

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
3 pretrial conference or otherwise prior to trial. The following procedures for selection are not
4 exclusive.

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

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

30 including any alternate jurors, and the persons whose names are so called shall constitute the
31 jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless
32 otherwise ordered by the court prior to voir dire.

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

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

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

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

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

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

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

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

57 (c)(2) A challenge to an individual juror may be either peremptory or for cause. A challenge
58 to an individual juror may be made only before the jury is sworn to try the action, except the

59 court may, for good cause, permit it to be made after the juror is sworn but before any of the
60 evidence is presented. In challenges for cause the rules relating to challenges to a panel and
61 hearings thereon shall apply. All challenges for cause shall be taken first by the prosecution and
62 then by the defense.

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

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

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

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

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

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

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

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

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

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

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

92 (e)(10) If the offense charged is punishable with death, the ~~entertaining of opinions about the~~
93 ~~death penalty as would preclude the juror from voting to impose the death penalty following~~
94 ~~conviction or would require the juror to impose the death penalty following conviction regardless~~
95 ~~of the facts~~ juror's views on capital punishment would prevent or substantially impair the
96 performance of the juror's duties as a juror in accordance with the instructions of the court and
97 the juror's oath in subsection (h).

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

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

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

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

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

110 (g) The court may direct that alternate jurors be impaneled. Alternate jurors, in the order in
111 which they are called, shall replace jurors who, prior to the time the jury retires to consider its
112 verdict, become unable or disqualified to perform their duties. The prosecution and defense shall
113 each have one additional peremptory challenge for each alternate juror to be chosen. Alternate
114 jurors shall be selected at the same time and in the same manner, shall have the same
115 qualifications, shall be subject to the same examination and challenges, shall take the same oath
116 and shall have the same functions, powers, and privileges as principal jurors. Except in

117 bifurcated proceedings, an alternate juror who does not replace a principal juror shall be
118 discharged when the jury retires to consider its verdict. The identity of the alternate jurors may be
119 withheld until the jurors begin deliberations.

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