OFFICE OF THE CIRCUIT EXECUTIVE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
503 POTTER STEWART UNITED STATES COURTHOUSE
CINCINNATI, OHIO 45202-3988

JAMES A. HIGGINS
CIRCUIT EXECUTIVE

TELEPHONE (513) 564-7200
FAX (513) 564-7210

September 24, 1998

Ms. Diane M. Hopkins
Jury Administrator
Office of the Clerk
United States District Court
Western District of Michigan
452 Federal Building
110 Michigan Street, N.W.
Grand Rapids, MI 49503

Dear Ms. Hopkins:

At a meeting of the Sixth Circuit Judicial Council held on September 22, 1998, the Council approved the amended Jury Selection Plan for the Western District of Michigan. Returned herewith is the original Plan together with the original Certificate of Approval signed by Chief Judge Martin.

Sincerely,

James A. Higgins
Circuit Executive

cc/encl: Honorable Richard A. Enslen

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEP 29 PM 3:52

IN THE MATTER OF THE PLAN
OF THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT
OF MICHIGAN FOR THE RANDOM
SELECTION OF GRAND AND PETIT
JURORS (Amended, April 17, 1998) No. 98-094

- -

At a session of said Court, held
in the City of Kalamazoo on
the 17 day of April, 1998

PRESENT: Honorable Richard Alan Enslen,
Chief Judge
Honorable Robert Holmes Bell,
District Judge
Honorable David W. McKeague,
District Judge
Honorable Gordon Quist,
District Judge

Pursuant to the Jury Selection and Service Act of 1968 (Title 28 U.S.C. Section 1861 et seq) and by Title 28 U.S.C. Section 151, which provides for the selection, summoning, and administration of jury panels by the United States District and Bankruptcy Courts; the following plan is hereby adopted by this court subject to the approval by a Reviewing Panel as provided by law and subject to such rules and regulations as may lawfully be promulgated from time to time by the Judicial Conference of the United States.

1. APPLICABILITY OF THE PLAN. This District consists of two divisions which are listed below, and this plan applies to each of the said Divisions as now established by law unless otherwise specifically indicated.

Southern Division (at Grand Rapids) comprising the counties of:

Antrim	Kalkaska	Montcalm
Barry	Kent	Muskegon
Benzie	Lake	Newaygo
Charlevoix	Leelanau	Oceana
Emmet	Manistee	Osceola
Grand Traverse	Mason	Ottawa
Ionia	Mecosta	Wexford
	Missauke	

Southern Division (at Kalamazoo) comprising the counties of:

Allegan	Calhoun	St. Joseph
Berrien	Cass	Van Buren
	Kalamazoo	

Southern Division (at Lansing) comprising the counties of:

Branch	Eaton	Ingham
Clinton	Hillsdale	

Northern Division (at Marquette) comprising the counties of:

Alger	Gogebic	Mackinac
Baraga	Houghton	Marquette
Chippewa	Iron	Menominee
Delta	Keweenaw	Ontonagon
Dickinson	Luce	Schoolcraft

2. POLICY. It is the policy of this Court that all litigants entitled to trial by jury shall have the right to juries selected at random from a fair cross-section of the community in the Division wherein the Court convenes. It is further a policy of this Court that all qualified citizens within the District shall have the opportunity to be considered for service on the juries of this Court, and shall have an obligation to serve as jurors when summoned for that purpose. No citizen shall be excluded from service as a grand, petit or summary trial juror in the Court on account of race, color, religion, sex, national origin or economic status.

3. MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS. The management and supervision of the jury selection process shall be under the control of the Chief Judge of this District. The jury selection process for the Southern Division and Northern Division shall be managed by the Clerk of the Court. The Chief Judge or Clerk may permit delegation of jury selection functions to non-court personnel.

4. METHOD AND MANNER OF RANDOM SELECTION OF JUROR NAMES.

4.1) Source Lists for prospective juror names. Pursuant to Section 1863(b)(2), the Court may authorize the Clerk to draw names of prospective jurors from supplementary lists in addition to voter lists. The Judges of this Court have determined that the sources from which the names of grand and petit jurors shall be selected at random shall be from the general election voter registration lists, or lists of actual voters, supplemented with the lists of licensed drivers and I.D. holders. Jurors to be used for the purpose of summary trials will be drawn from a pool of jurors summoned and unused at the end of their term. Further, the Judges have determined that such lists, as described above, represent a fair cross-section of the community in the District.

