clerk of Court and any or all deputies and any other person authorized by the Court to assist the Clerk in the performance of functions under this plan.

IV. OVERVIEW AND NOTICE OF RANDOM AUTOMATED DRAWING OF NAMES

Pursuant to 28 U.S.C. § 1861, all litigants "have the right to grand and petit jurors selected at random from a fair cross section of the community." The Court uses a two-step process to select jurors. A master jury wheel is created by selecting names at random from voter registration lists. Names are randomly drawn periodically from the master jury wheel to receive juror qualification forms. Individuals' responses on these forms determine whether they are legally qualified to serve, and the names of those persons who are legally qualified to serve are put in the qualified jury wheel.

As prospective jurors are needed for petit or grand juries, juror summonses are sent to persons randomly selected from the qualified jury wheel. All of these selections are

carried out through a properly programmed electronic data processing system for pure randomized selection. The pure randomized selection process ensures that the mathematical odds of any single name being picked are substantially equal.

V. DEVELOPMENT OF MASTER JURY WHEEL BY RANDOM SELECTION FROM VOTER REGISTRATION LISTS

Voter registration lists represent a fair cross section of the community in each division of the Northern District of Georgia. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan must be selected at random from voter registration lists of all the counties in, respectively, the district and the relevant division.

The Clerk must maintain a master jury wheel for the district which denotes each of the four divisions within it. The Clerk must make the random selection of names for the master jury wheel as follows. At a minimum, the Clerk must select for the master jury wheel for each division approximately the following number of names:

Atlanta Division:	60,000
Gainesville Division:	5,000
Newnan Division:	5,000
Rome Division:	12,000

These numbers allow for the possibility that some prospective jurors will not return their qualification forms, may be exempt by law or excused, and may not meet the statutory qualifications. The Chief Judge of this district may order additional names to be placed in the master jury wheel from time to time as necessary. If the above numbers are less than one-half of one percent of the total number of registered voters for the division, the Court concludes that such percentage number of names is unnecessary and cumbersome.

The Clerk must ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For instance, if there are 600,000 registered voters in the Atlanta Division, that number will be divided by 60,000 producing the quotient of 10. Then, the Clerk must draw at random a number not less than 1 and not greater than 10, and that name will be selected from the voter registration list of each county in that division along with each 10th name thereafter. Thus, if the starting number is 8, the 8th, 18th, 28th, 38th, etc. names will be picked from the voter registration list of each county of that division. This process may be performed electronically.

A new master jury wheel must be built between the date of the November general election and the following September 1st, every four (4) years. The old master jury wheel must be deactivated and a new master jury wheel activated on September 1st.

This plan is based on the conclusion and judgment that the policy, purpose, and intent of the Jury Selection and Service Act of 1968, as amended, will be fully accomplished and implemented by the use of voter registration lists, as supplemented by the inclusion of subsequent registrants to the latest practicable date, as the source of an at random selection of prospective grand and petit jurors who represent a fair cross-section of the community. This determination is supported by all the information this Court has been able to obtain after diligent effort and inquiry.

As required by the Judicial Conference of the United States, and in accordance with instructions of the Administrative Office of the United States Courts, a report will be prepared and maintained in the Jury Office of this Court after each periodic refilling of the master jury wheel, on forms approved by the Judicial Conference, furnishing the required statistical sampling data relating to the refilling of the master and qualified jury wheels of the district.

VI. USE OF NON-COURT PERSONNEL IN THE JUROR QUALIFICATION AND SELECTION PROCESS

The Court finds that it may be necessary, or otherwise advantageous, for the Clerk to secure the services of non-court personnel to assist in the juror qualification and selection process. Such non-court personnel may include, but are not limited to:

- (1) State elections officials, and their employees, responsible for custody and maintenance of voter registration lists;
- (2) Operators of automated data processing and optical scanning facilities and their employees and/or agents; and
- (3) Other administrative or clerical persons whose services may be necessary to select, process, and/or mail the various documents and records involved in the juror qualification and selection process.

If the Clerk determines that it is necessary to secure the services of such non-court personnel, the Clerk must, at a minimum:

- (1) Issue written instructions to the individual(s) describing the operations or activities to be conducted;
- (2) Require non-court personnel to execute an affidavit, under penalty of perjury, certifying compliance with the written instructions; and

- (3) Receive the written instructions and affidavit into the jury records of the Court.

