

State of California

CODE OF CIVIL PROCEDURE

Section 222.5

~~222.5.~~

(a) To select a fair and impartial jury in a civil jury ~~trials, the trial judge shall examine the prospective jurors.~~ trial, the trial judge shall conduct an initial examination of prospective jurors. At the final status conference or at the first practical opportunity prior to voir dire, whichever comes first, the trial judge shall consider and discuss with counsel the form and subject matter of voir dire questions. Before voir dire by the trial judge, the parties may submit questions to the trial judge. The trial judge may include additional questions requested by the parties as the trial judge deems proper.

(1) Upon completion of the trial judge's initial examination, counsel for each party shall have the right to examine, by oral and direct questioning, any of the prospective jurors in order to enable counsel to intelligently exercise both peremptory challenges and challenges for cause. ~~The scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion subject to the provisions of this chapter.~~ During any examination conducted by counsel for the parties, the trial judge ~~should~~shall permit liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case before the court. ~~The fact that a topic has been included in the trial judge's examination should~~shall not preclude ~~additional nonrepetitive or nonduplicative~~appropriate followup questioning in the same area by counsel.

~~The trial judge should allow a brief opening statement by counsel for each party prior to the commencement of the oral questioning phase of the voir dire process.~~

~~The scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion. In exercising his or her sound discretion as to the form and subject matter of voir dire questions, the trial judge should consider, among other criteria, any unique or complex elements, legal or factual, in the case and the individual responses or conduct of jurors which may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case. Specific unreasonable or arbitrary time limits shall not be imposed in any case. The trial judge shall not establish a blanket policy of a time limit for voir dire.~~ The trial judge should The trial judge shall permit counsel to conduct voir dire examination without requiring prior submission of the questions unless a particular counsel engages in improper questioning.

(2) ~~The trial judge shall not impose specific unreasonable or arbitrary time limits or establish an inflexible time limit policy for voir dire.~~

(3) For purposes of this section, an "improper question" is any question that, as its dominant purpose, attempts to precondition the prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors concerning the pleadings or the applicable law. ~~A court~~

(1) In exercising the judge's sound discretion, the trial judge shall give due consideration to all of the following:

(A) The amount of time requested by trial counsel.

(B) Any unique or complex elements, legal or factual, in the case.

(C) Length of the trial.

(D) Number of parties.

(E) Number of witnesses.

(F) Whether the case is designated as a complex or long cause.

(2) As voir dire proceeds, the judge shall permit supplemental time for questioning based on any of the following:

(A) Individual responses or conduct of jurors that may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

(B) Composition of the jury panel.

(C) An unusual number of for cause challenges.

(c) Upon the request of a party, the trial judge shall allow a brief opening statement by counsel for each party prior to the commencement of the oral questioning phase of the voir dire process.

(d) In civil cases, the trial judge may, upon stipulation by counsel for all the parties appearing in the action, permit counsel to examine the prospective jurors outside a judge's presence.

(e) A trial judge shall not arbitrarily or unreasonably refuse to submit reasonable written questionnaires, the contents of which are determined by the court in its sound discretion, when requested by counsel. -If a questionnaire is utilized, the parties ~~should~~shall be given reasonable time to evaluate the responses to the questionnaires before oral questioning commences.

(f) To help facilitate the jury selection process, at the earliest practical time, the judge in a civil ~~trials should~~trial shall provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called.

~~In civil cases, the court may, upon stipulation by counsel for all the parties appearing in the action, permit counsel to examine the prospective jurors outside a judge's presence.~~

(Amended by Stats. 2017, Ch. 337, Sec. 1. (SB 658) Effective January 1, 2018.)

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