References in this plan to random selection shall mean that in any selection procedure using electronic media, names shall be drawn by a purely randomized process through routines approved by the National Institute of Standards and Technology (NIST). Random selection of names to be drawn from manual media shall be drawn by choosing the first name by a purely random method and each subsequent name for that drawing will be taken at regular intervals throughout

the remainder of the source list(s). This randomized selection procedure, which is described in the following sections, ensures:

(a) that names chosen will represent all segment of the source file from which drawn;

(b) that the mathematical odds of any single name being picked are substantially equalized; and

(c) that the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

4.2) Master Jury Wheels. The Clerk shall maintain a master jury wheel for each geographical area described in section 1 above. The names of prospective jurors shall be selected from the official county voter registration lists, or other source lists, maintained by the county clerks, or jury commissions, of the counties within the relevant jury wheel for the most recent federal general election held in the fall of even-numbered years. In counties where the official source list is not static but is continually revised by adding the names of new registrants and deleting the names of registrants who have moved or are deceased, the names of prospective jurors shall be selected from the official source list as so revised and existing at the time of refilling of the Master Jury Wheel. This selection shall be made as soon as possible after the most recent federal general election and as soon as the source lists have been determined.

The Chief Judge of this District shall determine, upon recommendation of the Clerk, the number of names to be placed in each master jury wheel, which shall be not less than one thousand. If it should at any time appear, in the judgment of the Chief Judge, that the names in a given master jury wheel will be exhausted before

the prescribed time for refilling, the Chief Judge may order that it be refilled in advance of that time from the most recent source list available; and such refilling shall be in lieu of, and not in addition to, the next prescribed refilling.

4.3) Initial Selection of Names for Each Master Wheel. The Judges of the Court have determined that the initial selection of persons to be considered for service as grand or petit jurors from the source lists shall be randomly made as deemed sufficient for a two-year period.

The number of names drawn from each county shall be substantially in the same proportion to the total number drawn from all counties within the Division as the number of names on that county's source lists bears to the total number of names on the source lists for all counties within the Division.

For each wheel, the following procedure shall be used for selecting names of prospective jurors from the source lists:

(a) Determine the number of prospective jurors within each jury wheel according to the records as furnished by the Michigan Secretary of State.

(b) For the purpose of calculating from the source lists the total number of prospective jurors in the respective divisions within the District, the Clerk will add together the total number of prospective jurors obtained for each county. The number taken as the total for each county may be based upon either a manual, or mechanized, count of the names on the source lists.

(c) After first determining the total number of names needed for a master wheel, and proportionate share of names to be drawn from

the source list for each particular county, the Clerk shall proceed either manually or through the use of a properly programmed data computer, or a combination of both, to make the initial selection of names from the source list of each county.

(d) The sequence in which source lists from various counties are to be processed for purposes of selecting names will be in a simple randomized sequence.

4.4) Selecting Names by Manual Methods. When selection from any county's source list is made manually, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered, or if they are not numbered, in any other logical consistent sequence. The entire source list must be covered and the specific names picked will be according to the established "quotient" and "starting number" formula described below.

4.5) Determining a "Quotient." The Clerk shall make a randomized selection by taking the total number of names from the source lists comprising a Master Jury Wheel and dividing that number by the required number of names necessary. The number obtained will be the "quotient." The "quotient" is the ratio of selected to un-selected names. For example, if the Clerk should determine that to supply jury requirements for two (2) years 10,000 names are needed in the master wheel, and there are a total of 1,000,000 names on all source lists, the "quotient" to be used would be 1,000,000 divided by 10,000 equals 100. Therefore, the Clerk would draw every 100th name from the source lists for the master wheel.

4.6) Determining a "Starting Number." After determining the "quotient" the Clerk shall establish a "starting number." This

number will determine the first name to be selected. By following the quotient computation, the selection process may produce a "remainder" when the number of names in the wheel is not evenly divisible by the number of names to be drawn. To eliminate any risk of excluding names at the end of the list, the "starting number" will be in a range of numbers between one and the sum of the "quotient" and any "remainder." Other variations of the formula for determining a "starting number" may, at the Clerk's discretion, be used.

4.7) Selecting Names by Machine Methods. The Judges of this Court have determined that electronic data processing methods can be advantageously used for selecting names from source lists. Where a county currently maintains their source lists in handwritten or printed forms, it may be necessary to employ electronic data processing methods for facilitating copying and processing of source lists.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may be used to select master wheel names from source lists of any, or all, counties in the District. The required proportions of names for each county shall be maintained and the above described "quotient" and "starting number" formula for non-electronic media or the purely randomized process for electronic media will be followed.

