MONTHLY LUNCHTIME SEMINAR SERIES

58TH Session:

FACING THE UNKNOWN: JUDICIAL DISCRETION DURING JURY SELECTION

Judge Lynn M. Egan, Ret.
Judge Larry Axelrood
Judge Bridget A. Mitchell
Judge Marguerite Quinn
Judge Robert E. Senechalle

November 9, 2017

JUDGE LYNN M. EGAN

Judge Lynn M. Egan became a Cook County Circuit Court judge in 1995 and has served in the Law Division for over 21 years. She has presided over high volume motion calls, an Individual Commercial Calendar, an Individual General Calendar and bench and jury trials. She is currently the only Cook County judge assigned to a General Individual Calendar in the Law Division, which includes every type of case filed in the Division, specifically including personal injury actions such as medical & dental malpractice, product liability, infliction of emotional distress, defamation/slander, premises liability, construction & motor vehicle accidents, as well as commercial disputes such as breach of contract, fraud, conspiracy, breach of fiduciary duty, wrongful termination, employment discrimination and legal & accounting malpractice. She manages these cases from time of filing until final disposition, including all motion practice, case management, settlement conferences and trials. Additionally, Judge Egan is committed to assisting parties with the voluntary resolution of cases. As a result, hundreds of cases pending on other judges' calls in the Law & Chancery Divisions & the Municipal Districts are transferred to Judge Egan each year for settlement conferences and she has helped facilitate settlements totaling over 275 million dollars.

Judge Egan has also served as a member of several Illinois Supreme Court Committees, including the Executive Committee, Discovery Procedures Committee, Civil Justice Committee and Education Committee. She has also been a faculty member at dozens of judicial seminars throughout the state, including the annual New Judges' Seminar, regional conferences and the mandatory Education Conference. She has authored numerous articles on subjects such as discovery, requests to admit, restrictive covenants, Day-In-The-Life films, directed verdicts, jury selection & instructions, Dead Man's Act, Supreme Court Rule 213, expert witnesses, reconstruction testimony, court-ordered medical exams, attorney-client/work product privileges, sanctions, special interrogatories, examination of experts and damages. She also serves as a mentor for new judges and currently serves on the Illinois Courts Commission, a seven-member panel responsible for rendering final decisions on matters of judicial discipline.

Judge Egan has served on Bar Association committees and Boards of Directors and has been a frequent speaker at Bar Association seminars. She has taught law school classes and judged trial & appellate advocacy competitions. In 2012, she became a registered CLE provider through the Illinois MCLE Board and provides free CLE seminars for attorneys and judges every month. Since her monthly seminar series began in August 2012, Judge Egan has awarded over 13,000 hours of free CLE credit to Illinois attorneys.

Prior to joining the bench, Judge Egan was an equity partner at Hinshaw & Culbertson, where she focused her practice on medical negligence cases. In addition to trial work, she argued before the Illinois Supreme Court on a matter of first impression in the country in *Cisarik v. Palos Community Hospital*. Similarly, during her earlier career in the Cook County State's Attorney's Office, she worked in the criminal and juvenile divisions and argued before the Illinois Appellate and Supreme Courts on matters of first impression in Illinois.

Judge Larry Axelrood

Judge Larry Axelrood currently presides over jury trials in the Law Division. In addition to his trial duties, Judge Axelrood has a significant pre-trial mediation schedule. A judge since June 2005, he has served in various capacities. Prior to the jury call, he was a motion judge with previous experience in the Criminal Division, as well as, First, Third and Second Districts.

An active board member and co-chairman of the pension benefits committee for the Illinois Judges Association, Judge Axelrood has a strong commitment to improving the judiciary. To create alternatives to incarceration and focus on treatment with court intervention, Judge Axelrood was selected to launch both a veteran's and mental health court.

Judge Axelrood is a frequent speaker and participant in continuing legal education programs and has taught trial advocacy as an adjunct professor at Northwestern University's Pritzker School of Law.

