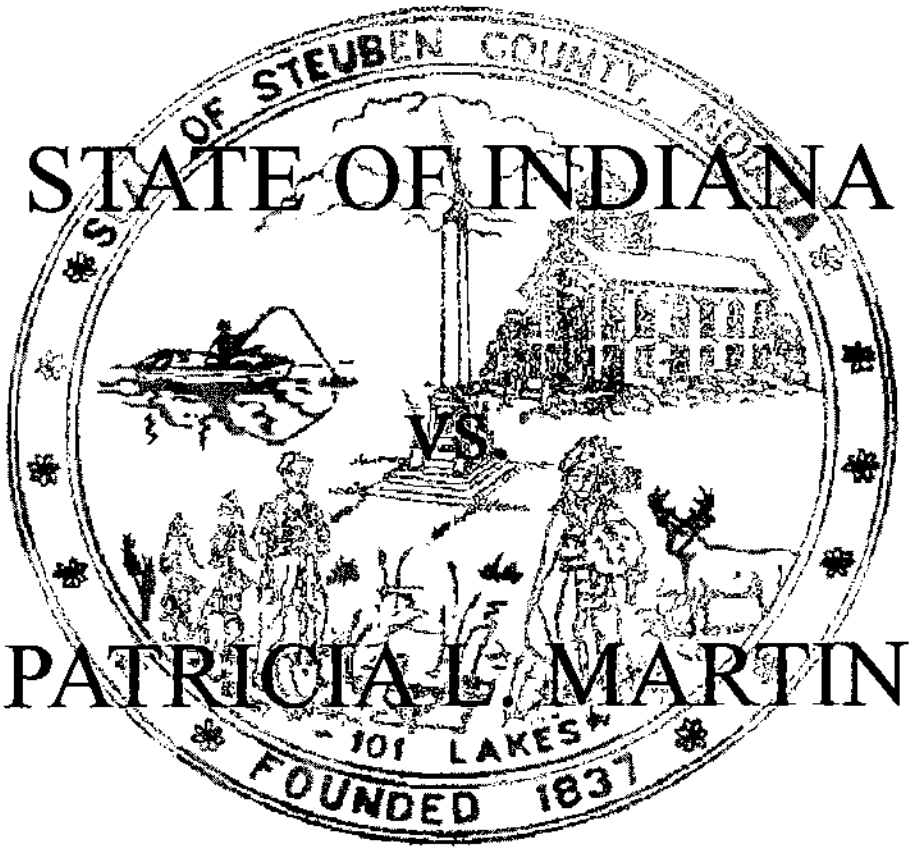
STATE OF INDIANA) IN THE STEUBEN CIRCUIT COURT

) SS:

COUNTY OF STEUBEN) CAUSE NO. 76C01-0710-CM-0600



STATE OF INDIANA

VS.

PATRICIA L. MARTIN

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PREFACE

Have you ever found yourself discussing with fellow students the outcome of a highly publicized criminal jury trial? Does the name O. J. Simpson ring a bell? During that conversation did you ever think that the result would have been different if only you could have sat on that jury? After all, how difficult can it be for an intelligent person such as yourself to listen to the lawyers, study the evidence, listen to the instructions on the law read by the judge, and then make the simple decision of "guilty" or "not guilty"?

I, along with the many kind individuals who gave of their time and talents to assist me in creating this project, would like to put this widely held belief to the test.

It is my pleasure to present to you for viewing the trial of State of Indiana vs. Patricia L. Martin. Mrs. Martin has been charged with the criminal offense of Operating a Motor Vehicle While Intoxicated/Endangering a Person, a Class A Misdemeanor. Mrs. Martin has invoked her constitutional right to have her case tried to a jury.

If you are viewing this trial in a classroom you will have had written materials distributed to you to assist you in becoming better oriented as to how a criminal jury trial progresses from start to finish. It would be beneficial to divide the class into groups of six or seven people. View the trial, without comment, from jury selection to when the jurors exit the courtroom to begin their deliberations. Now, you be the jury. Each group should conduct its own deliberations in an effort to arrive at a unanimous verdict of "guilty" or "not guilty." Without announcing the verdict, watch the remainder of the trial to see if the verdict reached by the jury in the trial you are viewing matches the verdict of your group.

The primary goals of each of us who have had a role in completing this project were (1) to educate our younger citizens about the mechanics of how jury trials are conducted, and (2) to make our younger citizens better prepared to perform their civic responsibility when called upon to serve on a jury.

> "The strength or weakness of a civilization is measured in no small part by the manner in which it dispenses justice for its members."
>
> – Anonymous

Sincerely,

Allen N. Wheat

Allen N. Wheat, Judge
Steuben Circuit Court

OUTLINE OF CRIMINAL JURY TRIAL

1. Jurors must first be selected who will hear the case. The selection process is totally random. Depending upon the county in Indiana within which you reside you may be summoned for jury duty if you are a registered voter, own real estate in the county, obtain your driver's license in the county or pay income taxes while residing in the county.

2. Typically, 30 to 60 people are randomly drawn for jury duty depending upon the complexity of the particular case. Once your name is drawn you will receive a Summons to appear for jury duty on a certain date.

3. Prospective jurors will check in on the date and time they were directed to appear in court for jury duty. Jurors are compensated for their jury service at different rates depending upon the county in Indiana within which the trial will take place. In Steuben County jurors are paid $15.00 if they appear for jury duty but are not seated as a juror, plus mileage, and $40.00 per day if they are actually seated to serve as a juror, plus mileage.

4. As the jurors are checking in for jury duty the Judge and the attorneys will be in the courtroom settling preliminary matters which must be addressed prior to the commencement of the trial. These preliminary matters are always settled outside the presence of the prospective jurors. A typical preliminary matter which would have to be settled by the Judge and the attorneys prior to the commencement of trial would be what preliminary jury instructions will be given to the jury.

5. Once all preliminary matters have been settled, the Bailiff will escort all prospective jurors into the courtroom and seat them.

6. At this point during the trial it is customary for the Judge to enter the courtroom. The Judge will explain to the prospective jurors the nature of the case in which they have been called upon to serve as a juror, and will introduce the attorneys and their clients to the prospective jury panel.

7. The prospective jurors are then administered an oath by the Judge. By taking this oath, the prospective jurors promise

that they will answer all questions truthfully which will be put to them by the attorneys during the voir dire process concerning their qualifications to serve as a juror on this case.

8. The attorneys for the litigants will then conduct what is called a voir dire examination of the prospective jurors. The voir dire examination is that part of the trial where the attorneys ask questions of prospective jurors to attempt to uncover any bias or prejudice which a prospective juror may possess, thus making that person unsuitable to sit as a juror in the case. Also, prospective jurors, at least in certain courts throughout Indiana, are permitted to ask questions of the attorneys about the case. This is the only part of the trial where such a verbal exchange between juror and attorney is permitted.

9. Once the attorneys have concluded their voir dire examination of the prospective jurors the striking or removal process begins. Jurors may be stricken from the panel "for cause" or by virtue of any attorney exercising a "peremptory" strike. The attorneys on each side of the case are permitted an unlimited number of strikes for cause. Typical reasons for striking a prospective juror for cause would include:

    a. The juror admits during voir dire examination that he or she would have difficulty keeping an open mind during the course of the trial;
    b. The juror is not a resident of the county in which the case is being tried;
    c. The juror suffers from serious medical problems which would distract him or her from paying careful attention to the testimony of the witnesses; or,
    d. The juror is a close friend of a party, witness or attorney involved in the case.

The Judge must always rule upon whether a prospective juror will be excused for cause.