VII. RANDOM DRAWING OF NAMES FROM THE MASTER JURY WHEEL AND COMPLETION OF JUROR QUALIFICATION FORM

Consistent with 28 U.S.C. § 1864, as amended, this plan incorporates the following provisions:

(a) From time to time as directed by the district court, the Clerk or a district judge shall draw at random from the master jury wheel the names of as many persons as may be required for jury service. The Clerk shall post a general notice for public review in the Clerk's office and on the Court's website explaining the process by which names are periodically and randomly drawn. The Clerk may, upon order of the Court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except as allowed by this plan or pursuant to 28 U.S.C. § 1867 or 1868. The Clerk shall mail to every person whose name is drawn from the master jury wheel a notice accompanied by instructions to complete the juror qualification form online through the Court's website within ten days or to request a paper form to be completed and returned, duly signed and sworn, to the Clerk by mail within ten days. If the person is unable to fill out the form, another shall do it and shall indicate that he or she has done so and the reason. In any case in which it appears that there is an omission, ambiguity, or error in a form, the Clerk must return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the Clerk within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the Clerk to appear before the Clerk to fill out a juror qualification form. At the time of appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the Clerk or the Court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his or her responses to questions contained on the form. Any information thus acquired by the Clerk may be noted on the juror qualification form and transmitted to the Chief Judge or another district court judge.

(b) Any person summoned pursuant to 28 U.S.C. § 1864(a) who fails to appear as directed shall be ordered by the district court to appear and show cause for his or her failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

VIII. METHOD AND MANNER OF RANDOM SELECTION

At the Clerk's option, and after consultation with the Court, the selection of names from complete source list databases 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 Court, a properly programmed electronic data processing system for pure 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 wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master jury wheel by data computer personnel must ensure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). The selections of names from the source list, the master jury wheel, and the qualified jury wheel must also ensure that the mathematical odds of any single name being picked are substantially equal.

IX. QUALIFIED JURY WHEEL

The Clerk must also maintain one qualified jury wheel which includes each division in the district and must place in the qualified jury wheel the names of all persons drawn at random from the master jury wheel and not disqualified under Section X or exempt under Section XI. The Clerk must ensure that at all times at least 300 names for each division are contained in each such qualified jury wheel. The qualified jury wheel for the district must be deactivated when the master jury wheel for the district is deactivated. The new qualified jury wheel may be refilled in one drawing or in increments, but each qualified jury wheel must always contain no fewer than 300 names for each division.

Should it appear that a person mailed a juror qualification form as outlined in Section VII(a) has changed residence from one division of the Court to another division of the Court, the Clerk must provide that juror's qualification form to the duty judge for excusal.

X. DISQUALIFICATION FROM JURY SERVICE AND EXCUSE DUE TO AGE

Consistent with 28 U.S.C. § 1865, as amended, this plan incorporates the following provisions:

(a) The Clerk under supervision of the Court shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for or exempt from jury service. The Clerk shall enter such

determination in the juror's record in the Court's electronic system or in another appropriate written format.

(b) In making such determination, the Clerk shall deem any person qualified to serve on grand and petit juries in the district court unless the person -

(1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial 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 (If a person answers yes to the questions asking whether he or she has the ability to read, write, speak, or understand the English language but the person provides freeform remarks that qualify his or her ability, the Clerk must forward the juror qualification form to the duty judge to determine whether the person should be disqualified from jury service.);

(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(5) has a charge pending against him or 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 or her civil rights have not been restored.

The names of persons found to be disqualified under subsections (b)(1)-(5) above will not be placed in the qualified jury wheel.

In addition, the Clerk will not place in the qualified jury wheel a person who is over 70 years of age at the time of executing the juror qualification form and who indicates on the form that the person wishes to be excused.

XI. EXEMPTION FROM JURY SERVICE

Pursuant to 28 U.S.C. § 1863(b)(6), the following persons are barred from jury service on the ground that they are exempt:

(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

(3) public officers in the executive, legislative, or judicial branches of the Government of the United States, or 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, who are actively engaged in the performance of official duties (public officer means a person who is either elected to public office or who is directly appointed by a person elected to public office).

The Clerk under the supervision of the Court will determine whether a person is exempt from jury service. The names of persons found to be exempt under this section will not be placed in the qualified jury wheel.

XII. DRAWING OF NAMES FROM THE QUALIFIED JURY WHEEL, ASSIGNMENT TO GRAND AND PETIT JURY PANELS, AND DISCLOSURE

From time to time the Clerk, if so ordered by the Court, must draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand or petit jury panels, and the Clerk must prepare a separate list of names of persons assigned to each grand and petit jury panel. The Clerk may disclose the names of persons assigned to petit jury panels to the parties at the time the case is called for trial; provided, however, that the Court may at any time order that these names be kept confidential in any case where the interests of justice so require. The Clerk and the parties must not disclose the names to the public in the absence of an order of the Court. The Clerk must post a general notice for public review in the Clerk's Office and on the Court's website explaining the process by which names are periodically and randomly drawn.

If a summoned juror has changed residence from one division of the Court to another division of the Court subsequent to the establishment of the division qualified jury wheel, that juror will be excused by the Clerk under the supervision of the Court.

