

Clark County Superior Court Jury Selection Procedures

Starting in Fall 2013 and continuing until early 2014, students in the Clark College paralegal program, with oversight from Paralegal Program Director Layne Russell, Esq. and from two of the members of the Superior Court Bench Bar committee, Emily Sheldrick and Curtis Welch, interviewed eight of the ten Clark County Superior Court judges regarding many practical aspects of jury selection procedures. (The students did not interview Judge Veljacic because their interviews were completed before Judge Veljacic was sworn in on May 9, 2014. Also, even though Judge Rulli has substantial jury trial experience, the students did not interview Judge Rulli because he was presiding over Family Law cases during the time of the interview process, and had been for some time.)

The process of collecting the information from the judges involved the paralegal students, working in teams of two students, interviewing judges in person, asking the same questions to each judge, and writing down the judge's answers. The accuracy of the answers was then verified with each judge. Please note that these published procedures are intended to provide a general overview of a judge's preferred procedures for jury selection, and a judge may change those procedures over time, or may vary somewhat from the published procedures in a particular case.

Clark County Superior Court Jury Selection Procedures Interview of Judge Suzan L. Clark

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?
 - Yes. I have a standard list with common questions and I also accept input from counsel.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?
 - Yes. I explain the case in civil matters and I accept input from counsel; in criminal cases I read the charges verbatim.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so? What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?
 - I inform the jurors of the expected length of the trial. I introduce the parties on all sides and I introduce myself to the jurors. I will inform the jurors of expected witnesses and ask the jurors if they know any of the parties or witnesses.
- 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
 - Counsel is free to move about during voir dire in my courtroom. Only one judge that I know of in Clark County requires use of the podium due to the physical structure of that courtroom (Dept 6).
- 5) What is the Judge's preference between using juror names or numbers for jurors?
 - I use both names and numbers to make a better record.
- 6) How much time does the Judge allow for voir dire? Does the plaintiff's lawyer/prosecutor always begin with the questioning?

- In general I allow 20 minutes per side for voir dire. In more complex cases I am willing to negotiate with counsel. The prosecutor or plaintiff's attorney goes first.
- 7) How does the Judge prefer to handle challenges for cause? Are jurors present when strikes for cause occur?
- I will wait until a break and deal with it outside of the jurors' presence. Jurors are not present when challenges for cause occur.
- 8) How does the Judge prefer to handle peremptory challenges? Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time? Are peremptory challenges exercised outside the presence of jurors?
- In my courtroom, peremptory challenges are handled with or without the jurors present in the courtroom. With the jurors present, lawyers will pass a clipboard back and forth. Without the jurors present, I will handle peremptory challenges in open court, not in writing, because it gets on the record and it is faster.
- 9) Does the Judge allow striking of jurors seated outside of the jury box?
- No.
- 10) Is there anything else you would like to add? Any pet-peeves?
- No.

**Clark County Superior Court Jury Selection Procedures
Interview of Judge Scott A. Collier**

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?
- Yes, general questions initially, and then more specific follow up if need be.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case?
- Always, and it is written beforehand.
- If so, does the lawyer for each side have input into the content of the statement?
- Yes, it is reviewed with the lawyers beforehand.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so?
- Yes, this is done right away.
- What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?
- The information that is typically provided is the general nature of the case, the expected length of the case, orientation of the courthouse, and general instructions about the process.
- 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?

- There are two to three places they may move to; in front of the jury box, the counsel table, and the podium. There are microphones at each of these locations.

5) What is the Judge's preference between using juror names or numbers for jurors?

- No preference.

6) How much time does the Judge allow for voir dire?

- Depends on the case and this is discussed ahead of time. Jury selection typically takes 30-45 minutes per side; and more if we have to do individual questioning or if a questionnaire was allowed.

Does the plaintiff's lawyer/prosecutor always begin with the questioning?

- Always.

7) How does the Judge prefer to handle challenges for cause?

- Verbally on the record outside the presence of the jurors.

Are jurors present when strikes for cause occur?

- No.