10. After the attorneys have concluded striking jurors for cause, the attorneys are then permitted to exercise peremptory strikes. Peremptory strikes are strikes the attorney on each side of the case is permitted to make for any non-discriminatory reason. These are frequently used

by a defense attorney, at the insistence of the Defendant, simply because there is something about a particular juror the Defendant just doesn't like. In misdemeanor criminal trials, such as the one you will be viewing, the State and Defendant are each entitled to use five (5) peremptory strikes. With but few exceptions, the Judge is not called upon to rule upon the propriety of using peremptory strikes. When, and if, an attorney should exercise a peremptory strike against a potential juror is purely a matter of trial strategy, and is of no concern to the Judge.

11. After the attorneys have concluded the striking process, and there has been arrived at the number of jurors necessary to try the case, the Judge will announce "the jury has been selected who will hear the case."

12. In misdemeanor criminal trials six (6) jurors must be seated to hear the case, and in the discretion of the Judge, one or more alternate jurors may be seated. If an alternate juror is seated the State and Defendant are each permitted one additional peremptory strike which may only be used against the alternate juror.

13. The jurors selected to hear the case will then be administered an oath by the Judge. The purpose of this oath is to impress upon the seated jurors that the verdict they return must rest exclusively upon the evidence which is presented to them throughout the course of the trial by the attorneys and the law upon which they will be instructed by the Court.

14. The Bailiff will then distribute to each juror a copy of the preliminary jury instructions, along with a note pad and pencil.

15. Jurors are permitted to take notes to assist them in remembering what they have seen and heard throughout the course of the trial.

16. The Judge will then read to the jurors their preliminary jury instructions. Generally speaking, the preliminary jury instructions serve to educate the jury regarding what crime the Defendant has been charged with having committed; the precise elements of the crime which must be proven by the State; and, that the State must prove each of the elements of the crime by proof beyond a reasonable doubt.

17. After the preliminary jury instructions have been read the State and Defendant will present to the jury their opening statements. The State goes first in making its opening statement and is followed by the Defendant. It is important to remember that the opening statements presented to the jury by the attorneys are not evidence. The function of a good opening statement is to provide to the jury a road map of what to look for as each side presents their case to the jury. The State will attempt to present to the jury through opening statement the strengths of its case and the weaknesses of Defendant's case. The Defendant will attempt to present to the jury the strengths of his or her case and the weaknesses of the State's case.

18. At the conclusion of opening statements, the State will put on its case in chief for the jury. The State goes first because it has the burden of proving the Defendant guilty by proof beyond a reasonable doubt. A person charged with the commission of a crime <u>does not</u> have to prove his or her innocence. To the contrary, the Defendant need not say a single word throughout the entire course of the trial because he has a constitutional right to remain silent. This, of course, is why you never see the State call the Defendant as a witness. The evidence presented to the jury by the State may consist of, among other things, testimony from fact witnesses or expert witnesses, documents, depositions and/or video/audio presentations.

19. After a witness testifies on direct examination he or she will be subject to cross examination. The purpose of an effective cross examination is to elicit from the witness something that is favorable to the examiner's client, or, at least impeaches the witness' testimony by showing that the witness has made statements in the past which differ from what he or she is telling the jury now.

20. In Indiana, after the attorneys have concluded their direct examination and cross examination of any witness, jurors are then permitted, under the careful guidance of the Judge, to put forth in writing any questions they would like to have answered by the witness. It is the duty of the Judge after reviewing the written question of the juror, and consulting with counsel, to decide whether the question is a proper question to require the witness to answer.

21. After the State has put on its case in chief for the jury the Prosecutor will announce to the Court that "the State rests".

22. The Defendant at this time usually puts on his case in defense. Defenses asserted by a Defendant might include such things as insanity, alibi or self defense. It is important to remember that it is not necessary for a Defendant to put on a case in defense in order to receive a favorable not guilty verdict. Instead, a Defendant may elect at this point in the trial to rest his case and argue to the jury during closing argument that the State's case is simply so weak on one or more of the essential elements which must have been proven by the State by proof beyond a reasonable doubt that the jury must return a not guilty verdict for the Defendant even though the Defendant has not put on a shred of evidence in defense. This is an extremely risky trial strategy for a Defendant to use and is rarely successfully employed.

23. The Defendant most often elects to tell the jury his side of the story. This is done by introducing evidence in the form of testimony from lay witnesses or expert witnesses, introducing documents, reading from depositions and/or video/audio presentations, among other things.

24. Defense witnesses, just like State witnesses, are subject to cross examination. This includes the cross examination of the Defendant if he elects to waive his right to remain silent and testify in his or her own behalf.

25. After the Defendant has put before the jury his case in defense, counsel will announce to the Court that "Defendant rests".

26. We have now arrived at that point in the trial that it is necessary to read to the jury their final jury instructions. The issue of what final jury instructions will be read to the jury customarily has been decided by the Judge, following argument from counsel, long before this time. Generally speaking, final jury instructions serve the purpose of explaining to the jury what the State must prove in order for the jury to return a verdict of guilty; that the State must prove the elements of the crime with which Defendant has been charged by proof beyond a reasonable doubt; and, how the jury should go about its duty of weighing or examining the evidence with which it

has been presented during the course of the trial to determine if, in fact, the State has proven its case by proof beyond a reasonable doubt. Each juror will be provided by the Bailiff with an exact copy of the final jury instructions.

27. After the Judge has read to the jury their final jury instructions the attorneys for both sides of the case will be called upon to present their closing arguments to the jury.

28. Closing arguments, like opening statements, are not to be considered as evidence by the jury. The purpose of a good closing argument in a criminal case is to refresh in the minds of the jurors what counsel believes has or has not been proven by the evidence, and then to attempt to persuade the jury that if they apply the evidence to the law upon which they have been instructed by the Court through preliminary and final jury instructions, the jury must feel compelled to return a verdict in favor of the attorney's client.

29. In criminal cases the State makes its closing argument first. This is then followed by defense counsel giving his or her closing argument. Lastly, the State is permitted to give a rebuttal closing argument to the jury. At first blush this would seem to be unfair to the Defendant. Why should the State get two bites of the apple and the Defendant but one? The justification most often cited for this rule is the fact that the State has to meet the highest burden of proof recognized in the law (proof beyond a reasonable doubt) in order for the jury to return a verdict of guilty. Therefore, so the argument continues, it really is not unfair to give the State two bites from the apple.

30. After closing arguments have concluded the Court will administer to the Bailiff an oath. The purpose of the oath administered to the Bailiff is to impress upon the Bailiff the importance of keeping the jurors together during their deliberations, and to permit no form of outside interference with the jury from any person unless authorized by the Court.

31. When the jury has arrived at their verdict the Bailiff will be notified of this fact and will then escort the jury back into the courtroom.

32. Please note that the verdict of the jury, whether guilty or not guilty, must be unanimous.

33. If the jurors cannot arrive at a unanimous verdict the Court must declare a mistrial and the process will commence again at some future date with a new jury being seated.

34. The foreperson of the jury will hand the signed and dated verdict form to the Judge who will then read aloud the verdict that has been reached by the jury.

35. If the verdict is not guilty the jurors are released from service and the Defendant is immediately discharged and the case dismissed.

36. If the verdict is guilty, upon request by Defendant's attorney, the jury will be "polled." To poll the jury is the process of the Court asking each juror individually whether he or she voted to return a verdict of guilty during deliberations. Remember, a guilty or not guilty verdict returned by a jury in Indiana must be unanimous.

37. If all jurors indicate when polled that they voted individually for a guilty verdict during deliberations the jury will then be discharged, a judgment of conviction will be entered by the Court upon the jury's guilty verdict, and the Defendant will either at that time, or some point thereafter, be sentenced by the Court. Jurors, except in death penalty cases or life without possibility of parole cases, play no role in the sentencing process. The responsibility for sentencing a Defendant who has been convicted of a criminal act rests solely with the Judge within certain guidelines established by the legislature.