Judge Axelrood is a graduate of IIT Chicago-Kent College of Law and began his career as a prosecutor in the Cook County State's Attorney's office. He was in private practice prior to becoming a judge.

Judge Bridget A. Mitchell

Judge Bridget A. Mitchell became a Cook County Circuit Court judge in 2014 and currently serves in the Law Division. She presides over bench and jury trials and serves in a jury trial courtroom. Cases assigned to Judge Mitchell for trial, often tort cases, include personal injury cases such as construction and motor vehicle accidents, premises liability and medical and dental malpractice cases. Judge Mitchell also participates in settlement conferences assisting parties in resolving disputes. In addition, Judge Mitchell has served in the Foreclosure Section of the Chancery Division as well as Traffic Court in the First Municipal District.

Prior to becoming a Circuit Court judge, Bridget A. Mitchell was a Chicago trial attorney with a private practice concentrating in civil litigation. She represented injured parties in cases involving complex medical and legal issues, particularly dental malpractice claims. In addition, she has extensive experience defending parties in civil cases. She has tried jury trials and bench trials. In addition, Bridget has authored appeals and acted as an arbitrator in many forums. She is an active member of Chicago's legal community, participating on bar association committees, authoring articles and speaking at seminars.

Judge Marguerite Quinn was appointed as an associate judge to the Circuit Court of Cook County in 2007. She was assigned to the Second Municipal District where she presided over a felony criminal call and Veteran's Court. Later she ran and won a full circuit position in 2016 and is currently assigned to the Law Division. Prior to going on the bench, Judge Quinn practiced law in Cook County for over 20 years. For 12 years she was an assistant Cook County States Attorney, assigned to the Gangs Prosecution Unit. After leaving the State's Attorney's office she went into private practice with the civil litigation firm of O'Keefe, Lyons & Hynes, LLC. Judge Quinn is a member of the Illinois Judicial Education Committee and has taught classes on Search & Seizure, and various areas in Criminal Law.

Judge Quinn is very involved in the community serving on the board of trustees for Lawrence Hall Youth Services, Mobile CARE Foundation and the Western Golf Association. She also serves as a mentor for the Schuler Scholars.

Judge Quinn grew up in Evanston, she received her law degree from Loyola University School of Law.

JUDGE ROBERT E. SENECHALLE, JR.

Legal Background:

Education: BS Political Science 1969, Benedictine University
JD DePaul University 1972

Practice: 32 years in private practice (1973-2005)
Commercial Litigation and Business Law

Litigation Experience: Tried numerous cases to verdict/judgment in Cook County Law Division and in U.S. Dist. Ct.
Extensive motion practice in Law Division

Appellate Experience: Active Appellate Practice. Argued cases before IL Sup. Ct., USCA 7th Cir., IL App. Ct., 1st, 2nd & 3rd Districts

Special Assignment: Special Assistant Attorney General for condemnation cases.

Pro Bono Amicus Curiae Award from the Illinois Trial Lawyers Association for Brief before IL Sup. Ct

Represented indigent defendant on Appeal for State Appellate Defender.

Volunteer attorney at legal clinic in Oak Park

Judicial Service:

June 2005 to Feb. 2007: Traffic Court, 1st Municipal District.
Presided over numerous DUI bench and jury trials and other misdemeanor and traffic cases.

Feb. 2007 to Oct. 2011:	Fourth Municipal District, Maywood Assigned to Misdemeanor calls 2007-09; Assigned to Civil Jury room 2010-2011 Presided over Mental Health and Veteran's Treatment court in Maywood, 2009-2011
Nov. 2011 to Feb. 2017	Chancery Division, Mortgage Foreclosure Section Preside over Foreclosure Calendar 64
Mar. 2017 to Present	Law Division, Jury Trial Section
Judicial Teaching:	Ed Con Faculty 2010; taught DUI Course ASA Training, taught DUI Courses, 2008-2010 AOIC Faculty Member at Annual DUI Judges' Seminars 2009 to 2012 (Chair 2011) WSBA seminar lecturer on new legislation 2008 CBA seminar lecturer on DUI Issues in 2012
Judicial Writing:	Authored chapters and instructional materials for AOIC Judges' seminars 2009-2012 Editor for Cook County Mortgage Foreclosure Bench Book, 2016 Third Edition Topic Editor for AOIC 2017 statewide Bench Book on Mortgage Foreclosure cases.
Personal:	Married to Clancy Senechalle for 45 years. We have 4 children and 9 grandchildren. Honorably Discharged Captain, U.S. Army

