

January 29, 2014

RULES FOR JURY SELECTION: STRUCK PANEL METHOD
VERNON S. BRODERICK, UNITED STATES DISTRICT JUDGE

The following is a description of the struck panel method by which juries will be selected in trials before Judge Broderick.

The Court will conduct a voir dire of a number of panelists computed by totaling: the number of jurors to be selected (8 in most civil cases and 12 in criminal cases); the number of alternates (none in civil cases and usually 2 in criminal cases); and the number of peremptory challenges.

Thus, in a civil case with an 8-person jury and 3 peremptory challenges per side, the Court will voir dire 14 panelists. *See* Fed. R. Civ. P. 47, 48; 28 U.S.C. § 1870. In a single-defendant criminal case in which the defendant has 10 and the Government 6 peremptory challenges, plus 1 each with respect to alternates, *see* Fed. R. Crim. P. 24, we will voir dire 32 panelists (12 jurors + 2 alternates + 10 peremptories for defendant + 6 peremptories for the Government + 1 peremptory for defendant for the alternates + 1 peremptory for the Government for the alternates).

In trials expected to last for substantially more than 1 week, the Court will consider increasing the number of jurors in a civil case or the number of alternates in a criminal case.

The panelists will be voir dired in the Courtroom. If issues are raised that are better discussed outside the presence of the entire panel (*e.g.*, sensitive issues, requests to be excused, etc.), Judge Broderick will follow-up with the individual jurors either at sidebar or in the robing room.

After the follow-up voir dire, the Court will entertain challenges for cause (at sidebar or in the robing room). If panelists are excused for cause, they will be replaced and the new panelists will be voir dired, following the procedures above.

Once all challenges for cause have been heard and decided, the Court will conduct the final voir dire (in the Courtroom), asking each panelist individual questions relating to county of residence, education, occupation, marital status, children, reading preferences, etc.

The parties will then exercise their peremptory challenges (at sidebar or in the robing room). In a civil case, plaintiff exercises the first challenge and the defendant goes second, with the parties proceeding in that fashion until all peremptories are exhausted. In a single-defendant criminal case with the usual number of peremptories, the parties exercise their challenges in 5 rounds, with the defendant going first and exercising 2 challenges each round and the Government exercising 2 challenges in the first round and 1 challenge in each of the remaining 4 rounds.

A party may waive but not reserve a challenge. In other words, counsel may not pass on one round to save the challenge for another round.

Judge Broderick
Rules for Jury Selection

Challenges may be made to any of the panelists, regardless of where that panelist appears in the array. Counsel would be well advised, however, to focus on the first 8 (or 12 in criminal cases) panelists, as the first 8 (or 12) unchallenged panelists will constitute the jury once all peremptories are exercised.

In criminal cases, each side will have one additional challenge exercisable only with respect to the alternates, who will be selected from the remaining panelists.