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# OHIO JURY MANAGEMENT ASSOCIATION

*"To promote and enhance jury service  
through excellent jury management"*

## JURY NOTES SPRING 2016

### 2016 OHIO JURY MANAGEMENT ASSOCIATION MEMBERSHIP

If you have not already done so, we would like to invite you and/or others in your court to join with us to promote and enhance jury service through excellent jury management. The majority of OJMA members are judges, clerks of court, jury commissioners, bailiffs, court administrators, and other court personnel. There are two levels of membership in OJMA: Individual and Organizational. The application for 2016 OJMA membership is included with this newsletter.

OJMA projects include:

- **Sharing information about current jury management issues, legislation and rules through emails to members, the OJMA newsletter and the OJMA website, [www.ohiojury.org](http://www.ohiojury.org).**
- **The Ohio Jury Management Manual, a step-by-step guide to Ohio specific jury laws and operations for new and experienced jury managers.**
- **Partnering with the Supreme Court of Ohio Judicial College to hold an annual conference.**
- **Conducting a survey of Ohio courts on various aspects of jury management. The most recent survey is posted on the OJMA website.**
- **Working cooperatively with associations and agencies to improve jury management.**

We believe OJMA membership is a practical investment in developing and/or maintaining a responsive, efficient, effective jury system. Thank you in advance for considering joining with other court professionals to support the jury system, which is a cornerstone of our justice system and a vital part of our democracy.

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1700 Lake Shore Drive Columbus OH 43204 (614) 487-4475

Vicky Unger, Executive Director vunger@osbf.net [www.ohiojury.org](http://www.ohiojury.org)

## OJMA CONFERENCE “TAXING ISSUES IN JURY MANAGEMENT”

**Date:** Friday, April 15, 2016

**Place:** Thomas J. Moyer Ohio Judicial Center.

The conference is the result of a continuing partnership with the Ohio Judicial College. Registration is handled through the Ohio Judicial College Judicial Academy system. There is no cost to register for this program. Questions? Call the Ohio Judicial College at 614-387-9445.

### **The planned sessions:**

#### **Judges Serving on Juries**

A panel of judges who have served as jurors will discuss what happens when judges are summoned for jury service. Are regular reporting/orientation procedures followed? What is the reaction of other jurors? Does the presence of a judge affect the deliberation process? What is the reaction of the trial judge and counsel? What insights came from service as a juror?

#### **Online Qualification of Prospective Jurors**

Court personnel will share their experience in the implementation of an online juror qualification system. What systems are used for the online preparation and submission of juror questionnaires? How did the courts prepare for the online system? How do courts accommodate jurors without access to technology?

#### **Jurors and New Media**

Paula Hannaford-Agor, Director of the National Center for State Courts Center for Jury Studies, will present information on preventing and addressing Internet-related juror misconduct.

#### **“For the Record”**

A panel of court managers will present information on the management of jury records, including record retention requirements and recommendations. The panel will also discuss preparing and updating the jury management plan each trial court is required to adopt. Sample jury management plans will be provided.



## **Ohio Jury Management Association Survey to be Updated**

Jean Atkin, OJMA Trustee

How many courts use both the voter and drivers lists for their annual jury draw? How many courts use a one-step jury summoning process? What automated jury management systems are used by Ohio courts? The answers to these questions and many more are provided in the OJMA jury management survey.

As one of the unique on-going projects of the Ohio Jury Management Association, a statewide survey on various aspects of jury management will be conducted in May 2016. . The survey is sent to trial courts in Ohio in the effort to develop a current data base of jury practices. The most recent survey was completed in July 2014. A copy of the survey results can be viewed under the Resources tab on the OJMA website, [www.ohiojury.org](http://www.ohiojury.org).

Prior to issuing the new survey, a review of the past survey content is being conducted. The survey provides a snap shot of jury practices in the various trial courts in Ohio. The survey results also allow us to respond to inquiries about specific practices in different Ohio courts. The published survey shows the number of responding courts using each type of source list. Upon inquiry, OJMA is able to provide the names of the courts using each type of source list.

We want this survey to provide information of interest to OJMA members. Please take the time to look at the current survey questions and provide feedback. Are there questions that need to be re-worded? Should we add new questions to the survey? How about questions to be eliminated? **Any comments or suggestions you have are greatly appreciated. Please direct your feedback to [jeanatkin@windstream.net](mailto:jeanatkin@windstream.net) before April 30, 2016. THANK YOU!!!!**



### ***State v. Hickman*, 9<sup>th</sup> Dist. Franklin No. 27231, 2015-Ohio-4668.**

Keith Hickman was tried for felonious assault. During the course of the trial, Juror No. 2 became confused about the defendant's name, and "I just felt like I should just know the name." At home one evening the juror went to the Clerk of Court's website and typed in "Whitman." None of the results appeared to be his case. "And then Hickman. And then just next to it, it just said the charge, and that's all the further I went with it."