SECTION A

- *"Facing the Unknown: Judicial Discretion During Jury Selection" by Judge Lynn M. Egan, Ret., November 9, 2017.*

FACING THE UNKNOWN: JUDICIAL DISCRETION DURING JURY SELECTION

by
Judge Lynn M. Egan
November 9, 2017

Most attorneys understand that jury selection can significantly impact the odds of winning or losing a trial. Thus, jury consultants have been used for years; and more recently, attorneys are using social media in order to obtain useful information about prospective jurors. Curiously, however, very few attorneys take the time to familiarize themselves with the actual jury selection process utilized by the judges to whom they are assigned for trial. This is a mistake that may not only lead to embarrassment for the attorney, but also negative consequences for the client. As a result, it is essential that attorneys know not only the basic principals governing jury selection, but the scope of the trial judge's discretion.

I. The Judge's Discretion is Vast.

Although there are statutory provisions and Supreme Court rules that govern jury selection in both civil and criminal trials, a trial judge is afforded wide latitude in conducting jury selection. Indeed, "the trial court is given the primary responsibility of conducting the *voir dire* examination and the extent and scope of the examination rests within its discretion." *People v. Strain, 194 Ill.2d 467, 476 (2000).* This responsibility includes the authority to alter statutorily prescribed methods of selecting the jury (*People v. Moss, 108 Ill.2d 270, 275-276 (1985)), sua sponte* removing a juror for cause (*People v. Metcalfe, 202 Ill.2d 544, 557 (2000)), sua sponte* raising a *Batson* objection (*People v. Rivera, 221 Ill.2d 481 (2006)*, imposing time limits on lawyers' questioning (*York v. El-Ganzouri, 353 Ill.App.3d 1 (1st Dist., 2004))*, and determining which questions are appropriate during *voir dire. People v. James, 2017 IL App (1st) 143036, ¶ 32.* Thus, attorneys are more likely to influence the trial judge's exercise of discretion during jury selection if they have a clear understanding of the purpose of *voir dire* and are conversant with the applicable rules and statutes.

II. The Purpose of Voir Dire.

Even though judges understand that many attorneys use jury selection to find jurors who are favorably inclined toward their client's position and to begin advocating that position, this is not a legitimate purpose of *voir dire.* In fact, judges are cautioned not to permit the parties to use *voir dire* to "indoctrinate the jurors or to 'ascertain prospective jurors' opinions with respect to evidence to be presented at trial.'" *People v. Encalado, 2017 IL App (1st) 142548, ¶ 28.* Instead, the purpose of *voir dire* "is to ascertain sufficient information about prospective jurors' beliefs and opinions so as to allow removal of those members of the venire whose minds are so closed by bias and prejudice that they cannot apply

the law as instructed in accordance with their oath." *People v. Abram, 2016 IL App (1st) 132785, ¶ 59, citing People v. Cloutier, 156 Ill.2d 483, 495-496 (1993).*

A trial judge, especially in a civil case, can employ any jury selection method that provides a "reasonable assurance that [juror] prejudice would be discovered if present." *People v. Abram, supra.* Importantly, however, if the method selected varies from applicable statutory provisions or Supreme Court rules, the attorneys must be given notice by the court prior to the start of jury selection.

III. Applicable Statutory Provisions, Supreme Court Rules & Case Law.

Given the extent of judicial discretion during jury selection, it is essential that attorneys know the following statutory provisions, Supreme Court rules and principles:

A. Supreme Court Rule 233 Parties' Order of Proceeding

"The parties shall proceed at all stages of trial, including the selection of prospective jurors...in the order in which they appear in the pleadings unless otherwise agreed by all parties or ordered by the court. In consolidated cases, third-party proceedings, and all other cases not otherwise provided for, the court shall designate the order."

