

**JURY AGREEMENTS**  
(updated September 2010)

**I. Civil Cases**

***Day v. Panos,***  
**676 P.2d 403 (Utah 1984).**

Dog bite judgment was reversed and motion for a new trial was granted because of chance verdict/agreement to average amount of negligence assessed by individual jurors to arrive at final verdict.

***Texas General Indemnity Co. v. Watson,***  
**656 S.W.2d 612 (Tex. Ct. App. 1983).**

Worker's compensation judgment was reversed and remanded because of juror agreement to exclude certain jurors from deliberative process after those jurors voted against the majority with respect to certain special issues.

**II. Criminal Cases**

***Jennings v. State,***  
**107 S.W.3d 85 (Tex. App. 2003).**

In possession of illegal weapon case, defendant was entitled to new trial on ground of jury misconduct based on a juror's affidavit stating that the jury determined defendant's guilt by making a list of facts that made him guilty and a list of facts that made him not guilty and then agreed to be bound to vote in accordance with the longer of the two lists. The juror further stated that she changed her vote of "not guilty" to "guilty" because of the jurors' agreement.

***Frieze v. State,***  
**1998 WL 372735 (Tex. App. 1998), *petition for discretionary review refused* (Feb 24, 1999).**

Conviction for indecency with a child remanded for new trial because jurors agreed to convict only on representation from juror who was Sheriff's Department employee that defendant would get probation.

***Bader v. State,***  
**777 S.W.2d 178 (Tex. App. 1989).**

Conviction for criminal trespass was reversed and remanded for a new trial because one juror agreed to convict in exchange for giving the defendant probation.

***Bennett v. State,***  
**738 S.W.2d 33 (Tex. App. 1987).**

Conviction for aggravated assault was reversed and remanded and a new trial granted because the jury had agreed to convict on aggravated assault, rather than attempted murder, in exchange for imposing the maximum possible punishment. The court noted that the harm in this instance stems from the fact that the defendant was denied a fair and impartial jury who would consider the full range of punishment.

***Escarcega v. State,***  
**711 S.W.2d 400 (Tex. App. 1986).**

Aggravated sexual assault conviction was reversed and remanded for a new trial because of jury agreements to convict on aggravated sexual assault in exchange for giving the defendant probation.

***McIntire v. State,***  
**698 S.W.2d 652 (Tex. Crim. App. 1985).**

Conviction for aggravated sexual assault and indecent liberties with a child was remanded for a hearing because of several possible acts of jury misconduct, including an implied quotient verdict, third party communication with a juror and discussion of parole. The jurors apparently agreed to average the amount of time they thought the appellant should get and thus a hearing should have been granted on this ground. Moreover, one of the appellant's own character witnesses remarked "What do you do with a guy like that?" which was sufficient to raise a rebuttable presumption of injury to the defendant. Finally, a juror admitted to discussing parole and this alone was sufficient to sustain appellant's motion for a hearing on a new trial.

***People v. Guzman,***  
**136 Cal.Rptr. 163 (Cal. App. 1977).**

Drug possession conviction reversed where juror, ultimately excused but allowed to stay on panel for two days, "harangued" fellow jurors about acquitting one defendant in exchange for convicting his codefendant; appellate court held that entire jury should have been excused and that trial court's inquiry into misconduct was insufficient.