FACE THIS SIDE DOWN - THIS EDGE IN FIRST

BAC DataMaster

Evidence Ticket

STATE OF INDIANA

BAC DataMaster
INSTRUMENT 950187

OCTOBER 26, 2007

SUBJECT NAME:
MARTIN/PATRICIA/L
SUBJECT SSN: XXX-XX-1582
SUBJECT DOB: 09/ /58
SUBJECT SEX: F
OPERATOR NAME:
MEEKS/MICHAEL/D
ARRESTING AGENCY:
SCSD

--- BREATH ANALYSIS ---

BLANK TEST	.00	03:18
INTERNAL STANDARD	VERIFIED	03:18
SUBJECT SAMPLE	.08	03:20
BLANK TEST	.oo	03:21

ALCOHOL READINGS ARE EXPRESSED AS GRAMS OF ALCOHOL PER 210 LITERS OF BREATH

Start Observation Time 2:29 p.m.
(Enter if required by regulations)

Operator Signature

Card Stock No.
60023

RECOVER™

OD-60

STATE OF INDIANA IN THE CIRCUIT COURT COUNTY OF STEUBEN S

State of Indiana)
vs.)
PATRICIA L. MARTIN)

CAUSE NUMBER C1 361264

AFFIDAVIT FOR PROBABLE CAUSE

I, Michael Meeks, a Law Enforcement Officer with the Steuben County Sheriff's Department, swe

that on the 26 day of October 2007, at approximately 2:00 ☐ a.m. ☒ p

(Name) Patricia L. Martin, the accused, a (Race) Caucasian, (Sex) ☐ Male ☒ Feme

(Date of birth) 09 / / 58, (☐ Social Security # ☐ Driver License #) xxx / xx / 1582 was observ

at (location) C.R. 100 N and Landis Road

Steuben County, Indiana operating a vehicle (description)

(continuation of vehicle description) 2005 Black Cadillac STS under the following circumstances.

I.) PRELIMINARY OBSERVATIONS (check all that apply)

☒ I observed the accused operate a vehicle in my presence and view.

☐ _____ observed the accused operated a vehicle.

☐ I had reason to believe the accused operated the vehicle because _____

☒ The accused committed the following traffic violation(s) speeding; failure to stop at stop sign

☒ The accused's driving was unusual and erratic in that it was: excessive weaving in lane of traffic

Reason for stop

☒ The accused committed: offenses of speeding and failure to stop at stop sign

☒ The accused while driving: weaved excessively in lane of traffic

☐ The accused was already stopped when I approached.

☐ Other _____

II.) ACCIDENT INFORMATION

☒ No accident was involved. **Number of vehicles involved in the accident:** _____

☐ The accused was involved in an accident in my presence or view.

☐ _____ witnessed the accident and identified the accused as a driver involved in the accident

☐ The accused admitted to being the driver involved in the accident.

☐ The result of the accused's driving was: ☐ property damage; ☐ minor personal injury; ☐ serious bodily injury; ☐ fatality;

Name of person(s) injured, describe property damage, injuries, estimate loss in dollars _____

III.) OBSERVATIONS

I had reason to believe the accused was **INTOXICATED** because I observed that: Reasons listed below

☒ Odor of alcoholic beverage
☒ Alcohol beverage containers in view
☒ Speech was slow
☒ Eyes were bloodshot
☒ Manual Dexterity poor
☒ Abusive attitude yes
☒ Balance was poor
☒ Driving behavior stated above

☐ Could not open door
☐ Pulled self from vehicle
☐ Left vehicle in gear
☐ Failed to shut off vehicle
☐ Staggered from vehicle
☐ Leaned against vehicle
☐ Soiled / disorderly clothing

FIELD TEST	PASSED	FAILED
☒ One leg stand	☐	☒
☒ Walk and turn	☐	☒
☒ Gaze Nystagmus	☐	☒
☐ Finger to nose	☐	☐
☐ Backward count	☐	☐
☐ Rhomberg Balance	☐	☐
☐ Finger count	☐	☐

☐ P.B.T. /Alco-sensor 0. 08 gram of alcohol per 210 liters of breath.

IV.) CHEMICAL TEST

☒ I advised the accused of the Implied Consent Law and the accused ☒ submitted to or ☐ refused a chemical test.

☐ I was unable to offer a chemical test to the accused because such person was: ☐ unconscious, ☐ injured, ☐ too intoxicated

☒ Michael Meeks, a certified chemical test operator, determined from a chemical test that the accused had an alcohol concentration equivalent to 0. 08 gram of alcohol per 210 liters of breath. The chemical test was administered at Sheriff's Department.

☐ I was told by _____ the result of the chemical test was an alcohol concentration equivalent to 0. _____ gram of alc per 100 milliliters of blood. Such test was administered by drawing or taking a sample of _____ blood at _____ ☐ A.M. ☐ P.M.

☐ I was told by _____ the result of the chemical test determined that the accused had in his body a controlled subst a controlled substance metabolite, or a drug, to wit _____. Such test was administered by drawing or taking a sample of ☐ blood, ☐ urine, ☐ other _____ at _____ ☐ A.M. ☐ P.M., at (location) _____

V.) ADDITIONAL INFORMATION (WITNESSES)

six pack of warm Miller Lite beer was observed in the vehicle

The accused was arrested for a violation of IC 9-30-5.

I HEREBY SWEAR OR AFFIRM UNDER THE PENALTY OF PERJURY PURSUANT TO IC 35-34-1-2.4 THAT THE FOREGOING FACTS ARE TRUE:

Signature of Affiant	Date	Print Name & Department
	10/26/07	Michael Meeks, Sheriff's Dept.

VI.) PREVIOUS CONVICTIONS - CAUSE NUMBER _____

I, _____, have examined the accused's driving / criminal record and determined that the accused has a previous conviction of Operating While Intoxicated on _____ day of _____, from _____ Court _____ County, Indiana, Room number _____ Case number _____.

I HEREBY SWEAR OR AFFIRM UNDER THE PENALTY OF PERJURY PURSUANT TO IC 35-34-1-2.4 THAT THE FOREGOING FACTS ARE TRUE:

Signature of Affiant	Date

PINK - COURT ORIGINAL; WHITE - TO BMV FROM COURT; CANARY - (TOP) FOR OFFICER; (BOTTOM) TO BMV FROM OFFICER

STATE OF INDIANA)
) SS:
COUNTY OF STEUBEN)

IN THE STEUBEN CIRCUIT/ SUPERIOR COURT

CAUSE NUMBER: 76C01-0710-CM-600

STATE OF INDIANA

VS

PATRICIA L. MARTIN

INFORMATION FOR: **OPERATING A VEHICLE WHILE INTOXICATED – ENDANGERING A PERSON**

Class A Misdemeanor

I.C. 9-30-5-2

The undersigned affirms that on or about the 26 day of October of the year 20 07, at and in the County of Steuben and State of Indiana, one Patricia L. Martin did operate a certain motor vehicle, to-wit: 2005 Black Cadillac STS, bearing 20 07, Indiana license plate number 922DDP, on C.R. 100 N at Landis Road, in Steuben County, Indiana, while he/she, the said Patricia L. Martin, was intoxicated in such a manner that endangers a person, all of which is contrary to the form of the statute made and provided, and against the peace and dignity of the State of Indiana.

I affirm under the penalties of perjury that the foregoing representations are true to the best of my knowledge and belief.