Amended eff. July 1, 1975. Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 233.

B. 705 ILCS 305/2 Jury Qualifications

Jurors in all counties in Illinois must have the legal qualifications herein prescribed. Jurors must be:

1. Inhabitants of the county.

2. Of the age of 18 years or upwards.

3. Free from all legal exception, of fair character, or approved integrity, of sound judgment, well informed, and able to understand the English language, whether in spoken or written form or interpreted into sign language.

4. Citizens of the United States of America.

ALERT: Public Act 100-0228, which becomes effective January 1, 2018, amends this statute so as to add the following provision:

"(b) Except as otherwise specifically provided by statute, no person who is qualified and able to serve as a juror may be excluded from jury service in any court of this State on the basis of race, color, religion, sex, national origin, or economic status. As used in this subsection, 'religion', 'sex', and 'national origin' have the meanings provided in Section 1-103 of the Illinois Human Rights Act."

C. 705 ILCS 305/14 [Cause of challenge]

It shall be sufficient cause of challenge of a petit juror that he lacks any one of the qualifications mentioned in Section 2 of this Act [705 ILCS 305/2]; or if he is **not one of the regular panel**, that **he has served as a juror** on the trial of a cause in any court in the county **within one year previous** to the time of his being offered as a juror; or that he **is a party to a suit pending for trial** in that court. It shall be the duty of the court to discharge from the panel all jurors who do not possess the qualifications provided in this Act, as soon as the fact is discovered. If a person has served on a jury in a court within one year, he shall be exempt from again serving.

D. 735 ILCS 5/2-1105.1 Challenge for cause.

§2-1105.1. Challenge for cause. Each party may challenge jurors for cause. If a prospective juror has a physical impairment, the court shall consider such prospective juror's ability to perceive and appreciate the evidence when considering a challenge for cause.

Bruntjen v. Bethalto Pizza, LLC, 2014 IL App (5th) 120245

"Unless otherwise shown, we must presume that the jurors were impartial." ¶ 26.

Fakes v. Eloy, 2014 IL App (4th) 121100

The erroneous failure to remove a juror for cause is only grounds for reversal if prejudice can be shown, which means an objectionable juror was allowed to sit on the jury and the party challenging the juror used all available peremptory challenges. *Id. at ¶ 147.*

E. 735 ILCS 5/2-1106. Peremptory challenges – Alternate jurors.

§2-1106. Peremptory challenges – Alternate Jurors. (a) Each side shall be entitled to 5 peremptory challenges. If there is more than one party on any side, the court may allow each side additional peremptory challenges, not to exceed 3, on account of each additional party on the side having the greatest number of parties. Each side shall be allowed an equal number of peremptory challenges. If the parties on a side are unable to agree upon the allocation of peremptory challenges among themselves, the allocation shall be determined by the court.

Bruntjen v. Bethalto Pizza, LLC, 2014 IL App (5th) 120245

"The failure to use a peremptory challenge on an objectionable juror waives the issue on appeal." ¶ 23.

(b) The court may direct that 1 or 2 jurors in addition to the regular panel be impaneled to serve as alternate jurors. Alternate jurors, in the sequence in which they are ordered into the jury box, shall replace jurors who, prior to the time the jury retired to consider its verdict, become unable to perform their duties. Alternate jurors shall be drawn in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath, and have the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged at the time the jury retires to consider its verdict. If alternate jurors are called each side shall be allowed one additional peremptory challenge, regardless of the number of alternate jurors called. The additional peremptory challenge may be used only against an alternate juror, but any unexercised peremptory challenges may be used against an alternate juror.