8) How does the Judge prefer to handle peremptory challenges?

- Verbally on the record outside the presence of the jurors.

Does the Judge prefer that peremptory challenges be exercised on paper?

- No, because the jurors are not present we do it orally on the record.

If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time?

- No, because the jurors are not present and we rotate strikes. No one does more than one at a time.

Are peremptory challenges exercised outside the presence of jurors?

- Yes.

9) Does the Judge allow striking of jurors seated outside of the jury box?

- Yes on for cause strikes; we cover the entire panel. With peremptory challenges you only strike those that are in the box and presumptively sitting on the panel. Lastly we do the strikes for alternate jurors if any are being seated for the trial.

10) Is there anything else you would like to add? Any pet-peeves?

- Getting argumentative with the jurors.

Clark County Superior Court Jury Selection Procedures Interview of Judge Gregory M. Gonzales

1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?

- Before asking questions of the entire panel, I will introduce the attorneys and their respective clients, introduce the court staff, and will pre-instruct the jury from the Washington Pattern Jury Instructions. I will provide a brief introductory statement for both civil and criminal cases. I will ask about ten or so questions regarding their past jury experience, knowledge of the case, parties, potential witnesses and attorneys, any hardship the prospective jurors may experience by serving on a jury, and other questions that may be case specific.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?
 - As noted in question one, I do give a brief introductory statement. On a civil case and if parties agree, I may read a prepared statement about the facts of the case.
 - 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so?
 - I will explain the estimated length of the trial as requested by the parties. I will ask if the length of the trial poses any hardship for the prospective jurors as well.
 - 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
 - I advise the attorneys in advance they may wander the courtroom. However, I caution the attorneys that our sound system may not pick up their voices. I ask that they project their voices.
 - 5) What is the Judge's preference between using juror names or numbers for jurors?
 - I am currently using numbers. On occasion, I may mention their name to insure we have the correct person seated in the jury box.
 - 6) How much time does the Judge allow for voir dire? Does the plaintiff's lawyer/prosecutor always begin with the questioning?
 - I allow at least forty minutes to start, and grant an additional five to fifteen minutes for follow up questions. On some trials, the voir dire may last much longer. Again, the time allotment is case specific. The plaintiff and prosecutor, respectfully, are asked initially to proceed with questions.
 - 7) How does the Judge prefer to handle challenges for cause? Are jurors present when strikes for cause occur?
 - The jurors are present during challenges for cause.
 - 8) How does the Judge prefer to handle peremptory challenges? Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time? Are peremptory challenges exercised outside the presence of jurors?
 - The jurors are present during peremptory challenges. A clipboard is passed to the plaintiff/prosecutor. The attorney may either exercise a peremptory challenge or pass. The clipboard is shown to opposing counsel. The clipboard is then handed to the clerk and the judge. The clipboard is then handed to opposing counsel to either exercise a peremptory challenge or pass.

- 9) Does the Judge allow striking of jurors seated outside of the jury box?
- The peremptory challenges are used toward the 12 persons seated in the jury box. Attorneys have challenged for cause prospective jurors seated outside the jury box.

Clark County Superior Court Jury Selection Procedures
Interview of Judge David E. Gregerson

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?
- I normally ask some “boilerplate” questions about whether any of the prospective jurors know the attorneys, the witnesses, judge or courthouse staff, etc. I also ask if they have any physical reason why they cannot give full effort and pay attention to the case. If the case is particularly sensitive (for example domestic violence), I will ask if anyone believes they cannot be an objective juror.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?
- Yes, normally that is ruled upon in advance so that there is a very brief explanation of what the case is about and what issues they will decide. The lawyers normally present an agreed version, but in the event of a disagreement, the judge makes the final ruling.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so?
- I normally do that.

What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?

- I try to give them a “roadmap” of how the case will proceed, when expected breaks will take place, and whom to contact if they have any issues during the trial (bailiff).
- 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
- They normally ask from counsel’s table, but upon being given permission, I may let them move around.
- 5) What is the Judge’s preference between using juror names or numbers for jurors?
- I allow use of names unless there is good cause to require more neutral references, such as in a trial involving a high profile crime.
- 6) How much time does the Judge allow for voir dire?
- In a normal case, each side gets 30 minutes opening, with 15 minutes of rebuttal. I will expand that for special cases or circumstances.