October 26, 2007
Date

Officer's Signature

WITNESSES:
Michael Meeks

Approved for filing:
Deputy Prosecuting Attorney

Indiana Rules of Court
Jury Rules

Effective January 1, 2003
Including Amendments Received Through January 1, 2008

Rule 1	Scope
Rule 2	Jury Pool
Rule 3	Random Draw
Rule 4	Notice Of Selection For Jury Pool And Summons For Jury Service
Rule 5	Disqualification
Rule 6	Exemption
Rule 7	Deferral
Rule 8	Documentation
Rule 9	Term Of Jury Service
Rule 10	Juror Safety And Privacy
Rule 11	Jury Orientation
Rule 12	Record Shall Be Made
Rule 13	Jury Panel: Oath Or Affirmation By Prospective Jurors
Rule 14	Introduction To Case
Rule 15	Examination Of The Jury Panel
Rule 16	Number Of Jurors
Rule 17	Challenge For Cause
Rule 18	Number Of Peremeptory Challenges
Rule 19	Oath Or Affirmation Of The Jury
Rule 20	Preliminary Instructions
Rule 21	Opening Statement
Rule 22	Presentation Of Evidence
Rule 23	Juror Trial Books
Rule 24	Procedure For Juror With Personal Knowledge In Criminal Cases
Rule 25	Jury View
Rule 26	Final Instructions
Rule 27	Final Arguments
Rule 28	Assisting Jurors At An Impasse
Rule 29	Separation During Deliberation
Rule 30	Judge To Read The Verdict

Informational Use Only
The current Indiana Jury Rules can be found at http://courts.in.gov/rules.
Official rules can be obtained from Thompson/West.

RULE 1 SCOPE

These rules shall govern petit jury assembly, selection, and management in all courts of the State of Indiana. Rules 2 through 10 shall govern grand jury assembly and selection.

RULE 2 JURY POOL

The judges of the trial courts shall administer the jury assembly process. The judges may appoint clerical personnel to aid in the administration of the jury system. Any person appointed to administer the jury assembly process is a jury administrator. The jury administrator shall compile the jury pool annually by selecting names from lists approved by the Supreme Court. In compiling the jury pool, the jury administrator shall avoid duplication of names.

Amended July 1, 2005, effective Jan. 1, 2006.

RULE 3 RANDOM DRAW

The jury administrator shall randomly draw names from the jury pool as needed to establish jury panels for jury selection. Prospective jurors shall not be drawn from bystanders or any source except the jury pool.

RULE 4 NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE

Not later than seven (7) days after the date of the drawing of names from the jury pool, the jury administrator shall mail to each person whose name is drawn a juror qualification form, and notice of the period during which any service may be performed. The judges of the courts of record in the county shall select, by local rule, on of the following procedures for summoning jurors:

(a) Single tier notice and summons. The jury administrator may send a summons at the same time the jury qualification form and notice is mailed. If so, the jury administrator shall send the jury qualification form and summons to prospective jurors at least six (6) weeks before jury service.

(b) Two tier notice and summons. The jury administrator may send summons at a later time. If the jury administrator sends the jury qualification form and notice first, the jury administrator shall summon prospective jurors at least one (1) week before service.

The summons shall include the following information: directions to court, parking, public transportation, compensation, attire, meals, and how to obtain auxiliary aids and services required by the Americans with Disabilities Act. The judge may direct the jury administrator to include a questionnaire to be completed by each prospective juror.

A judge may order prospective jurors to appear upon less notice when, in the course of jury selection, it becomes apparent that additional prospective jurors are required in order to complete jury selection.

A judge may authorize the jury administrator to use technological programs for receiving responses to juror qualification forms or to supplement information provided to jurors in the notice of selection and summons. The judge may authorize automated telephone services or web-based programs which include appropriate verification, such as juror identification numbers, PIN numbers, and passwords. The judge must ensure that jurors who are unable or unwilling to use these technological programs are able

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to complete the proper forms and receive the above-required information by contacting the jury administrator.

Amended July 1, 2005, effective Jan. 1, 2006.

RULE 5 DISQUALIFICATION

The court shall determine if the prospective jurors are qualified to serve, or, if disabled but otherwise qualified, could serve with reasonable accommodation. In order to serve as a juror, a person shall state under oath or affirmation that he or she is:

(a) a citizen of the United States;
(b) at least eighteen (18) years of age;
(c) a resident of the summoning county;
(d) able to read, speak, and understand, the English language;
(e) not suffering from a physical or mental disability that prevents him or her from rendering satisfactory jury service;
(f) not under a guardianship appointment because of mental incapacity;
(g) not a person who has had rights to vote revoked by reason of a felony conviction and whose rights to vote have not been restored; and
(h) not a law enforcement officer, if the trial is for a criminal case.

Persons who are not eligible for jury service shall not serve. Upon timely advance request from the prospective juror, the court may excuse from reporting for jury service any person whose bona fide religious conviction and affiliation with a religion prevents the prospective juror from performing jury service.

Amended Aug. 15, 2006, effective Jan. 1, 2007.

RULE 6 EXEMPTION

A person who has completed a term of jury service in the twenty-four (24) months preceding the date of the person's summons may claim exemption from jury service.

Amended Sep. 30, 2004, effective Jan. 1, 2005; amended Aug. 15, 2006, effective Jan. 1, 2007.

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RULE 7 DEFERRAL

The judge or judge's designee may authorize deferral of jury service for up to one (1) year upon a showing of hardship, extreme inconvenience, or necessity.

Amended Sep. 30, 2004, effective Jan. 1, 2005.

RULE 8 DOCUMENTATION

The facts supporting juror disqualifications, exemptions, and deferrals shall be recorded under oath or affirmation. No disqualification, exemption, or deferral shall be authorized unless the facts support it. These records shall be kept for a minimum of two (2) years.

RULE 9 TERM OF JURY SERVICE

(a) A person who appears for service as a petit juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service by reporting to the courthouse and being recorded as present for jury service and not deferred but is not selected and sworn as a juror completes the person's service when jury selection is completed; provided, however, jurors who are called for jury service are eligible to serve in any court in that county on the day summoned.

(b) A person who:

(1) serves as a juror; or
(2) serves until jury selection is completed, but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons in the jury pool for that year have been called for jury duty.

(c) A person who serves until jury selection is completed, but is not chosen to serve as a juror may be placed back in the jury pool and eligible for additional terms of service upon making a written request to the court.

Amended Sep. 30, 2004, effective Jan. 1, 2005.

RULE 10 JUROR SAFETY AND PRIVACY

Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The court shall maintain that confidentiality to an extent consistent with the constitutional and statutory rights of the parties.

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RULE 11 JURY ORIENTATION

Trial courts shall provide prospective jurors with orientation prior to the selection process so they may understand their role in our legal system. Jury orientation shall include a standard presentation recommended by the Indiana Judicial Conference.

RULE 12 RECORD SHALL BE MADE

Unless otherwise agreed by the parties, jury selection shall be recorded including all sidebar conferences.

RULE 13 JURY PANEL: OATH OR AFFIRMATION BY PROSPECTIVE JURORS

The jury panel consists of those prospective jurors who answered their summons by reporting for jury service. The judge shall administer the following to the prospective jurors of the jury panel: "Do you swear or affirm that you will honestly answer any question asked of you during jury selection?"

RULE 14 INTRODUCTION TO CASE

(a) After welcoming the jury panel, the judge shall introduce the panel to the case. Unless sufficiently covered by the jury orientation, the judge's introduction to the case shall include at least the following:

(1) Introduction of the participants;
(2) The nature of the case;
(3) The applicable standard of proof;
(4) The applicable burden(s) of proof;
(5) The presumption of innocence in a criminal case;
(6) The appropriate means by which jurors may address their private concerns to the judge;
(7) The appropriate standard of juror conduct;
(8) The anticipated course of proceedings during trial; and
(9) The rules regarding challenges.

(b) To facilitate the jury panel's understanding of the case, with the court's consent the parties may present brief statements of the facts and issues (mini opening statements) to be determined by the jury.

Amended Aug. 15, 2006, effective Jan. 1, 2007.

Informational Use Only
The current Indiana Jury Rules can be found at http://courts.in.gov/rules.
Official rules can be obtained from Thompson/West.

RULE 15 EXAMINATION OF THE JURY PANEL

Examination of jurors shall be governed by Trial Rule 47(D).

RULE 16 NUMBER OF JURORS

(a) In all criminal cases, if the defendant is charged with: murder, a Class A, B, or C felony, including any enhancement(s), the jury shall consist of twelve (12) persons, unless the parties and the court agree to a lesser number of jurors. If the defendant is charged with any other crime, the jury shall consist of six (6) persons. The court shall determine the number of alternate jurors to be seated. The verdict shall be unanimous.

