

The State of California vs. George Milton

Handout

NOTE TO ALL PARTICIPANTS: Always address the Judge by saying "Your Honor."

Opening of Trial:

Bailiff: "Please rise. The Court of California, Criminal Division, is now in session, the Honorable Judge _____ presiding."

Judge: "Everyone but the Jury may be seated. Bailiff, please swear in the Jury."

Bailiff: *(To the Jury)* "Please raise your right hand. Do you solemnly swear or affirm that you will truly listen to this case and render a true verdict and a fair sentence as to this Defendant?"

(Jury should answer "I do").

Bailiff: "You may be seated."

Judge: "Bailiff, what is today's case?"

Bailiff: "Your Honor, today's case is _____."

Judge: "Is the Prosecution ready?"

Prosecuting Attorneys: *(stand up)* "Yes, your Honor."

(Be seated)

Judge: "Is the Defense ready?"

Defense Attorneys: *(stand up)* "Yes, your Honor."

(Be seated)

Judge: "XX: you have been accused by the State of California of xx. How do you plead on this count?"

Defense Attorney and Defendant stand: "Guilty/Not Guilty, Your Honour."

Opening Statements:

Judge informs the Prosecution and Defense to take turns addressing their opening statements to the Jury.

Prosecution gives its Opening Statement

Judge: "Thank you. We shall now hear the Defense."

Defense gives its Opening Statement

Witness Examination:

Judge: "Thank you. Prosecution: you may call your first witness."

Prosecuting Attorney: "Thank you, your Honor. I call to the stand _____."

Judge: "Will the witness please stand to be sworn in by the Bailiff."

(Witness stands)

Bailiff: *(to the witness)* "Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?"

Witness: "I do."

Prosecution Questions Witness and ends the examination with "Nothing further, Your Honour."

Defense Cross Examines and ends the examination with "Nothing further, Your Honour."

Judge: "Prosecution, you may call your second witness."

This procedure is repeated for all the Prosecution witnesses. After the final witness, the Prosecutor ends like this: "The Prosecution rests its case."

Judge: "Defense, you may call your first witness."

Defense Attorney: "Thank you, your Honor. I call to the stand _____."

Judge: "Will the witness please stand to be sworn in by the Bailiff."

(Witness stands)

Bailiff: *(to the witness)* "Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?"

Witness: "I do."

Defense questions Witness and ends the examination with "Nothing further, Your Honour."

Prosecution cross examines and ends the examination with "Nothing further, Your Honour."

Judge: "Defense, you may call your second witness."

This procedure is repeated for all the Defense witnesses. After the final witness, the Defense Attorney ends like this: "The Defense rests its case."

Final Statements:

Judge: "Both the Prosecution and the Defense have now rested their cases. The attorneys will now present their final arguments. Prosecution, you may begin."

Prosecution presents its Closing Argument.

Judge: "Thank you. And now the Defense."

Defense presents its Closing Argument.

Judge: "Thank you."

Jury Deliberation:

After hearing the Judge's instructions, the Jurors must decide guilty or not guilty and then give their decision to the Judge.

Judge: "Members of the Jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You and you alone, are the Judges of the fact. Once you decide what facts the evidence proves, you must then apply the law as I give it to you to the facts as you find them."

The Defendant is believed to be innocent of the charges. This presumption remains with the Defendant throughout every stage of the trial and is not overcome unless you are convinced beyond a reasonable doubt that the Defendant is guilty. The Defendant is not required to prove his innocence. The Prosecution has the burden of proving the guilt of the Defendant beyond a reasonable doubt. This burden remains on the Prosecution through the trial. The Prosecution must prove that a crime was committed and that the Defendant is the person who committed the crime. However, the Prosecution is not required to prove guilty beyond all possible doubt or to a certain percentage. Nor is the Prosecution required to disprove every conceivable circumstance of innocence. A reasonable doubt is a doubt founded upon reason. Proof beyond a reasonable doubt requires such proof that would convince you to rely upon a fact enough to make an important decision in your own business or personal affairs. However, if you are not satisfied of the Defendant's guilt to that extent, then reasonable doubt exists and the Defendant must be found not guilty.

In just a moment, the Bailiff will take you to the Jury room to consider your verdict. One of the first things you will want to do is to select a foreperson that will preside over your deliberations the way that a chairperson does at a meeting. It will be the foreperson's duty to sign the verdict form when you have agreed on a verdict. Whatever verdict you render must be unanimous. That is each and every person must agree on the same verdict.

Judge: "The Bailiff will now escort you to the deliberation room."

(When the Jury Returns):

Judge: "Have you reached a verdict?"

Jury Foreperson: "We have, your Honor."

Judge: "What say you?"

Jury Foreperson: "In the matter of..." *(Read verdict)*

Judge: "Thank you, Jury, for your work. You are dismissed."

If innocent, The Judge says: "xx: your case is dismissed without prejudice. You are free to go without further charges."

If guilty, The Judge says: "xx: you have been found guilty on the charge of murder in the first degree. I sentence you to..... *(select appropriate punishment)*."