

PLAN OF THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

1. Adoption of Plan; Revocation and Rescission of Prior Plan

Upon approval by the Reviewing Panel of the U.S. Court of Appeals for the Eleventh Circuit, the jury plan heretofore adopted by this Court for the random selection of grand and petit jurors filed with this Court on November 1, 2001, is hereby revoked and rescinded, and the following plan is hereby adopted.

2. Declaration of Policy

- a. It is the policy of the United States District Court for the Middle District of Alabama (the "Court") that all litigants in this Court entitled to trial by jury shall have the right to petit juries selected at random from a fair cross section of the community in the Division in which a case is filed.
- b. It is further the policy of the Court that all citizens shall have the opportunity to be considered for service on grand and petit juries of the Court and shall have an obligation to serve as jurors when summoned for that purpose.
- c. No citizen shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin, or economic status.
- d. Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861, et seq., (the "Act"), the following Jury Selection Plan (this "Plan") is hereby adopted by this Court.

3. Applicability of Plan

This Plan applies to the Middle District of Alabama (the "District"), which consists of three Divisions: (1) The Northern Division comprises the Counties of Autauga, Barbour, Bullock, Butler, Chilton, Coosa, Covington, Crenshaw, Elmore, Lowndes, Montgomery and Pike; (2) The Eastern Division comprises the Counties of Chambers, Lee, Macon, Randolph, Russell, and Tallapoosa; and (3) The Southern

Division comprises the Counties of Coffee, Dale, Geneva, Henry, and Houston.

4. Management and Supervision of Jury Selection Process

Pursuant to 28 U.S.C. § 1863(b)(1), this Plan authorizes the Clerk of the Court and designated deputies to manage the jury selection process. In so doing, the Clerk and the Clerk's deputies shall act under the supervision and control of the Chief Judge of the District Court.

5. Random Selection from Sources of Names of Citizens

Registration of citizens eligible to vote is uniformly conducted throughout the District. A random selection of a fair cross section of the citizens residing in the Counties of the Divisions of the District can be made from the active voter registration lists in the various Counties of the Divisions which comprise the District. To foster the policy and protect the rights secured by sections 1861 and 1862 of the Act, names of jurors shall be selected at random from the active voter registration lists of the Counties that comprise the District. Notwithstanding the foregoing, and pursuant to 28 U.S.C. §§ 1863(b)(2) in order to ensure the random selection of a fair cross section of the persons residing in the District, the Court may order that an appropriate supplemental source or sources of names be used.

6. Random Selection by Electronic Data Processing System

The selection of names from complete source list databases in electronic media for the Master Jury Wheel shall be accomplished by a randomized process through a properly programmed electronic data processing system. Similarly, a properly programmed electronic data processing system for randomized selection shall 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 must insure 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).

7. Master Jury Wheel

- a. Establishment. The Clerk shall establish and maintain the Master Jury Wheel for the District. The minimum number of names for the Master Jury Wheel shall be not less than five percent of the total number of active registered voters in the District.
- b. Maintenance. The Court finds it advantageous to use electronic data processing to perform clerical duties related to the jury selection system. The Court authorizes the Clerk to take such steps as are necessary to establish the Master Jury Wheel and administer the jury system including but not limited to the following:
 - i. Selection of names from a source list or lists for inclusion in the Master Jury Wheel;
 - ii. Selection of names from the Master Jury Wheel for automatic addressing of jury questionnaires;
 - iii. Selection of names from the Qualified Jury Wheel for issuance to jurors of letters, summonses, or other notices to appear;
 - iv. Storing of names and addresses in the Master Jury Wheel, or names and addresses in the Qualified Jury Wheel, in such forms as may be required;
 - v. Preparation of lists of juror names and other records as are needed or required by law.

8. Procedure for Random Selection For Master Wheel

Described in this Plan is the procedure for electronic data processing for random selection of names for the Master Jury Wheel which the Court finds will result in the drawing of names representing a fair cross section of all parts of the District. According to this procedure, applicable to the initial drawing as well as such additional drawings as may from time to time be necessary, the names selected shall be from the active voters' files as maintained by the State of Alabama or the Registrar of Voters for each County and such other sources as the court from time-to-time may direct, according to the random process set forth in Section 6 of this Plan. Thus selected, the names from each County comprising the Divisions for

which the Master Jury Wheel is being established shall be merged into a single, combined file, referred to as a "Master Jury Wheel." When directed by the court, the Clerk shall mail juror qualification questionnaires to the persons whose names appear on the Master Jury Wheel as described in this Plan. The names of persons found qualified to serve as jurors, based upon their response to the juror qualification questionnaire, shall be transferred to a "Qualified Jury Wheel," as described in this Plan. As jurors are required to meet the needs of the Court, they shall be summoned to appear, on a random basis from the Qualified Jury Wheel.