Bosman v. Riverside Health System, 2016 IL App (3d) 150455

It is error to retain an alternate juror during deliberations and to replace a deliberating juror with an alternate; any alternate juror who does not replace a principal juror before deliberations begin must be discharged. *Id. at ¶ 23.*

F. Batson

The Illinois statute governing juror qualifications has been amended, effective January 1, 2018, to incorporate the U.S. Supreme Court's declaration that the "'Constitution forbids striking even a single prospective juror for a discriminatory purpose.'" *Foster v. Chatman, 136 S.Ct. 1737, 1747 (2016).*

People v. Rivera, 221 Ill.2d 481 (2006)

Batson applies to gender, as well as race.

Lawler v. MacDuff, 335 Ill.App.3d 144, 151 & 153 (2d Dist., 2002)

Age is not a protected characteristic, but religion is "arguably entitled to some form of heightened scrutiny."

People v. Glasper, 234 Ill.App.3d 173 (2009)

The trial court has the authority to *sua sponte* raise a *Batson* challenge.

"'The burden of establishing a *prima facie* case of purposeful discrimination in jury selection is on the party making the *Batson* claim.'" *Id. at ¶ 41.*

"In addressing a *Batson* challenge, the trial court must follow a 'methodical three-step approach.'" *Id. at ¶ 35.*

"'First, the moving party must meet his burden of making a *prima facie* showing that the nonmoving party exercised its peremptory challenge on the basis of race. If a *prima facie* case is made, the process moves to the second step, where the burden then shifts to the nonmoving party to articulate a race-neutral explanation for excusing the venireperson. Once the nonmoving party articulates its reasons for excusing the venireperson in question, the process moves to the third step, where the trial court must determine whether the moving party has carried his burden of establishing purposeful discrimination. At the third step, the trial court evaluates the reasons provided by the nonmoving party as well as claims by the moving party that the proffered reasons are pretextual.'" *Id.*

"...Illinois courts have recognized a general, nonexclusive list of factors relevant to determine whether a *prima facie* case of discrimination against African-American jurors has been established. These factors include: 1) the racial identity between the moving party and the excluded venireperson; 2) a pattern of strikes against African-American venirepersons; 3) a disproportionate use of peremptory challenges against African-American venirepersons; 4) the level of African-American representation in the venire as compared to the jury; 5) the questions and statements during *voir dire* examination and while exercising peremptory challenges; 6) whether the excluded African-American venirepersons were a heterogeneous group sharing race as their only common characteristic; and 7) the race of the various parties and the witnesses." *Id. at ¶ 47.*

"...any ambiguities in the record will be construed against" the party making the *Batson* claim. *Id. at ¶ 48.*

G. Summoning Additional Jurors 705 ILCS 305/13. [Challenge for cause; sickness; absence]

"When by reason of challenge in the selection of a jury for the trial of any cause, or by reason of the sudden sickness or absence of any juror for any cause, the regular panel is exhausted, the court may direct the sheriff to summon a sufficient number of persons having the qualifications of jurors to fill the panel for the pending trial, but upon objection by either party to the cause to the sheriff summoning a sufficient number of persons to fill the panel, the court shall appoint a special bailiff to summon such person...Any person who seeks the position of a juror, or who asks any attorney or other officer of the court or other person to secure his selection as a juryman, shall be deemed guilty of a contempt of

court...and shall thereby be disqualified from serving as a juror for sixty days thereafter, and such fact shall be sufficient ground for challenge."

People v. White, 353 Ill.App.3d 905, 819 N.E.2d 1239 (4th Dist., 2004), PLA denied

"The plain language of that provision clearly shows that the trial court was authorized to order the sheriff to summon additional jurors. Only upon objection by a party is the court authorized to appoint a special bailiff to undertake such duties."

"Such objection should be made at the first available opportunity, either 1) at the time of the appointment or 2) if the party was not present when the sheriff was appointed, when the party first learns of the appointment."

"Section 13 does not prescribe a specific method by which the sheriff is to retrieve additional jurors other than the fact that those jurors must be qualified to serve. The statute indicates, however, that the sheriff is subject to the direction of the trial court in performing these duties."

