APPENDIX I

OSC Arraignment Script

Welcome and History

Good afternoon.

Welcome to superior court. My name is _____, I'm a superior court judge. You all have been previously summoned for jury service.

You were sent a summons to appear during the week of _____. And for whatever reason, we did not hear from you.

We then sent you a postcard on _____. The postcard was a courtesy reminder. It told you to contact the jury commissioner to rearrange your jury service or give a legal reason why you should not have to serve. For whatever reason, we did not hear from you.

We then sent you a letter dated_____, telling you that you had to do one of two things. The letter was an order from the jury commissioner, and it told you to either: (1) contact the jury commissioner and reschedule your jury service or give a legal reason why you should be excused, or (2) appear at a hearing in this courtroom on _____. We didn't hear from you, and you did not appear at the hearing.

We then sent you a final warning letter dated _____. In the letter you were warned that the next step in the process would be the initiation of contempt proceedings and a visit from the sheriff. However, you were given another 30 days to contact the office of the jury commissioner to reschedule your service or give a legal reason why you should be excused. And for whatever reason, we didn't hear from you. So we sent the sheriff to serve you with the order to show cause that brought you here today.

For most of you, the summons, postcard, and both letters were all mailed to the exact same address as the place where the order to show cause was served.

Civic Duty Discussion

(The same speech given at the Come See the Judge hearing can be given here (see Appendix D). This speech helps resolve the OSC at the arraignment by informing jurors why it was important for them to comply with their obligation to appear.)

OSC Arraignment Script

Today's proceeding is called an arraignment.

Two counts of contempt of court have been alleged against you. One count relates to your failure to appear on the original summons, and the other count relates to your failure to appear as required in the first letter from the jury commissioner.

You have the right to have a formal hearing on the contempt allegations. You also have the following rights:

- You have the right against self-incrimination. That is also known as the right to remain silent. This right means you do not have to admit any contempt allegation. It also means you don't have to testify at your contempt hearing if you don't want to. It also means you don't have give me an explanation of why you did not show up for jury service.

- You have the right to confront and cross-examine witnesses who testify against you. The witness today will be a representative of the jury commissioner's office who will testify about the efforts to get you to comply with your obligation to appear, which I just summarized.

- You have the right to be represented by an attorney if you can afford one. Because the court will not impose jail time as punishment for contempt, you are not entitled to an attorney free of cost. But if you want to hire an attorney, you can do that. We'll postpone your case and have you come back on another day with your attorney.

- Before you can be found guilty of contempt of court for your failure to appear on either count, the contempt must be proven beyond a reasonable doubt.

- You are not required to present any evidence at your hearing, but you can if you want to.

- Your right to present evidence in your own defense includes the following:

    - You have the right to personally testify.

    - You have the right to call witnesses to testify in your own behalf.

    - You also have the right to ask the court to order those witnesses to appear in court for purposes of giving testimony, and the court will issue an order in the form of a subpoena requiring them to do so, and then the court will enforce that order if they fail to appear by issuing a bench warrant for their arrest.

The maximum fine for contempt of court is $1,000.

There are two counts of contempt, and consequently your maximum fine could be as much as $2,000.

Your failure to pay the fine will also be further grounds for contempt.

The process for the rest of the arraignment will be as follows:

- I'll call each of you to come up to this table individually.

- I'll ask you several questions.

- I'll ask you if you received a copy of the declaration from the jury commissioner's office when you came in today. The declaration is one of the documents you received when you came in today. It is labeled, "Declaration in Support of Order to Show Cause" on the right side of the page. This document outlines the allegations against you.

  (They should also be given another copy of their OSC and a copy of the handout, *Laws Pertaining to Jury Service* (see Appendix C).)

- Next, I'll ask you if that is your true name on the declaration and is it spelled correctly.

- Next, I'll ask you if you heard and understood the rights I just told you about.

- Then I'll ask you what you want to do with your case today.

- You have two options.

- The first option is that you can deny the contempt allegations and set your case for a hearing.

- The second option is that you could resolve your case today by admitting one count of contempt. The other count will be dismissed.