9. General Requirements of Master Jury Wheel

- a. The Master Jury Wheel currently in full force and effect shall be emptied and refilled every four years not later than the first of September of the year following a general presidential election year. The Court may order that the Master Jury Wheel be refilled more frequently but not more than once every two years. Once the Master Jury Wheel has been refilled, the Qualified Jury Wheel shall also be emptied and refilled with those qualified jurors from the newly filled Master Jury Wheel.
- b. The Chief Judge of the Court, or any other Judge designated by the Chief Judge, may order additional names to be placed in the Master Jury Wheel as necessary from time to time.

10. Drawing Names from the Master Jury Wheel

- a. From time to time, as required, the Clerk, after reasonable public notice, shall publicly draw at random from the Master Jury Wheel by electronic data processing procedures authorized by this plan, the names and addresses of persons to whom questionnaires will be sent for the purpose of examining their qualifications for jury service.
- b. The Clerk shall then prepare a list of the names drawn, which list shall not be disclosed to any person except on order of the Court or pursuant to 28 U.S.C. §§ 1867 and 1868. The Clerk shall mail to every person whose name is drawn from the Master Jury Wheel a juror qualification questionnaire accompanied by instructions to complete and return it to the Clerk by mail within 10 days.

- c. The juror qualification questionnaire required by 28 U.S.C. §§ 1864(a) and 1869(h) shall be in the form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

11. Authorization to Determine Qualifications, Excuses, and Exemptions

The Court hereby authorizes the Clerk of the Court under the supervision of the Court to determine juror qualifications, exemptions or excuses, pursuant to the provisions of 28 U.S.C. § 1865.

12. Qualification of Jurors

- a. Upon receipt of completed juror qualification questionnaires, the Clerk shall review the questionnaires and all persons found to be disqualified, exempted or excused from service as jurors shall be excluded from the Qualified Jury Wheel.
- b. If a person is not disqualified, exempted, excused or otherwise ineligible for service for one of the reasons enumerated in this plan, persons selected for inclusion in a Qualified Jury Wheel shall be presumed qualified for service.
- c. In accordance with the provisions of 28 U.S.C. § 1865(b), any citizen of the United States who has reached the age of 18 years and has resided for a period of one year within the District shall be deemed qualified to serve on grand or petit juries unless he or she:
 - i. is unable to read, write or understand the English language with a degree of proficiency sufficient to satisfactorily complete the juror qualification questionnaire;
 - ii. is unable to speak the English language;
 - iii. is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
 - iv. 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.

- d. Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to appropriate election officials for verifying voter registration eligibility.

13. Exemption from Jury Service

As required by the Act, 28 U.S.C. § 1863(b)(6), the following persons are exempted from jury service; provided, however, that should the exemptions set forth in 28 U.S.C. § 1863(b)(6) be changed, modified or amended, this plan is hereby amended without further action to conform to those changes, modifications or amendments:

- a. members in active service in the armed forces of the United States;
- b. members of the fire or police departments of the state, or subdivision thereof;
- c. public officers in the executive, legislative, or judicial branches of the government of the United States, or the state, or subdivision thereof, who are actively engaged in the performance of official duties. (The term "public officer" shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.)

14. Individual Requests for Excuse

- a. Statutory Authority. Pursuant to 28 U.S.C. § 1863(5)(A), this Plan specifies, those groups of persons or occupational classes whose members shall, upon an individual request, be excused from jury service. Pursuant to 28 U.S.C. § 1866 (c), persons summoned for jury service may be excused by a Judge of this Court or the Clerk upon a showing of undue hardship or extreme inconvenience. Based upon this statutory authority, this Plan provides that the Clerk of the Court is authorized to excuse persons summoned for jury service for undue hardship or extreme inconvenience, or any other factor which the Court has specified in this Plan. The Court finds that this delegation of authority to the Clerk, and designated deputies, is consistent with the intent of 28 U.S.C. § 1869(j), which defines undue

hardship or extreme inconvenience as factors which the Court has determined warrant excuse. The statute reads in pertinent part as follows:

“[U]ndue hardship or extreme inconvenience,” as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or travel time, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service.

- b. Excuse of Occupational Classes or Groups. The Court hereby finds that jury service by members of the following occupational classes or groups of persons may entail undue hardship or extreme inconvenience to members thereof, that excuse of such members is not inconsistent with the Act, and that such persons shall be granted an excuse from service upon individual request:
- i. Persons over 70 years of age;
 - ii. 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; or a person who is essential to the care of an aged or infirm person;
 - iii. Any person who has served as a grand or petit juror in a state or federal court prior to his or her current call within the past two years; and
 - iv. Pursuant to U.S.C. §1863(b)(5)(B), public agency volunteer safety personnel, e.g., persons who in an official capacity serve without

compensation as firefighters, members of a rescue squad or ambulance crew.