The Judges of this Court have determined that an electronic system, or manual system, may be used to select names from the qualified wheel of persons to be summoned to serve as grand or petit jurors, and to record names of prospective jurors on any papers and

records needed by the Court to administer the selection and payment of jurors. If the Court elects to use electronic system methods in connection with any, or all, of the district's source lists, master jury wheels, or qualified jury wheels, the name selection system shall be planned and programmed according to the purely randomized process.

5. DRAWING OF NAMES FROM THE MASTER JURY WHEELS AND COMPLETION OF JUROR QUALIFICATION FORMS. The Clerk shall publicly draw at random, either manually or through the use of a properly programmed data system, the names of as many persons as may be required to maintain an adequate number of names in the qualified jury wheels. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror demands by the Court.

The Clerk shall have prepared, by manual or computer means, lists of names drawn. These lists shall not be exhibited to any person except as provided herein pursuant to 28 USC 1867-68, as amended. The Clerk shall, by manual or computer means, prepare and have mailed to every person whose name is so drawn, a juror qualification questionnaire form, accompanied by instructions to execute and return the questionnaire duly signed and sworn in accordance with 28 USC 1864(a), as amended.

6. EXEMPTION FROM JURY SERVICE. The Court finds that exemption from jury service of the following groups of persons, or occupational classes is in the public interest and would not be inconsistent with 28 USC 1861-63; therefore, members of the following groups or classes shall be barred from jury service on the ground that they are exempt:

(a) Members in active service in the armed forces of the United States;

(b) Members of the fire or police departments of any state, district, territory, possession, or subdivision thereof;

(c) Public officers in the executive, legislative, or judicial branches of the government of the United States, or any state, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of official duties. "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.

7. EXCUSAL ON INDIVIDUAL REQUEST FOR SPECIFIC GROUPS OR CLASSES. Consistent with 28 USC 1861 and 1862, the Court may grant excuses to the following groups of persons or classes upon individual request for:

(a) Persons over 70 years of age;

(b) Volunteer safety personnel;

(c) Persons who, within the past two years, have served on a federal grand or petit jury.

8. DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES.

(a) The Chief Judge, or other district judge, on their initiative or upon recommendation of the Clerk, shall determine solely on the basis of information provided on the juror qualification form or other competent evidence whether a person is unqualified for, or exempt, or excused from jury service. Such determination shall be made in accordance with this plan and the laws under which this plan was adopted, and in accordance with any guidelines established by the Chief Judge. The Clerk shall enter such determination on the list of names from the master jury wheel or from the qualified jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

(b) In making such determination, the Chief Judge shall deem any person qualified to serve on grand and petit juries in 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 to fill out satisfactorily the juror qualification form;

(3) is unable to speak the English language;

(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 civil rights have not been restored by pardon or amnesty.

9. MAINTAINING QUALIFIED JURY WHEELS AND SUMMONING JURORS. The Clerk shall maintain separate qualified jury wheels for each geographical area described in section 1 above, and shall place in such wheels the names of all persons drawn from the appropriate master jury wheel and not disqualified, exempt or excused pursuant to this plan.

The Clerk shall ensure that at all times an adequate number of names are contained in each such jury wheel. The Clerk may maintain any or all of the qualified wheels through use of either an electronic system or through use of manual methods. Whenever a qualified wheel is maintained on an electronic system, the selection of names shall be in accordance with the purely randomized process described earlier and an Order to Draw Jurors will instruct the data system personnel

to follow said randomized process in the selection of names and addresses of prospective jurors.

Upon the completion of the electronic system work required, the Court shall require the execution of an affidavit by the agency providing such service. The affidavit shall state, under penalty of perjury, that the procedures set down by the Court governing the selection of its jurors have been fully met in the automated phase of the selection process.

Whenever a qualified wheel is maintained in manual record form, names of persons summoned will be manually drawn by lot. The Clerk shall draw at random from the qualified jury wheels the names of as many persons as may be required for assignment to petit jury panels by placing cards for all persons in the qualified wheel in a jury wheel drum or box. The Clerk shall prepare a separate list of the names and the city of residence of persons assigned to each petit jury panel and shall have issued a summons directed to each of the persons so drawn.

These lists shall upon request, be disclosed to the parties three (3) business days prior to the trial date, unless otherwise directed by the Chief Judge or the Judge assigned to try the case. The Chief Judge or the Judge assigned to try any case may order such lists to be kept confidential in any case where the interests of justice so require.

Each qualified jury wheel shall be emptied and refilled within three months after the time the corresponding master jury wheel is emptied and refilled. Jury panels already drawn, or jurors selected

and sworn in for a particular case, shall continue to serve until this has been accomplished.