(b) In all civil cases, the jury shall consist of six (6) persons, unless the parties agree to a lesser number of jurors before the jury is selected. The verdict shall be unanimous, unless the parties stipulate before the verdict is announced that a verdict or finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury. The number of alternate jurors shall be governed by Trial Rule 47(B).

RULE 17 CHALLENGE FOR CAUSE

(a) In both civil and criminal cases the parties shall make all challenges for cause before the jury is sworn to try the case, or upon a showing of good cause for the delay, before the jury retires to deliberate. The court shall sustain a challenge for cause if the prospective juror:

(1) is disqualified under rule 5;

(2) served as a juror in that same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict;

(3) will be unable to comprehend the evidence and the instructions of the court due to any reason including defective sight or hearing, or inadequate English language communication skills;

(4) has formed or expressed an opinion about the outcome of the case, and is unable to set that opinion aside and render an impartial verdict based upon the law and the evidence;

(5) was a member of a jury that previously considered the same dispute involving one or more of the same parties;

(6) is related within the fifth degree to the parties, their attorneys, or any witness subpoenaed in the case;

(7) has a personal interest in the result of the trial;

(8) is biased or prejudiced for or against a party to the case; or

(9) is a person who has been subpoenaed in good faith as a witness in the case.

(b) In criminal cases the court shall sustain a challenge for cause if the prospective juror:

(1) was a member of the grand jury that issued the indictment;

(2) is a defendant in a pending criminal case;

(3) in a case in which the death penalty is sought, is not qualified to serve in a death penalty case under law; or

(4) has formed or expressed an opinion about the outcome of the case which appears to be founded upon

a. a conversation with a witness to the transaction;

b. reading or hearing witness testimony or a report of witness testimony.

Informational Use Only

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(c) In civil cases the court shall sustain a challenge for cause if the prospective juror is interested in another suit, begun or contemplated, involving the same or a similar matter.

RULE 18 NUMBER OF PEREMPTORY CHALLENGES

(a) In criminal cases the defendant and prosecution each may challenge peremptorily:

(1) twenty (20) jurors in prosecutions where the death penalty or life without parole is sought;
(2) ten (10) jurors when neither the death penalty nor life without parole is sought in prosecutions for murder, and Class A, B, or C felonies, including enhancements; and
(3) five (5) jurors in prosecutions for all other crimes.

When several defendants are tried together, they must join their challenges.

(b) In civil cases each side may challenge peremptorily three (3) jurors.

(c) In selection of alternate jurors in both civil and criminal cases:

(1) one (1) peremptory challenge shall be allowed to each side in both criminal and civil cases for every two (2) alternate jurors to be seated;
(2) the additional peremptory challenges under this subsection may be used only in selecting alternate jurors; and
(3) peremptory challenges authorized for selection of jurors may not be used in selecting alternate jurors.

(d) If it appears to the court that a particular peremptory challenge may have been used in a constitutionally impermissible manner, the court upon its own initiative may (a) inform the parties of the reasons for its concern, (b) require the party exercising the challenge to explain its reasons for the challenge, and (c) deny the challenge if the proffered basis is constitutionally impermissible.

Amended Aug. 15, 2006, effective Jan. 1, 2007.

Informational Use Only
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RULE 19 OATH OR AFFIRMATION OF THE JURY

After the jury has been selected, but before commencement of the trial, the judge shall administer the following to the jury, including alternate jurors:

"Do each of you swear or affirm that you will well and truly try the matter in issue between the parties, and give a true verdict according to the law and evidence?"

RULE 20 PRELIMINARY INSTRUCTIONS

(a) The court shall instruct the jury before opening statements by reading the appropriate instructions which shall include at least the following:

(1) the issues for trial;
(2) the applicable burdens of proof;
(3) the credibility of witnesses and the manner of weighing the testimony to be received;
(4) that each juror may take notes during the trial and paper shall be provided, but note taking shall not interfere with the attention to the testimony;
(5) the personal knowledge procedure under Rule 24;
(6) the order in which the case will proceed;
(7) that jurors, including alternates, may seek to ask questions of the witnesses by submission of questions in writing.
(8) that jurors, including alternates, are permitted to discuss the evidence among themselves in the jury room during recesses from trial when all are present, as long as they reserve judgment about the outcome of the case until deliberations commence. The court shall admonish jurors not to discuss the case with anyone other than fellow jurors during the trial.

(b) It is assumed that the court will cover other matters in the preliminary instructions.

(c) The court shall provide each juror with the written instructions while the court reads them.

Amended Sep. 30, 2004, effective Jan. 1, 2005; amended Sep. 10, 2007; effective Jan. 1, 2008.

RULE 21 OPENING STATEMENT

(a) In criminal cases, the prosecution shall state briefly the evidence that supports its case. The defense may then state briefly the evidence in support of the defense, but has the right to decline to make an opening statement.

(b) In civil cases, the party with the burden of going forward may briefly state the evidence that supports its case. The adverse party may then briefly state the evidence in support of its case.

RULE 22 PRESENTATION OF EVIDENCE

Unless the court otherwise directs, the party with the burden of going forward shall produce evidence first, followed by presentation of evidence by the adverse party.

The parties may then respectively offer rebuttal evidence only, unless the court, for good cause shown, permits them to offer evidence upon their original case.

Informational Use Only
The current Indiana Jury Rules can be found at http://courts.in.gov/rules.
Official rules can be obtained from Thompson/West.

RULE 23 JUROR TRIAL BOOKS

In both criminal and civil cases, the court may authorize the use of juror trial books to aid jurors in performing their duties.

Juror trial books may contain:
(a) all given instructions;
(b) information regarding the anticipated trial schedule;
(c) witness lists; and
(d) copies of exhibits admitted for trial.

RULE 24 PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES

If the court receives information that a juror has personal knowledge about the case, the court shall examine the juror under oath in the presence of the parties and outside the presence of the other jurors concerning that knowledge.

If the court finds that the juror has personal knowledge of a material fact, the juror shall be excused, and the court shall replace that juror with an alternate. If there is no alternate juror, then the court shall discharge the jury without prejudice, unless the parties agree to submit the cause to the remaining jurors.

RULE 25 JURY VIEW

When the court determines it is proper, the court may order the jury to view:

(a) the real or personal property which is the subject of the case; or
(b) the place in which a material fact occurred.

The place shall be shown to the jury by a person appointed by the court for that purpose. While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial. Counsel for the parties shall have the right to accompany the jury but shall not speak to the jury.

RULE 26 FINAL INSTRUCTIONS

The court shall read appropriate final instructions, providing each juror with written instructions before the court reads them. Jurors shall retain the written instructions during deliberations. The court may, in its discretion, give some or all final instructions before final arguments, and some or all final instructions after final arguments.

RULE 27 FINAL ARGUMENTS

When the evidence is concluded, the parties may, by agreement in open court, submit the case without argument to the court or jury trying the case.

Informational Use Only
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Official rules can be obtained from Thompson/West.

If the parties argue the case to the jury, the party with the burden of going forward shall open and close the argument. The party which opens the argument must disclose in the opening all the points relied on in the case. If, in the closing, the party which closes refers to any new point or fact not disclosed in the opening, the adverse party has the right to reply to the new point or fact. The adverse party's reply then closes the argument in the case.

If the party with the burden of going forward declines to open the argument, the adverse party may then argue its case. In criminal cases, if the defense declines to argue its case after the prosecution has made opening argument, then that shall be the only argument allowed in the case.

In criminal cases, the party with the burden of going forward is the prosecution. In civil cases, the party with the burden of going forward is the plaintiff.

RULE 28 ASSISTING JURORS AT AN IMPASSE

If the jury advises the court that it has reached an impasse in its deliberations, the court may, but only in the presence of counsel, and, in a criminal case the parties, inquire of the jurors to determine whether and how the court and counsel can assist them in their deliberative process. After receiving the jurors' response, if any, the court, after consultation with counsel, may direct that further proceedings occur as appropriate.