- If you want to deny the contempt allegations:

  - I'll set your case for a hearing. You'll have to come back on another day for that hearing. At the hearing, the jury commissioner's office will testify about its attempts to get you to appear for jury service as set forth in the declaration.

  - You will also have to report for jury service on a date I will give you before the hearing.

  - If you fail to report for jury service or you report but leave before you are officially excused, a third count of contempt of court will be added to the allegations that will be addressed at the hearing. An additional $1,000 fine could be imposed, and the maximum fine that could be imposed will then become $3,000.

- If you want to resolve your case today, you need to tell me, “I want to resolve my case today.”

- If you resolve your case today:

  - I will fine you no more than $350.

  - You will admit one count of contempt.

  - I’ll dismiss the other count.

  - Or if you give me an explanation that suggests it would not be in the interest of justice to impose a fine, I will not impose any fine.

  - Or I may impose a lower fine than $350 based on what you tell me.

  - Whatever happens today, the fine will not be more than $350.

  - But if you want to give me an explanation, you will need to tell me, “I want to resolve my case today.”

  - And by telling me that, you will be giving up all the rights I told you about, including your right against self-incrimination.

  - If I impose a fine, I will give you time to pay.

  - You will still have to report to jury service on a date I give you.

(Call name of first delinquent juror.)

- Did you receive a copy of the declaration from the jury commissioner’s office when you came in today?

- Is that your name on it and is it spelled correctly?

- Did you hear and understand the rights I told you about?

- What do you want to do with your case today?

Resolution at OSC Arraignment

If the juror indicates he or she wants to resolve the case, use the following script:

- Do you understand you are giving up the rights I told you about?

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- Why didn't you respond to the summons or the other correspondence you were sent?

- Why didn't you respond to the letter from the jury commissioner?

- Your reason is not sufficient to mitigate the fine down any more than the $350 I indicated.

  OR

  You've given me a sufficient reason to impose a fine less than $350. I'll impose a fine of $ _____.

  OR

  Given what you have told me, it is not in the interest of justice to impose a fine. The OSC is discharged. (Stop here if the OSC is discharged in the interest of justice.)

- Are you admitting a contempt for failure to [respond to the summons][respond to the first letter from the jury commissioner]?

- You understand that you are waiving the rights I told you about?

- The court imposes a fine of $ _____.

- How much time do you want to pay the fine?

- Okay, you must pay the fine within _____months/days.

- You are also ordered to appear for jury service on _____ at ___ a.m./p.m.

- Report to the Jury Assembly Room located _____. To get there, _____. (Be very specific about where to report and give directions on how to get there once the person enters your building.)

- Report to the person at the counter. He or she will have your name on a special list and will be expecting you.

- If you fail to report, that will be further grounds for contempt of court.

- If you report but leave before you are officially excused, that will also be further grounds for contempt of court.

- Do you understand?

- Okay, have a seat in the audience while the clerk finishes your paperwork.

(Clerk fills out boilerplate contempt judgment and order to appear for jury service. See appendix L.)

Juror Requests a Hearing at OSC Arraignment

If juror indicates he or she desires a hearing, use the following script.

- You are ordered to return to this courtroom on _____ at _____a.m./ p.m.
- If you do not appear, your failure to appear will be further grounds for contempt of court.
- Also, your failure to appear will result in a warrant for your arrest.
- Do you understand?
- You are also ordered to appear for jury service on _____ at ____ a.m./p.m.
- Report to the Jury Assembly Room located _____. To get there, _____. (Be very specific about where to report and give directions on how to get there once they enter your building.)
- Report to the person at the counter. He or she will have your name on a special list and will be expecting you.
- If you fail to report, that will be further grounds for contempt of court.
- If you report but leave before you are officially excused, that will also be further grounds for contempt of court.
- The failure to abide by these orders will be treated as a third count of contempt and will be addressed at your hearing.
- Do you understand?
- Okay, have a seat in the audience while the clerk finishes your paperwork.

(Clerk fills out boilerplate contempt judgment and order to appear for jury service. See Appendix L.)