Does the plaintiff’s lawyer/prosecutor always begin with the questioning?

- Yes.

- 7) How does the Judge prefer to handle challenges for cause?
- I prefer to handle them outside the presence of the jurors, if possible. The excused jurors are not informed of who sought their excusal or why. The plaintiff (or prosecutor) raises their challenges first, then the defense.

Are the jurors present when strikes for cause occur?

- Generally no.

- 8) How does the Judge prefer to handle peremptory challenges?
- I normally handle them outside the presence of the jury, with the plaintiff (or prosecutor) starting, then alternating back and forth until they have exhausted their limit or accepted the panel.

Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time?

- I try to do it outside the jury's presence so we can do it openly on record. If not, we pass a notepad back and forth, alternating.

Are peremptory challenges exercised outside the presence of jurors?

- Yes, absent some compelling circumstances.

- 9) Does the Judge allow striking of jurors seated outside of the jury box?
- Challenges for cause apply to the entire pool; peremptories only apply to those who are in the box (including alternates, if any).

- 10) Is there anything else you would like to add? Any pet-peeves?

- No.

Clark County Superior Court Jury Selection Procedures Interview of Judge Barbara D. Johnson

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?

- I typically ask preliminary questions of the jury which are suggested in the jury trial benchbook. These include:

Do you know any of the attorneys or the plaintiff or defendants, or prospective witnesses?

Have you heard about this case?

Have you worked for law enforcement in the past?

Have you been a victim of these charges or been in a similar situation?

Are you related to anyone connected with the case?

Do you have any hardships with sitting on this case?

Do you have a physical disability which would prevent you from being a juror?

Are you unable or unwilling to follow instructions or follow the law?

- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?

- Yes. In a criminal trial, I will speak briefly about the nature of the charges, the date on which the alleged crime was committed and what the crime is. I sometimes might add some contextual statements about the alleged crime, after consultation with counsel, if there has been publicity and some facts may trigger memory of having heard of the case.
In a civil trial, I will speak briefly about the nature of the allegations, the date, the location, after consultation with counsel.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so? What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?
 - I inform the jurors of the expected length of the trial during jury questions. The other information I provide was answered in Questions No. 1 and 2.
 - 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
 - Due to the poor acoustics of the courtroom where I preside, I require counsel to stand at the podium so that their voices, and the voices of the prospective jurors, will be heard and recorded.
 - 5) What is the Judge's preference between using juror names or numbers for jurors?
 - I do both. Names need to be used to ensure that jurors are in the right seat in the jury box. After that, we primarily use seat numbers. Sometimes jurors request that their name is not used, for privacy.
 - 6) How much time does the Judge allow for voir dire?
 - I instruct the attorney that he/she has up to 45 minutes, after which we take a break. The other side then has the same amount of time. If either side has a few more questions, more or less like rebuttal, that is allowed. In most cases, the attorneys do not use this amount of time. In reviewing the other judges' answers to this question, that may be due to other judges allowing a shorter period of time.
 - 7) Does the plaintiff's lawyer/prosecutor always begin with the questioning?
 - Yes, the plaintiff's attorney/prosecutor always begins.
 - 8) How does the Judge prefer to handle challenges for cause?
 - I prefer that if there appears to be an issue of cause, we take it up outside the presence of the other jurors. After a break, while the remainder of the jurors are out of the courtroom, any juror with a potential issue is brought into court to be questioned individually. In this manner, the questions or the answers will not influence the rest of the potential jurors.
 - 9) How does the Judge prefer to handle peremptory challenges? Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time? Are peremptory challenges exercised outside the presence of jurors?
 - I follow the local tradition of the peremptory challenges being done so that the jurors are not aware which side has exercised a challenge. (When I was in King County, challenges were exercised orally in front of all jurors, so I am aware other counties follow different practices.) If

the jurors are present in court during challenges, the attorneys come up to the bar and the challenges are done one at a time in writing, on a chart which remains part of the record. The clipboard with the chart is passed back and forth. If the jurors are outside the courtroom, counsel can remain at counsel table and announce the challenges in open court. I am finding more and more of the attorneys prefer to proceed with the jurors outside the courtroom.