RULE 29 SEPARATION DURING DELIBERATION

(a) The court, in its discretion may permit the jury in civil cases to separate during deliberations. However, before the jurors are permitted to separate, the court shall instruct them that while they are separated, they shall:

(1) not discuss the case among themselves or with anyone else;
(2) not talk to the attorneys, parties, or witnesses;
(3) not express any opinion about the case; and
(4) not listen to or read any outside or media accounts of the trial.

(b) The court shall not permit the jury to separate during deliberation in criminal cases unless all parties consent to the separation and the instructions found in section "a" of this rule are given.

RULE 30 JUDGE TO READ THE VERDICT

When the jury has agreed upon its verdict, the foreperson shall sign the appropriate verdict form. When returned into court, the judge shall read the verdict. The court or either party may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.

Informational Use Only
The current Indiana Jury Rules can be found at http://courts.in.gov/rules.
Official rules can be obtained from Thompson/West.

STATE OF INDIANA	)	IN THE STEUBEN CIRCUIT COURT
	) SS:	
COUNTY OF STEUBEN	)	CAUSE NO. 76C01-0710-CM-600

STATE OF INDIANA	)
	)
VS	)
	)
PATRICIA L. MARTIN	)

PRELIMINARY INSTRUCTIONS

The jury having been duly and legally impaneled and sworn, and before the opening statements of counsel, the Court now indicates that it will give and read to the jury the Court's Preliminary Instructions No. 1 through 11, both inclusive, attached hereto, exclusive of captions in parentheses, pursuant to Ind. Criminal Rule 8(F).

Dated: 10-23-08

Allen N. Wheat
Allen N. Wheat, Judge
Steuben Circuit Court

COURT'S PRELIMINARY INSTRUCTION NO. 1

(DUTY OF JURORS - ADMONISHMENT)

You have been selected as jurors and have taken an oath to well and truly try this case.

During the progress of the trial there will be periods of time during which you will be allowed to leave the courtroom for lunch periods and overnight. During these periods of time that you are outside the courtroom you must not talk about this case among yourselves or with anyone else. You are, however, permitted during recesses when you are all together to discuss the evidence you have heard thus far in the case. You should reach no final decision in this case until you have heard all of the evidence, the arguments of counsel, and the final instructions as to the law which will be given to you later by the Court.

This trial may generate publicity in the media. You must not read or listen to these accounts, but should confine your attention to the court proceedings listening attentively to the evidence as it comes from the witnesses, and reach a verdict based solely upon what you hear and see in this courtroom.

If any of you realize during the course of this trial that you have personal knowledge of any fact material to this case you shall inform the Bailiff that you believe you have this knowledge at the first available opportunity.

COURT'S PRELIMINARY INSTRUCTION NO. 2

(LAW - FACT)

Since this is a criminal case the Constitution of the State of Indiana makes you the judges of both the law and the facts. Though this means that you are to determine the law for yourself, it does not mean that you have the right to make, repeal, disregard or ignore the law as it exists. The instructions you receive from the Court are the best source as to the law applicable in this case.

COURT'S PRELIMINARY INSTRUCTION NO. 3

(INFORMATION NOT EVIDENCE)

The Defendant has entered a plea of not guilty and the burden rests upon the State to prove to each of you by proof beyond a reasonable doubt every essential element of each crime charged.

The charge which has been filed is the formal method of bringing the Defendant to trial. The fact that a charge has been filed against the Defendant is not to be considered by you as any evidence of guilt.

COURT'S PRELIMINARY INSTRUCTION NO. 4

(INFORMATION - ISSUES FOR TRIAL)

In this case Patricia L. Martin has been charged with having committed the offense of Count I - Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor. The criminal charge, omitting the formal parts, reads as follows:

Count I

> "The undersigned affirms that on or about the 26th day of October of the year 2007, at and in County of Steuben, State of Indiana, one Patricia L. Martin, did operate a certain motor vehicle, to-wit: 2005 Black Cadillac STS bearing 2007, Indiana license plate number 922DDP on C.R. 100 N at Landis Road in Steuben County, Indiana while she, the said Patricia L. Martin, was intoxicated in such a manner that endangers a person, all of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Indiana."

COURT'S PRELIMINARY INSTRUCTION NO. 5

(STATUTE - ESSENTIAL ELEMENTS - OPERATING A MOTOR VEHICLE WHILE INTOXICATED / ENDANGERING A PERSON)

The crime of Operating a Motor Vehicle While Intoxicated / Endangering a Person as charged in this case is defined by statute as follows:

> "(a) Except as provided in subsection (b), a person who operates a vehicle while intoxicated commits a Class C Misdemeanor.
>
> (b) An offense described in subsection (a) is a Class A Misdemeanor if the person operates a vehicle in a manner that endangers a person."

The material and essential elements which the State must prove beyond a reasonable doubt to convict the Defendant of the offense of Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor, are that Mrs. Martin:

1. Operated a vehicle in Steuben County;
2. While intoxicated; and,
3. The vehicle was being operated by Mrs. Martin in a manner that endangered any person which would include Mrs. Martin.

COURT'S PRELIMINARY INSTRUCTION NO. 6

(PRESUMPTION OF INNOCENCE - BURDEN OF PROOF)

A person charged with a crime is presumed to be innocent. To overcome the presumption of innocence in this case the State must prove Mrs. Martin guilty of each essential element of the crime with which she has been charged by proof beyond a reasonable doubt.

COURT'S PRELIMINARY INSTRUCTION NO. 7

(REASONABLE DOUBT)

As you have been previously instructed the State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is only necessary to prove that a fact is more likely true than not true. In criminal cases, the state's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime with which she has been charged, you may find Mrs. Martin guilty. If on the other hand, you think there is a real possibility that the Defendant is not guilty, you must give Mrs. Martin the benefit of the doubt and find the Defendant not guilty.

COURT'S PRELIMINARY INSTRUCTION NO. 8

(CREDIBILITY OF WITNESSES - WEIGHING EVIDENCE)

You are the exclusive judges of the evidence, the credibility of the witnesses, and the weight to be given to the testimony of each of them. In considering the testimony of any witness, you may take into account his or her ability and opportunity to observe; the manner and conduct of the witness while testifying; any interest, bias or prejudice the witness may have; any relationship with other witnesses or interested parties; and, the reasonableness of the testimony of the witness considered in the light of all of the evidence in the case.

You should attempt to fit the evidence to the presumption that Mrs. Martin is innocent and that every witness is telling the truth, if it can reasonably be done. You should not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony that you cannot reconcile you must determine which of the witnesses you believe and which of them you disbelieve.

In weighing the testimony to determine what or whom you believe, you should use your own knowledge, experience, and common sense gained from day-to-day living. The number of witnesses who testify to a particular point need not control your determination of the truth. You should give the greatest weight to the evidence that convinces you most strongly of its truthfulness.

COURT'S PRELIMINARY INSTRUCTION NO. 9

(NOTE TAKING)

During the progress of the trial you may take notes if you wish. However, it is difficult to take detailed notes and at the same time pay careful attention to what the witnesses are saying. If you do take notes do not allow your note-taking to interfere with your attention to the testimony. Do not take notes with you at the end of the day; instead, leave the notes in the jury room.

COURT'S PRELIMINARY INSTRUCTION NO. 10

(CONDUCT OF TRIAL)

The trial of this case will proceed as follows:

First, the attorneys will have an opportunity to make opening statements. These statements are not evidence and should be considered only as a preview of what the attorneys expect the evidence will be.

Following opening statements witnesses will be called to testify. They will be placed under oath and questioned by the attorneys. Documents and other tangible exhibits may also be admitted into evidence. If an exhibit is given to you to examine you should examine it carefully, individually, and without any comment.

When the attorneys have concluded presenting evidence, and before you retire to consider your verdict, I will give you further instructions on the law which applies to this case.

