

1 **Rule 18. Selection of the jury.**

2 (a) The judge shall determine the method of selecting the jury and notify the parties at a pretrial
3 conference or otherwise prior to trial. The following procedures for selection are not exclusive.

4 (a)(1) Strike and replace method. The court shall summon the number of the jurors that are to try
5 the cause plus such an additional number as will allow for any alternates, for all peremptory
6 challenges permitted, and for all challenges for cause granted. At the direction of the judge, the
7 clerk shall call jurors in random order. The judge may hear and determine challenges for cause
8 during the course of questioning or at the end thereof. The judge may and, at the request of any
9 party, shall hear and determine challenges for cause outside the hearing of the jurors. After each
10 challenge for cause sustained, another juror shall be called to fill the vacancy, and any such new
11 juror may be challenged for cause. When the challenges for cause are completed, the clerk shall
12 provide a list of the jurors remaining, and each side, beginning with the prosecution, shall
13 indicate thereon its peremptory challenge to one juror at a time in regular turn, as the court may
14 direct, until all peremptory challenges are exhausted or waived. The clerk shall then call the
15 remaining jurors, or so many of them as shall be necessary to constitute the jury, including any
16 alternate jurors, and the persons whose names are so called shall constitute the jury. If alternate
17 jurors have been selected, the last jurors called shall be the alternates, unless otherwise ordered
18 by the court prior to voir dire.

19 (a)(2) Struck method. The court shall summon the number of jurors that are to try the cause plus
20 such an additional number as will allow for any alternates, for all peremptory challenges
21 permitted and for all challenges for cause granted. At the direction of the judge, the clerk shall
22 call jurors in random order. The judge may hear and determine challenges for cause during the
23 course of questioning or at the end thereof. The judge may and, at the request of any party, shall
24 hear and determine challenges for cause outside the hearing of the jurors. When the challenges
25 for cause are completed, the clerk shall provide a list of the jurors remaining, and each side,
26 beginning with the prosecution, shall indicate thereon its peremptory challenge to one juror at a
27 time in regular turn until all peremptory challenges are exhausted or waived. The clerk shall then
28 call the remaining jurors, or so many of them as shall be necessary to constitute the jury,
29 including any alternate jurors, and the persons whose names are so called shall constitute the
30 jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless
31 otherwise ordered by the court prior to voir dire.

32 (a)(3) In courts using lists of prospective jurors generated in random order by computer, the clerk
33 may call the jurors in that random order.

34 (b) The court may permit counsel or the defendant to conduct the examination of the prospective
35 jurors or may itself conduct the examination. In the latter event, the court may permit counsel or
36 the defendant to supplement the examination by such further inquiry as it deems proper, or may
37 itself submit to the prospective jurors additional questions requested by counsel or the defendant.
38 Prior to examining the jurors, the court may make a preliminary statement of the case. The court
39 may permit the parties or their attorneys to make a preliminary statement of the case, and notify
40 the parties in advance of trial.

41 (c) A challenge may be made to the panel or to an individual juror.

42 (c)(1) The panel is a list of jurors called to serve at a particular court or for the trial of a
43 particular action. A challenge to the panel is an objection made to all jurors summoned and may
44 be taken by either party.

45 (c)(1)(i) A challenge to the panel can be founded only on a material departure from the procedure
46 prescribed with respect to the selection, drawing, summoning and return of the panel.

47 (c)(1)(ii) The challenge to the panel shall be taken before the jury is sworn and shall be in writing
48 or made upon the record. It shall specifically set forth the facts constituting the grounds of the
49 challenge.

50 (c)(1)(iii) If a challenge to the panel is opposed by the adverse party, a hearing may be had to try
51 any question of fact upon which the challenge is based. The jurors challenged, and any other
52 persons, may be called as witnesses at the hearing thereon.

53 (c)(1)(iv) The court shall decide the challenge. If the challenge to the panel is allowed, the court
54 shall discharge the jury so far as the trial in question is concerned. If a challenge is denied, the
55 court shall direct the selection of jurors to proceed.

56 (c)(2) A challenge to an individual juror may be either peremptory or for cause. A challenge to
57 an individual juror may be made only before the jury is sworn to try the action, except the court
58 may, for good cause, permit it to be made after the juror is sworn but before any of the evidence
59 is presented. In challenges for cause the rules relating to challenges to a panel and hearings
60 thereon shall apply. All challenges for cause shall be taken first by the prosecution and then by
61 the defense.