- 10) Does the Judge allow striking of jurors seated outside of the jury box?
- If they are excused based on circumstances, it does not matter where they are seated. Once past the peremptory challenges, the striking of the jurors is limited to the twelve seated jurors, followed by the selected alternate(s).
- 11) Is there anything else you would like to add? Any pet-peeves?
- Attorneys are generally familiar with the procedure, but should ask if they have questions. Occasionally I will interrupt if the questions are inappropriate, for example, asking a prospective juror to commit to a particular verdict, such as: "If I show you _____, would you find the defendant guilty/not guilty?" Jury selection becomes much more challenging for everyone with a self-represented litigant who has little knowledge of the court system.

Clark County Superior Court Jury Selection Procedures Interview of Judge Robert Lewis

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?
- Yes. I ask whether they have heard of the case before. Do they know any of the attorneys, witnesses or parties? Have they had any similar experiences? I ask about anything that would keep them from being able to fulfill their duty as jurors.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?
- Yes, for criminal cases I read a summary of the alleged crimes and for civil cases I read a summary provided by the parties.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so? What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?
- Prior to jury selection, I ask attorneys for an estimated length of trial. I provide this information to the jurors as part of my question about hardship excuses.
- 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
- There are no podiums in my courtroom. The attorney needs to stay close to a microphone. Other than that, the attorneys can move where ever they want in the courtroom.
- 5) What is the Judge's preference between using juror names or numbers for jurors?
- Numbers, but when questioning a juror, an attorney can also call the juror by name.
- 6) How much time does the Judge allow for voir dire?

- No specific time limit, I allow general questioning in half hour blocks from side to side and I may grant additional time as needed.

Does the plaintiff's lawyer/prosecutor always begin with the questioning?

- Yes.
- 7) How does the Judge prefer to handle challenges for cause? Are the jurors present when strikes for cause occur?
- In open court, in front of the jurors. I try to remind attorneys to make this type of challenge as soon as they have developed a record to support it. This allows for additional questioning of the juror and meaningful argument.
- 8) How does the Judge prefer to handle peremptory challenges? Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time? Are peremptory challenges exercised outside the presence of jurors?
- We use a clipboard passed back and forth between the attorneys. One strike at a time is allowed, then the clipboard is passed to the other attorney, the clerk, and then the judge. Peremptory challenges are not exercised outside the presence of the jurors.
- 9) Does the Judge allow striking of jurors seated outside of the jury box?
- Yes.
- 10) Is there anything else you would like to add? Any pet-peeves?
- Attorneys should ask questions designed to actually elicit information about the juror.
 - Don't waste time with a lot of "head-nodding" questions. Do not use the process to make general statements, or to "educate" jurors, if you do, I may limit your time.

Clark County Superior Court Jury Selection Procedures Interview of Judge John Nichols

- 1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?
- Yes, I ask some very general questions such as: Do you know any of the parties involved? Would you be able to maintain your opinion from the other jurors? Do you know any of the other jurors from work or school? Would you be able to reach a decision and follow the law? I also go over the potential witnesses. In some cases the attorneys will supply some additional general questions relevant to the case. Usually the lawyers ask most of the questions.
- 2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?
- Yes. In a criminal case I summarize the allegations contained in the "Information". In a civil case I use a statement supplied by the attorneys.
- 3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so?

- The attorney usually provides the estimated length before the trial and it is usually easy to estimate depending on the type of the case and prior similar cases.

What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?

