

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CAUSE NO. _____

_____,

Plaintiff,

v.

_____,

Defendants.

VOIR DIRE

Good morning, ladies and gentlemen. I am Magistrate Judge Christopher A. Nuechterlein. I welcome you here this morning as the panel from which a jury will be selected for the trial of today's case. For many of you, this may be the first time you have been called upon for jury service; for others, you may be veterans of jury service. In either event, you are here performing a service that has been performed by others before you for more than 200 years: that is, coming to court and helping resolve disputes between your fellow citizens. This call upon your time does not come often and may never be repeated again in your life. We thank you for your service.

Let me introduce to you some of the people that will be involved in the trial of this case. Seated here is _____, he/she is the court reporter. His/Her job is to take down in the notes that he/she makes on his/her machine everything that is said during the course of this trial. That includes the jury selection portion of the trial. In a few minutes, I will be putting

questions to some of you concerning your qualifications to sit as jurors in this case. We ask that you speak up so that he/she can hear your answers and, if I do not call on you by name, please state your name along with your answer so that her notes will make sense.

The lady seated here to my right is Ms. Sharon Macon. She is the deputy clerk for this courtroom. Seated behind the counsel tables is Mr./Ms. _____, who serves this court as law clerk. And seated over here is (CSO'S NAME) and (CSO'S NAME) who are the court security officers you will see them or one of the other assigned court officers during the course of the trial. If any of you have any problems that arise during the course of the trial, let the security officers know, and they will let me know, and we'll try to handle the problem in that way.

PLAINTIFF'S NAME are the plaintiffs in this case -- the individuals who brought the suit. They are seated at this counsel table, along with their attorney in this trial, **PLAINTIFFS COUNSEL**. The defendant in this case is **DEFENDANTS NAME**, he/she is the party against whom this suit is brought. He/She is seated at the other counsel table with his/her attorney **DEFENDANTS COUNSEL**. We anticipate that this trial will take ____ days to complete.

This is the procedure by which some of you will be selected as jurors in this case. First, you will all be asked to take an oath or affirmation that your answers will be truthful. Following that, I will address a number of questions to you as a group then I will ask some of you follow-up questions to the answers you gave in the jury questionnaire.

The questions that I ask are not intended to be offensive or overly personal or prying. They are designed to insure that a jury is selected of persons who can fairly and honestly

do the job of jurors. For example, jurors are expected to decide cases on the basis of the evidence they hear in court and not on the basis of information they may have acquired outside the courtroom. I am sure you would agree that a juror who had a relative somehow involved in the trial might not be able to limit his or her thinking to the evidence presented during the hearing, and so such a person would be subject to exclusion for that cause.

In addition, the attorneys are allowed to exclude a limited number of people without having a reason such as that. They don't have to tell you the reason; they don't have to tell me the reason; they don't even have to have a reason. You should not be offended if you are excused for no apparent reason.

At this time, it is necessary for you to be placed under an oath to answer truthfully. Listen carefully as Ms. Macon recites the oath, and remember that we know very little about you and that it is based upon the answers you will give to the questions that follow that will determine whether you are qualified to serve as a fair and impartial juror in this case.

1. Are there any among you who, for whatever reason, cannot take an oath? Please stand and raise your right hands.

(oath administered)

YOU, AND EACH OF YOU, DO SOLEMNLY SWEAR OR AFFIRM
THAT YOU WILL TRUE ANSWERS MAKE TO ALL QUESTIONS
PROPOUNDED TO YOU TOUCHING UPON YOUR COMPETENCY
AND QUALIFICATIONS TO SERVE AS JUROR IN THIS CASE --
THOSE OF YOU WHO TAKE OATH DO SWEAR AS YOU WOULD
ANSWER UNTO GOD AND THOSE OF YOU WHO AFFIRM DO SO

AFFIRM UNDER THE PAINS AND PENALTIES OF PERJURY -- SO
SAY YOU AND EACH OF YOU?

Ms. Macon will please draw the names of fourteen members of the jury pool, and call the name as each is drawn. The juror so drawn will come forward to the jury box when his or her name is called and the Deputy United States Marshal will assist you to your proper seat.

Although my questions will be addressed only to those prospective jurors who are now seated in the jury box, I would ask those of you who have not been called to please listen carefully to the questions that are about to be asked, because in all likelihood many of you will be called before this afternoon is through.

2. Let me ask you to look around at your fellow jurors. Are any of you acquainted with one another?

i. In what way?

3. Are there any of you who suffer from any problems of hearing or sight that would keep you from seeing and hearing the witnesses as they testify from this witness stand, if you were sitting in the jury box?

4. Is there anyone who cannot read, write, speak and understand the English language?

5. Do any of you suffer from any other physical problems that would keep you from sitting in one place for as long as two hours at a stretch and giving your full attention to the trial?