- c. Excuses on Individual Request. Any judge or the Clerk of the Court may excuse any person summoned for grand or petit jury service when it is determined that service by the person would entail undue hardship or extreme inconvenience as defined in 28 U.S.C. § 1869(j), for such period as is deemed necessary. At the discretion of a judge, the name of an excused person shall be returned to the Qualified Jury Wheel. A person summoned for service may request in writing an excuse prior to reporting or may make a request for excuse before a judge in open court. Written requests should be addressed to the Clerk of the Court and set forth the reason or reasons why service would cause undue hardship or extreme inconvenience. The Clerk of the Court shall maintain a record of all requests for excuse and the action taken. The Clerk of the Court shall inform a person granted a temporary excuse that she or he will be subject to subsequent random selection for jury service.

- d. Service By Persons Excused. If a person summoned for jury service is granted a temporary excuse for a period of time, upon the expiration of that period of time, the person shall be subject to jury service as set forth in this section.
 - i. Temporarily excused jurors whose period of excuse has expired shall be subject to being summoned on a random basis for service as a juror.
 - ii. The methods employed to comply with the requirement that temporarily excused jurors are summoned for jury service at the end of the period of excuse shall insure that these persons are not given any preference over any other person with respect to the final compilation of the lists from which jurors will be selected for service as a juror.

15. Qualified Jury Wheel

The names of those persons deemed qualified shall be placed in the Qualified Jury Wheel comprising the three Divisions of this Court. Names of prospective jurors

shall be drawn on a random basis from the Qualified Jury Wheel according to Section 6 of this Plan. The prospective jurors whose names have been drawn shall be summoned to appear for a time certain as may be designated by the Chief Judge or such other Judge of the Court as the Chief Judge may designate. The Clerk of the Court shall give these prospective jurors appropriate instructions concerning service as jurors. The Clerk of the Court shall assure that at all times in the Qualified Wheel there are not less than 600 names from the Northern Division and 200 names from the Eastern and Southern Divisions, respectively.

16. Selection of Petit Jurors

- a. Petit juror selection through summons or notice from a Qualified Jury Wheel shall be as needed by the Court. Whenever required, the Clerk shall draw by a random process as authorized by this Plan names from the Qualified Jury Wheel for service as petit jurors.
- b. Jury trials shall be held in the division in which the case is filed, and petit jurors from the division shall be drawn from the Qualified Jury Wheel. If for reasons of security or other good cause, a presiding judge determines that a case will be tried in Montgomery, the jurors for that petit jury shall be drawn from the Division in which the case is filed. Upon motion of the parties or upon the court's own motion, a presiding judge may direct that the names of petit jurors be drawn randomly from the division in which the trial is held or from the District at large without regard to divisional proportionality.
- c. The names placed in the Qualified Jury Wheel shall not be made public except upon order of the Court for good cause shown.
- d. The lists of names so drawn shall not be exhibited to any person except as provided herein and in 28 U.S.C. §§ 1867 and 1868, as amended. While the drawing shall be public, the actual names so drawn shall not be disclosed to the public until after the jury panel has been qualified and sworn in open court. However, except in instances where there is a pro-se litigant, names of prospective jurors along with juror profiles shall be made available to counsel prior to trial, in such manner and at such time as the Court directs. The names of prospective jurors will be made available in pro-se litigant cases on the day of jury selection in such manner and at such time as the Court directs. However, any judge of this Court may order the names of and information about jurors to be kept confidential in a case or cases where the

interest of justice so requires.

- e. Names of petit jurors who are called but who are not needed or not chosen for actual service shall be excused for one year and then placed back into the Qualified Jury Wheel.

17. Selection of Grand Jurors

- a. Whenever required, the Clerk shall draw by a random process as authorized by this Plan names from the Qualified Jury Wheel proportionately by Division for service as grand jurors.
- b. The names of grand jurors chosen and sworn shall not be made public unless the interests of justice require otherwise. No name of a grand juror shall be made public unless authorized by a written order of the Court.
- c. At such times as may be appropriate to the needs of the Court, the Chief Judge, or such other Judge as the Chief Judge may designate, may order that additional names for grand jury service shall be drawn from the Qualified Jury Wheel.
- d. Upon the discharge of a grand jury, the persons called to serve thereon shall not again be called for jury duty until the Master Jury Wheel is emptied and again refilled.