"Regardless of the method used to secure additional prospective jurors, 'reversal is not required unless it appears that the defendant has in some way been prejudiced.'"

H. 705 ILCS 305/21. [Duty of court; number of jurors]

"Sec. 21. Upon the impaneling of any jury in any civil cause now pending, or to be hereafter commenced in any court in this state, it shall be the duty of the court, upon request of either party to the suit, or upon its own motion, to order its full number of jurors into the jury box, before either party shall be required to examine any of the jurors touching their qualifications to try any such causes; Provided, that **the jury shall be passed upon and accepted in panels of four** by the parties, **commencing with the plaintiff**. Alternate jurors shall be passed upon separately."

I. Plaintiff Proceeds First.

The Illinois Supreme Court approved the statutory requirement that plaintiff must proceed first with each panel. *Collinson v. Illinois Central, 239 Ill. 532 (1909). But see,* Supreme Court Rule 233, which grants the trial court discretion to alter the order of proceeding during *voir dire*.

J. Twelve in the Box.

The Supreme Court has approved the statutory right of each party to require twelve jurors in the box when exercising peremptory challenges. *Sterling Bridge v. Pearl, 80 Ill. 251 (1875). See also, People v. Curran, 286 Ill. 302, 305 (1918).*

K. Panels of four.

Lange v. Freund, 367 Ill.App.3d 641 (1st Dist., 2006)(discussion about jury selection is nonpublishable under Supreme Court Rule 23)

"Jurors are presented and accepted in panels of four; until a party has tendered an entire panel of four to the opposing party, the original party may still exercise a peremptory challenge against any juror on that panel, even if that juror has been included in a panel previously tendered to the other side."

People v. McCormick, 328 Ill.App.3d 378, 766 N.E.2d 671 (2d Dist., 2002) (Trial court requirement that parties simultaneously exercise peremptory challenges as to entire venire affirmed, although primarily because the trial court allowed unlimited number of peremptory challenges.)

"Rule 434(a) expressly grants a trial court the discretion to alter the traditional procedure for impaneling juries so long as the parties have adequate notice of the system to be used and the method does not unduly restrict the use of peremptory challenges. The right to peremptory challenges is one of the most important rights granted to an accused, and its denial or impairment is reversible error without a showing of prejudice."

"We note that a 'struck jury' system is potentially rife with problems. Under the traditional process described in Rule 434(a), the parties exercise their challenges against jurors already seated in the jury box and who will remain on the jury unless challenged. Where, as here, the parties must exercise their peremptory challenges against the entire venire and the jurors are subsequently chosen randomly, a defendant may be required to waste his peremptory challenges on venire members who have virtually no chance of being selected for the jury. Also, where, as here, the trial court requires the parties to submit their peremptory challenges simultaneously, the defendant may end up wasting peremptory challenges on prospective jurors that the State would have dismissed in the first instance."

"Trial courts utilizing such a system must ensure that the process does not impair the defendant's peremptory right. A court possibly could avoid the problems noted above by limiting the size of the venire to the number of jurors required plus the authorized number of peremptory challenges or by explaining how the jury ultimately will be chosen, e.g., in numerical order."

L. Backstriking

Koester v. Johnson, 158 Ill.App.3d 747, 511 N.E.2d 262 (4th Dist., 1987)

"This State has followed a rule of ancient origin whereby a panel has not been accepted until accepted by both sides, and, when a panel has been 'broken,' the party tendering the panel has a right to make further available peremptory challenges. This right in civil cases is not affected by Supreme Court Rule 234 providing for the voir dire examination of jurors. Nor is it affected by Supreme Court Rule 434...in criminal cases."

People v. McClemore, 2016 IL App (1st) 141705-U

The prohibition against back-striking is a "permissible limitation" upon a party's peremptory right. ¶ 29.

People v. Moss, 108 Ill.2d 270, 483 N.E.2d 1252 (1985)(Trial court decision to preclude backstriking affirmed.)