- General information about the type of case and possible conflicts with jurors due to relationship to parties involved.
- 4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?
- I allow counsel to move about so long as they are near a microphone.
- 5) What is the Judge's preference between using juror names or numbers for jurors?
- Numbers. It helps with juror anonymity and helps so that attorneys do not get confused when asking questions.
- 6) How much time does the Judge allow for voir dire?
- Depends on the case and the number of jurors, but usually 20-30 minutes. Some lawyers take longer than others to ask questions and the nature of the case may also dictate a longer voir dire.

Does the plaintiff's lawyer/prosecutor always begin with the questioning?

- Yes, the plaintiff begins with statements.
- 7) How does the Judge prefer to handle challenges for cause?
- It depends on the case and need for confidentiality, especially in sex abuse cases involving minors for example. I must limit side bars so challenges for cause are made in court but often times outside the presence of the other jurors. Often a private voir dire of the prospective challenge will take place in court again out of the presence of the other jurors.
- Are the jurors present when strikes for cause occur?
- Usually for cause challenges take place at a conference with the attorneys outside the presence of the jury. Often the attorneys will agree to a for cause challenge. These challenges are put on the record or a ruling made after argument. Arguments for a show cause challenge are made outside the presence of the jurors so as not to "poison" the rest of the panel or give them some ideas about being excused.
- 8) How does the Judge prefer to handle peremptory challenges?
- Usually I have the attorneys pass a clipboard back and forth and to the clerk after each challenge. This is done in the presence of the jurors. However, if the attorneys agree and especially if we are on a recess, the challenges may be done on a more informal basis at the bar; but of course this would be without the jury panel being present.

Does the Judge prefer that peremptory challenges be exercised on paper?

- Yes on the official jury "lineup" form.

If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time?

- One at a time.

Are peremptory challenges exercised outside the presence of jurors?

- See #8.

9) Does the Judge allow striking of jurors seated outside of the jury box?

- No, must be in the box as indicated by the lineup. The names and numbers should be in order.

10) Is there anything else you would like to add? Any pet-peeves?

- Keep your questions for jurors short and succinct, choose your questions wisely. Know the number of challenges available to you. Don't ignore the jurors in the back of the room, but use your arithmetic skills and figure out who is a potential juror.

Clark County Superior Court Jury Selection Procedures Interview of Judge Daniel L. Stahnke

1) Does the Judge ask preliminary questions of the jurors? If so, what preliminary questions does the Judge ask?

- I ask general preliminary questions such as, does anyone know any of the parties, witnesses or attorney offices.

2) Does the Judge read a short statement to the jurors regarding the nature of the case? If so, does the lawyer for each side have input into the content of the statement?

- I do read a short statement of the case and yes the attorneys have input into that statement.

3) Does the Judge inform the jurors of the expected length of the trial or does the Judge leave it up to the lawyers to do so? What other information does the Judge provide to the jurors before the lawyers begin their part of the voir dire process?

- I tell the potential jurors the anticipated length of the trial.

4) Does the Judge require counsel to stand in place at the podium during the voir dire or may counsel move around during the process?

- Counsel may move around the room for questioning.

5) What is the Judge's preference between using juror names or numbers for jurors?

- I do not use juror number cards, jurors are referred to by name.

6) How much time does the Judge allow for voir dire? Does the plaintiff's lawyer/prosecutor always begin with the questioning?

- I typically will allow 30 minutes for questioning.

7) How does the Judge prefer to handle challenges for cause? Are jurors present when strikes for cause occur?

- Challenges for cause are made after all questioning and the jurors are out of the court room on a break.
- 8) How does the Judge prefer to handle peremptory challenges? Does the Judge prefer that peremptory challenges be exercised on paper? If done on paper, does the lawyer take one strike and pass the paper to the other side's lawyer, or is more than one strike taken at a time? Are peremptory challenges exercised outside the presence of jurors?
- Peremptory challenges are exercised outside the presence of the jurors. The attorneys verbally make peremptory challenges by alternating. By way of example, State 1st challenge, Defense 1st challenge, State 2nd challenge, Defense 2nd challenge, so on and so forth.
- 9) Does the Judge allow striking of jurors seated outside of the jury box?
- I do not allow peremptory challenges of potential jurors outside the box.