10. ASSIGNMENT TO PETIT JURY PANELS. Persons whose names were selected pursuant to section 9 of this plan shall be summoned to appear as prospective jurors for all jury trials held in the appropriate geographic area during a specified term of service. Pursuant to 28 USC 1866(e), no person shall be required to serve or attend court for prospective service as a petit juror for a total of more than thirty days, except when necessary to complete service in a particular case. If the current panel for an area contains more persons than reasonably needed for the selection of a jury in a specific case, the Clerk shall select at random the number of individuals to be called. This selection shall be made by drawing names at random from a jury wheel drum or box.

Jurors summoned for a specific term of service who request deferral from jury service, shall have such requests submitted to the Clerk for a ruling on the request. Requests for EXCUSAL shall be submitted to the Chief Judge or the Judge assigned to try the case for a ruling on the request.

If two or more jury trials are to commence on the same day in the same city in this district, a central jury pool may be used. The names of the prospective jurors directed to report to any specific courtroom shall be determined at random by the Clerk. Persons excluded from service in a particular case upon peremptory challenge or upon challenge by a party for good cause shown, shall be returned to the central jury pool.

11. SELECTION OF GRAND JURORS. The Grand Jury for the Southern Division shall be drawn from the Grand Rapids, Kalamazoo and Lansing qualified jury wheels. The Grand Jury for the Northern Division shall be drawn from the Marquette qualified jury wheel. The number of names drawn from said qualified jury wheels shall be as near as possible in proportion to the total number of names on the current source lists for the respective division of this District, using the established purely randomized process described earlier in this plan.

When the Court orders that a new Grand Jury should be summoned, the Clerk shall publicly draw at random from the qualified jury wheels of this district, either manually or through the use of a properly programmed data system, as many persons as may be required for grand jury service. The Clerk shall prepare a list of names of persons assigned to each Grand Jury panel and shall issue a summons directed to each of the persons so drawn. This list shall not be disclosed to anyone, except as may be directed by the Chief Judge. Upon request for excusal, and if inspection of the juror questionnaire of a person so selected reflects that the person should be excused from grand jury service, but not from petit jury service, recommendation for excusal shall be made by the Clerk to the Chief Judge and upon approval, that person shall be returned to the qualified jury wheel. Each Grand Jury shall serve for a period not to exceed eighteen months, unless extended by an order of the court, and such service shall not be affected by the emptying and refilling of the master and qualified wheels from which it was drawn.

12. MAINTENANCE OF RECORDS. The Clerk shall preserve all records and papers compiled and maintained by the jury clerk for four

years after the master wheel is emptied, or for such longer period as may be ordered by the court, and such records shall be available for public inspection for the purpose of determining the validity of the selection of any jury, pursuant to 28 USC 1868 et seq. Such records may then be destroyed, providing the means used is such as to ensure the privacy of their contents.

The Clerk shall retain and provide public access to the following documents:

(a) the court's "Juror Selection Plan", including the plan's verbatim description of the method used in determining the "quotient" and "starting number";

(b) 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 and the affidavit by the representative of the computer facility certifying compliance with the same;

(c) copies of public announcements; and

(d) orders of the court for selection of grand and petit jury panels.

13. PUBLIC ANNOUNCEMENT OF THE DRAWING OF THE STARTING NUMBER AND QUOTIENT FOR THE SELECTION OF NAMES EITHER BY AUTOMATED DATA PROCESSING EQUIPMENT OR BY MANUAL METHODS. Reasonable public notice of a manual drawing of starting numbers and quotients from the master and qualified jury wheels shall be by the posting of a written announcement stating the date, place and time of said scheduled drawing on the court bulletin board or at any other public place within the courthouse where the actual drawing takes place. This posting of the announcement shall take place at such time in advance of the drawing as the district court shall in its discretion

determine. Should a purely random, electronic data system be used to draw names starting numbers will not be drawn publicly and public observance of the actual computer operations shall not be required.

Dated: April 17, 1998

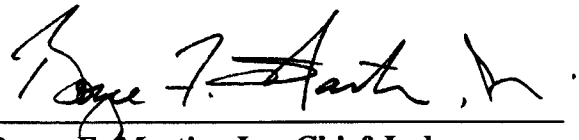
FOR THE COURT:

Richard Alan Enslen, Chief Judge

CERTIFICATE OF APPROVAL

This is to certify that, in accordance with 28 U.S.C. Section 1863(a), the foregoing Amended Plan of the United States District Court for the Western District of Michigan for the Random Selection of Grand and Petit Jurors, has been duly received and approved as complying with the law by a reviewing panel consisting of the members of the Judicial Council of the Sixth Circuit of the United States.

This 22nd day of September, 1998.



Boyce F. Martin, Jr., Chief Judge
United States Court of Appeals
for the Sixth Circuit