Thereafter, the attorneys will make closing arguments. The closing arguments are not evidence. The attorneys are permitted to argue, to characterize the evidence, and to attempt to persuade you to a particular verdict. You may accept or reject these arguments as you see fit.

COURT'S PRELIMINARY INSTRUCTION NO. 11

(JURY QUESTIONS)

Each of you have the right to ask questions of a witness when the attorneys have completed their questioning of the witness.

For you to have a question to ask of a witness you must put the question in writing before the witness is excused by the Court. The Bailiff will then pick up your questions and present them to me. I will then review your questions with the attorneys. I will then decide whether to read your question to the witness.

If I do not read your question to the witness please do not assume that I thought your question was not a good question. Your question must be judged by the same evidentiary standards by which questions put to a witness by the attorneys are judged. Therefore, even if your question had been asked by an attorney, I would not have allowed the witness to have answered it.

STATE OF INDIANA	)	IN THE STEUBEN CIRCUIT COURT
	)SS:	
COUNTY OF STEUBEN	)	CAUSE NO. 76C01-0710-CM-600

STATE OF INDIANA	)
	)
VS	)
	)
PATRICIA L. MARTIN	)

FINAL INSTRUCTIONS

At the close of the evidence and before the arguments of counsel, the Court now indicates that it will give and read to the jury at the trial of this cause the Court's Final Instructions No. 1 through 19, both inclusive, exclusive of captions in parentheses, pursuant to Ind. Criminal Rule 8(F).

Dated: 10-23-08

Allen N. Wheat

Allen N. Wheat, Judge
Steuben Circuit Court

COURT'S FINAL INSTRUCTION NO. 1

(LAW - FACT - DETERMINATION)

It is the duty of the Court to instruct you in writing at this time concerning the matters of law which are necessary for your information in arriving at your verdict.

In discharging this duty the Court has no right to assume, and does not assume, that any fact or facts will be established or not established, it being your exclusive right and duty under the Constitution of the State of Indiana to determine from all of the evidence what has and what has not been proven.

The Constitution of the State of Indiana makes you the judges of both the law and the facts. Although this means you are to determine the law for yourself it does not mean that you have the right to make, repeal, disregard, or ignore the law as it exists. The instructions you receive from the Court are the best source as to the law applicable in this case.

COURT'S FINAL INSTRUCTION NO. 2

(INFORMATION - ISSUES FOR TRIAL)

In this case Patricia L. Martin has been charged with having committed the offense of Count I - Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor. The criminal charge, omitting the formal parts, reads as follows:

Count I

> "The undersigned affirms that on or about the 26th day of October of the year 2007, at and in County of Steuben, State of Indiana, one Patricia L. Martin, did operate a certain motor vehicle, to-wit: 2005 Black Cadillac STS bearing 2007, Indiana license plate number 922DDP on C.R. 100 N at Landis Road in Steuben County, Indiana while she, the said Patricia L. Martin, was intoxicated in such a manner that endangers a person, all of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Indiana."

COURT'S FINAL INSTRUCTION NO. 3

(STATUTE - ESSENTIAL ELEMENTS - OPERATING A MOTOR VEHICLE WHILE INTOXICATED / ENDANGERING A PERSON)

The crime of Operating a Motor Vehicle While Intoxicated / Endangering a Person as charged in this case is defined by statute as follows:

> "(a) Except as provided in subsection (b), a person who operates a vehicle while intoxicated commits a Class C Misdemeanor.
>
> (b) An offense described in subsection (a) is a Class A Misdemeanor if the person operates a vehicle in a manner that endangers a person."

The material and essential elements which the State must prove beyond a reasonable doubt to convict the Defendant of the offense of Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor, are that Mrs. Martin:

1. Operated a vehicle in Steuben County;
2. While intoxicated; and,
3. The vehicle was being operated by Mrs. Martin in a manner that endangered any person which would include Mrs. Martin.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find Mrs. Martin not guilty.

If the State did prove each of these elements beyond a reasonable doubt, you may find Mrs. Martin guilty of the crime with which she has been charged.

COURT'S FINAL INSTRUCTION NO. 4

(INTOXICATED DEFINED)

Intoxicated means under the influence of alcohol, a controlled substance, any drug other than alcohol or a controlled substance, or any combination of alcohol, controlled substances, or drugs, such that there is an impaired condition of thought and action and the loss of normal control of a person's faculties to such an extent as to endanger any person including the general public, law enforcement officers, Mrs. Martin, or passenger(s) in the vehicle she was operating.

COURT'S FINAL INSTRUCTION NO. 5

(OPERATE DEFINED)

A person operates a motor vehicle if the person either drives the vehicle or is in actual physical control of the vehicle upon a highway.

COURT'S FINAL INSTRUCTION NO. 6

(MOTOR VEHICLE DEFINED)

The term "motor vehicle" means any vehicle that is self-propelled except for a farm tractor, or implement of husbandry.

COURT'S FINAL INSTRUCTION NO. 7

(CHEMICAL TEST DEFINED)

Chemical test means an analysis of a person's blood, breath, urine, or other bodily substance for the determination of the presence of alcohol, a controlled substance, or a drug.

COURT'S FINAL INSTRUCTION NO. 8

(TIME OF TEST)

If you find:

(1) a chemical test was performed on a test sample taken from the Defendant; and

(2) the chemical test was performed within three (3) hours of the Defendant's alleged operation of a motor vehicle; and

(3) at the time the test was administered the test results indicated that the Defendant had an alcohol concentration equivalent of at least .08% by weight in grams per 210 liters of the Defendant's breath;

then, you may infer that the Defendant had the same alcohol concentration equivalent at the time the Defendant is alleged to have operated the motor vehicle.

This inference is not conclusive. You are free to accept or reject the inference based upon your analysis of all of the evidence which has been presented to you.

COURT'S FINAL INSTRUCTION NO. 9

(RELEVANT EVIDENCE - NOT CONCLUSIVE)

If a person operates a motor vehicle with an alcohol concentration equivalent of at least .08% by weight in grams per 210 liters of the person's breath, this is relevant evidence that the person operated a motor vehicle while intoxicated as that term has been defined for you. This evidence, however, without additional evidence of impairment, would be insufficient to support a guilty verdict against Mrs. Martin for having committed the crime of Operating a Motor Vehicle While Intoxicated / Endangering a Person, as charged in this case.

COURT'S FINAL INSTRUCTION NO. 10

(REASONABLE DOUBT)

The state has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is only necessary to prove that a fact is more likely true than not true. In criminal cases the state's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime with which she has been charged, you may find Mrs. Martin guilty. If on the other hand, you think there is a real possibility that the Defendant is not guilty, you must give Mrs. Martin the benefit of the doubt and find the Defendant not guilty.

COURT'S FINAL INSTRUCTION NO. 11

(DIRECT EVIDENCE - CIRCUMSTANTIAL EVIDENCE)

Direct evidence means evidence that directly proves a fact, without an inference, and which itself, if true, conclusively establishes that fact.

Circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn.

It is not necessary that facts be proved by direct evidence. Both direct evidence and circumstantial evidence are acceptable as a means of proof. Neither is entitled to any greater weight than the other.

COURT'S FINAL INSTRUCTION NO. 12

(CREDIBILITY OF WITNESSES - WEIGHING EVIDENCE)

You are the exclusive judges of the evidence, the credibility of the witnesses, and the weight to be given to the testimony of each of them. In considering the testimony of any witness, you may take into account his or her ability and opportunity to observe; the manner and conduct of the witness while testifying; any interest, bias or prejudice the witness may have; any relationship with other witnesses or interested parties; and, the reasonableness of the testimony of the witness considered in the light of all of the evidence in the case.

You should attempt to fit the evidence to the presumption that Mrs. Martin is innocent and that every witness is telling the truth, if it can reasonably be done. You should not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony that you cannot reconcile you must determine which of the witnesses you believe and which of them you disbelieve.