62 (d) A peremptory challenge is an objection to a juror for which no reason need be given. In
63 capital cases, each side is entitled to 10 peremptory challenges. In other felony cases each side is
64 entitled to four peremptory challenges. In misdemeanor cases, each side is entitled to three
65 peremptory challenges. If there is more than one defendant the court may allow the defendants
66 additional peremptory challenges and permit them to be exercised separately or jointly.

67 (e) A challenge for cause is an objection to a particular juror and shall be heard and determined
68 by the court. The juror challenged and any other person may be examined as a witness on the
69 hearing of such challenge. A challenge for cause may be taken on one or more of the following
70 grounds. On its own motion the court may remove a juror upon the same grounds.

71 (e)(1) Want of any of the qualifications prescribed by law.

72 (e)(2) Any mental or physical infirmity which renders one incapable of performing the duties of
73 a juror.

74 (e)(3) Consanguinity or affinity within the fourth degree to the person alleged to be injured by
75 the offense charged, or on whose complaint the prosecution was instituted.

76 (e)(4) The existence of any social, legal, business, fiduciary or other relationship between the
77 prospective juror and any party, witness or person alleged to have been victimized or injured by
78 the defendant, which relationship when viewed objectively, would suggest to reasonable minds
79 that the prospective juror would be unable or unwilling to return a verdict which would be free of
80 favoritism. A prospective juror shall not be disqualified solely because the juror is indebted to or
81 employed by the state or a political subdivision thereof.

82 (e)(5) Having been or being the party adverse to the defendant in a civil action, or having
83 complained against or having been accused by the defendant in a criminal prosecution.

84 (e)(6) Having served on the grand jury which found the indictment.

85 (e)(7) Having served on a trial jury which has tried another person for the particular offense
86 charged.

87 (e)(8) Having been one of a jury formally sworn to try the same charge, and whose verdict was
88 set aside, or which was discharged without a verdict after the case was submitted to it.

89 (e)(9) Having served as a juror in a civil action brought against the defendant for the act charged
90 as an offense.

91 (e)(10) If the offense charged is punishable with death, the juror's views on capital punishment
92 would prevent or substantially impair the performance of the juror's duties as a juror in
93 accordance with the instructions of the court and the juror's oath in subsection (h).

94 (e)(11) Because the juror is or, within one year preceding, has been engaged or interested in
95 carrying on any business, calling or employment, the carrying on of which is a violation of law,
96 where defendant is charged with a like offense.

97 (e)(12) Because the juror has been a witness, either for or against the defendant on the
98 preliminary examination or before the grand jury.

99 (e)(13) Having formed or expressed an unqualified opinion or belief as to whether the defendant
100 is guilty or not guilty of the offense charged.

101 (e)(14) Conduct, responses, state of mind or other circumstances that reasonably lead the court to
102 conclude the juror is not likely to act impartially. No person may serve as a juror, if challenged,
103 unless the judge is convinced the juror can and will act impartially and fairly.

104 (f) Peremptory challenges shall be taken first by the prosecution and then by the defense
105 alternately. Challenges for cause shall be completed before peremptory challenges are taken.

106 ~~(g) The court may direct that alternate jurors be impaneled. Alternate jurors, in the order in~~
107 ~~which they are called, shall replace jurors who, prior to the time the jury retires to consider its~~
108 ~~verdict, become unable or disqualified to perform their duties. Alternate jurors shall be selected~~
109 ~~at the same time and in the same manner, shall have the same qualifications, shall be subject to~~
110 ~~the same examination and challenges, shall take the same oath and shall have the same functions,~~
111 ~~powers, and privileges as principal jurors. Except in bifurcated proceedings, an alternate juror~~
112 ~~who does not replace a principal juror shall be discharged when the jury retires to consider its~~
113 ~~verdict. The identity of the alternate jurors may be withheld until the jurors begin deliberations.~~
114 The court may impanel alternate jurors to replace any jurors who are unable to perform or who
115 are disqualified from performing their duties. Alternate jurors must have the same qualifications
116 and be selected and sworn in the same manner as any other juror. The prosecution and defense
117 shall each have one additional peremptory challenge for each alternate juror to be chosen.
118 Alternate jurors replace jurors in the same sequence in which the alternates were selected. An
119 alternate juror who replaces a juror has the same authority as the other jurors. The court may
120 retain alternate jurors after the jury retires to deliberate. The court must ensure that a retained
121 alternate does not discuss the case with anyone until that alternate replaces a juror or is

122 discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct
123 the jury to begin its deliberations anew.

124 (h) When the jury is selected an oath shall be administered to the jurors, in substance, that they
125 and each of them will well and truly try the matter in issue between the parties, and render a true
126 verdict according to the evidence and the instructions of the court.

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[Advisory Committee Notes](#)

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