

VOIR DIRE

Judge Carlton Davis



ROAD MAP

- LAW AND PROCEDURE
- HOW TO SELECT THE BEST JURY
- ISSUES THAT SHOULD BE ADDRESSED IN CRIMINAL AND CIVIL TRIALS

LAW AND PROCEDURE

VOIR DIRE IN CALIFORNIA IS GOVERNED BY

- 1. CODE OF CIVIL PROCEDURE**
- 2. CALIFORNIA RULES OF COURT**
- 3. CASE LAW**

SPECIFIC LAWS AND RULES

CALIFORNIA CODE OF CIVIL PROCEDURE § 223

1. EACH PARTY HAS THE RIGHT TO QUESTION:

- A. ANY AND ALL PROSPECTIVE JURORS**
- B. BY ORAL AND DIRECT QUESTIONING**

2. THE COURT MAY LIMIT QUESTIONING BY:

- A. SPECIFYING MAX TIME FOR AN INDIVIDUAL JUROR**
- B. SPECIFYING AGGREGATE TIME FOR EACH PARTY**

WHAT IS THE PURPOSE OF VOIR DIRE

**“EXAMINATION OF
PROSPECTIVE JURORS SHALL
BE CONDUCTED ONLY IN AID OF
THE EXERCISE OF CHALLENGES
FOR CAUSE”**

CALIFORNIA CODE OF CIVIL PROCEDURE § 223

WHAT CONSTITUTES A “CAUSE” CHALLENGE

CODE OF CIVIL PROCEDURE § 225

- 1. GENERAL DISQUALIFICATION**
- 2. ACTUAL BIAS**
- 3. IMPLIED BIAS**

CAUSE CHALLENGES ARE UNLIMITED

PEREMPTORY CHALLENGES

CALIFORNIA CODE OF CIVIL PROCEDURE § 231

**1. 20 PEREMPTORY CHALLENGES IN LIFE CASES
(CRIMINAL)**

**2. 10 PEREMPTORY CHALLENGES FOR NON-LIFE
CASES (CRIMINAL)**

3. 6 PEREMPTORY CHALLENGES (CIVIL)

CAUSE CHALLENGES ARE UNLIMITED

THINGS TO DO BEFORE SELECTING A JURY

- 1. INTRODUCE YOURSELF TO THE
COURT STAFF**
- 2. FIND OUT HOW THE JUDGE
PLANS ON SELECTING A JURY
(6 PACK)**

THINGS TO DO BEFORE SELECTING A JURY

- 3. FIND OUT HOW MUCH TIME THE JUDGE IS GOING TO GIVE YOU FOR JURY SELECTION**
- 4. FIND OUT HOW LONG IT NORMALLY TAKES TO PICK A JURY**

WHAT SHOULD YOU LOOK FOR WHEN SELECTING A JURY FOR PROSECUTION

WHAT SHOULD YOU LOOK FOR WHEN SELECTING A JURY FOR DEFENSE

WHAT DO YOU WANT TO
ACCOMPLISH IN VOIR DIRE

IMPRESS

How to ask questions of jurors

- **YOU WANT TO MIX YOUR QUESTIONS UP**
- **ASK QUESTIONS CONCERNING ISSUES IN YOUR CASE**
- **ASK PERSONAL QUESTIONS ABOUT INFORMATION YOU LEARNED FROM THEIR JUROR FORM**

INFORM

INDOCTRINATE

HOW TO HANDLE THE SECOND WAVE OF JURORS

CRIMINAL LAW FACT PATTERN ON DOMESTIC VIOLENCE: PROSECUTION

ISSUES RELATING TO DOMESTIC VIOLENCE CASES

UNCOOPERATIVE VICTIM

SAMPLE VOIR DIRE QUESTIONS

CIVIL FACT PATTERN: COMPANY

INCONSISTENT STATEMENTS

- **DO YOU THINK PEOPLE ARE MOST TRUTHFUL RIGHT WHEN SOMETHING HAPPENS OR AFTER TIME PASSES?**
- **EXAMPLE: DOES ANYONE FEEL THAT THEY WILL ONLY CONSIDER WHAT A WITNESS SAYS NOW AND WILL AUTOMATICALLY DISREGARD ANY PRIOR STATEMENTS**

CIVIL FACT PATTERN: PLAINTIFF

QUESTIONS FROM THE COURT?

YOU SHOULD REQUEST THAT THE COURT ASK THESE QUESTIONS:

- **IF THERE IS A CONTROVERSIAL ISSUE OR AN ISSUE THAT WILL TAKE TIME TO GO THROUGH ASK THE JUDGE TO QUESTION THE JURORS ABOUT IT**
- **EXAMPLE: MOLEST CASES, VICTIM OF CRIME, FOLLOWING THE LAW ON AN IMPORTANT TOPIC**

THINGS TO AVOID DURING VOIR DIRE

- **TRY NOT TO ARGUE WITH A JUROR**
- **DON'T USE LEGALESE**
- **REMEMBER TO ASK OPEN ENDED QUESTIONS**
- **DON'T ASK LONG CONFUSING QUESTIONS**

HOW TO FINISH VOIR DIRE

- **ASK THEM IF THERE IS ANY ISSUE ON YOUR MIND THAT YOU WOULD LIKE TO DISCUSS**

NEVER LEAVE ON SOMEONE YOU HAVE QUESTIONS ABOUT

- **DO NOT BE AFRAID TO USE
MORE THAN 10 CHALLENGES
IF YOU HAVE 20**
- **YOU NEVER DWELL ON WHO
YOU LEFT OFF, ONLY WHO
YOU LEFT ON**

FINAL ADVICE

- **THE JURY SHOULD TALK THE MAJORITY OF THE TIME**
- **HAVE AN OUTLINE WITH YOUR QUESTIONS**
- **TRUST YOUR INSTINCTS**