6. It has been estimated that this trial will last approximately ____ days. The usual trial day will be from about 9:00 a.m. to about 4:30 p.m. with a lunch break from 12:00-

1:30 p.m. Sometimes we will break for lunch later because of other matters I must address. You will be allowed to separate during the lunch period and over night. We will also have at least one break in the morning usually at 10:30 a.m. and at least one in the afternoon usually at 3:00 p.m. My question to you is whether jury service for a period of ____ days would cause a serious hardship to you or result in personal or family problems to such an extent that you could not give your full and undivided attention to the trial in this case?

7. Do any of you know the plaintiffs in this case, **PLAINTIFFS**, or any member of their family?

8. Do any of you know the defendant **DEFENDANTS** or any member of his/her family?

9. Do any of you have a debtor/creditor relationship with any of the parties to this action?

10. **PLAINTIFFS ATTORNEYS** belongs to the law firm of **LAW FIRM**. **DEFENDANTS ATTORNEY** is from the firm of **LAW FIRM** . Do any of you know anyone associated with them or their law firms?

i. Have any of you, or any family member or friend been represented by either **PLAINTIFFS ATTORNEY** or **DEFENDANTS ATTORNEY** or any other attorney that they practice law with.

ii. Would that effect your ability to act as a fair and impartial juror?

11. Have you or anyone in your family ever been involved as either a plaintiff or defendant in any legal claim or lawsuit for damages?

i. Were you (or your family member) a plaintiff or defendant?

- ii. What was the case about?
- iii. Who won?
- iv. Was this claim compromised or settled out of court or did the matter go to trial?
- v. How did you feel about the outcome of this claim?
- vi. Other than what has already been brought to our attention, have you or any member of your immediate family ever been a witness at a trial?
- vii. Would your past experience in court influence you in any way in reaching a verdict in this case?

This case involves a civil claim, specifically it is a

BRIEF DESCRIPTION.

The plaintiffs' contentions are as follows:

1. PLAINTIFFS CONTENTIONS

The contentions of defendant is as follows:

DEFENDANTS CONTENTIONS

12. Those of you selected as jurors will, of course, learn much more about the facts of the case, the parties' arguments, and the law governing the case, but at this point I would ask whether any of you remember reading or hearing anything about this case?

13. In addition to the parties and the attorneys, there are other persons whose names may be mentioned during the trial. Some of those persons may testify as witnesses;

others may simply be mentioned without testifying; some may not be mentioned at all. I am going to read to you a list the names of people who have been specifically identified by the parties and have been provided to court. Please listen carefully to the list as I read it, and when I am done I will be asking whether any of you know or think you may know any of the persons on this list or whether you think anyone close to you may know any of them.

WITNESSES

Do any of you know any of the witnesses whose names I have just read?

i. Who do you know, and how?

ii. Would it effect your ability to render a fair and impartial verdict?

14. Do you or any members of your immediate family, or friends have any training in law, medicine or nursing, or training in any other area of science?

i. Please describe that training?

ii. Where do they work?

15. Are any of you employed with or acquainted with anyone who is employed with an insurance company?

16. Articles and information have frequently appeared on T.V. and in the media concerning the legal system and medical malpractice. Do any of you have any strong feelings one way or another regarding medical malpractice claims?

i. is there anything having to do with medical malpractice claims, or our civil system in general, that makes you feel uncomfortable with our civil system and the

awarding of money damages that might influence your impartiality in being a juror on this case?

ii. Do you feel comfortable in passing judgment in this type of claim?

19. If you are selected as a juror in this case, you will be required to put aside any feeling of passion or prejudice and decide this case solely on the evidence introduced during the trial and the instructions that the court will give you concerning the law. Is there anyone unable or unwilling to do that?

20. Do any of you assume that because the plaintiffs have sued the defendant and we're in court, that the defendants must have done something wrong?

21. The plaintiff in this case is making a claim for substantial monetary damages. Would any of you feel uncomfortable in making a substantial award of damages where the proof and the law satisfy you that the plaintiff is entitled to them?

22. In a civil case, the plaintiff goes first. Will you all promise that you will wait to hear the defendants' evidence, and that you will consider both sides of the story, before you reach any conclusion about who, if anyone, is responsible?

i. Do you understand that all parties in this case stand on equal footing and that each has the right to a fair trial and that the defendants have an equal right to a defense as does the plaintiff to bring suit?

ii. Can you promise to follow the law as given to you by the court, even if you believe the law is wrong?

23. Do any of you know of any reason why you might believe that you could not serve as a juror in this case and render a just, fair, honest and impartial verdict based upon the evidence and the law?

24. Finally, it may be that you know something that we don't know that troubles you about your ability to be a fair and attentive juror in this case. If there is anything about this case, involving these issues, in a trial of this length held this week, with these people, that troubles you about your ability to be a fair, impartial and attentive juror, please tell us about that.

Challenges for cause

Plaintiff -

Defendants -

Court -

Preemptory challenges

Plaintiff - (allowed 3)

Defendants - (allowed 3)

Does the plaintiff accept the jury?

Do the defendants accept the jury?

JURY SWORN.