Inasmuch as the grand juries of the Northern District of Georgia function on a district-wide basis, they must be drawn by the Court, or the Clerk if so ordered by the Court, by drawing names at random from the qualified jury wheel for each division in the district in approximately the same proportion as the number of registered voters for each division reflected in the voter registration data used to prepare the master jury wheel from which each division qualified wheel was created. The names so drawn will be pooled and will constitute the grand jurors to report for duty. Jurors summoned to serve and report for service on a grand jury panel who do not request excusal, and who are not selected to serve on a grand jury because there is an excess of jurors over the number required to impanel the grand jury, will be excused by the Clerk under the supervision of

the Court. Except as otherwise ordered by the Court, said jurors will be permanently excused from service.

Any person summoned for jury service who fails to appear as directed will be ordered by the district court to appear forthwith and show cause for failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof (28 U.S.C. § 1866 (g)).

XIII. EXCUSES ON INDIVIDUAL REQUEST

This Court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof and that their excuse will not be inconsistent with 28 U.S.C. §§ 1861 and 1862. After a person is summoned, the Court will excuse members of these occupational classes or groups of persons from jury service upon individual request upon determination that such excuse is valid:

- (1) any person who served as a grand or petit juror in a federal court during the two years immediately preceding the call to serve (attendance at court to serve as a prospective petit juror or a grand juror qualifies as service for purposes of this section);
- (2) persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service;
- (3) a person who is essential to the care of aged or infirm persons;
- (4) all persons over 70 years of age;
- (5) volunteer safety personnel (individuals serving a public agency in an official capacity, without compensation, as fire fighters or members of a rescue squad or ambulance crew);
- (6) persons with a grave medical condition or physical disability (a doctor's statement or disability statement from the Social Security Administration must accompany the request);
- (7) persons who have moved out of the district; and
- (8) deceased persons (written notice to the Court must come from a guardian, spouse, or estate administrator).

XIV. DEFERMENTS

Pursuant to the provisions of the Federal Courts Improvement Act of 2000, which amended 28 U.S. Code § 1865 (a) and (b), the Clerk is hereby delegated authority to receive written requests for hardship deferral from summoned jurors. The Clerk under the supervision of the Court is authorized to grant deferments to a future date. The Clerk must maintain a record of all requests for deferment and the action taken.

XV. JURY RECORDS MAINTAINED BY THE CLERK

The Clerk must retain and, when requested, provide public access to the following documents:

(1) the Court's "Amended Plan . . . for the Random Selection of Grand and Petit Jurors" including a description of the method used in determining the pure randomized selection process;

(2) a verbal or graphically charted description of the procedure employed in the automated selection system;

(3) a copy of the Court's authorization and instruction order to the person or computer service organization which carries out automated name selection tasks for the Court;

(4) a copy of the Court's orders to draw jurors from both the master and qualified jury wheels; and

(5) a copy of the general notice posted in the Clerk's Office and on the Court's website and original orders indicating by whom drawn, by whom witnessed, and number drawn.

Except for items (1) through (5) immediately above and except as may be necessary in the preparation or presentation of a motion under subsections (a), (b), or (c) of 28 U.S.C. § 1867, the contents of records or papers used by the Clerk in connection with the jury selection process must not be disclosed during the life of the master jury wheel. The contents of records or papers used by the Clerk in connection with the jury selection process during past jury wheels may be disclosed only upon an order of the Chief Judge.

XVI. PENALTIES FOR EMPLOYERS WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY

This plan hereby incorporates 28 U.S.C. § 1875(a), as amended, which states that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This plan also incorporates 28 U.S.C. § 1875(b), which imposes, among other things, up to a \$5,000 civil penalty for each violation as to each employee. In addition, an employer who commits a violation may be ordered to perform community service.

XVII. PROCEDURES FOR PERIODIC REVIEW OF THIS JURY PLAN

The Clerk must review the jury plan for compliance with all statutory requirements (including requirements contained in 28 U.S.C. §§ 1863, 1865, 1866, 1867, and 1878) and Judicial Conference rules and regulations. This review must be conducted prior to the time each master jury wheel is emptied and refilled and at any other time as directed by the Clerk.

Completion of the review must be documented by a memorandum or similar document that includes, at a minimum, the date of the review and its results. The documentation must be maintained in the wheel rebuild file for future reference.

XVIII. IMPLEMENTATION OF THIS PLAN

Work toward implementing this plan must begin as soon as practicable after its approval by a reviewing panel consisting of the members of the Judicial Council of the Eleventh Circuit and the Chief Judge of this Court, or such District Judge(s) as may be designated by the Chief Judge; and this plan will take effect upon approval by the Reviewing Panel of the Judicial Council of the Eleventh Circuit.