18. Disclosure and Maintenance of Records

- a. The contents of records or papers used by the Clerk in connection with the jury selection process shall not be disclosed to anyone except Court personnel at any time without the express consent of the Chief Judge, except pursuant to 28 U.S.C. §§ 1867(f) and 1868.
- b. The Court may order the names to be kept confidential in a case or cases where the interest of justice so requires. The names of persons chosen to serve as grand jurors in this District shall remain confidential in the interest of justice unless otherwise ordered by the Court.
- c. After any Master Wheel is emptied and refilled as provided in this plan, and

all persons selected to serve as jurors prior to emptying the Master Wheel have completed such service, all papers and records compiled and maintained by the Clerk prior to emptying the Master Wheel shall be preserved in the custody of the Clerk for four years, or for such longer period as may be ordered by the Court.

19. Designation of Judge to Act in Place of the Chief Judge

In the event that the Chief Judge is unable to perform his or her duties under this Plan, including his or her temporary absence from the District, and has not designated another Judge to do so, the Judge of the Court who is authorized to perform the duties of the Chief Judge in case of his or her temporary inability to do so, as provided in 28 U.S.C. § 136(e), shall perform the duties of the Chief Judge under this Plan during the latter's inability or unavailability.

20. Effective Date

This Plan shall become effective after approval by the Eleventh Circuit Judicial Council Reviewing Panel (the "Panel") upon such date as the Panel shall designate, or if no such designation is made, this Plan shall become effective upon the date of its approval by the Panel.

IT IS SO ORDERED.

DONE this 30th day of October, 2007.

/s/ Mark E. Fuller

CHIEF UNITED STATES DISTRICT JUDGE

/s/ Myron H. Thompson

UNITED STATES DISTRICT JUDGE

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE

**JUDICIAL COUNCIL
OF
THE UNITED STATES ELEVENTH JUDICIAL CIRCUIT**

NORMAN E. ZOLLER
CIRCUIT EXECUTIVE

TEL. 404/335-6535
56 FORSYTH STREET, NW
ATLANTA, GEORGIA 30303

17 December 2007

The Honorable Mark E. Fuller
Chief United States District Judge
U. S. District Court, Middle District of Alabama
Frank M. Johnson Federal Courthouse Annex
One Church Street
Montgomery, AL 36104

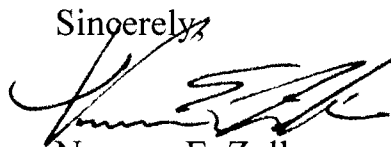
Dear Chief Judge Fuller:

The modified Jury Plan for the Middle District of Alabama as approved by your court on 30 October 2007, and submitted to the Eleventh Circuit Judicial Council, has been approved by the Council's Reviewing Panel.

Copies of the action of the Reviewing Panel and the amended plan are being filed by me with the following:

- Attorney General of the United States
- Director, Administrative Office of the U. S. Courts
- Clerk, U. S. Court of Appeals, Eleventh Circuit

Best wishes.

Sincerely,

Norman E. Zoller
Secretary to the Judicial Council

/kla

Enclosure

c: Members of the Judicial Council
The Honorable Michael B. Mukasey
Mr. James C. Duff, Director AOUSC
Mr. Thomas K. Kahn, Circuit Clerk
Ms. Debra P. Hackett, Clerk of Court

ELEVENTH JUDICIAL CIRCUIT

Reviewing Panel, Jury Plan

The attached Jury Plan as modified 30 October 2007, for the United States District Court for the Middle District of Alabama, having been reviewed by the Reviewing Panel of this Circuit is approved.

The following judges comprised and acted as the Reviewing Panel:

(a) Members of the Judicial Council

Chief Circuit Judge J. L. Edmondson
Circuit Judge Gerald Bard Tjoflat
Circuit Judge R. L. Anderson
Circuit Judge Stanley F. Birch, Jr.
Circuit Judge Joel F. Dubina
Circuit Judge Susan H. Black
Circuit Judge Ed Carnes
Circuit Judge Rosemary Barkett
Circuit Judge Frank M. Hull
Circuit Judge Stanley Marcus

(Alabama)

District Chief Judge Sharon L. Blackburn
District Chief Judge Callie V. S. Granade

(Florida)

District Chief Judge Robert L. Hinkle
District Chief Judge Patricia C. Fawsett
District Chief Judge Federico A. Moreno

(Georgia)

District Chief Judge Jack T. Camp
District Chief Judge Hugh Lawson
District Chief Judge William T. Moore, Jr.

(b) United States District Court

(Middle District of Alabama)

District Chief Judge Mark E. Fuller

Entered for the Reviewing Panel at Atlanta, Georgia, this 17th day of December 2007.



NORMAN E. ZOLLER
Circuit Executive