

A Refresher Quiz on Voir Dire and Jury Issues

James C. Adkins American Inn of Court

1. Under Fla. R. Civ. Pro. 1.431(d) how many peremptory challenges are allowed for each party? _____. Under the same rule, how many peremptory challenges would be allowed for each party if there are four defendants and two plaintiffs?
Plaintiff One _____.
Plaintiff Two _____.
Defendant One _____.
Defendant Two _____.
Defendant Three _____.
Defendant Four _____.
2. When may a party "backstrike" a juror?
 - a. The time and manner of challenging and swearing jurors rests within the sound discretion of the trial court.
 - b. A "backstrike" must be exercised prior to the selection of alternate jurors.
 - c. A "backstrike" may be exercised at any time before the jury is sworn.
 - d. What the hay is a "backstrike"?
3. Under Fla. Stat. § 40.01, to be qualified to serve as a juror in Florida State Courts, a prospective juror must be 18 years of age and;
 - a. be a citizen of the United States.
 - b. be a legal resident of the State of Florida and of the county in which the case is tried.
 - c. possess a Florida driver's license or identification card or an executed affidavit indicating their residence.
 - d. all of the above.
4. Under Fla. R. Civ. Pro. 1.431(h) and Professional Ethics Bar Opinion 69-17, may an attorney contact a juror after a trial to determine if the verdict is subject to challenge?
 - a. Yes, but only if the attorney has a "good faith basis" for doing so.
 - b. Yes, but only with proper notice to all other parties.
 - c. Yes, but only after filing a motion with the court and with proper notice to all other parties.
 - d. Yes, so long as the attorney makes plain to the juror that the juror is under no obligation to discuss the case.
5. Under Florida Rule of Civil Procedure 1.431, in what order are the parties to conduct voir dire?
 - a. The Plaintiff(s) go first, followed by the Defendants, in the order that they are named in the lawsuit, and then each party has one chance to ask follow-up questions.
 - b. The order and manner in which the parties may examine each juror is left to the discretion of the Trial Court.
 - c. The order and manner in which the parties may examine each juror is left to the discretion of the Trial Court, so long as all parties have an opportunity to question, and potentially re-question, each juror.

6. May the Court require the parties to exercise all peremptory challenges simultaneously by written submission?
 - a. Yes, so long as each party has had a full and fair opportunity to examine the potential jurors.
 - b. No, because case law allows the parties to exercise their challenges one-at-a-time and by taking turns.

7. When picking a six-member jury with one alternate, may the Court seat seven potential jurors in the jury box for voir dire and then require the parties to exercise any peremptory challenges before seating more potential jurors and conducting further voir dire?
 - a. Yes, so long as each party has had a full and fair opportunity to examine the seven jurors.
 - b. No, because a party is entitled to question all potential jurors before having to exercise peremptory challenges.

8. Under Fla. Stat. § 40.13, a potential juror may choose not to serve as a juror if the potential juror is;
 - a. a member of the Florida Bar.
 - b. a full-time federal, state, or local law enforcement officer.
 - c. an expectant mother or a parent who is not employed full time and who has custody of a child under 6 years of age.
 - d. 70 years of age or older.
 - e. all of the above, except a.

9. In a Florida civil matter, may jurors direct questions to witnesses?
 - a. No, because jurors may direct questions only to the Court regarding questions of law.
 - b. No, because such questions would interfere with a party's right to present their case as they deem appropriate.
 - c. Yes, because Florida Statutes require the Court to permit jurors to submit written questions directed to witnesses.
 - d. Yes, but only if the jury's question calls for admissible evidence and is otherwise allowed by the Court.

10. Which of the following statements are true?
 - a. While serving as a juror in 2009, TV weatherman Al Roker tweeted his jury duty experience to others, including pictures of fellow jurors. Roker said he did not realize he was doing anything wrong.
 - b. In 2009, after eight weeks of a federal criminal trial in Miami, the court learned that nine of the 12 jurors had been doing their own research on the case on the Internet.
 - c. During the Casey Anthony trial, HLN, the TV network which hosts "The Nancy Grace Show" and other TV tabloids, almost doubled its viewership and briefly bested both CNN and MSNBC in the ratings.
 - d. All of the above statements are true.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,
IN AND FOR ALACHUA COUNTY, FLORIDA

STATE OF FLORIDA

Plaintiff,

v.

Case No.: 01-2011-CF-007758-A

ANTHONY SEACASE,

Defendant.

_____ /

Fact Pattern

The arresting officers' reports allege that ANTHONY SEACASE returned to his home at approximately 4:00 p. m. on the afternoon of Saturday, November 5th, 2011. SEACASE resides at 11126 S. W. 8th Ave., Gainesville, with his girlfriend, GRACE KNOX, the alleged victim. Both KNOX and SEACASE stated that SEACASE opened KNOX'S mobile telephone bill and learned that KNOX had been talking everyday to her former girlfriend. KNOX stated that SEACASE became enraged and jealous and began berating her using anti-gay slurs and threats. At one point, KNOX stated that she tried to leave the residence but that SEACASE shoved her back down onto the couch and would not let her leave. KNOX stated that SEACASE then declared that he was leaving instead, and went into the bedroom. KNOX stated that SEACASE returned with his Glock 9-millimeter pistol in his hand and brandished the weapon while demanding that KNOX have no further contact with her ex-girlfriend. SEACASE then left the property with the firearm. SEACASE stated that he opened the mobile telephone bill by mistake. SEACASE admitted that he and KNOX argued, but SEACASE stated that the argument was over the amount of the bill and whether he spent too much time with his friends and working. SEACASE stated that he never touched KNOX and that he simply carried his handgun to his vehicle and left the property.

Each group of the James C. Adkins American Inns of Court is initially responsible for acting as SEACASE'S defense counsel and selecting a jury.

Hidden Issues in the Venire

Juror 1: Issue: This juror is going to object to any use of his name or personal information on the record, because he is concerned for his safety in the wake of the Casey Anthony trial. To how much privacy is a juror entitled, and how far may attorneys go in looking into the backgrounds of prospective jurors?

Juror 2: Issue: May one raise a "Batson" challenge based on sexual orientation (or for that matter, based on anything other than race)? Are homosexuals a "cognizable group" that could be discriminated against in voir dire? This juror will be distracted by the use of electronic communication. The attorney should attempt to strike her for a non-discriminatory reason in the face of many discriminatory reasons.

Juror 3: Issue: What should an attorney do when a member of the venire makes a potentially prejudicial statement to the entire panel regarding a family member in law enforcement?

Juror 4: Issue: This juror is a stay-at-home mom who recently suffered a shoulder injury. Is she, therefore, suffering a physical infirmity under Fla. Stat. §913.02(2) as a primary caregiver of small children? This juror is also concerned with the Casey Anthony trial and is unwilling to serve because of the chilling effect of that proceeding.

Juror 5: Issue: This juror is a local person who is familiar with the defendant's family and will make a disparaging statement about the defendant's family before the entire jury.

Juror 6: Issue: When does prior experience on a jury constitute reason to strike for cause? Counsel for the Defendant should give this juror an outline of the instant case through a similar, but hypothetical case, which may draw objection.

Juror 7: Issue: This juror will be obsessed with electronic devices and demand that he not be deprived of them. This issue should lead to a discussion of the newly enacted jury instruction on regarding electronic communications and the internet.

Juror 8: Issue: Does a self-employed juror have the right to avoid jury service on the grounds that such service will affect their business?