"Rule 434(a) does not abrogate the traditional selection procedure; rather, the rule permits the use of the traditional method unless the court directs that a different procedure be used. Rule 434...contains the language 'unless the court, in its discretion, directs otherwise.' These words give the trial court discretion to modify the traditional procedure of impaneling juries, and to dispense with the traditional power of back-striking. The trial court has discretion to alter the usual procedure for exercising peremptory challenges if both parties have adequate notice of the system to be used and the method chosen does not unduly restrict the use of challenges."

"A procedural limitation upon peremptory challenges does not deny or impair the peremptory right if the procedure affords both parties fair opportunity to detect bias or hostility on the part of prospective jurors, and if the procedure allows both parties a fair chance to peremptorily excuse any venireman."

See also, Lange v. Freund, supra.

M. Timeliness

People v. Peeples, 205 Ill.2d 480, 520 (2002)

"It has long been recognized that once a juror has been accepted and sworn, neither party has the right to peremptorily challenge that juror."

SECTION B

- Jury Selection Protocol, by Judge Bridget A. Mitchell, November 2017.

Jury Selection Handout

We will select the jury using the strike method. The questioning of the jurors takes place in the courtroom. The actual selection of the jury takes place in chambers.

When the venire comes into the courtroom, I call the names of eighteen people. That group will sit in the jury box. I then give a short talk on the jury system in a civil case, the jury's role, discuss how the trial will proceed, and give admonitions regarding discussing the case and keeping an open mind.

Next, I ask questions of the group of eighteen. I ask whether anyone has been involved in a lawsuit, whether anyone has previously served on a jury, whether everyone will follow the law, etc.

When I finish questioning the eighteen, the plaintiff will have twenty minutes to ask questions of the group. Then, the defendant will have twenty minutes to ask questions. When the attorneys finish asking questions, the group will leave the jury box and sit in the audience.

When the jurors have been questioned, the attorneys, court reporter, and I will go into chambers. In chambers, I will ask any follow up questions of the jurors. Follow up questions typically deal with hardship in serving as a juror or issues of fairness. This questioning will also proceed in the order the jurors were called into the jury box. Challenges for cause should be made during this questioning process.

Before selection actually begins, we will take a five or ten minute break. Each side will have peremptory challenges. Back striking will be allowed. We will pick the jury in panels of four. The jurors will be selected in the same order in which they were called into the jury box. I will call the names of another group of eighteen people who will enter the jury box. We will proceed with the second group of eighteen people just as with the first. We may ask questions of additional people if I feel it will be needed.

We will not pick alternate jurors in all cases. If we do pick alternates, each side will have one additional peremptory challenge. This method of selecting a jury has several advantages. The attorneys make challenges without the jurors hearing them. Batson issues can be addressed before prospective jurors leave the courtroom, and the process generally moves quickly while still insuring a fair jury.

Course Evaluation Form

Title of Course: **"Facing the Unknown: Judicial Discretion During Jury Selection"**

Date of Course: November 9, 2017 Location: Thompson Center Assembly Hall Auditorium

Directions: On a scale of 1 to 5, (5 being the highest or best and 1 being the lowest or worst), please rate the program:

Rate how well this course satisfied your personal objectives 5 4 3 2 1
Comments:_____

Rate how well the environment contributed to the learning experience 5 4 3 2 1
Comments:_____

Rate how well the written materials contributed to the learning experience 5 4 3 2 1
Comments:_____

Rate the level of significant intellectual, educational or practical content 5 4 3 2 1
Comments:_____

Please rate the faculty using the same 1 – 5 scale:

	Overall Teaching Effectiveness	Effectiveness of Teaching Methods	Significant Current Intellectual or Practical Content
Name: JUDGE LYNN M. EGAN, Ret. Comments:_____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Name: JUDGE LARRY AXELROOD Comments:_____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Name: JUDGE BRIDGET A. MITCHELL Comments:_____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Name: JUDGE MARGUERITE QUINN Comments:_____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Name: JUDGE ROBERT E. SENECHALLE Comments:_____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1

SUGGESTIONS FOR FUTURE SEMINARS:_____

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