In weighing the testimony to determine what or whom you believe, you should use your own knowledge, experience, and common sense gained from day-to-day living. The number of witnesses who testify to a particular point need not control your determination of the truth. You should give the greatest weight to the evidence that convinces you most strongly of its truthfulness.

COURT'S FINAL INSTRUCTION NO. 13

(ARGUMENT OF COUNSEL)

You are instructed that the argument of counsel is for the purpose of aiding you to reach a proper verdict by refreshing in your mind the evidence which has been given to you in this case and by showing the application of the law thereto; but, whatever will be argued, you will bear in mind that it is your duty to be governed in your deliberations by the evidence as you understand it and remember it to be, and by the law as you determine it to be, and you should disregard entirely any remarks by counsel not warranted by the evidence.

COURT'S FINAL INSTRUCTION NO. 14

(INSTRUCTIONS TO BE CONSIDERED AS A WHOLE)

It is not practical and the Court has not attempted to embody all matters of law applicable to this case in any one instruction. You are to consider all of the instructions as a whole, and in considering any one instruction, you should construe it in connection with, and in light of, every other instruction given. Do not single out any certain sentence or any individual point or instruction and ignore the others.

COURT'S FINAL INSTRUCTION NO. 15

(PENALTY IMPOSED BY COURT)

These instructions do not contain any information concerning the penalties that could be imposed upon a conviction. I am solely responsible for assessing the penalty within a broad range of possibilities. The law has been so written that you may make your decisions without being influenced by the apparent severity or leniency of the sentence.

COURT'S FINAL INSTRUCTION NO. 16

(FORMS OF VERDICT)

The Court is submitting to you verdict forms in blank for your convenience. Your verdict must be unanimous.

COURT'S FINAL INSTRUCTION NO. 17

(JURY DELIBERATION - I)

In order to return a verdict of guilty or not guilty you must all agree on the verdict.

Each juror must be satisfied beyond a reasonable doubt of Mrs. Martin's guilt before he or she consents to a verdict of guilty, and if any one of you, after having heard the evidence, the argument of counsel, and the instructions of the Court, and having consulted with your fellow jurors, entertains a reasonable doubt regarding guilt no verdict can be reached against the Defendant.

Each juror must feel the responsibility resting upon him or her as a member of the jury and should realize that his or her mind should be convinced by the evidence of Mrs. Martin's guilt beyond a reasonable doubt before he or she consents to a verdict of guilty regardless of the fact that other jurors may be of another opinion regarding the guilt of Mrs. Martin.

During your deliberations you should not yield your individual judgment to your fellow jurors just so you can return a verdict. However, it is your duty to impartially consider the evidence with your fellow jurors, to examine your own view in light of the discussion, and to consult and reason with your fellow jurors in a good faith effort to reach a just verdict.

After you return a verdict you are under no obligation to discuss the reasons for it with anyone.

COURT'S FINAL INSTRUCTION NO. 18

(JURY DELIBERATION - II)

It is necessary that the regular panel of jurors remain together until you are discharged by the Court, and you will be in the charge of the court Bailiff detailed for that purpose. You must not communicate on any subject whatsoever with any person other than members of this jury except to answer such questions as may be asked you by the Bailiff upon the direction of the Court. If at any time you have the desire to communicate with the Court you may notify the Bailiff to that effect and she will communicate with me.

You have been furnished by the Court with an exact copy of all of the preliminary and final instructions given by the Court. These instructions should be returned to the Court with your verdict.

When you return to the jury room you will first select one of your number as your foreperson. The foreperson will preside over your deliberations. When you have agreed upon your verdict you will reduce it to writing and cause the foreperson to sign and date the verdict form. When your verdict has been agreed upon, signed and dated, you will notify the Bailiff and the Bailiff will return you into open Court.

COURT'S FINAL INSTRUCTION NO. 19

(ALTERNATE JUROR)

Linda Driver, you have been selected as the alternate juror in this cause. The duties you have assumed as alternate juror are the same as those of the regular jurors. You will be allowed to retire with the jury to the jury room, and you should listen attentively to the deliberations of the jury.

You should not, however, participate in any manner in the discussions, deliberations or voting of the jury. You should listen silently and without comment to the deliberations. You may only participate in the deliberations if and when the Court excuses a regular juror and you are then directed by the Court to actively serve.

The foreperson of the jury shall prevent any discussion or voting by the alternate juror, and shall promptly report to the Court any violation of this instruction.

STATE OF INDIANA	)	IN THE STEUBEN CIRCUIT COURT
	)SS:	
COUNTY OF STEUBEN	)	CAUSE NO. 76C01-0710-CM-600

STATE OF INDIANA	)
	)
VS	)
	)
PATRICIA L. MARTIN	)

VERDICT FORM / GUILTY

We, the jury, find the Defendant, Patricia L. Martin, guilty of Count I, Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor.

Dated:_____ _____
Foreperson

STATE OF INDIANA	)	IN THE STEUBEN CIRCUIT COURT
	)SS:	
COUNTY OF STEUBEN	)	CAUSE NO. 76C01-0710-CM-600

STATE OF INDIANA	)
	)
VS	)
	)
PATRICIA L. MARTIN	)

VERDICT FORM / NOT GUILTY

We, the jury, find the Defendant, Patricia L. Martin, not guilty of Count I, Operating a Motor Vehicle While Intoxicated / Endangering a Person, a Class A Misdemeanor.

Dated:_____

_____
Foreperson

ACKNOWLEDGMENTS

I wish to extend to the people identified below my heartfelt appreciation for all of their hard work in making this project a success.

Debbie Arnett
Court Reporter / Bailiff Steuben Circuit Court

Connie Beaman
Juror
V.P. / Business Relationship Manager Wells Fargo Bank

William Booth
Juror
President Steuben County Council / Businessman

Kyle Brown
B.S.U Student

Linda Busche
Court Reporter Steuben Circuit Court

James Crowl
Juror
Steuben County Commissioner / Businessman

Linda Driver
Juror
Insurance / Investment Advisor

Paul Droke
B.S.U. Student

Mark Elstro
B.S.U. Student

Benjamin Friedman
B.S.U. Student

George Gilbert
Juror
President First Federal Savings Bank of Angola

Matthew Gregory
B.S.U. Student

William Gruppe
B.S.U. Student

Kevin Hannon
B.S.U. Student

Donelda Hantz
Juror
Retired / Community Volunteer

Michael Hess
Prosecuting Attorney
1st Deputy Prosecuting Attorney, Steuben County, Indiana

Richard Hickman
Juror
Mayor of City of Angola / Jacob Insurance

Christopher Jackson
B.S.U. Student

Thomas James
B.S.U. Student

Adam Kitson
Steuben County Jailer

Andrew Lewis
B.S.U. Student

Richard Lewis
Steuben County Sheriff

Patricia Martin
Defendant
Attorney at Law

Sarah Mchie
B.S.U. Student

Michael Meeks
Arresting Officer
Steuben County Deputy Sheriff

Nicholas Miller
B.S.U. Student

Jeremy Musser
Defense Attorney
Steuben County Deputy Prosecuting Attorney

Tracy Nufer
Passenger in Defendant's Vehicle
Attorney at Law

Amy Oberlin
Juror
Herald Republican Newspaper

Melissa Parker
Juror
Angola High School Senior

Michelle Reid
Court Reporter Steuben Circuit Court

Ann Rice
Juror
Assistant Principal Angola Middle School

Sue SanGiacomo
Juror
Principal Pleasant Lake Elementary School

Lynn Scott
B.S.U. Student

Kevin Shalkowsky
B.S.U. Student

Charles Sheets
Juror
Businessman

Dustin Sparks
B.S.U. Student

Carl Swift
Juror
Retired / Community Volunteer

Joshua Swihart
B.S.U. Student

Paul West
B.S.U. Student

Allen Wheat
Judge Steuben Circuit Court

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