

## HONORABLE RICHARD J. SULLIVAN

### JURY SELECTION

The following is a description of the struck panel method by which juries will be selected in trials before Judge Sullivan.

The Court will conduct a voir dire of a number of panelists computed by totaling: the number of jurors to be selected (eight in most civil cases and twelve in criminal cases); the number of alternates (none in civil cases and usually two in criminal cases); and the number of peremptory challenges. Thus, in a civil case with an eight-person jury and three peremptory challenges per side, the Court will voir dire 14 panelists. See Fed. R. Civ. P. 47, 48; 28 U.S.C. § 1870. In trials expected to last for substantially more than a week, the Court will consider increasing the number of jurors in a civil case and the number of alternates in a criminal case.

In a single defendant criminal case in which the defendant has ten and the Government six peremptory challenges, plus one each with respect to alternates, see Fed. R. Crim. P. 24, we will voir dire thirty-two panelists (12 jurors + 2 alternates + 10 peremptories for defendant + 6 peremptories for the Government + 1 peremptory for defendant for the alternates + 1 peremptory for the Government for the alternates).

The panelists will be voir dired in the Courtroom. If issues are raised that are better discussed outside the presence of the entire panel (e.g., sensitive issues, requests to be excused, etc.), Judge Sullivan will follow-up with the individual jurors either at sidebar or in the robing room.

After the follow-up voir dire, the Court will entertain challenges for cause (at sidebar or in the robing room). If panelists are excused for cause, they will be replaced and the new panelists will be voir dired, following the procedures above.

Once all challenges for cause have been heard and decided, the Court will conduct the final voir dire (in the Courtroom), asking each panelist individual questions relating to county of residence, education, occupation, marital status, children, reading preferences, etc.

The parties will then exercise their peremptory challenges (at sidebar or in the robing room). In a civil case, plaintiff exercises the first challenge and the defendant goes second, with the parties proceeding in that fashion until all peremptories are exhausted. In a single-defendant criminal case with the usual number of peremptories, the parties exercise their challenges in five rounds, with the defendant going first and exercising two challenges each round and the Government exercising two challenges in the first round and one challenge in each of the remaining four rounds.

A party may waive but not reserve a challenge. In other words, counsel may not pass on one round to save the challenge for another round.

Challenges may be made to any of the panelists, regardless of where that panelist appears in the array. Counsel would be well-advised, however, to focus on the first eight (or twelve in criminal cases) panelists, as the first eight (or twelve) unchallenged panelists will constitute the jury once all peremptories are exercised.

In criminal cases, each side will have one additional challenge exercisable only with respect to the alternates, who will be selected from the remaining panelists.