

1 **Rule 18. Selection of the jury.**
2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 89 (e)(5) Having been or being the party adverse to the defendant in a civil action, or having
90 complained against or having been accused by the defendant in a criminal prosecution.
91 (e)(6) Having served on the grand jury which found the indictment.
92 (e)(7) Having served on a trial jury which has tried another person for the particular
93 offense charged.
94 (e)(8) Having been one of a jury formally sworn to try the same charge, and whose verdict
95 was set aside, or which was discharged without a verdict after the case was submitted to
96 it.
97 (e)(9) Having served as a juror in a civil action brought against the defendant for the act
98 charged as an offense.
99 (e)(10) If the offense charged is punishable with death, the juror's views on capital
100 punishment would prevent or substantially impair the performance of the juror's duties as
101 a juror in accordance with the instructions of the court and the juror's oath in subsection
102 (h).
103 (e)(11) Because the juror is or, within one year preceding, has been engaged or interested
104 in carrying on any business, calling or employment, the carrying on of which is a
105 violation of law, where defendant is charged with a like offense.
106 (e)(12) Because the juror has been a witness, either for or against the defendant on the
107 preliminary examination or before the grand jury.
108 (e)(13) Having formed or expressed an unqualified opinion or belief as to whether the
109 defendant is guilty or not guilty of the offense charged.
110 (e)(14) Conduct, responses, state of mind or other circumstances that reasonably lead the
111 court to conclude the juror is not likely to act impartially. No person may serve as a juror,
112 if challenged, unless the judge is convinced the juror can and will act impartially and
113 fairly.

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

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

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