After the jurors had reached a verdict, but before the verdict was announced, Juror No. 2 mentioned to the other jurors his search of the clerk's website. The foreman then urged Juror No. 2 to write a note to the court, which Juror No. 2 did. As a result the court with counsel conducted several individual interviews with Juror No. 2 and the foreman followed by individual interviews with all jurors. All jurors said that Juror No. 2's statements did not influence their deliberations. Juror No. 2 also stated that his visit to the clerk's website did not prejudice or influence his deliberations.

In cases of potential juror misconduct, the court of appeals ruled, it first must be determined whether juror misconduct actual occurred and, second, whether the misconduct materially prejudiced the defendant's substantial right. And in making this analysis a juror's belief in his or her own impartiality is not inherently suspect and may be relied upon by the trial court.

## Case Update, Continued

### ***Nist v. Mitchell*, 42 N.E.3d 1206, 2015-Ohio-4032 (9<sup>th</sup> Dist.).**

At 15 months old Brandon Nist developed significant learning and speech disorders that rendered him permanently disabled. The Nist family argued that Brandon's skull had been negligently damaged during birth. Medical malpractice claims were asserted against the delivering obstetrician. During the course of the trial there was testimony about babies being in the occiput posterior position ("OP") or in the occiput anterior position ("AP").

As the trial progressed, Juror 9 notified the bailiff that he had overheard Juror 5 remark that she had researched the terms "OP" and "AP" on her computer. The court interviewed Juror 5 who flatly denied doing any out of court research. Juror 9 was interviewed. He stated he heard Juror 5 mumbling. "I can't say for sure whether or not she was talking to anyone or just in general." The court denied the Nist family motion to remove Juror 5 finding "we're not sure she did it and it seems pretty harmless if she did."

The verdict was for the obstetrician. The Nist family appealed arguing juror misconduct. No error said the court of appeals. The trial court may rely upon a juror's testimony when making a determination of juror misconduct, and the trial judge is in the best position to ascertain the nature, if any, of alleged juror misconduct.

### ***State v. Cross*, 3d Dist., Marion No. 9-14-51, 2015-Ohio-2736.**

Janet Cross was charged with theft from the Marion, Ohio Meijer store. During voir dire Juror Wolfe indicated she worked at the Meijer store and knew two of the prospective witnesses who were Meijer employees. After lengthy questioning Juror Wolfe said she could be fair and impartial "because I listen to both sides and I make up my own mind and I don't go to someone that I like or work with." Juror Koonce initially stated he had difficulty with the proof beyond a reasonable doubt standard. But after further questioning he stated he "could be" comfortable with the standard. Defense counsel's motions to dismiss Jurors Wolfe and Koonce for cause were denied. Even though Juror Wolfe knew two prospective witnesses and worked for the victim, her statement that she could fairly analyze all testimony carried the day. Defense counsel used two of his peremptory challenges to remove Jurors Wolfe and Koonce. Defendant's appeal was based on the trial court wrongfully denying the two for cause challenges.

The court of appeals denied the defendant's challenge. Defendant's counsel, following the peremptory challenge of Wolfe and Koonce, should have proffered to the court the names of the jurors against whom he would have exercised a peremptory challenge had Jurors Wolfe and Koonce been removed for cause. Defendant also had to make some showing that the defendant was prejudiced.

# OJMA MEMBERSHIP APPLICATION

## Membership through December 31, 2016

This a renewal of a current membership \_\_\_\_\_ This is for a new member \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

County: \_\_\_\_\_

Address: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

### MEMBERSHIP DUES:

Active Member: \$50.00

An Active Member shall be a person and shall be entitled to one vote.

Organizational Member: \$125.00

An Organizational Member shall be an organization, either a public or private entity, and shall have no vote.

(Three people may be listed as members associated with an Organizational Membership. Each should include a completed membership form, including contact information.)

I would like to show my support for the work of OJMA in promoting and enhancing jury service through excellent jury management in Ohio. Enclosed is my tax-deductible donation to OJMA:

\$10       \$20       \$30       \$50\*

\*A \$50 donation entitles you to become a non-voting Associate Member of the Ohio Jury Management Association.

Thank you for your generous support!

Membership fees and application to be submitted to: Ohio Jury Management Association  
1700 Lake Shore Drive  
Columbus, OH 43204

**Make checks payable to Ohio Jury Management Association.**

I hereby agree to abide by the articles of incorporation, code of regulations, bylaws, and rules of this corporation.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

If you have any questions, contact Vicky Unger, OJMA Director, at 614-487-4475 or vunger@osbf.net.